



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-25-00741044-00CL

DATE: October 28, 2025

NO. ON LIST: 3

TITLE OF PROCEEDING: CHIEF EXECUTIVE OFFICER OF THE FINANCIAL SERVICES REGULATORY AUTHORITY OF ONTARIO v. SUSSMAN MORTGAGE FUNDING INC., 2486976 ONTARIO INC., 1981361 ONTARIO INC., 2114568 ONTARIO INC, ALLIANCE HOMES LIMITED, ALEX TROPP, WATERWAYS MUSKOKA LTD

BEFORE: JUSTICE J DIETRICH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Kenneth Kraft	Counsel for Receiver	kenneth.kraft@dentons.com
Robert Kennedy		robert.kennedy@dentons.com
Richard Williams	B. Riley Farber Inc.- Receiver	rwilliams@brileyfin.com
David Im	Counsel for Chief Executive Officer of The Financial Services Regulatory Authority of Ontario – Applicant	dim@chaitons.com
Stephen Nadler	Counsel for Michael Stein – Moving Party	sn@friedmans.ca

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Derek Harland	Goldfarb Group	dharland@tgf.ca
D.J. Miller		djmiller@tgf.ca

Allan Nackan	(formerly B. Riley Farber Inc).- Receiver	anackan@glassratner.com
Steven Graff Adrienne Ho	Representative Counsel for the Investors	sgraff@airdberlis.com aho@airdberlis.com
Robert Malen	Counsel for Alliance Homes, Alex Troop, 2114568 Ontario Inc. and Waterways	malen@gsnh.com
Samuel Mosonyi	Counsel for Ballymore Building Corp. (Innisfil)	smosonyi@robapp.com

ENDORSEMENT OF JUSTICE J. DIETRICH:

1. There are two motions before me. Terms defined used but not otherwise defined herein have the meaning provided to them in the Factum of the Receiver and the Motion Record of Representative Counsel before me.
2. First, Representative Counsel seeks an order increasing the amount of the Representative Counsel Charge previously granted to \$350,000 and approving its actions and fees as set out in the Affidavit of Steven Graff sworn October 20, 2025. No opposition to this relief was raised, and I am satisfied that the Order sought is appropriate to ensure effective participation of Representative Counsel.
3. Second, the Receiver seeks an order increasing the Receiver's Charge to \$1,650,000 and approving its activities, fees and disbursements as set out in the Reports. No objections to the approval of the Receiver's activities, fees and disbursements were raised by any party. I am satisfied that this relief is appropriate. The draft order contains the typical language that only the Receiver can rely on the approval of its activities. As well, as the Court of Appeal for Ontario held in *Bank of Nova Scotia v Diemer* 2014 ONCA 851 at paras 33 and 45, this Court does not undertake a line-by-line analysis of the invoices of a Receiver. Rather, the guiding principles on fee approvals of this nature are whether the fees are fair, reasonable, and proportionate given the value of the Property and liabilities as well as the complexity of the Proceeding. In considering these guiding principles, the fees of the Receiver and its counsel are appropriate and are approved.
4. Mr. Nadler on behalf of Michael Stein raises concerns that his client has sought certain relief with respect to the proceeds of Mortgages S-26 and S-27 held by the Receiver. The Receiver has advised that those proceeds will be preserved (and not used) pending further order of the Court. The preservation of those proceeds, however, is without prejudice to any arguments anyone may make as to entitlement to those funds.

5. Counsel for the Goldfarb Group objects to the increase in the Receiver's Charge amount. She raises concerns about the specificity of the realization plan provided to her clients and is concerned that the increase requested in the Receiver's Charge will reduce the discipline on the overall realization process going forward.
6. In response, the Receiver has offered to meet every two weeks with both counsel to the Goldfarb Group and Representative Counsel to provide them a detailed update on the realization plan, status of matters and an update on fees. Representative Counsel is content with this and is concerned that incremental increases to the Receiver's Charge will result in unnecessary motions and fees being incurred. I agree with Representative Counsel and the Receiver on this point and I approve the increase requested in the Receiver's Charge.
7. However, I appreciate Ms. Miller's concern about ongoing check-in's and ensuring that real progress is made in respect of realizations. The regular updates to be provided by the Receiver as noted above will hopefully assist in that respect. Obviously, if necessary, a case conference can be scheduled in the ordinary course through the Commercial List Office.
8. Orders to go in the forms signed by me this day.



Date: Oct 28, 2025

Jane O. Dietrich