

TAB N

PIN	Registered Owner	Address	Note	Colour
03475-0135	Crates Marine Sale Limited	8 Mac Avenue	PIN	Yellow
03475-0140	F.S. Crate & Sons Limited	282 The Queensway	PIN	Orange
03475-0147	F.S. Crate & Sons Limited	290 The Queensway	PIN	
03475-0150	1330732 Ontario Limited	294 The Queensway	PIN	Purple
03475-0901	1328559 Ontario Limited		PIN	Blue
03475-0902	1328559 Ontario Limited		PIN	
03475-0923	1328559 Ontario Limited		PIN	
03475-1967	1328559 Ontario Limited			
03475-1972	1328559 Ontario Limited			
03475-0146	1282648 Ontario Ltd.		PIN	Pink
03475-0898	1282648 Ontario Ltd.		PIN	
03475-0899	1282648 Ontario Ltd.		PIN	
03475-0900	1282648 Ontario Ltd.		PIN	
03475-0924	1282648 Ontario Ltd.		PIN	
03475-0925	1282648 Ontario Ltd.		PIN	

PIN	Registered Owner	Address	Note	Colour
03475-0163	Steven Crate and Robin Ann Crate	176 Wynhurst Road	PIN	 
03475-0164	Steven Crate	306 The Queensway	PIN	 
03475-0165	Steven Crate	274 The Queensway		
03475-1960	Greg Crate	208 Wynhurst Road	PIN	 
03475-0136	Ryan Gregory Crate	12 Mac Avenue	PIN	Blue stripes 
03475-0137	2192422 Ontario Inc.	10 Mac Avenue	PIN	Yellow/Purple 
03475-0155	Lynn Joanne Marko	292 Wynhurst Road	PIN	Pink stripes 
03475-1907	Lynn Joanne Marko	200 Wynhurst Road	PIN	
03475-1908	Lynn Joanne Marko	292 Wynhurst Road	PIN	
03475-1969	Lynn Joanne Marko			
03475-0134	Robin Price	262 The Queensway	PIN	Orange/Blue 

Additional Properties in the Area

PIN	Registered Owner	Address	Note	Colour
03475-0133	Jean O'Shell	260 The Queensway	PIN	White
03475-0132	Jinling Fan, Robert Herring, Peng Fei Zhou	256 The Queensway	PIN	White
03475-0130	Pioneer Energy Management Inc.	248 The Queensway	PIN	White
03475-0145	E. & G. Gogou Investments Limited	270 The Queensway	PIN	White
03475-0142	Jurgen Werner Pazourek	1 Mac Avenue	PIN	White
03475-0141	Ming Ling Zhou	3 Mac Avenue	PIN	White
03475-0138	Walter A. Hirst		PIN	White
03475-0139	Gordon Kenneth Day, Hans Peter Tobien. Tamara Bruce, John Davis	11 Mac Avenue	PIN	White
03475-0154	Allen Littleford	204 Wynhurst Road	PIN	White

Properties Owned by Parties not in the Vicinity

PIN	Registered Owner	Address
03513-0170	Steve Crate and Robin Crate	39 Huntley, Willow Beach
03475-1025	Steve Lloyd Crate	212 South Channel Road, Keswick
03483-0047	Gregory John Crate and Karen Lee Ann Crate	41 Fontaine Drive, Kweswick
03497-1025	Gregory John Crate and Karen Lee Ann Crate	3 Wolford, Keswick
03486-0088	Ryan Crate	158 Queensway, Keswick
03473-0209	Ryan Gregory Crate	322 Miami, Kewick
03508-0057	2192422 Ontario Inc.	1 Neon Lane, Keswick
03508-0138	2192422 Ontario Inc.	
03508-0628	2192422 Ontario Inc.	
03515-1009	Lynn Marko	22 Woda Avenue, Jackson Point
40465-0022 (LRO 21)	Ryan Gregory Crate	14 Highland Avenue, Belleville

TAB O

PRINTED ON 30 DEC, 2014 AT 16:29:17
FOR ANDREAR1



PROPERTY INDEX MAP

YORK REGION (No. 65)

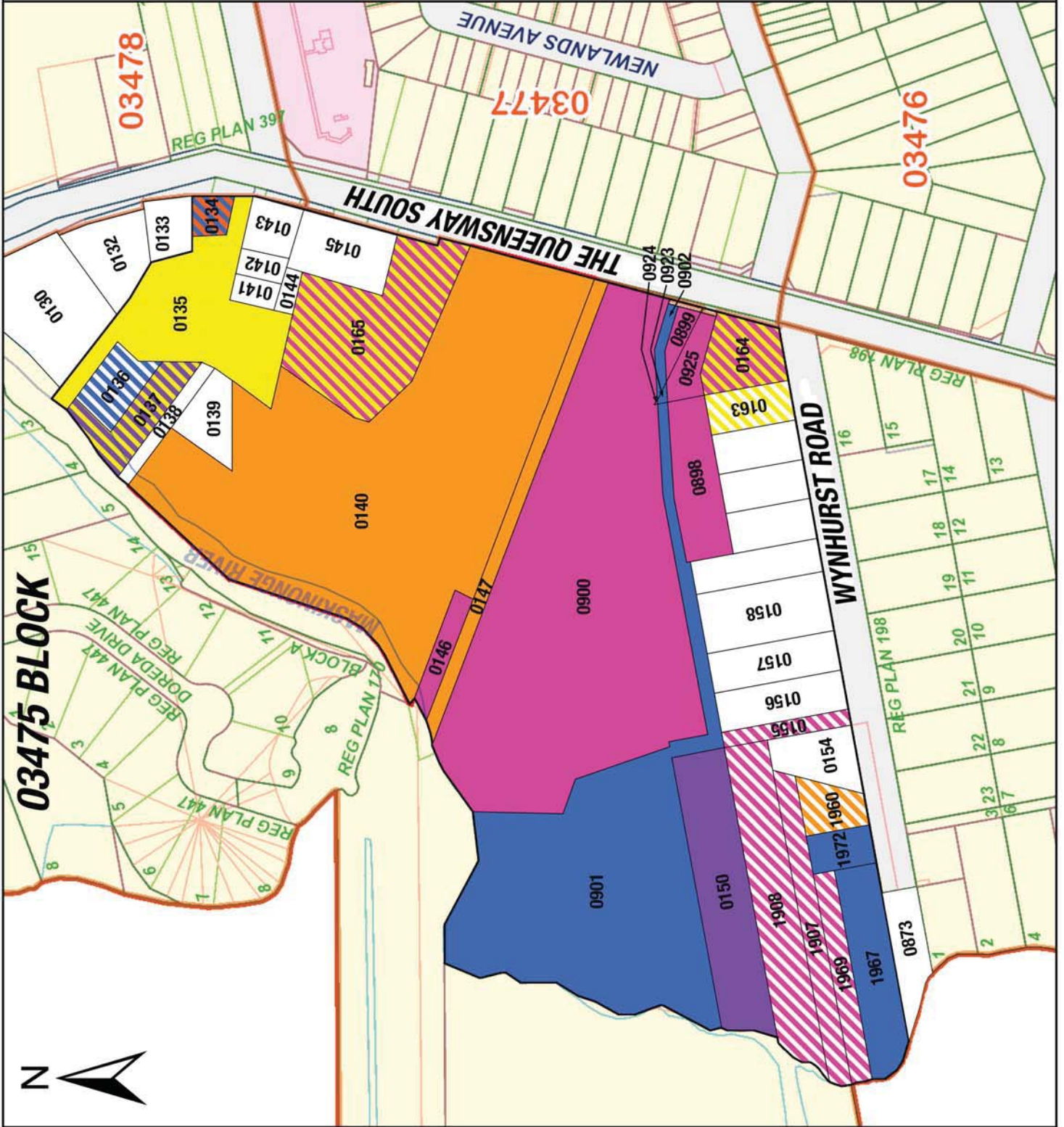
LEGEND

- FREEHOLD PROPERTY
 - LEASEHOLD PROPERTY
 - LIMITED INTEREST PROPERTY
 - CONDOMINIUM PROPERTY
 - RETIRED PIN (MAP UPDATE PENDING)
 - PROPERTY NUMBER
 - BLOCK NUMBER
 - GEOGRAPHIC FABRIC
 - EASEMENT
- 0449
08050

THIS IS NOT A PLAN OF SURVEY

NOTES

- REVIEW THE TITLE RECORDS FOR COMPLETE PROPERTY INFORMATION AS THIS MAP MAY NOT REFLECT RECENT REGISTRATIONS
- THIS MAP WAS COMPILED FROM PLANS AND DOCUMENTS RECORDED IN THE LAND REGISTRATION SYSTEM AND HAS BEEN PREPARED FOR PROPERTY INDEXING PURPOSES ONLY
- FOR DIMENSIONS OF PROPERTIES BOUNDARIES SEE RECORDED PLANS AND DOCUMENTS
- ONLY MAJOR EASEMENTS ARE SHOWN
- REFERENCE PLANS UNDERLYING MORE RECENT REFERENCE PLANS ARE NOT ILLUSTRATED



T A B P



Court File No.:

CV-15-10830-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**A. FARBER & PARTNERS INC. IN ITS CAPACITIES AS THE COURT
APPOINTED RECEIVER AND AS THE TRUSTEE IN BANKRUPTCY OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD.,
and 1382416 ONTARIO LTD.**

Applicant

-and-

**STEVEN L. CRATE, ROBIN ANN CRATE a.k.a. ROBIN PRICE,
GREGORY J. CRATE, LYNN J. MARKO, and RYAN G. CRATE**

Respondents

Application pursuant to Rules 14.05(3)(d), (e), and (h) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 as amended, section 248(1) of the *Business Corporations Act*, R.S.O. 1990, c. B.16 as amended, and section 96(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing before a Judge on a date to be set by a judge of the Commercial List at 10:00 a.m. time or as soon after that time as the application can be heard at 330 University Avenue, Toronto, Ontario.


IF YOU WISH TO OPPOSE THIS APPLICATION, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38C prescribed by the Rules of Civil Procedure, serve it on the applicant(s) lawyer(s) or, where the applicant(s) do(es) not have a lawyer, serve it on the applicant(s), and file it, with proof of service, in this court office, and you or your lawyer(s) must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer(s) must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyers or, where the applicants do not have a lawyer, serve it on the applicants, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: January 13th, 2015

Issued by :


Local Registrar
Superior Court of Justice
(Commercial List)
330 University Avenue
Toronto, ON M5G 1R7

Natasha Brown
Registrar

TO: STEVEN L. CRATE
39 Huntley Drive, Box 601
Willow Beach, Ontario

AND TO: ROBIN ANN CRATE a.k.a. ROBIN PRICE
39 Huntley Drive, Box 601
Willow Beach, Ontario

AND TO: GREGORY J. CRATE
3 Woford Court
Keswick, ON L4P 0B1

AND TO: LYNN J. MARKO
8 Amber View Drive
Keswick, ON L4P 3X6

AND TO: RYAN G. CRATE
14 Highland Avenue
Belleville, Ontario K8P 3P9

APPLICATION

1. **THE APPLICANT**, A. Farber & Partners Inc. in its capacities as the Court appointed Receiver (the “**Receiver**”) and as the trustee in bankruptcy (the “**Trustee**”) of Crate Marine Sales Limited (“**CMS**”), F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively with CMS the “**Companies**”), **MAKES APPLICATION FOR:**

- a) if necessary, an Order abridging the time for service of this Application, validating the manner of service and declaring that this Application is properly returnable before the Court;
- b) an Order declaring that the premises listed in Schedule “A” (the “**Properties**”) are the property of CMS, such that they are Property within the control of the Applicant within the meaning of the Amended Order of this Court dated December 8, 2014 appointing the Applicant as Receiver and Trustee, and vesting title in the Properties in in the name of CMS;
- c) in the alternative, an Order declaring that the arrangements by which the Respondents are listed as the owners on title to the Properties are void as a sham and of no force and effect as against the Applicant, and vesting title in the Properties in in the name of CMS;

- d) in the alternative, an Order declaring that the Respondents hold title to the Properties as the alter egos and on behalf of CMS, and vesting title in the Properties in in the name of CMS;
- e) in the alternative, an Order declaring that the Respondents hold the Properties in trust for CMS, and vesting title in the Properties in in the name of CMS;
- f) in the alternative an Order:
 - i) declaring that the Applicant is a complainant within the meaning of section 245 of the *Business Corporations Act*, R.S.O 1990, c. B.16 (the "OBCA"),
 - ii) declaring that the affairs of the Companies with respect to the Properties as described below have been carried on by the Respondents in a fashion that is oppressive to, unfairly prejudicial to, or unfairly disregards the interests of the Applicant as the representative of the creditors of the Companies within the meaning of section 248(2) of the OBCA, and
 - iii) vesting title to the Properties in CMS or such further interim or final order as the Court may direct pursuant to section 248(3) of the OBCA;
- g) in the alternative, an Order:
 - i) declaring that the transfers of title to the Properties to the Respondents are void as against the Trustee within the meaning of section 96(1) of the

Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 as amended (the “BIA”), or

- ii) that the Respondents pay to the Applicant an amount equal to the fair market value of the Properties plus the amounts expended by the Companies for carrying costs and other expenses associated with the Properties;
- h) in the alternative, judgment against the Respondents for the amounts expended by CMS in connection with the Properties and for the amounts purportedly loaned by CMS to the Respondents in connection with the Properties as set out below, and the appointment of the Applicant as receiver pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended (the “CJA”), or as an equitable receiver, to take possession of and realize upon the Properties;
- i) certificates of pending litigation against the Properties;
- j) costs of this Application, inclusive of HST; and
- k) Such further and other relief as counsel may advise and this Honourable Court deems just.

2. THE GROUNDS FOR THE APPLICATION ARE:

The Receiver and Trustee

- a) the Receiver and Trustee were appointed by the Amended Order of this Court dated December 8, 2014 following the termination by this Court of proceedings

brought by the Companies under notices of intention to make a proposal (“NOI”) pursuant to the BIA;

- b) this proceeding is being brought by the Applicant in its dual capacities as Receiver and Trustee, but the allocation of any proceeds of this proceeding, or of proceeds of sale in a sales process, will depend on the basis for recovery as adjudicated by the Court and may therefore require directions from this Court in the receivership and bankruptcy proceedings;

The Companies and their conduct prior to appointment of the Applicant

- c) the Companies were all related in the operation of marinas in Keswick and elsewhere, and in ownership of land for the Keswick marina;
- d) CMS was the main or sole operating company for the marina operations, and had lost approximately \$19.7 million in aggregate in its fiscal years 2011 to 2014;
- e) the Applicant has filed Reports with this Court (both as Receiver and in a prior capacity as Interim Receiver of certain of the Companies), to advise of circumstances that it has been made aware of in which CMS appears to have:
 - i) sold boats on behalf of customers as agent or broker, without remitting the proceeds of sale to the customer or without paying off a loan by the customer from the proceeds of sale,

- ii) sold boats that had been purchased by CMS though funds borrowed from lenders without repaying those loans, including in circumstances where the lenders were given what purported to be title documents to the boats but the boats were sold nonetheless,
- iii) used funds received from the sale of boats on behalf of customers, or used funds received as a deposit for purchase of a boat, without putting those funds in trust as required by agreements with the customer or purchaser,
- iv) used funds received from customers in 2014 on account of deposits for boat slip rentals in the 2015 boating season for general corporate purposes,
- v) disbursed funds without the interim receiver's approval in contravention of the interim receivership orders of this Court,
- vi) failed to remit the payroll source deductions that arose after the filing of the NOI's, and
- vii) sold at least one boat on behalf of a third party with \$145,000 in payments from the purchaser being directed \$103,000 to CMS and \$42,000 to "S. Crate",

none of which has been explained in affidavits that have been filed by Steven Crate in the NOI proceedings, or otherwise;

The Respondents

- f) the Respondents are all relatives in the Crate family;
- g) the Respondents, Steven L. Crate (“Steven”), Gregory J. Crate (“Greg”) and Lynn J. Marko (“Lynn”) are siblings of each other and are all officers and/or directors of each of the Companies and were employees of CMS;
- h) Steven, Greg and Lynn were the directing minds of the Companies prior to the appointment of the Applicant;
- i) Steven, Greg and Lynn, along with Lloyd Crate (now deceased), are the direct or indirect owners of all the Companies;
- j) the Respondent, Robin Anne Crate (“Robin”), is the spouse of Steven;
- k) the Respondent, Robin Price, is the registered owner of one of the Properties at 262 The Queensway South in Keswick;
- l) Robin Price has the same birth date and same residence (as indicated in the address for service on the transfer registered on title) as Steven and Robin Anne Crate, and is accordingly the same person as Robin Anne Crate and is therefore an alias used by her;
- m) the Respondent, Ryan G. Crate (“Ryan”), is the son of Greg;
- n) the Respondents are listed on title as the respective registered owners of the Properties as set out in Schedule “A”;

The purpose of acquiring the Properties

- o) the Properties are all adjacent to lands owned by the Companies;
- p) the Properties were all acquired to enable the Companies to:
 - i) when necessary expand the marina business carried on by the Companies, and in some cases customer boats or other goods owned or held by the Companies were stored on the Properties, and
 - ii) undertake in the future the development of residential or leisure accommodations near the marina;

The payment of funds by CMS in respect of the Properties

- q) CMS made all the payments required to buy and carry the Properties, including:
 - i) CMS paid for all down payments for acquiring the Properties;
 - ii) CMS paid for all expenses in connection with the Properties, such as utilities, insurance, municipal taxes and upkeep; and
 - iii) CMS made all mortgage payments for the charges registered against the Properties;

CMS received all income derived from the Properties

- r) where any income was received from the Properties, for example rent by a tenant, that was paid to CMS;

The accounting treatment by CMS of funds in respect of the Properties

- s) CMS expensed the payments made for carrying costs and for the mortgage interest for the Properties against its income, and did so in separate expense accounts maintained for each of the Properties;
- t) CMS recorded as income any rents or other income received in respect of the Properties as a negative expense on the expense accounts for the Properties;
- u) CMS accounted for the down payments and for any principal portion of mortgage payments as notional shareholder loans to Steven, Greg, or Lynn (and where Robin or Ryan was an owner of one of the Properties, the notional shareholder loan was to Steven) and did so with separate accounts on its books and records for each of the Properties (the **“Property Shareholder Accounts”**);
- v) each of Steven, Greg and Lynn also had more conventional shareholder loan accounts in which, among other things, CMS would book amounts that it paid on their behalf or that they loaned to CMS (the **“True Shareholder Accounts”**);
- w) the True Shareholder Accounts did not carry balances payable by Steven, Greg and Lynn after each fiscal year into the next year, and instead CMS and the Companies at the end of each fiscal year made further entries on their books and records to reallocate the amounts in the True Shareholder Accounts such that Steven, Greg and Lynn then notionally owed those funds to 1382415 Ontario Ltd., which then owed the funds to F.S. Crate & Sons Limited, which then owed the funds to CMS;

- x) unlike the True Shareholder Accounts, the Property Shareholder Accounts did carry balances notionally payable by Steven, Greg or Lynn for each of the Properties over from one year to the other;
- y) the compensation payable to Steven, Greg and Lynn as employees of CMS was the same both before and after CMS funded the acquisition of one of the Properties in the name of a Respondent and when CMS paid the carrying costs of the Properties;
- z) in its fiscal year ending October 31, 2014, CMS paid \$319,919.38 (net of any income received) in respect of the Properties held in the name of the Respondents, which was at a time when the losses being incurred by CMS over the three fiscal years 2011 to 2014 were approximately \$19.7 million in aggregate;
- aa) the full details of the Properties are not known to the Applicant, because Steven, Greg and/or Lynn removed files relating to the Properties that had been kept in the premises of CMS prior to the appointment of the Applicant, and they have refused the Applicant's request to return those files;

Why the Respondents hold title to the Properties

- bb) the Respondents hold title to the Properties, rather than any of the Companies, for two reasons:
 - i) the Companies and the Respondents did not want any part lots that were acquired to merge with the other lots held by the Companies under the

Planning Act, so that flexibility to later sell those part lots could be maintained, and

- ii) the Companies were, due to their financial position, not able to themselves obtain mortgage financing, such that having the Respondents own the Properties would allow the Properties to be mortgaged both for purposes of acquisition and also for purposes of borrowing funds for use in the business of the Companies;
- cc) it was accordingly at all times the intention of the Companies and the Respondents that the Properties were being acquired for the current and future business of the Companies, and that putting title to the Properties in the name of the Respondents would allow that to happen while avoiding the consequences of actually having the Companies be the registered owners;
- dd) at no time prior to the commencement of the insolvency proceedings have the Respondents or any of them acted as if they were the true owners of the Properties;

Sham, alter ego and trust

- ee) the arrangements by which the Respondents were registered on title to the Properties, when CMS was paying for all costs associated with acquiring and carrying the Properties, were a sham intended to avoid the true state of affairs for

Planning Act and for mortgage lending purposes and should be disregarded by this Court;

- ff) similarly, those arrangements show that the Respondents are nothing more than the alter ego of CMS as the registered owners of the Properties;
- gg) in addition, the intent of the Respondents and CMS (under the direction and control of Steven, Greg and Lynn) was that the Respondents were not the true owners of the Properties and instead that the Respondents held the Properties in Trust for CMS;
- hh) in the alternative, the payment by CMS of all costs associated with acquiring and carrying the Properties, and use by the Companies of the Properties for their business purposes, including using all income from the Properties, means that the Respondents hold the Properties in trust for CMS by virtue of a constructive trust and resulting trust;

Oppression

- ii) as legal representative of the creditors of CMS, the Applicant is a complainant for purposes of section 245 of the OBCA;
- jj) allowing the Properties to remain in the name of the Respondents would effect a result that is oppressive to, unfairly prejudicial to, or unfairly disregards the interests of the creditors of CMS by enriching Steven, Greg and Lynn and the

other Respondents as their family members to the detriment of the creditors of CMS;

- kk) the affairs of CMS were carried on by Steven, Greg and Lynn such that it spent \$319,919.38 in its 2014 fiscal year, and unknown amounts in prior years, on properties that, if not remedied by this Court, will accrue solely to the benefit of Steven, Greg and Lynn and their family, when CMS was otherwise losing millions of dollars each year;

Transfer under value

- ll) the Trustee states that the registrations of title to the Properties in the names of the Respondents were transfers for which no consideration has been given within the meaning of subsections 96(1) and 96(2) of the BIA;
- mm) accordingly, the registrations of title in the name of the Respondents rather than in the name of CMS is void as against the Trustee;
- nn) in the alternative, the Respondents should be liable to pay to the Applicant an amount equal to the fair market value of the Properties plus the amounts expended by the Companies for carrying costs and other expenses associated with the Properties

Judgment for amounts paid by CMS and appointment of a CJA or equitable receiver

- oo) in the alternative, the Respondents are indebted to CMS or others of the Companies for:
 - i) the amounts recorded in the Property Shareholder Loans as loans due and payable, and
 - ii) the amounts paid by CMS in connection with the carrying costs for the Properties as amounts that have unjustly enriched the Properties at the expense of CMS and its creditors;
- pp) the full details of the amounts owing for the Property Shareholder Loans and the carrying costs paid by CMS are not yet known to the Applicant, in part because of the failure or refusal by Steven, Greg and Lynn to return the files for the Properties to the premises of CMS despite demand, but will be provided prior to the hearing of this Application;
- qq) in the alternative, it is in the interests of justice to appoint the Applicant over the Properties in order to ensure the proper repayment of the amounts owing to CMS, particularly in circumstances where:
 - i) Steven, Greg and Lynn have demonstrated in their management of the Companies both prior to the appointment of the Applicant and Trustee, and during the interim receivership, that they were prepared to sell things that did not belong to CMS and appropriate the funds for CMS, or incur

debts for CMS to acquire a boat and then not discharge those debts upon sale of the boat, or otherwise ignore restrictions imposed by this Court,

- ii) Steven, Greg and Lynn have removed records pertaining to the Properties from CMS and have failed or refused to return those records despite request by the Applicant,
- iii) the purchase of 262 The Queensway South in Keswick by the spouse of Steven was obscured by the registration of title in the name of Robin Price rather than Robin Anne Crate, and
- iv) certain of the Properties have been listed for sale since the appointment of the Applicant and Trustee;

Statutory and regulatory provisions relied on in this Application

- rr) the provisions of the OBCA, including sections 245 and 248;
- ss) the provisions of the BIA, including section 96;
- tt) the provisions of the CJA, including section 101;
- uu) Rules 14.05(3)(d), (e), and (h) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 as amended; and
- vv) Such further and other grounds as counsel may advise and this Honourable Court accepts.

3. THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION;

- a) The Affidavit or Report of the Applicant and the exhibits thereto;
- b) such further and other documentary evidence as counsel may provide and this Honourable Court accepts.

Dated: January 13, 2015

GOLDMAN, SLOAN, NASH & HABER LLP
Barristers and Solicitors
Suite 1600
480 University Avenue
Toronto, ON M5G 1V6

Michael B. Rotsztain (LSUC No.: 17086M)
R. Brendan Bissell (LSUC No.: 40354V)
Robert J. Drake (LSUC No.: 57083G)

Tel: (416) 597-9922
Fax: (416) 597-3370

Lawyers for the Applicant,
A. Farber & Partners Inc. in its capacities as the
Court appointed Receiver and as the trustee in
bankruptcy of Crate Marine Sales Limited, F.S.
Crate & Sons Limited, 1330732 Ontario Limited,
1328559 Ontario Limited 1282648 Ontario Limited,
1382415 Ontario Ltd., and 1382416 Ontario Ltd.

SCHEDULE "A"

PIN 03475-0163 (LT)

Registered Owner: Steven Crate and Robin Ann Crate
Municipal Address: 176 Wynhurst Road, Georgina
Legal Description: PT LT 39 PL 224 N GWILLIMBURY AS IN R681463 T/W R681463 ;
GEORGINA

PIN 03475-0164 (LT)

Registered Owner: Steven Crate
Municipal Address: 306 The Queensway South, Keswick
Legal Description: PT LT 40 PL 224 NORTH GWILLIMBURY PT 1, 65R2443;
GEORGINA

PIN 03475-0165 (LT)

Registered Owner: Steven Crate
Municipal Address: 274 The Queensway South, Keswick
Legal Description: PT BLK E PL 224 N GWILLIMBURY PT 2 65R13692, GEORGINA

PIN 03475-1960 (LT)

Registered Owner: Greg Crate
Municipal Address: 208 Wynhurst Road, Georgina
Legal Description: PT LOT 8 CON 3 PT 2, 65R25043; GEORGINA (NG)

PIN 03475-0136 (LT)

Registered Owner: Ryan Gregory Crate
Municipal Address: 12 Mac Avenue, Georgina
Legal Description: PT LT 9 CON 3 N GWILLIMBURY AS IN R690189,T/W RIGHT IF
ANY IN R690189 ; GEORGINA

PIN 03475-0155 (LT)

Registered Owner: Lynn Joanne Marko
Municipal Address: 292 Wynhurst Rd.
Legal Description: LT 33 PL 224 N GWILLIMBURY ; GEORGINA

PIN 03475-1907 (LT)

Registered Owner: Lynn Joanne Marko
Municipal Address: 200 Wynhurst Rd.
Legal Description: PT LT 8, CON 3, PT 2 65R22164, NORTH GWILLIMBURY;
GEORGINA.

PIN 03475-1908 (LT)

Registered Owner: Lynn Joanne Marko
Municipal Address: 292 Wynhurst Rd.
Legal Description: PT LT 8, CON 3, AS IN R649949 EXCEPT PT 2 65R22164, NORTH
GWILLIMBURY, GEORGINA;

PIN 03475-1969 (LT)

Registered Owner: Lynn Joanne Marko
Municipal Address: 200 Wynhurst Rd.
Legal Description: PT LOT 8 CON 3 PT 1, 65R25043; EXCEPT PT 1, 65R27407; NG;
GEORGINA

PIN 03475-0134 (LT)

Registered Owner: Robin Price
Municipal Address: 262 The Queensway South, Keswick
Legal Description: PT LT 9 CON 3 N GWILLIMBURY; PT LT 1 W/S QUEEN ST PL 245
N GWILLIMBURY PT 5 65R3745 ; GEORGINA

**A. FARBER & PARTNERS INC. IN ITS CAPACITIES AS THE COURT
APPOINTED RECEIVER AND AS THE TRUSTEE IN BANKRUPTCY
OF CRATE MARINE SALES LIMITED, F.S. CRATE & SONS
LIMITED, 1330732 ONTARIO LIMITED, 1328559 ONTARIO
LIMITED, 1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD.,
and 1382416 ONTARIO LTD.**

Applicant

- and **STEVEN L. CRATE, ROBIN ANN CRATE a.k.a.
ROBIN PRICE, GREGORY J. CRATE, LYNN J.
MARKO, and RYAN G. CRATE**

Respondents

Commercial List File No.:

CV-15-10830-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

NOTICE OF APPLICATION

GOLDMAN SLOAN NASH & HABER LLP
Barristers & Solicitors
480 University Avenue, Suite 1600
Toronto, Ontario M5G 1V2

**Michael B. Rotsztain [LSUC No.: 17086M]
R. Brendan Bissell [LSUC No. 40354V]
Robert J. Drake [LSUC No. 57083G]
Tel: (416) 597-9922
Fax: (416) 597-3370**

Lawyers for the Applicant,
A. Farber & Partners Inc. in its capacities as the Court
appointed Receiver and as the trustee in bankruptcy of Crate
Marine Sales Limited, F.S. Crate & Sons Limited, 1330732
Ontario Limited, 1328559 Ontario Limited 1282648 Ontario
Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

TAB Q

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) WEDNESDAY, THE 14TH
JUSTICE *Newbold*)
DAY OF JANUARY, 2015



A. FARBER & PARTNERS INC. IN ITS CAPACITIES AS THE COURT
APPOINTED RECEIVER AND AS THE TRUSTEE IN BANKRUPTCY OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD.,
and 1382416 ONTARIO LTD.

Applicant

-and-

STEVEN L. CRATE, ROBIN ANN CRATE a.k.a. ROBIN PRICE,
GREGORY J. CRATE, LYNN J. MARKO, and RYAN G. CRATE

Respondents

Application pursuant to Rules 14.05(3)(d), (e), and (h) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 as amended, section 248(1) of the *Business Corporations Act*, R.S.O, 1990, c. B.16 as amended, and section 96(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended

ORDER

THIS MOTION, made without notice by A. Farber & Partners Inc. in its capacities as the Court appointed Receiver and as the trustee in bankruptcy of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. for an order for a Certificate of Pending Litigation in respect of the premises set out in Schedule "A", was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Andy Fisher sworn January 12, 2015, filed, and on hearing counsel for moving party:

1. **THIS COURT ORDERS** that that the Registrar issue a Certificate of Pending Litigation in respect of the premises set out in Schedule "A".

REGISTERED
ON 14 JAN 2015
LE...
JAN 14 2015



James J.

SCHEDULE "A"

PIN 03475-0163 (LT)

Registered Owner: Steven Crate and Robin Ann Crate
Municipal Address: 176 Wynhurst Road, Georgina
Legal Description: PT LT 39 PL 224 N GWILLIMBURY AS IN R681463 T/W R681463 ;
GEORGINA

PIN 03475-0164 (LT)

Registered Owner: Steven Crate
Municipal Address: 306 The Queensway South, Keswick
Legal Description: PT LT 40 PL 224 NORTH GWILLIMBURY PT 1, 65R2443; GEORGINA

PIN 03475-0165 (LT)

Registered Owner: Steven Crate
Municipal Address: 274 The Queensway South, Keswick
Legal Description: PT BLK E PL 224 N GWILLIMBURY PT 2 65R13692, GEORGINA

PIN 03475-1960 (LT)

Registered Owner: Greg Crate
Municipal Address: 208 Wynhurst Road, Georgina
Legal Description: PT LOT 8 CON 3 PT 2, 65R25043; GEORGINA (NG)

PIN 03475-0136 (LT)

Registered Owner: Ryan Gregory Crate
Municipal Address: 12 Mac Avenue, Georgina
Legal Description: PT LT 9 CON 3 N GWILLIMBURY AS IN R690189,T/W RIGHT IF ANY IN
R690189 ; GEORGINA

PIN 03475-0155 (LT)

Registered Owner: Lynn Joanne Marko
Municipal Address: 292 Wynhurst Rd.
Legal Description: LT 33 PL 224 N GWILLIMBURY ; GEORGINA

PIN 03475-1907 (LT)

Registered Owner: Lynn Joanne Marko
Municipal Address: 200 Wynhurst Rd.
Legal Description: PT LT 8, CON 3, PT 2 65R22164, NORTH GWILLIMBURY; GEORGINA.

PIN 03475-1908 (LT)

Registered Owner: Lynn Joanne Marko
Municipal Address: 292 Wynhurst Rd.
Legal Description: PT LT 8, CON 3, AS IN R649949 EXCEPT PT 2 65R22164, NORTH
GWILLIMBURY, GEORGINA;

PIN 03475-1969 (LT)

Registered Owner: Lynn Joanne Marko
Municipal Address: 200 Wynhurst Rd.
Legal Description: PT LOT 8 CON 3 PT 1, 65R25043; EXCEPT PT 1, 65R27407; NG;
GEORGINA

PIN 03475-0134 (LT)

Registered Owner: Robin Price
Municipal Address: 262 The Queensway South, Keswick
Legal Description: PT LT 9 CON 3 N GWILLIMBURY; PT LT 1 W/S QUEEN ST PL 245 N
GWILLIMBURY PT 5 65R3745 ; GEORGINA

A. FARBER & PARTNERS INC. IN ITS CAPACITIES AS THE COURT APPOINTED RECEIVER AND AS THE TRUSTEE IN BANKRUPTCY OF CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED, 1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED, 1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

Applicant

- and STEVEN I. CRATE, ROBIN ANN CRATE a.k.a. ROBIN PRICE, GREGORY J. CRATE, LYNN J. MARKO, and RYAN G. CRATE

Respondents

Commercial List File No.: CV-15-10830-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER

GOLDMAN SLOAN NASH & HABER LLP
Barristers & Solicitors
480 University Avenue, Suite 1600
Toronto, Ontario M5G 1V2

Michael B. Rotsztein [LSUC No.: 17086M]
R. Brendan Bissell [LSUC No. 40354V]
Robert J. Drake [LSUC No. 57083G]
Tel: (416) 597-9922
Fax: (416) 597-3370

Lawyers for the Applicant,
A. Farber & Partners Inc. in its capacities as the Court appointed Receiver and as the trustee in bankruptcy of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

TAB R

Properties

<i>PIN</i>	03475 - 0163 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT LT 39 PL 224 N GWILLIMBURY AS IN R681463 T/W R681463 ; GEORGINA		
<i>Address</i>	176 WYNHURST ROAD KESWICK		
<i>PIN</i>	03475 - 0164 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT LT 40 PL 224 NORTH GWILLIMBURY PT 1, 65R2443; GEORGINA		
<i>Address</i>	306 THE QUEENSWAY SOUTH KESWICK		
<i>PIN</i>	03475 - 0165 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT BLK E PL 224 N GWILLIMBURY PT 2 65R13692, GEORGINA		
<i>Address</i>	274 THE QUEENSWAY SOUTH KESWICK		
<i>PIN</i>	03475 - 1960 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT LOT 8 CON 3 PT 2, 65R25043; GEORGINA (NG)		
<i>Address</i>	KESWICK		
<i>PIN</i>	03475 - 0136 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT LT 9 CON 3 N GWILLIMBURY AS IN R690189,T/W RIGHT IF ANY IN R690189 ; GEORGINA		
<i>Address</i>	KESWICK		
<i>PIN</i>	03475 - 0155 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	LT 33 PL 224 N GWILLIMBURY ; GEORGINA		
<i>Address</i>	KESWICK		
<i>PIN</i>	03475 - 1907 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT LT 8, CON 3, PT 2 65R22164, NORTH GWILLIMBURY; GEORGINA.		
<i>Address</i>	KESWICK		
<i>PIN</i>	03475 - 1908 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT LT 8, CON 3, AS IN R649949 EXCEPT PT 2 65R22164, NORTH GWILLIMBURY,GEORGINA;		
<i>Address</i>	KESWICK		
<i>PIN</i>	03475 - 1969 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT LOT 8 CON 3 PT 1, 65R25043; EXCEPT PT 1, 65R27407; NG; GEORGINA		
<i>Address</i>	KESWICK		
<i>PIN</i>	03475 - 0134 LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	PT LT 9 CON 3 N GWILLIMBURY; PT LT 1 W/S QUEEN ST PL 245 N GWILLIMBURY PT 5 65R3745 ; GEORGINA		
<i>Address</i>	262 THE QUEENSWAY SOUTH KESWICK		

Party From(s)

<i>Name</i>	SUPERIOR COURT OF JUSTICE
<i>Address for Service</i>	Superior Court of Justice 330 University Avenue Toronto, ON M5G 1R7

Applicant(s)	Capacity	Share
---------------------	-----------------	--------------

Name A. FARBER & PARTNERS INC.
 Address for Service 480 University Ave, Suite 1600
 Toronto, ON M5G 1V2

Statements

The applicant applies to register the following order See Schedules. The order is still in full force and effect

Schedule: A. Farber & Partners Inc., acting in its capacities as the Court appointed Receiver and as the trustee in bankruptcy of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

Signed By

Andrea Christine Rossanese	480 University Ave, # 1600 Toronto M5G 1V2	acting for Applicant(s)	Signed	2015 01 14
Tel	416-597-9922			
Fax	416-597-3370			

I have the authority to sign and register the document on behalf of the Applicant(s).

Submitted By

GOLDMAN SLOAN NASH & HABER LLP	480 University Ave, # 1600 Toronto M5G 1V2	2015 01 14
Tel	416-597-9922	
Fax	416-597-3370	

Fees/Taxes/Payment

Statutory Registration Fee	\$60.00
Total Paid	\$60.00

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE

)

WEDNESDAY, THE 14TH

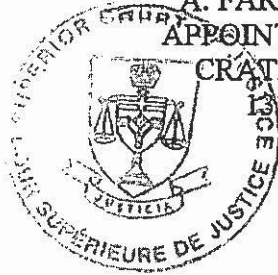
JUSTICE

NEWBOLD

)

)

DAY OF JANUARY, 2015



A. FARBER & PARTNERS INC. IN ITS CAPACITIES AS THE COURT
APPOINTED RECEIVER AND AS THE TRUSTEE IN BANKRUPTCY OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD.,
and 1382416 ONTARIO LTD.

Applicant

-and-

STEVEN L. CRATE, ROBIN ANN CRATE a.k.a. ROBIN PRICE,
GREGORY J. CRATE, LYNN J. MARKO, and RYAN G. CRATE

Respondents

Application pursuant to Rules 14.05(3)(d), (e), and (h) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 as amended, section 248(1) of the *Business Corporations Act*, R.S.O. 1990, c. B.16 as amended, and section 96(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended

ORDER

THIS MOTION, made without notice by A. Farber & Partners Inc. in its capacities as the Court appointed Receiver and as the trustee in bankruptcy of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. for an order for a Certificate of Pending Litigation in respect of the premises set out in Schedule "A", was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Andy Fisher sworn January 12, 2015, filed, and on hearing counsel for moving party:

1. **THIS COURT ORDERS** that that the Registrar issue a Certificate of Pending Litigation in respect of the premises set out in Schedule "A".

FILED
COURT
LE
JAN 14 2015

James J.

SCHEDULE "A"

PIN 03475-0163 (LT)

Registered Owner: Steven Crate and Robin Ann Crate
Municipal Address: 176 Wynhurst Road, Georgina
Legal Description: PT LT 39 PL 224 N GWILLIMBURY AS IN R681463 T/W R681463 ;
GEORGINA

PIN 03475-0164 (LT)

Registered Owner: Steven Crate
Municipal Address: 306 The Queensway South, Keswick
Legal Description: PT LT 40 PL 224 NORTH GWILLIMBURY PT 1, 65R2443; GEORGINA

PIN 03475-0165 (LT)

Registered Owner: Steven Crate
Municipal Address: 274 The Queensway South, Keswick
Legal Description: PT BLK E PL 224 N GWILLIMBURY PT 2 65R13692, GEORGINA

PIN 03475-1960 (LT)

Registered Owner: Greg Crate
Municipal Address: 208 Wynhurst Road, Georgina
Legal Description: PT LOT 8 CON 3 PT 2, 65R25043; GEORGINA (NG)

PIN 03475-0136 (LT)

Registered Owner: Ryan Gregory Crate
Municipal Address: 12 Mac Avenue, Georgina
Legal Description: PT LT 9 CON 3 N GWILLIMBURY AS IN R690189, T/W RIGHT IF ANY IN
R690189 ; GEORGINA

PIN 03475-0155 (LT)

Registered Owner: Lynn Joanne Marko
Municipal Address: 292 Wynhurst Rd.
Legal Description: LT 33 PL 224 N GWILLIMBURY ; GEORGINA

PIN 03475-1907 (LT)

Registered Owner: Lynn Joanne Marko
Municipal Address: 200 Wynhurst Rd.
Legal Description: PT LT 8, CON 3, PT 2 65R22164, NORTH GWILLIMBURY; GEORGINA.

PIN 03475-1908 (LT)

Registered Owner: Lynn Joanne Marko
Municipal Address: 292 Wynhurst Rd.
Legal Description: PT LT 8, CON 3, AS IN R649949 EXCEPT PT 2 65R22164, NORTH
GWILLIMBURY, GEORGINA;

PIN 03475-1969 (LT)

Registered Owner: Lynn Joanne Marko
Municipal Address: 200 Wynhurst Rd.
Legal Description: PT LOT 8 CON 3 PT 1, 65R25043; EXCEPT PT 1, 65R27407; NG;
GEORGINA

PIN 03475-0134 (LT)

Registered Owner: Robin Price
Municipal Address: 262 The Queensway South, Keswick
Legal Description: PT LT 9 CON 3 N GWILLIMBURY; PT LT 1 W/S QUEEN ST PL 245 N
GWILLIMBURY PT 5 65R3745 ; GEORGINA

A. FARBER & PARTNERS INC. IN ITS CAPACITIES AS THE COURT
APPOINTED RECEIVER AND AS THE TRUSTEE IN BANKRUPTCY OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED, 1330732
ONTARIO LIMITED, 1328559 ONTARIO LIMITED, 1282648 ONTARIO
LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

Applicant

- and STEVEN L. CRATE, ROBIN ANN CRATE a.k.a. ROBIN
PRICE, GREGORY J. CRATE, LYNN J. MARKO, and
RYAN G. CRATE

Respondents

Commercial List File No.: CV-15-10830-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER

GOLDMAN SLOAN NASH & HABER LLP
Barristers & Solicitors
480 University Avenue, Suite 1600
Toronto, Ontario M5G 1V2

Michael B. Rotsztein [LSUC No.: 17086M]
R. Brendan Bissell [LSUC No. 40354V]
Robert J. Drake [LSUC No. 57083G]
Tel: (416) 597-9922
Fax: (416) 597-3370

Lawyers for the Applicant,
A. Farber & Partners Inc. in its capacities as the Court appointed
Receiver and as the trustee in bankruptcy of Crate Marine Sales
Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited,
1328559 Ontario Limited 1282648 Ontario Limited, 1382415
Ontario Ltd, and 1382416 Ontario Ltd.

TAB S



Court File No.: CV-15-10849-006

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**A. FARBER & PARTNERS INC. IN ITS CAPACITIES AS THE COURT
APPOINTED RECEIVER AND AS THE TRUSTEE IN BANKRUPTCY OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD.,
and 1382416 ONTARIO LTD.**

Applicant

-and-

RYAN GREGORY CRATE

Respondent

Application pursuant to Rules 14.05(3)(d), (e), and (h) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 as amended, section 248(1) of the *Business Corporations Act*, R.S.O. 1990, c. B.16 as amended, and section 96(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended

NOTICE OF APPLICATION

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing before a Judge on a date to be set by a judge of the Commercial List at 10:00 a.m. time or as soon after that time as the application can be heard at 330 University Avenue, Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38C prescribed by the Rules of Civil Procedure, serve it on the applicant(s) lawyer(s) or, where the applicant(s) do(es) not have a lawyer, serve it on the applicant(s), and file it, with proof of service, in this court office, and you or your lawyer(s) must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES


ON THE APPLICATION, you or your lawyer(s) must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyers or, where the applicants do not have a lawyer, serve it on the applicants, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: January 30th, 2015

Issued by :

Natasha Brown
Registrar



Local Registrar
Superior Court of Justice
(Commercial List)
330 University Avenue
Toronto, ON M5G 1R7

TO: RYAN GREGORY CRATE
25 Dundas St. W.
Belleville, ON
K8P 3M7

APPLICATION

1. **THE APPLICANT, A. Farber & Partners Inc. in its capacities as the Court appointed Receiver (the “Receiver”) and as the trustee in bankruptcy (the “Trustee”) of Crate Marine Sales Limited (“CMS”), F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively with CMS the “Companies”), MAKES APPLICATION FOR:**

- a) if necessary, an Order abridging the time for service of this Application, validating the manner of service and declaring that this Application is properly returnable before the Court;
- b) an Order declaring that the premises listed in Schedule “A” (the “Property”) is the property of CMS, such that it is Property within the control of the Applicant within the meaning of the Amended Order of this Court dated December 8, 2014 appointing the Applicant as Receiver and Trustee, and vesting title in the Property in in the name of CMS;
- c) in the alternative, an Order declaring that the arrangements by which the Respondent is listed as the owners on title to the Property is void as a sham and of no force and effect as against the Applicant, and vesting title in the Property in in the name of CMS;

- d) in the alternative, an Order declaring that the Respondent holds title to the Property as the alter ego and on behalf of CMS, and vesting title of the Property in in the name of CMS;
- e) in the alternative, an Order declaring that the Respondent holds the Property in trust for CMS, and vesting title of the Property in in the name of CMS;
- f) in the alternative an Order:
 - i) declaring that the Applicant is a complainant within the meaning of section 245 of the *Business Corporations Act*, R.S.O 1990, c. B.16 (the “OBCA”),
 - ii) declaring that the affairs of the Companies with respect to the Property as described below have been carried on by the Respondent in a fashion that is oppressive to, unfairly prejudicial to, or unfairly disregards the interests of the Applicant as the representative of the creditors of the Companies within the meaning of section 248(2) of the OBCA, and
 - iii) vesting title of the Property in CMS or such further interim or final order as the Court may direct pursuant to section 248(3) of the OBCA;
- g) in the alternative, an Order:
 - i) declaring that the transfer of title to the Property to the Respondent is void as against the Trustee within the meaning of section 96(1) of the

Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 as amended (the “BIA”), or

- ii) that the Respondent pay to the Applicant an amount equal to the fair market value of the Property plus the amounts expended by the Companies for carrying costs and other expenses associated with the Property;

- h) in the alternative, judgment against the Respondent for the amounts expended by CMS in connection with the Property and for the amounts purportedly loaned by CMS to the Respondent in connection with the Property as set out below, and the appointment of the Applicant as receiver pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended (the “CJA”), or as an equitable receiver, to take possession of and realize upon the Property;

- i) certificates of pending litigation against the Property;

- j) costs of this Application, inclusive of HST; and

- k) Such further and other relief as counsel may advise and this Honourable Court deems just.

2. THE GROUNDS FOR THE APPLICATION ARE:

The Receiver and Trustee

- a) the Receiver and Trustee were appointed by the Amended Order of this Court dated December 8, 2014 following the termination by this Court of proceedings

brought by the Companies under notices of intention to make a proposal (“NOI”) pursuant to the BIA;

- b) this proceeding is being brought by the Applicant in its dual capacities as Receiver and Trustee, but the allocation of any proceeds of this proceeding, or of proceeds of sale in a sales process, will depend on the basis for recovery as adjudicated by the Court and may therefore require directions from this Court in the receivership and bankruptcy proceedings;

The Companies and their conduct prior to appointment of the Applicant

- c) the Companies were all related in the operation of marinas in Keswick and elsewhere, and in ownership of land for the Keswick marina;
- d) CMS was the main or sole operating company for the marina operations, and had lost approximately \$19.7 million in aggregate in its fiscal years 2011 to 2014;
- e) the Applicant has filed Reports with this Court (both as Receiver and in a prior capacity as Interim Receiver of certain of the Companies), to advise of circumstances that it has been made aware of in which CMS appears to have:
 - i) sold boats on behalf of customers as agent or broker, without remitting the proceeds of sale to the customer or without paying off a loan by the customer from the proceeds of sale,

- ii) sold boats that had been purchased by CMS though funds borrowed from lenders without repaying those loans, including in circumstances where the lenders were given what purported to be title documents to the boats but the boats were sold nonetheless,
- iii) used funds received from the sale of boats on behalf of customers, or used funds received as a deposit for purchase of a boat, without putting those funds in trust as required by agreements with the customer or purchaser,
- iv) used funds received from customers in 2014 on account of deposits for boat slip rentals in the 2015 boating season for general corporate purposes,
- v) disbursed funds without the interim receiver's approval in contravention of the interim receivership orders of this Court,
- vi) failed to remit the payroll source deductions that arose after the filing of the NOI's, and
- vii) sold at least one boat on behalf of a third party with \$145,000 in payments from the purchaser being directed \$103,000 to CMS and \$42,000 to "S. Crate",

none of which has been explained in affidavits that have been filed in the NOI proceedings, or otherwise;

The Respondent

- a) the Respondent, Ryan G. Crate (“**Ryan**”), is the son of Gregory J. Crate (“**Greg**”) and the nephew of Steven L. Crate (“**Steven**”), and Lynn J. Marko (“**Lynn**”);
- b) Greg, Steven, and Lynn are siblings of each other and are all officers and/or directors of each of the Companies and were employees of CMS;
- c) Steven, Greg and Lynn were the directing minds of the Companies prior to the appointment of the Applicant;
- d) Steven, Greg and Lynn, along with Lloyd Crate (now deceased), are the direct or indirect owners of all the Companies;
- e) the Respondent is listed on title as the registered owner of the Property as set out in Schedule “A”;

The payment of funds by CMS in respect of the Property

- f) CMS made all the payments required to buy and carry the Property, including:
 - i) CMS paid for all down payments for acquiring the Property;
 - ii) CMS paid for all expenses in connection with the Property, such as utilities, insurance, municipal taxes and upkeep; and
 - iii) CMS made all mortgage payments for the charges registered against the Property;

The accounting treatment by CMS of funds in respect of the Property

- g) CMS expensed the payments made for carrying costs and for the mortgage interest for the Property against its income, and did so in a separate expense account maintained for the Property;
- h) CMS accounted for the down payment and for any principal portion of mortgage payment as notional shareholder loans to the Respondent and did so with a separate account on its books and records for the Property (the “**Property Loan Account**”);
- i) each of Steven, Greg and Lynn also had more conventional shareholder loan accounts in which, among other things, CMS would book amounts that it paid on their behalf or that they loaned to CMS (the “**True Shareholder Accounts**”);
- j) the True Shareholder Accounts did not carry balances payable by Steven, Greg and Lynn after each fiscal year into the next year, and instead CMS and the Companies at the end of each fiscal year made further entries on their books and records to reallocate the amounts in the True Shareholder Accounts such that Steven, Greg and Lynn then notionally owed those funds to 1382415 Ontario Ltd., which then owed the funds to F.S. Crate & Sons Limited, which then owed the funds to CMS;
- k) unlike the True Shareholder Accounts, the Property Loan Account did carry balances notionally payable by the Respondent for the Property over from one year to the other;

- l) the compensation payable to the Respondent as an employee of CMS was the same both before and after CMS funded the acquisition of the Property in the name of the Respondent and when CMS paid the carrying costs of the Property;
- m) the full details of the Property are not known to the Applicant, because Steven, Greg and/or Lynn removed files relating to the Property that had been kept in the premises of CMS prior to the appointment of the Applicant, and they have refused the Applicant's request to return those files;

Sham, alter ego and trust

- n) the arrangements by which the Respondent was registered on title to the Property, when CMS was paying for all costs associated with acquiring and carrying the Property, were a sham intended to avoid the true state of affairs for mortgage lending purposes and should be disregarded by this Court;
- o) similarly, those arrangements show that the Respondent is nothing more than the alter ego of CMS as the registered owner of the Property;
- p) in addition, the intent of the Respondent and CMS (under the direction and control of Steven, Greg and Lynn) was that the Respondent was not the true owner of the Property and instead that the Respondent held the Property in Trust for CMS;

- q) in the alternative, the payment by CMS of all costs associated with acquiring and carrying the Property means that the Respondent holds the Property in trust for CMS by virtue of a constructive trust and resulting trust;

Oppression

- r) as legal representative of the creditors of CMS, the Applicant is a complainant for purposes of section 245 of the OBCA;
- s) allowing the Property to remain the in name of the Respondent would effect a result that is oppressive to, unfairly prejudicial to, or unfairly disregards the interests of the creditors of CMS by enriching the Respondent and Steven, Greg and Lynn as his family members, to the detriment of the creditors of CMS;
- t) the affairs of CMS were carried on by Steven, Greg and Lynn such that it spent funds on the Property that, if not remedied by this Court, will accrue solely to the benefit of Steven, Greg and Lynn and their family, when CMS was otherwise losing millions of dollars each year;

Transfer under value

- u) the Trustee states that the registration of title to the Property in the name of the Respondent was a transfer for which no consideration has been given within the meaning of subsections 96(1) and 96(2) of the BIA;

- v) accordingly, the registration of title in the name of the Respondent rather than in the name of CMS is void as against the Trustee;
- w) in the alternative, the Respondent should be liable to pay to the Applicant an amount equal to the fair market value of the Property plus the amounts expended by the Companies for carrying costs and other expenses associated with the Property;

Judgment for amounts paid by CMS and appointment of a CJA or equitable receiver

- x) in the alternative, the Respondent is indebted to CMS or others of the Companies for:
 - i) the amounts recorded in the Property Shareholder Loan as loans due and payable, and
 - ii) the amounts paid by CMS in connection with the carrying costs for the Property as amounts that have unjustly enriched the Property at the expense of CMS and its creditors;
- y) the full details of the amounts owing for the Property Shareholder Loan and the carrying costs paid by CMS are not yet known to the Applicant, in part because of the failure or refusal by Steven, Greg and Lynn to return the files for the Property to the premises of CMS despite demand, but will be provided prior to the hearing of this Application;

- z) in the alternative, it is in the interests of justice to appoint the Applicant over the Property in order to ensure the proper repayment of the amounts owing to CMS, particularly in circumstances where:
- i) Steven, Greg and Lynn have demonstrated in their management of the Companies both prior to the appointment of the Applicant and Trustee, and during the interim receivership, that they were prepared to sell things that did not belong to CMS and appropriate the funds for CMS, or incur debts for CMS to acquire a boat and then not discharge those debts upon sale of the boat, or otherwise ignore restrictions imposed by this Court,
 - ii) Steven, Greg and Lynn have removed records pertaining to the Property from CMS and have failed or refused to return those records despite request by the Applicant, and
 - iii) the Property have been listed for sale since the appointment of the Applicant and Trustee;

Statutory and regulatory provisions relied on in this Application

- aa) the provisions of the OBCA, including sections 245 and 248;
- bb) the provisions of the BIA, including section 96;
- cc) the provisions of the CJA, including section 101;

- dd) Rules 14.05(3)(d), (e), and (h) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 as amended; and
- ee) Such further and other grounds as counsel may advise and this Honourable Court accepts.

3. THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION;

- a) The Affidavit or Report of the Applicant and the exhibits thereto;
- b) such further and other documentary evidence as counsel may provide and this Honourable Court accepts.

Dated: January 28, 2015

GOLDMAN, SLOAN, NASH & HABER LLP
Barristers and Solicitors
Suite 1600
480 University Avenue
Toronto, ON M5G 1V6

Michael B. Rotsztain (LSUC No.: 17086M)
R. Brendan Bissell (LSUC No.: 40354V)
Robert J. Drake (LSUC No.: 57083G)

Tel: (416) 597-9922

Fax: (416) 597-3370

Lawyers for the Applicant,
A. Farber & Partners Inc. in its capacities as the Court appointed Receiver and as the trustee in bankruptcy of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

SCHEDULE "A"

PIN 40465 – 0022 (LT)

Registered Owner: Ryan Gregory Crate
Municipal Address: 14 Highland Ave., Belleville, Ontario
Legal Description: PT LT 33 PL 9 THURLOW AS IN QR299054; BELLEVILLE ;
COUNTY OF HASTINGS

A. FARBER & PARTNERS INC. IN ITS CAPACITIES AS THE COURT APPOINTED RECEIVER AND AS THE TRUSTEE IN BANKRUPTCY OF CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED, 1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED, 1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

Applicant

- and **RYAN GREGORY CRATE**

Respondent

Commercial List File No.: CV-15-10849-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceedings commenced at Toronto

NOTICE OF APPLICATION

GOLDMAN SLOAN NASH & HABER LLP
Barristers & Solicitors
480 University Avenue, Suite 1600
Toronto, Ontario M5G 1V2

**Michael B. Rotsztein [LSUC No.: 17086M]
R. Brendan Bissell [LSUC No. 40354V]
Robert J. Drake [LSUC No. 57083G]
Tel: (416) 597-9922
Fax: (416) 597-3370**

Lawyers for the Applicant,
A. Farber & Partners Inc. in its capacities as the Court appointed Receiver and as the trustee in bankruptcy of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

TAB T



Court File No.: CV-15-10849-00LL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.

)

FRIDAY, THE 30TH

JUSTICE

NEWBOULD

)

)

DAY OF JANUARY, 2015

A. FARBER & PARTNERS INC. IN ITS CAPACITIES AS THE COURT
APPOINTED RECEIVER AND AS THE TRUSTEE IN BANKRUPTCY OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD.,
and 1382416 ONTARIO LTD.

Applicant

-and-

RYAN GREGORY CRATE

Respondent

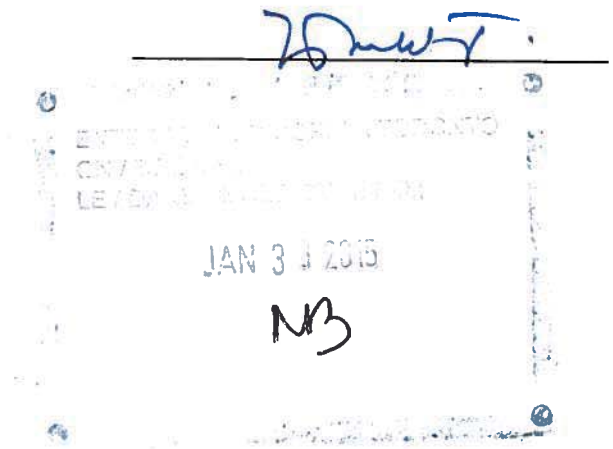
Application pursuant to Rules 14.05(3)(d), (e), and (h) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 as amended, section 248(1) of the *Business Corporations Act*, R.S.O., 1990, c. B.16 as amended, and section 96(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended

ORDER

THIS MOTION, made by A. Farber & Partners Inc. in its capacities as the Court appointed Receiver and as the trustee in bankruptcy of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. for an order for a Certificate of Pending Litigation in respect of the premises set out in Schedule "A", was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Andy Fisher sworn January 12, 2015, filed, and on hearing counsel for moving party, the respondent taking no position on the motion:

1. **THIS COURT ORDERS** that that the Registrar issue a Certificate of Pending Litigation in respect of the premises set out in Schedule "A".



SCHEDULE "A"

PIN 40465 – 0022 (LT)

Registered Owner: Ryan Gregory Crate
Municipal Address: 14 Highland Ave., Belleville, Ontario
Legal Description: PT LT 33 PL 9 THURLOW AS IN QR299054; BELLEVILLE ; COUNTY OF
HASTINGS

A. FARBER & PARTNERS INC. IN ITS CAPACITIES
AS THE COURT APPOINTED RECEIVER AND AS
THE TRUSTEE IN BANKRUPTCY OF CRATE
MARINE SALES LIMITED, F.S. CRATE & SONS
LIMITED, 1330732 ONTARIO LIMITED, 1328559
ONTARIO LIMITED, 1282648 ONTARIO LIMITED,
1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

Applicant

- and -

RYAN GREGORY CRATE

Respondent

File No.: *CV-15-10844-00CL*

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER

GOLDMAN SLOAN NASH & HABER LLP

Barristers & Solicitors
480 University Avenue, Suite 1600
Toronto, Ontario
MSG 1V2

Michael B. Rotsztein [LSUC No.: 17086M]
R. Brendan Bissell [LSUC No. 40354V]
Robert J. Drake [LSUC No. 57083G]
Tel: (416) 597-9922
Fax: (416) 597-3370

Lawyers for the Applicant

TAB U

Properties

PIN 40465 - 0022 LT
Description PT LT 33 PL 9 THURLOW AS IN QR299054; BELLEVILLE : COUNTY OF HASTINGS
Address 14 HIGHLAND AVE
BELLEVILLE

Applicant(s)

Name A. FARBER & PARTNERS INC.
Address for Service c/o GSNH LLP
480 University Avenue, Suite 1600
Toronto, Ontario M5G 1V2

I, Stuart Mitchell, have the authority to bind the corporation.
This document is not authorized under Power of Attorney by this party.

Statements

Schedule: See Schedules

Signed By

Andrea Christine Rossanese
480 University Ave, # 1600
Toronto
M5G 1V2
acting for Applicant(s)
Signed 2015 01 30

Tel 416-597-9922
Fax 416-597-3370

I have the authority to sign and register the document on behalf of the Applicant(s).

Submitted By

GOLDMAN SLOAN NASH & HABER LLP
480 University Ave, # 1600
Toronto
M5G 1V2
2015 01 30

Tel 416-597-9922
Fax 416-597-3370

Fees/Taxes/Payment

Statutory Registration Fee \$60.00
Total Paid \$60.00



ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Court File No.: CV-15-10844-00CL

A. FARBER & PARTNERS INC. IN ITS CAPACITY AS THE COURT
APPOINTED RECEIVER AND AS THE TRUSTEE IN BANKRUPTCY OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD.,
and 1382416 ONTARIO LTD.

Applicant

-and-

RYAN GREGORY CRATE

Respondent

Application pursuant to Rules 14.05(3)(d), (e), and (h) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 as amended, section 248(1) of the *Business Corporations Act*, R.S.O. 1990, c. B.16 as amended, and section 96(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended

CERTIFICATE OF PENDING LITIGATION

I CERTIFY that in this proceeding an interest in the land set out in Schedule "A" is in question.

This certificate is issued under an order of the court made on January 30, 2015.

Date: January 30, 2015

Issued by:

Natasha Brown
Registrar

Local Registrar
Superior Court of Justice
(Commercial List)
330 University Avenue
Toronto, ON M5G 1R7

JAN 31 2015
RECEIVED
COMMERCIAL LIST
COURT OF JUSTICE
TORONTO
M5G 1R7

MB

PIN 40465 - 0022 (LT)

Registered Owner: Ryan Gregory Crate
Municipal Address: 14 Highland Ave., Belleville, Ontario
Legal Description: PT LT 33 PL 9 THURLOW AS IN QR299054; BELLEVILLE;
COUNTY OF HASTINGS

SCHEDULE "A"

**A. FARBER & PARTNERS INC. IN ITS CAPACITIES
AS THE COURT APPOINTED RECEIVER AND AS
THE TRUSTEE IN BANKRUPTCY OF CRATE
MARINE SALES LIMITED, F.S. CRATE & SONS
LIMITED, 1330732 ONTARIO LIMITED, 1328559
ONTARIO LIMITED, 1282648 ONTARIO LIMITED,
1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.**

Applicant

RYAN GREGORY CRATE

- and -

Respondent

File No.: CV-15-10849 - 00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

CERTIFICATE OF PENDING LITIGATION

GOLDMAN SLOAN NASH & HABER LLP

Barristers & Solicitors
480 University Avenue, Suite 1600
Toronto, Ontario
M5G 1V2

**Michael B. Rotsztein [LSUC No.: 17086M]
R. Brendan Bissell [LSUC No. 40354V]
Robert J. Drake [LSUC No. 57083G]**

Tel: (416) 597-9922
Fax: (416) 597-3370

Lawyers for the Applicant