

BANKRUPTCY NO. 260-091158

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY**

**IN BANKRUPTCY**

**IN THE MATTER OF THE BANKRUPTCY OF  
THE ESTATE OF DAVID COMTE, DECEASED**

**PETITION FOR RECEIVING ORDER**

The Investor's Committee, created pursuant to the Order of the Honourable Mr. Justice LoVecchio dated January 21, 2005, the Members of which are each owed in excess of CDN \$1,000 by the Estate of David Comte, Deceased, hereby petitions this Court that the Estate of David Comte, Deceased, be adjudged bankrupt and that a Receiving Order be made in respect of its respective property, and says:

1. THAT David Comte, deceased on December 16, 2004, had at some time during the six months next preceding the filing of this Petition ordinarily carried on business and resided in the City of Calgary, in the Province of Alberta, within the jurisdiction of this Court, and furthermore that certain of the property of the Estate of David Comte, Deceased (the "Estate") is situate in the Province of Alberta within the jurisdiction of this Court.
2. THAT David Comte was the President and director of Titan GenPar Inc., the General Partner of Titan Investments Limited Partnership ("Titan Partnership"). The business of Titan Partnership was that of trading in the stock market. David Comte has admitted in writing to "*stealing millions of dollars and not trading*", all since February of 2001, at which time he had trading losses.
3. THAT Titan Partnership is justly and truly indebted to fifty-one (51) of the limited partners in the said Titan Partnership. The First Report of Alger & Associates Inc., the Receiver and Manager of Titan Partnership, Evolution Capital Management Ltd., the Estate and others, dated January 19, 2005 (the "First Report") states that without complete deposit reports or confirmation of original investment amounts from each limited partner, Alger & Associates Inc.

cannot accurately determine the actual net investment made by these fifty-one (51) limited partners. However, based on the information available, it appears that the original investment of these fifty-one (51) limited partners could be in the range of the sum in Canadian Dollars that is equivalent to U.S. \$9,500,000 to \$10,500,000.

4. THAT the Affidavit of Bruce E. Alger sworn January 12, 2005 states that Evolution Capital Management Ltd. ("Evolution") was paid a percentage of the trading profits generated by Titan Partnership, and during calendar year 2004, was paid U.S. \$2,818,315. Based on a limited review of the banking records of Evolution, CDN \$2,789,000 was paid to David Comte from Evolution's profit sharing account during the calendar year 2004 to the date of his death, December 16, 2004.

5. THAT as set out in the First Report, the Estate is justly and truly indebted to fifty-one (51) of the limited partners in the said Titan Partnership, in amounts well in excess of CDN \$1,000. A Court-appointed Investor's Committee, of which I am a Member, represents those fifty-one (51) limited partners in Titan Partnership who have not been paid out their investment, excepting those who wish to retain independent representation.

6. THAT neither the Investor's Committee nor those investors represented by the Investor's Committee hold any security on the property of the Estate for the payment of the said sum.

7. THAT the Estate, within the six months preceding the date of the filing of this Petition, has committed the following act of Bankruptcy, namely:

- (a) During the six months next preceding the date of the filing of this Petition, the Estate ceased to meet its liabilities generally as they became due, and in particular has failed to pay the debts owed by it to the investors represented by the Investor's Committee.

8. THAT Alger & Associates Inc. was appointed by the Court as Receiver and Manager of the Estate by Order dated January 13, 2005.

9. THAT Alger & Associates Inc. of the City of Calgary, in the Province of Alberta, is a person qualified to act as Trustee of the Property of the Estate, with Bruce E. Alger acting as Administrator on behalf of Alger & Associates Inc., and both have agreed to act as such and are

acceptable to the undermentioned creditors, which creditors are members of the Investor's Committee and are all owed well in excess of CDN \$1,000:

- (a) Creditor: Croft Axsen  
Address: #204, 1211 – 14<sup>th</sup> Street SW  
Calgary, AB T3C 1C4
  
- (b) Creditor: Robert Kitchen  
Address: 635, 10201 Southport Road SW  
Calgary, AB T2W 4K9
  
- (c) Creditor: Jay Fiset  
Address: 1301 – 10<sup>th</sup> Avenue SW  
Calgary, AB T3C 0J4
  
- (d) Creditor: David Miller  
Address: Unit 5206, 400 Eau Claire Avenue SW  
Calgary, AB T2P 4X2

10. THAT it is unlikely that the application in this action will exceed 25 days.

11. THAT the Investor's Committee proposes that this Petition be heard at the Court House, 611 – 4<sup>th</sup> Street S.W., in the City of Calgary, in the Province of Alberta.

DATED at the City of Calgary, in the Province of Alberta, this 26<sup>th</sup> day of January, 2005.

Signed by the Petitioner in my  
presence: )  
)  
)  
)  
)  
)  
)


[Signature]  
Witness )

[Signature]  
CROFT AXSEN  
Member, Investor's Committee

ISSUED at the City of Calgary, in the Province of Alberta, this 26<sup>th</sup> day of January, 2005.

"K. Laycock"  
Registrar in Bankruptcy

ENTERED this 28 day of January, 2005.

[Signature]   
Clerk of the Court

BANKRUPTCY NO.: BK01-091158

**NOTICE OF HEARING**

IN THE COURT OF QUEEN'S BENCH OF  
ALBERTA  
JUDICIAL DISTRICT OF CALGARY

TO: **THE ESTATE OF DAVID COMTE,  
DECEASED**

TAKE NOTICE that a Petition that a Receiving Order be made in respect of the property of the Estate of David Comte, Deceased, will be heard before the Registrar in Chambers at the Court House, 611 - 4<sup>th</sup> Street S.W., in the City of Calgary, in the Province of Alberta, on Tuesday, the 15<sup>th</sup> day of February, 2005, at the hour of two o'clock in the afternoon, or so soon thereafter as this Petition may be heard.

AND FURTHER TAKE NOTICE that if notice of cause against the Petition is not filed in Court and a copy thereof served upon the Solicitors for the Petitioning Creditor at least two (2) days before the hearing, and if you do not appear at the hearing, the Court may make a Receiving Order on such proof of the statements in the Petition as the Court shall think sufficient.

DATED at the City of Calgary, in the Province of Alberta, this 28<sup>th</sup> day of January, 2005.

BENNETT JONES LLP

Per: *Frank R. Dearlove*  
Frank R. Dearlove  
Solicitors for the Petitioner  
Telephone No. (403) 298-3323

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THE ESTATE OF DAVID COMTE,  
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**PETITION FOR RECEIVING ORDER**

BENNETT JONES LLP  
Barristers and Solicitors  
4500, 855 - 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 4K7

Frank R. Dearlove  
Telephone No.: 403-298-3202  
Fax No.: 403-265-7219  
Our File No.: 54784-1

