



SUPREME COURT OF BRITISH COLUMBIA

Effective Date: 2014/06/02

Number: AN -11

Title:

Administrative Notice

Bankruptcy Proceedings before a Registrar in Bankruptcy

Summary:

This Administrative Notice sets out the procedures to be followed in all hearings set before a Registrar in Bankruptcy. This Administrative Notice applies to trustee opposed discharge applications and to bankruptcy hearings in excess of 15 minutes. This Administrative Notice also prescribes standard forms of order for bankruptcy hearings before a Registrar in Bankruptcy.

Direction:

1. This Administrative Notice replaces AN - 9 which is rescinded.

Original Documents required in Bankruptcy Proceedings

2. All documents prepared for use in bankruptcy proceedings before a Registrar in Bankruptcy must be original documents, except where stated that a copy is acceptable.

Standard forms of Orders

3. Attached as Appendix A to this Administrative Notice are the standard forms of order to be used for bankruptcy hearings before a Registrar in Bankruptcy.

Requests to attend bankruptcy hearing by telephone

4. Requests by an interested party to appear at a bankruptcy hearing by telephone must be made by Requisition to the Registrar in Bankruptcy at least 7 days in advance of the hearing date. The Requisition should state the basis for the request.
5. If a request for telephone attendance is granted, the applicant must ensure that the materials described in paragraph 7 or paragraph 14, as applicable, are delivered at least 2 business days prior to the date set for hearing, to Supreme Court Scheduling at the registry where the hearing will occur.

Scheduling Applications for Trustee Opposed Discharge

6. To schedule the hearing of an application for a trustee opposed discharge, a Notice in Form 81 pursuant to the *Bankruptcy and Insolvency Act* (“BIA”) must be filed in the registry where the application will be heard. A draft of the order sought in the standard form prescribed in Appendix A to this Administrative Notice must be attached to the Form 81.

Materials required to be provided at Trustee Opposed Discharge Hearing

7. At the hearing of the application for discharge of the bankrupt, the trustee must provide to the presiding Registrar in Bankruptcy, the following materials:
 - a) two copies of the order sought in the standard form prescribed in Appendix A to this Administrative Notice
 - b) a copy of the filed Form 81 Notice
 - c) the s. 170 Report
 - d) the Statement of Affairs
 - e) the Claims Register
 - f) a copy of the transcript of any examination by Official Receiver
 - g) a spreadsheet showing surplus income calculation (or no surplus as the case may be)
 - h) the bankrupt’s three (3) most recent income and expense statements
 - i) a filed copy of any affidavit to be relied upon by the trustee at the hearing
 - j) for self-employed bankrupts, proof of tax remittances made during the post-bankruptcy period, if any
 - k) any other relevant documentation (e.g., copy of self-exclusion from gambling, letter from outside counsellor regarding treatment for non-budgetary causes etc.)

Scheduling Multiple Applications

8. Trustees must ensure they book sufficient time for all of their applications to be completed in the allotted time. Applications that cannot be dealt with within the time scheduled will either be stood down to the end of the list to be dealt with if time permits, or will be adjourned to another date.
9. Trustees may set up to 10 applications for hearing in each 15 minute time block allotted to them. However, it will be in the discretion of the presiding Registrar in Bankruptcy whether all applications that have been set for hearing will be heard.

Scheduling Matters with Time Estimates over 15 Minutes

10. Each bankruptcy application set before a Registrar in Bankruptcy that is expected to require more than 15 minutes to be heard must be booked separately at a date and time to be coordinated with Supreme Court Scheduling in the registry in which the application will be heard.
11. The provisions of the *BIA Rules* relating to motions apply to such hearings.

Hearing Record to be provided

12. On an bankruptcy application expected to require more than 15 minutes to be heard, the applicant must :
 - a) file in the registry where the hearing will take place, all documents required to be filed pursuant to the *BIA Rules*, and
 - b) provide to the registry where the hearing will take place, a hearing record containing the items described in paragraph 14.
13. The hearing record must be provided to the registry, no later than 4 p.m. on the business day that is one full business day before the date set for the hearing.

Contents of Hearing Record

14. The hearing record must be in a ring binder or some other form of secure binding, and must contain, in consecutively numbered pages, or separated by tabs, the following documents in the following order:
 - a) a title page with the style of proceedings and the name of the lawyer(s), if any, for the applicant and the persons served with the application
 - b) an index
 - c) a copy of the filed notice of motion
 - d) copies of every affidavit in support of the motion
 - e) copies of all other documents to be relied upon at the hearing, including, without limitation those documents listed in paragraph 7 of this Administrative Notice.
15. The hearing record may contain:
 - a) a draft of the order in the prescribed form, or in the terms agreed by all interested parties
 - b) a list of authorities.

16. The hearing record must not contain:

- a) written argument,
- b) copies of authorities, including case law, legislation, legal articles or excerpts from text books, or any other documents unless they are included with the consent of all interested parties.

Christopher E. Hinkson
Chief Justice

APPENDIX A
STANDARD FORMS OF ORDERS

Form 1 - Backing Sheet

Court No. _____
Estate No. _____

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY
IN THE MATTER OF THE BANKRUPTCY OF

ORDER

Name and address of Trustee

(include name of trustee responsible and phone number)

IT IS ORDERED THAT:

1. The bankrupt's application for discharge is adjourned generally; and
2. The Trustee has leave to proceed to its discharge and creditors' rights to enforce payment will be reinstated upon the discharge of the Trustee.

BY THE COURT

REGISTRAR IN BANKRUPTCY

Form 5 - Order Suspending Discharge

District of British Columbia

Division No. ____

Court No. _____

Estate No. _____

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY

IN THE MATTER OF THE BANKRUPTCY OF

(Summary Administration) [**** delete if Ordinary**]

BEFORE _____) _____, THE ____ DAY

)

REGISTRAR) OF _____, 20__

ORDER

UPON THE APPLICATION of _____, a bankrupt who made an assignment on the ____ day of _____, 20__;

AND UPON reading the report of the Trustee as to the bankrupt's conduct and affairs;

AND UPON hearing _____ [*insert name of person appearing*] on behalf of the Trustee _____ [*insert name of trustee*];

AND UPON hearing the bankrupt on *his/her* own behalf [if applicable];

AND UPON hearing _____ [*insert name and description of others attending; e.g. _____, appearing on behalf of the Office of the Superintendent of Bankruptcy and/or _____, a creditor in the bankrupt's estate*]. [*if applicable*]

AND WHEREAS proof has been made of the following fact(s) under Section 173 of the *Bankruptcy and Insolvency Act*, namely:

- a) Section ____ [set out details]; and
- b) Section ____ [set out details].

IT IS ORDERED THAT the bankrupt's discharge be suspended for a period of _____ from the date of this Order and that the bankrupt be discharged on and from the ____ day of _____, 20 ____.

BY THE COURT

REGISTRAR IN BANKRUPTCY

Form 6 - Conditional Order of Discharge

District of British Columbia

Division No. ____

Court No. _____

Estate No. _____

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY

IN THE MATTER OF THE BANKRUPTCY OF

(Summary Administration) [**** delete if Ordinary**]

BEFORE _____) _____, THE ____ DAY
) _____
REGISTRAR) OF _____, 20__

ORDER

UPON THE APPLICATION of _____, a bankrupt who made an assignment on the ____ day of _____, _____;

AND UPON reading the report of the Trustee as to the bankrupt's conduct and affairs;

AND UPON hearing _____ [*insert name of person appearing*] on behalf of the Trustee _____ [*insert name of trustee*];

AND UPON hearing the bankrupt on *his/her* own behalf; [*if applicable*]

AND UPON hearing _____ [*insert name and description of others attending; e.g. _____, appearing on behalf of the Office of the Superintendent of Bankruptcy and/or _____, a creditor in the bankrupt's estate*]. [*if applicable*]

AND WHEREAS proof has been made of the following fact(s) under Section 173 of the *Bankruptcy and Insolvency Act*, namely:

- a) Section ____ [set out details]; and
- b) Section ____ [set out details].

IT IS ORDERED THAT:

1. The bankrupt shall pay to the Trustee for the general benefit of the creditors, the sum of \$_____ in minimum monthly instalments of \$_____, commencing on the ___ day of _____, 20___ and continuing on the _____ day of each and every month thereafter until paid in full, with the right to prepay in part or in full at any time; and
2. If a condition of this Order has not been fulfilled or the bankrupt misses an aggregate of three (3) payments to be made hereunder, the Trustee may proceed to its discharge and creditors' rights to enforce payment will be reinstated upon the discharge of the Trustee.

AND UPON the Registrar being satisfied that the conditions set forth in this Order have been complied with, the Registrar shall grant the bankrupt an Absolute Discharge.

BY THE COURT

REGISTRAR IN BANKRUPTCY

IT IS ORDERED THAT:

1. The bankrupt shall pay to the Trustee for the general benefit of the creditors, the sum of \$ _____ in minimum monthly instalments of \$ _____, commencing on the ___ day of _____, 20___ and continuing on the _____ day of each and every month thereafter until paid in full, with the right to prepay in part or in full at any time;
2. The bankrupt's discharge be suspended for a period of _____ from the date of this Order; and
3. If a condition of this Order has not been fulfilled or the bankrupt misses an aggregate of three (3) payments to be made hereunder, the Trustee may proceed to its discharge and creditors' rights to enforce payment will be reinstated upon the discharge of the Trustee.

AND UPON the Registrar being satisfied that the conditions set forth in this Order have been complied with, the Registrar shall grant the bankrupt an Absolute Discharge.

BY THE COURT

REGISTRAR IN BANKRUPTCY

Form 8 - Section 68 Order (stand-alone)

District of British Columbia
Division No. ____
Court No. _____
Estate No. _____

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY

IN THE MATTER OF THE BANKRUPTCY OF

(Summary Administration) [*** delete if Ordinary*]

BEFORE) _____, THE ____ DAY
)
REGISTRAR) OF _____, 20__

ORDER

UPON THE APPLICATION of _____, the Trustee of the Estate of _____, a bankrupt who made an assignment on the ____ day of _____, _____;

AND UPON reading the report of the Trustee as to the bankrupt's conduct and affairs;

AND UPON reading the affidavit of _____; [*insert name of deponent*] [*if applicable*]

AND UPON hearing _____ [*insert name of person appearing*] on behalf of the Trustee _____ [*insert name of trustee*];

AND UPON hearing the bankrupt on *his/her* own behalf; [*if applicable*]

AND UPON hearing _____ [*insert name and description of others attending; e.g. _____, appearing on behalf of the Office of the Superintendent of Bankruptcy and/or _____, a creditor in the bankrupt's estate*]. [*if applicable*]

IT IS ORDERED THAT:

1. Pursuant to s. 68(10) of the *Bankruptcy and Insolvency Act*, the amount the bankrupt is required to pay to *his/her* estate is hereby set at the sum of \$ _____ per month [*set out monthly amount payable*];
2. Pursuant to section 68 of the *Bankruptcy and Insolvency Act* upon the failure of the

bankrupt to pay any amount required to be paid pursuant to this Order, the Trustee shall be entitled to demand of any debtor of the bankrupt, including any employer, that such debtor pay over to the Trustee any sums payable by such debtor to the bankrupt until the sum of \$_____ has been paid or further written notice from the Trustee; and

3. Should such demand be made by the Trustee upon an employer of the bankrupt, such employer shall withhold the sum of \$_____ per month from the bankrupt's pay and shall remit such amount to the Trustee forthwith.

BY THE COURT

REGISTRAR IN BANKRUPTCY

Form 9 - Order Refusing Discharge

District of British Columbia
Division No. ____
Court No. _____
Estate No. _____

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY

IN THE MATTER OF THE BANKRUPTCY OF

(Summary Administration) [**** delete if Ordinary**]

BEFORE) _____, THE ____ DAY
)
REGISTRAR) OF _____, 20__

ORDER

UPON THE APPLICATION of _____, a bankrupt who made an assignment on the ____ day of _____, _____;

AND UPON reading the report of the Trustee as to the bankrupt's conduct and affairs;

AND UPON hearing _____ [*insert name of person appearing*] on behalf of the Trustee _____ [*insert name of trustee*];

AND UPON hearing the bankrupt on his/her own behalf; [*if applicable*]

AND UPON hearing _____ [*insert name and description of others attending; e.g. _____, appearing on behalf of the Office of the Superintendent of Bankruptcy and/or _____, a creditor in the bankrupt's estate*]. [*if applicable*]

AND WHEREAS proof has been made of the following fact(s) under Section 173 of the *Bankruptcy and Insolvency Act*, namely

a) Section _____ [*set out details*]

b) Section _____ [*set out details*]

AND/OR

WHEREAS it has been proved that the bankrupt has been guilty of misconduct in relation to his property and affairs in the following respects, namely:

a) *[set out details]*

b) *[set out details]*

IT IS ORDERED THAT the bankrupt's discharge be refused absolutely and that the bankrupt not be entitled to reapply for *his/her* discharge for a period of _____ from the date of this Order.

BY THE COURT

REGISTRAR IN BANKRUPTCY

Form 10 - Student Loan Relief (Dismissal of Application)

District of British Columbia

Division No. ____

Court No. _____

Estate No. _____

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY

IN THE MATTER OF THE BANKRUPTCY OF

(Summary Administration) [**** delete if Ordinary**]

BEFORE _____) _____, THE ____ DAY

)

REGISTRAR) OF _____, 20__

ORDER

UPON THE APPLICATION of _____, a bankrupt who made an assignment on the ____ day of _____, 20__;

AND UPON hearing _____ [*insert name of person appearing*] on behalf of the Trustee _____ [*insert name of trustee*];

AND UPON hearing the bankrupt on his/her own behalf; [*if applicable*]

AND UPON hearing _____ [*insert name and description of others attending; e.g. _____, appearing on behalf of the Office of the Superintendent of Bankruptcy and/or _____, a creditor in the bankrupt's estate*]. [*if applicable*]

IT IS ORDERED that:

1. The bankrupt's application for an order releasing the bankrupt from *his/her* obligations in respect to a loan(s) made under the (*Canada Student Financial Assistance Act or Canada Student Loans Act*), or any enactment of a province, including interest accrued to date, be and is hereby dismissed; and

2. The bankrupt not be permitted to bring a further application for relief from *his/her* student loan(s) until at least ____ month(s) has passed from the date of this Order.

BY THE COURT

REGISTRAR IN BANKRUPTCY

Form 11 - Student Loan Relief (Application Granted)

District of British Columbia
Division No. ____
Court No. _____
Estate No. _____

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY

IN THE MATTER OF THE BANKRUPTCY OF

(Summary Administration) [**** delete if Ordinary**]

BEFORE _____) _____, THE ____ DAY

)
REGISTRAR) OF _____, 20__

ORDER

UPON THE APPLICATION of _____, a bankrupt who made an assignment on the
____ day of _____, 20__;

AND UPON hearing _____ [*insert name of person appearing*] on behalf of the Trustee
_____ [*insert name of trustee*];

AND UPON hearing the bankrupt on his/her own behalf; [*if applicable*]

AND UPON hearing _____ [*insert name and description of others attending; e.g.*
_____, *appearing on behalf of the Office of the Superintendent of Bankruptcy and/or*
_____, *a creditor in the bankrupt's estate*]. [*if applicable*]

[*Where application is made and bankrupt is not discharged from bankruptcy*]

IT IS ORDERED that any debt in respect to a loan under [the *Canada Student Financial Assistance Act* or the *Canada Student Loans Act*, and/or any enactment of a province], including any interest accrued to date, be included in the bankruptcy of [*bankrupt's name*] and upon the discharge of the bankrupt, the bankrupt shall be released from all such claims probable in bankruptcy.

OR [Where application is made after the bankrupt has been discharged from bankruptcy]

IT IS ORDERED that the bankrupt be immediately released from *his/her* obligations in respect of

his/her debt in respect to a loan made under [the *Canada Student Financial Assistance Act* or the *Canada Student Loans Act*, and/or any enactment of a province], including any interest accrued to date and which debts survived *his/her* discharge from bankruptcy.

BY THE COURT

REGISTRAR IN BANKRUPTCY

Form 12 - Additional Clauses for Orders

EXAMPLES OF ADDITIONAL CLAUSES THAT MAY BE USED IN ABOVE ORDERS IN APPROPRIATE CIRCUMSTANCES

UNDERTAKING NOT TO USE CREDIT

IT IS ORDERED that the bankrupt execute an undertaking not to apply for credit for a period of _____ from the date of this Order in the form attached as schedule A to this Order and provide proof satisfactory to the Trustee that the undertaking has been lodged with the two National Credit Reporting Agencies, Equifax Canada Inc. and Trans Union of Canada.

GAMBLING A CONTRIBUTING CAUSE TO BANKRUPTCY

IT IS ORDERED THAT, upon the registrar being satisfied that the bankrupt has:

- a) voluntarily self-excluded *him/herself* from gaming in any venue, including on-line, owned and operated by the British Columbia Lottery Corporation as part of that organization's voluntary self-exclusion program for a period of no less than ____ (__) years; *and/or*
- b) undertaken a program to combat *his/her* gambling addiction satisfactory to the Trustee; *and/or*
- c) a period of _____ has passed from the date of this order,

ADDICTION

IT IS ORDERED THAT, upon the registrar being satisfied that the bankrupt has:

- a) undertaken a program to combat *his/her* [*insert form of addiction*] addiction satisfactory to the Trustee; and
- b) a period of _____ has passed from the date of this Order,

ADDITIONAL PERIOD OF INCOME AND EXPENSE STATEMENTS AND PAYMENT OF SURPLUS INCOME

IT IS ORDERED that the bankrupt shall continue to provide to the Trustee, proof of income for a further ____ months commencing *month/year* and ending *month/year*; and shall pay into *his/her* estate any surplus income due as calculated pursuant to the Superintendent's Standards set out in Directive 11R2 of the *Bankruptcy and Insolvency Act* on or before the 10th of each month following the reporting period.

TAX PROVISIONS

IT IS ORDERED that the bankrupt provide proof that *he/she* has filed with Canada Revenue Agency an Income Tax and Benefit Return for the taxation year(s) _____ in accordance with the *Income Tax Act*; and further provide proof that payment has been made for any amount due to Canada Revenue Agency for the taxation year(s) set out above within the time periods prescribed by the *Income Tax Act*.

IT IS ORDERED that notwithstanding the discharge of the Trustee, Canada Revenue Agency shall forward all subsequent year income tax refunds of the bankrupt directly to, and they shall remain with, the Trustee until further order or until such time as the bankrupt is granted an Absolute Order of Discharge.

S. 68 TERMS TO BE INCLUDED IN CONDITIONAL DISCHARGE ORDER

IT IS ORDERED THAT pursuant to s. 68 of the *Bankruptcy and Insolvency Act* upon the failure of the bankrupt to pay any amount required pursuant to this Order, the Trustee shall be entitled to demand of any debtor of the bankrupt, including any employer, that such debtor of the bankrupt pay over to the Trustee any sums payable to the bankrupt until the sum of \$ _____ has been paid, or further written notice from the Trustee.

Form 13 - Sample Undertaking

District of British Columbia
Division No. ____
Court No. _____
Estate No. _____

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY

IN THE MATTER OF THE BANKRUPTCY OF

(Summary Administration) [**** delete if Ordinary**]

UNDERTAKING OF BANKRUPT

I, _____, a bankrupt, further to the Order of Registrar
_____ of the Supreme Court of British Columbia made on the ____ day of
_____, 20__, hereby undertake as follows:

I will not apply for, nor will I accept any offer of, credit of any kind, directly or indirectly,
prior to the ____ day of _____, 20__.

I understand that the Trustee will report any violation of this undertaking to the Court.

Dated at _____, this __ day of _____, 20__.

Witness

Bankrupt

Name of Witness: _____