

2003 CarswellOnt 4730
Ontario Superior Court of Justice

SLMSoft Inc., Re.

2003 CarswellOnt 4730, [2003] O.J. No. 4933, 127 A.C.W.S. (3d) 204, 47 C.B.R. (4th) 311

In the Matter of the Bankruptcy of SLMSoft Inc.

Ground J.

Heard: November 17, 2003
Judgment: November 17, 2003
Written reasons: November 25, 2003
Docket: 31-OR-207039-T

Counsel: Katherine McEachern for Richter & Partners Inc., Interim Receiver of SLMSoft Inc.
Harry Fogul for Molgov Holdings, Govin Mikisir

Subject: Insolvency

Related Abridgment Classifications

For all relevant Canadian Abridgment Classifications refer to highest level of case via History.

Headnote

Bankruptcy and insolvency --- Interim receiver — Powers, duties and liabilities

Court has jurisdiction under s. 47(2)(c) of Bankruptcy and Insolvency Act and s. 101 of Courts of Justice Act to grant order authorizing interim receiver to examine individuals under oath.

Table of Authorities

Statutes considered:

Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3
s. 47(2)(c) — referred to

Courts of Justice Act, R.S.O. 1990, c. C.43
s. 101 — referred to

MOTION by interim receiver for order approving proposed marketing plan and other activities of interim receiver and for order authorizing examination of certain individuals under oath.

Ground J.:

1 I am satisfied that the marketing plan proposed by the Interim Receiver is appropriate to the particular niche business in which SLMSoft Inc. is engaged. I am also satisfied that the details of the proposed marketing plan are an effective way to elicit interest in the assets to be sold. Accordingly, an order will issue approving the activities of the Interim Receiver set out in the First and Second Reports and approving the proposed marketing plan. I am also prepared to issue an order sealing the confidential information memorandum and the list of potential purchasers pending further order of this court.

2 With respect to the order sought to examine under oath certain individuals, in my view, I have ample jurisdiction under Section 47(2)(c) of the *Bankruptcy and Insolvency Act* and inherent jurisdiction under Section 101 of the *Courts of Justice Act* to grant such authority to the Interim Receiver. I do, however, think that the wording of the proposed order is too broad and is giving the Interim Receiver the right to examine any person thought to have any knowledge about any dealings of the company or property of the company. Accordingly, the order proposed will be amended in paragraph 4 to refer specifically to the persons listed in the Interim Receiver's report and specify that the examination will be with respect to the disposition of assets of the company and the shredding of documents of the company.

3 If the Interim Receiver wishes to conduct further examinations of other persons with respect to other matters it should seek specific authority from the court to do so.

Order accordingly.

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