

IN THE SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY AND INSOLVENCY

Citation: MacLean (Re), 2012 NSSC 24

Date: January 18, 2012

Docket: 34380

Registry: Halifax

District of Nova Scotia
Division No. 02 - Truro-Pictou
Court No. B 34380
Estate No. 51-1205260

In the Matter of the Bankruptcy of Brian Joseph MacLean

DECISION

Registrar: Richard W. Cregan, Q.C.

Heard: November 25, 2011

Present: Rebecca Hiltz LeBlanc representing the Royal Bank of
Canada

Ericka Clarke Scott representing the Trustee,
PricewaterhouseCoopers Inc.

- [1] The Applicant, Brian Joseph MacLean, made an assignment in bankruptcy on May 13, 2009. He now asks for his discharge. It is opposed by the Royal Bank of Canada, (RBC), his major creditor.
- [2] He is 44 years of age, single and well educated. He graduated from the University of Toronto in 1993 with a B.Sc. in physics. He then spent several years in the Canadian Navy with the rank of acting Sub Lieutenant. He received training in maritime engineering. He failed to qualify in this subject and concluded this career in administration. He then took pre-medical courses at a university in British Columbia with a view to studying to become a physician. In 2004 he gained admission to the medical school at the University of Paris where he studied for two years. He studied the Dutch language at a university in Holland and then entered the medical school at the University of Amsterdam. He left his studies before the end of term in 2008. His reason was that continuing was beyond his financial resources. He had academic difficulties and was not able to write necessary examinations. The particulars were not clear, but in the end he received little academic credit for all the time and effort spent. His hope to become a physician was frustrated.

- [3] He returned to Canada. He has been working as a security guard in Montreal. At the time of the hearing he had been unemployed for a few months.
- [4] His debts as reported by the Trustee total \$235,992.61. Of this amount there was owing to the RBC approximately \$180,000. The bulk of this amount arises from a line of credit provided by RBC to finance his education at the medical schools.
- [5] RBC's opposition to his discharge is based on a line of cases which I had reviewed in *Watkins (Re)*, 2009 NSSC 35, *Brunt (Re)*, 2006 NSSC 237, *Abdo (Re)*, 2009 NSSC 338 and *Gardner (Re)*, 2010 NSSC 298. Mr. MacLean borrowed the money to finance his education to become a physician. He could give no security. Instead, RBC relied on his good faith that he would pursue his education with diligence and pay back the loan in the early years of practice. He has failed to live up to his and RBC's expectations. He has gained little, if any, advantage from these studies. He has had limited employment since abandoning his studies. At the time of the hearing he was unemployed and without a serious strategy to find

appropriate employment.

- [6] Mr. MacLean was rather vague about many things. Cross examination regarding material issues was limited. With what is before me I do not think I can fairly consider what should be the conditions of his discharge.
- [7] Section 172 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.3 allows me to refuse discharge. I am satisfied that such is the proper disposition of this application. He shall be at liberty to reapply after October 1st of this year.
- [8] At the resumed hearing he will be expected to provide a detailed account of his education, work and present efforts to obtain work.
- [9] As to his education, he is to provide details year by year of the courses taken and credits gained as well as the failures with reasons.
- [10] As to work, he is to provide details year by year of his employment, responsibilities and reasons for leaving.

[11] As to present efforts to obtain employment, he is to provide details of applications he has made in the past year, and if not employed by that time, details of what he is doing to find employment, such as where he has applications, and interviews granted. If he is employed, he is to provide details of the terms of this employment.

[12] This information is to be provided to the Court, his Trustee and Counsel for RBC at least two weeks before the reapplication is heard.

R.

Halifax, Nova Scotia
January 18, 2012