Court File No./Estate No.: BK-22-00208582-OT-31
BK-24-02856382-0031

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)

IN THE MATTER OF THE BANKRUPTCY OF
AP PRIVATE EQUITY LIMITED and AIDEN PLETERSKI,
of the Town of Whitby, in the Province of Ontario

RESPONDING FACTUM OF THE TRUSTEE IN BANKRUPTCY, GRANT THORNTON LIMITED (Motion returnable June 6, 2024)

June 3, 2024

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TO: THE SERVICE LIST

AND TO: THIS HONOURABLE COURT

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PART I - OVERVIEW

1. Grant Thornton Limited, in its capacity as the trustee in bankruptcy (in such capacity, the "**Trustee**") of AP Private Equity Limited ("**AP**") and Aiden Pleterski ("**Pleterski**" or the "**Bankrupt**" and collectively with AP, the "**Bankrupts**") files this factum in support of its opposition to the discharge of the Bankrupt. The Trustee and the Office of the Superintendent of Bankruptcy each delivered Notices of Intended Opposition to Discharge pursuant to section 168.2(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**").[1] The Trustee also filed its Report on the Bankrupt's Application for Discharge dated February 24, 2023 (the "**Initial 170 Report**") and the Sixth Report of the Trustee and Supplementary Report on the Bankrupt's Application for Discharge dated May 22, 2024

[1] Trustee's Notice of Intended Opposition to Discharge of the Bankrupt dated February 24, 2023, attached as Appendix "4" to the Sixth Report of the Trustee dated May 23, 2024 ("**Sixth Report**"), Trustee's Motion Record ("**MR**"), Tab 2, p. 70; Superintendent's Notice of Intended Opposition of Discharge of the Bankrupt dated May 2, 2023, attached as Appendix "8" to the Sixth Report, MR, Tab 2, p. 245; *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, s.168.2(1) [*BIA*].

(the "**Sixth Report**" and together with the Initial 170 Report, the "**170 Report**") pursuant to section 170 of the BIA.[2]

2. For the reasons set out below, the Trustee is of the view that the Bankrupt's application for discharge should be refused, or in the alternative, that his application for discharge should be suspended for a period of at least two (2) years and contingent upon his compliance with each of the following conditions:

(a) payment to the Trustee in the amount of $4,539,803 representing the total of the Astronomia and the Canadian equivalent of the Withdrawn Cryptocurrency, the Scotiabank Funds and the Paypal Funds;

(b) payment to the Trustee in an amount equal to 30% of proven claims in the estate;

(c) filing all pre and post-bankruptcy income tax returns and payment of any income tax liabilities resulting from all post-bankruptcy filings;

(d) providing the Trustee with login credentials for all of his accounts with Steam and Binance and any other on-line asset and trading platforms;

(e) completing all outstanding income and expense statements;

(f) a permanent prohibition on the Bankrupt applying for, using or obtaining any form of unsecured credit and from soliciting or marketing debt or equity-based investments, of any kind, to any persons, individuals or corporations, or non-

[2] BIA, s.170.

institutional lenders, of any kind (the “**Credit and Investment Solicitation Ban**”); and

(g) providing a written undertaking to comply with the Credit and Investment Solicitation Ban.

3. Capitalized terms not otherwise defined herein shall have the meaning prescribed in the Sixth Report, and all monetary amounts referred to herein are in Canada currency unless otherwise stated.

PART II - SUMMARY OF THE FACTS

4. The facts relevant to the relief sought by the Trustee are set out in detail in the Sixth Report and are summarized below.

Background to Bankruptcy Proceedings

5. Between May 2020 and August 9, 2022, the Bankrupts operated an investment scheme in which it obtained funds from related and third-party investors and purported to invest those funds in cryptocurrency and foreign exchange positions for the benefit of those investors.

6. On July 7, 2022, certain of the Bankrupts’ investors successfully obtained an *ex parte* worldwide *Mareva* injunction against the Bankrupts, after demonstrating *prima facie*

fraudulent misrepresentation, civil fraud, misappropriation of funds, conversion, and unjust enrichment.[3]

7. On August 9, 2022, on application by certain other investors, the Ontario Superior Court of Justice (in Bankruptcy and Insolvency) ordered that Pleterski and AP be adjudged bankrupt.[4]

8. During the administration of the bankruptcy, the Trustee undertook a banking analysis of the funds received and expenses incurred through the bank accounts of the Bankrupts. Through its analysis, the Trustee learned that only 1.6% of the funds collected from the investors were invested by the Bankrupts.[5]

9. The Trustee's analysis also demonstrates that Pleterski used money from new investors to pay out old investors. It further shows that over a period of 2.5 years, Pleterski spent approximately 38% of the total amount collected from investors to fund his extravagant lifestyle, including the rental of a mansion in Burlington, expensive vacations, and an exotic car collection. Both findings are consistent with the evidence Pleterski provided during the examination conducted pursuant to section 163 of the BIA.[6]

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[3] Sixth Report at para. 1, MR, Tab 2, p. 21.

[4] Sixth Report at para. 2, MR, Tab 2, p. 21.

[5] Sixth Report at para.19, MR, Tab 2, p. 25.

[6] Sixth Report at paras. 20-21, MR, Tab 2, pp. 25-26.

10. On May 14, 2024, Pleterski was arrested and charged with one count of fraud exceeding $5,000 and money laundering under the *Criminal Code* of Canada, R.S.C., 1985, c. C-46 following a 16-month joint investigation (the "**Pleterski Investigation**") by the Durham Regional Police and the Ontario Securities Commission (collectively, the "**Investigators**"). That same day, Pleterski was released on bail and required to surrender his passport.[7]

11. The details of the Pleterski Investigation and the resulting charges against the Bankrupt are covered by a publication ban. However, at a press conference, the Investigators stated that the "size of the alleged fraud was massive and spanned across multiple jurisdictions".[8]

The Bankrupt's Conduct During the Bankruptcy Proceedings

12. The failure of the Bankrupt to comply and meaningfully cooperate with the Trustee throughout his bankruptcy is well documented. Pleterski's pattern of conduct led the Trustee to seek a contempt order against him on two occasions and has needlessly added to the administrative costs of the bankruptcy.[9]

13. Throughout the bankruptcy proceedings, the Bankrupt has consistently failed to comply with his statutory duties under the BIA, including failing to disclose his assets and

[7] Sixth Report at para. 22, MR, Tab 2, p. 26.

[8] Sixth Report at para. 22, MR, Tab 2, p. 26.

[9] Sixth Report at paras. 18 and 23, MR, Tab 2, pp. 25-26.

providing material information to the Trustee that would assist it in realizing on the Bankrupts' assets.

14. To date, the Bankrupt has failed to provide the Trustee with the following assets or satisfactory evidence of their disposition:

(a) a Jacob & Co Astronomia Casino watch (the "**Astronomia**") purchased by the Bankrupt for $361,158 and allegedly sold by him in early 2022 for $150,000 cash;

(b) Cryptocurrency in the amount of USD $2,734,506 that Pleterski withdrew from his Binance account on March 31, 2021 and December 28, 2021 (the "**Withdrawn Cryptocurrency**");

(c) USD $280,000 or more that the Bankrupt transferred to Cs.money via his Paypal account (the "**Paypal Funds**");

(d) $207,000 that Pleterski spent on platforms similar to Cs.money using his Scotiabank credit card (the "**Scotiabank Funds**"); and

(e) Scene+ points worth at least $13,000 that the Bankrupt used to pay for hotels and flights.[10]

15. In addition to the above, Pleterski has also failed to disclose to the Trustee his current balance of Scene+ points or his balance as at the date of bankruptcy, as well as the source

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[10] Sixth Report at paras. 25-33, MR, Tab 2, pp. 27-29.

of funds used to maintain his extravagant post-bankruptcy lifestyle and pay for the several elaborate out-of-country vacations that he has been on since being adjudged bankrupt.[11]

16. The Bankrupt has advised the Trustee that he has not earned any significant income throughout his bankruptcy and has provided statements of income and expenses for August 2022 to March 2023 in which he declared no income and no expenses. However, the Trustee has obtained evidence that the Bankrupt is earning live stream revenue.[12] The Trustee also understands that during the Pleterski Investigation, the Investigators found evidence that the Bankrupt solicited additional investments as recently as February 2024.[13]

PART III - ISSUES & ARGUMENT

17. The issues to be determined on this application are whether:

(a) this Court has jurisdiction to grant the Bankrupt an absolute discharge from bankruptcy; and

(b) this Court should exercise its jurisdiction under section 172(2) of the BIA to grant the Bankrupt a suspended and conditional discharge subject to the terms and conditions recommended by the Trustee.

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[11] Sixth Report at paras. 33-51, MR, Tab 2, pp. 29-31.

[12] Sixth Report at paras. 27-31, MR, Tab 2, pp. 27-28.

[13] Sixth Report at paras. 22 and 52-53, MR, Tab 2, pp. 26 and 31.

A. The Court is Precluded from Granting the Bankrupt an Absolute Discharge

18. Section 173(1) of the BIA prescribes categories of conduct that, if proved, preclude the Court's authority to grant an absolute discharge from bankruptcy.[14]

19. Section 172(2) of the BIA provides that, upon proof of any fact enumerated in section 173(1) of the BIA, the Court may proceed in three ways: (a) refuse a discharge; (b) suspend a discharge; or (c) require the bankrupt as a condition of discharge to perform such acts, pay such monies, consent to such judgments or comply with other terms as the Court may direct.[15] Pursuant to section 172(4) of the BIA, "the powers of suspending and of attaching conditions to the discharge of a bankrupt may be exercised concurrently".[16]

20. Proof of the facts contained in section 173(1) of the BIA may be given orally under oath, by affidavit or otherwise.[17] Although the Court is not bound by the Trustee's section 170 Report, it is *prima facie* evidence with respect to the facts contained therein. Unless contradicted by the evidence, the Court must accept the statements in the section 170 Report.[18]

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[14] *BIA*, s.173(1); *Bank of Montreal v Giannotti*, [2000] O.J. No. 4272 at para. 25 [*Giannotti*].

[15] *BIA*, s.172(2).

[16] BIA, s.172(4).

[17] *BIA*, s.172(2).

[18] *BIA*, s.170(5); *Chhabra v City of Markham*, 2023 ONSC 2077 at para. 37, citing *Re Crowley*, [1984] N.J. No. 52 at paras. 49-50. [*Crowley*].

21. As set forth in the 170 Report, there is ample evidence to support the finding that several of the facts referred to in section 173(1) of the BIA exist in this case, including the following:

- the Bankrupt's assets are not of a value equal to fifty cents on the dollar on the amount of his unsecured liabilities due to circumstances for which the Bankrupt can justly be held responsible [s.173(1)(a)];

- the Bankrupt did not adequately maintain and disclose records concerning his personal and business finances for the three years prior to his assignment in bankruptcy [s.173(1)(b)];

- the Bankrupt failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet the Bankrupts' liabilities [s.173(1)(d)];

- the Bankrupt brought on and contributed to the bankruptcy by unjustifiable extravagance in living, including driving more than 10 exotic sportscars, spending approximately $45,000 per month to live in a mansion and frequently flying on private aircrafts and engaging in hazardously speculative and neglect of business practices [s.173(1)(e)]; and

- the Bankrupt failed to perform a number of the duties imposed on him under the BIA, including failing to cooperate and assist the Trustee in the investigation of his affairs pursuant to section 158 [s.173(1)(o)].[19]

22. Given the existence of the above section 173(1) facts, the Court is prohibited from granting the Bankrupt an absolute discharge from bankruptcy. Accordingly, the Court must either dismiss the Bankrupt's application for discharge or issue an order for a conditional and/or suspended discharge.

B. If Granted, the Bankrupt's Discharge Should be Suspended and Conditional

23. The BIA provides no guidance to assist the Court in its exercise of discretion to suspend or impose conditions on the discharge of a Bankrupt in cases where a factor referred to in section 173(1) of the BIA has been proven.[20]

24. However, Courts are guided by the general discharge principles distilled from the jurisprudence. These principles, which have been summarized by Hallett J. in *Re Crowley* ("***Crowley***") and Anderson J. in *Re Raftis*, among others, include the following:

    (a) the Court must decide each case on its own facts and consider the bankrupt's conduct both before and during the bankruptcy;

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[19] *BIA*, s.173(1).

[20] *Crowley* at para. 40.

(b) an object of the BIA is to enable an honest debtor, who had been unfortunate in business, to secure a discharge so he might make a new start;

(c) the Bankruptcy Courts should not be converted into a sort of clearing-house for liquidation of debts irrespective of the circumstances under which they were created;

(d) in exercising its discretion, the Court must balance the interest of the creditors in being paid, the interests of rehabilitation of the bankrupt and the interests of the public in ensuring the integrity of the bankruptcy and insolvency system;

(e) the Court looks to see that the bankrupt has learned from the bankruptcy process and has modified his behaviors to ensure that the same problems will not occur;

(f) with bankrupts who are ill-intentioned, dishonest, indifferent or misleading, the purpose of the BIA shifts towards the protection of society, the upholding of the integrity of the BIA and the sanctioning of inappropriate behavior;

(g) in considering if an order should be made that involves the payment of money by the bankrupt as a condition of discharge, the court must bear in mind that he is entitled to have available for maintenance of himself and his family a reasonable amount of his after-acquired income; and

(h) the discretion of the judge is very broad and should not be interfered with on appeal.[21]

25. In *Bank of Montreal v Giannotti ("**Giannotti**")*, the Ontario Court of Appeal expanded upon the notion of an honest but unfortunate debtor. Writing on behalf of the Court of Appeal, MacPherson J.A. explained the policy objective of the BIA to rehabilitate honest but unfortunate debtors which must be balanced with the rights of the creditors to be repaid and the public's interest in maintaining the integrity of the administration of the BIA.[22]

26. MacPherson J.A went on to note that, on a discharge application, the Court has an obligation to ensure that the integrity of the bankruptcy system is maintained and at paragraph 18, said that:

> …. the integrity of the bankruptcy system requires a bankrupt to co-operate with the trustee. See *Mancini (Trustees of) v. Mancini* (1987), 63 C.B.R. (N.S.) 254 (Ont. S.C.), *Re Adelman* (1945), 26 C.B.R. 152 (Ont. S.C.), and *Re Rahall* (1997), 1997 CanLII 14970 (AB KB), 49 C.B.R. (3d) 268 (Alta. Q.B.). The trustee is appointed by order of the court. After a receiving order is made by the court, the trustee administers the bankrupt's estate on behalf of the court. Accordingly, a bankrupt who seeks relief, by way of discharge, from the court must co- operate fully with the trustee before seeking that relief. […][23]

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[21] *Crowley* at paras. 40-57; *Raftis, Re*, 1984 CarswellOnt 168 at para. 12; *Re Bury (Bankrupt)*, 2007 ABQB 490 (CanLII) at paras. 9-10.

[22] *Giannotti* at paras. 11-13.

[23] *Giannotti* at paras. 14 and 18.

27. In *Giannotti*, the bankrupt owed almost 30 creditors between $25,000,000 and $29,000,000. The bankrupt in that case had applied for a discharge approximately one year after they were adjudged bankrupt. The bankruptcy judge granted the bankrupt a combined suspended and conditional discharge. Thereafter, one of the bankrupt's creditors brought an appeal seeking that the bankrupt's application for discharge be refused.[24]

28. The Court of Appeal found that the bankrupt had been uncooperative, evasive and untruthful to both the trustee and the bankruptcy judge during the bankruptcy administration. In particular, the bankrupt had failed to provide information to the trustee about a family trust or comply with undertakings after his section 163 examination. He also refused to answer questions about how rent and office expenses were being paid for a business that he appeared to be involved in after he became bankrupt.[25]

29. Ultimately, the Court of Appeal concluded that the bankrupt's conduct constituted the sort of "extraordinary" or "extreme" circumstances where a refusal of discharge was appropriate.[26] The Court of Appeal determined that given the bankrupt's conduct, a "reasonable member of the public would seriously question the integrity of the BIA" if the

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[24] *Giannotti* at paras. 5-8.

[25] *Giannotti* at paras. 16-23.

[26] *Giannotti* at para. 26; see also *Kiamanesh, Re*, 2008 BCSC 398 (CanLII) at para. 55 [*Kiamanesh*] for a list of examples of where the discharge has been refused, including cases where (i) the debtor's conduct has been reprehensible, (ii) the bankrupt has been evasive and did not co-operate with the trustee, (iii) the bankrupt entered into rash and speculative investments, failed to keep proper books and records and had made no attempt to rehabilitate, (iv) the bankrupt committed several "facts" including failing to disclose assets in the statement of affairs, a finding of guilt on a criminal fraud charge, unjustifiable extravagance, and a "catch me if you can" attitude towards the trustee and creditors.

bankrupt was granted "any form of relief at this juncture". Accordingly, the Court of Appeal allowed the appeal and held that the bankrupt was "free to re-apply for a discharge, but he must co-operate with the trustee and make full disclosure of the relevant facts".[27]

30. Like the bankrupt in *Giannotti*, Pleterski cannot be said to fall within the description of an honest but unfortunate debtor deserving of a fresh financial start. By his own evidence, the Bankrupt has conceded that he is insolvent due to his wrongful conduct, extravagant spending of creditors' money and "greedy positions" in foreign exchange markets.[28]

31. Since the commencement of the bankruptcy proceedings, Pleterski has continued to be unresponsive and uncooperative with the Trustee and has failed to attend to his duties as a bankrupt. Of particular concern is the fact that the Bankrupt has failed to account for all his assets and provide information that the Trustee has requested of him to assist it in realizing on the Bankrupts' assets. Further, the Bankrupt has failed to disclose to the Trustee the source of funds used to maintain his extravagant pre-bankruptcy lifestyle.

32. The Bankrupt's actions and failures throughout his bankruptcy, including the fact that he has solicited additional investments as recently as February 2024 and continued to live extravagantly leads to the overwhelming conclusion that he has a complete lack of remorse or contrition for his actions. It is also clear from his conduct that his actions have not shown any element of rehabilitation.

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[27] *Giannotti* at paras. 27-28.

[28] Sixth Report at para. 26, MR, Tab 2, p. 27.

33. The Bankrupt's conduct and "catch me if you can" attitude towards the Trustee and creditors fits clearly within the exceptional circumstances in which an order refusing a discharge from bankruptcy is warranted.[29] However, should this Court decide otherwise, the Trustee takes the position that any discharge ought to be suspended for a period of two (2) years and conditional upon the terms and conditions it has recommended.

34. Given the public nature of this case and the Bankrupt's continued lack of cooperation, truthfulness and respect for the bankruptcy process, the combination of a suspension and the imposition of conditions of discharge is both appropriate and necessary to maintain the integrity of the bankruptcy process and the public's perception of it.

35. It would be an affront to the integrity of the BIA and public confidence in the bankruptcy system would be seriously undermined if the Bankrupt were provided a fresh start free from debt without being penalized for his conduct or being required to make meaningful recompense to his creditors.

36. The Trustee submits that the two (2) year suspension of discharge and the recommended payment conditions will achieve the balance between the rights of the creditors to be paid and the public's interest in maintaining the integrity of the bankruptcy system that this case calls for.

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[29] *Mott, Re*, 2005 CarswellOnt 5154 at para. 16.

37. In *Crowley*, the Court acknowledged that the trend by the Court to impose conditions of payment on the bankrupt as the price for his discharge reflects "the feeling of the public…that abuses of the bankruptcy process are perceived".[30]

38. In determining the appropriate quantum of payment that should be imposed as a condition of discharge, the Bankrupt's personal circumstances, the rights of the creditors and the integrity of the system warrant equal consideration.[31]

39. Although the recommended quantum of payment appears to be quite onerous, the Trustee submits that it is reasonable, having regard to the Bankrupt's egregious conduct and the following:

(a) the Bankrupt only invested 1.6% of the funds it collected from creditors;

(b) the unsecured claims filed in the Bankrupts' estate total $30,473,879 and to date, the Trustee has only recovered a total of $5,635,461 and issued to the creditors five interim dividend distributions totaling $$3,350,000;

(c) the Bankrupt has failed to account for all his assets or provide satisfactory evidence of their disposition; and

(d) the Bankrupt is of a young age, has full capacity to work and has no dependents.

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[30] *Crowley* at para. 57.

[31] *Kiamanesh* at para. 76.

40. Furthermore, while the recommended payment conditions may appear to be inconsistent with giving the Bankrupt a "fresh start", it is important to keep in mind that "the provisions for discharge must also be consistent with the decision in [*Giannotti*], which held that the "fresh start" purpose of the BIA is intended for the honest but unfortunate debtor and not for a dishonest debtor who has shown himself unwilling to make full disclosure".[32]

41. The imposition of the recommended payment conditions, together with the two (2) year suspension is sufficient to indicate to the Bankrupt the Court's displeasure with his conduct and confirm to the public that the bankruptcy process is not intended to be a clearinghouse for debt or to erase the serious consequences of mishandling the money of others.[33]

42. The Trustee further submits that, given Pleterski's failure to comply with his duties as a bankrupt, it is also appropriate to order that his discharge from bankruptcy be conditional upon providing the Trustee his login credentials for on-line asset and trading platforms, completing outstanding income and expense statements, and filing his income tax returns and making payment of any income tax liabilities.

43. Bankrupts have a statutory obligation to disclose full particulars of their assets, liabilities, prior transactions, and disposition of assets and to require less would place the creditors of the Bankrupts at a disadvantage and seriously undermine the integrity of the bankruptcy process.

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[32] *Rosenfeld, Re*, 2004 CanLII 15992 (ON CA) at para. 7.

[33] *Mensah, Re*, 2006 CanLII 37133 (ON SC) at para. 18.

44. Lastly, the Trustee submits that given the existence of evidence showing that Pleterski has continued to maintain trading accounts and solicit investments during his bankruptcy, it is clear that he is at high risk for recidivism. Therefore, it is incumbent on the Court to order, as a condition of discharge, that the Bankrupt be prohibited permanently from applying for, using or obtaining any form of unsecured credit and from soliciting or marketing debt or equity-based investments.

PART IV - RELIEF REQUESTED

45. For the reasons set forth herein, the Trustee asks that the Bankrupt's discharge be refused. In the alternative, the Trustee respectfully requests an Order pursuant to section 172(2) of the BIA that the Bankrupt's discharge be suspended for a period of two (2) years and subject to the terms and conditions recommended by the Trustee.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 3rd day of June, 2024.

June 3, 2024

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SCHEDULE "A"
LIST OF AUTHORITIES

1. *Bank of Montreal v Giannotti*, [2000] O.J. No. 4272

2. *Chhabra v City of Markham*, 2023 ONSC 2077

3. *Kiamanesh, Re*, 2008 BCSC 398 (CanLII)

4. *Raftis, Re*, 1984 CarswellOnt 168

5. *Re Bury (Bankrupt)*, 2007 ABQB 490 (CanLII)

6. *Re Crowley*, [1984] N.J. No. 52

7. *Rosenfeld, Re*, 2004 CanLII 15992 (ON CA)

8. *Mensah, Re*, 2006 CanLII 37133 (ON SC)

9. *Mott, Re*, 2005 CarswellOnt 5154

SCHEDULE "B"
RELEVANT STATUTES

Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3

Oppositions to automatic discharge

168.2 (1) The following provisions apply in respect of oppositions to the automatic discharge of an individual bankrupt:

> **(a)** if the Superintendent opposes the discharge, the Superintendent must give notice of the opposition, together with the grounds for it, to the trustee and to the bankrupt before the automatic discharge would otherwise take effect;
>
> **(b)** if a creditor opposes the discharge, the creditor must give notice of the opposition, together with the grounds for it, to the Superintendent, to the trustee and to the bankrupt before the automatic discharge would otherwise take effect; and
>
> **(c)** if the trustee opposes the discharge, the trustee must give notice of the opposition in the prescribed form and manner, together with the grounds for the opposition, to the bankrupt and the Superintendent before the automatic discharge would otherwise take effect.

Application for hearing

(2) If the Superintendent, a creditor or the trustee opposes the automatic discharge of an individual bankrupt, the trustee shall, unless the matter is to be dealt with by mediation under section 170.1, apply without delay to the court for an appointment for the hearing of the opposition in the manner referred to in sections 169 to 176, and the hearing must be held

> **(a)** within 30 days after the day on which the appointment is made; or
>
> **(b)** at any later time that may be fixed by the court at the bankrupt's or trustee's request.

Trustee to prepare report

170 (1) The trustee shall, in the prescribed circumstances and at the prescribed times, prepare a report, in the prescribed form, with respect to

> **(a)** the affairs of the bankrupt,
>
> **(b)** the causes of his bankruptcy,
>
> **(c)** the manner in which the bankrupt has performed the duties imposed on him under this Act or obeyed the orders of the court,
>
> **(d)** the conduct of the bankrupt both before and after the date of the initial bankruptcy event,
>
> **(e)** whether the bankrupt has been convicted of any offence under this Act, and

(f) any other fact, matter or circumstance that would justify the court in refusing an unconditional order of discharge,

and the report shall be accompanied by a resolution of the inspectors declaring whether or not they approve or disapprove of the report, and in the latter case the reasons of the disapproval shall be given.

Court may grant or refuse discharge

172 (1) On the hearing of an application of a bankrupt for a discharge, other than a bankrupt referred to in section 172.1, the court may

(a) grant or refuse an absolute order of discharge;

(b) suspend the operation of an absolute order of discharge for a specified time; or

(c) grant an order of discharge subject to any terms or conditions with respect to any earnings or income that may afterwards become due to the bankrupt or with respect to the bankrupt's after-acquired property.

Powers of court to refuse or suspend discharge or grant conditional discharge

(2) The court shall, on proof of any of the facts referred to in section 173, which proof may be given orally under oath, by affidavit or otherwise,

(a) refuse the discharge of a bankrupt;

(b) suspend the discharge for such period as the court thinks proper; or

(c) require the bankrupt, as a condition of his discharge, to perform such acts, pay such moneys, consent to such judgments or comply with such other terms as the court may direct.

Court may modify after year

(3) Where at any time after the expiration of one year after the date of any order made under this section the bankrupt satisfies the court that there is no reasonable probability of his being in a position to comply with the terms of the order, the court may modify the terms of the order or of any substituted order, in such manner and on such conditions as it may think fit.

Power to suspend

(4) The powers of suspending and of attaching conditions to the discharge of a bankrupt may be exercised concurrently.

Facts for which discharge may be refused, suspended or granted conditionally

173 (1) The facts referred to in section 172 are:

(a) the assets of the bankrupt are not of a value equal to fifty cents on the dollar on the amount of the bankrupt's unsecured liabilities, unless the bankrupt satisfies the court that the fact that the assets are not of a value equal to fifty cents on the dollar on the amount of the bankrupt's unsecured liabilities has arisen from circumstances for which the bankrupt cannot justly be held responsible;

(b) the bankrupt has omitted to keep such books of account as are usual and proper in the business carried on by the bankrupt and as sufficiently disclose the business transactions and financial position of the bankrupt within the period beginning on the day that is three years before the date of the initial bankruptcy event and ending on the date of the bankruptcy, both dates included;

(c) the bankrupt has continued to trade after becoming aware of being insolvent;

(d) the bankrupt has failed to account satisfactorily for any loss of assets or for any deficiency of assets to meet the bankrupt's liabilities;

(e) the bankrupt has brought on, or contributed to, the bankruptcy by rash and hazardous speculations, by unjustifiable extravagance in living, by gambling or by culpable neglect of the bankrupt's business affairs;

(f) the bankrupt has put any of the bankrupt's creditors to unnecessary expense by a frivolous or vexatious defence to any action properly brought against the bankrupt;

(g) the bankrupt has, within the period beginning on the day that is three months before the date of the initial bankruptcy event and ending on the date of the bankruptcy, both dates included, incurred unjustifiable expense by bringing a frivolous or vexatious action;

(h) the bankrupt has, within the period beginning on the day that is three months before the date of the initial bankruptcy event and ending on the date of the bankruptcy, both dates included, when unable to pay debts as they became due, given an undue preference to any of the bankrupt's creditors;

(i) the bankrupt has, within the period beginning on the day that is three months before the date of the initial bankruptcy event and ending on the date of the bankruptcy, both dates included, incurred liabilities in order to make the bankrupt's assets equal to fifty cents on the dollar on the amount of the bankrupt's unsecured liabilities;

(j) the bankrupt has on any previous occasion been bankrupt or made a proposal to creditors;

(k) the bankrupt has been guilty of any fraud or fraudulent breach of trust;

(l) the bankrupt has committed any offence under this Act or any other statute in connection with the bankrupt's property, the bankruptcy or the proceedings thereunder;

(m) the bankrupt has failed to comply with a requirement to pay imposed under section 68;

(n) the bankrupt, if the bankrupt could have made a viable proposal, chose bankruptcy rather than a proposal to creditors as the means to resolve the indebtedness; and

(o) the bankrupt has failed to perform the duties imposed on the bankrupt under this Act or to comply with any order of the court.

IN THE MATTER OF THE BANKRUPTCY OF **AIDEN PLETERSKI and AP PRIVATE EQUITY LIMITED**, of the Town of Whitby, in the Province of Ontario

Court File No./Estate No.: BK-22-00208582-OT-31
BK-24-02856382-0031

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
Proceedings commenced at Toronto, Ontario

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