

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N :

CIT FINANCIAL LTD.

Applicant

- and -

**RENE EMIL BOLJKOVAC, 1735509 ONTARIO LIMITED, and
NORTHERN DENTAL CENTRES INC.**

Respondents

**APPLICATION UNDER s. 243(1) of the *Bankruptcy and Insolvency Act*,
R.S.C., 1985, s. 101 of the *Courts of Justice Act*, R.S.O., 1990, c. C-43 and Rules
14.05(2) and (3) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended**

**A. FARBER & PARTNERS INC.
FIRST REPORT OF THE RECEIVER
APRIL 17, 2014**

INTRODUCTION

1. This report is filed by A. Farber & Partners Inc. (“**Farber**”), in its capacity as receiver (the “**Receiver**”) under Section 243(1) of the *Bankruptcy & Insolvency Act* (“**BIA**”), R.S.C., 1985, c.B-3, as amended (the “**BIA**”), of all assets, properties and undertakings (the “**Property**”) of Rene Emil Boljkovac, 1735509 Ontario Limited and Northern Dental Centres Inc. (collectively the “**Debtor**”).
2. By an Order of the Honourable Mr. Justice McEwen dated April 15, 2014 (the “**Appointment Order**”), Farber was appointed as the Receiver of the Property, pursuant to Section 243(1) of the BIA. Attached hereto as **Appendix A** is the Appointment Order.

PURPOSES OF THIS REPORT

3. The purposes of this Report (the “**First Report**”) is to Report to the Court on the Receiver’s findings upon being appointed and recommend that the Court issue an order in respect of the matters referenced in this First Report.
4. A copy of this First Report and all Court materials, Orders and Endorsements issued in these proceedings are available on the Receiver’s website at: <http://www.farberfinancial.com/insolvency-engagements/bid/382716/Rene-Emil-Boljkovac-1735509-Ontario-Inc-and-Northern-Dental-Centres-Inc>

BACKGROUND

5. Rene Emil Boljkovac (“**Boljkovac**”) is a licensed dental surgeon that operated a dental practice known as Bobcaygeon Family Dentistry (the “**Practice**”), located at 100 East Street South in Bobcaygeon, Ontario (the “**Premises**”).
6. CIT is the primary secured lender, and first-ranking secured creditor of the assets of the Respondents. Details of the security held by CIT are included in the attached Affidavit of Maria Gucciardi, which is attached as **Appendix B**.

7. An issued and entered copy of the Receivership Order was served on Boljkovac, via his legal counsel on April 15, 2014
8. On that day, the Receiver made numerous attempts to contact Boljkovac with a view to setting up a meeting at the Premises with him and Dr. Lorne Newton, who the Receiver has engaged as a supervising dentist to assist with clinical aspects of the running the practice and custodianship of the patient records. The Receiver did not hear from Boljkovac until late in the day of April 15, 2014. At that time, Boljkovac advised Mr. Peter Crawley of the Receiver's office that he was presently in/ Nova Scotia for Easter holidays. The Receiver has been advised he will be back from holidays on April 22, 2014.

ACTIVITIES OF THE RECEIVER

9. The Receiver attended the Premises on the morning of April 16, 2014 and observed the following:
 - i) The dental practice operated inside an open concept health care facility that is shared with three other tenants, namely:
 - A medical practitioner practice;
 - A foot therapy clinic; and
 - A hearing clinic.
 - ii) The dental suite contained three dental patient operatories. Equipment in the third operatory had been physically damaged in that dental tool service lines were sliced and the tools removed rendering the operatory inoperable. Attached hereto as **Appendix C** are pictures of the operatory and administrative offices of the dental practice at the time the Receiver attended at the Premises.
 - iii) The administrative offices of the dental practice had been cleared of furniture.

- iv) The bookkeeper's office had been cleared of books and records, and the desktop computer that the bookkeeper routinely used had been removed. The Receiver has spoken with the bookkeeper, Linda Colasuonno, to verify that she did use a desktop computer which had been in the premises.
 - v) The desktop computers, computer server, and dental practice management software ("AbelDent") used by the Practice, with the exception of the bookkeeper's computer, remained onsite and are functional.
10. The operatories were notably devoid of the dental tools and supplies that one would expect to find in an active dental practice.
11. The receptionist for the Practice, Michelle McCullum, attended the Practice on April 16th and advised the Receiver that Rene Boljkovac and his wife, Marion, had attended the Premises on April 15th with 2 movers and a moving truck to remove books and records, dental supplies and dental tools.
12. The Receiver was able to obtain a report from AbelDent that showed a log of recently deleted appointments. Eighty (80) appointments that were to occur over the course of the next three weeks were deleted from the AbelDent system. The Receiver has been advised by Michelle McCallum and another tenant of the Premises that Marion Boljkovac was observed calling patients on April 14th 2014 at the dental practice to advise that their appointment needed to be cancelled and advising that someone would call them to reschedule. The tenant stated that she heard Marion say that someone from their Lindsay office would call them to reschedule.

13. The Receiver has also been advised by McCullum that Dr. Boljkovac operated a practice in Lindsay at 189 Kent Street West known as Lindborough Dental Practice (“Kent”). Michelle McCullum further advised that on April 17th 2014 she saw cabinets and white boxes at Kent that she believes were located at the Premises prior to April 15th 2014.
14. McCullum further advised that several pieces of dental equipment used in the operatories have been removed, including (but not limited to):
- teeth whitening lamp;
 - storage cabinet/trolley containing an implant surgical tool;
 - 2 curing lights for fillings;
 - ultrasonic and autoclave sterilization equipment;
 - x-ray sensors used in conjunction with the x-ray unit.

Attached as **Appendix D** are two handwritten statements from Ms. McCullum attesting to the statements she has provided to the Receiver.

15. The Receiver is in the process of seeking out an earlier inventory list/fixed asset register (if available) to determine what other items are missing.
16. The Receiver attended the Bobcaygeon Canada Post Office (the “Post Office”) on April 16, 2014 to serve the Appointment Order on Canada Post and to obtain the Practice’s mail which was usually delivered to a post box. The Post Master

advised the Receiver that the mail had recently been redirected and further advised that she could not tell the Receiver who had requested the mail redirection nor where the mail is now going. On April 17, 2014, the Receiver had its counsel contact the Post Office and send them the April 15 Order with a request that all mail be redirected to the Receiver. At this time, the Post Office has not confirmed it will do so and the Receiver requested an Order directing the Post Office to redirect the mail to it. Attached hereto as **Appendix E** is a copy of the correspondence sent by counsel for the Receiver to the Post Office.

17. Counsel for CIT has been in contact with counsel for the Respondents in respect of these issues. The response of counsel for the Respondents has not been of assistance in the Receiver's investigation of this matter. Attached hereto as **Appendix F** is a true copy of two e-mails from counsel for the Respondents sent to counsel for CIT.

18. The Receiver has also undertaken the following actions:

- a) Changed the locks and advised the alarm company of the Receivership in order to secure the remaining Assets and books and records and ensure nothing else is removed;
- b) Notified BMO and CIBC, the Practice's banks, of the Receivership; requested a freezing of the accounts and detailed statements of funds on hand and recent transactions;

- c) Met with representatives of Lorne Newton, the dentist engaged to assist running the practice, who are assisting with compiling a list of equipment and supplies needed to re-start the dental practice;
- d) Had initial discussion with the bookkeeper of the practice with a view to understanding the accounting and administrative functions and dealing with payroll and related employee issues.
- e) The Receiver's counsel, Torkin Manes LLP, has registered a copy of the Receivership Order on title to the Premises.
- f) The Receiver has reached out to Rusinek & Associates Inc., who are the personal Trustees in Bankruptcy for Rene Emil Boljkovac. The bankruptcy process is ongoing and we await further details from the Trustee.

NEED FOR THE REQUESTED ORDER

- 19. The Receiver requires the return of all equipment, furniture, tools and supplies and patient records in order that the practice can be consolidated and in a position to be able to deal with patients.
- 20. The Receiver is concerned that delay incurred in "restarting" the practice reduces the likelihood of the patient retention, as does Mr. Boljkovacs' attempt to redirect patients to the Lindsay office, despite the Court Order prohibiting same.
- 21. For the above reasons, the Receiver seeks the Order requested herein.

All of which is respectfully submitted this 17th day of April, 2014

**A. FARBER & PARTNERS INC. IN ITS CAPACITY AS
COURT APPOINTED RECEIVER OF RENE EMIL BOLJKOVAC,
1735509 ONTARIO LIMITED, AND NORTHERN DENTAL CENTRES INC.**

A. Farber & Partners Inc.

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