

12 juin 2012
16.10
9h00

86

CANADA

SUPERIOR COURT
(Commercial Division)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

IN THE MATTER OF THE
BANKRUPTCIES OF:

EARL JONES
COURT NO. 500-11-037071-095
ESTATE NO. 41-342155

EARL JONES

-and-

EARL JONES CONSULTANT &
ADMINISTRATION CORP.
COURT NO. 500-11-036947-097
ESTATE NO. 41-341929

EARL JONES CONSULTANT &
ADMINISTRATION CORPORATION

Bankrupts

-and-

RSM RICHTER INC., Trustee to the
above Bankruptcies

Trustee/Petitioner

*12 Juin 2012
Vn le requete des alligees et de l'inspecteur
Vn les representants des
Accounts du requete
des conclusions*

**MOTION TO TRANSFER BOOKS AND RECORDS OF BANKRUPTS
NOT ESSENTIAL TO THE ADMINISTRATION OF BANKRUPT ESTATE
TO CLAIMS ADMINISTRATOR IN THE CLASS ACTION**
500-06-000500-104
(Rule 3, 68, Directive 17 BIA and 2 & 20 C.p.c.)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT
SITTING IN BANKRUPTCY MATTERS, OR TO THE REGISTRAR THEREOF,
THE MOTION OF YOUR TRUSTEE/PETITIONER STATES:

1. It is the Trustee to the Bankruptcies of Earl Jones and Earl Jones Consultant & Administration Corporation ("EJ Corp") having been duly named and confirmed as such as appears from the present Court record;

2. Earl Jones and EJ Corp administered numerous trusts and estates and client funds and maintained certain files and records and accounting documents in respect of the said administration of which your Trustee was obliged to take possession at date of bankruptcies;
3. The Trustee is in the process of completing its administration of the above bankruptcies and intends to request its discharge in both bankruptcies in the near future;
4. As stated, in the administration of both bankruptcies, the Trustee took possession of approximately 153 boxes of documents, which include files pertaining to the administration and accounting records of the various trusts, estates and personal funds which were previously administered by the Bankrupts, none of which documents and records pertain to the actual administration of the bankrupt estates (the "EJ Books & Records"), a list of same is produced as **Exhibit P-1**;
5. Subsequent to the bankruptcies of Earl Jones and EJ Corp, Virginia Nelles on behalf of all former clients of the Bankrupts, instituted a class action against the Royal Bank of Canada in respect of alleged wrong-doing on behalf of the Royal Bank pertaining to certain bank accounts of Earl Jones and EJ Corp in court file record number 500-06-000500-104 (the "Class Action");
6. As appears from the Class Action court record, the Class Action was settled, the settlement was approved by the Court and Mr. Kevin Curran, B. Arch., was appointed the Claims Administrator in respect of the settlement, in order to analyze the claims of the victims which are to be filed with respect to the settlement;
7. Mr. Kevin Curran was duly approved by the Court to act as Claims Administrator and in effect acts as an officer of the Court in the said administration, as appears from the Class Action court record, a copy of the Settlement and Judgment approving same are produced as **Exhibit P-2**;
8. The Royal Bank of Canada paid the settlement amount of \$17,000,000.00 on May 25, 2012 and the claims process being administered by Mr. Kevin Curran is ongoing;
9. Mr. Kevin Curran as Claims Administrator may require access to the EJ Books & Records in the claims administration process of which he is in charge in respect of the Class Action;

10. Earl Jones who would normally be the person to whom the Trustee would return the EJ Books & Records of the Bankrupts, was convicted of criminal fraud in respect of his administration of the above mentioned funds and is presently in jail and certainly has no use of the EJ Books & Records;
11. Kevin Curran has advised the Trustee that he is prepared to take possession of the EJ Books & Records and conserve same for a reasonable period of time during his administration of the claims procedure in the Class Action, which he estimates will take a minimum of a further six (6) months and the Trustee is prepared to transfer same to Kevin Curran;

WHEREFORE PETITIONER PRAYS THAT BY JUDGMENT TO BE AUTHORIZED HEREIN, YOUR TRUSTEE BE PERMITTED TO TRANSFER THE EJ BOOKS & RECORDS TO MR. KEVIN CURRAN WHO IS AUTHORIZED TO DESTROY SAME AFTER THE TERMINATION OF HIS WORK AS CLAIMS ADMINISTRATOR IN THE CLASS ACTION REFERRED TO HEREIN, THE WHOLE WITHOUT COSTS.

Montreal, June 5, 2012

(SGD) STEIN & STEIN INC.

STEIN & STEIN INC.

Attorneys for Trustee/Petitioner

COPIE CONFORME/TRUE COPY

Stein + Stein Inc.


STEIN & STEIN INC.

AFFIDAVIT


I, the undersigned, **PHIL MANEL, CPA, CA, CFE, CIRP**, Trustee, practicing my profession at 2, Place Alexis Nihon, Suite 2000, District of Montreal, Province of Quebec, H3Z 3C2, do solemnly declare as follows:

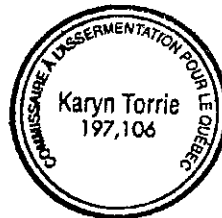
1. **THAT** I am one of the representatives of RSM Richter Inc., the Trustee/Petitioner herein;
2. **THAT** all the facts alleged in the Motion annexed hereto are true and correct.

AND I HAVE SIGNED


PHIL MANEL, CPA, CA, CFE, CIRP

Solemnly declared before me at Montreal
this 5 day of June, 2012


Commissioner of Oaths for the
District of Montreal



COPIE CONFORME/TRUE COPY


STEIN & STEIN INC.

NOTICE OF PRESENTATION

TO: Phil Manel, CPA, CA, CFE, CIRP
RSM Richter Inc.
2, Place Alexis Nihon
Suite 2000
Montreal, Quebec
H3Z 3C2

TAKE NOTE that the *Motion to Transfer Books and Records of Bankrupts not Essential to the Administration of Bankrupt Estate to Claims Administrator in Class Action 500-06-000500-104* will be presentable before one of the Judges sitting in this Honourable Court, sitting in Commercial Division or to the Registrar thereof, in **Room 16.10** at **9:00 a.m. on June 12th, 2012**, at the Montreal Court House, located at 1, Notre-Dame Street West, Montreal, Quebec, or as soon as counsel may be heard.

DO GOVERN YOURSELVES ACCORDINGLY.

Montreal, June 5, 2012

(SGD) STEIN & STEIN INC.

STEIN & STEIN INC.

Attorneys for Trustee/Petitioner

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LIST OF TRUSTEE/PETITIONER'S EXHIBITS

Exhibit P-1: Copy of a list of bankrupt estates.

Exhibit P-2: Copy of Settlement and Judgment in the Class Action 500-06-000500-104.

Montreal, June 5, 2012

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.....
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Attorneys for Trustee/Petitioner