

CV-09-8156-00CL

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]

BETWEEN:

DESJARDINS FINANCIAL SECURITY LIFE
ASSURANCE COMPANY

Applicant

- and -

CRAIGLEE NURSING HOME LIMITED

Respondent

Application pursuant to Section 47 of the *Bankruptcy and Insolvency Act*
and Section 101 of the *Courts of Justice Act*

NOTICE OF APPLICATION

TO THE RESPONDENT(S):

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The claim made against you is set out in the following pages.

THIS APPLICATION will come on for a hearing on Tuesday, April 28, 2009, at 330 University Avenue, Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application you or an Ontario lawyer acting for you must forthwith prepare a Notice of Appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your Notice of Appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does

not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: April 27, 2009

Issued by:



Local Registrar
Christina Irwin
Registrar, Superior Court of Justice
Address of Court Office:

330 University Avenue
Toronto, ON M5G 1E6 1E6 1R7 - a

TO: see Service List at Schedule "A"

APPLICATION

1. THE APPLICANT MAKES APPLICATION FOR:

- (a) if necessary, an order abridging the time for the service and filing of this Notice of Application and related Application Record, and dispensing with service upon any other persons not already served with said Application;
- (b) an order appointing Deloitte & Touche Inc. as Interim Receiver and Receiver and Manager pursuant to s. 47 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended ("*BIA*") and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended ("*CJA*") without security, of the undertaking, property and assets of the Respondent;
- (c) an order substantially in the form of the draft order at Tab 3 of the Applicant's Application Record; and
- (d) such further and other relief as this Honourable Court may deem just.

2. THE GROUNDS FOR THE APPLICATION ARE:

- (a) the Respondent has defaulted on the terms of its loan agreements with the Applicant;
- (b) the Respondent has ceased to be able to operate the business without additional funding;
- (c) the appointment of the Interim Receiver and Receiver and Manager is necessary for the protection of the Respondent's estate and stakeholders, including the residents of the Respondent's nursing home;

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- (d) appointing Deloitte & Touche Inc. as Interim Receiver and Receiver and Manager is in the interest of the Respondent's creditors, including the Applicant;
- (e) section 47 of the *BIA*;
- (f) section 101 of the *CJA*;
- (g) Rule 14 of the *Rules of Civil Procedure*; and
- (h) such further and other grounds as counsel may advise and this Honourable Court may permit.

3. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the application:

- (a) the Affidavit of Stephen Wood sworn April 23, 2009 and the exhibits attached thereto;
- (b) the draft order at Tab 3 of the Applicant's Application Record; and
- (c) such further and other evidence as counsel may advise and this Honourable Court may permit.

April 27, 2009

BLANEY McMURTRY LLP
Barristers and Solicitors
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(416) 593-5437 (Fax)

Lawyers for the Applicant

SCHEDULE "A"

SERVICE LIST

Craiglee Nursing Home Limited
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Toronto, ON M1N 2M7

Roy McDougall
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20 Dundas Street West
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Attn: Doug Lefaive
Tel: (416) 977-6070
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Solicitors for Service Employees International Union, Local 1.0n, and
the Nursing Homes and Related Industries Pension Plan

Ministry of Finance
Insolvency Unit
33 King Street West
6th Floor
Oshawa ON L1H 8H5

Department of Justice (CANADA)
Ontario Regional Office
The Exchange Tower Box 36
130 King Street West, Suite 3400
Toronto ON M5X 1K6

Attn: Diane Winters
Tel: (416)973-3172
Fax: (416)973-0810

Tim Burns
Ministry of Health & Long Term Care
Long Term Care Homes Branch
56 Wellsley Street West
9th Floor
Toronto ON M7A 2J9

Scotia Mortgage Corporation
Scotia Plaza
44 King Street West
8th Floor
Toronto ON M5H 1H1

Attn: Sherry Hanlon
Tel: (416) 866-4715
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The Consumers' Waterheater Income Fund
80 Allstate Parkway
Markham ON L3R 6H3

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Proceeding Commenced at **TORONTO**

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