SUPREME COURT OF NOVA SCOTIA
Citation: Trez Capital Corporation v. UC Investments Inc., 2013 NSSC 381

Date: 20131129
Docket: Hfx. No. 421567
Registry: Halifax

Between:

Trez Capital Corporation, Trez Capital Limited Partnership, TCC Mortgage Holdings inc., Computershare Trust Company of Canada and WBLI, Inc.

Applicants

v.

UC Investments Inc., Edge Marketing Inc., 3214113 Nova Scotia Limited and PricewaterhouseCoopers Inc.

Respondents

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Judge:	The Honourable Justice Arthur W.D. Pickup
Heard:	November 20, 2013 in Halifax, Nova Scotia
Written Decision:	November 29, 2011
Subject:	Application for a declaration that the Lender's appointment of a receiver pursuant to two appointment letters is not stayed pursuant to s. 69(1) of the *Bankruptcy and Insolvency Act* and, in the alternative, an order appointing an interim receiver of the properties pursuant to s. 47.1 of the *Act*.
Summary:	The respondents agreed to borrow funds totalling $63,788,217 from the applicants.

The respondents own lands which contain large residential apartment buildings in Nova Scotia and New Brunswick. As security for the loans the respondents granted security to the applicants. After the respondents failed to make the necessary payments for two months, the applicants sent a Notice of Intention to Enforce Security by email on October 16, 2013, at 6:21 pm to the respondents. Notice was also sent by courier and delivered on October 17, 2013.

Issue: Did the parties agree that Notice of Intention to Enforce Security could be provided by email?

Should an interim receiver be appointed?

Result: The applicants rely on a provision contained in commitment letters signed by the respondents to evidence the agreement of the respondents to receive notice under the *BIA* by email.

It was determined that the notice provisions under the various commitment letters did not operate to satisfy the notice provisions under the *BIA* and, therefore, email notice was not sufficient.

The applicants' request to appoint an interim receiver was dismissed as the applicants had not met their burden of proving necessity.

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