

Form 23.03

2021

Hfx. No. 503367

Supreme Court of Nova Scotia

Between:

**CANADIAN IMPERIAL BANK OF
COMMERCE**, a chartered bank

Plaintiff

and

3304051 NOVA SCOTIA LIMITED, a body
corporate

Defendant

Notice of Motion

To: 3304051 Nova Scotia Limited
380 Bedford Highway
Halifax, NS B3M 2L4

Motion

The Plaintiff moves for an order appointing Deloitte Restructuring Inc. as interlocutory receiver of certain of the Defendant's property under Section 243 of the *Bankruptcy and Insolvency Act*, section 77 of the Companies Act, and Civil Procedure Rule 41.

Time and place

The motion is to be heard by a judge on January 22, 2021, at 9:30 a.m. in the Law Courts, 1815 Upper Water Street, Halifax, Nova Scotia. The moving party says that the motion will take a half hour or less.

References

The moving party relies on the following legislation, Rules, or points of law:

1. The Applicant is a secured creditor of the Respondent, and the Respondent has not paid debts to the Applicant and others as they became due. The Respondent is therefore an insolvent person within the meaning of the *Bankruptcy and Insolvency Act*, R.S.C., c. B-3, as amended.

2. Section 243 of the *Bankruptcy and Insolvency Act*, provides that on application by a secured creditor, a court may appoint a receiver to take possession of all or substantially all of the property of an insolvent person, exercise control over the insolvent person's property or business and take any other actions the Court considers advisable, just or convenient.
3. Civil Procedure Rule 41 allows for the appointment of an interlocutory receiver in accordance with section 43(9) of the *Judicature Act*, R.S.N.S. 1989, c. 240 where it is just or convenient.
4. Civil Procedure Rule 41.07 provides that a judge who orders the appointment of an interlocutory receiver under that Rule may specify powers and duties of the receiver in the order.
5. The Defendant is insolvent and is committing an oppression on its creditors. Section 77 of the *Companies Act*, R.S.N.S. 1989, c. 81, as amended, provides that upon an application by any interested person, a court may make any order it thinks fit including an order appointing a receiver.

Evidence

The evidence in support of the motion is as follows:

- a) affidavit of Kyle Lane sworn on January 18,, 2021;
- b) affidavit of Glenda MacDonald sworn on January 18, 2021.
- c) A report from Deloitte Restructuring Inc, to be filed.

Possible order against you

You may file an affidavit and a brief, attend the hearing of the motion, and state your position on whether the proposed order should be made. If you do not attend, the judge may grant an order without further notice to you.

Signature

Signed January 18, 2021



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