

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O. 1990, c. S.5, AS AMENDED**

BETWEEN:

ONTARIO SECURITIES COMMISSION

Applicant

- and -

PETER SBARAGLIA, MANDY SBARAGLIA, CO CAPITAL GROWTH INC.
and 91 DAYS HYGIENE SERVICES INC.

Respondents

**MOTION RECORD
(Returnable June 23, 2011)**

Date: June 16, 2011

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Telephone: 905 617 4543

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Ms. Olivia Sbaraglia

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Attention: Mr. J. Thomas Curry
Mr. Paul-Erik Veel

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Sue Collings
Paul and Teresa Davis
Sesto DeLuca
Pamela DiGiacomo
Jeff Dixon
A. Fernandez/J. Paccione
Daniel Gervais
Sharan Golini
Fernando and Amanda Lombardi
John Marcassa
Gary McIntosh
June McIntosh
Rick McIntosh
Florene Moskovitz
Bruce Pynn
RS Capital
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Notice of Motion

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Court File No. CV-10-8883-00CL

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**PETER SBARAGLIA, MANDY SBARAGLIA, CO CAPITAL GROWTH
INC., and 91 DAYS HYGIENE SERVICES INC.**

Respondents

NOTICE OF MOTION

(Returnable: June 23rd, 2011)

Date: June 16, 2011

Peter Sbaraglia

E-mail: drmandy41a2yahoo.com

Telephone: 905 617 4543

The Plaintiff

The **RESPONDENTS** will make a motion to a judge of the Commercial List on Thursday, the 23rd day of June, 2011, at 10:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order approving the retention of the Respondents proposed counsel, Brauti Thorning Zibarras LLP in the amount of \$20,000.
2. An Order authorizing and directing the Receiver to make payments, in the sum of \$20,000, from the proceeds it currently holds to Brauti Thorning Zibarras LLP for the purposes of retention and;
3. Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. On the 23rd day of December, 2010, RSM Richter Inc. ("Richter") was appointed, pursuant to an Application by the Ontario Securities Commission for an Order pursuant to Section 129 of the *Securities Act*, R.S.O. 1990 c. S.5, as amended, Receiver over the assets, undertaking and properties of Peter Sbaraglia, Mandy Sbaraglia, (the "Sbaraglias"), CO Capital Growth Inc. and 91 Days Hygiene Services Inc.

2. On the 24th day of February, 2011, Peter Sbaraglia was informed that a hearing pursuant to Section 127(1) of the *Securities Act*, R.S.O. c. S.5., as amended (the "Act") was to be commenced on March 31, 2011 at the offices of the Ontario

Securities Commission, 20 Queen Street West, Toronto, Ontario,

3. Upon informing the Receiver of this through counsel, it was contemplated by all parties that the Respondent receive proper legal advice in respect of their rights and obligations.
4. Peter and Mandy Sbaraglia (“The Sbaraglias”) have pledged all of their real property assets to the Ontario Securities Commission.
5. The receiver is aware that the Sbaraglias are in a deficit position relative to income and expenses and have no money for legal fees.
6. The Respondents rely on clause 2(f) of the order of Mr. Justice G. Morawetz dated December 24th, 2011, which permits the Receiver to engage counsel to assist with the exercise of the Receiver’s powers and duties and Rules 1.04(1) and 1.04(2) the *Rules of Civil Procedure*. As expressed above, it was the view of the Receiver that it was advisable that Peter Sbaraglia retain independent counsel.
7. Such further and other grounds that this Honourable Court may deem just.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. Notice of hearing, dated the 24th day of February, 2011
2. Such further and other documentary evidence as this Honourable Court may permit.

Dated: June 13, 2011

Peter Sbaraglia

E-mail: drmandy41@yahoo.com

Telephone (905) 617 4543

The Respondent

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Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O. 1990, c.S.5, AS AMENDED**

- AND -

**IN THE MATTER OF
PETER SBARAGLIA**

**NOTICE OF HEARING
(Section 127)**

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to section 127 of the *Securities Act*, R.S.O., c. S.5., as amended (the "Act") at the offices of the Commission, 20 Queen Street West, Toronto, Ontario, 17th Floor, commencing on March 31, 2011 at 10:00 a.m. or as soon thereafter as the hearing can be held;

AND TAKE NOTICE that the purpose of the hearing is to consider whether it is in the public interest for the Commission to make an order that:

1. pursuant to clause 2 of subsection 127(1) of the Act, Peter Sbaraglia ("Sbaraglia") shall cease trading in securities permanently;
2. pursuant to clause 2.1 of subsection 127(1) of the Act, acquisition of any securities by Sbaraglia is prohibited permanently;
3. pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Sbaraglia permanently;

4. pursuant to clause 6 of subsection 127(1) of the Act, Sbaraglia is reprimanded;
5. pursuant to clause 7 of subsection 127(1) of the Act, Sbaraglia shall resign all positions he holds as a director or officer of an issuer;
6. pursuant to clause 8 of subsection 127(1) of the Act, Sbaraglia is permanently prohibited from becoming or acting as a director or officer of any issuer;
7. pursuant to clause 8.2 of subsection 127(1) of the Act, Sbaraglia is permanently prohibited from becoming or acting as a director or officer of a registrant;
8. pursuant to clause 8.4 of subsection 127(1) of the Act, Sbaraglia is permanently prohibited from becoming or acting as a director or officer of an investment fund manager;
9. pursuant to clause 8.5 of subsection 127(1) of the Act, Sbaraglia is permanently prohibited from becoming or acting as registrant, as an investment fund manager or as a promoter; and
10. to make such other order or orders as the Commission considers appropriate.

BY REASON of the allegations set out in the Statement of Allegations of Staff dated February 24, 2011 and such additional allegations as counsel may advise and the Commission may permit;

AND FURTHER TAKE NOTICE that any party to the proceeding may be represented by counsel if that party attends or submits evidence at the hearing;

AND TAKE FURTHER NOTICE that upon failure of any party to attend at the time and place, the hearing may proceed in the absence of the party and such party is not entitled to any further notice of the proceeding.

DATED at Toronto this 24th day of February, 2011.

A handwritten signature in black ink, appearing to be 'D. G. Cranha', written over a horizontal line.

Certified to be a true copy
Dated at Toronto this 24th day
of February, 2011
Daisy G. Cranha
Secretary
Ontario Securities Commission.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

ONTARIO SECURITIES COMMISSION

Applicant

-and-

PETER SBARAGLIA, MANDY SBARAGLIA, C.O. CAPITAL GROWTH INC, and,
91 DAYS HYGIENE SERVICES

Respondents

**AFFIDAVIT OF PETER SBARAGLIA
Sworn June 17, 2011**

I, Peter Sbaraglia , of the town of Oakville, in the Regional Municipality of Halton,

MAKE OATH AND SAY:

1. I make this affidavit in support of my motion requesting funds for my upcoming hearing at the Ontario Securities Commission (OSC)
2. Currently I have no other sources of income than those earned by my wife .
3. The funds requested are absolutely necessary for me to be represented by legal counsel at the OSC hearing.



A Commissioner of Oaths
For the Province of Ontario



PETER SBARAGLIA

