

**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 CROWN CREST CAPITAL MANAGEMENT CORP., CROWN CREST FINANCIAL CORP., CROWN CREST FUNDING CORP., SIMPLY GREEN HOME SERVICES INC., SIMPLY GREEN HOME SERVICES CORP., AND CROWN CREST CAPITAL TRUST

PEOPLES TRUST COMPANY

Applicant

AND

CROWN CREST CAPITAL MANAGEMENT CORP., CROWN CREST FINANCIAL CORP., CROWN CREST FUNDING CORP., SIMPLY GREEN HOME SERVICES INC., SIMPLY GREEN HOME SERVICES CORP., AND CROWN CREST CAPITAL TRUST

Respondents

NOTICE OF MOTION

The class action plaintiffs will make a motion to the Honourable Justice Conway, or another judge of the Commercial List, on a date to be determined at 10:00 am, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard by video conference.

THE MOTION IS FOR:

(a) an interim or interlocutory injunction requiring the respondents and the Chief

Restructuring Officer (**CRO**), and any other persons having knowledge of the said orders, to:

- (i) immediately cease sending letters (as exemplified by the letter dated May 29, 2024 addressed to Thain Paterson (**Letter**)) and any other similar communication (in writing or orally) to consumers, demanding payment under the consumer leases controlled by the respondents; threatening consumers with lawsuits, costs, and interest; and failing to disclose the proposed class action bearing court file number CV-21-00665193-00CP (the **Simply Group Class Action**) and the proposed class action against People's Trust Company bearing court file number CV-23-00711844-00CP (the **People's Trust Class Action**);
 - (ii) immediately issue a retraction or correction notice to all consumers who have received such communications as the Letter to inform them that:
 - a. the consumers are subject to the Simply Group Class Action and the People's Trust Class Action, and briefly describing the allegations in the actions; and
 - b. Providing the name, email addresses and toll-free number of class counsel and advising them that they can contact class counsel for free advice in relation to the Letter;
- (b) a direction that any future letter or communication similar to the Letter from the respondents or the CRO, or any related party, to any consumer affected by the impugned consumer leases in this CCAA proceeding contain the information in subparagraph (a)(ii) above and be on notice to the monitor and class counsel in the Simply Group

Class Action and the People's Trust Class Action;

- (c) an order that the respondents or the CRO produce to the monitor all letters and communications that the respondents or the CRO, or any related party, have made to the class to date;
- (d) an order lifting the stay if necessary;
- (e) costs of this motion, if opposed; and
- (f) such further and other relief as counsel may request or as this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

- (a) The respondents (*i.e.*, debtor companies) are named defendants in the Simply Group Class Action;
- (b) The applicant, People's Trust Company, is a defendant in the People's Trust Class Action;
- (c) Both the Simply Group Class Action and the People's Trust Class Action directly challenge the validity and enforceability of the consumer HVAC leases in question in this CCAA proceeding;
- (d) The general counsel of the respondents, Oscar Strawczynski, sent the Letter to at least one of the putative class members in both the Simply Group Class Action and the People's Trust Class Action;

- (e) The Letter is addressed to the class member, Thain Paterson, under the Sandpiper letterhead;
- (f) Sandpiper is a business name used by the respondent, Simply Green Home Services Corp., previously known as Simply Green Home Services Inc.;
- (g) Mr. Paterson is an elderly consumer who does not use email or other technology—his method of communication is by mail and telephone;
- (h) The respondent, Crown Crest Capital Management Corp., registered a notice of security interest (**NOSI**) against Mr. Paterson’s home title on January 27, 2022 in the amount of \$21,598, for a leased heat pump with a market value of a fraction of that amount;
- (i) The equipment broke down within a few months, leaked, and damaged his home, and despite numerous efforts and inquiries by Mr. Paterson, the equipment was not fixed by the respondents;
- (j) Mr. Paterson has repeatedly asked the respondents to retrieve their faulty equipment, to no avail;
- (k) The Letter from Mr. Strawczynski to Mr. Paterson now reads:

I am the legal representative of Sandpiper Energy Solutions (hereinafter referred to as the Company) and am writing with respect to your lease agreement for the goods and services supplied by New Sandpiper Energy Solutions (Contractor). The arrears balance owed against the account is presently \$1,548.55.

I would like to remind you that, by neglecting your payment obligations, you are in breach of the terms and conditions of your contractual agreement.

Be advised that failure to bring your account up-to-date may result in legal

action to recover the full balance owed under the contract by the Company. These proceedings will also include a claim for pre and post judgement interest, costs and legal fees in relation to the commencement of this action.

This matter will be escalated forthwith if Sandpiper Energy Solutions has not received payment in full by close of business on June 10, 2024.

This is an opportunity to resolve this matter out of Court and I strongly encourage you to avoid expensive and time-consuming litigation. Please direct all further correspondence regarding this matter to my attention.

I look forward to your swift resolution on this matter.

[emphasis in the original]

- (l) Given the deadline listed in the Letter, which can be assumed to have been sent to more than one class member, the matter is urgent;
- (m) With the passing into law of *Bill 200, Homeowner Protection Act, 2024* on June 6, 2024, outlawing consumer NOSIs altogether, bad actors have been resorting to aggressive tactics and litigation to coerce consumers into paying them;
- (n) The Letter bears all the hallmarks of such frivolous actions and should be strongly denounced;
- (o) Any such legal action as threatened by Mr. Strawczynski and commenced by the respondents and the CRO would be meritless and unfair, as the stay of proceedings impairs consumers' ability to make use of their legal rights, and in particular their right to bring a counterclaim;
- (p) The Letter is in violation of the caselaw requiring notice to consumers about the Simply Group Class Action and the People's Trust Class Action;

- (q) The Letter has been sent out with the knowledge, or willful ignorance, of the CRO;
- (r) It is not clear whether or not the decision by the CRO to allow for the Letter to be sent was done with the knowledge of the monitor;
- (s) These actions and communications by the respondents cause undue stress and confusion among affected consumers, as many do not know the difference between a statement of claim, a purported claim, and a court order;
- (t) This is particularly problematic in light of the fact that the respondents are operating under the guise of the court-appointed CRO;
- (u) Section 19(1) of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, allows for the court to order any party to give such notice as the court considers necessary to protect the interests of any class member or party, or to ensure the fair conduct of the proceeding any time;
- (v) Rule 40 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- (w) Such further and other grounds as counsel may advise and as this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

- (a) The Affidavit of Thain Paterson, to be sworn;
- (b) The Affidavit of Karen Whibley, to be sworn; and
- (c) Such further and other evidence as counsel may advise and as this Honourable Court may permit.

June 14, 2024

SOTOS LLP

180 Dundas Street West, Suite 1200
Toronto ON M5G 1Z8

David Sterns (LSO# 36274J)

dsterns@sotos.ca

Mohsen Seddigh (LSO#70744I)

mseddigh@sotos.ca

Maria Arabella Robles (LSO#87381F)

mrobles@sotos.ca

Tel: 416-977-0007

BLANEY McMURTRY LLP

Barristers and Solicitors
Suite 1500 - 2 Queen Street East
Toronto, ON M5C 3G5

David T. Ullman (LSO#42357I)

dullmann@blaney.com

Tel: 416-596-4289

Lawyers for class action plaintiffs

TO: THE SERVICE LIST

SERVICE LIST

TO:	<p>GOWLING WLG (CANADA) LLP 1 First Canadian Place, 100 King Street West Suite 1600 Toronto, Ontario M5X 1G5</p> <p>David Cohen Tel: 416-369-6667 Email: david.cohen@gowlingwlg.com</p> <p>Clifton P. Prophet Tel: 416-862-3509 Email: clifton.prophet@gowlingwlg.com</p> <p>Thomas Gertner Tel: 416-369-4618 Email: thomas.gertner@gowlingwlg.com</p> <p><i>Counsel to the Applicant, Peoples Trust Company</i></p>
AND TO:	<p>MILLER THOMSON LLP 40 King Street West Suite 5800 Toronto, Ontario M5H 3S1</p> <p>Alfred Apps Tel: 416-595-8199 Email: aapps@millერთhompson.com</p> <p>Kyla Mahar Tel: 416-597-4303 Email: kmahar@millერთhompson.com</p> <p><i>Counsel to the Simply Green Leasing Group</i></p>
AND TO:	<p>STIKEMAN ELLIOTT LLP 5300 Commerce Court West, 199 Bay Street Toronto, Ontario M5L 1B9</p> <p>Elizabeth Pillon Tel: 416-869-5623 Email: lpillon@stikeman.com</p> <p><i>Co-Counsel to the Simply Green Leasing Group</i></p>

AND TO:	<p>KPMG INC. Bay Adelaide Centre, 333 Bay Street Suite 4600 Toronto, Ontario M5H 2S5</p> <p>Huey Lee Tel: 604-646-6398 Email: hueylee@kpmg.ca</p> <p>Paul Van Eyk Tel: 519-747-8836 Email: pvaneyk@kpmg.ca</p> <p>Pritesh Patel Tel: 519-747-8286 Email: pritchpatel@kpmg.ca</p> <p><i>Proposed Monitor</i></p>
AND TO:	<p>OSLER, HOSKIN & HARCOURT LLP 1 First Canadian Place, 100 King Street West Suite 6200 Toronto, Ontario M5X 1B8</p> <p>Marc Wasserman Tel: 416-862-4908 Email: mwasserman@osler.com</p> <p>Shawn Irving Tel: 416-862-4733 Email: sirving@osler.com</p> <p>Martino Calvaruso Tel: 416-862-6665 Email: MCalvaruso@osler.com</p> <p><i>Counsel to the Proposed Monitor</i></p>

<p>AND TO:</p>	<p>HWS CONSULTING INC. 90 Allstate Parkway, Suite 600 Markham, Ontario L3R 6H3</p> <p>Joe Prosperi Tel: 416-662-6348 Email: Jprosperi@hwsconsultant.com</p> <p><i>Proposed Chief Restructuring Officer</i></p>
<p>AND TO:</p>	<p>AIRD & BERLIS LLP 181 Bay Street, Suite 1800 Toronto, Ontario M5J 2T9</p> <p>Steven Graff Tel: 416-865-7726 Email: sgraff@airdberlis.com</p> <p><i>Counsel to the Proposed CRO</i></p>
<p>AND TO:</p>	<p>BENNETT JONES LLP 1 First Canadian Place Suite 3400 Toronto, Ontario M5X 1A4</p> <p>Alan P. Gardner Tel: 416-777-6231 Email: gardnera@bennettjones.com</p> <p>Sean Zweig (LSO# 57307I) Tel: (416) 777-6254 Email: zweigs@bennettjones.com</p> <p>Joseph N. Blinick Tel: 416-777-4828 Email: blinickj@bennettjones.com</p> <p>Shaan P. Tolani (#80323C) Telephone: (416) 777-7916 Email: tolanis@bennettjones.com</p> <p><i>Counsel to MNP Corporate Finance Inc.</i></p>

AND TO:	<p>ATTORNEY GENERAL OF CANADA Department of Justice Ontario Regional Office, Tax Law Services Division 120 Adelaide Street West, Suite 400 Toronto, Ontario M5H 1T1</p> <p>Tel: 647-256-7459 Email: AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca</p>
AND TO:	<p>ONTARIO MINISTRY OF FINANCE Insolvency Unit 33 King Street West, 6th Floor Oshawa, ON L1H 8H5</p> <p>Insolvency Unit Tel: 1-866-668-8297 Email: insolvency.unit@ontario.ca</p>
AND TO:	<p>GREYPOINT CAPITAL INC. 77 Bloor Street West Suite 1704 M5S 1M2</p> <p>Attention: Holly Allen and Andrew Spinner Email: andrew.spinner@greypoint.ca</p>
AND TO:	<p>THE TORONTO-DOMINION BANK - 14822 2300 Steeles Ave W, Suite 100 Vaughan, Ontario L4K 5X6</p>
AND TO:	<p>JIM PEPLINSKI LEASING INC. 81 The East Mall Suite 101 Etobicoke, Ontario M8Z 5W3</p>
AND TO:	<p>FORD CREDIT CANADA LEASING, DIVISION OF CANADIAN ROAD LEASING COMPANY P.O. Box 1800 RPO Lakeshore West Oakville, Ontario L6K 0J8</p>
AND TO:	<p>RAHEEMA MORIN AND DUSTIN MORIN C/O 219, 6203 - 28 Avenue Edmonton, Alberta T6L 6K3</p>

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

Court File No. CV-23-00709183-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF CROWN CREST CAPITAL
MANAGEMENT CORP., CROWN CREST FINANCIAL
CORP., MARBLE AMALCO INC., CROWN CREST
FUNDING CORP., SIMPLY GREEN HOME SERVICES
INC., SIMPLY GREEN HOME SERVICES CORP., AND
CROWN CREST CAPITAL TRUST

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

NOTICE OF MOTION

SOTOS LLP
180 Dundas Street West
Suite 1200
Toronto ON M5G 1Z8

David Sterns (LSO# 36274J)
dsterns@sotos.ca

Mohsen Seddigh (LSO#70744I)
mseddigh@sotos.ca

Maria Arabella Robles (LSO#87381F)
mrobles@sotos.ca

Tel: 416-977-0007
Fax: 416-977-0717

BLANEY McMURTRY LLP
Barristers and Solicitors
Suite 1500 - 2 Queen Street East
Toronto, ON M5C 3G5

David T. Ullman (LSO#42357I)
dullmann@blaney.com

Tel: 416-596-4289

Lawyers for Alga Adina Bonnick
and Goran Stoilov Donev