

**ONTARIO  
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
THE CASH STORE FINANCIAL SERVICES INC., THE CASH STORE INC., TCS  
CASH STORE INC., INSTALOANS INC., 7252331 CANADA INC., 5515433  
MANITOBA INC., 1693926 ALBERTA LTD DOING BUSINESS AS "THE TITLE  
STORE"

APPLICANTS

**FRESH AS AMENDED NOTICE OF MOTION  
(returnable June 11, 2014)**

0678786 B.C. Ltd. (formerly the McCann Family Holding Corporation) ("McCann") will make a motion to a judge of the Superior Court of Justice (Commercial List), on Wednesday, June 11, 2014 at 10 am or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR an Order that:

- (a) Grants a declaration that the following property (collectively, the "**McCann Property**"), including without limitation the McCann Loans as defined in the Order of the Honourable Regional Senior Justice Morawetz dated April 30, 2014, is owned by McCann free of any interests or claims of any creditor of the Applicants including, without limiting the generality of the foregoing, any encumbrances or charges created by the Order of the Honourable Regional Senior Justice Morawetz dated April 14, 2014:
  - (i) Any loans made in the name of any third party lender and brokered by The Cash Store Inc. and 1693926 Alberta Ltd. (collectively, "**Cash Store**") on behalf of their customers

("Customers") using funds made available by McCann for that purpose (the "**McCann Funds**");

- (ii) Any advances originated by Cash Store and subsequently purchased with the McCann Funds;
  - (iii) Any loans and advances originated by Cash Store and subsequently assigned to McCann as capital protection or otherwise (together with (i) and (ii) above, the "**McCann Loans**");
  - (iv) Any amounts received by Cash Store from its Customers in repayment of the McCann Loans (the "**McCann Receipts**");
  - (v) Any accounts receivable in respect of the McCann Loans (the "**McCann Accounts Receivable**"); and
  - (vi) The McCann Funds.
- (b) Cash Store shall forthwith execute and deliver such documentation as is necessary or desirable to evidence the fact that McCann is the sole legal and beneficial owner of the McCann Property;
  - (c) Cash Store shall forthwith transfer the McCann Funds and the McCann Receipts to McCann;
  - (d) Cash Store shall forthwith, at McCann's expense, provide such assistance to McCann as is necessary or desirable to facilitate the transfer of the administration of the McCann Loans and the McCann Accounts Receivable to another service provider;
  - (e) McCann's legal and other professional fees incurred in or in connection with this CCAA proceeding shall be paid by the Applicants and shall be covered by the Administration Charge granted in the Initial Order, as defined below;

- (f) Cash Store shall pay McCann's costs of this motion;
- (g) McCann reserves all rights to assert any arguments and claims in this proceeding or otherwise in relation to claims (whether they be trust, proprietary or otherwise) it has against the Applicants and any other persons resulting from or relating to monies it advanced to make third party loans; and
- (h) Such further and other relief as counsel may advise and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- (a) Cash Store provides alternative financial products and services to Customers;
- (b) Cash Store brokers loans on behalf of Customers pursuant to broker agreements with third party lenders ("TPLs"), who agree to lend to Customers or to purchase advances to the Customers originated by Cash Store;
- (c) McCann is a TPL and has made approximately \$13,350,000 available to Cash Store for the purpose of allowing Cash Store to broker advances to Customers or to purchase advances to the Customers originated by Cash Store;
- (d) On April 14, 2014, Cash Store obtained an initial order, which was amended and restated on April 15, 2014 (as amended, the "**Initial Order**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**");
- (e) The Initial Order provided, among other things, that Cash Store shall continue to carry on business and retain and use funds received from TPLs, including the McCann Funds, subject to certain conditions set out in the Initial Order;

- (f) The Initial Order specifically authorized Cash Store to use amounts received after the date of the Initial Order in connection with the repayment of the McCann Loans (the “**McCann Post-Filing Receipts**”) to make new McCann Loans;
- (g) In obtaining the Initial Order, the Applicants' materials failed to make material disclosures regarding pre-filing conduct. The Applicants' failure to satisfy their obligation to make full and frank disclosure to this Court is a factor that ought to be considered when the Court exercises discretion regarding the relief requested herein;
- (h) On April 30, 2014, this Honourable Court issued an Order with additional protections for TPLs (the “**Additional Order**”);
- (i) The Additional Order provided, among other things, that the Applicants shall not use McCann Post-Filing Receipts to broker new McCann Loans;
- (j) Cash Store is not a licensed payday lender in Ontario, and as a result, cannot broker any third party loans, make any direct loans, or take any steps to collect loans in Ontario;
- (k) The broker agreements governing the McCann Property expressly provide that McCann owns the McCann Property;
- (l) Cash Store’s affidavit evidence, past statements (both to the TPLs and in public disclosure), and conduct show that McCann owns the McCann Property;
- (m) The broker agreements and notices given under them entitle McCann to the return and transfer of the loan administration of the McCann Property;
- (n) The balance of prejudice supports an immediate return of the McCann Property to McCann and the transfer of the administration of any McCann Loans and McCann Accounts Receivable to a service provider selected by McCann;

- (o) McCann is significantly prejudiced by Cash Store's retention of McCann Property connected to Cash Store's Ontario operations. Cash Store cannot redeploy the McCann Property in new McCann Loans in Ontario. As a result, there is little to no incentive for Ontario customers to repay the existing McCann Loans;
- (p) The Applicants will suffer little, if any, prejudice from the transfer of the McCann Property. The Applicants cannot operate in Ontario;
- (q) The provisions of the CCAA, as amended, and this Honourable Court's equitable and statutory jurisdiction thereunder;
- (r) Rules 1.04, 2.03 and 37 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- (s) Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The Affidavit of Steven Carlstrom sworn April 14, 2014 and the exhibits attached thereto;
- (b) The transcript of the Cross-Examination of Steven Carlstrom on his affidavit sworn April 14, 2014;
- (c) The Affidavit of Erin Armstrong sworn April 13, 2014 and the exhibits attached thereto;
- (d) The Affidavit of Murray McCann sworn April 22, 2014 and the exhibits attached thereto;
- (e) The Affidavit of Sharon Fawcett sworn April 22, 2014 and the exhibits attached thereto;

- (f) The Affidavit of Erin Armstrong sworn May 8, 2014 and the exhibits attached thereto;
- (g) The Affidavit of Donald MacLean sworn May 15, 2014 and the Report of PricewaterhouseCoopers Inc. attached thereto; and
- (h) Such further material as counsel may advise and this Honourable Court may permit.

May 15, 2014

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TO: SERVICE LIST

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CANADA INC., 5515433 MANITOBA INC., 1693926 ALBERTA LTD DOING BUSINESS AS "THE TITLE  
STORE"

Court File No. CV-14-10518-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE -  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**NOTICE OF MOTION  
(RETURNABLE June 11, 2014)**

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