

**ONTARIO SUPERIOR COURT OF JUSTICE
BANKRUPTCY ENDORSEMENT FORM**

BEFORE:	Justice/Associate Justice Associate Justice Rappos	Court File Number: BK-25-03180946-0032
In the Matter of the bankruptcy of:		
Attar Singh Gill		Name of the Bankrupt

Case Management: <input type="checkbox"/> Yes If so, by whom:	No:
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Participants and Non-Participants:

Party	Counsel	E-mail Address	Phone #	Participant (Y/N)
1) Debtor Attar Singh Gill	Patrick Di Monte	patdimonte@on.aibn.com		Y
2) Creditor Business Development Bank of Canada	Elina Fish	efish@szklaw.ca		Y

Date Heard:	April 14, 2026
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Nature of Hearing (mark with an "X"):				
<input checked="" type="checkbox"/> Motion	<input type="checkbox"/> Taxation	<input type="checkbox"/> Trustee Discharge	<input type="checkbox"/> Bankrupt Discharge	<input type="checkbox"/> Application

Format of Hearing (mark with an "X"):				
<input type="checkbox"/> In Writing	<input type="checkbox"/> Telephone	<input checked="" type="checkbox"/> Videoconference	<input type="checkbox"/> In Person	

If in person, indicate courthouse address:

Relief Requested:
Motion for an order lifting the stay of proceedings

Disposition made at hearing or conference (operative terms ordered):

Motion granted

Costs: On a **partial** indemnity basis, fixed at \$ **6,500** are payable
by **Attar Singh Gill** to **Business Development Bank of Canada** [when] **Within 30 days.**

Brief Reasons, if any:

Business Development Bank of Canada (“BDC”) brings a motion for an order under section 69.4 of the *Bankruptcy and Insolvency Act* (“BIA”) lifting the stay of proceedings as against the bankrupt, Attar Singh Gill. BDC asks that the stay be lifted so that it may commence a civil action against Mr. Gill where it will seek, among other things, damages and a declaration that the judgment results from Mr. Gill obtaining property or services by false pretences or fraudulent misrepresentations and will not be released upon Mr. Gill’s discharge from bankruptcy pursuant to section 178(1)(e) of the BIA.

Section 69.4 provides the Court with discretion to lift the stay if it is satisfied that the creditor is likely to be materially prejudiced by the continued operation of the stay, or that it is equitable on other grounds to lift the stay.

The role of the Court on a lift stay motion is to ensure that there are sound reasons to lift the stay. Courts have found that sound reasons to lift the stay include allowing a creditor to continue actions against a bankrupt for a debt to which a discharge would not be a defence, to continue with complex actions that are inappropriate to be resolved under the summary procedure under the BIA, and to continue with actions where the bankrupt is a necessary party for the complete adjudication of the matters at issue involving other parties. The creditor is not required to establish a *prima facie* case in connection with its proposed action.

I have reviewed the draft statement of claim prepared by BDC. In it, BDC alleges that Mr. Gill made representations to it regarding how Mr. Gill’s company was going to use funds loaned to it by BDC, and that those representations were false and fraudulent. BDC also seeks recovery of equipment and tracing orders against Mr. Gill and his company.

Based on my review of the draft pleading, I am satisfied that, if successful in proving its claim and obtaining judgment, BDC may obtain a declaration that the judgment will survive Mr. Gill’s discharge from bankruptcy under section 178(1) of the BIA. I am also satisfied that Mr. Gill’s involvement in the litigation is necessary to allow BDC to fully pursue its action against Mr. Gill’s company and to attempt recover the equipment at issue.

Mr. Di Monte, on behalf of Mr. Gill, argues that the motion should be denied on the basis that the OSB has investigated Mr. Gill and that issues regarding Mr. Gill’s conduct should be solely addressed in the bankruptcy proceeding. Mr. Di Monte argues that there will be duplicative proceedings if BDC is allowed to commence its action against Mr. Gill, and potential double recovery if Mr. Gill is required to pay money into the bankruptcy estate as a condition to obtain his discharge.

I disagree. The OSB’s investigation and Mr. Gill’s potential discharge are separate and distinct from BDC’s ability to seek a civil judgment based in fraud that will survive Mr. Gill’s discharge. It has been good law in Ontario for over 40 years that a sound reason to lift the stay is to permit a creditor to get a judgment that may survive discharge. The fact that Mr. Gill may be subject to distinct proceedings under the BIA or the *Criminal Code* with respect to his conduct does not prohibit a creditor from pursuing civil remedies in fraud. As well, I don’t see how BDC may have double recovery, as it will only be able to collect an amount equal to any judgment it obtains against Mr. Gill plus interest in costs, be it through the bankruptcy process and/or

the civil litigation process.

As a result, I have concluded that there are sound reasons to lift the stay of proceedings to allow BDC to pursue its civil action against Mr. Gill. Accordingly, the motion is hereby granted.

BDC seeks costs of \$11,888.39 on a partial indemnity basis, and larger amounts on substantial and full indemnity basis. I do not see there being any conduct on behalf of Mr. Gill with respect to this motion that warrants an elevated cost award. BDC says that the quantum of partial indemnity costs is warranted, as additional time was spent due to Mr. Gill's request for an adjournment at the January 22, 2026 return date.

Mr. Di Monte does not take issue with the partial indemnity amount but asks that any costs order be dealt with in the civil action.

There is no basis to have the costs award dealt with in the civil action. This was a motion brought in Bankruptcy Court requesting that the Court exercise its discretion under the BIA to lift the stay of proceedings. Bankruptcy Court is the appropriate forum to deal with the costs of the motion.

In terms of the quantum of the requested amount, I believe the amount to be a bit excessive. BDC was required under the BIA to bring this motion and would have incurred costs even if it has been an unopposed motion. As well, in reviewing the Costs Outline, a portion of the costs deal with drafting the statement of claim and notice of opposition to Mr. Gill's discharge from bankruptcy. These amounts are not proper costs for the lift stay motion.

Having reviewed the materials and heard from the parties, I have concluded that \$6,500 all inclusive is a fair and reasonable amount of costs to be paid by Mr. Gill for this contested lift stay motion. As a result, I hereby fix costs in the amount of \$6,500 payable by Mr. Gill to BDC within 30 days.

Order to go as electronically amended and signed by me.

Additional pages attached: Yes No: X

Apr 14 , 20 **26**
Date of Endorsement



Signature of Judge/Associate Judge
ASSOCIATE JUSTICE RAPPOS