

ANTHONY J. JASICH, LL.B.

#403 – 567 Lonsdale Avenue
North Vancouver, B.C. V7M 2G6
Telephone (604) 986-0419 Fax (604) 986-0499

SUPREME COURT OF B.C.
Prince George Trial Registry
250 George Street
Prince George BC.
V2L5S2

TRANSMITTED BY FAX

Attention to: Mr. Justice Ian Meiklem

MAY IT PLEASE YOUR LORDSHIP

**Re: In the matter of Bankruptcy of Sheila Frances Gaffney
B.C. Supreme Court File Number: B052161**

The following is regarding Your Lordship's Supplementary Reasons for Judgment that counsel for the Trustee, Mr. David W. Donohoe forwarded to Ms. Zanetti by email on Friday, January 26, 2007, which you ought to take note:

1. At paragraph 2 of your Supplementary decision, you had made an assumption that it was Ms. Zanetti who moved to annul the assignment into bankruptcy of Sheila Gaffney, without consulting with Mr. Gaffney, when in fact, during lunch on August 31, 2006, I had suggested to Mr. Gaffney that Ms. Zanetti, on his behalf, move the court to annul the above noted bankruptcy because it became even more apparent to me at the first part of the hearing prior to lunch that the assignment into bankruptcy appeared to be fraudulent and should not stand.
2. Mr. Gaffney agreed with my suggestion and asked Ms. Zanetti to follow through with my suggestion which she did and your Lordship accepted the oral motion.

Subsequently, soon after the December 13, 2006 hearing I discovered new evidence that is subject to a new application set to be heard on February 9, 2007. The new evidence that was not disclosed opposing counsel is as follows:

- a) At no time during the discharge application for the bankruptcy of Sheila Gaffney on April the 5th 2006, did Kenneth A. Rowan, officer, director, and secretary treasurer of A. Farber & Partners Ltd. being the trustee in this matter, disclose and certify to the registrar that he and his client expected to receive from Revenue Canada, pre and post-bankruptcy income tax refunds, nor did Kenneth A. Rowan disclosed the fact to the Registrar that he had filed for disability tax credit for his client and expected refunds for it;

ANTHONY J. JASICH, LL.B.

- b) At no time thereafter did Kenneth A. Rowan, officer, director, and secretary treasurer of A. Farber & Partners Ltd. being the trustee in this matter, disclose and certify that he and his client received from Revenue Canada, pre and post-bankruptcy income tax refunds;
- c) April 24th 2006, an amount of \$2, 171.06 was issued and payable to the Trustee by Revenue Canada;
- d) On June 8th 2006 an amount of \$11,187.00 was issued and payable to the Trustee by Revenue Canada;
- e) Totaling amount of the two checks was of \$13,358.06;

Whereas I am aware that such practice by a trustee in bankruptcy is legitimate, however in this matter, as Your Lordship very well knows, no creditors existed, and as such the Trustee benefited from the income tax refunds during bankruptcy and both Sheila Gaffney and the trustee refused to annul the bankruptcy knowing that no creditors existed and knowing that Sheila Gaffney was not insolvent.

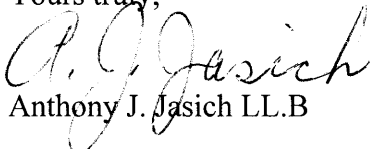
Further, Kenneth A. Rowan in his sworn affidavits for the hearing of August 31st, 2006, purported to be an agent for A. Farber & Partners Ltd. when in fact he is the officer, director and secretary treasurer of the company, and as a result, the transfer of title by the use of form 17, executed on June 16, 2005 and witnessed by Mr. Rowan alone, is contrary to s. 42 (1) of the *Land Title Act*.

I respectfully suggest to Your Lordship that even if the Order of December 13, 2006 is entered, it would be of no effect, based on the alleged fraud that was committed on the court and on the bankruptcy system and the income tax system.

I draw to your attention section 205 (3) of the *Bankruptcy and Insolvency Act*, a copy of which is enclosed

For your information, I was called to the Bar on May 16, 1957 and became a retired member of the Bar as of January 1, 2006 always in good standing.

Yours truly,


Anthony J. Jasich LL.B

c.c. Harold Gaffney
c.c. David Donohoe

Enclosure: Section 205 of the *BIA*

Canada >> Statutes and Regulations >> Consolidated Statutes of Canada >>
Bankruptcy and Insolvency Act, [R.S., 1985, c. B-3]

[<< Previous] [Table of Contents] [Noteup] [Next >>]

Bankruptcy and Insolvency Act PART VIII: OFFENCES

Report on offences
to be made by
trustee

205. (1) Whenever an official receiver or trustee has grounds to believe that an offence under this Act or under any other statute, whether of Canada or a province, has been committed with respect to any bankrupt estate in connection with which he has been acting under this Act, or that for any special reason an investigation should be had in connection with that estate, it is the duty of the official receiver or trustee to report the matter to the court, including in the report a statement of all the facts or circumstances of the case within his knowledge, the names of the witnesses who should in his opinion be examined and a statement respecting the offence or offences believed to have been committed, and to forward a copy of the report forthwith to the Superintendent.

Report by
inspectors and
others

(2) The Superintendent or a creditor, inspector or other interested person who believes on reasonable grounds that a person is guilty of an offence under this Act or under any other statute, whether of Canada or a province, in connection with a bankrupt, his property or his transactions, may file a report with the court of the facts on which that belief is based, or he may make such further representations supplementary to the report of the official receiver or trustee as he may deem proper.

Court may
authorize criminal
proceedings

(3) Whenever the court is satisfied, on the representation of the Superintendent or any one on his behalf, of the official receiver or trustee or of any creditor, inspector or other interested person, that there is ground to believe that any person is guilty of an offence under this Act or under any other statute, whether of Canada or a province, in connection with the bankrupt, his property or transactions, the court may authorize the trustee to initiate proceedings for the prosecution of that person for that offence.

Initiation of criminal
proceedings by the
trustee

(4) Where a trustee is authorized or directed by the creditors, the inspectors or the court to initiate proceedings against any person believed to have committed an offence, the trustee shall institute the proceedings and shall send or cause to be sent a copy of the resolution or order, duly certified as a true copy thereof, together with a copy of all reports or statements of the facts on which the order or

resolution was based, to the Crown Attorney or the agent of the Crown duly authorized to represent the Crown in the prosecution of criminal offences in the district where the alleged offence was committed.

R.S., c. B-3, s. 176.

[\[About CanLII\]](#) [\[Conditions of Use\]](#) [\[Advanced search\]](#) [\[Help\]](#) [\[Français\]](#)
[\[Privacy Policy\]](#) [\[Mailing Lists\]](#) [\[Technical Library\]](#)
[\[Contact CanLII\]](#)

by **LexUM**

for the Federation of Law Societies of Canada

