



SUPREME COURT OF BRITISH COLUMBIA

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Number: AN -12

Title:

**Administrative Notice
Bankruptcy Hearings before a Registrar in Bankruptcy**

Summary:

This Administrative Notice sets out the process to be followed to schedule hearings before a Registrar in Bankruptcy, where these hearings will be held or conducted, the default methods of appearance, and how to submit materials. This Administrative Notice also appends standard forms of order for hearings before a Registrar in Bankruptcy.

The following registries are designated bankruptcy registries: Nelson, Prince George, Prince Rupert, Vernon, Victoria and Vancouver. Designation as a bankruptcy registry means that discharge and other bankruptcy applications must be initiated in these registries. However, as set out in this Administrative Notice, bankruptcy hearings often take place at a registry other than a designated bankruptcy registry, and materials for these hearings must be provided to the registry where the hearing will be held or conducted.

Direction:

Locations of Bankruptcy Hearings and Default Methods of Appearance

1. Bankruptcy hearings are, **by default, held in person** for the following registries:
 - a) Vancouver
 - b) New Westminster
 - c) Victoria
 - d) Nanaimo
 - e) Kamloops
 - f) Kelowna

2. Bankruptcy hearings are, **by default, held by way of telephone, video conference or other communication medium (“remotely”) and conducted from Kamloops** for the following registries:
 - a) Prince George
 - b) Prince Rupert
 - c) Nelson
3. Bankruptcy hearings are, **by default, held remotely and conducted from Kelowna** for the following registry:
 - a) Vernon
4. A party may apply to change their method of attendance by filing a requisition in accordance with the *Supreme Court Civil Rules*. The requisition must be filed at the location where the hearing will be held or conducted 7 days in advance of the hearing date.

Scheduling Bankruptcy Hearings

5. To book a bankruptcy hearing at a location listed in paragraph 1, contact Supreme Court Scheduling at the location where the hearing will be held.
6. To book a bankruptcy hearing at a location listed in paragraph 2, contact Supreme Court Scheduling in Kamloops and provide your contact information.
7. To book a bankruptcy hearing at a location listed in paragraph 3, contact Supreme Court Scheduling in Kelowna and provide your contact information.

Scheduling Trustee Opposed Discharge Applications

8. To schedule the hearing of a trustee opposed discharge application, a Notice in Form 81 pursuant to the *Bankruptcy and Insolvency Act (BIA)* must be filed in the appropriate designated bankruptcy registry. 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.

Original Documents Required in Bankruptcy Proceedings

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

Documents for Trustee Opposed Discharge Applications to be Provided

10. If an application for discharge of the bankrupt will be held in person, the trustee must provide the following materials to the Registrar in Bankruptcy at the start of the hearing:
 - 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.)
11. If the application for discharge of the bankrupt will be held remotely, the trustee must provide the materials set out in paragraph 10 to the registry where the hearing will be conducted no later than 4 p.m. on the business day that is one full business day before the date set for the hearing.

Hearing Record to be Provided

12. If a bankruptcy application is estimated to require more than 15 minutes to be heard, the applicant must:
- a) file all documents required to be filed pursuant to the *BIA Rules* in the appropriate designated bankruptcy registry; and
 - b) provide a hearing record containing the items described in paragraph 14 to the registry where the hearing will be held or conducted.
13. The hearing record must be provided to the registry where the hearing will be held or conducted 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 15 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.

Standard Forms of Orders

17. 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.

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)

Form 2 - Absolute Order

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 not been made of any of the facts mentioned in Section 173 of the *Bankruptcy and Insolvency Act*, nor has the bankrupt been guilty of any misconduct in relation to his/her property or affairs;

IT IS ORDERED THAT the bankrupt be and is hereby discharged.

BY THE COURT

REGISTRAR IN BANKRUPTCY

IT IS ORDERED THAT:

1. The bankrupt's application for discharge is adjourned generally.

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

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 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 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

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*.

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: _____