

IN THE SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY AND INSOLVENCY

Citation: Roberts (Re), 2008 NSSC 165

Date: June 3, 2008

Docket: B-31950

Registry: Halifax

District of Nova Scotia
Division No. 03 - Sydney
Court No. 31950
Estate No. 51-108381

In the Matter of the Proposal of Darren John Roberts

D E C I S I O N

Registrar: Richard W. Cregan, Q.C.

Heard: May 1, 2008

Present: Michael Connor representing the Trustee,
BDO Dunwoody Goodman Rosen Inc.

Andrea Rizzato representing the bankrupt

- [1] John Darren Roberts has applied to this court for an order under Section 178 (1.1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, that he be relieved of liability for two outstanding student loans, one with a balance of \$881.18 and the other, \$6,577.81.

- [2] Beginning in 1987 Mr. Roberts attended Dalhousie University, then the University College of Cape Breton. In 1997 he completed a course with Scotia Career Academy in the Correctional Worker program. He has been employed at the Cape Breton Correctional Centre since August 1997. Since 2004 he has had full time employment. He presently earns approximately \$53,000.00 annually.

- [3] He owns a house. He had been sharing it with his common law spouse, Kerrie Manuel, and her nine year old child. However, they have recently separated. She and her child are living in the house until the end of the school year. He is living with his parents. He intends to return to his house when they vacate it.

- [4] In 2003 he filed a Consumer Proposal. This was satisfied by him paying \$200.00 per month for 48 months.
- [5] He anticipates that he will be making a settlement with Ms. Manuel. He said it would be in the \$10,000.00 range. He has no other obligations to dependents.
- [6] I have some difficulty in determining whether he “will be unable to pay the liabilities under the loan.” (S. 178 (1.1), 2(b))
- [7] I need information about the original amount of his loans and of his payment history. This goes to the question of his acting in good faith. However, I do note that he took his education seriously, completed a useful course of studies which is now the basis for his present employment.
- [8] I wonder how he can say that he will be unable to pay the loans when he has recently satisfied a consumer proposal with total payments over four years of \$9,600.00.

[9] He says that his monthly take home income is \$2,200.00, or \$26,400.00 annually. His statement of how he spends that is not unreasonable. However, that only accounts for half his salary. A significant amount would go to tax, pension, employment insurance, and other withholdings. I need a break down of these payments.

[10] The resolution of his obligation to Ms. Manuel is also relevant.

[11] Accordingly, I direct that this application be adjourned until this resolution has been completed. It should then be put on the docket for the following sitting of the Court in Sydney. In the meantime the information I have requested should be supplied.

R.

Halifax, Nova Scotia
June 3, 2008