

Deponent: A. Ronald Hardie
Sworn: November 5, 2007

ACTION NO. 0701-04154

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

IN THE MATTER OF THE TRUSTEESHIP OF JOHN
FRANCIS QUINN, A DEPENDENT ADULT

AND IN THE MATTER OF THE JUDICATURE ACT
(ALBERTA) AND THE APPOINTMENT OF A RECEIVER
AND MANAGER OF THE PROPERTY, ASSETS AND
UNDERTAKING OF JOHN FRANCIS QUINN

BETWEEN:

MICHAEL A. CONE, TRUSTEE FOR JOHN FRANCIS
QUINN, A DEPENDENT ADULT

Applicant,

- and -

JOHN FRANCIS QUINN AND
DAWN T. QUINN

Respondents.

A F F I D A V I T

I, A. RONALD HARDIE, of Calgary, Alberta, Chartered Accountant and Chartered Insolvency and Restructuring Professional, MAKE OATH AND SAY THAT:

1. I am the President of Hardie & Kelly Inc. (the "Receiver"), the Receiver and Manager of the property, assets and undertaking of John Francis Quinn, a dependent adult, appointed by the Order of Madam Justice Rowbotham granted on April 23rd, 2007 (the "Receivership Order") in these proceedings and, as such, have personal knowledge of the matters and facts hereinafter deposed to, except where stated to be based upon information and belief and, where so stated, I verily believe the same to be true.

2. I am authorized by the Receiver to make this Affidavit on its behalf. I have the primary supervisory responsibility for this receivership and a related proceeding, the bankruptcy of Kelly's Cargo Inc.

3. I make this Affidavit further and in supplement to my Affidavit sworn on August 10th, 2007 (my "August Affidavit"), filed herein, and the First Report of the Receiver.

803 - 104 Avenue S.W., Calgary, Alberta

4. As set out in my August Affidavit, I believe Mr. Quinn's most significant asset in Canada is his home located at 803 - 104 Avenue S.W., Calgary, Alberta (the "Home") and legally described as Plan 1163JK, Block 5, Lot 15, Excepting thereout all mines and minerals and the right to work the same. Attached hereto and marked as **Exhibit "A"** to this my Affidavit is a current search of the Certificate of Title for the Home.

5. Since its appointment, the Receiver has taken steps to secure and insure the Home. The Receiver has also arranged for the payment of property taxes and utilities.

6. As set out in my August Affidavit, Manulife Bank of Canada ("Manulife") holds a first mortgage against title to the Home in the principal amount of \$240,000, which I understand is held by Manulife as continuing collateral security for a line of credit for Mr. Quinn to a limit of \$208,000. I have also been advised by representatives of Manulife and verily believe that while the payments on the line of credit were kept current for a time, because Manulife was adding accruing interest to the balance owing on the line of credit, the line of credit hit its limit some time in July, 2007, and since that time, payments have not been current. Manulife has now advised me that, as at October 21st, 2007, the outstanding balance secured by the first mortgage was \$210,911.02, and interest is accruing at approximately \$750.00 per month.

7. Pursuant to the Order granted by Madam Justice Romaine on August 22nd, 2007, the Receiver listed the Home for sale with Glenn Metz of Sutton Group - Canwest Vista Branch.

The Home was listed for sale at a listing price of \$374,900, with payment of commissions on the usual Multiple Listing Service terms, which I understand are 7.0% of the first \$100,000 of the selling price, and 3.0% of the balance.

8. I am advised by Glenn Metz and verily believe that, to date, he has shown the Home to at least 7 interested parties. He has also placed a sign on the property and published information about the Home on the Calgary Real Estate board website at *www.creb.com*. Despite these efforts, no offer to purchase the Home has been presented.

9. I am advised by Glenn Metz and verily believe that, in his opinion as the listing realtor, the residential real estate market in Calgary has slowed and a reduced listing price would assist in selling the Home more quickly.

10. The Receiver originally obtained a formal appraisal of the Home from Elford Appraisal & Consulting Services Ltd., which was attached as an appendix to the First Report of the Receiver. Following my discussions with Mr. Metz, the Receiver asked the appraiser to review and update its original appraisal. I am advised by Robin Elford of Elford Appraisal & Consulting Services Ltd. and verily believe that, in his opinion, the market value of the Home has not materially changed. However, the current listing price for the Home is somewhat higher than its appraised value.

11. I have discussed a sale of the Home with Michael Cone, who is the court-appointed Trustee of the financial affairs of Mr. Quinn in the proceedings under the *Dependent Adults Act* taken in relation to Mr. Quinn (Court of Queen's Bench of Alberta - Surrogate Matter, Action No. 10863). I am advised by Michael Cone and verily believe that he agrees with me that an immediate sale of the Home is advisable.

12. The Home remains vacant. With no rental income but ongoing expenses for property taxes, insurance, security and maintenance, as well as accruing interest on Mr. Quinn's line of credit secured against the property, I am very concerned with the erosion of the existing equity in the Home. The Receiver seeks the authorization of this Honourable Court to reduce the listing price for the Home to such amount as the Receiver and Mr. Cone may agree, with

authority to further reduce the listing price from time to time as the Receiver and Mr. Cone may agree, with a view to seeing the Home sold as quickly as possible.

Ongoing Care

13. Based on my conversations with Mr. Cone and representatives at the Dr. Vernon Fanning Centre, I understand that Mr. Quinn's monthly care will cost about \$1,300 each month.

14. I am advised by Mr. Cone and verily believe that he has applied for a Canada Pension Plan ("CPP") disability benefit on behalf of Mr. Quinn. The Receiver and Mr. Cone have also applied for Assured Income for the Severely Handicapped ("AISH") benefits on behalf of Mr. Quinn. To my knowledge, Mr. Quinn has no other source of income.

15. The Receiver has received a payment for CPP arrears from the Government of Canada in the amount of \$4,188.90. The Receiver has also received a CPP cheque for the month of September, 2007 in the amount of \$698.15 and I expect this will be the amount of Mr. Quinn's monthly CPP disability benefit on a go-forward basis.

16. The application for AISH benefits for Mr. Quinn has not been processed yet, and so I do not know what his actual AISH benefit will be, but my expectation is that it will be in the order of \$1,000.00 per month.

17. Mr. Quinn is presently being cared for at the Dr. Vernon Fanning Centre in Calgary, Alberta. However, I am advised by Michael Cone and verily believe that once the Dr. Vernon Fanning Centre confirms that Mr. Quinn will be receiving AISH benefits, they hope to move him to another long-term care facility.

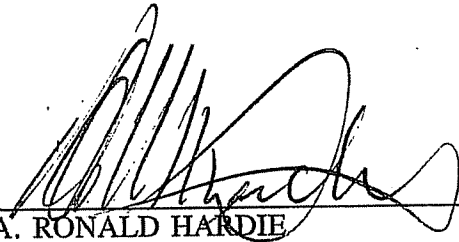
18. I have discussed these matters with Susan L. Robinson Burns, Q.C. of Miles Davison LLP, counsel for the Receiver. I am advised by Ms. Burns and verily believe that, in her opinion, under Alberta law, CPP disability benefits and AISH benefits would be exempt assets, that is, a stream of income which would not be available to Mr. Quinn's unsecured creditors.

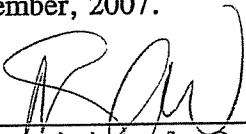
19. I am advised by Michael Cone and verily believe that Mr. Quinn's prognosis for a full recovery remains very poor and it is highly unlikely that he will ever return to normal functioning. At present, he has no other source of income and the CPP disability benefits and AISH disability benefits are required by Mr. Cone to pay Mr. Quinn's ongoing living and assisted-care expenses, as well as other expenses of the trusteeship. In my opinion, these benefits should be made available to Mr. Cone for that purpose.

20. Attached hereto and marked as Exhibit "B" to this my Affidavit is a copy of an Order granted by Mr. Justice MacLeod on October 9th, 2007 in the *Dependent Adults Act* proceedings appointing Susan Marie MacAdam as guardian, and Dawn T. Quinn as alternate guardian, of the person of Mr. Quinn. So far as I am aware, Ms. MacAdam is Mr. Quinn's sister.

21. I make this my Affidavit in support of an application to this Honourable Court for its advice and directions and, in particular, for an Order authorizing the Receiver to reduce the listing price for Mr. Quinn's Home, with the agreement of Michael Cone, now and from time to time in order to facilitate a sale; to pay over and deliver CPP and AISH benefits received for Mr. Quinn to Mr. Cone to meet Mr. Quinn's ongoing living and assisted-care expenses and other expenses of the trusteeship; and to amend the style of cause in these proceedings to add Susan M. MacAdam as a respondent.

SWORN BEFORE ME at the City)
)
of Calgary, in the Province of)
)
Alberta, this 5 day of)
)
November, 2007.)


A. RONALD HARDIE


A Commissioner for Oaths in and
for the Province of Alberta

e:\ronda\mkodocs\8000\21164.af2
Melissa Ann Sommerfeld
My Commission Expires
July 30, 2009



LAND TITLE CERTIFICATE

S LINC 0020 516 986 SHORT LEGAL 1163JK;5;15 TITLE NUMBER 031 183 880

LEGAL DESCRIPTION PLAN 1163JK BLOCK 5 LOT 15 EXCEPTING THEREOUT ALL MINES AND MINERALS AND THE RIGHT TO WORK THE SAME

ESTATE: FEE SIMPLE ATS REFERENCE: 5;1;23;16;N

MUNICIPALITY: CITY OF CALGARY

REFERENCE NUMBER: 781 190 861

THIS IS EXHIBIT " A " referred to in the Affidavit of A. RONALD WARDIE Sworn before me this 5 day of November, A.D. 2007

A Commissioner for Oaths in and for the Province of Alberta Melissa Ann Sommerfeld My Commission Expires July 30, 2009

Table with 5 columns: REGISTRATION, DATE(DMY), REGISTERED OWNER(S), DOCUMENT TYPE, VALUE, CONSIDERATION. Row 1: 031 183 880, 04/06/2003, TRANSFER OF LAND, \$184,000, SETTLEMENT

OWNERS JOHN FRANCIS QUINN OF 803-104 AVE SW CALGARY ALBERTA T2W 0A4

Table with 3 columns: REGISTRATION NUMBER, DATE (D/M/Y), ENCUMBRANCES, LIENS & INTERESTS, PARTICULARS. Row 1: 941 055 725, 04/03/1994, CAVEAT RE : MORTGAGE AMENDING AGREEMENT CAVEATOR - SCOTIA MORTGAGE CORPORATION. 34 MIDLAKE BLVD., S.E., CALGARY

(CONTINUED)

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2
031 183 880

REGISTRATION
NUMBER

DATE (D/M/Y)

PARTICULARS

ALBERTA T2X2X7
AGENT - RANDOLPH W KEARNES

031 183 879 04/06/2003 RELEASE OF DOWER RIGHTS
BY - TRACY QUINN

061 430 709 18/10/2006 MORTGAGE
MORTGAGEE - MANULIFE BANK OF CANADA.
500 KING STREET NORTH
DELIVERY STATION 500-M-A
WATERLOO
ONTARIO N2J4C6
ORIGINAL PRINCIPAL AMOUNT: \$240,000

071 413 810 17/08/2007 ORDER
IN FAVOUR OF - HARDIE & KELLY INC..
206, 5800-2 STREET SW
CALGARY
ALBERTA T2H0H2
AGAINST - JOHN FRANCIS QUINN
RECEIVERSHIP ORDER

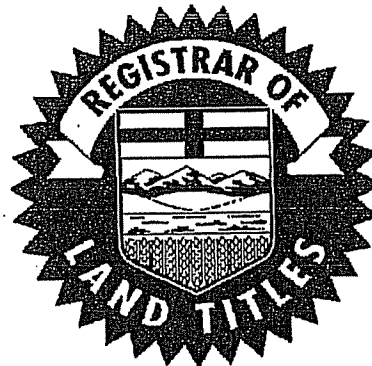
071 413 811 17/08/2007 CAVEAT
RE : AGREEMENT CHARGING LAND
CAVEATOR - HARDIE & KELLY INC..
ATTN: MR A. RONALD HARDIE
206, 5800-2 ST SW
CALGARY
ALBERTA T2H0H2
AGENT - SUSAN L ROBINSON BURNS

TOTAL INSTRUMENTS: 005

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN ACCURATE
REPRODUCTION OF THE CERTIFICATE OF TITLE REPRESENTED
HEREIN THIS 5 DAY OF NOVEMBER, 2007 AT 10:56 A.M.

ORDER NUMBER: 9818046

CUSTOMER FILE NUMBER: 21664 SLB



END OF CERTIFICATE

(CONTINUED)

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER, SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION, APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

I hereby certify this to be a true copy of the original ORDER

DAD 22

Dated this 10 day of Oct. 2007

[Signature]
for Clerk of the Court

COURT FILE NUMBER 10863

COURT

Court of Queen's Bench of Alberta
(Surrogate Matter)

THIS IS EXHIBIT "B"
referred to in the Affidavit of
A. RONALD HARDIE

JUDICIAL DISTRICT

Calgary

Sworn before me this 5 day
of November A.D. 2007

DEPENDENT ADULT

JOHN FRANCIS QUINN

[Signature]
A Commissioner for Oaths in and for the

PROCEDURE

Application for an Order to Discharge the Guardian and to
appoint a new Guardian and alternate Guardian
Dependent Adults Act, RSA 2000, cD-11 as amended (the
"Act")

Melissa Ann Sommerfeld
My Commission Expires
July 30, 2009

APPLICANT

Susan Marie MacAdam

HEARD BEFORE THE HONOURABLE JUSTICE

D. I. MACLEDD ON OCTOBER 9, 2007.

ORDER

THE COURT HAS:

- Reviewed the affidavit and other documents filed in this application;
- Heard representations from counsel for the applicant;
- Considered the application;

AND THE COURT ORDERS:

Service

- Sufficient service of all documents on all interested persons has been effected with the exception of the nearest relative, Dawn T. Quinn, upon whom service is dispensed with.

DAD 22

Discharge of Guardian

2. **Dawn T. Quinn is discharged as Guardian of John Francis Quinn, the Dependent Adult.**

Appointment

3. **Susan Marie MacAdam is appointed as Guardian and Dawn T. Quinn is appointed as alternate Guardian of the person of John Francis Quinn, the Dependent Adult, with the following powers and authority under section 10(3) of the Act:**
- a) **to decide where the dependent adult is to live, whether permanently or temporarily—section 10(3)(a);**
 - b) **to decide with whom the dependent adult is to live and with whom the dependent adult is to consort—section 10(3)(b);**
 - c) **to decide whether the dependent adult should engage in social activities and, if so, the nature and extent of them and related matters—section 10(3)(c);**
 - d) **to decide whether the dependent adult should work and, if so, the nature or type of work, for whom the dependent adult is to work and related matters - section 10(3)(d);**
 - e) **to decide whether the dependent adult should participate in any educational, vocational or other training and, if so, the nature and extent thereof and related matters - section 10(3)(e);**
 - f) **to decide whether the dependent adult should apply for any licence, permit, approval or other consent or authorization required by law - section 10(3)(f);**
 - g) **to commence, compromise or settle any legal proceeding that does not relate to the estate of the dependent adult and to compromise or settle any proceeding taken against the dependent adult that does not relate to the dependent adult's estate—section 10(3)(g);**
 - h) **to consent to any health care that is in the best interests of the dependent adult—section 10(3)(h);**
 - i) **to make normal day to day decisions on behalf of the dependent adult including the diet and dress of the dependent adult—section 10(3)(i).**

DAD 22

Review of Order

- 4. This order for guardianship must be reviewed not later than April 12, 2013.

Costs

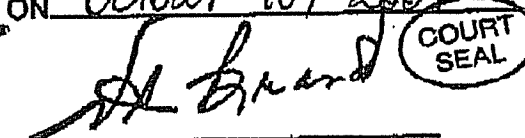
- 5. The costs of this Application in the sum of \$2,250.00 plus GST and reasonable disbursements are to be paid from the estate of the Dependent Adult.



JUSTICE OF THE COURT OF QUEEN'S BENCH
OF ALBERTA

ENTERED AT CALGARY, ALBERTA

ON October 10, 2007



CLERK OF THE COURT

No.: 10863

2007

COURT OF QUEEN'S BENCH OF ALBERTA
(SURROGATE MATTERS)
JUDICIAL DISTRICT OF CALGARY

PERSON IN RESPECT OF WHOM
THE APPLICATION IS BEING MADE:

JOHN FRANCIS QUINN

PROCEDURE: Application for an Order
to discharge the Guardian and to
appoint a new Guardian and an
alternate Guardian

*Dependent Adults Act, RSA 2000,
cD -11 as amended (the "Act")*

CLERK OF THE COURT
OCT 10 2007
CALGARY, ALBERTA

ORDER

UNDERWOOD CHERRY GILHOLME
Estate Lawyers
#228, 4935 - 40 Avenue, NW
CALGARY, AB
T3A 2N1

Solicitor's File No.: 1998/LSC
Contact: Leanne S. Cherry
Tel. #288-8855
Fax: #288-8659

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

IN THE MATTER OF THE TRUSTEESHIP OF JOHN
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AND IN THE MATTER OF THE JUDICATURE ACT
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UNDERTAKING OF JOHN FRANCIS QUINN

BETWEEN:

MICHAEL A. CONE, TRUSTEE FOR JOHN FRANCIS
QUINN, A DEPENDENT ADULT

Applicant,

- and -

JOHN FRANCIS QUINN AND
DAWN T. QUINN

Respondents;

AFFIDAVIT

MILES DAVISON LLP
Barristers and Solicitors
1600 Bow Valley Square II
205 - 5 Avenue S.W.
Calgary, Alberta
T2P 2V7
Telephone: (403) 298-0333
Fax: (403) 263-6840

Attention: Susan L. Robinson Burns, Q.C.

Our File: 21664 SLB

