

Insolvency

BULLETIN

Issued by the Office of the Superintendent of Bankruptcy

1st and 2nd trimester 1996

Vol. 16, No. 1 and 2



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Insolvency

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Issued by the
Office of the Superintendent of Bankruptcy,
Industry Canada.

The objective of the Insolvency Bulletin is to promote communication and strengthen ties between the Office of the Superintendent of Bankruptcy and insolvency professionals. The Bulletin is aimed particularly at trustees, jurists, registrars, accountants, credit managers and to those with a general interest in bankruptcy and insolvency.

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For information:

Bankruptcy Branch
Journal Tower South
365 Laurier Ave. West, 8th Floor
Ottawa, Ontario
K1A 0C8

Subscriptions and addresses:

Francine Emery (613) 941-2693

Statistics:

Monique Leclair (613) 941-9054

Editor:

Henri Massüe-Monat (613) 941-2697

Fax: (613) 941-2692

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Table of Contents

Update on Bill C-5	3
Notice: 1996 Written Insolvency Examination.....	5
BIA Insolvency Counsellor's Qualification Course.....	7
Order Cancelling Trustee Licences — Maurice Gallant and Maurice Gallant & Associés Inc.	11
Trustee Licence Order — Woldemar Kroeker	15
Delegation of Certain Powers, Duties and Functions of the Superintendent of Bankruptcy — Ginette Trahan	17
Delegation of Certain Powers, Duties and Functions of the Superintendent of Bankruptcy — Michael Luftglass	19
Delegation of Certain Powers, Duties and Functions of the Superintendent of Bankruptcy — Evan DeBoice.....	20
Address of Offices of the Superintendent of Bankruptcy.....	A-1
Notice to Publisher of Change of Address	A-2

Update on Bill C-5

Since the publication of our last issue, Bill C-109 has been re-introduced in the House of Commons as Bill C-5. Second reading of the Bill took place on May 27, 1996 and is now at the committee hearings stage. The Parliamentary Standing Committee on Industry studying Bill C-5 began hearing witnesses from Industry Canada on June 11. Presently, the hearings have been suspended until the fall.

As Bill C-5 will bring changes, particularly in the areas of consumer insolvency and practice, the Office of the Superintendent of Bankruptcy will participate in information sessions to be held by the Canadian Insolvency Practitioners Association this fall. These ses-

sions will be held in major centres through the month of October and will focus on the main amendments to the *Bankruptcy and Insolvency Act*. In particular, the sessions will focus on amendments that raise several implementation issues such as mediation, surplus income, and landlords claims. In order to develop Rules and Directives, consultation in the form of workshops with stakeholders will be held.

We wish to remind you that your views as practitioners need to be heard through in-depth discussions and feedback. We believe that your participation and input will greatly contribute to a successful implementation period.

Notice

1996 Written Insolvency Examination

The Canadian Insolvency Practitioners' Association (Association canadienne des professionnels de l'insolvabilité) and the Superintendent of Bankruptcy announce that the 1996 Written Insolvency Examination will be held on November 27 and 28, 1996.

The tutorial session to support this examination is scheduled for the week of November 10-15, 1996.

Application forms for the examination are now available.

Please contact the Canadian Insolvency Practitioners' Association (416) 204-3242 or the Superintendent of Bankruptcy's office (613) 941-2853 for further information.

BIA Insolvency Counsellor's Qualification Course

June 5, 1996

Please find attached a document entitled "The *Bankruptcy and Insolvency Act* (BIA) Insolvency Counselling Qualification Process".

The document describes the various steps leading to the development of a qualification process for individuals providing counselling services pursuant to the BIA.

The program is the result of recommendations of a Task Force of interested stakeholders which oversaw its development and will be an important element in improving the quality and consistency of counselling services.

The cornerstones of the program include the following:

1) As of **June 1, 1997**, all those providing counselling pursuant to the BIA will have to be qualified.

2) In order to qualify, a person will have to enter a training course, successfully pass a national Examination and demonstrate minimum experience.

3) All qualified counsellors are required to be registered with the Office of the Superintendent of Bankruptcy.

4) The course and examination will be offered across the country through Ryerson University and Université du Québec à Montréal (UQAM).

Once the program is implemented, we plan to focus our attention on further evaluating the outcome of counselling services and their impact on the rehabilitation of debtors. Your participation and assistance in this matter will be necessary and appreciated.

I wish to take this opportunity to thank the many individuals who have contributed so generously to this initiative.

George F. Redling
Superintendent of Bankruptcy

The *Bankruptcy and Insolvency Act* (BIA) Insolvency Counselling Qualification Process

The purpose of this note is to inform you of the developments regarding the BIA Insolvency Counselling Qualification Process.

Background

On December 21, 1994, the Office of the Superintendent of Bankruptcy (OSB) issued Directive No. 1R2. This Directive sets out standards for the two mandatory counselling stages which must be attended by a bankrupt or a consumer debtor. Section 2 of Directive No. 1R2 and the accompanying explanatory note took into account the advice received from stakeholders that counselling be delivered by trained and qualified individuals. Consequently, it was announced at that time that only qualified individuals, as defined in that Directive, would provide counselling after January 1, 1997.

During the insolvency information sessions conducted by the OSB in late 1994, an invitation was extended to all attendees and stakeholders to participate in the design of a program to qualify counsellors for the purpose of conducting counselling as prescribed in the Counselling Directive.

The response was overwhelming and this Office invited all volunteers to form an Advisory Committee reporting to the Insolvency Counselling Qualification Task Force (TF) .

Participants include trustees, professional counsellors, provincial administrators of consumer proposals, creditors, educators and representatives from consumer groups as well as the Canadian Insolvency Practitioners Association.

TF and recommendations

The TF met for the first time on June 15, 1995, and decided to form five sub-committees from members of the advisory committee.

These sub-committees dealt with the following topics:

#1 Course of study;

#2 Accreditation (course entry and qualification requirements and, the qualification process);

#3 Implementation;

#4 Code of ethics; and

#5 Resource materials.

The sub-committees submitted reports to the TF which in turn sent its report to the Superintendent who approved the following recommendations:

1. That all individuals (including trustees) wanting to conduct counselling should successfully complete a training course.
2. That the purpose of the course would be to qualify counsellors who will provide counselling as prescribed by Directive 1R2.
3. That the course name should be: The Course for Qualifying BIA Insolvency Counsellors (the Course).
4. That the OSB should contract out for the development, the management and the delivery of the Course.
5. That the blueprint for the Course content recommended by the TF should be followed by the design contractor.
6. That the entrance criteria for the Course should be a High School diploma and either 2 years post-secondary education or five years of work experience.
7. That the qualification requirements should be:
 - to pass the National Counselling Course Examination;
 - to demonstrate one year experience in counselling;
 - to have performed 100 hours of direct counselling time under the direct supervision of a qualified BIA Insolvency Counsellor ("Qualified Counsellor");

-
- required to abide by the rules of professional conduct for "qualified counsellors"
8. That the delivery mode of the Course should be through an academic organization, such as a university, and should be provided in a way to allow the greatest flexibility for candidates. The possibility of using instruments such as manuals or techniques such as videos, CD-ROM or Internet should be explored.
 9. That the Course should consist of 5 modules. (1) Basic Interviewing Skills ; (2) Money Management; (3) Family Dynamics and Money Concepts; (4) Creative thinking and Problem Solving; (5) Basic Familiarity with Insolvency Process and Terminology. Additionally, the content of the Course should be equivalent to a 40 hour university course.
 10. That rules of professional conduct for "qualified counsellors" should be developed.
 11. That a national register of "qualified counsellors" should be maintained by the OSB.
-

Considerations

The OSB recognizes that counselling services should be provided by skilled and qualified individuals and that standards should be established for the delivery of the service.

In this respect, the TF recommended that everyone, including trustees, take a professional training course if they wish to provide insolvency counselling pursuant to Directive 1R2.

The Course will help achieve a level of uniformity with respect to the skills and qualifications of the individuals who will be providing counselling services under the BIA.

The establishment of standards of conduct for "qualified counsellors" will assure a certain consistency of counselling services which should in turn facilitate the rehabilitation of all individual debtors.

The implementation of the TF's recommendations will ensure that individual debtors filing a consumer proposal or a bankruptcy will receive professional assistance from "qualified counsellors" which will also assist them in adopting more responsible practices with re-

spect to financial matters and help to avoid recurrence of financial problems in the future.

Both the TF and Advisory Committee members recommended that professionals be contracted to design and implement/manage the professional development of the Course. Tenders were called and subsequently the Ontario Association of Credit Counselling Services was awarded the contract for the development of the course content and Ryerson Polytechnic University of Ontario (Ryerson) was awarded the contract for the national implementation and management of the course. Ryerson will deliver the program in partnership with the University of Quebec at Montreal (UQAM) for the French Course.

Qualification Process

The initial Course will commence in September 1996, followed by a national examination held in centres across Canada in November 1996.

The Course will be delivered through a multi-media approach using CD-ROMs, a text book and videos and eventually, be available on Internet. Future courses will be held during the normal January/September university schedule. Therefore, a second course will be offered in January 1997.

The registration of qualified counsellors will start in December 1996.

Counselling Directive No. 1R2 announced that as of January 1, 1997, only those individuals who meet the qualification criteria and are registered, will be allowed to conduct counselling. Please note that this requirement has now been extended to June 1, 1997.

Qualification criteria

1. National Examination

Achieve a 60% passing mark.

Proviso:

Because trustees are required to successfully complete comprehensive written and oral exams on bankruptcy and insolvency topics to obtain a licence, they will be exempted from taking the module of the Course

titled "Basic Familiarity with the Insolvency Process and Terminology" and from any questions on the National Examination pertaining to that module. Therefore, the passing mark for these shall be 60% of the total points attributable to the questions they have to answer.

2. Counselling Experience:

All candidates who wish to become "qualified counsellors" will have to submit to the local District Assistant Superintendent proof of having passed the National Exam and of their counselling experience.

One of the requirements concerning the counselling experience is that a counsellor's 100 hours of direct contact counselling time experience be attested to and supervised by a "qualified counsellor".

As prior to January 1, 1997, there will not be any "qualified counsellors" who can directly supervise prospective applicants transitional measures are required. Consequently, to allow as many individuals as possible to take advantage of the Course at the outset, there will be two courses given before June 1, 1997. Accordingly, the following procedures will be introduced:

Procedures Before June 1, 1997:

Candidates will have to demonstrate one year of experience in counselling, including 100 hours of direct contact time in counselling and, the "100 hours" may consist of a combination of time spent in insolvency counselling (which includes assessment interviews with debtors) and time spent in other types of related counselling experience .

Documenting Experience:

All individuals wishing to be registered as "qualified counsellors" must submit a request for registration to the District Assistant Superintendent, along with:

- i) *for trustees and provincial administrators:*
a document from the trustee or the provincial administrator attesting that they have the required 100 hours of direct contact time in counselling;

- ii) *for trustees' staff:*

a certification by their trustee employer of the required 100 hours of direct time in counselling bankrupts and consumer debtors. **Note: This time is not to include time spent on estate supervision;**

- iii) *for other counsellors:*

Submit to the District Assistant Superintendent proof of having completed 100 hours of direct contact time in counselling (letter from current or ex-employer).

Procedures After June 1, 1997:

All individuals enrolled in the Course after June 1, 1997 must complete 100 hours of direct contact time in counselling bankrupts and consumer debtors, as per Counselling Directive (No. 1R2) standards. **Those 100 hours must also be supervised and attested to by a "qualified counsellor".**

The experience factor can be acquired before, during or after the Course.

Documenting experience:

All individuals wishing to be registered as a "qualified counsellor" must submit a request for registration to the District Assistant Superintendent along with the proof of having been successful at the National Exam and proper documentation regarding their experience.

3. Professional Rules of Conduct

Qualified BIA Insolvency Counsellors shall have to abide by professional rules of conduct to be developed under the guidance of the Task Force.

Next Steps

"Ryerson" and/or l'Université du Québec à Montréal (UQAM) will be announcing further details on the registration process, the Course content and the tuition fees in June 1996.

Order Cancelling Trustee Licences — Maurice Gallant and Maurice Gallant & Associés Inc.

In the Matter of Maurice Gallant, Trustee, and Maurice Gallant & Associés Inc.,
Corporate Trustee, of the Municipality of St-Élie de Caxton, QC
Holders of a Trustee Licence for Quebec
Issued under the *Bankruptcy and Insolvency Act*

Order Cancelling Trustee Licences Issued under the *Bankruptcy and Insolvency Act* (s. 14.01(1) of the *Bankruptcy and Insolvency Act*)

The undersigned was appointed on November 25, 1994 by the Superintendent of Bankruptcy pursuant to section 14.01(2) of the *Bankruptcy and Insolvency Act*, R.S.C. (1985, c B-3), hereinafter the Act, to act as his delegate by delegating to him the following powers:

"NOW THEREFORE, pursuant to the authority of subsection 14.01(2) of the BIA, I, George Redling, hereby delegate: the powers set out in paragraphs 14.01(1)(a) to (c) of the BIA; the opportunity for a hearing described in subsection 14.02(1) of the BIA; the powers and duties set out in subsections 14.02(2) and (4) of the BIA; and the powers set out in paragraphs 14.03(1)(a) to (c) of the BIA, to François Daviault (the delegate), in accordance with the terms and conditions of this instrument and the associated instrument of engagement."

I am enclosing herewith the act of delegation signed by the Superintendent of Bankruptcy (Schedule A).*

On July 4, 1994, the Deputy superintendent (policy, programs and standards) filed with the Superintendent of Bankruptcy a lengthy disciplinary report¹ concerning the administration of certain bankruptcy and insolvency files of trustee Maurice Gallant and of Maurice Gallant & Associés Inc., corporate trustee.

The said report recommends that the licences of trustees Maurice Gallant and Maurice Gallant & Associés Inc. be cancelled in view of the alleged acts done and the alleged defaults made by the aforementioned trustees against the Act, its rules and the Directives of the Superintendent in the estates in which the said trustees acted. In brief, they are alleged to have taken, in administering the bankruptcy and insolvency files entrusted to them, inappropriate actions inconsistent with the duties of a trustee, thereby undermining public confidence and causing harm to the reputation of both the bankruptcy system and creditors and debtors. The said disciplinary report is appended to the present decision (Schedule B).*

Following my appointment as delegate of the Superintendent of Bankruptcy, I contacted counsel for the parties (Marcel Gauvreau, counsel for the Deputy superintendent, and Robert Leclerc, counsel for Mr. Maurice Gallant and Maurice Gallant & Associés Inc.) for the purpose of proceeding with the hearing prescribed by section 14.02 of the Act.

A preparatory meeting was held at my office on January 23, 1995 in the presence of the aforementioned counsel for the parties. At this meeting, I was informed

¹ This disciplinary report was prepared and written by the Deputy superintendent, Marc Mayrand, after examining the replies provided by the trustees concerned and the oral submissions made by Mr. Maurice Gallant and his counsel.

of the state of health of Mr. Maurice Gallant and of his temporary incapacity, owing to illness, that prevented him from administering his files. I also examined the agreements concluded between Maurice Gallant & Associés Inc. and Le Groupe Boudreau Richard Inc. "to complete the administration of all his bankruptcy files", given Mr. Gallant's incapacity that prevented him from acting (see copy of the agreements, Schedule C).*

Given the state of health of trustee Maurice Gallant, the undersigned could not therefore proceed with this hearing within a reasonable time period. A hearing was, however, held on April 3, 1995 at the Shawinigan Courthouse before the undersigned in order to hear the parties on the state of health of trustee Maurice Gallant and the conservatory measures to ensure the sound administration of the estates entrusted, on an interim basis, to trustee Édouard Richard of Le Groupe Boudreau Richard Inc. After hearing the parties, I rendered a decision on April 7, 1995 suspending "sine die" the trustees' disciplinary hearing as a result of trustee Maurice Gallant's incapacity that prevented him from going through such a hearing for the time being, and ordered trustee Édouard Richard of Le Groupe Boudreau Richard Inc. to continue with the conservatory measures necessary to protect all the open bankruptcy and insolvency estates of Maurice Gallant and Maurice Gallant & Associés Inc., the whole in accordance with section 14.03 of the Act (Schedule D).*

In December 1995, I was informed by counsel for the parties that Mr. Maurice Gallant's health had improved and that the disciplinary hearing prescribed by section 14.02 of the Act could proceed, Mr. Maurice Gallant having clearly indicated through his counsel that he wished to be heard at such a hearing.

In accordance with the Act, notification of hearing was sent on December 8, 1995 to all the parties informing them that hearings would be held in Grand'Mère on February 5, 6, 7, 8 and 9, 1996.

On or about December 30, 1995, I received a letter dated December 28, 1995 from trustee Maurice Gallant informing me that he had withdrawn from his counsel authorization to represent him at the hearings scheduled for the week of February 5, 1996, that he wished to

represent himself at these hearings and that with full knowledge of the facts, he had "surrendered today my corporate licences for cancellation and my personal licences also for cancellation effective today". Finally, he asked me in his letter to cancel the trustee licences of Maurice Gallant and Maurice Gallant & Associés Inc. and "to take the necessary steps to ensure that the bankruptcy files now in the possession of Mr. Édouard Richard of Boudreau Richard Inc. are continued as prescribed by the Act" (Schedule E).*

On February 5, 1996, a hearing took place in Grand'Mère. Present when the hearing began were Mr. Maurice Gallant, Marc Mayrand, Deputy superintendent (policy, programs and standards) and his counsel, Marcel Gauvreau, and Mr. Édouard Richard, interim trustee, appointed by the undersigned to take conservatory measures in the open bankruptcy and insolvency estates of Maurice Gallant and Maurice Gallant & Associés Inc.

Since trustee Maurice Gallant was not represented by counsel and no longer wished to be present at the hearing, I informed him of his rights, in particular of his right to attend the hearing and to be heard to ensure a full answer and defence and of the consequences that my decision could have in terms of his personal licence as a trustee and the corporate licence of Maurice Gallant & Associés Inc. Mr. Gallant then informed me that he did not wish to proceed further and that he was leaving the matter in the hands of "the people present here".² He then left the room and the undersigned proceeded with the hearing.

Since Mr. Gallant had indicated in his letter of December 28, 1995 (Schedule E)* that he had surrendered his personal licence and his corporate licence for cancellation, I had to question my jurisdiction in the wake of the surrendering by Mr. Gallant of the licences. I was then informed by counsel for the Superintendent, Marcel Gauvreau, that the licences of Mr. Gallant, as a trustee, and of the corporate trustee had been renewed for 1996, notwithstanding the request for cancellation, since trustees Maurice Gallant and Maurice Gallant & Associés had yet to be discharged from certain bankruptcy and insolvency estates. I therefore concluded that I still had jurisdiction.

2 Transcript of the hearing on February 5, 1996, at page 12.

I then proceeded with the hearing and obtained from counsel for the Deputy superintendent (policy, programs and standards) all the necessary and pertinent explanations pertaining to the Deputy superintendent's disciplinary report concerning the administration of the bankruptcy and insolvency estates of trustees Gallant and Maurice Gallant & Associés Inc. I also examined all the documentation submitted to me and the explanations provided by Mr. Maurice Gallant or his then counsel, Robert Leclerc, further to the audit report on the administration of the trustee prepared by auditor Larry Lachance and to the disciplinary report of the Deputy superintendent (policy, programs and standards), Marc Mayrand.

In the Light of the Foregoing,

WHEREAS the report submitted to the Superintendent of Bankruptcy by the Deputy superintendent (policy, programs and standards) identifies grave and serious irregularities in the administration of bankruptcy and insolvency estates by Maurice Gallant, trustee, and Maurice Gallant & Associés Inc., corporate trustee, such as:

- (a) the trustee abused the powers conferred on him by the Act, specifically:
 - by paying, in a file, substantial sums in professional fees and operating costs (\$104,040), bearing in mind the problems encountered in this file, in order to realize assets totalling \$118,854, leaving a balance of NIL in the account of the bankrupt's estate, after payment of the trustee's fees and disbursements;
 - by appropriating in two files, for his personal use and for a certain period of time, the sum of approximately \$39,000 and the interest accrued on this sum;
- (b) the trustee withdrew sums of money as advances on fees in a number of files without the required approval of the inspectors, creditors or the court, as the case may be;
- (c) the trustee did not fulfil the statutory duties incumbent upon him as a trustee by omitting in certain proposal files to meet the requirements of the Act in general; by neglecting to reveal offences committed by the debtor when application was made for discharge of the bankrupt; by omitting to deliver to the

substituted trustee the bankrupt's property in accordance with the provisions of the Act;

- (d) the trustee was negligent and showed carelessness in performing his statutory duties as a trustee in regard to the taking of possession of bankruptcy assets, the verification of the statement of affairs of debtors, the proper and adequate keeping of books and records, the taking of inventory of the property of bankrupts;
- (e) the trustee misled the court, the office of the Superintendent and the creditors by producing documents containing at the very least allegations not verified;
- (f) in certain cases, the administration of estates by the trustee was done without regard to the interests of the creditors (and sometimes even the debtors) and the bankruptcy system in general in a file;
- (g) the trustee repeatedly ignored the requests made by the office of the Superintendent by neglecting to submit his statement of receipts and disbursements and by omitting to provide explanations regarding certain disbursements, thereby undermining the supervision and control that the Superintendent of Bankruptcy must exercise under the Act and its rules;
- (h) the trustee omitted without reasonable cause to comply with certain orders of the court, in particular in a file by neglecting or omitting to comply with a judgment of the court ordering him to deliver within a specified time period to the substituted trustee the documents and property belonging to the estate of the debtor.

WHEREAS the acts alleged against Maurice Gallant, trustee, are incompatible with the duties and power of a bankruptcy trustee, are likely to harm the good reputation of the bankruptcy system, may undermine public confidence in this system and prejudice it;

WHEREAS the acts alleged against trustee Maurice Gallant may have harmed certain creditors and perhaps even certain debtors;

WHEREAS Maurice Gallant & Associés Inc., corporate trustee, is liable for the acts done and the defaults made against the Act, its rules and the directives issued by the Superintendent in the estates in which he appointed Maurice Gallant to act as trustee;

WHEREAS Maurice Gallant, trustee, and Maurice Gallant & Associés Inc., corporate trustee, surrendered their respective trustee licences on December 28, 1995 (see Schedule E);

WHEREAS, in accordance with subsection 14.02(1) of the Act, the Deputy superintendent (policy, programs and standards) sent Maurice Gallant, trustee, and Maurice Gallant & Associés Inc., corporate trustee, written notice with reasons therefor of his recommendations to the Superintendent of Bankruptcy;

WHEREAS Maurice Gallant, trustee, and Maurice Gallant & Associés Inc., corporate trustee, had the opportunity to be heard and chose not to be heard before the undersigned under subsection 14.02(1) of the Act with respect to the acts done and the defaults made against the Act, as set out in the disciplinary report prepared by the Deputy superintendent, Marc Mayrand (see Schedule B);*

WHEREAS the recommendations made by the Deputy superintendent (policy, programs and standards) are fair and reasonable and are not contrary to the public interest and there is no reason to intervene to alter them, having regard to the evidence that was presented to me and all the circumstances of the case;

FOR THESE REASONS, I, François Daviault, attorney, in my capacity as delegate of the Superintendent of Bankruptcy and under the powers delegated to me by the Superintendent of Bankruptcy:

- (a) **TAKE NOTICE** that Maurice Gallant, trustee, and Maurice Gallant & Associés Inc., corporate trustee, surrendered their respective trustee licences on December 28, 1995;
- (b) hereby **CANCEL** the licence of trustee Maurice Gallant and the licence of the corporate trustee, Maurice Gallant & Associés Inc.;
- (c) **ORDER** Mr. Édouard Richard, trustee, who agreed in the presence of the undersigned to continue, so long as the court does not appoint another authorized trustee, to take such steps as he deems necessary to preserve all the open bankruptcy and proposal files of Maurice Gallant, trustee, and Maurice Gallant & Associés Inc.

And I have signed at Montreal, Quebec, on April 16, 1996.

(signed)
FRANÇOIS DAVIAULT
Delegate of the Superintendent of Bankruptcy

* The schedules referred to in the decision are not included in the present Bulletin because of their quantity. They are available on request.

Trustee Licence Order — Woldemar Kroeker

In the Matter of Woldemar Kroeker Holder of a Trustee Licence for Ontario

Trustee Licence Order Issued under the *Bankruptcy and Insolvency Act*

WHEREAS Woldemar Kroeker, trustee operated an office in the City of St. Catharines, Ontario;

WHEREAS the Deputy Superintendent (Policy, programs and standards) has submitted to the Superintendent of Bankruptcy on October 6, 1995 a report on the administration of Woldemar Kroeker, trustee further to the general delegation concerning the application of subsection 14.02(1) of the *Bankruptcy and Insolvency Act*;

WHEREAS the Superintendent of Bankruptcy has, pursuant to subsection 14.01(2) of the Act, delegated the powers, duties and functions of the Superintendent set in paragraphs 14.01(2)(a) to (c), subsections 14.02(1), (2) and (4) and in paragraphs 14.03(1)(a) to (c) to Mr. Justice Gibson Gray;

WHEREAS the report submitted to the Superintendent of Bankruptcy by the Deputy Superintendent (Policy, programs and standards) identifies a number of serious deficiencies such as:

- taking improperly \$288,500 from a receivership file to pay his ongoing practice expenses and creating thereby a shortfall;
- covering the receivership shortfall with money taken without proper authorization from the consolidated trust bank accounts;
- taking improperly additional amounts to keep his practice going from the general trust accounts and the consolidated trust bank accounts until the global amount including interest reached \$710,594.99;
- being dilatory in closing out files;
- lacking control over his internal control and banking procedure by not ensuring that the deposits made into the bank accounts were credited to the proper estate accounts and by maintaining 3 trust accounts

for the summary estates and 2 general trust accounts as repository for third party funds due to specific insolvency estates for which no account had been opened and for funds received in non insolvency matters contrary to subsection 25(1) of the Act;

WHEREAS the Deputy Superintendent has implemented with the consent and full cooperation of the trustee on August 17, 1994 conservatory measures to protect the estate trust funds under the control of the trustee;

WHEREAS Woldemar Kroeker, trustee had reimbursed by the end of December 1994 the full amount of the trust shortage by closing over 400 summary and ordinary files and crediting his fees in the trust accounts and by waiving his earned advances in 142 summary files and thereby crediting such amounts to the consolidated trust bank account;

WHEREAS pursuant to subsection 14.02(1) of the Act, the Deputy Superintendent (Policy, programs and standards) has sent to Woldemar Kroeker, trustee a written notice of the powers and the reasons therefor recommended to the Superintendent of Bankruptcy;

WHEREAS Woldemar Kroeker, trustee was afforded a reasonable opportunity for a hearing and has elected not to be heard under subsection 14.02(1) of the Act;

WHEREAS Woldemar Kroeker, trustee has agreed to voluntarily surrender his licence effective December 31, 1995 and has submitted a plan to close all the estates under his administration by December 31, 1995;

I, Gibson Gray, in my capacity of delegate of the Superintendent of Bankruptcy, pursuant to my statutory powers under subsection 14.01(1) of the Act, hereby:

-
- 1) take notice of the surrendering of the licence of Woldemar Kroeker as of December 31, 1995;
 - 2) restrict immediately the licence of Woldemar Kroeker to the sole purpose of completing the estates under his administration;
 - 3) order Woldemar Kroeker to submit to the Assistant Superintendent of Bankruptcy (Hamilton) a progress report on the closing of the estates under his administration every three weeks;
 - 4) cancel the said licence as of December 31, 1995.
 - 5) order that if by December 31, 1995 Woldemar Kroeker has failed to enter into an arrangement satisfactory to the Office of the Superintendent for the continued administration of the estates which, at December 31, 1995, are under the control and administration of Woldemar Kroeker (the "Open Estates") the Assistant Superintendent of Bankruptcy (Hamilton), Carol Childerson, be appointed guardian trustee of the Open Estates for the protection of the Open Estates and direct the guardian trustee, to take such steps as the guardian trustee deems advisable to protect the Open Estates including taking possession of the Open Estates, preserving the records of the Open Estates, taking possession of all Open

Estates trust accounts opened under the name of Woldemar Kroeker, trustee and directing any financial institution where these funds are deposited to remove the name of Woldemar Kroeker as signing officer on these Open Estates trust accounts and to make any payments out of the money credited to the Open Estates trust accounts or other deposits or certificates of deposits previously under the administration of Woldemar Kroeker by means of cheque, automatic withdrawal, transfer or any other instrument after December 31, 1995 only with the signature of Carol Childerson or in accordance with the direction of Carol Childerson; and

- 6) order that if the guardian trustee is appointed in accordance with paragraph 5) above, such appointment shall be effective only until another trustee, acceptable to the Office of the Superintendent, is appointed by the court as trustee for the Open Estates.

Signed in Toronto, Ontario this 15th day of December, 1995

(S) Gibson Gray
Gibson Gray

Delegate of the Superintendent of Bankruptcy

Delegation of Certain Powers, Duties and Functions of the Superintendent of Bankruptcy — Ginette Trahan

Delegation of Certain of the Section 14.02, 14.02 and 14.03 Powers, Duties and Functions of the Superintendent of Bankruptcy Pursuant to Subsection 14.01(2) of the *Bankruptcy and Insolvency Act*

WHEREAS, by order of the Governor in Council (P.C. 1992-1655, 16 July 1992), section 9 of An Act to amend the *Bankruptcy Act* and to amend the *Income Tax Act* in consequence thereof (Act), being Chapter 27 of the Statutes of Canada, 1992, came into force on August 1, 1992;

AND WHEREAS, section 9 of the Act enacted, amongst other provisions, sections 14.01, 14.02 and 14.03 of the *Bankruptcy and Insolvency Act* (BIA), being provisions respecting the powers, duties and functions of the Superintendent of Bankruptcy (Superintendent) in respect of the supervision of licensed trustees;

AND WHEREAS, pursuant to subsection 14.01(2) of the BIA, the Superintendent may, by written instrument and on such terms and conditions as are specified therein, delegate any or all of the Superintendent's powers, duties and functions under paragraphs 14.01(1)(a) to (c) or section 14.02 or 14.03 of the BIA;

AND WHEREAS it is expedient for the effective supervision of licensed trustees to delegate certain of the supervisory powers, duties and functions of the Superintendent to senior staff employed in the Office of the Superintendent of Bankruptcy;

AND WHEREAS Ms. Ginette Trahan, being the Assistant Superintendent Audit West, is a senior staff member employed in the Office of the Superintendent of Bankruptcy.

AND WHEREAS, pursuant to subsection 5(1) of the BIA, George F. Redling of Orleans, Ontario was, effective

3 July 1992, appointed Superintendent of Bankruptcy by order of the Governor in Council (P.C. 1992-1459, 30 June 1992);

NOW THEREFORE I, George F. Redling, Superintendent of Bankruptcy, hereby delegate, subject to such terms and conditions as are specified below, to Ginette Trahan, in her capacity as a senior staff member of the Office of the Superintendent of Bankruptcy, the following powers, duties and functions of the Superintendent respecting the supervision of licensed trustees:

1. the subsection 14.01(1) power to make an investigation into the conduct of a trustee;
2. the subsection 14.02(1) power to form the intention, where it is in the public interest to do so, to exercise any of the powers set out in paragraphs 14.01 (1) (a) to (c);
3. the subsection 14.02(1) duty to send the trustee written notice of the power that is intended to be exercised and the reasons for the intended exercise of that power; and,
4. subject to the written approval of the Deputy Superintendent-Policy, Programs and Standards and in the circumstances where the Superintendent has caused an investigation to be made pursuant to paragraph 5(3)(e), the subsection 14.03(1) power,
 - (a) to direct any person to deal with the property of an estate in accordance with the terms of the direction,

(b) to direct any person to take such steps as the delegate may deem necessary to preserve the records of an estate, and

(c) to direct a bank or other depository not to pay out funds on deposit to the credit of the estate except in accordance with the direction.

THIS DELEGATION is made in writing at the City of Ottawa, Province of Ontario, on the 31st day of May, 1996.

George F. Redling
Superintendent of Bankruptcy

Delegation of Certain Powers, Duties and Functions of the Superintendent of Bankruptcy — Michael Luftglass

Delegation of Certain of the Section 14.02, 14.02 and 14.03 Powers, Duties and Functions of the Superintendent of Bankruptcy Pursuant to Subsection 14.01(2) of the *Bankruptcy and Insolvency Act*

WHEREAS, by order of the Governor in Council (P.C. 1992-1655, 16 July 1992), section 9 of An Act to amend the *Bankruptcy Act* and to amend the *Income Tax Act* in consequence thereof (Act), being Chapter 27 of the Statutes of Canada, 1992, came into force on August 1, 1992;

AND WHEREAS, section 9 of the Act enacted, amongst other provisions, sections 14.01, 14.02 and 14.03 of the *Bankruptcy and Insolvency Act* (BIA), being provisions respecting the powers, duties and functions of the Superintendent of Bankruptcy (Superintendent) in respect of the supervision of licensed trustees;

AND WHEREAS, pursuant to subsection 14.01(2) of the BIA, the Superintendent may, by written instrument and on such terms and conditions as are specified therein, delegate any or all of the Superintendent's powers, duties and functions under paragraphs 14.01(1)(a) to (c) or section 14.02 or 14.03 of the BIA;

AND WHEREAS it is expedient for the effective supervision of licensed trustees to delegate certain of the supervisory powers, duties and functions of the Superintendent to senior staff employed in the Office of the Superintendent of Bankruptcy;

AND WHEREAS Mr. Michael Luftglass, being the Assistant Superintendent Audit East, is a staff member employed in the Office of the Superintendent of Bankruptcy.

AND WHEREAS, pursuant to subsection 5(1) of the BIA, George F. Redling of Orleans, Ontario was, effective 3 July 1992, appointed Superintendent of Bankruptcy by order of the Governor in Council (P.C. 1992-1459, 30 June 1992);

NOW THEREFORE I, George F. Redling, Superintendent of Bankruptcy, hereby delegate, subject to such terms and conditions as are specified below, to Michael

Luftglass, in his capacity as a senior staff member of the Office of the Superintendent of Bankruptcy, the following powers, duties and functions of the Superintendent respecting the supervision of licensed trustees:

1. the subsection 14.01(1) power to make an investigation into the conduct of a trustee;
2. the subsection 14.02(1) power to form the intention, where it is in the public interest to do so, to exercise any of the powers set out in paragraphs 14.01 (1) (a) to (c);
3. the subsection 14.02(1) duty to send the trustee written notice of the power that is intended to be exercised and the reasons for the intended exercise of that power; and,
4. subject to the written approval of the Deputy Superintendent-Policy, Programs and Standards and in the circumstances where the Superintendent has caused an investigation to be made pursuant to paragraph 5(3)(e), the subsection 14.03(1) power,
 - (a) to direct any person to deal with the property of an estate in accordance with the terms of the direction,
 - (b) to direct any person to take such steps as the delegate may deem necessary to preserve the records of an estate, and
 - (c) to direct a bank or other depository not to pay out funds on deposit to the credit of the estate except in accordance with the direction.

THIS DELEGATION is made in writing at the City of Ottawa, Province of Ontario, on the 31st day of May, 1996.

George F. Redling
Superintendent of Bankruptcy

Delegation of Certain Powers, Duties and Functions of the Superintendent of Bankruptcy — Evan DeBoice

Delegation of Certain of the Section 14.02, 14.02 and 14.03 Powers, Duties and Functions of the Superintendent of Bankruptcy Pursuant to Subsection 14.01(2) of the *Bankruptcy and Insolvency Act*

WHEREAS, by order of the Governor in Council (P.C. 1992-1655, 16 July 1992), section 9 of An Act to amend the *Bankruptcy Act* and to amend the *Income Tax Act* in consequence thereof (Act), being Chapter 27 of the Statutes of Canada, 1992, came into force on August 1, 1992;

AND WHEREAS, section 9 of the Act enacted, amongst other provisions, sections 14.01, 14.02 and 14.03 of the *Bankruptcy and Insolvency Act* (BIA), being provisions respecting the powers, duties and functions of the Superintendent of Bankruptcy (Superintendent) in respect of the supervision of licensed trustees;

AND WHEREAS, pursuant to subsection 14.01(2) of the BIA, the Superintendent may, by written instrument and on such terms and conditions as are specified therein, delegate any or all of the Superintendent's powers, duties and functions under paragraphs 14.01(1)(a) to (c) or section 14.02 or 14.03 of the BIA;

AND WHEREAS it is expedient for the effective supervision of licensed trustees to delegate certain of the supervisory powers, duties and functions of the Superintendent to senior staff employed in the Office of the Superintendent of Bankruptcy;

AND WHEREAS Mr. Evan DeBoice, being a Senior Advisor, is a senior staff member employed in the Office of the Superintendent of Bankruptcy.

AND WHEREAS, pursuant to subsection 5(1) of the BIA, George F. Redling of Orleans, Ontario was, effective 3 July 1992, appointed Superintendent of Bankruptcy by order of the Governor in Council (P.C. 1992-1459, 30 June 1992);

NOW THEREFORE I, George F. Redling, Superintendent of Bankruptcy, hereby delegate, subject to such terms and conditions as are specified below, to Evan

DeBoice, in his capacity as a senior staff member of the Office of the Superintendent of Bankruptcy, the following powers, duties and functions of the Superintendent respecting the supervision of licensed trustees:

1. the subsection 14.01(1) power to make an investigation into the conduct of a trustee;
2. the subsection 14.02(1) power to form the intention, where it is in the public interest to do so, to exercise any of the powers set out in paragraphs 14.01 (1) (a) to (c);
3. the subsection 14.02(1) duty to send the trustee written notice of the power that is intended to be exercised and the reasons for the intended exercise of that power; and,
4. subject to the written approval of the Deputy Superintendent-Policy, Programs and Standards and in the circumstances where the Superintendent has caused an investigation to be made pursuant to paragraph 5(3)(e), the subsection 14.03(1) power,
 - (a) to direct any person to deal with the property of an estate in accordance with the terms of the direction,
 - (b) to direct any person to take such steps as the delegate may deem necessary to preserve the records of an estate, and
 - (c) to direct a bank or other depository not to pay out funds on deposit to the credit of the estate except in accordance with the direction.

THIS DELEGATION is made in writing at the City of Ottawa, Province of Ontario, on the 31st day of May, 1996.

George F. Redling
Superintendent of Bankruptcy