

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Grant Bros. Contracting Ltd. v. Grant, 2005 NSSC 358

Date: 20051230

Docket: SH 217342 (B-26325)

Registry: Halifax

IN THE MATTER OF The bankruptcy of Grant Bros. Contracting Limited, a
body corporate

and

IN THE MATTER OF An application by Deloitte & Touche Inc., Trustee of the
Estate of the Bankrupt against Dr. Neil Grant and Dr.
Neil Grant (1997) Professional Corporation, pursuant to
Subsections 91(1), 95(1) and 95(2), 98(1) and 98(2),
100(1) and 100(2), and 165(1) and 165(2) of the
Bankruptcy and Insolvency Act (“Act”)

LIBRARY HEADING

Judge: The Honourable Justice Glen G. McDougall

Heard: June 29, 2005, in Halifax, Nova Scotia

Subject: A Trustee appointed under the *Bankruptcy and Insolvency Act* (the
“BIA”) seeks an order for the return of a \$110,207.49 payment made to
the bankrupt company which was re-directed by the company president
to another company controlled by his brother thereby frustrating
distribution by the Trustee.

Summary: A Receiver was appointed for Grant Bros. Contracting Limited (“Grant
Bros.”) under a General Security Agreement (the “GSA”). Subsequently, a Trustee was appointed under the *BIA*. Between the time
after the appointment of a Receiver and prior to the appointment of a
Trustee a payment of \$110,207.49 was received by Grant Bros. Instead
of handing over the cheque to the Receiver and with full knowledge of
the appointment under the GSA, the company president re-directed the
cheque to his brother who arranged to have the cheque deposited to the
account of his Professional Corporation. The full proceeds of the cheque
were paid out of the Professional Corporation with \$25,680.47 going to
the brother of the president of Grant Bros. to repay him for a personal
loan of \$25,000.00 that he had earlier made to Grant Bros. (along with
interest) with the remaining \$84,527.02 paid in two installments to the

company president personally. None of the funds found there way back to Grant Bros. (or the duly appointed Receiver and/or Trustee), although the president claims to have used the \$84,527.02 to pay other unsecured creditors of the company. Demands for repayment of these funds went unheeded.

Issue: Is the Trustee entitled to the repayment of the funds, or some portion of them, that were intercepted and redirected by Grant Bros.' president to a company controlled by his brother and subsequently disbursed to the company president and his brother personally thereby avoiding Grant Bros.' Receiver/Trustee?

Result: An order was granted making the Professional Corporation and its president/director (the brother of Grant Bros.' president), jointly and severally liable for the repayment of the total sum of \$110,207.49 to the Trustee. Relief was granted under sections 91, 95, 98, 100 and subsections (1) and (2) of Section 165 of the *BIA*.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***