



Innovation, Science and
Economic Development Canada

Office of the Superintendent
of Bankruptcy Canada

Innovation, Sciences et
Développement économique Canada

Bureau du surintendant
des faillites Canada

Canada

Fraud in the Context of Insolvency Proceedings

Office of the Superintendent of Bankruptcy Canada

CAIRP Exchange – Toronto 2025

Kirti Manek – Deputy Superintendent, Integrity & Enforcement
Eric Belanger – Manager, Ontario SIU

Special Investigation Units (SIU)

- Three SIU teams;
 - Eastern Region
 - Ontario Region
 - Western Region
- Managers and investigators usually have policing or enforcement backgrounds (most former RCMP)

BIA & Criminal Investigations

- S. 10(1) – Superintendent's authority for investigation of offences
- Ss. 198-208 refer to offences
- S. 208 (limitation period for prosecution) – criminal investigations determined on a case-by-case basis with this in mind
- Activities that may initiate criminal investigations
 - Debtor Compliance Referrals
 - Other sources: complaints, Trustee Compliance, Major Cases, internal intelligence
- Depending on the situation, potential misconduct may be investigated by the OSB's Special Investigation Units (SIUs), the RCMP or other law enforcement agencies

Possible Charges

- 198(1)a): Fraudulent disposition of property (*Criminal Code* 392: Disposal of property to defraud creditors)
- 198(1)b): Refuses or neglects to answer fully and truthfully during examination (*Criminal Code* 131: Perjury)
- 198(1)c): Makes a false entry or material omission in a statement or accounting (*Criminal Code* 366: Forgery)
- 198(1)d): Conceals, destroys, falsifies... a book or document relating to the bankrupt's affairs (intent)... **after or within 1 year**

Possible Charges

- 198(1)e): Obtains credit by false representations... **after or within 1 year** →
(*Criminal Code* 362: Obtains credit by false pretence)
- 198(1)f): Conceals or removes any property of a value of \$50 or more... **after or within 1 year**
- 198(1)g): Hypothecates or pawns any property obtained on credit and has not paid for... **after or within 1 year**

Summary Conviction: $\leq \$5\ 000$ and/or ≤ 1 year

Indictment: $\leq \$10\ 000$ and/or ≤ 3 years

Possible Charges

- 198(2): Failure to Comply with the Duties of a Bankrupt (BIA 158)
 - Make discovery of and deliver all property to the LIT
 - Deliver to the LIT all books, records, documents... relating to their property or affairs
 - Attend before Official Receiver for examination under oath
 - Etc.

Summary Conviction: $\leq \$5\ 000$ and/or ≤ 1 year

Indictment: $\leq \$10\ 000$ and/or ≤ 3 years

Who are the victims / stakeholders?

- Victims usually creditors
 - Financial institutions
 - Revenue Quebec/Canada Revenue Agency
 - Third parties
- Other stakeholders in criminal investigations
 - Witnesses
 - PPSC, MAG
 - RCMP, municipal/provincial police

RCMP and other LEA

- Criteria used by SIU to refer to other law enforcement agencies:
 - Complex investigation
 - Organized crime or National Security
 - Specialized Investigative Techniques
 - Criminal allegations against a LIT
- Challenges:
 - Capacity Issues
 - Competing priorities (border, fentanyl, immigration, etc.)

Public Prosecution Service of Canada (PPSC)

- Criteria used by PPSC for prosecution:
 - Public Interest
 - Burden of proof
 - Charter Protections
 - Capacity
 - Priorities
- Challenges:
 - Building relationships amid regional structure

OSB Information

- **Website**

- Protecting the public—
Bankruptcy abuse and fraud
- Criminal case summaries
- Debtor Compliance Referral
Program

2025

2024

2023

2022

2021

2020

2019

2018-2009

Criminal/penal case **New**

Court No.: 760-73-001462-221

OSB No.: 41-2415421

Background

On the date of their bankruptcy, the bankrupt reported unsecured liabilities of \$167,414. The bankrupt attributed their bankruptcy to credit use for living expenses and gambling. Within a three month period before the bankruptcy the bankrupt incurred over \$195,385 in debt on 10 credit cards. The bankrupt obtained seven cash advances for a total of over \$96,546 and made extravagant purchases, primarily of precious jewels, totaling over \$106,510. These transactions were made possible in part due to 19 NSF cheques totaling \$222,159. The bankrupt made false representations when obtaining credit.

Summary of offences of the bankrupt

- The bankrupt made a fraudulent disposition of the bankrupt's property before the date of the initial bankruptcy event.
- The bankrupt defrauded, by deceit, falsehood or other fraudulent means, credit card companies of varying amounts of money.

Court decision

The bankrupt was found guilty of one count under the *Criminal Code*, and was sentenced to a term of imprisonment to be served in the community for a period of 24 months, followed by a one-year probation period and 100 hours of community service.

How can LIT's Contribute to Effective SIU Enforcement Efforts?

a) Keep **detailed records/notes** of the insolvency filing. Investigators must establish the facts and events with as much accuracy as possible:

- ☐ When did the debtor contact the LIT
- ☐ How many times did the LIT communicate (in-person, telephone, email, letter) with the debtor
- ☐ What was said during communications
- ☐ What documents did the debtor provide, or fail to provide
- ☐ How was his/her identity established
- ☐ What credit cards did the debtor hand over for destruction
- ☐ How was the debtor informed of his/her obligations pursuant to section 158 (ex: verbally, signed document, email, etc.)
- ☐ Claims Register and Proofs of Claim
- ☐ Documents relating to income/employment
- ☐ Etc.

How can LIT's Contribute to Effective OSB/SIU Enforcement Efforts?

- b) Make yourselves available for witness interviews and review the file before to jog your memory
- c) Provide detailed file in a timely manner when a production order is sent
- d) Familiarize with the different pathways to file a complaint with the OSB

*** It's important to emphasize that the LIT's role is **NOT** to seek out evidence to support criminal enforcement, nor is it the OSB's on the compliance side. ***

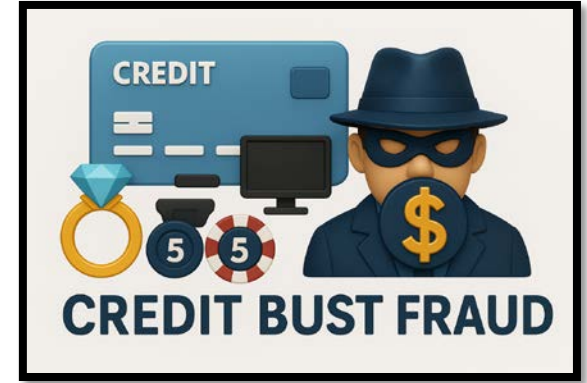
Quiz – Question #1

Which of the following constitute commonly observed fraud schemes in insolvency proceedings? (*Select all that apply*)

- A. Credit Bust (or Bust Out): Incurring large amounts of debt (e.g., maxing out credit cards or loans) just before filing for bankruptcy, with no intent to repay.
- B. Asset Concealment: Hiding assets or failing to report them in bankruptcy filings.
- C. Pyramid (or Ponzi) Scheme: Investment fraud that pays returns to earlier investors using new investors' money.
- D. Vehicle Export Fraud: Sending fraudulently obtained vehicles overseas using shipping containers.

Question #1 Answers

A. Credit Bust (or Bust Out): Incurring large amounts of debt (e.g., maxing out credit cards or loans) just before filing for bankruptcy, with no intent to repay.



- ✓ Yes: The most common.
- ✓ In the most egregious of cases, the amount of the fraud can be well over \$1 million.
- ✓ The funds are most often utilized for jewelry, electronic products, luxury vehicles, home renovations, trips, casinos, cash advances and/or bank drafts or wire transfers to family and friends both in Canada and overseas.
- ✓ May involve criminal organizations who “coach” the debtors.

Question #1 Answers

B. Asset Concealment: Hiding assets or failing to report them in bankruptcy filings.

✓Yes

✓Most often involves real estate or vehicles that have been transferred to family prior to the filing, or just omitting to declare assets (ex: investments) to the LIT.



Question #1 Answers

C. Pyramid (or Ponzi) Scheme: Investment fraud that pays returns to earlier investors using new investors' money.

X No. Ponzi schemes are fraudulent activities that typically occur for many years prior to the insolvency. Without other BIA offences, these would be investigated by other law enforcement agencies.

D. Vehicle Export Fraud: Sending fraudulently obtained vehicles overseas using shipping containers.

X No. Typically these criminal activities are not related to the insolvency. On occasion, however, credit bust investigations have uncovered evidence that luxury vehicle financing was fraudulently obtained and vehicles had been sent overseas. SIU does not investigate the export fraud component.



Red Flags*



Credit Bust	Asset Concealment	Vehicle Export
Large number of credit accounts	Discrepancy between the SOA and Claims register	Luxury vehicle financing liability
Modest income	Specialized industrial equipment liabilities	Lost or stolen vehicle
Involvement of 3 rd persons	Failed business owner with no business assets (ex: machinery, refrigeration)	
Balance over credit limit		
NSF cheques		
Gambling problems		
Unable to explain ("don't remember") or vague answers ("a guy named John")		
* From an investigator's point of view		

Quiz – Question #2

Which of the following constitute commonly observed fraud schemes in insolvency proceedings? *(Select all that apply)*

- A. Transfer at Undervalue: Selling or gifting assets for less than market value to related parties before filing.
- B. False Pretence: Obtaining credit by declaring false income.
- C. Cheque Kiting: Using bounced cheque payments (NSF) and the bank cheque compensation delays to create artificial credit availability, followed by new purchases before the payments are reversed.
- D. Counterfeit Cheques: fraudulent imitation of a legitimate cheque, created with the intent to deceive a financial institution into accepting it as valid and releasing funds.

Question #2 Answers

A. Transfer at Undervalue: Selling or gifting assets for less than market value to related parties before filing.

- ✓ Yes, very common
- ✓ Related to hidden assets
- ✓ Most often, debtors will transfer property or vehicles to family.
- ✓ Also often seen... Jewelry, smart phones, electronics, furniture, etc.



Question #2 Answers

B. False Pretences: Obtaining credit by declaring false income.

- ✓ Yes, if 1 year before or after, very common
- ✓ Debtor signs a credit application stating that their income is significantly higher than in reality
- ✓ Often provides an employment letter fraudulently stating their income with contact information leading to an accomplice who poses as their manager and who verbally confirms the false employment information on the phone
- ✓ Often provides altered documents (T4's, bank account statements, pay stubs, etc.) to the FI to obtain significant credit





H.S. DEMENAGEMENT INC.

MOVING, TRANSPORTATION & COURIER SERVICES

Date: 28-07-2014

To Whom It May Concern

This is to certify that Mr. [REDACTED] has been working in our company since 14th January, 2011 till today. He is our permanent employee and working full time as a Truck Driver in the company. His gross salary per year is \$72,000. His payroll is due every two weeks.

Should any one require further information for the above mentioned person, please contact me without any hesitation:

President

514 [REDACTED]

1-647- [REDACTED]

[REDACTED] DOLLARD-DES ORMEAUX, QUEBEC. [REDACTED]

Summary of your account for this period

RBC Day to Day Banking [REDACTED] 9432

Royal Bank of Canada

Your opening balance on August 23, 2017	\$336.19
Total deposits into your account	+ 12,351.66
Total withdrawals from your account	- 11,340.22
Your closing balance on September 22, 2017	= \$1,347.63

Details of your account activity

Date	Description	Withdrawals (\$)	Deposits (\$)	Balance (\$)
	Opening Balance			336.19
31 Aug	Loan VERS PRT BRC		1,170.00	1,506.19
1 Sep	ATM deposit - MF974633		254.73	1,760.92
	ATM transfer - MF974634	300.00		
	Loan interest	145.53		1,315.39
5 Sep	Solidarity Tax Credit GOUV. QUEBEC		69.75	1,385.14
8 Sep	ATM deposit - MD646944		10,407.61	11,792.75
	Loan LOAN PAYMENT	438.91		
	ATM payment - 6945 TELUS MOBILITY	93.71		11,260.13
11 Sep	Insurance Intact Assur.	69.78		11,190.35
15 Sep	ATM loan payment - MF613534	10,000.00		
	ATM payment - 3531 SELECTCOM TELECOM	3.70		
	ATM payment - 3533 HYDROSOLUTION	32.97		
	ATM payment - 3532 VIDEOTRON	36.80		1,116.88
22 Sep	ATM deposit - MD649551		367.62	1,484.50
	Insurance Intact Assur.		81.95	
	ATM payment - 9552 HYDRO QUEBEC	114.82		

1 of 2



Royal Bank

December 5, 2017

RBC Day to Day Banking™ (9432)



Current Balance \$36,149.98
Available Balance \$36,149.98

Authorized Overdraft \$0.00

Savings, CAD

Transactions Activity from Sep 01 to Sep 30, 2017

DATE	DESCRIPTION	WITHDRAWALS	DEPOSIT	BALANCE
Sep 28, 2017	Insurance SUN LIFE	-\$129.34		\$26,376.05
Sep 22, 2017	Monthly fee	-\$4.00		\$26,505.39
Sep 22, 2017	ATM payment - 9553 VISA ROYAL BNK	-\$100.00		
Sep 22, 2017	Interac - 9552 WALMART	-\$114.82		
Sep 22, 2017	Insurance Intact Assur.		\$81.95	
Sep 22, 2017	BR - deposit - 2819		\$3,016.72	
Sep 15, 2017	ATM payment - 3532 VIDEOTRON	-\$36.80		\$23,625.54
Sep 15, 2017	Interac purchase - 4669 SHOPPERS DRUG M	-\$32.97		
Sep 15, 2017	ATM payment - 3531 SELECTCOM TELECOM	-\$3.70		
Sep 15, 2017	ATM loan payment - MF613534	-\$100.00		
Sep 11, 2017	Insurance Intact Assur.	-\$69.78		\$23,799.01
Sep 01, 2017	Loan interest	-\$145.53		\$21,315.39
Sep 01, 2017	ATM transfer - MF974634	-\$300.00		
Sep 01, 2017	ATM deposit - MF974633		\$254.73	

Question #2 Answers

- C. Cheque Kiting: Using bounced (NSF) cheque payments and the bank cheque compensation delays to create artificial credit availability, followed by new purchases before the payments are reversed.
 - D. Counterfeit Cheque: fraudulent imitation of a legitimate cheque, created with the intent to deceive a financial institution or recipient into accepting it as valid and releasing funds.
- ✓ Yes, if 1 year before or after, both very common
 - ✓ Used to “turbo boost” credit busts by going over the authorized credit limits on credit cards
 - ✓ Debtors can use cheques from their accounts, from 3rd party accounts, from closed accounts or counterfeit cheques indicating accounts that don't exist



Cheque Kiting - Example

RETURN ITEM	
From Member: CONEXUS CREDIT UNION	
71928-889	70022248
To Member: NATIONAL BANK OF CANADA	
40401-006 Date (MM-DD-YYYY):	05-30-2017
Amount/Montant:	89220.00
Currency:	CAD
Reason: CANNOT TRACE	
Raison: COMPTE INTROUVABLE	

[REDACTED] LAW CORPORATION	
001021	
22 / 05 / 2017 DD MM YYYY	
PAY TO THE ORDER OF	NATIONAL BANK OF CANADA
EIGHTY NINE THOUSAND TWO HUNDRED AND TWENTY ONLY *****\$**89,220.00 CANADIAN DOLLAR	
RE CARD NO-5258-[REDACTED]-4224	PER [Signature] BARNETT LAW CORPORATION
001021 71928-889 40401-1771 0008922000	

N° DE COMPTE
ACCOUNT NO.

5258

SOLUTIONS MASTERCARD /
MASTERCARD SOLUTIONS
100, RUE DE LA GAUCHETIÈRE OUEST
BUREAU 1047-4
MONTREAL (QUEBEC) H3B 5B1

PAGE

1

SOLDE PRÉCÉDENT
PREVIOUS BALANCE

\$356.41

TRANSACTION MO. J.-D.	REFERENCE	PORTÉ AU RELEVÉ POSTED MO. J.-D.	DESCRIPTION	DEBITS / CREDITS
05 30 06 12	A802700327 I163015519	06 05 06 12	A PAYMENT REVERSAL PAYMENT PROTECTION 1-877-871-7500 5258 952512 684234	89220.00 107.91
05 17 05 26 05 26 05 30 05 30 05 30 05 31 05 31	U407087320 FG14600804 2727844580 0600002093 0612422833 0612422834 U834529806 Z062477364	05 18 05 26 05 26 05 30 05 30 05 30 06 01 06 01	SUPER C [REDACTED] ATM CASH ADVANCE - NBC GUICHET JOUR ET NUIT DAY AND NIGHT PAYMENT RECEIVED THANK YOU! PAYMENT RECEIVED THANK YOU! PAYMENT RECEIVED THANK YOU! WWW.707LIKES.COM 4166629282 ON MALABAR GOLD & DIAMOND SINGAPORE SGP 40066.17 ORIGINAL AMOUNT IN SGD FUNDS 40300.00	54.79 3.50 50.00 89220.00 50.00 50.00 520.00
05 31 05 31 05 31 06 04	Z062477366 Z062477368 Z062477368 U834523822	06 01 06 01 06 01 06 06	MALABAR GOLD & DIAMOND SINGAPORE SGP 43635.36 ORIGINAL AMOUNT IN SGD FUNDS 43890.00 MALABAR GOLD & DIAMOND SINGAPORE SGP 4722.44 ORIGINAL AMOUNT IN SGD FUNDS 4750.00 WWW.707LIKES.COM 4166629282 ON FINANCE CHARGE	520.00 0.06
* * * * *				
YOU HAVE EXCEEDED YOUR CREDIT LIMIT. IF YOU HAVE NOT ALREADY DONE SO, PLEASE PAY THE AMOUNT DUE AS SOON AS POSSIBLE. MEANWHILE, DO NOT USE YOUR CARD(S) FOR PURCHASES OR TRANSACTIONS. THANK YOU.				
TAUX D'INTÉRÊT / ACHATS INTEREST RATE / PURCHASES		TAUX D'INTÉRÊT - AVANCES DE FONDS INTEREST RATE - CASH ADVANCES		
19.99 %		05.90 %		
PÉRIODE DU RELEVÉ STATEMENT PERIOD		DATE DU RELEVÉ STATEMENT DATE		
17/05/15 to 17/06/12		17/06/12		
TRANSACTIONS	SOLDE PRÉCÉDENT PREVIOUS BALANCE	+ TRANSACTIONS DU MOIS MONTHLY TRANSACTIONS	+ INTÉRÊTS INTEREST	+ FRAIS FEES
ACHATS / AUTRES PURCHASES / OTHER	356.41	178,326.67	0.00	3.50
AVANCES DE FONDS CASH ADVANCES	0.00	50.00	0.06	50.00
TOTAL	356.41	178,376.67	0.06	3.50
				89,840.00
				88,896.64
LIMITES DE CRÉDIT INCLUANT AVANCES DE FONDS CREDIT LIMIT	500	LIMITES POUR AVANCES DE FONDS CASH ADVANCES CREDIT LIMIT	450	TEMPS ESTIMÉ POUR RÉGLER LE SOLDE SI VOUS NE FAITES QUE LE PAIEMENT MINIMUM (VOIR VERSO) ESTIMATED TIME TO REPAY THE BALANCE IF ONLY THE MINIMUM PAYMENT IS MADE (SEE REVERSE)
				6 YEARS AND 5 MONTHS

NSF cheque

Purchases made
possible by kiting
schemeNew balance
Credit limit

Case Study

Kiting:

- Nineteen (19) NSF cheques totaling \$222,000
- Many cheques were drawn from the debtor's accounts, but contained different signatures
- Most cheques were deposited in the GTA
- One of the cheques was deposited in Calgary



Red Flags

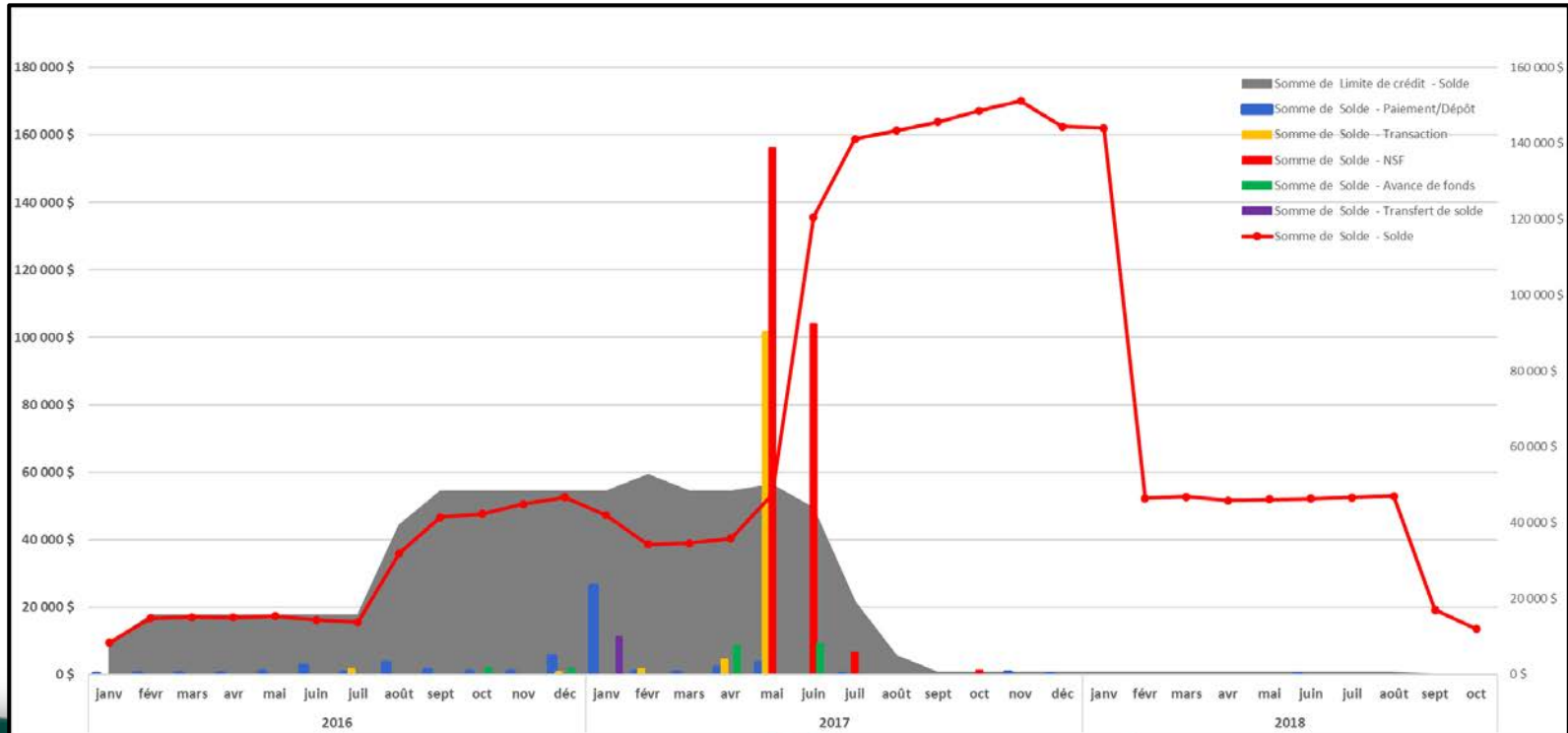


Transfer at Undervalue	False Pretence	Cheque Kiting	Counterfeit Cheques
Consumer financing plans (The Brick, Best Buy, etc.)	Large number of credit products	Liabilities which exceed the credit limit	
Recently sold property	Modest income		
Unable to explain what happened to assets			

Forensic Accounting

Type	Date	Month / Year	Account	Balance	Credit Limit	Source
Balance	2017-08-23	2017-08-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	\$659.19	\$7,000	2022PAC002-2 item 7 (Page 1)
Transaction	2017-08-12	2017-08-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	\$878.40	N/A	2022PAC002-2 item 7 (Page 1)
Transaction	2017-08-12	2017-08-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	\$459.88	N/A	2022PAC002-2 item 7 (Page 1)
Payment	2017-08-12	2017-08-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	\$935.89	N/A	2022PAC002-2 item 7 (Page 1)
Balance	2017-09-23	2017-09-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	\$573.66	\$7,000	2022PAC002-2 item 7 (Page 4)
Payment	2017-09-15	2017-09-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	\$100.00	N/A	2022PAC002-2 item 7 (Page 4)
Balance	2017-10-23	2017-10-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	\$507.06	\$7,000	2022PAC002-2 item 7 (Page 7) 2022PAC002-2 item 9 (Page 1) 2022PAC002-2 item 11 (Page 1) 2022PAC002-2 item 10 (Page 1)
Payment	2017-09-29	2017-09-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	\$75.00	N/A	2022PAC002-2 item 7 (Page 7)
Payment	2017-11-02	2017-11-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	\$50.00	N/A	2022PAC002-2 item 7 (Page 9)
Payment	2017-11-17	2017-11-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	\$457.06	N/A	2022PAC002-2 item 7 (Page 9) 2022PAC002-2 item 9 (Page 3)
Balance	2017-11-23	2017-11-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	\$6.25	\$7,000	2022PAC002-2 item 7 (Page 9) 2022PAC002-2 item 9 (Page 3)
Payment	2017-12-06	2017-12-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	\$6.25	N/A	2022PAC002-2 item 7 (Page 11)
Balance	2018-06-23	2018-06-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	-	\$7,000	2022PAC002-2 item 8 (Page 1)
Balance	2017-12-23	2017-12-01	BMO Mastercard #5191-XXXX-XXXX-XXXX	-	\$7,000	2022PAC002-2 item 7 (Page 11) 2022PAC002-2 item 9 (Page 5)
Balance	2018-06-13	2018-06-01	Capital One #5160-XXXX-XXXX-XXXX	\$1,217.78	\$9,000	2022PAC002-5 item 9 (Page 17)
Cash Advance	2017-02-24	2017-02-01	Canadian Tire #5446-XXXX-XXXX-XXXX	\$503.00	N/A	2022PAC002-6 item 5 (Page 3)
Cash Advance	2017-03-01	2017-03-01	Canadian Tire #5446-XXXX-XXXX-XXXX	\$503.00	N/A	2022PAC002-6 item 5 (Page 3)
Cash Advance	2017-03-23	2017-03-01	Canadian Tire #5446-XXXX-XXXX-XXXX	\$503.00	N/A	2022PAC002-6 item 5 (Page 5)
Cash Advance	2017-04-20	2017-04-01	Canadian Tire #5446-XXXX-XXXX-XXXX	\$503.00	N/A	2022PAC002-6 item 5 (Page 7)
Balance	2018-03-13	2018-03-01	Capital One #5160-XXXX-XXXX-XXXX	\$5,088.62	\$9,000	2022PAC002-5 item 9 (Page 23)
Balance	2018-06-11	2018-06-01	Desjardins #4530-XXXX-XXXX-XXXX	\$324.08	\$200	2022PAC002-7 item 18 (Page 12)
Cash Advance	2017-05-05	2017-05-01	Canadian Tire #5446-XXXX-XXXX-XXXX	\$503.00	N/A	2022PAC002-6 item 5 (Page 8)

Forensic Accounting



Canada 