

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

IN RE: )  
IAN THOW ) CASE NO. 05-30432  
Debtors, ) MOTION TO VACATE ORDER  
GRANTING AUTHORITY  
TO CONDUCT EXAMINATION

COMES NOW the debtor, by and through his attorney, and moves the court and states as follows:

A Chapter 15 ancillary proceeding was commenced against the debtor over a year ago and the court granted relief under Chapter 15 authorizing a Canadian Trustee, in a pending Canadian bankruptcy, to examine the debtor (who is a resident in the United States and lives in Seattle, WA), and to determine if there are any assets of the debtor that may be subject to administration in the Canadian Bankruptcy proceedings.

Over 15 months have gone by, and there has been no activity in this proceeding since the initial hearings herein.

The Canadian Trustee seeks an order of this court compelling the debtor to appear and testify regarding his current financial condition, a physical inspection of the debtor's apartment and its contents, and inspection of the debtor's current bank account and tax records. Said motion was filed without notice, or an opportunity to object. The debtor strenuously objects. See *Declaration of Ian Thow*, attached hereto. The Canadian Trustee's Declaration supporting the request for inspection of the debtor's apartment, books and records, and tax information is based on Canadian bankruptcy law that the debtor's post-filing assets, income, and financial affairs are subject to continued administration by the Canadian trustee apparently ad infinitum. The Trustee only loses jurisdiction when the discharge is granted, and the Canadian Trustee asserts this debtor

MOTION TO VACATE ORDER  
GRANTING AUTHORITY  
TO CONDUCT EXAMINATION-1/3

Vortman & Feinstein  
500 Union Street, Suite 500  
Seattle, WA 98101  
206-223-9595  
Fax: 206-386-5355

1 will “most likely not receive a discharge”. The debtor is a US citizen and resident, and  
2 unlike a perpetual Canadian proceedings, the Chapter 15 does not open the door for a US  
3 citizen to have his income, assets, and financial affairs scrutinized and subject to  
4 administration forever. His income, assets and financial affairs are fixed as of the date of  
5 the filing of the petition for relief herein, and he will and has cooperated regarding his  
6 financial affairs, assets and liabilities pre-petition.

7 Further, and finally, there is a pending criminal investigation against the debtor in  
8 Canada, which the debtor contends has no basis, but he has hired a local criminal law  
9 attorney to advise him on this investigation. He has been instructed, also, not to provide  
10 any information that does not “pass muster” through his criminal lawyers and he has been  
11 advised to take the 5<sup>th</sup> amendment, and that in doing so it is not an admission that he has  
12 done anything wrong or that he is “hiding” anything; but he has been instructed by his  
13 criminal law attorneys not to waive any of his 5<sup>th</sup> amendment rights in the United States  
14 until such time as the criminal investigation has been resolved and disposed of.

15 The Chapter 15 is essentially complete and should have been closed. If not closed,  
16 the debtor requests that the proceedings be closed. The Canadian Trustee has been  
17 pursuing all of its remedies in Canada, the debtor is represented by counsel in Canada,  
18 and all matters pertaining to his assets and liabilities and financial affairs are subject to  
19 the Canadian proceedings.

20 The debtor strenuously requests that the ex parte order be vacated and that the  
21 Chapter 15 proceedings be closed.

22 Accordingly, the debtor requests an order.

23 DATED this 3<sup>rd</sup> day of January, 2007.

24  
25 /s/ Larry B. Feinstein

26 \_\_\_\_\_  
Larry B. Feinstein WSBA # 6074  
27 Attorney for debtor

1 PLEASE TAKE NOTICE that an issue of law in this case will be heard on the date  
2 below and the clerk is directed to note this issue on the appropriate calendar.

3 Calendar Date: January 25, 2007  
4 Day of Week: Thursday  
5 Nature of Motion: Motion to Vacate Order Granting Authority to Conduct  
6 Examination

7 \_\_\_\_\_ This motion will be heard before the Honorable Philip Brandt in the United States  
8 Bankruptcy Court, United States Courthouse, 700 Stewart Street, Rm 8106, Seattle, WA  
9 98101 on the above date. Unless a creditor or other party in interest objects and files a  
10 response or objection by the response date above, the court may enter an order without  
11 further notice or hearing. Copies of this Motion have been mailed on this date to the  
12 following:

13 To: Gregory R. Fox  
14 1420 Fifth Avenue, Ste. 4100  
15 Seattle, WA. 98101

16 Dated this 3rd day of January, 2007.

17 /s/ Larry B Feinstein

18 \_\_\_\_\_  
19 Larry B. Feinstein WSBA # 6074  
20 Attorney for Debtor  
21  
22  
23  
24  
25  
26  
27  
28