

Fighting Back Against Dishonestly-Obtained “HVAC Liens



Contributed by:

Dennis G. Crawford / Monteith Ritsma Phillips Professional Corporation

By now, most of us are all too familiar with what I call the [Ontario HVAC Scam](#).

Door-to-door salesmen, targeting mostly elderly and vulnerable homeowners and using deceptive marketing practices to get them to sign excessively one-sided rental agreements for HVAC equipment of dubious quality.

These rental companies rent out HVAC equipment at massively inflated prices. They then assign the rental contract to an associated financing company who registers a notice of security interest against the house, without telling the homeowner. When the homeowner goes to sell or refinance their house, they are shocked when their lawyer tells them about the notice of security interest. They are even more shocked when the finance company sends the payout statement, demanding payment of \$10,000.00, \$15,000.00, or even more. All to "buy out" a rental contract for an air conditioner or water softener, the retail value of which is no more than \$2,500.00. In many cases, this is after the homeowner has already paid thousands of dollars in rental fees before "buying out" the contract, which makes the disparity between fair retail value and the amounts charged even more obscene.

The finance company does not pluck these payout numbers out of the air. They choose the highest number that is still low enough that it would cost more to take them to court. Faced with the prospect of significant legal fees, homeowners usually stomach the bill and pay out the notice(s) of security interest. They end up handing over thousands of

dollars more than the equipment is worth to pay out contracts which were obtained through illegal marketing practices, all for home equipment which they likely didn't need in the first place.

This is an access to justice issue. It is not fair that vulnerable homeowners should be forced to pay \$15,000.00 to buy out

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a rental contract for an \$1,800.00 water softener just because going to court would cost even more. Vulnerable homeowners who are stuck in these unfavourable contracts have nowhere they can turn to for relief, because it simply costs too much money and takes too much time before seeing the inside of a courtroom.

Small Claims Court is not the answer either (even though the amounts at issue are usually less than \$35,000.00) because the Small Claims Court does not have the jurisdiction to order notices of security interest to be deleted from title.

What steps has the Government taken?

One of the last measures taken by the previous Liberal Government in Ontario was to ban door-to-door selling of most HVAC equipment, including furnaces, air conditioners, hot water heaters, and water softeners. The government was clear that this ban was designed specifically to target the Ontario HVAC Scam. This law came into effect on 1 March 2018 and, so far, all indications are that it is making hardly a dent in the prevalence of this scam. In the absence of serious enforcement measures, the ban on door-to-door selling of HVAC equipment has proved to be mostly toothless.

The current government has solicited comments on proposed changes to the *Consumer Protection Act, 2000* which would make it slightly easier for homeowners to have these "HVAC liens" deleted from title to the property in cases where the homeowner has cancelled the contract during the ten-day cooling-off period. These proposed changes have not been put before the legislature or before cabinet, and no timeline has been provided as to when they may be implemented.

If implemented, these changes to the law would still not do anything to make it harder for the financing companies to register the liens in the first place. To date, the government has done nothing to make it harder for finance companies to register a notice of security interest against real property. These companies can still register these notices without the homeowner's signature and they can still set the notices in whatever amount they want.

Banning door-to-door sales of HVAC equipment was a small victory for

vulnerable homeowners, and making it easier to delete these HVAC liens will help a little bit, but these changes go nowhere near far enough to shut down this predatory business model. For all the stories of heartbreak which have surfaced so far, the Ontario HVAC Scam has far from run its course. There are likely thousands of homes in Ontario with these HVAC liens. As these elderly homeowners move out of their houses and into long-term care, they and their children are going to be in for an unpleasant surprise when they try to sell the house. They will discover the HVAC lien(s), the finance company will hold up the sale of the house until they get paid, and the homeowners will wonder how so much of the equity in their house was eaten up by a rented water softener.

Dennis G. Crawford is one of the founding lawyers of OntarioHVACscam.com, which offers a cost-effective retainer to eligible homeowners to have "HVAC liens" deleted from their property.

Will Notices

Frances Carol Patience

Anyone knowing of a Last Will and Testament for Frances Carol Patience, born July 10, 1954 of London, Ontario, please contact Sandra Ellison at 519-933-329, email: sandraellison6@rogers.com.

Aileen Mary Munroe-Leis

Anyone knowing of a Last Will and Testament for Aileen Mary Munroe-Leis, born May 27, 1943, died June 17, 2021, last known residence 521 Piccadilly St., London, ON, please contact her son David Hartwick at 416-450-5117, email: thehartwickfamily@gmail.com. She also used variations of her names with either one or both of her last names and different orders to her first names.

Elizabeth Marie Ziegler

Anyone knowing of a Last Will and Testament for Elizabeth Marie Ziegler born August 30, likely in 1947, please contact Bruce Ziegler at 519-878-5417.

Deborah Ann Wilkins and John Norman Wilkins

Anyone knowing of a Last Will and Testament and Powers of Attorney for Property and Personal Care of Deborah Ann Wilkins and John Norman Wilkins prepared by E. Dixon Winder of London, Ontario and signed on November 3, 2000, please contact Kailey Dalgety at ph: 519-337-3847, kailey@santorolaw.com.

John Peter Cullis

Anyone knowing of a Last Will and Testament for John Peter Cullis, date of birth December 7, 1939, Birmingham, UK, died May 30, 2021 in London, Ontario, please contact Erin Rankin Nash at ph: 519-963-0162 ext. 6, email: erin@fplaw.ca.

Jack Laverne Campbell

Anyone having knowledge of a Will of the late Jack Laverne Campbell of the City of London in the County of Middlesex, Province of Ontario, who died on July 21, 2021, is requested to contact: Sara A. Nirta 239 Parkhill Main Street, Parkhill ON N0M 2K0, email: sara@nirtalaw.com, ph: 519-294-8888.

Anthony Steven Busija

Anyone having knowledge of a Will of the late Anthony Steven Busija, City of London, County of Middlesex, in the Province of Ontario, who died on June 19, 2021, is requested to contact Matthew Bota, Harrison Pensa LLP, 450 Talbot Street, P.O. Box 3237, London, ON N6A 4K3 Tel: 519-661-6752, Fax: 519-667-3362, Email: mbota@harrisonpensa.com

Dennis James Kachuik

Anyone knowing of a Last Will and Testament for Dennis James Kachuik, born April 21, 1962, and died May 9th, 2021, of London, Ontario, please contact Catherine Olsiak of SimpsonWigle LAW LLP at (905) 528-8411 or olsiak@simpsonwigle.com.

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