



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

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

DATE: OCT/10/2025

NO. ON LIST: 02

**TITLE OF PROCEEDING: ENLIGHTENED FUNDING CORPORATION v. VELOCITY ASSET AND CREDIT CORPORATION et al**  
**BEFORE: JUSTICE KIMMEL**

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**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party:**

| Name of Person Appearing | Name of Party                         | Contact Info        |
|--------------------------|---------------------------------------|---------------------|
| Rebecca Kennedy &        | Counsel to Deloitte Restructuring Inc | Rkennedy@tgf.ca     |
| Jorden Sleeth            | Deloitte Restructuring Inc.           | Jsleeth@deloitte.ca |

**For Defendant, Respondent, Responding Party:**

| Name of Person Appearing       | Name of Party                                                                                 | Contact Info                       |
|--------------------------------|-----------------------------------------------------------------------------------------------|------------------------------------|
| Monique Sassi                  | Counsel to NexGear                                                                            | Msassi@cassels.com                 |
| Derek Harland<br>Scott Mcgrath | Counsel for the Receiver, Deloitte Restructuring Inc                                          | Dharland@tgf.ca<br>Smcgrath@tgf.ca |
| Haddon Murray                  | Counsel to Peoples Trust Company (Assignee of the Applicant, Enlightened Funding Corporation) | Haddon.murray@gowlingwlg.com       |

**For Other, Self-Represented:**

| Name of Person Appearing | Name of Party | Contact Info |
|--------------------------|---------------|--------------|
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## ENDORSEMENT OF JUSTICE KIMMEL:

### The Receiver's Motion

- [1] Deloitte Restructuring Inc. ("Deloitte") was appointed as receiver (the "Receiver") on October 26, 2023, over the property of Velocity Asset and Credit Corporation ("Velocity") and certain property of 926749 Ontario Ltd. o/a Clonsilla Auto Sales and Leasing (the "Dealer" and, together with Velocity, the "Debtors"). On December 8, 2023, the Court issued an Amended and Restated Receivership Order (the "A&R Receivership Order") appointing Deloitte as Receiver over all of the property, assets, and undertakings of both Debtors.
- [2] Capitalized terms not otherwise defined in this endorsement shall have the meanings ascribed to them in the Receiver's Factum and in the Sixth Report of the Receiver dated October 2, 2025 (the "Sixth Report").
- [3] There are three secured creditors, in respect of each of which the Receiver has received legal opinions confirming that they have valid, binding and enforceable security interests against the Dealer:
  - a. Automotive Finance Canada Inc. ("AFC");
  - b. NextGear Capital Corporation ("NextGear"); and
  - c. Peoples Trust Company ("PTC"), which is also the only party registered under the PPSA against Velocity.
- [4] The Receiver seeks an order approving distributions (the "Distribution Order") to NextGear and AFC in full and final satisfaction of the indebtedness owing to them and an order giving it the ability to make future distributions to PTC up to the amount of the secured indebtedness owing to PTC. This relief, if granted, would repay the indebtedness owed to two secured creditors and allow distributions to be made to PTC on an ongoing basis. After the distributions to AFC and NextGear, the only remaining economic stakeholder with a recoverable interest in the proceeding will be PTC, subject to certain overlapping leases that Beacon Holdings Ltd. ("Beacon") claims an interest in.
- [5] The Receiver also seeks approval of the Third Report of the Receiver dated April 15, 2024, the Fourth Report of the Receiver dated May 14, 2024, the Fifth Report of the Receiver dated July 30, 2025, the Supplemental to the Fifth Report of the Receiver dated September 29, 2025, and the Sixth Report (the "Reports") and its activities described therein as well as approval of its fees and its counsel's fees (the "Fees and Activity Order").
- [6] All stakeholders on the service list (which includes, among other stakeholders, the known creditors of the Debtors, the Debtors, the former principal of the Debtor and various third parties from whom the Receiver is seeking to recover monies said to have received by them in transactions prior to the receivership that the subject of motions scheduled to be heard later this year) were served with the Receiver's motion. No stakeholder appeared at the hearing or indicated in advance any objection or concerns about the relief sought. The secured creditors all support the Receiver's motion and the Receiver recommends that the court grant both the Distribution Order and the Fees and Activities Order for the reasons outlined in its Sixth Report and its Third Report (as it relates to the approval of fees prior to the date of that report).

## The Distribution Order

- [7] AFC and NextGear have provided payout statements advising the secured indebtedness owing to each of them for a full and final payout are in the amounts of \$180,353.04 and \$217,130.11, respectively. The Receiver seeks authorization to make distributions to AFC and NextGear in satisfaction of their secured claims (the "AFC and NextGear Distributions") and to distribute the balance of available proceeds to PTC up to the amount of the secured indebtedness owing to PTC (together with the AFC and NextGear Distributions, the "Distributions").
- [8] Following the AFC and NextGear Distributions, the only remaining economic stakeholders in these proceedings will be PTC, and Beacon in respect of certain leases that overlap with the security interests held by both parties. As outlined in the Third Report, Beacon holds security over some leases exclusively, as well as over others that overlap with security held by Enlightened. The non-overlapping leases have been transferred to Beacon, but a resolution remains outstanding with respect to the overlapping collateral.
- [9] The Receiver is continuing to discuss this issue with PTC and Beacon. Language has been incorporated into the proposed form of Distribution Order to address the overlapping security interests of PTC and Beacon. The Receiver remains hopeful that this issue can be resolved without the necessity of any further court intervention. If necessary, the interested parties will arrange for and attend a scheduling appointment or case conference to schedule a hearing.
- [10] In the meantime, the proposed Distributions will be made from the proceeds of auction sales and lease payments that belong to the Dealer.
- [11] AFC, NextGear, and PTC hold valid and enforceable security interests against the Dealer's property, as confirmed by the Receiver's counsel. Making distributions to satisfy their secured indebtedness will not impair the estate's liquidity and will reduce ongoing interest accruals and administrative costs. Following the NextGear and AFC Distributions, the Distributions Order contemplates the Receiver being authorized, but not required, to make as many distributions to PTC as it sees fit, up to the amount of the secured indebtedness owing to PTC. Accordingly, the Receiver will have the discretion to ensure sufficient liquidity in the estate before making any distributions to PTC. These features favour approval of the Distributions: see *AbitibiBowater Inc., (Re)*, 2009 QCCS 6461. I agree that the Distributions should be approved in these circumstances.

## The Ancillary Fees and Activities Order

- [12] The ancillary relief sought in the Fees and Activities Order will not prejudice any stakeholders. The Receiver has demonstrated through its Reports that it has acted reasonably, prudently and not arbitrarily within its mandate at all times. The Receiver's fees are supported by PTC, which has funded the receivership.
- [13] The actions, conduct, and activities of the Receiver, as set forth in the Reports, were necessary and undertaken in good faith pursuant to the Receiver's powers and duties under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 and the A&R Receivership Order. No interested party disputes that the Receiver has acted in good faith and for the benefit of stakeholders generally or opposes the approval of the Receiver's Reports and its activities described in them.

- [14] The approval of the Reports and the activities of the Receiver described therein has been made subject to the standard qualification that has become the Commercial List practice to include in these types of orders limiting reliance upon the court approval to the Receiver and only in its personal capacity and in respect of its personal liability.
- [15] It has become the practice of the court to periodically approve the activities of its court appointed officers to enable the court to satisfy itself that their activities are being conducted in a prudent and diligent manner and in accordance with their mandate and to allow any stakeholder concerns to be addressed: see *Target Canada Co. (Re)*, 2015 ONSC 7574, at para. 23. It is within the court's inherent jurisdiction to approve the Receiver's Reports and activities described in therein and I am satisfied that it is appropriate to do so in the circumstances of this case.
- [16] Pursuant to the A&R Receivership Order, the Receiver and its counsel are entitled to be paid their reasonable fees and disbursements, each at their standard rates and charges. The A&R Receivership Order also requires the Receiver and its counsel to pass their accounts. A summary of the fees for Deloitte and TGF for the period of September 19, 2023, through August 31, 2025, is set out in the fee affidavits appended to the Sixth Report.
- [17] The total fees of the Receiver during the period from October 26, 2023, through August 31, 2025, are \$1,702,000, together with expenses and disbursements in the sum of \$188,077 and HST in the amount of \$245,710, totaling \$2,135,787.
- [18] The total fees of TGF, in its capacity as counsel to the Receiver, during the period from September 19, 2023, through August 31, 2025, are \$1,056,691, together with expenses and disbursements in the sum of \$45,219 and HST in the amount of \$143,247, totaling \$1,245,157.
- [19] The Receiver's fees and disbursements, as well as those of its legal counsel, have been presented to PTC, who has advanced funding to the Receiver for the purpose of funding the Receiver's mandate. PTC has no objections or concerns with the fees presented. This has been an extremely time intensive and work intensive receivership, involving complications and difficulties encountered along the way and requiring the Receiver to reconcile and service the lease portfolio early on. It has engaged experts and service providers to assist it, conducted a Sales Process, conducted investigations and examinations, and has had to respond to, and bring, motions. The Receiver has had to assume many responsibilities along the way and has displayed reasonableness and diligence throughout. Despite the challenges it faced, there have been significant recoveries.
- [20] The professional fees claimed for the Receiver and its counsel are supported by affidavits and reflect the work that has been done since the Appointment Order. The fees are commensurate with the tasks performed and the Receiver considers the fees and hourly rates to be reasonable. I find them to be fair, reasonable and justified in the circumstances. See *Bank of Nova Scotia v. Diemer*, 2014 ONCA 851, at paras 33 and 44-45.
- [21] In *Laurentian University of Sudbury*, 2022 ONSC 2927, at para. 9 (citing *Re Nortel Networks Corporation et al.*, 2017 ONSC 673 and *Diemer*, at para 45), Morawetz CJ accepted that on a motion for fee approval the "overriding principle" is reasonableness. The Court should not engage in a docket-by-docket or line- by-line assessment of the accounts as minute details of each element of the professional services rendered may not be instructive when viewed in isolation. The focus on a motion to pass accounts is to consider "what was accomplished, and not on how much it took."

[22] The Receiver has still more work to do but it has accomplished a lot. I find the fees for which approval is sought to be reasonable and they are approved.

### **Orders**

[23] The Distribution Order and the Fees and Activities Order, both dated October 10, 2025, signed by me today may issue.

A handwritten signature in dark ink, appearing to read "Kimmel J.", written over a horizontal line.

KIMMEL J.