

ROCKINGHAM, SS.

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

STATE OF NEW HAMPSHIRE

vs.

MICHAEL P. FLYNN,
FLYNN'S OIL COMPANY, LLC
AND 94 PORTSMOUTH AVENUE TRUST

DOCKET NO. 09-E-0521

MOTION TO RELEASE REAL ESTATE ATTACHMENT

NOW COMES 94 Portsmouth Avenue Trust, by its attorneys, Bosen & Springer, PLLC, and petitions this Honorable Court to release the real estate attachment granted in the within matter on the following grounds:

1. The Plaintiff obtained an Ex Part Attachment in the amount of Two Million Dollars (\$2,000,000.00) on or about December 23, 2009.

2. The Plaintiff alleged that Michael P. Flynn and Flynn's Oil Company, LLC established a pattern of entering into pre-buy contracts for home heating oil and subsequently failed to deliver the oil in a timely manner.

3. The attachment obtained by the State extends to 94 Portsmouth Avenue Trust which is the owner of the real estate. 94 Portsmouth Avenue Trust leases the real estate to various tenants, one of which is Flynn's Oil Company

4. As landlord, 94 Portsmouth Avenue Trust is not responsible for the acts and practices of its tenant, Flynn's Oil Company, LLC.

5. For over the past nine (9) months, 94 Portsmouth Avenue Trust has been in negotiations with an unrelated third party over the use of the property located at 94 Portsmouth Avenue, Exeter, N.H. Recently, 94 Portsmouth Avenue Trust has entered into a letter of intent to sell the property. The sale is necessary to pay secured creditors of the trust.

WHEREFORE, 94 Portsmouth Avenue Trust respectfully prays that this Honorable Court make the following order:

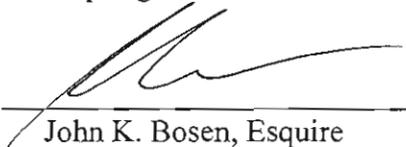
A. That the real estate attachment issued against 94 Portsmouth Avenue Trust be released;

B. And for such other and further relief as is just.

Respectfully submitted
94 Portsmouth Avenue Trust, Defendant,
By its attorneys,
Bosen & Springer, PLLC

Date: February 15, 2010

By: _____

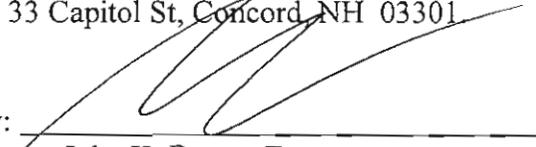

John K. Bosen, Esquire
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Portsmouth NH 03801
(603)427-5500

CERTIFICATE OF SERVICE

I hereby certify that a copy of the within Motion has been, this date, mailed, to Constance N. Stratton, Esquire, Sr. Asst Attorney General, 33 Capitol St, Concord NH 03301

Dated: February 17, 2010

By: _____


John K. Bosen, Esq.