



Form 5.03

2023

Supreme Court of Nova Scotia
In Bankruptcy and Insolvency

Hfx No.

5 2 5 6 2 2

In the Matter of the Receivership of Stone Brothers Plumbing & Heating Limited

Between:

Business Development Bank of Canada

Applicant

- and -

Stone Brothers Plumbing & Heating Limited

Respondent



NOTICE OF APPLICATION IN CHAMBERS

TO: The persons listed in Schedule "B", attached

The Applicant requests an order against you

Business Development Bank of Canada ("BDC"), the Applicant in this proceeding, moves for an Order:

1. Abridging the time for service of the Notice of Application, if needed, so that the Application is properly returnable on August 16, 2023, and dispensing with further service pursuant to the *Bankruptcy and Insolvency General Rules*;
2. Appointing MNP Ltd. as the receiver of all assets, properties and undertakings of the Respondent, Stone Brothers Plumbing & Heating Limited, pursuant to s. 243(1) of the *Bankruptcy and Insolvency Act (Canada)* and s. 43(9) of the *Judicature Act (Nova Scotia)*; and
3. Approving the sale of the Respondent's property at 609 Keltic Drive, Coxheath, Nova Scotia, PID 15221542, to 4374300 Nova Scotia Limited on the terms contained in an agreement of purchase and sale between MNP Ltd. and 4374300 Nova Scotia Limited dated June 6, 2023.

Grounds for order

The Applicant is applying for the order on the following grounds: see Schedule "A" attached.

Evidence supporting application

The Applicant offers the following affidavits in support on the application:

1. affidavit of Michelle Burse, Senior Account Manager with BDC, sworn on July 21, 2023;
2. affidavit of J. Eric Findlay, Senior Vice President at MNP Ltd., sworn on July 25, 2023; and
3. affidavit of Marc Dunning, counsel to BDC, sworn on July 25, 2023.

A copy of each affidavit is to be delivered to you with this notice, and further affidavits may be delivered before the deadlines provide in Civil Procedure Rule 5 – Application.

You may participate

You may file with the court a Notice of Contest and any affidavits upon which you rely, no more than 5 days after this notice is delivered to you or you are otherwise notified of the application. Filing the notice of contest entitles you to notice of further steps in the Application, including notice of further affidavits.

Time, date, and place

The Application is to be heard by the judge in chambers on **August 16, 2023 at 9:30 a.m.** at The Law Courts, 1815 Upper Water Street, Halifax, Nova Scotia (902-424-4900). You have the right to be present and to be represented by counsel or to act on your own. If you are not present, the judge may proceed without you.

Possible order against you

The judge may grant a final order on the Application without further notice to you if you fail to deliver your Notice of Contest on time, or if you or your counsel fail to appear in chambers at the above time, date, and place.

Filing and delivering documents

Any documents you file with the court must be filed at the office of the Prothonotary at The Law Courts, 1815 Upper Water Street, Halifax, Nova Scotia (902-424-4900).

When you file a document you must immediately deliver a copy of it to the Applicant and each other party entitled to notice, unless the document is part of an ex parte motion, the parties agree delivery is not required, or a judge orders it is not required.

Contact information


The Applicant designates the following address:

Marc Dunning
Burchell Wickwire Bryson LLP
1800-1801 Hollis Street
Halifax, NS B3J 3N4
Tel: (902) 482-7017
Fax: (902) 420-9326
mdunning@bwblp.ca

Documents delivered to this address are considered received by the Applicant. Further contact information is available from the Prothonotary.

Signature


Signed July 26, 2023



Marc Dunning, as counsel
for the Applicant, Business
Development Bank of Canada

Prothonotary's certificate

I certify that this notice of application was filed with the court on July 27, 2023



Prothonotary

JESSICA KUO
Deputy Prothonotary

Schedule "A"

1. The Applicant, Business Development Bank of Canada ("BDC"), is a body corporate continued under the *Business Development Bank of Canada Act*, SC 1995, c 28, with an office at 733 Prince Street, Truro, Nova Scotia.
2. The Respondent, Stone Brothers Plumbing & Heating Limited (the "Company"), is a body corporate incorporated pursuant to the laws of Nova Scotia, with a registered office at 43 Cossitt Heights Drive, Unit 4, Sydney, Nova Scotia.
3. Pursuant to a letter of offer dated March 15, 2017, BDC advanced loans to 3298501 Nova Scotia Limited ("329") totaling \$412,500 for the purpose of purchasing the shares of the Company (the "Loans").
4. BDC was granted the following security for the Loans:
 - a) Guarantee from 329 secured by a General Security Agreement over all of 329's personal property, registered in the Nova Scotia Personal Property Registry ("PPR") on April 27, 2017 as Registration No. 27527563;
 - b) Guarantees from the Company, secured by a first priority mortgage over the Company's land at 609 Keltic Drive, Coxheath, Nova Scotia, PID 15221542 (the "Real Property") in the amount of \$230,000, registered in the Cape Breton Land Registry on April 27, 2017 as Document No. 110660173 (the "Mortgage") and General Security Agreement over all of the Company's personal property, registered in the PPR on April 27, 2017 as Registration No. 27527621 (the "GSA"); and
 - c) Additional guarantees from Jeffrey McDonald, Marc Lamarche, EZ Flow Plumbing and Heating Limited, Lorne Aucoin Renovations Limited, 3069746 Nova Scotia Limited and Quality Metal Works Limited.
5. 329 defaulted in its payment obligations to BDC under the Loans.
6. On September 23, 2022, BDC made demands upon 329, the Company and the other guarantors and issued Notices of Intention to Enforce Security under s. 244 of the *Bankruptcy and Insolvency Act* to 329 and the Company.
7. No payments were received.
8. The Company ceased operations.
9. As at September 23, 2022, the amount owing from 329 to BDC was \$186,971.24 plus interest at \$54.14 per day and the amount owing from the Company to BDC was the same (including principal, interest and fees).

10. On April 18, 2023, BDC privately appointed MNP Ltd. ("MNP") as receiver over the assets of the Company which it holds security, being the Mortgage and GSA.
11. On April 19, 2023 BDC issued another Notice of Intention to Enforce Security under s. 244 of the *Bankruptcy and Insolvency Act* to the Company.
12. MNP negotiated a private offer to sell the Real Property to 437300 Nova Scotia Limited ("437") for \$150,000 as set out in a June 6, 2023 Agreement of Purchase and Sale, subject to Court approval.
13. The offer is in line with the appraised value of the Real Property (\$155,000) and a realtor's opinion of value (\$150,000 to \$160,000).
14. The Real Property is encumbered by:
 - a) the Mortgage, which is a first charge on the Real Property;
 - b) a second charge mortgage in favour of Ambrose Stone, Joseph Stone, Jean Frost-Stone, Jeannie Stone, Joseph Stone Family Trust (2005) and Ambrose Stone Family Trust (2005); and
 - c) judgment in favour of Canada Revenue Agency, registered after both mortgages.
15. As at July 21, 2023, the amount owing from the Company to BDC is \$214,144.45, including principal, interest and fees, including receiver and legal fees.
16. BDC seeks an order:
 - a) abridging the time for service of the Notice of Application, if needed, so that the Application is properly returnable on August 16, 2023, and dispensing with further service;
 - b) appointing MNP the receiver of all assets, properties and undertakings of the Company; and
 - c) approving the sale of the Real Property by MNP to 437 for \$150,000.
17. BDC pleads and relies upon the *Bankruptcy and Insolvency Act*, *Bankruptcy and Insolvency General Rules*, s. 43(9) of the *Judicature Act* (Nova Scotia) and the Court's equitable jurisdiction.

Schedule "B" – Service List

Person	Contact	Method of Service
Stone Brothers Plumbing & Heating Limited Quality Metal Works Limited 3298501 Nova Scotia Limited 3069746 Nova Scotia Limited Lorne Aucoin Renovations Limited Jeff McDonald	Jeff McDonald, President Jeff McDonald, President Jeff McDonald, President Jeff McDonald, President Jeff McDonald	Mail to: Jeff McDonald 65 Kent Court Sydney Forks, NS B1L 1C1 Email to: info@aucoinrenovations.ca
Ambrose Stone Joseph Stone Jeannie Stone Jean Frost-Stone Ambrose Stone Family Trust (2005) Joseph Stone Family Trust (2005)	Ambrose Stone Joseph Stone Jeannie Stone Jean Frost-Stone	Mail to: PO Box 1831 Station A Sydney, NS B1P 6W4
EZ Flow Plumbing & Heating Limited Marc Lamarche	Marc Lamarche, President Marc Lamarche	Mail to: Marc Lamarche 510 George Street New Waterford, NS B1H 4E1 Email to: marc.lamarche@gmail.com
The Bank of Nova Scotia	None	Mail to: The Bank of Nova Scotia 4715 Tahoe Boulevard Mississauga, ON L4W 0B4

Person	Contact	Method of Service
Canada Revenue Agency	None	Mail to: Nova Scotia Tax Services Office 47 Dorchester Street Sydney, NS B1P 6K3
Cape Breton Regional Municipality	Colin Fraser	Mail to: CBRM City Hall 320 Esplanade Sydney, NS B1P 7B9 Email to: cafraser@cbrm.ns.ca
Office of the Superintendent of Bankruptcy Canada	None	Mail to: Maritime Centre 1505 Barrington St., 16 th Floor Halifax, NS B3J 3K5
4374300 Nova Scotia Limited	Dwight Rudderham, counsel	Email to: dwight.rudderhman@mcinnescooper.com