



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00735381-00CL

DATE: July 7, 2025

NO. ON LIST: 4

TITLE OF PROCEEDING:

PEAKHILL CAPITAL INC. v. METAMORE INC.

BEFORE: MADAM JUSTICE KIMMEL

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Christopher Belsito	Counsel for the Respondent – Metamore Inc.	chris@belsitolaw.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Rosemary Fisher	Counsel for the Receiver – msi Spergel	fisherr@simpsonwiggles.com

ENDORSEMENT OF MADAM JUSTICE KIMMEL:

- [1] Peakhill Capital Inc. ("Peakhill") brought an Application and was granted an order dated March 18 and effective March 31, 2025 (the "Appointment Order") appointing msi Spergel Inc. as receiver (the "Receiver") of the property municipally known as 228 Dundas Street East, Belleville, Ontario ("the Property") owned by the Respondent, Metamore Inc. ("Metamore").
- [2] This is a motion for the discharge and release of the Receiver, approval of its first report dated June 27, 2025 (the "First Report") and its conduct and activities described therein, approval of its fees and disbursements and those of its counsel, and approval of a fee accrual for the Receiver. Both the Receiver and the Respondent are requesting this order. It is not opposed by the Applicant, who has been paid in full as a result of replacement financing from Intellect Capital Corp. ("Intellect"), soon to be replaced by refinancing from CIBC. This motion is also not opposed by any other stakeholders on the service list.
- [3] No factum was filed in support of this motion. One should have been. That said, I am satisfied that the affidavit of Wade Ellis, the Receiver's Report, and supporting fee affidavits of Trevor Pringle and Daniel Lilko provide sufficient evidentiary support for the relief requested.
- [4] The Receiver's work has been completed and keys to the Property were returned to the Respondent upon the completion of the initial refinancing with Intellect and repayment of the Applicant. It is appropriate for the Receiver to be discharged. It is holding some funds that will be used to satisfy professional fees corresponding with the fee affidavits, with the balance of any funds still held to be paid to the respondent/debtor.
- [5] The professional fees claimed for the Receiver and its counsel are supported by affidavits and reflect the work that has been done, and reasonable estimates of work to be completed until the Receiver's discharge. 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 and having regard to relevant factors. See *Bank of Nova Scotia v. Diemer*, 2014 ONCA 851, at paras 33 and 44-45.
- [6] The Receiver's proposed fee accrual is a modest amount that the Receiver recommends and is approved on that basis.
- [7] The approval of the First Report 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. The Receiver's conduct and activities appear to have been undertaken in furtherance of the Receiver's duties and in a manner consistent

with the Receiver's powers, as set out in the Appointment Order. It is appropriate for the Receiver to seek this approval in conjunction with a request for its discharge.

- [8] The proposed release of the Receiver included in the order mirrors the language used in the Commercial List model discharge order. As Pattillo J. observed: "in the absence of any evidence of improper or negligence conduct, the release should issue": See *Pinnacle Capital Resources Ltd. v. Kraus Inc.*, 2012 CarswellOnt. 14138 (ONSC), at para 47, As in *Kraus*, there is no such evidence in this case. The release of the Receiver provided for upon its discharge appropriately excludes gross negligence and willful misconduct, as is the practice of this court for these release orders.
- [9] The Discharge Order may issue in the revised form signed by me today. Small revisions were made to the revised form submitted to the court after the hearing regarding the cross-referencing of paragraphs in the preamble and in paragraph 5, and square brackets were removed from within paragraph 5.

A handwritten signature in dark ink, appearing to read "Kimmel J.", with a stylized, cursive script.

KIMMEL J.