

IN THE SUPREME COURT OF NOVA SCOTIA  
IN BANKRUPTCY AND INSOLVENCY  
**Citation:** LaHave Equipment Ltd. (Re), 2007 NSSC 283

**Date:** October 1, 2007  
**Docket:** S.H. No. 280400  
**Registry:** Halifax

**PETITION**

**IN THE MATTER OF:**           **The Bankruptcy of LaHave Equipment Limited**

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**LIBRARY HEADING**

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**Registrar:**           Richard W. Cregan, Q.C.

**Heard:**               September 17, 18, 2007

**Written Decision:** October 1, 2007

**Subject:**            Petition for a receiving order.

**Summary:**           The debtor, a heavy equipment dealership, found itself in financial difficulty when there was a downturn in the industries it serviced and its dealership agreement with a major supplier was terminated.

This followed with concern by its bank necessitating new arrangements including security on its premises. Its operations closed down and the bank appointed a receiver pursuant to its security documentation. The bank then petitioned for a receiving order under the *Bankruptcy and Insolvency Act*. In the petition the bank valued its security leaving an unsecured deficiency far in excess of \$1000.

**Issue:** The debtor disputed the bank's valuation of its security which was based on appraisals and a broker's advice and claimed that the bank was fully secured, thus not entitled to bring a petition. The debtor said that it had ongoing litigation with the supplier which terminated its dealership. This litigation would result in damages more than sufficient to pay all of its debts. The debtor also asked that the petition be stayed so that it might find a better price for the property covered by the bank's security than that recently obtained by the receiver.

**Result:** It was found that the appraisals of the property and broker's advice were reasonable, as were the terms of the sale. The sale will result in a deficiency in excess of \$1000 being owed to the bank. The litigation is too speculative to make a finding that the debtor has assets to answer its creditors. The possibility of finding a better sale within the reasonable future was unlikely.

It was found that the debtor had committed an act of bankruptcy, namely that it had ceased to meet its liabilities generally as they became due.

The bank was then entitled to a receiving order against the debtor. The request for a stay was rejected.

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