

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.

SECOND REPORT OF RECEIVER

Hardie & Kelly Inc. was appointed as Receiver (the "Receiver") of John Francis Quinn pursuant to an Order of the Court of Queen's Bench of Alberta (the "Court") dated April 23, 2007. The purpose of this report is to advise the Court of the activities of the Receiver since the date of our first report (the "First Report") of August 9, 2007. This report addresses the following:

- Introduction and Background
- Calgary Residence;
- Furniture and Personal Effects;
- Kelly's Cargo Inc;
- Estate Interest;
- Creditors;
- Receiver's Statement of Receipts and Disbursements and proposed Final Distribution;
and,
- Summary and Recommendations

Introduction and Background

John Francis Quinn was 64 years old at the time of the Receiver's appointment in 2007. He is divorced and has one surviving child, his daughter Dawn T. Quinn who lives in Las Vegas, Nevada. In November 2006, Mr. Quinn suffered a major heart attack in or near Bellingham, Washington which caused significant brain damage. Mr. Quinn was moved to the Dr. Vernon Fanning Centre which is a long-term care facility in Calgary.

Because of Mr. Quinn's limited capacity an application was made pursuant to the Dependent Adults Act to have Mr. Michael Cone appointed Trustee to manage Mr. Quinn's financial affairs. When it became apparent that Mr. Quinn's liquid assets were insufficient to meet his obligations, and with creditors pressing, an application was made by Mr. Cone with the consent of Mr. Quinn's daughter to have a receiver appointed. Mr. Cone also obtained the permission of the court to assign Mr. Quinn's company, Kelly's Cargo Inc. into bankruptcy. Hardie & Kelly Inc. was appointed Trustee.

Calgary Residence

Mr. Quinn's most significant asset in Calgary was his former residence, located at 803 – 104 Avenue S.W. In accordance with the recommendation in our First Report, and the order of this Honorable Court of August 22, 2007 the property was sold for \$329,900.00. After paying the mortgage balance, real estate commissions, and the \$40,000.00 principal residence exemption to the Court Appointed Trustee of Mr. Quinn, the estate realized a net recovery of \$61,055.09.

Furniture and Personal Effects

Further to our recommendation in our First Report, we were unable to find any family members that were prepared to accept and deal with any of the household furniture and effects. Consequently, the items were turned over to All Appraisals to be liquidated. As a result of the liquidation of these items, the estate had a net recovery of \$1,129.88.

Personal items identified in our First Report were not the subject of the liquidation noted above and continued to be stored by the receiver in the hope that a family member would come forward and take responsibility for the items. The items were eventually turned over to Mr. Quinn's sister, Susan Macadam, when she became his guardian.

Kelly's Cargo Inc.

Mr. Quinn's other significant local asset was his interest in Kelly's Cargo Inc. With Mr. Quinn's illness the company had been shut down by Mr. Cone and eventually placed into bankruptcy. Hardie and Kelly Inc. were appointed as Trustee.

While Mr. Quinn was the sole shareholder of the corporation he was also one of the largest creditors with a proven claim in the bankruptcy of \$121,251.00. Total claims filed in the bankruptcy were approximately \$155,000.00. As the Trustee had realized in excess of \$82,000.00 in the bankruptcy Mr. Quinn's Receivership Estate received a dividend of \$50,021.99.

Estate Interest

Mr. Quinn also had an interest in the estate of his late mother Ms. Alice Quinn. Immediately upon our appointment we engaged counsel in the United States and contacted the executrix of Mrs. Quinn's estate, Mr. Quinn's sister Marialice Mulhern. We also commenced a derivative action in the US Bankruptcy Court to have the Receivership Order recognized in that jurisdiction.

Unfortunately, our dealings with Mr. Quinn's assets in the United States, and in particular settling the Estate of his late mother became quite litigious. The Executrix and her counsel were not prepared to recognize Mr. Quinn's entitlement to his inheritance or to the authority of the Receiver. As a result, numerous court applications were required in the US Bankruptcy Court. This resulted in significant delays in dealing with the property at a time when property values were declining. Eventually a settlement was negotiated and sanctioned by the US court. The property was finally sold in late 2009 after approximately a year and one half on the market. As a result of the liquidation of the property the Estate realized a net recovery of \$176,148.61.

Creditors

In accordance with the claims procedure ("Claims Process") authorized by the Order of this Honorable Court of August 22, 2007 (the "Claims Order") the Receiver notified all known creditors of Mr. Quinn and requested that they file a claim with the Receiver in support of the amount owing. The Receiver published advertisements in the Calgary Herald and the Bellingham Herald as well as posting the Claims Process on the Receiver's web-site. As a result of the Claims Process the Receiver has received thirteen claims totaling \$257,689.40. A listing of the Claims

filed with the Receiver is attached as Appendix A to this report. US dollar claims were converted to Canadian dollars at 1.0536 as authorized in the Claims Order.

Receiver's Statement of Receipts and Disbursements and proposed Final Distribution

Attached as Appendix B to this report is the Receiver's Final Statement of Receipts and Disbursements. As is evidenced therein, the Receiver realized \$290,815.96 from the liquidation of Mr. Quinn's assets. Expenses total \$118,371.08 leaving a balance available for distribution to creditors of \$172,444.88.

Attached as Appendix C to this report is the Receiver's proposed final distribution. On the basis of the claims filed pursuant to the Claims Order, creditors will receive a recovery of 66.92% of their claims.

Summary and Recommendations

As all realizations with respect to this estate are now complete, the Receiver recommends and requests that this Honorable Court approve the Receiver's Final statement of Receipts and Disbursements authorize the distribution of the remaining funds in accordance with the schedule in Appendix C and discharge the Receiver upon completion of the distribution.

Dated at Calgary, Alberta this 29th day of November, 2010.

Hardie & Kelly Inc. in its capacity as
Receiver of the property, assets and undertaking of John Francis Quinn

Per: _____

A. Ronald Hardie, CA•CIRP
President

Appendix A

Claims Filed

Claims Register

Hardie & Kelly Inc.

Date of Report: 07/12/2010

Quinn,

Calgary

Generated By: Gary Bobroff

Totals			
Liability Type	Amount of Claims (SOA)	Amounts Filed	Amounts Admitted
Secured	\$0.00	\$0.00	\$0.00
Preferred	\$0.00	\$0.00	\$0.00
Unsecured	\$183,390.20	\$258,319.08	\$257,689.40
Contingent	\$0.00	\$0.00	\$0.00

Creditor's Name and Address	Ref No	Proxy	Amount of Claim	Amount Filed	Amount Admitted
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Unsecured

1	Bellingham Ear, Nose, Throat 2940 Squalicum Pky #203, Bellingham, 98225	26206770	<input type="checkbox"/>	\$0.00	\$189.65	\$189.65
2	Direct Energy Regulated Services 10035 - 105 Street, Edmonton, Alberta, T5J 2V6	76-40386501-01-09	<input type="checkbox"/>	\$0.00	\$249.34	\$249.34
3	MANULIFE BANK OF CANADA 500 King Street N, Waterloo, Ontario, N2J 4C6	1023602	<input type="checkbox"/>	\$0.00	\$0.00	\$0.00
4	Merchant's Credit P.O. Box 7416, 98008	26206770	<input type="checkbox"/>	\$180,448.87	\$181,078.55	\$180,448.87
5	Mt. Baker Nephrology 410 Birchwood Avenue #200, 98225	489230	<input type="checkbox"/>	\$255.00	\$268.67	\$268.67
6	Northwest Radiologists 533 South 336 Street Suite C, Federal Way, 98003	20102426299-1	<input type="checkbox"/>	\$1,232.71	\$1,232.71	\$1,232.71
7	Paccar Financial 6711 Mississauga Rd North Suite 500, Mississauga, Ontario, L5N 4J8	7000466	<input type="checkbox"/>	\$0.00	\$7,849.10	\$7,849.10
8	Paccar Financial 6711 Mississauga Rd North Suite 500, Mississauga, Ontario, L5N 4J8	7004871	<input type="checkbox"/>	\$0.00	\$37,870.85	\$37,870.85
9	Psychiatry Association P.O. Box 2101, 982 27	012-0007876-01	<input type="checkbox"/>	\$0.00	\$227.83	\$227.83
10	Richard Dean Derbyshire 95 Mountain Park Drive S.E., Calgary, Alberta, T2Z 1S1		<input type="checkbox"/>	\$0.00	\$4,699.62	\$4,699.62
11	Robert Rakochey 3700, 400 - 3 Avenue S.W., Calgary, Alberta, T2P 4H2		<input type="checkbox"/>	\$0.00	\$12,000.00	\$12,000.00
12	Shaw Cable * 2400 32 Ave NE, Calgary, Alberta, T2E 9A7	031-5630-0009	<input type="checkbox"/>	\$44.79	\$44.79	\$44.79
13	Skagit County Public Hospital Dist. #2 1121 - 24 Street, Anacortes, 98221	F009201914	<input type="checkbox"/>	\$1,408.83	\$7,179.38	\$7,179.38
14	Telus #4, 4519 Canada Way, Burnaby, British Columbia, V5G 4S4	08545180 & 00993374	<input type="checkbox"/>	\$0.00	\$5,428.59	\$5,428.59
Sub count of Unsecured: 14			Total	\$183,390.20	\$258,319.08	\$257,689.40

Total count of all creditors: 14

Appendix B

Receiver's Statement of Receipts and Disbursements

District of : Alberta
Division No: 2
Court No:
Estate No:

Receiver's Statement of Receipts and Disbursements
In the Matter of the Receivership of John Francis Quinn
Final

RECEIPTS

Cash in Bank	371.31
Accounts Receivable	276.00
Dividend from Kelly's Cargo	50,021.99
Sale of Securities	1,256.24
Sale of Household Items	1,129.88
Sale of House and Property (Canada)	61,055.09
Sale of House and Property (USA)	176,148.61
GST Credits -Personal	67.96
Interest	488.88
Total Receipts	290,815.96

DISBURSEMENTS

Advertising	401.29
Insurance	9,710.30
Courier	172.77
Appraisal Fees	360.40
Clean Up Costs	271.88
Utilities	2,353.84
Property Taxes	1,608.38
GST	2,992.04
Trustee Fees	26,574.75
Consultation Fees	3,620.50
Solicitor to estate (USA)	37,314.56
Solicitor to estate (Canada)	32,990.37
Total Disbursements	118,371.08
 Estate Balance	 172,444.88

Appendix C

Proposed Final Distribution

**In the Matter of the Receivership of John Francis Quinn
Proposed Final Distribution**

Creditor Name	Admitted Claim	Percentage Total	Distribution Amount
Bellingham Ear, Nose, Throat	189.65	0.0007	126.91
Direct Energy Regulated Services	249.34	0.0010	166.86
Merchant's Credit	180,448.87	0.7003	120,755.78
Mt. Baker Nephrology	268.67	0.0010	179.79
Northwest Radiologists	1,232.71	0.0048	824.93
Paccar Financial	7,849.10	0.0305	5,252.59
Paccar Financial	37,870.85	0.1470	25,343.05
Psychiatry Association	227.83	0.0009	152.46
Richard Dean Derbyshire	4,699.62	0.0182	3,144.97
Robert Rakochey	12,000.00	0.0466	8,030.36
Shaw Cable	44.79	0.0002	29.97
Skagit County Public Hospital Dist. #2	7,179.38	0.0279	4,804.42
Telus	5,428.59	0.0211	3,632.79
Total	257,689.40	1.0000	172,444.88
 Estate Balance	 172,444.88		