

CANADA

SUPERIOR COURT
(Commercial Division - Bankruptcy)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO. 500-11-037071-095

MR. EARL JONES, Executive residing and domiciled at 870, Pr. Lakeshore, Apartment 3X, Dorval, Quebec, H9S 5T9

27 juillet 2009
Vu la requête en dégrèvement et l'affidavit
vu les biens meubles et les infirmités
de la part des gages immobiliers et la nécessité
de faire intervenir
les dispositions de l'art 47 L.F.1.

CRISTINA ROSS, residing and domiciled at 416, 43rd Avenue, Lachine, Quebec, H8T 2J4

NOMME RSM Redatta des procédures intervenant
du débiteur de façon intermédiaire et
avec les paragraphes mentionnés dans
Fixe l'incertitude au moment de la
Palais de Justice

Petitioner

PETITION FOR THE APPOINTMENT OF AN INTERIM RECEIVER
(Art. 47.1 et seq., Bankruptcy and Insolvency Act and
for Substituted Service Rules 6 and 71, Rules of Practice,
Bankruptcy and Insolvency Act)

TO ONE OF THE HONORABLE JUDGES OF THE COMMERCIAL DIVISION OF THE SUPERIOR COURT OF QUEBEC, SITTING IN MATTERS OF BANKRUPTCY OR THE REGISTRAR THEREOF, THE PETITION OF YOUR PETITIONER RESPECTFULLY REPRESENTS:

1. THAT your Debtor was in the business of administering testamentary successions, estates and trusts;
2. THAT Petitioner's father, Graeme Harrison Ross, died on October 18, 2008;
3. THAT Petitioner's uncle who had formally worked with the Debtor at Montreal Trust recommended that Petitioner and her two sisters, Ann and Madeleine, the sole beneficiaries pursuant to their late father's Will, meet with your Debtor so that he could help them in respect of certain parts of the administration of their late father's estate;

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DISTRICT OF MONTREAL

NO.

MR. EARL JONES, Executive residing and domiciled at 870, Pr. Lakeshore, Apartment 3X, Dorval, Quebec, H9S 5T9

Debtor

-and-

CRISTINA ROSS, residing and domiciled at 716, 43rd Avenue, Lachine, Quebec, H8T 2J4

Petitioner

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4. **THAT** your Debtor attended at Petitioner's late father's home in November 2008 together with your Petitioner and her sisters and offered his services to help with the administration of their late father's estate, mentioning that he had the availability of a notary and an accountant that could help Petitioner and her sisters and that he would perform such functions as well as searches for them;
5. **THAT** your Debtor advised Petitioner and her sisters that he would charge them a 1% administration fee, being a reduced rate due to the fact that he knew Petitioner's uncle well;
6. **THAT** on or about November 27, 2009, your Debtor's assistant, Nancy Wynands communicated with Petitioner and her sisters and forwarded a letter to Petitioner and her sisters to sign in 15 copies, copy of which is produced as Exhibit P-1;
7. **THAT** Petitioner and her sisters had advised your Debtor that they were handling most of the affairs of their late father's estate such as transfer of investment accounts at Investors Group from their father's name to the estate and the sale of his residence, and that your Debtor was to help in respect of preparing an inventory of assets and liabilities and preparation of last tax returns as was provided for in Exhibit P-1;
8. **THAT** Petitioner and her sisters at no time granted authority to your Debtor to endorse cheques made to the estate of their late father, nor to transfer or deposit sums due to the estate into any accounts belonging to your Debtor;
9. **THAT** moreover, your Petitioner and her sisters had upon the decease of their father opened a separate estate bank account at the Royal Bank of Canada, Westmount Branch, and of which only Petitioner and her sisters were authorized signatories;
10. **THAT** your Debtor insisted that Petitioner provide him with a void cheque of the Estate Account from the Royal Bank so that he would allegedly know where to deposit estate cheques, which Petitioner and her sisters so did;
11. **THAT** in as much as the Estate Account was a new account, Petitioner had not as of yet received a cheque book for the account and only had a limited amount of printed cheques, to wit, 3 cheques;
12. **THAT** in December 2008, your Debtor advised Petitioner that he required \$27,000.00 immediately as he had opened a special estate account in the name of the Estate of the late Graeme Harrison Ross at the Bank of Montreal and had arranged through a special investment that same would yield 6% interest per year, and that in the event the said sum was not deposited immediately, they would lose the benefit of this preferential interest rate;

13. **THAT** on or about December 10, 2009 your Debtor came to Petitioner's home and then presented Petitioner and her sisters with the void cheque they had provided to the Debtor and he asked them to complete same by adding the name of the Estate of Graeme Ross as payee, for the sum of \$27,000.00 and to sign the cheque and assured them that the cheque would be deposited to a specific account in the name of the estate of their late father to be opened by your Debtor, a copy of the cheque is produced as **Exhibit P-2**;
14. **THAT** Petitioner and her sisters were circumspect and asked your Debtor how he could deposit the cheque which had a void mark on it and line through it. Your Debtor replied that banks never checked signatures on cheques, or the cheques, any more and that they would have no problem;
15. **THAT** Petitioner and her sisters were not overly concerned because the cheque was made out to the order of their late father's estate and they believed that the cheque would be deposited to an account specifically in the name of the estate of their late father;
16. **THAT** to the shock and horror of Petitioner and her sisters, they have now learned that the cheque, P-2, drawn on the Estate Account which they had at the Royal Bank was not deposited to another account in the name of the estate of their late father to be opened by the Debtor, but rather that your Debtor illegally endorsed same for deposit in an account in the name of Earl Jones Consultant and Administration Corporation, the whole as appears from the reverse side of the cheque forming part of **Exhibit P-2**;
17. **THAT** the above endorsement and deposit constitute actions amounting to fraud on behalf of your Debtor;
18. **THAT** to make matters worse, your Debtor continued to send statements to your Petitioner and her sisters showing the deposit of the said sum of \$27,000.00 as if same had been deposited into a specific trust account in the name of the Estate of the late Graeme Ross, copy of the June 25, 2009 statement indicating same is produced as **Exhibit P-3**. This statement in itself is deceptive in its preparation;
19. **THAT** subsequent to Christmas 2008, Petitioner and her sisters asked your Debtor if he had obtained the results of a Will search for their late father as they required same to obtain Declarations of Transmission in order to transfer their late father's investments at Investors Group into the Estate Account which they had opened these proceeds were to be used in order to pay an existing loan facility of their late father at Solutions Banking (Investors Group);

20. **THAT** Petitioner was familiar with Investors Group and its representative, Mr. Angelo Manzo, as she had attended various investment seminars with her father prior to his decease held by Investors Group, and accordingly Petitioner was in contact with Mr. Manzo;
21. **THAT** your Debtor advised Petitioner and her sisters he would take care of obtaining the funds from Investors Group and would arrange to pay off the loan facility at Solutions Banking (Investors Group);
22. **THAT** your Debtor agreed to obtain the proceeds from the Investors Group investments, use these proceeds to pay the loan facility in the approximate sum of \$66,000.00 at Solutions Banking (Investors Group), and divide the remainder into Three (3) equal parts, to be paid to Petitioner and her sisters respectfully. The Investors Group investments amounted to approximately \$150,000.00;
23. **THAT** Petitioner and her sisters kept calling your Debtor to enquire when the said loan was going to be paid, and your Debtor kept giving them excuses that he had not received the investment proceeds from Investors Group, and thereafter after having received same, he could not disburse same as he was questioning fees that had been deducted by Investors Group;
24. **THAT** Petitioner has now received from your Debtor statements indicating that all sums were being deposited to a specific trust account in the name of the Estate of Graeme Ross, copies of the statements are produced en liasse as **Exhibit P-3**;
25. **THAT** as can be seen from the statement for February 2009 (part of P-3), these payments were allegedly made to the Estate of Graeme Ross by Investors Group for the sum of \$103,665.31 and which are shown to be deposited in an Estate Graeme Ross trust account;
26. **THAT** to date Petitioner has not been able to obtain copy of the said cheques issued by Investors Group, but it is clear that same had to have been illegally endorsed by your Debtor as at no time did your Petitioner or her sisters endorse same and at no time were same ever deposited to a specific trust account in the name of Estate Graeme Ross;
27. **THAT** your Petitioner and her sisters continued to call upon your Debtor to pay off the loan facility of their late father at Solutions Banking (Investors Group) as the statements they received from the Bank indicated same was unpaid and the statements they received from your Debtor showed that there were sufficient funds in the name of the their late father In Trust to pay same;

28. **THAT** in order to appease Petitioner and her sisters, your Debtor told them in April that he would make a small distribution to them of the funds from their late father's In Trust account, but that he was still discussing with Investors Group their alleged fee deductions and did not want to disburse what had been deposited to the Estate Trust Account from Investors Group until this matter was cleared up;
29. **THAT** in April 2009, your Debtor issued Petitioner and her sisters each a cheque in the sum of \$2,000.00;
30. **THAT** your Petitioner and her sisters attempted to meet directly with your Debtor on numerous occasions during April, May and June, however each time your Debtor fixed a meeting, he would cancel same stating he was out of town on an emergency with his daughter who was ill and in the hospital;
31. **THAT** during the month of June, your Debtor cancelled meetings set up for June 9, 2009 and June 24, 2009, nonetheless Petitioner together with her brother-in-law attended at your Debtor's office on June 24, 2009 and insisted upon obtaining the return of all documents;
32. **THAT** moreover, upon Petitioner's attendance at your Debtor's office on June 24, 2009, your Debtor's assistant reached your Debtor by phone and your Debtor advised Petitioner that he was at a hospital in Cape Cod, U.S., with his daughter who was in serious condition and that he had the Estate Graeme Ross documents with him in Cape Cod and was working on them;
33. **THAT** your Petitioner insisted that same be immediately couriered to her;
34. **THAT** your Debtor advised Petitioner that he knew Petitioner and her sisters were not happy with his services and that he would not charge them and would immediately remit all documents and the funds he held in the specific trust account in the name of the Estate of the late Graeme Ross;
35. **THAT** the following day your Petitioner received a couriered package delivered from your Debtor's office in Montreal containing certain documentation and three cheques, each in the sum of \$31,932.86, payable to your Petitioner and her two sisters and postdated to July 3, 2009 drawn on the account "Earl Jones In Trust" at the Bank of Montreal, Hymus Boulevard branch, copies of these cheques are produced as Exhibit P-4, en liasse;
36. **THAT** your Petitioner and her sisters were furious that your Debtor had issued postdated cheques for the funds which they believe were being held in a distinct In Trust account in the name of her late father, and were unable to reach your Debtor for an explanation;

37. **THAT** your Petitioner and her sisters have attempted to deposit the cheques issued by your Debtor and same have been returned "insufficient funds", copy of the bank notices to said effect are produced as **Exhibit P-5**;
38. **THAT** your Debtor is personally liable for the cheques, **P-5**, the indication of "In Trust" on the said cheques having no legal bearing, and moreover as a result of his deceit and falsehoods herein stipulated;
39. **THAT** your Debtor's offices are presently closed and the Autortié des Marchés Financiers have obtained a freeze order upon your Debtor's bank accounts as well as those of his alter ego, Earl Jones Consultant & Administration Corporation (the "EJ Corp");
40. **THAT** your Debtor and EJ Corp each act as the alter ego of the other and have both operated a scheme whereby they have co-mingled funds to be held in distinct trust accounts on behalf of various estates and have simply used funds belonging to one estate to pay amounts on behalf of others and liabilities of our Debtor and EJ Corp, the said actions amount to nothing more than a Ponzi-type scheme which resulted in your Petitioner and her sisters being defrauded by your Debtor;
41. **THAT** Petitioner has just recently learned that your Debtor has moreover prepared a fraudulent and forged loan agreement in her name and that of her sisters whereby your Debtor arranged a loan from a Dr. Brent Matthews to the Estate Graeme Ross in the sum of \$150,000.00 as of February 9, 2009, your Petitioner at no time required or needed a loan for the estate of her late father, never authorized such a loan and their signatures on the alleged loan document are forged and, moreover, they never received the alleged loan proceeds, a copy of this fraudulent document is produced as **Exhibit P-6**;
42. **THAT** your Petitioner has issued a Petition for Receiving Order (the "Petition in Bankruptcy") against your Debtor based on the fact that your Debtor, within the six (6) months next preceding the date of presentation of this Petition, has committed the following acts of bankruptcy, namely:
 - a. He has ceased to meet his liabilities generally as they become due;
 - b. He has fraudulently transferred money and/or assets from his patrimony.
43. **THAT** your Debtor has issued numerous other cheques on the basis of Earl Jones "In Trust" which have been returned NSF, and for which he is personally liable, examples of same are produced as **Exhibit P-7, en liasse**;

44. **THAT** since the institution of the Petition in Bankruptcy against EJ Corp, it has become apparent from meetings with other parties and documents obtained from creditors by the undersigned counsel that the Debtor has co-mingled monies from numerous estates he had been administering, and that your Debtor has used the names of various estates under his administration to obtain loans which were never notified to or used for the benefit of the said estates such as was done in respect of **Exhibit P-6**;
45. **THAT** since the institution of the Petition in Bankruptcy against EJ Corp, it has become apparent that your Debtor, with a total disregard for the confidence placed in him, has dissipated numerous estates for millions of dollars left to benefit elderly spouses, the whole without any explanation, and has kept these individuals in a desperate state;
46. **THAT** your Debtor has moreover gone into hiding, although his criminal counsel has advised the media he is in Canada, hiding in a depressed state in fear for his life;
47. **THAT** there are approximately 100 families affected by the deception perpetrated by your Debtor, all of which have no ability to access any of the funds under your Debtor's administration, this amounting to millions of dollars and your Debtor to date is unavailable to provide any explanation as to what has happened to same;
48. **THAT** prior to the closing of your Debtor's office, your Debtor appeared to be living an extravagant lifestyle with ownership interests in properties in Montreal, Mont Tremblant and United States;
49. **THAT** your Debtor's business premises are presently unoccupied by your Debtor, the Interim Receiver of EJ Corp has now taken possession of same together with the records therein found, however your Interim Receiver has not been able to find the general ledger for EJ Corp to date;
50. **THAT** your Debtor's immovable properties situated at 807, Pr. Lakeshore, Apartment 3X, Dorval, Quebec and 49, Chemin des Becs-Scies, Mont Tremblant, Quebec, are not presently occupied by your Debtor;
51. **THAT** there is reason to fear as a result of all of the above, that without the appointment of an Interim Receiver, your Debtor may well attempt to sell or transfer or hypothecate his personal assets including the interest he has in the immovable properties registered in his name;
52. **THAT** it is urgent that an Interim Receiver be immediately appointed to your Debtor's assets in order to control his personal receipts and disbursements and to prevent any fraudulent dispositions of assets on the part of your Debtor;

53. **THAT** as well as a result of the fact that your Debtor, through his counsel, has declared that he is in hiding and unavailable at the present time, and due to the fact that your Petitioner in the bankruptcy proceedings of EJ Corp was authorized to serve the Petition in Bankruptcy in the said proceedings by placing an ad in the English and French newspapers as a result of the inability to bailiffs to find your Debtor, it is urgent that your Petitioner be permitted to serve the Petition for Receiving Order issued herein by way of placing an announcement of the present proceedings in an English and a French newspaper in the District of Montreal.

WHEREFORE PETITIONER PRAYS THAT BY JUDGMENT TO BE RENDERED HEREIN:

1. That Petitioner be dispensed from service of the present Petition;
2. That all delays of service and presentation of the present Petition be shortened;
3. That RSM Richter Inc., Trustee, be named and appointed Interim Receiver to all assets of your Debtor with power and authority to immediately:
 - a) take possession and control of all assets, including without limitation real and immoveable properties wherever situated, books and records and bank accounts and money of your Debtor wherever situated.
 - b) control all of your Debtor's receipts and disbursements, but shall not interfere with the business of your Debtor, except to the extend required to perform its obligations hereunder.
 - c) dispense the Interim Receiver from any obligation to furnish security relating to its naming as Interim Receiver having possession of all assets of your Debtor;
4. Orders provisional execution of the present Judgment notwithstanding any appeal;
5. Grant permission to serve the Petition for Receiving Order issued herein by way of placing a notice same and its date of presentation in an English and a French newspaper at least ten (10) days prior to the date of presentation of the Petition for Receiving Order, and with permission to leave a copy of same in the Court record herein for the Debtor;

The whole with costs including extrajudicial costs against the mass.

MONTREAL, July 27, 2009

(S) Stein & Stein Inc.

STEIN & STEIN INC.
Attorneys for Petitioner

TRUE COPY

Stein & Stein Inc.
Attorneys for Petitioner

AFFIDAVIT

I, the undersigned, **CRISTINA ROSS**, residing and domiciled at 716, 43rd Avenue, Lachine, Province of Quebec, H8T 2J4, solemnly declare as follows:

1. THAT I am the Petitioner herein;
2. THAT the facts alleged in the foregoing *Petition for the Appointment of an Interim Receiver* are true and correct based upon my personal knowledge, or as stipulated herein based upon information and documents furnished to me by counsel.

AND I HAVE SIGNED

(S) Cristina Ross

CRISTINA ROSS

Solemnly declared before me at Montreal
this 27th day of July, 2009

(S) Nicole Stevenson (149,044)

COMMISSIONER FOR OATHS

TRUE COPY

Stevenson + Stevenson Inc

Attorney For *Retechcare*

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(Commercial Division - Bankruptcy)

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DISTRICT OF MONTREAL

NO.

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Debtor

-and-

CRISTINA ROSS, residing and domiciled at 716, 43rd Avenue, Lachine, Quebec, H8T 2J4

Petitioner

<p>LIST OF EXHIBITS</p>

Exhibit P-1: Letter from Petitioner and her sisters dated November 27, 2008 to Debtor.

Exhibit P-2: Copy of cheque in the sum of \$27,000.00.

Exhibit P-3: Statement of June 25, 2009 from Earl Jones Consultant & Administration Corporation.

Exhibit P-4: Copies of three cheques postdated July 3, 2009 from Earl Jones "In Trust" in the amount of \$31,932.86 each.

Exhibit P-5: Copies of bank notices of cheques being NSF.

Exhibit P-6: Copy of forged loan agreement.

Exhibit P-7: Copies of cheques from Earl Jones "In Trust" returned NSF.

MONTREAL, July 27, 2009

(S) Stein & Stein Inc.

STEIN & STEIN INC.
Attorneys for Petitioner

TRUE COPY

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Attorneys for Petitioner

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Practice, Bankruptcy and Insolvency Act)*

AFFIDAVIT, NOTICE & LIST OF EXHIBITS

COPY FOR STEIN & STEIN INC.

CODE NO. BS0326 FILE NO. 9266-45

ME NEIL H. STEIN
STEIN & STEIN INC.

Avocats/Barristers & Solicitors
4101 ouest rue Sherbrooke Street West
MONTREAL, QUEBEC H3Z 1A7
TEL: 514-866-9806 / FAX: 514-875-8218