

**SUPERIOR COURT OF JUSTICE – ONTARIO**

611 Ninth Avenue East, Owen Sound ON N4K 6Z4

**RE:** Kindred Credit Union Limited v. 10603503 Canada Inc et al

Justice Derstine

**BEFORE:**

Michael E. Cassone, for the Applicant

**COUNSEL:** [mcassone@harrisonpensa.com](mailto:mcassone@harrisonpensa.com)

Unrepresented, for the Respondents

[cdunkerley@bgwealthgroup.com](mailto:cdunkerley@bgwealthgroup.com)

James S. Quigley, for the Receiver

[jsquigley@lzwlaw.com](mailto:jsquigley@lzwlaw.com)

November 26, 2025, in courtroom 301

**HEARD:**

**ENDORSEMENT**

- [1] On November 20, 2024, Albert Gelman Inc. was appointed as a receiver of all the assets undertakings and properties of the Respondents. The Applicant is a credit union and the first mortgagee of three properties owned by the Respondents. The Respondents are indebted to the Applicant in the amount of \$2,811,090.76 as well as ongoing costs including legal fees.
- [2] The Respondents are in default of obligations owing to the Applicant pursuant to the terms of the commitment letter. The municipal taxes for the three properties are in arrears. On March 19th, 2024, the Applicant delivered a demand for payment and a notice of intention to enforce security to the respondents enter their guarantors. The Respondents did not respond to these demands. On April 29th, 2024, the Applicant issued a statement of claim in Owen sound. On May the 2nd 2024 the Applicant issued notices of sale under mortgage with respect to the properties. The Respondents acknowledged the amounts due and owing but requested a period of forbearance to refinance. In May of 2024 the parties entered into minutes of settlement and the Respondents agreed to pay the

outstanding debt on or before August 8th, 2024. This money was never paid. In the event of default of the minutes of settlement the Respondents along with the guarantors consented to judgement for payment and possession of the properties. On October 16th, 2024, the Applicant entered judgment against the Respondents and guarantors. The Respondents however refused to deliver possession of the properties. As was said earlier, the receiver was then appointed.

- [3] Proper process and the engagement of an appropriate realtor culminated in two purchasers signing agreements of purchase and sale in relation to the properties. The receiver considers both agreements to be the highest and best unconditional offers received to date for the real properties and that they will provide the highest and best recovery to the estate. Unfortunately, the purchase price obtained will be insufficient to pay off all of the creditors and a number of them will not recover any money at all.
- [4] I have carefully reviewed the process by which the receiver has determined the identity and the amount of the sales in question. I am satisfied that they were done appropriately, diligently and honestly. Pursuant to S.100 of the *Courts of Justice Act* and the criteria enunciated in *Royal Bank v. Soundair Corp*, I approve the Patel purchase agreement and the Patel transaction and the Kepler purchase agreement and the Kepler transaction and approved the vesting orders sought.
- [5] I have reviewed the proposed distribution I set out at paragraph 43 and following of the factum of the receiver and in the draft orders which were presented to me. I find that they are appropriate and compliant with the law. It is only regrettable that so many people will lose substantial money in this transaction.
- [6] As is customary in these applications, and in keeping with the dicta of the Supreme Court in *Sherman Estate v. Donovan*, the Confidential Appendices which I have reviewed will be sealed according to the terms of my order.
- [7] The Receiver having performed his function can be discharged once his duties are at an end. It is appropriate to provide the standard release to the receiver from liability save and except for gross negligence or willful misconduct on their part.
- [8] I have reviewed the three orders proposed and they are appropriate and will issue.