

Our File: 5819/JPP

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August 12, 2014

Via Courier

Attention: Josef G.A. Krüger, Q.C.

Borden Ladner Gervais LLP
Barristers & Solicitors
Centennial Place, East Tower
1900, 520 - 3rd Avenue S.W.
Calgary, Alberta T2P 0R3

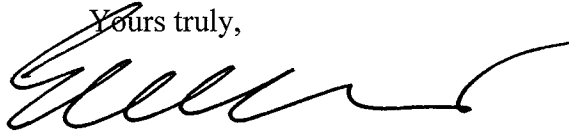
Dear Sir:

Re: Hardie & Kelly Inc. in its capacity as Trustee in Bankruptcy of Assistive Financial Corp v. Randy Schiffner et al
Queen's Bench Action No: 1401-04781
Hardie & Kelly Inc., in its Capacity as Trustee in Bankruptcy of Assistive Financial Corp. v. Burnet Duckworth & Palmer LLP
Bankruptcy Action No: BK01-094419

Enclosed please find our Application and our filed Affidavit of Barry Crump. The original Affidavit was filed in the Schiffner Action. We are attending to having it also filed in the Bankruptcy Action.

Please advise as to whether you wish us to serve a copy of these materials on Mr. Lindsay of Rose LLP in respect of our cross-application.

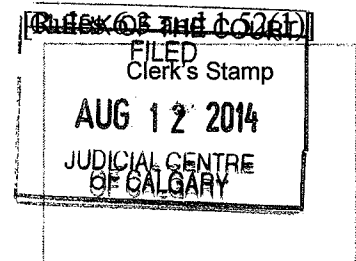
Yours truly,



EDWARD W. HALT

EWH/vp
Enclosure

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COURT FILE NUMBER 1401-04781

COURT QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF HARDIE & KELLY INC., IN ITS CAPACITY AS TRUSTEE IN
BANKRUPTCY OF ASSISTIVE FINANCIAL CORP

DEFENDANTS RANDY SCHIFFNER, SLADE SCHIFFNER, BRANDON
SCHIFFNER, ELAYNE SCHIFFNER, CAMERON SCHIFFNER
AND BRANDI SCHIFFNER

COURT FILE NUMBER BK01-094419

COURT QUEEN'S BENCH OF ALBERTA
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE BANKRUPTCY OF ASSISTIVE
FINANCIAL CORP. AND THE *BANKRUPTCY AND
INSOLVENCY ACT*, RSC 1985, C B-3, AS AMENDED

**APPLICANT/CROSS-
RESPONDENT** HARDIE & KELLY INC., IN ITS CAPACITY AS TRUSTEE IN
BANKRUPTCY OF ASSISTIVE FINANCIAL CORP.

RESPONDENT BURNET, DUCKWORTH & PALMER LLP

CROSS-APPLICANTS RANDY SCHIFFNER, SLADE SCHIFFNER, BRANDON
SCHIFFNER, ELAYNE SCHIFFNER AND CAMERON
SCHIFFNER

CROSS-RESPONDENT BORDEN LADNER GERVAIS LLP

DOCUMENT **APPLICATION BY RANDY SCHIFFNER,
SLADE SCHIFFNER, BRANDON SCHIFFNER,
ELAYNE SCHIFFNER, CAMERON SCHIFFNER FOR THE
REMOVAL OF HARDIE & KELLY INC. AS TRUSTEE IN
BANKRUPTCY OF ASSISTIVE FINANCIAL CORP. AND
FOR REMOVAL OF BORDEN LADNER GERVAIS AS ITS
COUNSEL**

**ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT** **PEACOCK LINDER & HALT LLP**
Suite 850, 400 – 3rd Avenue SW
Calgary, Alberta, T2P 4H2
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FILE: 5819

NOTICE TO RESPONDENTS

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	Monday, August 18, 2014
Time	10:00 a.m.
Where	Commercial Chambers Appearance Court
Before Whom	Madam Justice Eidsvik

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. An Order:
 - (a) declaring that Hardie & Kelly Inc. (“H&K”), the Trustee in Bankruptcy of Assistive Financial Corp. (“Assistive”), is in a disqualifying conflict in relation to the Assistive Bankruptcy and Action 1401-04781 commenced by H&K against Randy Schiffner, Slade Schiffner, Brandon Schiffner, Elayne Schiffner, Cameron Schiffner and Brandi Schiffner (the “Schiffner Action”);
 - (b) disqualifying H&K from acting as Trustee of Assistive, both in the Assistive Bankruptcy and the Schiffner Action;
 - (c) declaring that Borden Ladner Gervais LLP (“BLG”), the lawyer of record for the Trustee, is in a disqualifying conflict of interest in both the Bankruptcy Action and the Schiffner Action;
 - (d) disqualifying BLG from acting in both the Bankruptcy Action and the Schiffner Action;
 - (e) costs of the within Application.

Grounds for making this application:

2. H&K acted as the financial consultant for the unsecured debentureholders of Assistive and their counsel, BLG, who are adverse in interest to Assistive.
3. BLG, on behalf of the Management Committee of the unsecured debentureholders of Assistive (the “Management Committee”) brought an application and obtained an Order placing Assistive into Bankruptcy with H&K being appointed as Trustee of the Estate of Assistive.
4. Thereafter, BLG also became counsel for H&K in its capacity as trustee.

5. H&K, through BLG, has commenced the Schiffner Action. In so doing, H&K, through BLG, has:
 - (a) Advanced allegations in the Schiffner Action on behalf of the unsecured debentureholders, including allegations against the interests of Assistive;
 - (b) Has purported to make admissions against the interests of Assistive; and
 - (c) Has sought, through court application, to obtain disclosure of privileged communications as among Assistive and Randy and Slade Schiffner and the members of the Schiffner Defendant Group in their personal capacities.
6. The actions of H&K and its counsel, BLG, are inconsistent with the obligations owed to Assistive and its stakeholders and contrary to the maintenance of public confidence in the integrity of the legal profession and the administration of justice.

Material or evidence to be relied on:

7. The Affidavit of Barry Crump, sworn August 11, 2014.
8. The pleadings filed in the Bankruptcy Action and the Schiffner Action.
9. The transcript of the cross-examination of H&K's representative, Marc Kelly, conducted on July 30, 2014.

Applicable rules:

10. *Alberta Rules of Court*, AR 124/2010, Division 2 of Part 1, Rule 6.3 and 13.5.

Applicable Acts and regulations:

11. *Judicature Act*, RSA 2000 c.J-2, Section 8.
12. *Bankruptcy and Insolvency Act*, RSC 1985, c.B-3.
13. *Law Society of Alberta Code of Conduct*.

Any irregularity complained of or objection relied on:

14. N/A

How the application is proposed to be heard or considered:

15. In person before an assigned Commercial List Justice at a date and time to be set by the Court, summarily.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.