



Crowe Soberman Inc.

Crowe Soberman Inc.
Licensed Insolvency Trustee
Member Crowe Global

2300 Yonge Street, Suite 1300
PO Box 2425
Toronto ON M4P 1E4
1 877 929 2501 Toll Free
416 929 2555 Fax
www.crowesobermaninc.com

DEBTS NOT RELEASED BY ORDER OF DISCHARGE

Section 178

Revised September 18, 2009

178. (1) An order of discharge does not release the bankrupt from

- (a) any fine, penalty, restitution order or other order similar in nature to a fine, penalty or restitution order, imposed by a court in respect of an offence, or any debt arising out of a recognizance or bail;
- (a.1) any award of damages by a court in civil proceedings in respect of
 - (i) bodily harm intentionally inflicted, or sexual assault, or
 - (ii) wrongful death resulting therefrom;
- (b) any debt or liability for alimony or alimentary pension;
- (c) any debt or liability under a support, maintenance or affiliation order, or under an agreement for maintenance and support of a spouse, former spouse, former common-law partner or child living apart from the bankrupt;
- (d) any debt or liability arising out of fraud, embezzlement, misappropriation or defalcation while acting in a fiduciary capacity or, in the Province of Quebec, as a trustee or administrator of the property of others;
- (e) any debt or liability resulting from obtaining property or services by false pretences or fraudulent misrepresentation, other than a debt or liability that arises from an equity claim;
- (f) liability for the dividend that a creditor would have been entitled to receive on any provable claim not disclosed to the trustee, unless the creditor had notice or knowledge of the bankruptcy and failed to take reasonable action to prove his claim;

(g) any debt or obligation in respect of a loan made under the *Canada Student Loans Act*, the *Canada Student Financial Assistance Act* or any enactment of a province that provides for loans or guarantees of loans to students where the date of bankruptcy of the bankrupt occurred

(i) before the date on which the bankrupt ceased to be a full- or part-time student, as the case may be, under the applicable Act or enactment, or

(ii) within seven years after the date on which the bankrupt ceased to be a full- or part-time student; or

(h) any debt for interest owed in relation to an amount referred to in any of paragraphs (a) to (g).

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| Court may order non-application of subsection (1) | <p>(1.1) At any time after five years after a bankrupt who has a debt referred to in paragraph (1)(g) ceases to be a full- or part-time student, as the case may be, under the applicable Act or enactment, the court may, on application, order that subsection (1) does not apply to the debt if the court is satisfied that</p> <p>(a) the bankrupt has acted in good faith in connection with the bankrupt's liabilities under the loan; and</p> <p>(b) the bankrupt has and will continue to experience financial difficulty to such an extent that the bankrupt will be unable to pay the debt.</p> |
| Claims released | <p>(2) Subject to subsection (1), an order of discharge releases the bankrupt from all claims provable in bankruptcy.</p> <p>R.S., 1985, c. B-3, s. 178; R.S., 1985, c. 3 (2nd Supp.), s. 28; 1992, c. 27, s. 64; 1997, c. 12, s. 105; 1998, c. 21, s. 103; 2000, c. 12, s. 18; 2001, c. 4, s. 32, 204, c.25, s.83</p> |