

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE ) FRIDAY, THE 22<sup>ND</sup>  
 )  
CHIEF JUSTICE MORAWETZ ) DAY OF OCTOBER, 2021  
 )



**IN THE MATTER OF THE BANKRUPTCY OF  
MF GLOBAL CANADA CO.  
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**ORDER  
(Discharge of Trustee)**

**THIS MOTION**, made by KPMG Inc., in its capacity as trustee in bankruptcy of the estate of MF Global Canada Co. (“**MF Global Canada**”), a bankrupt (in such capacity as the “**Trustee**”) was heard this day by Zoom videoconference due to the COVID-19 pandemic.

**ON READING** the Notice of Motion, the eleventh report of the Trustee dated September 21, 2021 (the “**Eleventh Report**”), the fee affidavit of Nick Brearton sworn September 21, 2021 (the “**Brearton Affidavit**”), the fee affidavit of Christine Mason sworn September 15, 2021 (the “**Mason Affidavit**”), and on hearing the submissions of counsel to the Trustee, no one else appearing although duly served, as set out in the Affidavit of Service of Mariela Adriana Gasparini sworn September 30<sup>th</sup>, 2021, filed.

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

## **CAPTITALIZED TERMS**

2. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings ascribed thereto in the Eleventh Report.

## **APPROVAL OF ACTIVITIES**

3. **THIS COURT ORDERS** that the Eleventh Report of the Trustee and the activities of the Trustee, as described in the Eleventh Report, be and are hereby approved; provided, however that only the Trustee, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

## **APPROVAL OF STATEMENT OF RECEIPTS AND DISBURSEMENTS**

4. **THIS COURT ORDERS** that the Trustee's Statement of Receipts and Disbursements for the period from November 4, 2011 to March 26, 2021 be and is hereby approved.

## **DISTRIBUTION OF FUNDS TO THE TRUSTEE IN BANKRUPTCY OF 4298632 CANADA LIMITED**

5. **THIS COURT ORDERS** that subject to the payment of the amounts secured by the Trustee's Charge, as defined in and created by the Order of Regional Senior Justice Morawetz (as he then was), dated January 26, 2018 (the "**Surplus Funds Order**"), the Trustee is authorized and directed to pay any funds remaining in the MF Global Canada estate to KPMG Inc., in its capacity as trustee in bankruptcy of 4298632 Canada Limited.

## **APPROVAL OF FEES**

6. **THIS COURT ORDERS** that the fees and disbursements of the Trustee as described in the Eleventh Report and as set out in the Brearton Affidavit, including the estimated fees and disbursements of the Trustee up to its date of discharge, be and are hereby approved.

7. **THIS COURT ORDERS** that the fees and disbursements of the Trustee's legal counsel, Borden Ladner Gervais LLP ("**BLG**"), as described in the Eleventh Report and as set out in the Mason Affidavit, including the estimated fees and disbursements of BLG in connection with services to be provided to the Trustee up to its date of discharge, be and are hereby approved.

8. **THIS COURT ORDERS** that the Additional BLG Accounts, as described in the Eleventh Report and as set out in the Mason Affidavit, be and are hereby approved.

9. **THIS COURT ORDERS** that the fees and disbursements of Independent Cost Counsel, as described in the Eleventh Report, be and are hereby approved.

## **DISCHARGE OF THE COURT-ORDERED CHARGE**

10. **THIS COURT ORDERS** that the Trustee's Charge, as defined in and created by the Surplus Funds Order, be and is hereby fully and finally terminated, discharged and released upon the Trustee filing a certificate with the Court in substantially the form attached hereto as Schedule "A" (the "**Discharge Certificate**").

## **DESTRUCTION OF RECORDS**

11. **THIS COURT ORDERS** that the Trustee be and is hereby authorized to destroy the pre-November 4, 2011 MF Global Canada records held in storage, limited to documentation the Trustee believes will not be required in the future, upon filing of the Discharge Certificate.

## **DISCHARGE OF THE TRUSTEE AND THE ICC**

12. **THIS COURT ORDERS** that upon the Trustee filing the Discharge Certificate with the Court certifying that it has completed the Remaining Duties, as defined and described in the Eleventh Report, the Trustee shall be discharged as Trustee of MF Global Canada, provided however that notwithstanding its discharge herein: (a) the Trustee shall remain Trustee for the performance of such incidental duties as may be required to complete the administration of the within bankruptcy proceeding, and (b) the Trustee shall continue to have the benefit of the provisions of all orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of KPMG Inc., in its capacity as Trustee.

13. **THIS COURT ORDERS AND DECLARES** that KPMG Inc. is hereby released and discharged from any and all liability that KPMG Inc. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of KPMG Inc. while acting in its capacity as Trustee herein, save and except for any gross negligence or willful misconduct on the Trustee's part. Without limiting the generality of the foregoing, KPMG Inc. is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within bankruptcy proceeding, save and except for any gross negligence or willful misconduct on the Trustee's part.

14. **THIS COURT ORDERS** that Independent Cost Counsel be and is hereby discharged.

## **AID AND RECOGNITION**

15. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or the United Kingdom, to give effect to this Order and assist the Trustee, and its respective agents, in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Trustee, as an officer of this Court, and may as necessary or desirable to give effect to this Order or to assist the Trustee, and its respective agents, in carrying out the terms of this Order.

16. **THIS COURT ORDERS** that the Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.



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Chief Justice G.B. Morawetz

**SCHEDULE “A”: FORM OF TRUSTEE’S DISCHARGE CERTIFICATE**

Court File No. 31-OR-207854-T

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE BANKRUPTCY OF  
MF GLOBAL CANADA CO.  
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**TRUSTEE’S DISCHARGE CERTIFICATE**

- A. Pursuant to a Bankruptcy Order of Mr. Justice Campbell of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated November 4, 2011, KPMG Inc. was appointed as trustee in bankruptcy (the “**Trustee**”) of MF Global Canada Co. (“**MF Global Canada**”).
- B. Pursuant to an Order of the Court dated October 22, 2021 (the “**Discharge Order**”) the Court ordered, *inter alia*, that the Trustee be discharged, effective upon the filing by the Trustee of a certificate certifying the matters set out herein.
- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Discharge Order.

**THE TRUSTEE HEREBY CERTIFIES** the following:

- 1. The Trustee is satisfied, in its discretion, that it has completed its remaining duties, as set out in the Trustee’s Eleventh Report to the Court dated September 21, 2021.
- 2. This Certificate was delivered by the Trustee at \_\_\_\_\_ (*time*) on \_\_\_\_\_ (*date*).

**KPMG INC.**, in its capacity as trustee in bankruptcy of the Estate of **MF GLOBAL CANADA CO.**

Per: \_\_\_\_\_

Name:

Title:

IN THE MATTER OF THE BANKRUPTCY OF MF GLOBAL CANADA CO., OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

*ONTARIO*  
**SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT  
TORONTO

**TRUSTEE'S DISCHARGE CERTIFICATE**

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Trustee of MF Global Canada Co., a bankrupt

IN THE MATTER OF THE BANKRUPTCY OF MF GLOBAL CANADA CO., OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

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**ORDER  
(Discharge of Trustee)**

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