

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

GARY STEVENS, LINDA STEVENS and 1174365 ALBERTA LTD.

Applicants

-and-

SANDY HUTCHENS, also known as SANDY CRAIG HUTCHENS, also known as S. CRAIG HUTCHENS, also known as CRAIG HUTCHENS, also known as MOISHE ALEXANDER BEN AVROHOM, also known as MOISHE ALEXANDER BEN AVRAHAM, also known as MOSHE ALEXANDER BEN AVROHOM, also known as FRED HAYES, also known as FRED MERCHANT, also known as ALEXANDER MACDONALD, also known as MATHEW KOVCE, also known as ED RYAN, and TANYA HUTCHENS, also known as TATIANA HUTCHENS, also known as TATIANA BRIK, also known as TANYA BRIK-HUTCHENS

Respondents

**FIRST REPORT OF THE RECEIVER
(VOLUME 1 of 2)**

March 15, 2019

NAYMARK LAW

171 John Street
Suite 1800
Toronto ON M5T 1X3

Daniel Naymark

Tel: (416) 640-6078
Fax: (647) 660-5060
dnaymark@naymarklaw.com

Terrence Liu

Tel: (416) 640-2256
Fax: (647) 660-5060

tliu@naymarklaw.com

*Lawyers for A. Farber & Partners Inc.,
the Court-Appointed Receiver*

TO: **NECPAL LITIGATION PROFESSIONAL CORPORATION**

171 John Street, Suite 101

Suite 101

Toronto, ON M5T 1X3

Justin Necpal (LSO#: 56126J)

Tel: (416) 646-2920

Fax: 1 (866) 495-8389

justin@necpal.com

Anisah Hassan (LSO#: 656919L)

Tel: (416) 646-1018

ahassan@necpal.com

Lawyers for the Applicant

AND TO: **MASON CAPLAN ROTI LLP**

350 Bay Street

Suite 600

Toronto, ON M5H 2S6

Gary M. Caplan

Tel: (416) 596-7796

Fax: (855) 880-6271

gcaplan@mcr.law

Lawyers for Sandy Hutchens

AND TO: **DONNELLY MURPHY LAWYERS P.C.**

18 Courthouse Square

Godfrich, ON N7A 1M3

Phil J. Smith

Tel: (519) 524-2154 ext. 310

Fax: (905) 523-5878

psmith@dmlaw.ca

Lawyers for Tanya Hutchens

AND TO: **MOLDAVER BARRISTERS**

1608-365 Bloor Street East,
Toronto, ON M4W 3L4

Brett Moldaver

Tel: (416) 238-4123

Fax: (416) 929-9604

brett@moldaverbarristers.com

Lawyers for Adroit Advocacy LLC

AND TO: **FLETT BECCARIO**

Barristers & Solicitors
190 Division Street, P. O. Box 340
Welland, Ontario L3B 5P9

Anthony D'Amico

Tel: (905) 732-4481

Fax: (905) 732-2020

adamico@flettbeccario.com

Lawyers for Meridian Credit Union Limited

AND TO: **SISKINDS LLP**

680 Waterloo Street
P.O. Box 2520
London, ON N6A 3V8

Daniel MacKeigan

Tel: (519) 660-7852

Fax: (519) 660-7853

dan.mackeigan@siskinds.com

Cole Vegso

Tel: (519) 660-7755

Fax: (519) 660-7756

cole.vegso@siskinds.com

Lawyers to CGC Holding Company, LLC,

Harlem Algonquin LLC,

James T. Medick

AND TO: **MILLER THOMSON LLP**

100 New Park Place
Suite 700
Vaughan, ON L4K 0H9

Bobby Sachdeva

Tel: (905) 532-6670

Fax: (905) 660-0139

bsachdeva@millerthomson.com

James Zibarras

Tel: (416) 595-2998

jzibarras@millerthomson.com

Lawyers for JBD Hutchens Family Holdings Inc. aka JBD Hutchens Family Holdings Inc.,

29 Laren Street Inc.,

3415 Errington Avenue Inc.,

367-369 Howey Drive Inc.,

3419 Errington Avenue Inc.,

17 Serpentine Street Inc.,

720 Cambrian Heights Inc.,

331 Regent Street Inc.,

789 Lawson Street Inc.,

110-114 Pine Street Inc.,

15-16 Keziah Court Inc.,

193 Mountain Street Inc.,

625 Ash Street Inc. and

364 Morris Street Inc.

146 Whittaker Street Inc.

Table of Contents

INTRODUCTION	8
PURPOSE OF THE FIRST REPORT	8
DISCLAIMER	8
BACKGROUND	9
A. The Parties	9
B. The Pennsylvania Action and Judgments	9
C. The Colorado Action	10
IDENTIFIED ASSETS	11
A. Real Property in Schedule B of the IR Order	11
B. Potential New Assets Identified by the Receiver	12
OVERVIEW OF THE ACTIVITIES OF THE RECEIVER	14
REQUESTS FOR INFORMATION, RECORDS, AND EXAMINATION	14
A. The Applicants	15
B. Sandy Hutchens	16
C. Tanya Hutchens	19
D. The Companies	22
E. Colorado Plaintiffs	23
F. Hutchens Accountant	24
G. Mortgagee Law Firm	24
H. Realtors	25
I. Financial Institutions	27
REVIEW OF REAL ESTATE ASSETS	28
A. Greater Sudbury Area	29
B. Thornhill/ Innisfil	34
FURTHER WORK AND OBSTACLES	35

LIST OF APPENDICES

- 1 Order of Justice Penny dated February 28, 2019
- 2 U.S. District Court for the Eastern District of Pennsylvania Order for default judgment entered on October 11, 2018
- 3 U.S. District Court for the Eastern District of Pennsylvania Order for default judgment entered on December 19, 2018
- 4 Amended Federal Complaint dated March 15, 2018
- 5 Colorado District Court judgment dated July 16, 2018
- 6 Pleadings in the Colorado Enforcement Action
- 7 Letter from counsel for the Colorado plaintiffs dated January 31, 2019
- 8 Table of known real estate dispositions made by the Companies between 2008 and 2018
- 9 Table summarizing the estimated values, mortgage charges, estimated equity and CPLs
- 10 Table listing the addresses and estimated value of each Additional Property
- 11 Interim Receiver's letter to counsel for the Applicants, dated March 6, 2019
- 12 Applicants' letter to the Interim Receiver, dated March 12, 2019
- 13 Interim Receiver's letter to Sandy Hutchens, dated March 6, 2019
- 14 Email response from Sandy Hutchens' counsel regarding scheduling conflicts, dated March 8, 2019
- 15 Email response from Sandy Hutchens' counsel regarding information and document request, dated March 8, 2019
- 16 Email response from Tanya Hutchens' counsel regarding March 6 inquiries, dated March 11, 2019
- 17 Email exchange of March 12, 2019 between Tanya Hutchens' counsel and the Interim Receiver
- 18 Email from Tanya Hutchens' counsel with attachments, dated March 13, 2019

- 19 Interim Receiver's letter to Tanya Hutchens' counsel, dated March 13, 2019
- 20 Email from Tanya Hutchens' counsel to the Interim Receiver, dated March 14, 2019
- 21 Interim Receiver's letter to the Companies, dated March 6, 2019
- 22 Email response of the Companies' counsel to the Interim Receiver, dated March 11, 2019
- 23 Interim Receiver's letter to counsel for the plaintiffs in the Colorado Enforcement Action, dated March 6, 2019
- 24 Cover letter from the Colorado plaintiffs to the Interim Receiver (without attachments), dated March 12, 2019
- 25 Letter from the Interim Receiver to Murray Posner, dated March 6, 2019
- 26 Letter from the Interim Receiver to counsel for Adroit Advocates, LLC, dated March 6, 2019
- 27 Letter from the Interim Receiver to KEB Hanna Bank, dated March 11, 2019
- 28 Letter from the Interim Receiver to Meridian Credit Union, dated March 11, 2019
- 29 Letter from the Interim Receiver to Buduchnist Credit Union, dated March 11, 2019
- 30 Purview (Teranet) broker report for 193 Mountain Street, Sudbury, Ontario
- 31 Email correspondence between Tanya Hutchens' lawyer to a lawyer the Receiver infers to have acted for Bank of Montreal with respect to the Laren Property, dated November 6, 2015

INTRODUCTION

1. On February 28, 2019, Justice Penny appointed A. Farber & Partners Inc. as interim receiver (“**Farber**” or the “**Receiver**”) until March 18, 2019 (the “**IR Order**”). A copy of the IR Order is attached at **Appendix 1**.

2. Specifically, the IR Order appoints Farber interim receiver, without security, of all the assets undertakings and properties of Sandy Hutchens, Tanya Hutchens, and the entities referred to in Schedule “A” of the IR Order (the “**Debtors**”), including the real property referred to in Schedule “B” of the IR Order, acquired for or used in relation to a business carried on by the Debtors, including all proceeds thereof.

PURPOSE OF THE FIRST REPORT

3. The Receiver files this first report (the “**First Report**”) in order to advise the Court and the parties of (a) the activities of the Receiver since its appointment February 28, 2019; and (b) the status of information request and findings to date.

DISCLAIMER

4. In preparing this First Report, the Receiver has relied upon the unaudited, draft and/or internal financial and other information provided by the Debtors, their advisors, and other third-party sources. Farber has not independently reviewed or verified such information. The Receiver has prepared this First Report for the sole use of the Court and of the other stakeholders in these proceedings. The Receiver assumes no responsibility or liability for loss or damage occasioned by any party as a result of the circulation, publication, re-production or use of this First Report. Any use which any party, other than the Court, makes of this First Report or any reliance on or a decision made based upon it is the responsibility of such party.

BACKGROUND

A. The Parties

5. The individual Applicants, Gary and Linda Stevens, are residents of Mayerthorpe, Alberta. The corporate Applicant, 1174365 Alberta Ltd., is an Alberta corporation, of which Gary and Linda are the sole shareholders.

6. The Respondents, Sandy Hutchens (“**Sandy**”) and Tanya Hutchens (“**Tanya**”, together with Sandy, the “**Hutchens**”). The United States District Court for the Eastern District of Pennsylvania has found the Hutchens liable to the Applicants for fraud in the amount of US\$26,774,736.09, pursuant to orders for default judgment entered on October 11, 2018 and December 19, 2018 (together the “**Pennsylvania Judgments**”, and attached at **Appendices 2 and Appendix 3**, respectively).

7. The Applicants have brought this Application for foreign recognition and enforcement of the Pennsylvania Judgments in Ontario, and for the appointment of a receiver in aid of enforcement.

B. The Pennsylvania Action and Judgments

8. In their Pennsylvania District Court action, the Applicants alleged that the Hutchens created and controlled a company, Westmoreland Equity Fund, LLC, which issued commitments for mortgage loans to prospective borrowers that it had neither the capacity nor intention to fund. Prospective borrowers were required to pay advance fees as a condition for closing. Once the loan application process was far enough along, Westmoreland would find fault with the loan application, impose additional terms, and often require additional fees. Westmoreland would invariably find that the prospective borrower had failed to abide by these new terms and terminate

the loan application process. Upon termination of the loan application, Westmoreland would keep all the monies advanced (the “**Loan Fraud**”).

9. The District Court did not make factual findings in entering the Pennsylvania Judgments as the case proceeded by way of default. However, it concluded that the fraud claim was meritorious (*i.e.*, would support recovery if established at trial), that no *bona fide* defence had been raised by the Hutchens, and that their evidence of “innocence” was “clearly fraudulent”.¹ The allegations of fraud against the Hutchens are detailed in the Amended Federal Complaint, dated March 15, 2018 (attached at **Appendix 4**).

10. The Hutchens are attempting to appeal the Pennsylvania Judgments, but the Receiver understands that there is some dispute regarding the timeliness of their appeals. It does not know at this time whether those issues have been resolved.

C. The Colorado Action

11. On May 1, 2017, a unanimous jury of the United States District Court for the District of Colorado found the Hutchens, as well as their daughter, Jennifer Hutchens, liable in a class action for a similar fraudulent scheme to the Loan Fraud, during an earlier period of time (the “**Colorado Class Action**”). The jury awarded class members compensatory damages in the amount of US\$8,421,367.00. On July 16, 2018, the Colorado District Court awarded treble damages, attorneys’ fees, costs of bringing suit, pre-judgment interest, and post-judgment interest in the total amount of US\$24,239,101.00 (the “**Colorado Judgment**”, attached at **Appendix 5**). The

¹ Pennsylvania Judgment, dated December 19, 2018, at p.10

Colorado Judgment also imposed a constructive trust over various properties in Ontario. It is currently under appeal to the Tenth Circuit Court.

12. The plaintiffs in the Colorado Class Action have commenced a proceeding in the Ontario Superior Court of Justice (London) to recognize and enforce the Colorado Judgment (the “**Colorado Enforcement Action**”). Copies of the pleadings in the Colorado Enforcement Action are attached at **Appendix 6**.

13. At this time, no judgment has been issued in the Colorado Enforcement Action. A copy of a letter from counsel for the Colorado plaintiffs dated January 31, 2019, expressing their support of the appointment of a receiver in this proceeding is attached at **Appendix 7**.

IDENTIFIED ASSETS

A. Real Property in Schedule B of the IR Order

14. The plaintiffs in the Colorado Class Action identified a set of legal entities and real properties connected to the Debtors and the Loan Fraud, which are listed in Schedules A and B of the IR Order.

15. Schedule A of the IR Order lists fifteen corporations (the “**Companies**”) and the Estate of Judith Hutchens. The Companies appear to be special purpose entities incorporated to hold real estate, and in most cases, the Companies’ names include the municipal addresses of their real estate holdings. A table of known real estate dispositions made by the Companies between 2008 and 2018 is attached at **Appendix 8**, including the vendor, purchase, price, and date of sale.

16. Schedule B of the IR Order lists 12 real properties (comprised of 18 real property PIN references, the “**Properties**”). The Properties are all in Ontario, in Sudbury (7 properties),

Thornhill (1 property),² and Innisfil (4 properties). They include both single-unit and multi-unit residential properties, with most of the Properties being used as rental properties.

17. The Properties have an estimated value of CA\$7,912,500, based on the Receiver's investigations, which are set out in greater detail below. To date, the Receiver has identified registered mortgage charges totaling CA\$4,602,476, as well as a \$2.0 million charge on five of the Properties registered by Adroit Advocates LLC,³ which the Receiver understands to be a law firm that represents the Hutchens in the Colorado Class Action.

18. However, CA\$3,331,750 of these mortgage charges are in the names of Tanya Hutchens, her mother (Dina Brik), or 146 Whittaker Street Inc., an Ontario corporation with a registered head office at Tanya's home address (33 Theodore Place, Thornhill) and of which she and Sandy are the sole directors. Sandy has indicated that he is the company's sole shareholder, as described below.

19. With the exception of 367-369 Howey Drive, Sudbury, all of the Properties are subject to Certificates of Pending Litigation (CPLs) by the plaintiffs in the Colorado Class Action.

20. A table summarizing the estimated values, mortgage charges, estimated equity, and CPLs is attached at **Appendix 9**.

B. Potential New Assets Identified by the Receiver

21. The Receiver has identified five additional Ontario corporations that are potentially connected to the Loan Fraud. Each has its head office registered to Tanya's address, 33 Theodore

² Schedule B to the IR Order uses Vaughan in the address for 33 Theodore Place. However, most other documents use Thornhill, which is located within Vaughan, for this address. The Receiver has opted to use Thornhill throughout this First Report.

³ The Receiver has not been able to confirm the type of currency for Adroit Advocacy's charges.

Place, Thornhill, Ontario, and lists Sandy as the sole officer and director: 241 Lloyd Street Inc.; 480 Linda Street Inc., 1755 Regent Street Inc., 308 Elgin Street Inc.,⁴ and 789 Lawson Street Inc. (the “**Additional Companies**”).

22. The Receiver has also identified eleven additional properties in Sudbury that are potentially connected to the Debtors and the Loan Fraud (the “**Additional Properties**”), as described below. Collectively, the Additional Properties have an estimated value of CA\$6,290,700, based on Purview (Teranet) broker reports.⁵ A table listing the addresses and estimated value of each Additional Property is attached at **Appendix 10**.

23. The Receiver has conducted an initial investigation of the Properties and some of the Additional Properties. Details of its investigation and key findings are discussed at greater length below, in the section “Review of Real Estate Assets”.

24. The Receiver has not identified non-real property belonging to the Hutchens or the Companies. As described below, the Receiver has requested information about such assets from the Hutchens but they have not substantively responded as of the date of this First Report. The Receiver has conducted PPSA searches that do not show any registrations.

25. The Receiver has been limited in its ability to determine further assets in the two weeks between the IR Order and the date of this First Report due to the limited responses to information and document requests from the Respondents and their failure to attend for examinations by the Receiver, all as described below.

⁴ The sole officer and director of 308 Elgin Street Inc. is Moishe Alexander, one of Sandy Hutchens’ aliases.

⁵ The estimated equity of the Additional Properties has not yet been determined.

OVERVIEW OF THE ACTIVITIES OF THE RECEIVER

26. Since its appointment on February 28, 2019, the Receiver has conducted the following activities:

- (a) Established a Case Website pursuant to paragraph 15 of the IR Order at <https://farbergroup.com/engagements/hutchens/>, to which it has posted the publicly filed court documents in this proceeding;
- (b) Registered a copy of the IR Order on title to the Properties;
- (c) Reviewed recent listing and sales activity related to the Companies and the Properties;
- (d) Conducted public database searches including the PPSA, corporate profile searches, real estate listings, and Purview (Teranet);
- (e) Requested information and records from the Debtors, the Applicants, the plaintiffs in the Colorado Class Action, a mortgagee, financial institutions, professional service providers, real estate brokers and agents;
- (f) Requested and prepared for examinations of Tanya Hutchens, Sandy Hutchens, and Murray Posner (an accountant for the Hutchens). As described below, none of these examinations took place;
- (g) Conducted site visits to inspect the Properties and Additional Properties; and
- (h) Began initial review and analysis of information received from various sources.

REQUESTS FOR INFORMATION, RECORDS, AND EXAMINATION

27. The IR Order empowers the Receiver to compel information and records from the parties and third parties, and to conduct examinations under oath. The Receiver requested information and records from a number of persons:

- (a) The Applicants;
- (b) Sandy;
- (c) Tanya;
- (d) The Companies;
- (e) The plaintiffs in the Colorado Enforcement Action;
- (f) Murray Posner, known to have acted as accountant for the Respondents and affiliated corporations in the past;
- (g) A law firm representing the Hutchens in Colorado that is mortgagee under mortgages registered against title to several Properties;
- (h) Three financial institutions at which the Respondents and certain affiliated corporations are known to have held accounts; and
- (i) The listing agents for Properties listed for sale on or about January 22, 2019, and realtors who acted on the January 2019 sales of two Additional Properties.

28. As described below, The Receiver has received complete responses from the Applicants and the plaintiffs in the Colorado Enforcement Action. However, the Receiver has received incomplete responses from Sandy, Tanya, the Companies, one financial institution, and one realtor, and no substantive responses from Mr. Posner (the Hutchens' accountant), the mortgagee law firm, and other financial institutions and realtors. The specific data sought and received from each source is detailed in this section.

A. The Applicants

29. On March 6, 2019, the Receiver wrote to counsel for the Applicants asking them to confirm whether they were asserting a proprietary interest in certain funds, and if so, to describe the flow

of those funds with supporting documentation. A copy of the Receiver's March 6, 2019 letter is attached at **Appendix 11**.

30. On March 12, 2019, the Applicants confirmed they were seeking a proprietary interest in three separate payments and summarized how those funds flowed from them to 241 Lloyd Street Inc. and 1755 Regent Street Inc. The Applicants have provided evidence of wire transfers and account statements as supporting documentation, which are described in greater detail below at paragraphs 74(b) and 74(c). A copy of the Applicant's March 12, 2019 letter is attached at **Appendix 12**.

31. The Applicants have responded to the Receiver's information and records request in full.

B. Sandy Hutchens

32. On March 6, 2019, the Receiver wrote to counsel for Sandy asking to examine Sandy on March 11 or 12, or the next available date. A copy of the Receiver's March 6, 2019 letter is attached at **Appendix 13**. The Receiver also requested certain information and records to be delivered as soon as possible, including:

- (a) A statement of personal net worth; sources of income; personal tax returns for 2014-2018; a list of entities in which Sandy holds an interest, and corporations of which he is an officer or director;
- (b) With respect to the Companies and four of the Additional Companies: shareholder information, contact information for accountants and bookkeepers, access to electronic devices, tax returns and financial statements;
- (c) With respect to the Properties: contact information for accountants and bookkeepers, and details and records of property management and rental income;

- (d) Details of any other properties, not referenced in the letter, in which the Hutchens or one of the companies referenced in the letter has an interest; and
- (e) Details and records of bank accounts and investment accounts and other assets;
- (f) Details and records of four recent property sales and two mortgages on certain of the Properties; and
- (g) Details and records related to the Respondents' trust claim.

33. On March 8, 2019, counsel for Sandy advised that his client could not be examined prior to March 18, 2019 due to scheduling conflicts. A copy of his email is attached at **Appendix 14**. Later that day, counsel for Sandy emailed the Receiver with a partial response to the Receiver's information and document request. A copy of this email is attached at **Appendix 15**. This response stated, among other things, that:

- (a) Sandy filed no tax returns for 2014-2018, and he is not aware of any tax returns for 2014-2016 the four Additional Companies that the Receiver inquired about;
- (b) Sandy is the sole owner of 146 Whittaker Street Inc. (one of the Companies) and 6 other corporations;
- (c) Tanya owns an interest in fifteen of the Companies: she is the sole legal owner of twelve Companies. She owns 60% of another three Companies, with the remaining 40% of those Companies owned by Lilly Brook Developments Inc. All of Tanya's shareholdings are held in trust for her children, Joshua, Daniel and Breiana Hutchens;
- (d) Sandy has only one bank account with Buduchnist Credit Union;
- (e) Details and documents for the sales of 625 Ash Street and 15-16 Keziah Court;

- (f) Sandy and the Estate of Judith Hutchens (of which Sandy is the executor) are the legal owners of 42 Clemow Avenue, Sudbury. They hold this property for Joshua and Daniel Hutchens.

34. On March 11, 2019, the Receiver sent a follow-up email requesting the identity of the shareholders of Lilly Brook Developments Inc. No response was received to this email and the remaining requests from the Receiver's letter of March 6 have not been answered as of the date of this First Report.

35. As such, as of the date of this First Report, Sandy has not attended for an examination under oath, and has not provided the following requested information and documents:

- (a) A statement of net worth itemizing assets and liabilities, including real properties, cash, vehicles, securities, term deposits, investments and other assets;
- (b) List and details of all sources of income;
- (c) List and details of all investment accounts and other assets;
- (d) Hard drives of electronic devices;
- (e) For the property at 42 Clemow Avenue, Sudbury, contact information for accountants and bookkeepers, and details and records of property management and rental income;
- (f) Details and records of the mortgage charges registered by Adroit Advocates LLC in the amount of \$2 million; and
- (g) The identities of the shareholders of Lilly Brook Developments Inc., which Sandy advised through counsel holds a 40% interest in several of the Companies.

C. Tanya Hutchens

36. On March 6, 2019, the Receiver wrote to counsel for Tanya seeking to examine her and requesting similar information and records as those sought from Sandy Hutchens.

37. On March 8, 2019, counsel for Tanya advised that she would be available for examination on March 12, 2019. The Receiver arranged for the examination to be conducted at 10:00 a.m. on March 12, 2019, at Neesons Court Reporting.

38. On March 11, 2019, counsel for Tanya emailed the Receiver with a partial response to its March 6 inquiries. A copy of his email is attached at **Appendix 16**. This email stated, among other things, that:

- (a) Tanya is the sole shareholder of all of the Companies, except for 364 Morris Inc., 367-369 Howey Drive Inc. and 720 Cambrian Heights Inc., which is 60% owned by JBD Hutchens Family Holdings. However, all of these shareholdings are held in trust for her children;
- (b) Tanya has no bank accounts. Her mother, Dina Brik, has an account at BMO;
- (c) Tanya is owed management fees from unspecified companies. She has no other source of income; and
- (d) Tanya has not prepared or filed any tax returns for 2014 to 2018.

39. Later that same day, counsel for Tanya advised the Receiver over the telephone that Tanya has or had interests in properties not included in the IR Order, but did not know their addresses at the time. He also advised that Tanya would bring to her examination the following day various corporate minute books and four banker's boxes of documents that she had not yet reviewed.

40. On March 12, 2019, at 7:42 am, counsel for Tanya advised that his client had been admitted to the hospital the night before with a “severe throat/sinus infection”, and as such, she would not be attending the examination. The Receiver replied requesting her hospital admittance record and a note from the treating physician with her diagnosis as soon as possible. A copy of this email exchange is attached at **Appendix 17**.

41. On March 13, 2019, counsel for Tanya advised that she returned home from the hospital to rest. He also provided (1) a copy of a letter from Mackenzie Richmond Hill Hospital saying, “Tatiana Hutchens was seen and treated in our emergency department on 12/3/2019. She may return to work on 18/03/19;” (2) a prescription for Tylenol Sinus, which the Receiver understands to be an over-the-counter medication; and (3) a variety of documents related to her claim that the Properties and other assets are held in trust for her children, including trust agreements, emails, and legal invoices. A copy of this email and its attachments are attached at **Appendix 18**.

42. Later that day, the Receiver sent a follow up to counsel requesting production of the minute books, banker’s boxes, hard drives, and information on the additional properties that he had alluded to as soon as possible. The Receiver has not received a response to this letter, which is attached at **Appendix 19**, but recognizes that Tanya may be ill and has had little time respond as of the date of this First Report.

43. On March 14, 2019, counsel for Tanya advised the Receiver that his client was still very ill and that he was having difficulty obtaining instructions. Counsel also provided a copy of an additional prescription for “clindamycin (DALACIN C)”, which the Receiver understands to be an antibiotic. A copy of this email and the attachment are attached at **Appendix 20**.

44. As such, as of the date of this First Report, Sandy has not attended for an examination under oath, and has not provided the following requested information and documents:

- (a) A statement of net worth itemizing assets and liabilities, including real properties, cash, vehicles, securities, term deposits, investments and other assets;
- (b) A list of all corporations, partnerships and trusts in which Tanya owns shares or units (directly, indirectly or beneficially), and a description of the nature of her ownership interest. This has been partially answered in relation to the Companies, but it is not clear if an exhaustive list has been provided;
- (c) Account statements, from February 2015 to present, for Ms. Brik's BMO account (no. 1998-893) and Tanya's RRSP account with Meridian Credit Union;
- (d) Details and records regarding rental proceeds and tenants;
- (e) Account and transaction records for the payments that Tanya is said to have made on her credit card;
- (f) The source, with supporting account and transaction records, for the payment that Tanya made to Meridian Credit Union to discharge its mortgage on 1479 Maple Street, Innisfil (approximately \$204,000);
- (g) Information and records related to the mortgages that Tanya has assumed;
- (h) Additional details and supporting documentation related to the sales of 364 Morris Street, 625 Ash Street, 720 Cambrian Heights, and 193 Mountain Street. Partial answers have been provided as of the date of this First Report;
- (i) Details and records of the mortgage charges registered by Adroit Advocates LLC in the amount of \$2 million;
- (j) Access to a computer hard drive with relevant records for preservation by imaging;

- (k) Corporate minute books said to be in her possession;
- (l) Four banker's boxes of relevant or potentially relevant documents said to be in her possession; and
- (m) A note from her treating physician with a diagnosis justifying her non-attendance at her scheduled examination under oath on March 12, 2019.

D. The Companies

45. On March 6, 2019, the Receiver wrote to counsel for the Companies seeking, among other things, financial statements; tax returns; information on shareholders; copies of minute books; information on property management and rental income; banking records; information regarding their collective debt of CA\$2 million owed to Adroit Advocates LLC; information regarding the mortgages in favour of Dina Brik; and details regarding the Hutchens' claim that all the properties owned by the Companies are held in trust for their children. A copy of the Receiver's March 6, 2019 letter is attached at **Appendix 21**.

46. On March 11, 2019, the Companies delivered by email a separation agreement between Sandy and Tanya Hutchens, and eight Trust Agreements related to various corporations and properties. As of the date of this First Report, the Companies have not responded to the Receiver's other requests. A copy of the Companies' email is attached at **Appendix 22**.

47. As such, as of the date of this First Report, the Companies have not provided the following requested information and documents:

- (a) Itemized balance sheets;
- (b) Tax returns and financial statements for 2014-2018;

- (c) Name and contact information of the accountant(s) who prepared the requested tax returns and financial statements;
- (d) Name and contact information for the person(s) who maintains books and records;
- (e) Identity of shareholders and their respective shareholdings;
- (f) Copies of, or access to, minute books;
- (g) Hard drives of electric devices;
- (h) For all properties owned, how the property is managed, the name and contact information of the property manager(s), information and record on tenants and rental proceeds;
- (i) List of all bank accounts and account statements from February 2015 to present;
- (j) Details and records of the mortgage charges registered by Adroit Advocates LLC in the amount of \$2 million; and
- (k) Detail and records related the debt corresponding to the mortgages held in the name of Dina Brik.

E. Colorado Plaintiffs

48. On March 6, 2019, the Receiver wrote to counsel for the plaintiffs in the Colorado Enforcement Action asking them to confirm if their clients were asserting a proprietary interest in certain assets, and if so, to describe the corresponding flow of funds with supporting documentation. A copy of the Receiver's March 6, 2019 letter is attached at **Appendix 23**.

49. On March 12, 2019, the Colorado plaintiffs confirmed that they are seeking a proprietary interest in the Respondents' assets. They provided a detailed summary of their trust claim as well as pleadings, exhibits, expert analysis, depositions, trial testimony, and court orders in support of their trust claim. The Colorado plaintiffs have advised the Receiver that, with the exception of

certain materials filed in court, they are maintaining privilege over most of the documents that they have provided. A copy of the cover letter describing the documents that the Colorado plaintiffs have provided (without attachments) is attached at **Appendix 24**.

50. The Applicants have responded to the Receiver's information and records request in full.

F. Hutchens Accountant

51. On March 6, 2019, the Receiver wrote to Murray Posner, accountant for the Hutchens, requesting the Hutchens' tax returns for 2014-2018, as well as tax returns and financial statements for the four Additional Companies that the Receiver was aware of at the time. A copy of the Receiver's March 6, 2019 letter is attached at **Appendix 25**.

52. The Receiver has not received any response from Mr. Posner as of the date of this First Report.

G. Mortgagee Law Firm

53. On March 6, 2019, the Receiver wrote to counsel for Adroit Advocates LLC, a mortgagee of certain of the properties that are the subject of the Order, in each case with a registered mortgage amount of CA\$2,000,000. The Receiver understands that this firm represents the Hutchens in respect of the Colorado proceeding. The Receiver inquired as to the nature and amount of the debt to which the mortgages relate, and sought corresponding documents. A copy of the Receiver's March 6, 2019 letter is attached at **Appendix 26**.

54. The Receiver has not received a substantive response as of the date of this First Report. However, counsel for the Receiver received an out-of-office response from counsel for Adroit

Advocates LLC indicating that he is out of the office until March 18, 2019, which appears to explain the lack of response to date.

H. Realtors

55. The Receiver has learned that two of the Additional Properties were sold in January 2019, 241 Lloyd St. and 1755 Regent St. The Receiver has also learned that two of the Properties were actively listed for sale at the time of the Receiver's appointment, 29 Laren St. and 1479 Maple Road. The Receiver has sought information and records regarding these sales and listings.

56. On March 10, 2019, the Receiver wrote to Alex Dumas, the listing broker for 29 Laren Street Inc. The Receiver requested a copy of his brokerage's listing agreement, as well as written communications with the individual instructing Mr. Dumas.

57. On March 11, 2019, Mr. Dumas provided a copy of the listing agreement, MLS data sheet, and the Working With a Realtor form, and advised that they were signed by Sandy. He also forwarded an email from Sandy to Jan Luistermans, another realtor apparently working with Mr. Dumas, stating the following:

“Thank you. The Order is correct, the property was listed, there were CPL's and had a acceptable P & S Agreement been submitted as I indicated approval would have had to be given with the lien holders. Consent was given at the previous hearing that there would be a freeze on properties pending the final disposition of the matter. I apologize for not notifying you. As you recall Tanya Hutchens had authorized the listing and sale of the property subject of course to an approval by the CPL holders. Tanya will advise you if there is any change in the situation if and when it occurs.”

58. Later that day, Mr. Dumas forwarded an email in which he asked Sandy to sign a listing cancellation form. The Receiver is not aware whether Sandy signed the form or if the listing has been cancelled. Mr. Dumas has not provided any other correspondence between him and Sandy.

59. On March 10, 2019, the Receiver wrote to Bruce Brown, the listing broker for the sales of 1755 Regent Street and 241 Lloyd Street. The Receiver requested a copy of his brokerage's listing agreement, written communications with the individual instructing him, any information regarding the destination of sale proceeds, and the name and contact information of the solicitors acting on the sale transactions.

60. On March 13, 2019, Mr. Brown replied saying, "We are not authorized to release any information." The Receiver replied, advising Mr. Brown that he is obligated to abide by the IR Order (which was attached to the March 10 correspondence) and that he may wish to seek legal advice. On March 14, 2019, Mr. Brown responded by email and advised the Receiver that he had consulted with legal counsel and was told that the scope of the IR Order does not apply to either 1755 Regent Street nor 241 Lloyd Street. The Receiver has requested the contact information of the counsel that Mr. Brown consulted. Mr. Brown has not responded as of the date of this First Report.

61. On March 14, 2019, the Receiver wrote to Heather Jones, the broker responsible for the listing for 1479 Maple Road. The Receiver requested a copy of his brokerage's listing agreement, as well as written communications with the individual instructing him. Ms. Jones has not responded as of the date of this First Report.

I. Financial Institutions

62. The Receiver received information from the Applicants and the plaintiffs in the Colorado Enforcement Action that the Hutchens and related corporations held accounts at KEB Hanna Bank (“**KEB**”), Meridian Credit Union (“**Meridian**”), and Buduchnist Credit Union (“**Buduchnist**”). On March 11, 2019, the Receiver wrote to each of KEB, Meridian and Buduchnist, indicating known accounts and seeking account statements from February 2015 for those accounts and any others in the names of the Hutchens or the Companies. Copies of these letters are attached at **Appendices 27, 28, and 29**, respectively.

63. On March 11, 2019, KEB faxed to the Receiver a set of account statements for the period February 1, 2015 to December 3, 2015 for three accounts:

Account holder name	Account number
241 Lloyd Street Inc.	45202010076
241 Lloyd Street Inc.	45212000801
Sandy Craig Hutchens	45204045875

64. These statements show that all three accounts were closed on December 3, 2015. Between these three accounts, approximately CA\$45,000 was withdrawn in the days leading up to the account closure.

65. KEB has yet to respond to the Receiver’s query regarding whether it has had any accounts held in the names of the Hutchens, their known aliases, or the Companies. The Receiver has not received any response from Meridian or Buduchnist as of the date of this First Report.

REVIEW OF REAL ESTATE ASSETS

66. The Receiver's investigation of real property assets involved (a) site visits; (b) meetings with property managers, tenants and realtors; (c) review of information gathered from public databases; and (d) review of information provided by the parties and other third-party sources.

67. The receiver has conducted site visits of all of the Properties. It has also identified and conducted site visits of eleven Additional Properties. Six of the Properties have been sold in recent years and two were listed for sale on January 22, 2019. Four of the Additional Properties have been sold in recent years. These include two into which the Applicants claim a proprietary tracing remedy listed for sale in December 2018, very shortly after the Pennsylvania Judgement against Sandy, and sold in January 2019. Another four of the Additional Properties are currently listed for sale.⁶

68. Because of the extent and timing of these and other dealings with the Properties and Additional Properties described below, the Receiver is concerned about potential dissipation of assets by the Debtors.

69. The Properties that have not been sold appear to have substantial value. The Hutchens claim that all of the Properties that have not been sold (though not all the Properties that *have* been sold) are held in trust for their children.

70. The Receiver's key findings regarding the Properties and Additional Properties are described in greater detail below.

⁶ The Receiver has not yet been able to confirm when these listings began.

A. Greater Sudbury Area

71. The Receiver travelled to Sudbury on March 7 and 8, 2019 to conduct site visits and meet with property managers and tenants of the Properties and Additional Properties situated there. The key findings from the Receiver's investigation with respect to the Properties in Sudbury are as follows:

- (a) All seven of the Properties in Sudbury are rental properties. An individual named Don Neville manages the properties. Mr. Neville advised the Receiver that he is instructed by and reports to Tanya Hutchens, and that at her direction, the tenants pay rent to an Ontario corporation, 2321676 Ontario Inc. (the "**Rental Corp**"). Mr. Neville advised the Receiver that the Rental Corp has a bank account with Bank of Montreal ("**BMO**");
- (b) One of the Properties, 193 Mountain Street, was sold under power of sale by JBD Hutchens Family Holdings, a mortgagee, to Sudbury Apartment Rentals Limited, for CA\$400,000 on November 16, 2018 (the "**Mountain Street Sale**"). This information is based on a Purview (Teranet) broker report, attached at **Appendix 30**. The Receiver currently has no additional information about the circumstances surrounding this sale, the nature of the relationship between JBD Hutchens Family Holdings and the Respondents, or the destination of the proceeds of sale; and,
- (c) One of the Properties, 29 Laren Street (the "**Laren Property**") was listed for sale for CA\$2.1 million on or about January 22, 2019. The Laren Property is comprised of eight linked houses, nine apartments, and one detached house. According to the property listing, the pro forma rental revenue is approximately CA\$15,800 per month (CA\$190,000 per annum). As detailed above, the Receiver has not received

confirmation from Mr. Brown as to whether the listing has been cancelled as of the date of this First Report.

72. As set out in the following table (see **Appendix 8** for additional detail), the Companies sold six of the Properties in the Greater Sudbury area between 2008 and 2018 for a total of CA\$5.313 million. Four of these sales occurred between 2016 and 2018 for a total of CA\$4.725 million.

Hutchens et al			
Properties Sold: 2008 to 2018			
Property	Vendor/Transferor	Sold For	Comments
720 Cambrian Heights, Sudbury	720 Cambrian Heights inc.	3,100,000	Sold Sept 15, 2017
15-16 Keziah Court, Sudbury	15-16 Keziah Court Inc.	440,000	Sold November 9, 2015
625 Ash Street, Sudbury	625 Ash Street Inc.	225,000	Sold Nov 6, 2016.
364 Morris Street, Sudbury	364 Morris Street Inc.	900,000	Sold Feb 25, 2016
101 Service Street, Sudbury	101 Service Street Inc.	248,000	Sold Oct 10, 2008
193 Mountain Street, Sudbury	193 Mountain Street Inc.	400,000	Sold Nov 16, 2018
Total		5,313,000	

73. As mentioned above, the Receiver has identified eleven Additional Properties located in the Greater Sudbury area, with a rough gross estimated value of approximately CA\$6.29 million dollars, that are potentially connected to the Debtors and the Loan Fraud. Three of these properties were sold on January 16, 2019). Five are currently listed for sale. A table describing these properties and Purview-derived estimates of their value is set out below, with a more detailed Table attached at **Appendix 10**.

Hutchens et al			
Additional Properties of Interest			
Property	Current Owner	Estimated Value	Comments
17 Serpentine Street, Sudbury	17 Serpentine Street Inc.	210,000	Purchased on October 31, 2006

480 Linda Street, Sudbury	480 Linda Street Holdings Corp.	1,100,000	Sold January 16, 2019 by 502 Holdings Inc.
1755 Regent Street, Sudbury	Regent North Properties Inc.	900,000	Sold January 16, 2019 by 502 Holdings Inc.
241 Lloyd Street, Sudbury	241 Lloyd Street Holdings Corp.	2,100,000	Sold January 16, 2019 by 502 Holdings Inc.
300 Elgin Street, Sudbury	George Soule	510,000	Currently listed for sale
308 Elgin Street, Sudbury	Unknown	unknown	Currently listed for sale
233 Shaughnessy Street, Sudbury	George Soule	583,300	Currently listed for sale
241 Shaughnessy Street, Sudbury	502 Holdings Inc; George Soule	237,300	Currently listed for sale
247 Shaughnessy Street, Sudbury	George Soule	165,700	Currently listed for sale
789 Lawson Street, Sudbury	Glavonjic, Savo; Glavonjic, Borka	350,000	Formerly owned by 789 Lawson Street Inc.
42 Clemow Avenue, Sudbury	Sandy Hutchens; Estate of Judith Anne Hutchens	134,400	
Total		6,290,700	

74. The Receiver has identified these Additional Properties as potentially related to the Debtors and the Loan Fraud for the following reasons, and recommends additional investigation:

- (a) 17 Serpentine Street: Commercial tenants advised the Receiver that Tanya Hutchens was the landlord, and that they paid rent to the Rental Corp. One of the Companies, 17 Serpentine Street Inc., purchased this property for CA\$210,000 October 31, 2006;
- (b) 1755 Regent Street (the “Regent Property”):
 - (i) Sandy Hutchens is listed as the sole officer and director of 1755 Regent Street Inc., the registered head office of which is Tanya’s residence at 33 Theodore Place, Thornhill;
 - (ii) Bank account statements (provided by the Applicants) for December 2015 to June 2016 show that 1755 Regent Street Inc. had an account with Buduchnist, during that time period. These account statements show debit

transactions that the Applicants assert are related to the Loan Fraud alleged in the Pennsylvania Judgments; and

- (iii) Payments were made from 1755 Regent Street Inc.'s Buduchnist account to Tanya Hutchens for "child support" via cheque;

(c) 241 Lloyd Street (the "**Lloyd Property**"):

- (i) Sandy Hutchens is listed as the sole officer and director of 241 Lloyd Street Inc., which is registered to Tanya's residence at 33 Theodore Place;
- (ii) Bank account statements (provided by the Applicants) for January 2016 to June 2016 show that 241 Lloyd Street Inc. had an account with Buduchnist, during that time period. These account statements show debit transactions that appear to be related to the Loan Fraud alleged in the Pennsylvania Judgments; and
- (iii) Payments were made from 241 Lloyd Street Inc.'s Buduchnist account to Tanya Hutchens for "child support" and "RRSP's Tanya Hutchens" via cheque.

- (d) 42 Clemow Avenue: Sandy has advised the Receiver that he and the Estate of Judith Hutchens (of which he is the executor) are the legal owners of this property, and that this property is being held in trust for Joshua and Daniel Hutchens;

- (e) 247 Shaughnessy Street, 308 Elgin Street, 300 Elgin Street, 233 Shaughnessy Street and 241 Shaughnessy Street: Based on a Trust Agreement, dated October 27, 2006, produced by Tanya, she is the sole legal owner of 247 Shaughnessy Street Inc. This trust agreement purports to give Sandy an "undivided 100% interest" in the company held in trust for their children. 247 Shaughnessy Street is currently listed

for sale, as part of a package with four other properties – 300 Elgin Street, 308 Elgin Street,⁷ 233 Shaughnessy Street and 241 Shaughnessy Street – for CA\$1.25 million dollars. The fact that these five properties are listed for sale as a package may indicate that all five have common control and/or ownership;⁸

- (f) 480 Linda Street: Sandy Hutchens is listed as the sole officer and director of 480 Linda Street Inc., which is registered to Tanya's residence at 33 Theodore Place. This property was sold by 502 Holdings Inc. to 480 Linda Street Holding Corp. for CA\$1.1 million on January 16, 2019. Both the Regent Property and the Lloyd Property were sold on the same day by the same vendor.
- (g) 789 Lawson Street: Sandy Hutchens is listed as the sole officer and director of 789 Lawson Street Inc.

75. From a review of title searches included in the Applicants' motion record in support of the Receiver's appointment, the Receiver observes that between August 19, 2014 and January 7, 2016, Tanya assumed six mortgages on four Properties and Additional Properties in Sudbury:

- (a) The Laren Property: On March 24, 2016, Tanya assumed a mortgage from BMO with a face value of CA\$800,000. Prior to assuming this mortgage, Tanya made three payments totalling \$230,000 to BMO between October 27 and November 5, 2015. A copy of a November 6, 2015 email from Tanya's lawyer to a lawyer the Receiver infers to have acted for BMO in respect of the assignment regarding these payments is attached at **Appendix 31**. The Laren Property is also subject to a

⁷ Moishe Alexander (a.k.a. Sandy Hutchens) is listed as the sole officer and director of 308 Elgin Street Inc.

⁸ 247 Shaughnessy Street appear to be owned by George Soule and/or 502 Holdings Inc., the recent vendor of the Linda Property, the 1755 Regent Property and the Lloyd Property

second mortgage, with a face value of CA\$210,000, in favour of 146 Whittaker Street Inc., which the Hutchens appear to own and control as set out above.;⁹

- (b) The Howey Property: On September 20, 2017, Tanya assumed a mortgage from BMO with a face value of CA\$915,000;
- (c) 110-114 Pine Street, Sudbury: On August 19, 2014, Tanya assumed a mortgage from Barbara Carpenter with a face value CA\$125,000. On March 27, 2017, Tanya assumed another mortgage from Canadian Western Trust with a face value of CA\$602,000; and
- (d) The Serpentine Property: On January 7, 2016, Tanya assumed a mortgage from Lapelle Management with a face value CA\$51,000. On March 27, 2017, Tanya assumed a mortgage from Canadian Western with a face value CA\$200,000.

B. Thornhill/ Innisfil

76. On March 13, 2019, the Receiver attended the following properties: 33 Theodore Place, Thornhill; 1779 Cross Street, Innisfil; 1790 Cross Street, Innisfil; 1889 Simcoe Blvd, Innisfil; and 1479 Maple Road, Innisfil (together, the “**Thornhill/ Innisfil Properties**”).

77. Meridian is a mortgagee on each of the Thornhill/Innisfil Properties, with the exception of 1479 Maple Road (the “**Maple Property**”). The aggregate value of Meridian’s mortgages is approximately CA\$1,200,000. It has initiated power of sale proceedings but entered into a forbearance agreement with Tanya that expires on April 30, 2019. Meridian has advised the

⁹ The Receiver understands that Michael Spiro is a lawyer who has acted for Tanya on several property transactions. The Receiver is not aware if Mr. Spiro continues to act for Tanya.

Receiver that it supports the Receiver's appointment and handling of these Properties provided that it is appointed by April 1, 2019.

78. As stated at paragraph 61 above, the Maple Property is currently listed for sale for CA\$999,000.

79. The Receiver understands that at least some of the Thornhill/Innisfil Properties earn rental income, but has no detailed information about the circumstances in which they are rented or the amount of rental income they generate as of the date of this First Report. The Receiver recommends further investigation of this subject.

FURTHER WORK AND OBSTACLES

80. If the Receiver's appointment is continued, the following additional work may include:

- (a) Investigation of Debtor assets, including through:
 - (i) Obtaining outstanding requested information and records from Sandy, Tanya, their accountant, the Companies, financial institutions and realtors;
 - (ii) Examining Sandy, Tanya and their accountant under oath;
 - (iii) Obtaining additional information and records, and/or conducting such further examinations under oath as may be required; and
 - (iv) Reviewing the information obtained, and reporting the Receiver's observations and assessment to stakeholders and the Court, regarding (1) the Additional Properties' connection to the Debtors and the Loan Fraud; (2) the destination of proceeds of sale of recently sold Additional Properties;

- (3) the sources of known material expenditures of the Debtors; and (4) the existence and location of any other assets of the Debtors;
- (b) Management of Debtor assets, including management of rental properties and rents derived therefrom;
- (c) Monetization of Debtor assets, for example through sale of real properties through a Court-supervised process;
- (d) Assessment and recommendation to stakeholders and the Court regarding secured and proprietary claims to Debtor assets, including through:
 - (i) Obtaining outstanding information and records from Adroit Advocates LLC regarding the debt secured by its mortgage;
 - (ii) Obtaining additional information and records, and/or conducting such further examinations under oath as may be required; and
 - (iii) Reviewing the information obtained, and reporting the Receiver's observations and assessment to stakeholders and the Court, regarding the validity and relative priority of (1) the registered mortgages; (2) the Hutchens' assertion that substantially all of their assets and those of the Companies are held in trust for their children; (3) the trust claims of the Applicants and of the plaintiffs in the Colorado Enforcement Action; and (4) any other secured and proprietary claims; and
- (e) Assessment and recommendation to stakeholders and the Court regarding unsecured claims to Debtor assets;

- (f) Undertaking a Court-supervised distribution of the proceeds of sale of Debtor assets in accordance with the determination of proprietary, secured and unsecured claims.

81. Because of the findings of the Pennsylvania District Court that Sandy and Tanya have intentionally delayed proceedings, failed to comply with Court orders, and provided false information, the Receiver is concerned that Sandy and Tanya will continue to not provide requested information and documents or attend for examinations. The Receiver is concerned that they will be uncooperative in its further investigation. The Receiver is prepared to undertake that investigation with authority of the Courts to compel cooperation if necessary.

82. Similarly, further investigation faces the obstacle that ownership of assets is complicated by a web of legal entities and by the Hutchens' assertion that substantially all of their assets are held in trust for their children. A continued receivership process may be a useful mechanism to facilitate the complex investigation required because of a receiver's ability to compel information from third parties, efficient judicial oversight through the motion for directions procedure, and the resources and expertise the Receiver can offer.

All of which is respectfully submitted this 15th day of March, 2019.

**A. FARBER & PARTNERS INC.
IN ITS CAPACITY AS COURT APPOINTED
RECEIVER OF HUTCHENS *ET AL.*, AND
NOT IN ITS PERSONAL OR CORPORATE
CAPACITY.**

A. Farber & Partners Inc.

APPENDIX 1

Order of Justice Penny
dated February 28, 2019

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.

)

THURSDAY, THE

JUSTICE PENNY

)

28TH DAY OF FEBRUARY, 2019

)



GARY STEVENS, LINDA STEVENS and 1174365 ALBERTA LTD.

Applicants

– and –

SANDY HUTCHENS, also known as SANDY CRAIG HUTCHENS, also known as S. CRAIG HUTCHENS, also known as CRAIG HUTCHENS, also known as MOISHE ALEXANDER BEN AVROHOM, also known as MOISHE ALEXANDER BEN AVRAHAM, also known as MOSHE ALEXANDER BEN AVROHOM, also known as FRED HAYES, also known as FRED MERCHANT, also known as ALEXANDER MACDONALD, also known as MATHEW KOVCE also known as ED RYAN, and TANYA HUTCHENS, also known as TATIANA HUTCHENS, also known as TATIANA BRIK, also known as TANYA BRIK-HUTCHENS

Respondents

**ORDER
(Appointing an Interim Receiver)**

THIS MOTION made by the Applicants on notice for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “CJA”) appointing A. Farber & Partners Inc. as receiver without security, of all of the assets, undertakings and properties of the Respondents and the entities referred to at Schedule “A” attached hereto (collectively, with the Respondents, the “Debtors”) acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Applicants, the Supplementary Motion Record of the Applicants and the Factum of the Applicants, the consent of A. Farber & Partners Inc. to

act as the receiver, the letter from counsel for the plaintiffs in Court File No. 2651/17 supporting the relief sought herein, and on hearing the submissions of counsel for the Applicants and the Debtors:

APPOINTMENT

1. THIS COURT ORDERS that, from the date of this Order until March 18, 2019 (the "Adjournment Period"), A. Farber & Partners Inc. is hereby appointed Interim Receiver, without security, of all of the assets, undertakings and properties, including the real property listed in Schedule "B" hereto (the "Schedule "B" Properties"), of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (the "Property").

INTERIM RECEIVER'S POWERS

2. THIS COURT ORDERS that the Interim Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Interim Receiver is hereby expressly empowered and authorized to do any of the following where the Interim Receiver considers it necessary or desirable:

- (a) to investigate and monitor, but not to exercise control over, the Debtors' affairs and Property;
- (b) to review and have access to any and all financial information pertaining to the Debtors and the Property, including bank statements, financial records and accounts;
- (c) to demand access to additional documents as it sees fit;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Interim Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to report to, meet with and discuss with such affected Persons (as defined below) as the Interim Receiver deems appropriate on all matters relating to the Property

and the receivership, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable;

- (f) to conduct examinations under oath of any Person concerning the management of known assets of the Debtors and the existence of any other assets; and
- (g) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Interim Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below) and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE INTERIM RECEIVER

3. THIS COURT ORDERS that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel, shareholders, banks, financial institutions, brokerages, and all officers and employees of such banks, financial institutions and brokerages, (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order, and (iv) anyone acting on the instructions of anyone listed in this paragraph (all of the foregoing, collectively, being "Persons" and each being a "Person", save and except for the Applicants) shall forthwith advise the Interim Receiver of the existence of any Property in such Person's possession or control.

4. THIS COURT ORDERS that all Persons shall forthwith advise the Interim Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Interim Receiver or permit the Interim Receiver to make, retain and take away copies thereof and grant to the Interim Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 4 or in paragraph 5 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed

or provided to the Interim Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

5. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Interim Receiver for the purpose of allowing the Interim Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Interim Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Interim Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Interim Receiver with all such assistance in gaining immediate access to the information in the Records as the Interim Receiver may in its discretion require including providing the Interim Receiver with instructions on the use of any computer or other system and providing the Interim Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

6. THIS COURT ORDERS that the Interim Receiver shall have access to those premises wherever the Records are kept, retained, stored or used, including, but not limited to, the Schedule "B" Properties, upon reasonable notice to any of the Debtors having control of such premises, or their legal counsel, and the offices or residential premises of all Persons (as defined in sub-paragraph 3 above) relating to the business and affairs of the Debtors, and the Debtors and all Persons shall take all reasonable steps to ensure that the Interim Receiver will have such access.

NO PROCEEDINGS AGAINST THE INTERIM RECEIVER

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Interim Receiver except with the written consent of the Interim Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

8. THIS COURT ORDERS that, with the exception of the proceeding underway in Court File No. 2651/17 in the Superior Court of Justice at London, Ontario, no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Interim Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtors, the Interim Receiver, or affecting the Property, except the within proceeding and the proceeding underway in Court File No. 2651/17 in the Superior Court of Justice at London, Ontario, are hereby stayed and suspended except with the written consent of the Interim Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Interim Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Interim Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE INTERIM RECEIVER

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Interim Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized

banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Interim Receiver, and that the Interim Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Interim Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Interim Receiver, or as may be ordered by this Court.

LIMITATION ON THE INTERIM RECEIVER'S LIABILITY

12. THIS COURT ORDERS that the Interim Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Interim Receiver by section 14.06 of the BIA or by any other applicable legislation.

INTERIM RECEIVER'S ACCOUNTS

13. THIS COURT ORDERS that the Interim Receiver and counsel to the Interim Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Interim Receiver and counsel to the Interim Receiver shall be entitled to and are hereby granted a charge (the "Interim Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Interim Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA. The amount of the Interim Receiver's Charge shall not exceed \$150,000.

14. THIS COURT ORDERS that the Interim Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Interim Receiver and its

legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

SERVICE AND NOTICE

15. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<<https://farbergroup.com/engagements/hutchens/>>'.

16. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Interim Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

17. THIS COURT ORDERS that the Interim Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

18. THIS COURT ORDERS that nothing in this Order shall prevent the Interim Receiver from acting as a trustee in bankruptcy of the Debtors.

19. THIS COURT ORDERS that the appointment of the Interim Receiver shall expire on March 18, 2019, or such other date as ordered by the Court, unless continued by an Order of this Court.

20. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Interim Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Interim Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Interim Receiver and its agents in carrying out the terms of this Order.

21. THIS COURT ORDERS that the Interim Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Interim Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

22. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Interim Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

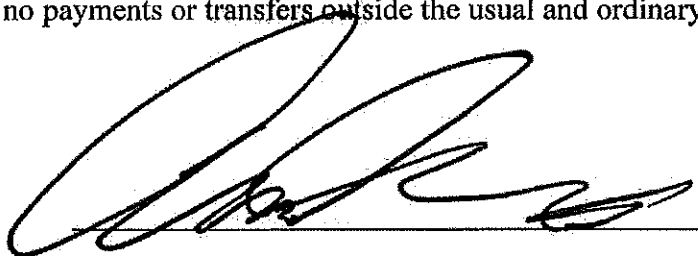
FREEZING OF ASSETS

23. THIS COURT ORDERS that the Debtors, and their servants, employees, agents, assigns, officers, directors and anyone else acting on their behalf or in conjunction with any of them, and any and all persons with notice of this injunction, are restrained from directly or indirectly, by any means whatsoever:

- (a) selling, removing, dissipating, alienating, transferring, assigning, encumbering, or similarly dealing with any of the Property;

- (b) instructing, requesting, counselling, demanding, or encouraging any other person to do so; and
- (c) facilitating, assisting in, aiding, abetting, or participating in any acts the effect of which is to do so.

24. THIS COURT ORDERS that the Property shall be managed in the usual and ordinary course of business and that there shall be no payments or transfers outside the usual and ordinary course of business.



Alan G. Smith

SUPERIOR COURT OF
JUSTICE

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAR 05 2019

PER / PAR: *RW*

SCHEDULE "A"
DEBTOR ENTITIES

1. 29 Laren Street Inc.
2. 3415 Errington Avenue Inc.
3. 3419 Errington Avenue Inc.
4. 331 Regent Street Inc.
5. 110-114 Pine Street Inc.
6. 15-16 Keziah Court Inc.
7. 193 Mountain Street Inc.
8. 625 Ash Street Inc.
9. 101 Service Road Inc.
10. 146 Whittaker Street Inc.
11. Estate of Judith Hutchens
12. 364 Morris Street Inc.
13. 367-369 Howey Drive Inc.
14. 720 Cambrian Heights Inc.
15. JBD Hutchens Family Holdings Inc.
16. 17 Serpentine Street Inc.

SCHEDULE "B"
DEBTOR PROPERTIES

Real Property:

	Property Address	Registered Owner	Legal Description of Real Property
1.	29 Laren Street Sudbury, Ontario	29 Laren Street Inc.	PIN #73481-0001 (LT); PCL 12042 SEC SES; PT LT 31 BLK B PL M9 DRYDEN & PT LT 32 BLK B PL M9 DRYDEN AS IN LT67718; PT LT 33 PL M9 DRYDEN PT 1 53R64589; GREATER SUDBURY
2.	29 Laren Street Sudbury, Ontario	29 Laren Street Inc.	PIN #73481-0006 (LT); PCL 12115 SEC SES; LT 30 BLK B PL M9 DRYDEN; GREATER SUDBURY
3.	29 Laren Street Sudbury, Ontario	29 Laren Street Inc.	PIN #73481-0008 (LT); PLC 12201 SEC SES; LT 29 BLK B PL M9 DRYDEN; PT PINE ST PL M9 DRYDEN; PT LANE PL PL M9 DRYDEN (NOW CLOSED) PARTS 3- 5, 53R9050 SAVE & EXPECTING THEREFROM THE CANADIAN PACIFIC RAILWAY COMPANY PROPERTY, & THAT PORTION OF THE WAHNAPIITAE RIVER; S/T LT567345; GREATER SUDBURY
4.	29 Laren Street Sudbury, Ontario	29 Laren Street Inc.	PIN #73481-0493 (LT); PCL 3816 SEC SES; LT 5-6 BLK B PL M9 DRYDEN; S/T LT567345; GREATER SUDBURY
5.	29 Laren Street Sudbury, Ontario	29 Laren Street Inc.	PIN #73481-0446 (LT); PCL 12386 SEC SES; LT 1-3 BLK B PL M9 DRYDEN; GREATER SUDBURY
6.	29 Laren Street Sudbury, Ontario	29 Laren Street Inc.	PIN #73481-0512 (LT); PLC 198 SEC SES; LT 4 BLK B PL M9 DRYDEN; GREATER SUDBURY
7.	3415 Errington Avenue Sudbury, Ontario	3415 Errington Avenue Inc.	PIN: 73349-1569 (LT) PCL 10618 SEC SWS; LT 215 BLK 6

	Property Address	Registered Owner	Legal Description of Real Property
			PL M91 BALFOUR; GREATER SUDBURY
8.	3419 Errington Avenue Sudbury, Ontario	3419 Errington Avenue Inc.	PIN: 73349-0720 (LT) PCL 21629 SEC SWS; LT 222 BLK 6 PL M91 BALFOUR; GREATER SUDBURY
9.	331 Regent Street Sudbury, Ontario	331 Regent Street Inc.	PIN #73586-0638 (LT) LT 297 PL 4SC MCKIM; GREATER SUDBURY
10.	110-114 Pine Street Sudbury, Ontario	110-114 Pine Street Inc.	PIN #02135-0246 (LT); LTS 48, 49, PT LT 50, BLK B PLAN 3SA; PTS 2, 4, 5, 6 53R11500 SUBJECT TO S94352 CITY OF SUDBURY
11.	193 Mountain Street Sudbury, Ontario	193 Mountain Street Inc.	PIN #02132-0942 (LT); PCLS 2388, 3113 AND 21292 SEC SES LT1 PLAN M28B EXCEPT COMM AT THE S ELY ANGLE OF LT1; THENCE S 37 DEG 16'W ALONG THE SLY LIMIT OF LT1 A DISTANCE OF 42FT 3INCHES TO THE SLY ANGLE OF SAID LT1; THENCE S 73 DEG 04"W ALONG THE SLY LIMIT OF SAID LT1 A DISTANCE OF 10FT, 6INCHES TO THE SW ANGLE OF LT1; THENCE N 52DEG 10"W ALONG THE W LIMIT OF LT1 A DISTANCE OF 10FT, 6INCHES TO A POINT; THENCE N 64DEG 29'E A DISTANCE OF 11 FT MORE OR LESS TO A POINT BEING 11.0FT N 25DEG 31'W OF THE SLY ANGLE OF LT1; THENCE N 52 DEG 00' E A DISTANCE OF 38FT MORE OR LESS TO THE POC, PLAN ATTACHED IN 33273, NOW PCL 5776 SES; LT2 PLAN M28B EXCEPT COMMENCING AT THE S ELY ANGLE OF LT2, THENCE S 73 DEGREES 04'W ALONG THE SLY LIMIT OF LT2 A DISTANCE OF 63'2" TO THE S WLY ANGLE OF LT2, THEN N64 DEGREES 29' EA DISTANCE OF 62' MORE OR LESS TO A POINT ON THE ELY LIMIT OF LT2, THENCE S 52 DEGREES E ALONG THE ELY LIMIT OF LT2 A

	Property Address	Registered Owner	Legal Description of Real Property
			DISTANCE OF 10'6" MORE OR LESS TO THE POC; PLAN ATTACHED IN 33273, NOW PLC 5776 SES; EXCEPT COMM AT A POINT IN THE S WESTERN LIMIT OF SAID LT2 DISTANT 95.0FT FROM THE MOST SLY ANGLE OF SAID LT; THENCE N 45DEG 23'W TO A POINT IN THE HIGHWATER MARK OF THE EASTERN BANK OF JUNCTION CREEK; THENCE S WLY FOLLOWING ALONG SAID HIGHWATER MARK TO THE MOST WLY ANGLE OF SAID LT; THENCE S 54DEG 42'E ALONG THE AFORESAID S WESTERN LIMIT 95.0 FT MORE OR LESS TO THE POC, NOW PCL 21291 SES; EXCEPT PT1 53R8264; PT LT3 PLAN M28B COMM AT TA POINT IN THE N ELY ANGLE; THENCE S 70 DEG 32' W ALONG THE S EASTERN LIMIT OF SAID LT 18.0FT; THENCE N 45DEG 23'W TO THE POC; EXCEPT PT 2 53R8264 SUBJECT TO 25265S/T LT868119 PART 6&7 ON PLAN 53R-16220 CITY OF SUDBURY
12.	1779 Cross Street Innisfil, Ontario	Tanya Hutchens	PIN #58069-0150 (LT); PT N 1/2 LT 25 CON 6 INNISFIL AS IN R01093173; ST R01093173; INNISFIL
13.	367-369 Howey Drive Sudbury, Ontario	367-369 Howey Drive Inc.	PIN #73583-0400 (LT); LT 1-2 BLK A PL 5SA MCKIM S/T & T/W S112782; S/T INTEREST IN S112782; GREATER SUDBURY
14.	33 Theodore Place Vaughan, Ontario	Tatiana Hutchens	PIN #03251-0304 (LT); PCL 89-1, SEC 65M2941; LT 89, PL 65M2941, S/T LT746593: Vaughan
15.	33 Theodore Place Vaughan, Ontario	Tatiana Hutchens	PIN #03251-0304 (LT); PCL 89-1, SEC 65M2941; LT 89, PL 65M2941, S/T LT746593: Vaughan
16.	1889 Simcoe Blvd Innisfil, Ontario	Tatiana Hutchens	LT 31, PL 657; INNISFIL being all of PIN (58072-0299 (LT))
17.	1790 Cross Street	Tatiana Hutchens	LT 1, PL 978; INNISFIL

	Property Address	Registered Owner	Legal Description of Real Property
	Innisfil, Ontario		being all of PIN (58069-0103 (LT))
18.	1479 Maple Road Innisfil, Ontario	Tatiana Hutchens	LT 6, PL 642; INNISFIL being all of PIN (58068-0102 (LT))

Personal Property:

Sea Doo Boat located at 33 Theodore Place, Vaughan, Ontario.

GARY STEVENS et al. v. SANDY HUTCHENS et al.
Applicants Respondents

Court File No. CV-18-608271-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**ORDER
(APPOINTING INTERIM RECEIVER)**

Nepal Litigation Professional Corporation
171 John Street, Suite 101
Toronto, Ontario M5T 1X3
Fax: 1.866.495.8389

Justin Nepal (LSO# 56126J)
Tel: 416.646.2920
justin@necpal.com

Anisah Hassan (LSO# 65919L)
Tel: 416.646.1018
ahassan@necpal.com

Lawyers for the Applicants, Gary Stevens,
Linda Stevens and 1174365 Alberta Ltd.

APPENDIX 2

U.S. District Court for the Eastern
District of Pennsylvania Order for
default judgment entered on
October 11, 2018

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GARY STEVENS, et al.,	:	
Plaintiffs,	:	
	:	
v.	:	Civ. No. 18-692
	:	
WESTMORELAND EQUITY FUND, LLC,	:	
et al.,	:	
Defendants.	:	

ORDER

On September 4, 2018, Plaintiffs Gary and Linda Stevens filed a Motion for Default Judgment against Defendant Sandy Hutchens Pursuant to Rules 37 and 55. (Doc. No. 104); Fed. R. Civ. P. 37, 55. Plaintiffs' base their motion on Hutchens' repeated and flagrant disregard of their discovery requests and my Order compelling him to comply with those requests. (See Doc. Nos. 94, 100.) On September 26, 2018, I issued an Order compelling Hutchens to show cause why I should not grant Plaintiffs' Motion. (Doc. No. 107.) Hutchens has not responded. I will grant the Motion.

I. BACKGROUND

Plaintiffs brought this action to recover damages they suffered as a result of a purportedly fraudulent scheme carried out by Hutchens, Westmoreland Equity Fund, and others. (Am. Complaint ¶ 1, Doc. No. 31.)

As pled, in October 2014, Plaintiffs sought refinancing for mortgage loans on property they were developing in Saskatchewan, Canada. (Id. ¶ 134.) Defendants Sofia Capital Ventures, LLC and Barbara Leuin referred Plaintiffs to Westmoreland and its Canadian representative, Ed Ryan. (Id. ¶ 137-43.) Plaintiffs allege that "Ed Ryan" is one of a number of Hutchens' pseudonyms. (Id. ¶ 9.) On October 30, 2014, Plaintiffs received a letter of intent from

54
269

Westmoreland, offering to provide a development loan of \$13,400,000 CDN. (Id. ¶ 145.) To secure the loan, Westmoreland required Plaintiffs to pay advance fees of over \$50,000. (Id. ¶ 146, 155.) Plaintiffs furnished these fees by mortgaging their Arizona home. (Id. ¶ 149.)

Plaintiffs were assured by Defendant American Escrow and Settlement Services—which they believed to be an independent company—that Westmoreland had a loan capacity of \$475,000,000. (Id. ¶ 153.) As alleged, American Escrow was actually a sham entity run by Defendant Bernard Feldman, on behalf of Defendant Lydecker Diaz—the law firm Sandy Hutchens engaged to represent Westmoreland. (Id. ¶ 48–55.)

On November 10, 2014, Westmoreland gave Plaintiffs a commitment letter for a loan of \$13,900,000 CDN. (Id. ¶ 156.) On February 23, 2015, after two appraisals of the Plaintiffs' property, Westmoreland dropped that offer to \$5,700,000 CDN. (Id. ¶ 166.) Westmoreland also determined that Plaintiffs had forfeited their advance fees because they had breached the commitment letter. (Id. ¶ 167.) On March 23, 2015, Westmoreland again changed the terms of the loan commitment to \$7,500,000 CDN, conditioned on Plaintiffs meeting certain fund requirements. (Id. ¶ 168–69.) While Westmoreland delayed, however, the original lender foreclosed on Plaintiffs' Saskatchewan property. (Id. ¶ 171.) Moreover, Plaintiffs were unable to repay the mortgage on their Arizona home and subsequently lost the property. (Id. ¶ 150.)

II. DISCUSSION

“If a party . . . fails to obey an order to provide or permit discovery . . . the court where the action is pending may issue further just orders.” Fed. R. Civ. P. 37(b)(2)(A). These actions may include “rendering a default judgment against the disobedient party.” Id. 37(b)(2)(A)(vi).

Plaintiffs seek an Order of Default Judgment against Sandy Hutchens to recover treble

damages for their loss of \$8,924,921.03. (Pls.' Interim Rep. 3, Doc. No. 117; Pls.' Mot. Default J. 5, Doc. No. 104.) Entering a Rule 55 default judgment as sanctions for failing to participate in litigation is governed by the *Poulis* factors. See Mindek v. Rigatti, 964 F.2d 1369, 1373 (3d Cir. 1992) (*Poulis* factors are the proper standard for considering punitive dismissals); Poulis v. State Farm Fire & Casualty Co., 747 F.2d 863, 868 (3d Cir. 1984) (listing six factors for determining whether the district court "abused its discretion in dismissing, or refusing to lift a default").

These six factors are:

(1) the extent of the party's personal *responsibility*; (2) the *prejudice* to the adversary caused by the failure to meet scheduling orders and respond to discovery; (3) a *history* of dilatoriness; (4) whether the conduct of the party or the attorney was *willful* or in *bad faith*; (5) the effectiveness of sanctions other than dismissal, which entails an analysis of *alternative sanctions*; and (6) the *meritoriousness* of the claim or defense.

Poulis, 747 F.2d at 868 (emphasis in original). I must "make explicit factual findings concerning these factors," but "it is not necessary that all of these factors point toward a default before that sanction will be upheld." Hoxworth v. Blinder, Robinson & Co., Inc., 980 F.2d 912, 919 (3d Cir. 1992). After considering these factors, I find that all six weigh in favor of entering default judgment against Hutchens.

First, Hutchens is personally responsible for ignoring repeated discovery requests, my Order to compel discovery, and my Order to show cause. Hutchens is able to respond to all of these, as he originally answered Plaintiffs' Amended Complaint. (Doc. No. 60.) His *pro se* status does not excuse his failure to participate. See, e.g., Hoxworth, 980 F.2d at 920 ("Defendants had personal responsibility for the conduct of the litigation after their attorney withdrew."); Jimenez v. Rosenbaum-Cunningham, Inc., No. 07-1066, 2010 WL 1303449, at *6 (E.D. Pa. Mar. 31, 2010) (this factor weighed against *pro se* litigant who did not comply with

discovery requests); Smith v. Altegra Credit Co., No. 02-8221, 2004 WL 2399773, at *4-5 (E.D. Pa. Sept. 22, 2004) (same for *pro se* litigant who missed numerous status conferences).

Second, I find that Plaintiffs are prejudiced by Hutchens' refusal to engage in discovery. His recalcitrance has greatly impaired Plaintiffs' attempts to remedy their losses. Third, Hutchens has a history of dilatoriness: he has ignored repeated discovery requests and two of my Orders. Fourth, although the record does not prove Hutchens' motives, his pattern of recalcitrance strongly suggests he is acting willfully and in bad faith. See Roman v. City of Reading, 121 Fed. Appx. 955, 960 (3d Cir. 2005) (non-precedential) (Plaintiffs' failure to offer any excuse for "dilatory conduct" was suggestive of bad faith). Fifth, Hutchens' failure to provide any excuse for is inaction "depriv[es] [me] of the ability to craft a more moderate sanction that will ensure future compliance." Plumbers Union Local No. 960 v. F.P.S. Plumbing, Inc., No. 08-4271, 2009 WL 2591153, at *4 (E.D. Pa. Aug. 20, 2009). Accordingly, I find that the imposition of alternative sanctions would be ineffective.

Finally, I find that Plaintiffs have a meritorious claim as defined by the *Poulis* Court: "the allegations of the pleadings, if established at trial, would support recovery by plaintiff." Poulis, 747 F.2d at 870. Hutchens' ten page answer to Plaintiffs' eighty-one page Amended Complaint provides a mere boilerplate response to Plaintiffs' detailed factual allegations against him. (See Doc. Nos. 31, 60.) This factor also weighs in favor of a default.

III. CONCLUSION

In sum, I find that all six *Poulis* factors weigh in favor of entering a default judgment against Hutchens, who has plainly abandoned any defense of this action. Accordingly, I will grant Plaintiffs' Motion and judgment will be entered in favor of Plaintiffs and against Defendant

57
272

Sandy Hutchens. An appropriate Judgment follows.

AND IT IS SO ORDERED.

/s/ Paul S. Diamond

October 10, 2018

Paul S. Diamond, J.

APPENDIX 3

U.S. District Court for the Eastern
District of Pennsylvania Order for
default judgment entered on
December 19, 2018

WESTMORELAND EQUITY FUND, LLC, :
et al., :
Defendants. :

ORDER

On January 26, 2018, Plaintiffs Gary and Linda Stevens filed this RICO action against Defendants Sandy Hutchens, Westmoreland Equity Fund, LLC, and others, in the Philadelphia Common Pleas Court, alleging injuries arising from Defendants' advance-fee mortgage frauds. (Doc. No. 1.) On February 15, 2018, Defendants removed the case. (Id.) Plaintiffs subsequently amended their Complaint. (Doc. No. 31.) On September 4, 2018, Plaintiffs sought default judgment against Sandy Hutchens for his failure to comply with discovery requests and my Orders. (Doc. No. 104); Fed. R. Civ. P. 37; 55. On September 26, 2018, I ordered Hutchens to show cause as to why Plaintiffs' Motion should not be granted, giving him until October 17, 2018 to respond. (Doc. No. 107.) On October 9, 2018, I prematurely entered Judgment against Hutchens, pursuant to Rules 37 and 55. (Doc. Nos. 119, 120.) On October 10 and 11, 2018, I vacated my October 9th Order and Judgment, and reentered corrected versions. (Doc. Nos. 121, 122, 123.) On October 16, 2018, Hutchens responded to my September 26, 2018 Show Cause Order, pointing out that I had entered Judgment against him before his response period had expired. (Doc. No. 126.) Plaintiffs responded, agreeing that the Order and Judgment should be vacated to clear the record of procedural error. (Doc. No. 127.) I thus vacated my Order and Judgment against Hutchens, and gave Hutchens until November 16, 2018 to comply with my prior Orders. (Doc. No. 128.)

On October 18, 2018, Plaintiffs asked me to reinstate the Judgment against Hutchens. (Doc. No. 131.) I denied their Motion. (Doc. No. 132.) Hutchens filed delinquent discovery responses before the end of my thirty-day deadline. (See Doc. Nos. 143, 144, 148.)

On November 16, 2018, Plaintiffs filed the instant Motion for Reentry of Default Judgment Against Sandy Hutchens. (Doc. No. 142.) Hutchens opposed the Motion, Plaintiffs replied, and Hutchens sur-replied. (Doc. Nos. 151, 152, 153.) I will reenter Judgment against Hutchens.

I. FACTUAL BACKGROUND

As pled, in October 2014, Plaintiffs sought refinancing for mortgage loans on property they were developing in Saskatchewan, Canada. (Am. Compl. ¶ 134, Doc No. 31.) Defendants Sofia Capital Ventures, LLC and Barbara Leuin referred Plaintiffs to Westmoreland Equity Fund and its Canadian representative, “Ed Ryan,” who was Sandy Hutchens acting under a pseudonym. (Id. ¶¶ 9, 137–43.) On October 30, 2014, Plaintiffs received a letter of intent from Westmoreland, offering to provide them with a development loan of \$13,400,000 CDN. (Id. ¶ 145.) To secure the loan, Westmoreland required Plaintiffs to pay advance fees of over \$50,000. (Id. ¶¶ 146, 155.) Plaintiffs obtained these fees by mortgaging their Arizona home. (Id. ¶ 149.)

Plaintiffs were assured by Defendant American Escrow and Settlement Services—which they believed to be an independent company—that Westmoreland had a loan capacity of \$475,000,000. (Id. ¶ 153.) As alleged, American Escrow was a sham entity run by Defendant Bernard Feldman on behalf of Defendant Lydecker Diaz—the law firm Hutchens engaged to represent Westmoreland. (Id. ¶¶ 48–55.)

On November 10, 2014, Westmoreland gave Plaintiffs a commitment letter for a loan of \$13,900,000 CDN. (Id. ¶ 156.) On February 23, 2015, after two appraisals of the Plaintiffs’ property, Westmoreland dropped that offer to \$5,700,000 CDN. (Id. ¶ 166.) Westmoreland also

determined that Plaintiffs had forfeited their advance fees because they had breached the commitment letter's terms. (Id. ¶ 167.) On March 23, 2015, Westmoreland again changed the terms of the loan commitment to \$7,500,000 CDN, conditioned on Plaintiffs meeting certain fund requirements. (Id. ¶¶ 168–69.) While Westmoreland delayed, however, the original lender foreclosed on Plaintiffs' Saskatchewan property. (Id. ¶ 171.) Moreover, Plaintiffs were unable to repay the mortgage on their Arizona home, which they subsequently lost. (Id. ¶ 150.)

Plaintiffs charge Hutchens with: (1) fraud and misrepresentation, (2) conversion and civil theft, (3) civil conspiracy, (4) aiding and abetting, and (5) four RICO counts. (See id.); 18 U.S.C. §§ 1962(c), (d). Plaintiffs now seek to reinstate Judgment against Hutchens for damages in the amount of \$ 26,774,763.09, subject to any offsets. (Mot. Reentry Default J., Doc. 142); Fed. R. Civ. P. 37(b)(2)(A)(vi), 55(b)(2).

II. LEGAL STANDARDS

“If a party . . . fails to obey an order to provide or permit discovery . . . the court where the action is pending may issue further just orders.” Fed. R. Civ. P. 37(b)(2)(A). These actions may include “rendering a default judgment against the disobedient party.” Id. 37(b)(2)(A)(vi).

Entering a Rule 55 default judgment as a sanction for failing to participate in litigation is within my discretion and governed by the *Poulis* factors. See Mindek v. Rigatti, 964 F.2d 1369, 1373 (3d Cir. 1992) (*Poulis* factors are the proper standard for considering punitive dismissals); Poulis v. State Farm Fire & Casualty Co., 747 F.2d 863, 868 (3d Cir. 1984) (listing six factors for determining whether the district court “abused its discretion in dismissing, or refusing to lift a default”). These six factors are:

- (1) the extent of the party's personal *responsibility*; (2) the *prejudice* to the adversary caused by the failure to meet scheduling orders and respond to discovery; (3) a *history* of dilatoriness; (4) whether the conduct of the party or the attorney was *willful* or in *bad faith*; (5) the effectiveness of sanctions other than dismissal, which

61
276

entails an analysis of *alternative sanctions*; and (6) the *meritoriousness* of the claim or defense.

Poulis, 747 F.2d at 868 (emphasis in original). I must “make explicit factual findings concerning these factors,” but “it is not necessary that all of these factors point toward a default before that sanction will be upheld.” Hoxworth v. Blinder, Robinson & Co., Inc., 980 F.2d 912, 919 (3d Cir. 1992).

A party’s *pro se* status does not excuse his failure to participate in discovery or comply with Orders. See, e.g., id. at 920 (“Defendants had personal responsibility for the conduct of the litigation after their attorney withdrew.”); Jimenez v. Rosenbaum-Cunningham, Inc., No. 07-1066, 2010 WL 1303449, at *6 (E.D. Pa. Mar. 31, 2010) (this factor weighed against *pro se* litigant who did not comply with discovery requests); Smith v. Altegra Credit Co., No. 02-8221, 2004 WL 2399773, at *4–5 (E.D. Pa. Sept. 22, 2004) (same for *pro se* litigant who missed numerous status conferences).

III. DISCUSSION

Plaintiffs ask me to reenter judgment against Hutchens as sanctions for his willful failure to comply with my Orders and provide discovery in good faith. (Pls.’ Mot. Reentry Default J., Doc. No. 142); Fed. R. Civ. P. 37(b)(2)(A)(vi), 55(b)(2). Plaintiffs allege that “Hutchens has filed false, unverified interrogatory answers incorporating forged documents, produced virtually no relevant documents, and has provided no reason in response to the Court’s Order to show cause why judgment should not be reentered.” (Pls.’ Mem. Supp. Mot. Reentry Default J. 1, Doc. No. 142-1.) I agree, and will provide a summary of Hutchens’ obstructive and fraudulent pattern of behavior during this litigation.

On June 8, 2018, Plaintiffs first served Hutchens with requests for production of documents and interrogatories. (Id. at 3–4, 13.) After he made no response, on July 19, 2018, Plaintiffs again

62
277

served Hutchens with the same discovery requests, which Hutchens continued to ignore. (Id.; Pls.' Mot. Compel 1–2, Doc. No. 94.) On August 21, 2018, Plaintiffs asked me to compel Hutchens to provide discovery. (See Mot. Compel.) On August 28, 2018, Hutchens failed to appear at the preliminary pre-trial hearing in defiance of my July 6, 2018 Order requiring his attendance. (Doc. Nos. 92, 101.) Accordingly, on the same day, I ordered Hutchens to respond to Plaintiffs' outstanding discovery requests by September 3, 2018, admonishing that his failure to provide discovery could result in entry of judgment against him. (Doc. No. 100.)

Hutchens ignored my August 28, 2018 Order. (See Mot. Default J., Doc. No. 104.) In fact, Hutchens continued to ignore this litigation and his corresponding obligations until *after* I entered Judgment against him. (Doc. No. 107, 121, 123.) On November 6, 2018, Hutchens finally produced eleven documents (totaling 285 pages), and sent Plaintiffs the following discovery responses: (1) Answers to Interrogatories; (2) Response Notice to Production of Documents; and (3) Initial FRCP 26 Disclosures. (Pl.'s Mem. Supp. Mot. Reentry Default J. 3–4, 13, Doc. No. 142-1; Def.'s Answers to Interrogs., Doc. No. 143; Def.'s Resp. Notice Produc. Docs., Doc. No. 144; Def.'s Initial FRCP 26 Discls., Doc. No. 148.) There is considerably less to these submissions than their titles would suggest.

Hutchens refused to respond to ten out of the twenty-three interrogatories posed by Plaintiffs, objecting that they were either irrelevant or “overly broad, vague and extremely burdensome.” (See Def.'s Answers to Interrogs.) Hutchens simply did not respond to an eleventh. (Id. at 15.) My review of these unanswered interrogatories confirms that they were appropriate under Rule 26.

For example, Hutchens refused to provide contact information for other named Defendants, despite this request being a mandatory initial disclosure. (Id. 1–2); Fed. R. Civ. P. 26(a)(1)(A)(i).

Hutchens refused to provide details for loan deals listed on Westmoreland's website as "neither being relevant nor leading to an[y] relevant evidence," despite clearly going towards establishing Westmoreland's ongoing RICO conspiracy. (Id. at 13–14.) Hutchens also refused to answer—on the basis of relevance—interrogatories relating to: (1) testimonials listed on Westmoreland's website; (2) transactions involving Defendants Sofia Capital and Leuin; (3) Westmoreland payments to Sofia Capital and Leuin; (4) payments and transfers made by Defendant American Escrow at the direction of Westmoreland; (5) transactions between Westmoreland and the Finrock Defendants; and (6) Westmoreland payments to the Finrock Defendants. (Id. at 14–17.) Hutchens argues that because these interrogatories involve Defendants no longer party to the case, the information is not relevant. (Id.) Hutchens either ignores or misunderstands that the information is relevant to Plaintiffs' RICO conspiracy claims against him and therefore is squarely within the scope of Rule 26. Fed. R. Civ. P. 26(b)(1).

Hutchens also refused to "identify each and every transaction for which Westmoreland accepted a fee in connection with a loan" as "overly broad, vague and extremely burdensome." (Def.'s Answers to Interrogs. 17.) It is troubling that Hutchens finds maintaining and providing basic business records to be so burdensome. Their relevance to Plaintiffs' RICO allegations is obvious.

More troubling, those responses Hutchens *did* provide are largely false or fraudulent. When asked to identify Westmoreland's source of funds for Plaintiffs' loan, Hutchens named lending agreements with banks that the files produced by his co-defendants (Bernard Feldman and American Escrow), indicate did not become part of the Westmoreland scheme until two years later. (See Def.'s Answers to Interrogs. 10; Pls.' Mem. Supp. Mot. Reentry Default J. 16–20.) Notably,

64
279

Hutchens did not produce the lending agreements he identified in his Responses. (Pls.' Mem. Supp. Mot. Reentry Default J. 18; Def.'s Resp. Notice Produc. Docs.)

In these circumstances—where Hutchens refused to answer basic, relevant questions and, when he did respond, did so falsely—it is apparent that Hutchens has continued to defy his discovery obligations and this Court's Orders.

Plaintiffs requested that Hutchens produce, *inter alia*, "all documents relating to" the named Defendants, Hutchens' alias, and a number of Westmoreland's loan deals. (See Def.'s Resp. Notice Produc. Docs. 1–3.) Hutchens refused to produce documents responsive to these six Requests, again objecting that they were "overly broad and burdensome and essentially a fishing expedition" and "relate to persons [or] entities not defendants in this action." (*Id.*) Once again, the Requests were entirely proper. Fed. R. Civ. P. 26(b)(1) ("Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense.") Hutchens fails to appreciate that those persons or entities are the Defendants in this case who were dismissed due to settlement, failure to serve, or entry of default judgment. Documentation regarding these Defendants—who are named members of the Westmoreland RICO conspiracy—is obviously relevant to the charges against Hutchens, the alleged leader of that conspiracy.

Hutchens deigned only to produce documents related to Plaintiffs' and their property, the Intervenor Plaintiffs, and Westmoreland wire transfers—a grand total of eleven documents. (Def.'s Resp. Notice Produc. Docs. 3–5; Pls.' Mem. Supp. Mot. Reentry Default J. 13 n.7.) Moreover, Hutchens failed to produce complete copies of the documents he offered as "evidence" of his "innocence" in his Response to my September 26, 2018, Show Cause Order, and he also failed to produce *any* of the documents he mentioned in his interrogatory Responses. (Pls.' Mot. Reentry Default J. 2; Def.'s Resp. Order Show Cause 2–28.) Although Hutchens stated that he

65
280

did not have documents relating to another five categories of Requests, he did not sign or otherwise verify his Response. (See Def.'s Resp. Notice Produc. Docs.) He has since corrected this failure—after Plaintiffs pointed it out—by filing a separate verification which does not comport with applicable law. (Verification, Doc. No. 154; Pls.' Mot. Strike, Doc. No. 156); 28 U.S.C. § 1746.

In his Initial FRCP 26 Disclosures, Hutchens identified “all other defendants” and “all plaintiffs” as individuals likely to have discoverable information to support his defense. (See Def.'s Initial FRCP 26 Discls., 89–92.) Hutchens also identified “documents previously produced” as those that would support his defense. (Id.) He made no other disclosures. (See id.) These “Disclosures” are obviously worthless.

In sum, Hutchens has virtually stonewalled Plaintiffs' discovery requests. Hutchens only response to my September 26, 2018 Show Cause Order was to allege that he failed to comply with my Order to compel because “he was never served at any time in accord with the applicable laws and treaties in existence between the USA and Canada.” (Def.'s Resp. Order Show Cause 1, Doc. No. 126.) Hutchens further alleges that “he did not receive all the various pleadings and Orders” and further contests—without offering any supporting evidence—the merits of Plaintiffs' claim, alleging that: (1) Plaintiffs' loan application contained fraudulent misrepresentations; (2) Plaintiffs' project was not viable and would have failed “regardless of what lender [Plaintiffs] would have approached for funding”; and (3) that Plaintiffs suffered “no damages whatsoever.” (Id. at 1–4 (emphasis omitted).) Hutchens offered no additional excuse for his delay other than contesting validity of service. Notably, on March 27, 2018, I ordered Plaintiffs to serve Hutchens with the Amended Complaint and pleadings by regular mail to his home address and by email. (Doc. No. 35); Fed. R. Civ. P. 4(f)(3). Since then, Plaintiffs' counsel has verified service by email and regular mail at Hutchens' address per my Order for all pleadings. (Aff. of Service, Doc. No.

66
281

39; Pls.' Mem. Supp. Mot. Reentry Default J. 6.) Hutchens undoubtedly was aware of the ongoing lawsuit because, on May 15, 2018, he filed an Answer to the Complaint. (Doc. No. 60.) Hutchens has nonetheless repeatedly and consistently flouted my Orders to participate.

Plainly, Hutchens has not shown good cause for his failure to comply with discovery requests or my Orders, nor has he remotely shown why I should not enter Judgment against him. See Petrucelli v. Bohringer & Ratzinger, 46 F.3d 1298, 1306 n.9 (3d Cir. 1995) (good cause is "a discretionary judgment to be exercised by the district court" and is governed by an abuse of discretion standard.) In these circumstances—where Hutchens' pattern of behavior reveals an unapologetic contempt for the judicial process—entry of default judgment is an appropriate sanction as guided by the *Poulis* factors. See Poulis, 747 F.2d at 868.

Hutchens—and Hutchens alone—is responsible for failing to engage in this litigation. His *pro se* status is no excuse. See Hoxworth, 980 F.2d at 920. His statement that he never received pleadings is obviously false and contradicted by the record. (See Aff. of Service; Pls.' Mem. Supp. Mot. Reentry Default J. 6.)

Hutchens' failure to participate in this litigation has severely prejudiced Plaintiffs, who have been unable to obtain crucial evidence regarding their claims, including loan appraisals proving that Plaintiffs' property was valued accurately (despite Hutchens and Westmoreland's allegations that it was worth barely half that amount). (Compare Def.'s Resp. Show Cause Order 1–6 with Pls.' Mem. Supp. Mot. Reentry Default J. 7–8 n.3.) Moreover, in negotiating settlements with other Defendants, Plaintiffs' strategy was reasonably affected by their understanding that there would be a judgment against Hutchens. (Pls.' Mem. Supp. Mot. Reentry Default J. 21.)

As I discussed above, Hutchens has an extensive history of missed deadlines, appearances, and ignored Orders. Even now, he ignores the electronic filing system and defies my Standing

Order governing motions practice. (See Doc. Nos. 2, 92.) His discovery responses virtually non-existent and his discovery objections are frivolous. Moreover, they appear rife with inaccuracies and falsehoods, supported only by forged or fraudulent documents. (See Pls.' Mem. Supp. Mot. Reentry Default J. 16-21; Pl.'s Reply, Doc. 152.) In responding to the instant Motion, he has appended documents and exhibits that he told Plaintiffs did not exist or were irrelevant to the litigation. (Pls.' Reply 2; Pls.' Mot. Strike 2.) His actions are obviously both dilatory and taken in bad faith.

Alternative sanctions would not be effective. Hutchens has repeatedly ignored or defied my prior Orders. The seriousness of this sanction against him is appropriate and merited by my continual warnings and notice to Hutchens of the likely consequences. (See Doc. Nos. 92, 100, 107.)

Plaintiffs also have a meritorious claim as defined by the *Poulis* Court: "the allegations of the pleadings, if established at trial, would support recovery by [P]laintiff[s]." *Poulis*, 747 F.2d at 870. Hutchens' ten page answer to Plaintiffs' eighty-one page Amended Complaint provides nothing more than single denials of Plaintiffs' detailed factual allegations. (See Doc. Nos. 31, 60.) Hutchens' current arguments reveal his casual attitude towards the truth. His "evidence" of "innocence" is clearly fraudulent and contradicted by documents obtained by the Plaintiffs from other Defendants. (Pls.' Mem. Supp. Mot. Reentry Default J. 9-21; Pls.' Reply, Doc. No. 7; Compare Exs. to Def.'s Opp. Mot. Default J., 151-2 with Exs. to Pls.' Mot. Reentry Default J., 142-2.) Hutchens has provided me with no reason to believe that he has a meritorious or even bona fide defense to Plaintiffs' claims.

68
283

Accordingly, all six *Poulis* factors weigh in favor of entering default judgment against Hutchens. I will therefore do so. An appropriate Judgment follows.

December 19, 2018

AND IT IS SO ORDERED.

/s/ Paul S. Diamond

Paul S. Diamond, J.

APPENDIX 4

Amended Federal Complaint
dated March 15, 2018

69
54

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Gary Stevens; Linda Stevens; and	:	
1174365 Alberta Ltd.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	Civil No. 2:18-cv-692-PD
Westmoreland Equity Fund LLC; Sandy Hutchens	:	
Ed Ryan; Tanya Hutchens; Jennifer Hutchens;	:	
Shannon Hutchens; Matthew Kovce;	:	
Jason Underwood; Bernard Feldman;	:	
Sofia Capital Ventures, LLC; Barbara Leuin;	:	
American Escrow & Settlement Services, LLC;	:	
Elias Correa; Alan Feldman; Lydecker, Lee, Berga,	:	
& De Zayas LLC; Lydecker LLP and Richard	:	
Lydecker,	:	
	:	
Defendants.	:	

AMENDED FEDERAL COMPLAINT

I. INTRODUCTION

1. Plaintiffs Gary Stevens, Linda Stevens, and 1174365 Alberta Ltd. bring this action pursuant to Pennsylvania Law and the Federal Racketeer Influenced and Corrupt Organizations (RICO) Act, 18 U.S.C. § 1964(c), to recover the damages they suffered after being swept up in a massive advance-fee real-estate loan scam.

II. PARTIES

2. Plaintiffs Linda and Gary Stevens are natural persons, residents of Mayerthorpe, Alberta, Canada.

76
55

3. Plaintiff 1174365 Alberta Ltd. is a corporation incorporated in Alberta, Canada. Linda and Gary Stevens are the sole stockholders of 1174365 Alberta.

4. Defendant American Escrow and Settlement Services LLC (“American Escrow”) is a Florida Corporation organized by Defendant Bernard Feldman. It claims Boca Raton, Florida, as its principal place of business, and has also listed an address in Hollywood, Florida.

5. Defendant Elias Correa was a partner with the Florida law firm of Lydecker, Lee, Berga & De Zayas, LLC (operating as “Lydecker Diaz”). All acts and omissions carried out by Correa alleged in this complaint were done in his capacity as a partner of Lydecker Diaz.

6. Defendant Alan Feldman was a partner with the Florida law firm of Lydecker Diaz. All acts and omissions carried out by Alan Feldman alleged in this complaint were done in his capacity as a partner of Lydecker Diaz.

7. Defendant Bernard Feldman (“Feldman”) is a natural person who is a resident of Boca Raton, Florida.

8. Defendant Jennifer Hutchens is the daughter of Sandy Hutchens. On information and belief, under the alias of Jennifer Araujo, she represented herself to be the “Manager of Underwriting” for First Central Mortgage Funding Inc.,

71
56

Canadian Funding Corporation, and 308 Elgin Street Inc. Jennifer Hutchens is the mother of Defendant Matthew Kovce's children.

9. Defendant Sandy Hutchens ("Hutchens") is a Canadian citizen and a resident of Toronto, Ontario, Canada. Hutchens has used many aliases, and presented himself as the chief executive of several fraudulent corporate entities that he has created to carry out his fraudulent schemes, including presenting himself as "Ed Ryan," the Managing Member of Westmoreland, when he defrauded Plaintiffs.

10. Defendant Shannon Hutchens is the daughter of Sandy Hutchens. Shannon Hutchens is the mother of Defendant Ed Ryan's children.

11. Defendant Tanya Hutchens is the wife of Sandy Hutchens. On information and belief, she participated in the enterprise in several ways, including preparing many of the loan commitment letters issued by the enterprise and helping to launder the funds derived from the scheme.

12. Defendant Matthew Kovce is purportedly in a "common law" marriage with Defendant Jennifer Hutchens. Defendant Kovce allowed Hutchens to use his name to conceal Hutchens's true identify. Upon information and belief, Plaintiffs allege that Hutchens paid Kovce in exchange for allowing him to use his name.

13. Defendant Barbara Leuin is a resident of California and the chief executive officer of Defendant Sofia Capital Ventures, LLC.

14. Defendant Lydecker, Lee, Berga & De Zayas, LLC, is a Florida limited liability company with its principal place of business in Miami, Florida.

15. Defendant Lydecker LLP is a Florida limited partnership D/B/A Lydecker Diaz F/D/B/A Lydecker Diaz, F/D/B/A Lydecker, Lee, Berga & De Zayas, LLC, ("Lydecker LLP") was formed by Defendant Richard Lydecker on May 23, 2017. On November 14, 2017, Lydecker LLP registered the fictitious name Lydecker | Diaz. Lydecker | Diaz is the new fictitious name for, and mere continuation of its predecessor, Defendant Lydecker, Lee, Berga & De Zayas, LLC. Both are controlled by the same person, Defendant Richard Lydecker. Both have the same management, personnel, location, clients, and both conduct the same business of providing legal services.

16. Defendant Richard J. Lydecker is a resident of Miami, Florida. He was the managing member of Lydecker, Lee, Berga & De Zayas, LLC and Lydecker LLP.

17. Defendant Ed Ryan is purportedly in a "common law" marriage with Defendant Shannon Hutchens. Defendant Ryan allowed Sandy Hutchens to use his name to conceal Hutchens' true identity. Upon information and belief, Plaintiffs allege that Sandy Hutchens paid Ryan and/or Defendant Shannon Hutchens in exchange for allowing them to use Ed Ryan's name.

18. Defendant Sofia Capital Ventures, LLC (“Sofia”) is a Colorado corporation with its principal place of business in Colorado Springs, Colorado.

19. Defendant Jason Underwood (“Underwood”) was represented by Westmoreland to be a natural person to have undertaken the function as underwriter on its behalf. His location is unknown. Westmoreland’s prior counsel could not furnish an address for him and the receptionist at Westmoreland’s claimed principal place of business had never heard of him.

20. Defendant Westmoreland Equity Fund (“Westmoreland”) is a Delaware Corporation. Its principal place of business is 1650 Market Street, Philadelphia, Pennsylvania.

III. VENUE AND JURISDICTION

21. Venue was proper in the Pennsylvania Court of Common Pleas of Philadelphia County and under federal law under 18 U.S.C. § 1965(a), (b).

22. The Court has jurisdiction over this action under 28 U.S.C. § 1441, pursuant to which Defendants removed this action from the Pennsylvania Court of Common Pleas of Philadelphia County.

23. The Court has original jurisdiction over this action pursuant to RICO, 18 U.S.C. § 1964(c), which confers jurisdiction upon this Court over the subject matter of this action. The Court also has jurisdiction over the subject matter

pursuant to 28 U.S.C. § 1331 in that this action arises under the laws of the United States.

24. The Pennsylvania Court of Common Pleas had jurisdiction over this action under 42 Pa. Stat. and Cons. Stat. Ann. § 5322 as Defendants acted directly or by an agent as to a cause of action or other matter arising from such person: (1) Transacting any business in this Commonwealth. (i) The doing by any person in this Commonwealth of a series of similar acts for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object. (ii) The doing of a single act in this Commonwealth for the purpose of thereby realizing pecuniary benefit or otherwise accomplishing an object with the intention of initiating a series of such acts. (iv) The engaging in any business or profession within this Commonwealth. (3) Causing harm or tortious injury by an act or omission in this Commonwealth. (4) Causing harm or tortious injury in this Commonwealth by an act or omission outside this Commonwealth. (7) Accepting election or appointment or exercising powers under the authority of this Commonwealth as a: (iv) Director or officer of a corporation and (10) Committing any violation within the jurisdiction of this Commonwealth of any statute, home rule charter, local ordinance or resolution, or rule or regulation promulgated thereunder by any government unit or of any order of court or other government unit.

60⁷⁵

25. Westmoreland's principal place of business is at the 36th Floor of 1650 Market Street in Philadelphia, Pennsylvania. That virtual office is also the Philadelphia address of Defendant Lydecker Diaz.

IV. FACTS GIVING RISE TO THIS CAUSE OF ACTION

A. THE ROLES OF THE KEY PARTICIPANTS IN THE SCHEME

1. Westmoreland Equity Fund

26. Westmoreland Equity Fund, LLC ("Westmoreland"), purported to be a major commercial lender. Its website stated, among other things during the relevant period: "A Trusted Partner In Over 3,000 Deals. Westmoreland Equity Fund LLC has participated in thousands of closed transactions over the past several years and is known for its ability to complete underwriting and fund quickly." It further claimed that "Westmoreland participated as a funding partner in over 100 projects in 2014 and continues to seek new projects."

27. Westmoreland's website, like Westmoreland's Pennsylvania Foreign Corporation Registration, stated that its principal place of business was 1650 Market Street, 36th Floor, Philadelphia, Pennsylvania, i.e., Liberty Place. It listed no other place of business other than the 1650 Market Street address.

28. In fact, Westmoreland had no employees at its headquarters and only identified office. This is because Westmoreland is total fraud. It is the latest iteration of a long-running criminal enterprise.

29. The mastermind of the scheme is Sandy Hutchens, whose extensive criminal record goes back more than twenty years. He was most recently convicted for three counts of fraud in Canada in April, 2005. To disguise his criminal past, Hutchens used numerous aliases, including “Ed Ryan,” “Fred Hayes,” “Moishe Alexander,” “Moshe Ben Avraham,” “Alexander MacDonald,” “Frederick Merchant,” “Mathew Kovce,” and others. Hutchens never used his true name in any of his dealings with the Plaintiffs.

30. Before Westmoreland was created in or about 2013, the scheme had operated through an entity known as “Canadian Funding Corporation” (“CFC”), which Hutchens incorporated on January 28, 2004. The scam was subsequently renamed and reincorporated under various names, including 308 Elgin Street, Inc., and First Central Mortgage Funding Inc. (“FCMF”).

31. After the Toronto Star and Internet websites such as “Ripoff Report” and the “Jewish Whistleblower” had exposed Hutchens and his use of CFC, 308 Elgin, and FCMF to carry out his scheme, Hutchens, using the alias “Mathew Kovce,” incorporated the Great Eastern Investment Fund (“GEIF”) in March, 2011. When GEIF began to be identified as a fraud, the enterprise changed names again in early 2013, incorporating under the name of Defendant Westmoreland.

32. Defendant Bernard Feldman has been actively involved since at least the GEIF iteration of the scheme, in which he participated through his entity,

Hollywood Title Services, LLC, the same entity Feldman used in the transactions for which Feldman pleaded nolo contendere to charges of criminal fraud.

33. The victims of the enterprise are persons or entities who require financing for real estate transactions. To that end, they engage the services of various mortgage brokers, such as Defendants Barbara Leuin and Sofia. The mortgage brokers obtained loan applications and related materials from these borrowers, which were transmitted via the U.S. Mail and/or interstate wire facilities to the Westmoreland enterprise.

34. The enterprise would then issue loan commitments to victims even though it had neither the capacity nor the intent to fund the real estate loans. These loan commitments provided that, as a condition for closing on the respective commitment, substantial fees, characterized as “lender’s legal fees,” “lender’s administrative fee,” “inspection fee,” and “brokerage fee” were to be paid in advance. For example, after the applicant paid the “inspection fee,” the enterprise would arrange for an “inspection” of the prospective collateral.

35. Once the loan application process was far along, the enterprise would invariably find fault with the loan applications and materials submitted, the victims’ compliance with the covenants of the commitment letter, or with the property offered as collateral. The enterprise would then impose additional terms and conditions, often including a demand for additional fees and, in time,

invariably found that the applicant had failed to satisfy these new terms and conditions. The enterprise would then identify trumped-up defects as grounds for terminating the loan application process. Upon the loan application being terminated, the enterprise would keep all the monies advanced. Claiming that the fees had been earned and were nonrefundable, it refused to give any of it back to the borrowers.

36. Upon information and belief, Defendant Tanya Hutchens wrote letters issued and sent by the enterprise purporting to commit loans to applicants. Upon information and belief, Defendant Jennifer Hutchens issued wiring instructions for the legal and administrative fees to be wired to one of the enterprise's accounts.

37. Over the years, the enterprise committed to loans worth hundreds of millions of dollars, and collected more than \$10 million in advance fees.

2. "Ed Ryan"/Sandy Hutchens

38. Sandy Hutchens ("Hutchens") is a notorious criminal in Canada. In 2004, he pleaded guilty to financial fraud charges and was sentenced to two years of house arrest followed by two years of probation. Defendants undertook significant efforts to disguise his identity from Plaintiffs.

39. The foreign corporation registration statement filed for Westmoreland Equity Fund, LLC with Pennsylvania Department of State contains a sworn

certification with the signature “Ed Ryan.” Ed Ryan was the alias that Hutchens used to conceal his identity during the operation of Westmoreland.

40. Westmoreland has been named in other cases which allege the same fraudulent scheme, and Ed Ryan was identified as the person represented to be Westmoreland’s principal in each of them. *See Campanile Investments, LLC v. Westmoreland Equity Fund, LLC*, 17-00337 (W.D. Tex. April 17, 2017); *Leathem Stearn et al. v. Westmoreland Equity Fund, Ed Ryan, and Bernard Feldman*, No. 1:16-cv-01211 (D. Col., May 20, 2016); *Oak Hall Companies, LLC v. Westmoreland Equity Fund, LLC*, No. 15-7702-6 (Super. Ct. Dekalb Cty, Ga., July 22, 2015), *U.S. RE Companies, Inc. v. Feldman*, No. 2018-000005-CA-01 (Fla. Cir. Ct. Miami-Dade Cty. Jan. 2, 2018).

41. Sandy Hutchens has been named in at least two additional cases involving earlier iterations of the scheme involving CFC, FCMF, and 308 Elgin. In May 2017, a class action under RICO brought against Hutchens, his wife (Defendant Tanya Hutchens) and his daughter (Defendant Jennifer Hutchens) in the United States District Court for the District of Colorado, entitled *CGC Holdings, LLC et al. v. Hutchens et al.*, Case No. 11-CV-01012-RBJ-KLM resulted in a jury verdict of \$8.4 million. In September 2017, the court trebled that figure under RICO and entered a final judgment for \$24.2 million. The class period in that matter ends on April 7, 2013. The fraud perpetrated against the Plaintiffs

65 30

occurred in 2014 and 2015. Other victims of the enterprise have sued Hutchens or his aliases in courts throughout the United States and Canada. *David Antoniono Investments, LLC v. Hutchens*, No. 15-61233 (S.D. Fla., June 10, 2015), describes the GEIF scheme carried out after the events addressed in *CGC Holding*.

42. Hutchens used money taken from victims of Westmoreland to pay the lawyers to defend the *CGC Holdings* case. From 2014 to 2017, Bernard Feldman, under instructions from Hutchens, wired hundreds of thousands of dollars to Hutchens's Colorado lawyer, Steven Klenda, then of Adroit Advocates, LLC (now known as Klenda, Gessler & Blue, LLC). Many of the transfers were of sums of \$10,000 or more.

43. Hutchens testified in the Colorado action that he used "Ed Ryan" as an alias during the time he was doing business under the name Westmoreland Equity.

44. The real Ed Ryan is Hutchens's common-law son-in-law. He participated in the scheme by permitting Hutchens to use his name to carry out the scheme.

45. In February, 2017, after the Writ of Summons was served, Hutchens, posing as Ed Ryan, made multiple calls to Plaintiffs and persons who had been involved with Plaintiffs in their dealings with Westmoreland, including Colin Durward and Don Smith and left multiple voice messages.

66 B1

46. On February 19, 2017, he sent the following email to Colin Durward:

From: Ed Ryan <westmorelandequityfundllc@gmail.com>
Date: February 19, 2017 at 6:01:40 PM CST
To: Colin Durward <Colin.Durward@falconcreekindustries.com>, Colin Durward <colin.santangroup@gmail.com>
Subject: Gary Stevens

I am wonedering when you could take a call at your convienance,
please advise.

*Ed Ryan
Managing Member
Westmoreland Equity Fund LLC
1650 Market Street, 36th Floor,
Philadelphia PA 19103*

47. In August, 2017, Westmoreland and Ed Ryan, represented by Bochetto & Lentz, P.C., allowed a final judgment for \$9,117,811.92 to be entered against them in this case.

3. Bernard Feldman

48. Bernard Feldman ("Feldman") also has a history of criminal fraud. In December 2016, he pleaded *nolo contendere* to criminal charges in Florida involving a different real-estate based fraud scheme. He is a disbarred lawyer (in two states) after serial suspensions for, among other things, forging clients' signatures on settlement checks and appropriating the proceeds.

49. Feldman served as the financial agent for the scheme and as the only natural person affiliated with Westmoreland to meet victims.

50. Feldman presented himself to victims as an independent consultant (purportedly employed by Bernard Feldman PA) who was retained by Westmoreland to inspect properties and assist in the transactions.

51. In fact, Feldman was intimately involved the operations of Westmoreland. He prepared and filed the foreign corporation registration statement for Westmoreland with the Pennsylvania Department of State and requested that the file-stamped copy of the registration be sent to Bernard Feldman, 2255 Glades Road Suite 324A, in Boca Raton, Florida, even though it identified the principal place of business of Westmoreland as 1650 Market Street, 36th Floor, Philadelphia, Pennsylvania (One Liberty Place). His company, Defendant American Escrow and Settlement Services ("American Escrow"), served as Westmoreland's exclusive financial agent.

52. Westmoreland retained Feldman's entity, Defendant American Escrow, as an independent escrow agent and to serve as its exclusive financial agent. Feldman was the principal of American Escrow, which, at most, had one employee other than Feldman. It is located at a virtual office, essentially a mail drop, used as an address by several other Feldman entities.

53. Feldman through American Escrow, was involved in at least 92 transactions with Westmoreland.

54. Feldman was the only person affiliated with Westmoreland whom Plaintiffs met in person in connection with the funding transaction.

55. Numerous cases have been filed describing Feldman's participation in fraudulent Westmoreland transactions:

- a. *Leathem Stearn et al. v. Westmoreland Equity Fund, Ed Ryan, and Bernard Feldman*, No. 1:16-cv-01211 (D. Col., May 20, 2016), raises nearly identical claims of fraud in obtaining fees for a bogus commercial loan. It avers: "Defendant Feldman played the role of a purported independent agent of W[estmoreland]E[quity] F[und] to give the illusion of actual due diligence by travelling to Colorado, meeting with [the plaintiff] and inspecting the properties." (¶ 48).
- b. *Oak Hall Companies, LLC v. Westmoreland Equity Fund, LLC*, No. 15-7702-6 (Super. Ct. Dekalb Cty., Ga., July 22, 2015), describes a nearly identical scam involving Westmoreland and American Escrow.
- c. *Campanile Investments v. Westmoreland Equity Fund LLC, et al.*, No. 17-337 (W.D. Tex. April 17, 2017), alleges a nearly identical scheme involving Westmoreland, Ed Ryan, American Escrow and Feldman.

69 84

d. *David Antoniono Investments, LLC v. Hutchens*, No. 15-61233

(S.D. Fla., June 10, 2015), describes Feldman's participation through his entity Hollywood Title Loans in the essentially identical scheme involving GEIF.

56. On May 12, 2017, Sandy Hutchens, testifying at the *CGC Holding* trial, testified that he was, "still doing business with Bernard Feldman."

57. Feldman has either incorporated or been associated with at least eleven corporations in Florida, including at least two associated with the Westmoreland scheme.

58. On or about February 16, 2017, after Plaintiffs served the summons, Feldman called Colin Durward, an associate of the Plaintiffs, and left a message. He also sent an email, which read:

From: "bernie" <bernie@bernardfeldmanpa.com>
Date: February 16, 2017 at 8:26:07 AM CST
To: <colin.santangroup@gmail.com>
Subject: Gary Stevens

Good morning. I am a consultant for Westmoreland Equity Fund LLC who previously had received and processed a financing application from Mr. Stevens concerning property in Saskatchewan. I would appreciate the opportunity to speak to you concerning your knowledge of the events. I will try to call you this morning about 9:00 AM your time. Thank you.

85
70

Bernard Feldman
Bernard Feldman PA
2255 Glades Road, Suite 324A
Boca Raton, Florida 33431
Office: 954-873-4052

59. The address provided by Feldman on this email and on the Foreign Corporation Registration Statement of Westmoreland, 2255 Glades Road, Suite 324A Boca Raton, Florida 33431, is a virtual office run by Regus Corporation that rents space by the hour and provides mail drop and telephone answering service. It is the same company that operated Westmoreland's and Lydecker Diaz's offices in Philadelphia.

60. Feldman used two virtual offices as mail drops, one for American Escrow and one for Bernard Feldman PA, in order to conceal his involvement in American Escrow.

61. Feldman also used two separate email accounts for each of the entities also to conceal his involvement in American Escrow. Hutchens upbraided Feldman when he used a "Bernard Feldman PA" email for business of American Escrow, fearing that victims would discover Feldman's involvement in American Escrow and his criminal background.

62. On May 26, 2015, the Chief Financial Officer of the State of Florida entered a consent order in In The Matter of: Bernard Feldman, Case No. 165934-14-AG, ordering Feldman to cease and desist from acting as a title agent without a

license, permanently barring him from applying for licensure and appointment with the Florida Department of Financial Services, and permanently barring him from participating with any entity licensed or regulated under the Florida Insurance Code.

63. Despite being barred on May 26, 2015 from acting as title agent, Defendant Bernard Feldman continued to operate Bernard Feldman PA, which had been formed in November, 2011, for the stated purpose of “operation as a Florida licensed title agent” with a principal place of business at 3701 N. 29 Avenue, Hollywood, Florida. On April 27, 2015, Bernard Feldman PA changed its principal address to a residence located at 7234 Panache Way, in Boca Raton, Florida.

64. On June 8, 2015, Feldman was arrested on felony counts including two counts of grand theft, and organized fraud (for the transaction of insurance without a license). An investigation conducted in coordination with the Florida Department of Financial Services’ Division of Insurance Fraud revealed that Feldman was transacting insurance business and closings with no agent or title agency license and converting consumers’ money. The investigation revealed at least three instances wherein he obtained funds from consumers for settlement charges including title insurance and taxes, but converted the money. In total, Feldman diverted nearly \$22,000 for his own personal use.

72⁸⁷

65. On December 13, 2016, Feldman pleaded *nolo contendere* to the criminal fraud charges. He received six years' probation and was ordered to pay restitution.

66. The press release issued by the Florida Department of Financial Services at the time Feldman was charged identifies Wharton Realty and Hollywood Title Services as among the entities used in the scheme. Both used the same address as one of the entities associated with the current scheme. Hutchens has also used Feldman's Hollywood Title Services to further additional frauds.

67. The charges to which Feldman pleaded *nolo contendere* included: (i) three counts of Grand Theft of the Third Degree, (ii) Organized Fraud; (iii) three counts of Uttering a Forged Instrument, and (iv) three counts of Acting as an Unlicensed Adjuster.

68. The Probable Cause Affidavit filed June 2, 2015, against Feldman states, among other things:

An affidavit from First American Title Insurance Company attests that insurance documents taken from the three closings were fraudulent documents and the defendant was not authorized to represent them. The defendant made admissions that he prepared the documents without authority. A review of the HUD1s for the three closings reveal that the defendant committed theft when he collected funds from the victims

and failed to use those funds as documented on the HUD1s, thus appropriating the funds to his own use.

69. Feldman was disbarred in Michigan in 2002 after being suspended from practice multiple times.

70. He was suspended August 21, 1993. The Notice of Suspension states, among other things:

- a. Respondent ... failed to deposit the settlement proceeds into a client trust account; failed to notify the client of receipt of the settlement check; failed to promptly deliver the settlement check; knowingly made false statement to his client; and, knowingly made a false statement in his answer to the request for investigation.

71. He was suspended November 22, 1995. The Notice of Suspension states, among other things:

Respondent ... settled the matter without his client's knowledge or consent; failed to keep his client reasonably informed concerning the status of the matter; knowingly made false representation to his client regarding the settlement; and made a false statement in his answer to the Request for investigation.

72. He was suspended December 27, 2000. The Notice of Suspension states, among other things, that he “engaged in the practice of law on behalf of a single client after the effective date of an order suspending his license.”

73. He was suspended May 7, 2001. The Notice of Suspension states, among other things:

Respondent ... [f]ailed to deposit a settlement check into an interest-bearing account for funds separate from his own funds; and failed to promptly pay his client the \$1,250.00 settlement funds she was entitled to receive.

74. His license to practice law was revoked a year later. The Notice issued May 22, 2002, states, among other things:

The hearing panel found that respondent had neglected a client’s legal matter, made misrepresentations to his client regarding the delay in filing her lawsuit and that the dismissal was the result of court error; failed to file an appeal brief; and misrepresented to his client that an appeal was proceeding. Also, in a civil case, respondent failed to deposit a settlement check into an interest-bearing account separate from his own funds; endorsed his client’s name on the back of the check without his client’s knowledge or prior consent; and failed to

75-90

promptly pay the settlement funds to his client. Further, in another matter, respondent continued to engage in the practice of law while suspended.

75. His license to practice law was revoked a second time effective April 2, 2003. The Notice states, among other things:

The hearing panel found, by default, that respondent continued to practice law while suspended; failed to advise five clients that he was suspended; failed to return unearned fees in three matters; failed to timely respond to his clients' inquiries in two matters; and failed to answer requests for investigation served by the Grievance Administrator.

76. Feldman was disbarred in Florida when he sought to practice there after he was disbarred in Michigan. *Florida Bar v. Feldman*, 868 So. 2d 525 (Fla. 2004).

4. American Escrow and Settlement Services

77. American Escrow and Settlement Services ("American Escrow") is located at 21301 Powerline Road, Suite 106, Boca Raton, Florida.

78. Feldman incorporated the entity "American Escrow and Settlement Services" on or about June 23, 2014.

76 91

79. The address of American Escrow, like the addresses of Westmoreland and Bernard Feldman PA, is a virtual office, i.e. essentially a maildrop.

80. American Escrow served as the exclusive financial services company for Westmoreland. It established accounts in Florida at J.P. Morgan Chase where it received the funds wired to it by entities doing business with Westmoreland and later directed those funds to various financial accounts.

81. With these funds American Escrow paid the scheme's expenses, including the charges for Westmoreland's office at 1650 Market Street, 36th Floor, Philadelphia, Pennsylvania, Hutchens's attorneys defending the RICO action in Denver, the fees of Defendant Lydecker Diaz, and of Defendants Sofia and Leuin.

82. American Escrow routinely sent letters to victims of the scheme certifying that Westmoreland had hundreds of millions of dollars in lending capacity based on its review of Westmoreland's bank records. The letters from American Escrow contains an electronic signature of a "Cheryl Conti" but were, in fact, prepared by Feldman in concert with Hutchens.

83. The corporate documents filed by American Escrow available on the website of the Secretary of State of Florida, sometimes spell the name "Cheryl Conti" and sometimes spell the name "Cheryl Conte." The error is repeated several times, including in documents purportedly sent from Ms. Conte/Conti to victims of the scheme. Because people generally know how to spell their own names and the

involvement of Feldman in the incorporation of American Escrow, Plaintiffs believe that Conti or Conte is an alias of Feldman or a straw acting on his behalf.

84. Multiple documents confirm that Mr. Feldman purported to be Ms. Conti in communications he wrote to victims and other participants in the scheme, in order to hide his involvement, or the degree of his involvement, with American Escrow.

85. Feldman's name is also listed on state corporate documents. When various victims of the scheme inquired about Feldman's association with American Escrow, he repeatedly and fraudulently told them—in communications in which he pretended to be Cheryl Conti—that American Escrow was run by Cheryl Conti and that Feldman's only role was in helping to set up the corporation.

86. American Escrow received wired funds from scores of victims, which it distributed to other members of the scheme by wire, often through transactions of greater than \$10,000.

5. Lydecker Diaz, Elias Correa, Alan Feldman and Richard Lydecker

87. Bernard Feldman's son, Defendant Alan Feldman, was a partner at the Defendant law firm Lydecker, Lee, Berga & De Zayas, LLC (operating as "Lydecker Diaz"). He and fellow Lydecker Diaz partner Defendant Elias Correa, together with others at Lydecker Diaz, conducted and supported the affairs of the enterprise for years by, *inter alia*, fraudulently misleading victims and courts as to

the identities of the fraudsters, lending the firm's name to transactions to provide the appearance of legitimacy to the fraudulent scheme, receiving funds fraudulently obtained from victims and transmitting those funds to other members of the scheme, drafting documents it knew were to be used as part of the ongoing scheme, covering up the scheme, inducing victims into early settlements intended to conceal the scheme and to permit it to continue operating, reaching settlements paid with the proceeds of the fraudulent scheme, and referring victims to the scheme. Lydecker Diaz received hundreds of thousands of dollars through the scheme.

88. Lydecker Diaz's Philadelphia office is located in the same suite at 1650 Market Street, 36th Floor, that Westmoreland identified as its headquarters.

89. For all, or nearly all, of the period of Westmoreland's operation, Alan Feldman and others at Lydecker Diaz, provided the appearance of legitimacy to the scheme. Lydecker Diaz—and, in particular, Alan Feldman and Elias Correa—served as the law firm for Westmoreland, “Ed Ryan,” and Bernard Feldman of the Westmoreland scheme. As a result of the Lydecker Diaz activities and involvement, the scheme was sustained over a three-year period.

90. Lydecker Diaz defendants knew that Westmoreland, “Ed Ryan,” and Bernard Feldman were engaged in a fraudulent scheme.

94

79

91. In March 2015, Westmoreland sought the representation of Krevolin & Horst, LLC, in Atlanta.

92. In contrast to Lydecker Diaz, Krevolin & Horst refused to represent Westmoreland after Hutchens refused to provide basic information it requested, such as: the owners of the business, the source of the funding, and the identities of borrowers whose loans had closed.

93. Lydecker Diaz was involved with Westmoreland, Ryan, and Feldman for years and never obtained the basic information denied Krevolin & Horst. In contrast to Krevolin & Horst, the Lydecker Diaz Defendants received continuous complaints of Westmoreland's fraud throughout the period of its involvement, knew of the criminal background and activities of persons associated with it, and knew that Westmoreland never funded any commitment it had undertaken in the period Lydecker Diaz represented it. Only long after its involvement did Lydecker Diaz enter into a formal agreement with Westmoreland.

94. On April 20, 2015, Lydecker Diaz received a complaint in a letter from the attorney for a party who had wired money directly to Lydecker Diaz, the bulk of which Lydecker Diaz had transferred to Bernard Feldman at American Escrow for further distribution to Ryan/Hutchens. Alan Feldman responded directly, falsely stating that Lydecker Diaz was not holding any of the previously wired funds, even though it had retained \$7500 of the funds for itself. He refused

to confirm that its client, Westmoreland, had funds sufficient to fund the loan at issue, and falsely stated that Westmoreland was “in full compliance with all terms, obligations, and covenants in the Letter of Intent and all other aspects of these transactions.”

95. Shortly thereafter, in May 2015, Westmoreland received a demand from counsel for Oak Hall. Hutchens/Ryan immediately passed the case to Elias Correa and Alan Feldman. Oak Hall filed suit in July 2015. Its complaint described how it had received a commitment letter from Westmoreland which then reneged on the commitment, falsely accusing the plaintiff of violating terms of the commitment. Correa represented Westmoreland in that litigation, ultimately settling the case before any substantive response to the complaint was filed.

96. The lack of any evidence of a closed transaction by Westmoreland was repeatedly raised by outside lawyers. For example, on September 25, 2015, Pamela Green, a lawyer at Pallet Vallo LLP in Mississauga, Ontario, facing a court hearing, emailed Correa: “Is there a law firm that can attest to completing a transaction with Westmoreland?”

97. By September, 2015, Alan Feldman was concerned that the scheme was at risk of being exposed by the complaints and lack of evidence of any closings. Bernard Feldman emailed to Ryan/Hutchens: “Alan is really upset about this again.- No record of closings, accusations that Westmoreland is a scam etc.”

However, though no records of closings existed, no deal in which they represented Westmoreland ever closed, Bernard Feldman, Westmoreland's exclusive financial agent had been arrested for fraud in June, 2015, and accusations that Westmoreland was a scam continued to snowball, the Lydecker Diaz Defendants continued to participate in the scheme for over a year-and-a-half during which they reaped hundreds of thousands of dollars of fees from the scheme while assuring victims of the legitimacy of Westmoreland.

98. Lydecker Diaz, through Elias Correa, represented Westmoreland, Ed Ryan, and Bernard Feldman (formally entering his appearance on behalf of all three) in *Leathem Stearn et al. v. Westmoreland Equity Fund, Ed Ryan, and Bernard Feldman*, No. 1:16-cv-01211 (D. Col. May 20, 2016).

99. Lydecker Diaz entered a formal appearance for Ed Ryan even though Ed Ryan did not exist and even though the complaint in *Leathem Stearn* made clear that no one had seen Ryan but that Bernard Feldman was "the eyes and ears" of Ryan. This was consistent with the many complaints it had already resolved short of litigation.

100. *Leathem Stearn* described the same course of conduct as had *Oak Hall* and numerous other matters that Lydecker Diaz had dealt with for Westmoreland: a commitment letter issued after high upfront fees, Westmoreland per Ryan finding a

97

82

purported defect in the victim's compliance with commitment letter, and Westmoreland refusing to return the fees that had been wired to American Escrow.

101. After *Leathem Stearn*, Lydecker Diaz continued to be told repeatedly by victims of identical fraudulent conduct in complaints filed with the courts and in negotiations of claims made by victims short of litigation.

102. By November 2016, Lydecker Diaz's late payment ledger showed that it had participated by then in at least 38 transactions involving Westmoreland, none of which had closed and had, by then received at least \$800,000 in wires related to Westmoreland.

103. Not one transaction was ever funded by Westmoreland and none was funded during the two-and-a-half years of Lydecker Diaz's involvement. In every instance, Westmoreland asserted some defect by the victim and attempted to retain the advance fees it had received.

104. The only person anyone at Lydecker Diaz is known to have met in person who was affiliated with Westmoreland was Bernard Feldman, Westmoreland's exclusive financial agent. Feldman was involved in virtually every transaction relating to Westmoreland, often in two roles. He was the principal of American Escrow and dealt with Lydecker Diaz regularly in this capacity, including frequent transfers to and from Lydecker Diaz of the proceeds of the scheme. He also served as the property inspector for the schemes purportedly as an

98

83

employee of Bernard Feldman PA. Lydecker Diaz knew that Feldman had a history of moral turpitude, that he had been disbarred twice following multiple suspensions for forging clients' signatures on settlement checks and appropriating the funds and that he had been arrested was engaging in a fraud scheme in June, 2015.

105. Lydecker Diaz shared as its Philadelphia office the same suite at 1650 Market Street that Westmoreland identified as its headquarters and that Ryan identified as his office. Lydecker Diaz therefore had to know that Westmoreland had no officers or employees at the location it claimed as its headquarters. Lydecker Diaz also had to know that the headquarters of Westmoreland, which claimed on its website to be a major lender that had engaged in over 3,000 transactions, was only a virtual office which could be rented by the hour and serve as a mail drop. No Lydecker Diaz defendant ever met any officer or employee of Westmoreland over the entire duration of its relationship despite their knowledge described above. All of their communications with Westmoreland or Ryan were by phone and email.

106. From shortly after the inception of Westmoreland and from at least October, 2014, until at least May, 2017, the Lydecker Diaz Defendants acted in furtherance of the scheme in many ways:

99
84

- a. They provided the Lydecker Diaz name to be identified as attorneys for particular transactions in order to provide the appearance of legitimacy to these transactions;
- b. They prepared the paperwork for new transactions and negotiated loans with new victims at the very same time that they were settling repeated claims and suits all alleging the same thing: that Westmoreland was a fraud that took large advanced fees for loan commitments and then reneged on the commitments;
- c. They assured victims and potential victims of the legitimacy of Westmoreland;
- d. They concealed their knowledge of Bernard Feldman's background;
- e. As a standard part of each transaction, Westmoreland issued an "Acknowledgement & Irrevocable Letter of Direction" that identified Alan Feldman of Lydecker Diaz as Westmoreland's attorney.
- f. The Lydecker Diaz Defendants received funds directly from certain victims and, in turn, transferred those proceeds (less its own share of the proceeds) to other participants in the scheme, including through transactions totaling greater than \$10,000.

100
85

- g. They actively negotiated and processed loan documents for scores of fraudulent transactions even after Plaintiffs initiated this action and after Plaintiffs' counsel had described his understanding of the fraud to them.
- h. They directly contracted with title companies involved in more than a dozen fraudulent transactions, receiving stolen funds from the scheme in order to pay invoices intended to provide the appearance that the fraudulent transactions were, in fact, legitimate.

107. The Lydecker Diaz Defendants knew of the Westmoreland fraud and had to have known, at least the following, as well, from which any reasonable person would have known Westmoreland was a fraud:

- a. that though Westmoreland described itself on its website as a major commercial lender involved in a multitude of transactions, Westmoreland had no genuine offices, but claimed as its principal place of business a virtual office at which there were no employees, facts Lydecker Diaz had to know since it claimed the very same suite as its own Philadelphia office;

101

86

b. that Westmoreland had no history of business relationships.

Lydecker Diaz knew that when documentation of an actually funded loan was sought, Westmoreland provided none;

c. that while immediately aware of complaints that Westmoreland was a fraud, including complaints provided by other attorneys, and/or complaints that it had failed to fund commitments, Lydecker Diaz was unaware of any transaction by Westmoreland that had actually closed or of any positive reference for Westmoreland;

d. that it (and apparently nobody else) had never met the Ed Ryan purportedly employed by Westmoreland as its managing member;

e. that it lacked any telephone number by which it could contact Ryan directly;

f. that the wires it received of funds related to Westmoreland did not originate with Westmoreland;

g. that the escrow company used by Westmoreland, American Escrow, was affiliated with and/or controlled by Bernard Feldman, a person it knew to have engaged in serious crimes involving moral turpitude; and

h. that there was no evidence that Westmoreland ever closed a loan and extensive evidence that it told every victim, in at least forty

162
87

instances known to Lydecker Diaz, that it had in some way violated some covenant of the Westmoreland commitment letter entitling Westmoreland to retain the advanced fees it had taken.

108. The Lydecker Diaz Defendants worked to settle many other disputes before a case was filed, resulting in releases and agreements to maintain confidentiality, which permitted the scheme to continue. Many of these agreements specifically name Lydecker Diaz and its attorneys as released parties. Where Lydecker Diaz was not released by name, it was released in clauses releasing Westmoreland's attorneys.

109. Through its conduct, Lydecker Diaz hid Sandy Hutchens's identity by fraudulently maintaining the "Ed Ryan" alias. The firm quickly settled these actions on behalf of "Ed Ryan," Bernard Feldman, and Westmoreland, keeping Hutchens's identity secret and the overall scheme afloat.

110. In each of these cases, Lydecker Diaz knowingly and purposely disguised the fact that its client, Westmoreland, was not a real funder at all, but was a fictional shell with no employees, no office, and no capacity to fund any loan.

111. In acting for Westmoreland, "Ryan," and Bernard Feldman in these litigations and threatened litigations, Lydecker Diaz knew it was using funds stolen as part of the scheme to obtain the settlements, just as it knew that it was paid from stolen funds.

103
88

112. By continuously negotiating settlements in multiple suits in which complaints detailed the fraud being committed by Westmoreland, Bernard Feldman and “Ed Ryan,” as well as in multiple communications from victims whose claims were resolved short of litigation similarly describing the fraud, while contemporaneously negotiating transactions with future victims throughout the period of its involvement with Westmoreland, Lydecker Diaz was at the heart of the fraud. It covered up past fraud and lured victims of future fraud, reassuring victims of the legitimacy through affirmative statements regarding Westmoreland’s and Ryan’s legitimacy and material omissions of the facts it knew, such as Westmoreland’s never having closed a transaction and Feldman’s background.

113. This behavior went on throughout the period, but egregious examples are set forth below during the later part of period.

114. For example, in July and August of 2016, Lydecker Diaz was negotiating a confidential settlement agreement with Anthony & Middlebrook, counsel for Friendship West Baptist Church, in which Westmoreland was to pay \$134,500 in exchange for a release of Lydecker Diaz and its co-conspirators. At the very same time it was negotiating this settlement, Lydecker Diaz was negotiating a transaction for Westmoreland involving a proposed first mortgage on 855 Ashmore Bridge, Greenville, SC (a transaction referred by Defendants Sofia and Leuin), and a transaction with Palmas del Mar Resort in Humanco, Puerto Rico.

104
89

115. In September and October of 2016, Lydecker Diaz was negotiating a confidential settlement agreement with Jim Penick, counsel for James Barnes, in which Westmoreland was to pay \$55,000 in exchange for a release of Lydecker Diaz and its co-conspirators. During this time, and through November, it was also negotiating other confidential settlement agreements with Hinshaw & Culbertson, LLP, representing Habitribe Fund 1, LLC, and with Patrick Malloy regarding a property in Bay Harbor Island, Florida. Both agreements contained releases of Lydecker Diaz and its co-conspirators. At the same time, Lydecker Diaz was negotiating multiple transactions for Westmoreland including, among others, a commitment to US RE Corporation on a transaction referred by Defendants Sofia and Leuin, and a proposed mortgage on 11327 Expo Blvd., San Antonio, Texas.

116. Even after the present case was filed, and Defendant Correa had conversations with Plaintiffs' counsel in February, 2017, who described their knowledge of Bernard Feldman's background, the multiple suits against Westmoreland, the virtual office with no employees and the phantom Ed Ryan, Lydecker Diaz continued to negotiate transactions with victims up until mid-May, 2017. These included numerous other transactions, including properties in Midland, Ontario, Coachella, California, and West Hanover, New Jersey.

117. The behavior was even more egregious because at the same time as Lydecker Diaz was in discussions with Plaintiffs' counsel in this case, it was in the

105
90

process of settling yet other claims against Westmoreland including, among others, a confidential settlement of approximately \$150,000 with Knox Medical, which also released Lydecker Diaz and its co-conspirators. Many other examples of such conduct exist.

118. Lydecker Diaz and Alan Feldman also referred victims to Westmoreland for funding while concealing the fraud and actively assisted Westmoreland in carrying out the scheme as to these victims. For example, a complaint filed January 2, 2018, in *U.S. RE Companies, Inc. v. Feldman*, No. 2018-000005-CA-01 (Fla. Cir. Ct. Miami-Dade Cty.), described the following instances:

119. In March 2015, Defendant Alan Feldman working as an attorney for Lydecker Diaz referred the owners of a nursery in Miami-Dade County nursery to Defendant Westmoreland to discuss a series of prospective loans for their nursery. The nursery victims met with Alan Feldman at the Lydecker Diaz office to discuss their loan needs. Alan Feldman then introduced them by telephone to Westmoreland. Thereafter, in June, 2015, the victims were directed to wire funds to American Escrow, even though Bernard Feldman had recently been arrested on the fraud charges giving rise to his later nolo contendere plea. Alan Feldman undertook work on behalf of the loan and vouched for Westmoreland even after the nursery victims raised questions. The nursery victims began to uncover the pattern of fraudulent behavior. They threatened litigation unless their funds were returned

106
91

to them. Ultimately, Lydecker Diaz returned the funds to them, and no lawsuit was filed.

120. On or about August 21, 2015, Defendant Alan Feldman introduced U.S. RE Companies, Inc. ("U.S. RE") to Westmoreland by means of an email. Alan Feldman advised U.S. RE officials that Westmoreland was a client of Defendant Lydecker Diaz, and that he was personally handling Westmoreland's legal representation. When U.S. RE officials discovered negative information regarding Westmoreland posted on the internet, Alan Feldman reassured U.S. RE that its concerns were unnecessary, that this was "false information" online, and that he and Lydecker Diaz were in the process of causing the information to be removed from the web. Shortly after the decision to work with Defendant Westmoreland, U.S. RE began requesting a meeting with "Ed Ryan." Despite numerous requests, Ryan would not agree to a personal meeting and continually provided one excuse or another for his inability to meet. In the ensuing year, until June, 2017, Alan Feldman and Lydecker Diaz continued to assure U.S. RE of the bona fides of Westmoreland, forwarded fraudulent "proof of funds" documents and other material to U.S. RE on behalf of Westmoreland. Over the period U.S. RE paid hundreds of thousands of dollars in fees to Westmoreland and Lydecker Diaz in connection with the bogus loans. As discussed above, this all took place during

107
92

the period Lydecker Diaz was continuously settling cases and claims against Westmoreland.

121. Lydecker Diaz accepted hundreds of thousands of dollars derived from the bogus activity. By February 28, 2017 (three months before it terminated its involvement in the scheme), Lydecker Diaz had received no less than 63 wire transfers, including many of more than \$10,000, totaling over \$800,000. Lydecker Diaz received these funds knowing that it was stolen from victims of the scheme.

122. Lydecker Diaz made no effort to withdraw from the scheme until the scheme became public.

123. On May 12, 2017, Sandy Hutchens publicly acknowledged, under oath at the *CGC Holdings* trial, that he used “Ed Ryan” as an alias and operated Westmoreland Equity Fund. He also testified that was continuing to do business with Bernard Feldman at the time. Three days later, on May 15, 2017, a jury found Hutchens and his codefendants liable for the full amount sought by the Plaintiffs under RICO for over 100 victims of the scheme.

124. On May 16, 2017, Alan Feldman informed the other members of the scheme that Lydecker Diaz would no longer be associated with Westmoreland or participate in further telephone conferences.

103
93

125. On June 5, 2017, Plaintiffs informed Lydecker Diaz of their intention to sue the firm and Correa. Shortly thereafter, Elias Correa and Alan Feldman were terminated by Lydecker Diaz.

126. Upon information and belief, Richard Lydecker restructured Lydecker Diaz in the manner described in paragraph 15 above, with the knowledge of its involvement in the scheme and potential liability, in an effort to insulate his and Lydecker Diaz's assets from the liability arising from its participation in the scheme.

6. Barbara Leuin & Sofia

127. Barbara Leuin and Sofia actively and knowingly operated, controlled, and/or furthered the fraud by referring Plaintiffs to Westmoreland and by managing the relationship. In addition, they repeatedly concealed Sandy Hutchens' true identity from Plaintiffs.

128. Defendants Leuin and Sofia held themselves out as experts in commercial real estate lending. They represented to Plaintiffs that they had thoroughly vetted defendant Westmoreland and that Westmoreland was an appropriate lender for the transaction.

129. Before referring Plaintiffs to Westmoreland, Defendant Leuin assured Plaintiffs that she was fully familiar with Westmoreland and that she had engaged in multiple prior transactions with Westmoreland. Defendant Leuin on more than

94 109

one occasion advised Plaintiffs that she knew Ed Ryan and his wife and had engaged in many transactions with Westmoreland all the while knowing that Westmoreland was a complete fraud.

130. When, in 2016, Plaintiff Gary Stevens called Defendant Leuin asking for Ryan's phone number, she told him that she could not give him a number, that she would have to arrange for any call with Ryan, but that Ryan and his wife had both recently had serious illnesses and that Ryan was not taking many calls.

131. Leuin and Sofia remained involved in the scheme throughout its existence and continued to refer victims even though they had no knowledge of any transaction actually funded by Westmoreland and had knowledge of multiple transactions in which Westmoreland had failed to fund commitments it had made.

132. Because of their knowledge of the working of the scheme, Sofia and Leuin altered their compensation scheme from one which was funded entirely from the funds at closing, to one in which they were also paid an upfront finders fee by Westmoreland regardless of whether the transaction was funded.

133. After the writ of summons was served, Leuin called Plaintiffs and left repeated messages seeking to arrange a conference call between Plaintiffs, Ed Ryan and herself.

110
95

B. Plaintiffs' Encounter with the Fraud

134. In October 2014, Plaintiffs Gary and Linda Stevens were seeking refinancing of mortgage loans on a property they were developing in Saskatchewan through their corporation 1174365 Alberta Ltd.

135. Plaintiffs' advisor throughout their efforts to obtain refinancing was Colin Durward.

136. Durward referred them to a mortgage broker in Vancouver, B.C. who, in turn, referred them to Defendants Sofia Capital Ventures, LLC and Barbara Leuin.

137. They were referred to Westmoreland by Defendants Sofia Capital Ventures, LLC and Barbara Leuin.

138. The Stevenses' first contact with Leuin was on or about October 14, 2014.

139. Sofia and Leuin held themselves out to be experienced mortgage brokers. The Sofia website states, among other things:

When you work with Sofia Capital Ventures, you will be in the hands of commercial lending experts.

We connect you to carefully selected private commercial lenders who can structure a loan package to fit your specific needs. Frequent communication with our lender base enables us

111
96

to stay on the leading edge of the commercial lending market so that we can help you understand the best way to secure funding for your commercial real estate project.

140. Leuin referred Gary and Linda Stevens to Westmoreland Equity Fund as a potential lender, which Sofia claimed it had vetted and was a lender for commercial real estate appropriate for Plaintiffs' needs.

141. Plaintiffs reviewed Westmoreland's website shortly after Leuin had suggested Westmoreland to them.

142. Ed Ryan was the name provided by Leuin to Plaintiffs as the contact person on behalf of Westmoreland throughout the time of the transaction.

143. Leuin assured Plaintiffs that she knew Ryan and his family personally and had done many transactions with Westmoreland.

144. Plaintiffs were directed to submit all their communications with Westmoreland through Leuin, who was to share the documentation with Westmoreland through use of a "Drop Box" account. Throughout the period, from Leuin's initial contact with Plaintiffs, Leuin and Sofia assumed responsibility for furnishing all requisite documentation to Westmoreland and for communication with Westmoreland.

145. On October 30, 2014, Westmoreland, over Ryan's signature, provided a letter of intent to Plaintiffs stating that it was prepared to furnish a loan of

\$13,400,000CDN to refinance and complete development of the Saskatchewan property.

146. Among other things, the letter required the Plaintiffs to establish a United States based escrow account from which significant fees would be paid in advance of the loan and that certain of those fees be directed to American Escrow.

147. Because he had once been a victim of an advance fee loan fraud, on or about late October, 2014, when the level of Westmoreland's fees were disclosed, Colin Durward sought assurance of Westmoreland's legitimacy.

148. At that time, Durward learned that Westmoreland was represented by Lydecker Diaz and determined that Lydecker Diaz appeared to be a legitimate law firm of significant size located in Miami. Based on this information he was reassured of Westmoreland's legitimacy and advised the Plaintiffs that he would assist them in obtaining funds to pay Westmoreland's fees.

149. Durward then sought and obtained funds for the Plaintiffs to pay Westmoreland's fee. The funds he obtained for Plaintiffs were secured by a home the Stevenses owned in Arizona.

150. As a result of Defendants' actions, Plaintiffs were unable to repay the funds that were secured by this home and they lost the house in Arizona.

151. Between October 29, 2014, and February 26, 2015, Plaintiffs participated in approximately six conference calls in which Ed Ryan/Hutchens

participated—always through a call-in number. On at least one of those calls in 2014, Ed Ryan/Hutchens told Plaintiffs that if they had issues to be addressed that required Westmoreland's attorneys, they should contact Alan Feldman at Lydecker Diaz. At all times Westmoreland held itself out to be a legitimate lender with a capacity to fund the Plaintiffs' borrowing needs.

152. The October 30, 2014 letter from Westmoreland represented under "Proof of Funds" that American Escrow would be authorized to verify, among other things, that "the funds required for this transaction to be funded by Westmoreland ... have been specifically allocated for this transaction and that American Escrow ... [has] verified the funds by way of confirming bank Statements."

153. On November 5, 2014, an email over the name "Ed Ryan, Managing Member, Westmoreland Equity Fund LLC," forwarded a letter over the name of Cheryl Conti, American Escrow and Settlement Services, stating that American Escrow and Settlement Services had reviewed Westmoreland bank records and that Westmoreland had a \$475,000,000 loan capacity.

154. Plaintiffs specifically reallege that at no time were they advised of Bernard Feldman's disbarments or of his other criminal frauds.

155. After receiving the letter purporting to confirm Westmoreland's lending capacity, Plaintiffs transferred funds to a United States based account at

99¹¹⁴

J.P. Morgan Chase Bank that held over \$50,000. Defendants subsequently unlawfully converted those funds.

156. On November 10, 2014, Westmoreland provided Plaintiffs with a twenty-two-page commitment letter for a loan of \$13,900,000CDN.

157. On January 20, 2015, Bernard Feldman, claiming to be an independent person employed by Bernard Feldman PA and retained by Westmoreland to inspect the property, flew, at Plaintiffs' expense, to inspect the site in Saskatchewan. Colin Durward accompanied Gary Stevens when he met Bernard Feldman at the airport. During the drives between the airport and the property, Durward, having noticed that Alan Feldman of Lydecker Diaz and Bernard Feldman shared a last name, was told by Bernard that Alan was his son and that it was an advantage that he, the Lydecker Diaz firm, and American Escrow and Settlement Services were all located in the Miami area.

158. Following issuance of the commitment letter there were communications among Plaintiffs, Sofia (per Leuin), Westmoreland (per Hutchens as "Ryan"), Plaintiffs' underlying original lender, and counsel regarding the loan and the upcoming closing.

159. Westmoreland, Hutchens and Bernard Feldman were aware that time was of the essence regarding the transaction because payment to Plaintiffs' original lender was due and the refinancing was, in part, to make such payment.

115
100

160. The Commitment Letter specifically had stated that it was issued following review of the detailed independent appraisal provided by Plaintiffs.

161. Beginning in early December 2014, Westmoreland, per Sandy Hutchens as “Ryan,” began demanding a second appraisal of the property be undertaken. During this time, Ryan also repeatedly claimed there were deficiencies in his files even though the materials he sought had been furnished to Westmoreland by Plaintiffs through Leuin.

162. A second appraiser was retained at Plaintiffs’ expense; however, Westmoreland, per Ryan, prohibited the appraiser from having any contact with Plaintiffs.

163. Rather than directing that the property be appraised at fair market value as required by their earlier agreement, Westmoreland directed the appraiser to appraise the property at an alternative distress sale value, which he knew would render a lower valuation.

164. On or about February 19, 2015, an email over Ryan’s name claimed that based on the new appraisal the property was worth “about 50% of what it is supposed to be worth. ... its like being offered a funding opportunity on a Hilton Hotel and when you go to inspect, its more like Freddy’s Motel.”

165. Westmoreland, per Hutchens as “Ryan,” refused to provide Plaintiffs with a copy of the appraisal.

101 46

166. Knowing that Plaintiffs required the loan because of the pressures from the underlying lender, Westmoreland, over Ryan's signature, advised Plaintiffs by letter of February 23, 2015, that based on the new appraisal and on a report from Feldman it would no longer lend \$13,900,000CDN set forth in the commitment letter but would only lend \$5,700,000CDN.

167. The letter further asserted, falsely, that Plaintiffs were in breach of commitment letter and had forfeited the fees that had been paid to Westmoreland.

168. On March 23, 2015, Westmoreland advised Plaintiffs that it was prepared to lend \$7,500,000CDN.

169. The new purported commitment was conditioned on Plaintiffs' "demonstration that he has the remaining funds available to meet his projections of fund requirements as set out in his original application." However, Westmoreland knew that Plaintiffs had no such funds or ability to obtain such funds under the time constraints they faced.

170. According to numerous emails purportedly sent by Ryan, the decision to lower the loan amount was made after extensive consultations with Bernard Feldman and Jason Underwood.

171. Because of the failure of Westmoreland to provide the promised money, together with the delays caused by Defendants, the original lender moved to foreclose on the property. To mitigate their damages, Plaintiffs entered an

arrangement with a third party, Donald Smith, which would permit them to retain an interest in the property. Plaintiffs' agreement with Mr. Smith was contingent on his purchasing the property from the original lender.

172. Defendants used this situation as an attempt to extract yet more fraudulent proceeds. Westmoreland agreed to provide financing to Mr. Smith for the sale, providing an "Acknowledgement & Irrevocable Letter of Direction" identifying Lydecker Diaz as Westmoreland's counsel. The letter required significant additional fees. Mr. Smith, concerned that he was being asked to pay fees for a loan for which the Stevenses had already paid fees and which had already been considered and rejected by Westmoreland, terminated his involvement.

173. In August, 2015, in response to complaints from the Stevenses, Ed Ryan directed that they have their attorney contact Westmoreland's attorney, Alan Feldman of Lydecker Diaz.

174. From November, 2014, through January, 2015, Plaintiffs directed fees to be paid from their United States account at AESS to Westmoreland as follows:

- | | |
|----------------------|-------------|
| a. November 4, 2014 | \$10,000 |
| b. November 12, 2014 | \$51,784.81 |
| c. January 13, 2015 | \$12,500 |

175. The conduct by Defendants described above follows a pattern of conduct like that described in complaints filed in *Campanile Investments LLC v. Westmoreland Equity Fund LLC*, 17-00337 (W.D. Tex. April 17, 2017), *Leathem Stearn et al. v. Westmoreland Equity Fund, Ed Ryan, and Bernard Feldman*, No. 1:16-cv-01211 (D. Col. May 20, 2016), and *Oak Hall Companies, LLC v. Westmoreland Equity Fund, LLC*, No. 15-7702-6 (Super. Ct. Dekalb Cty, Ga., July 22, 2015). It is also the same modus operandi described by the Tenth Circuit in its decision regarding Hutchens, *CGC Holding Co., LLC v. Broad & Cassel*, 773 F.3d 1076 (10th Cir. 2014), as well as in *David Antoniono Investments, LLC v. Hutchens*, No. 15-61233 (S.D. Fla. June 10, 2015).

176. Each of these complaints describe promises of commercial loans, high up-front fees, subsequent low appraisals not shared with Plaintiffs, reneging on the loans by Westmoreland, and pocketing of the fees by Westmoreland and/or its associates.

177. After Plaintiffs commenced this action by a writ of summons in January, 2017, and Bernard Feldman and Sandy Hutchens learned that the Plaintiffs were represented by counsel, Plaintiffs' counsel received a call from Elias Correa of Lydecker Diaz, who said he represented Westmoreland and wanted to discuss settlement.

178. Plaintiffs' counsel described to Correa all the facts they then had demonstrating that Westmoreland was a fraud including: that Westmoreland's claimed headquarters in Philadelphia was not a genuine office but a "virtual" office rented by the hour even though Westmoreland claimed to be a major lender involved in thousands of loans; that Bernard Feldman who was a disbarred lawyer and a felon was heavily involved with the scheme and operated American Escrow and Settlement Services which had appropriated Plaintiffs' funds; that Ed Ryan was likely a fiction or alias; that Plaintiffs' experience was identical to the experiences described in the *Oak Hall* and *Leathem Stearn* and those Plaintiffs also had apparently never seen Ed Ryan, only Bernard Feldman.

179. Correa claimed that he only represented Westmoreland. He said that he could not respond because he did not represent Bernard Feldman. He feigned ignorance and argued that the existence of a virtual office as Westmoreland's office indicated nothing, that his own wife used space in a virtual office. Correa stressed to Plaintiffs' counsel that he was a transactional lawyer for Westmoreland, not a litigator, and that Westmoreland wanted to avoid the expense of obtaining litigation counsel. He said he was ill equipped to discuss the Plaintiffs' transaction because it preceded his own representation of Westmoreland. He claimed to be familiar only with the fraud allegations in one case.

120
105

180. Plaintiffs subsequently learned that Correa had entered his appearance specifically on behalf of Feldman, Ryan, and Westmoreland in the *Leathem Stearn* case less than a year earlier as litigation counsel and had also represented Westmoreland in the *Oak Hall* case as well as numerous claims against Westmoreland resolved short of litigation.

181. Plaintiffs subsequently learned from Bernard Feldman's document production that Correa was exchanging emails with Bernard Feldman about the present dispute even while he claimed not to represent him.

182. Correa's other statements, that he was only a transactional lawyer who lacked knowledge to respond to Plaintiffs' counsel's description of the fraud, were also false. Correa was described on the Lydecker Diaz website as a litigation attorney, with appellate advocacy and complex commercial litigation listed among his specialties, and had actively represented Westmoreland, "Ed Ryan," and Bernard Feldman in matters involving the exact fraud Plaintiffs' counsel had described.

183. Correa and Alan Feldman also had to know that Bernard Feldman, their client in *Leathem Stearn* (and Alan Feldman's father), was in the process of pleading nolo contendere to grand theft, organized fraud, and uttering a forged instrument in the contemporaneous Florida criminal proceeding involving a separate real-estate-related fraud, yet Correa was disclaiming any ability to respond

121
106

to the description of the fraud described to him by Plaintiffs' counsel, because he allegedly did not represent Feldman.

184. Correa's false and misleading statements and omissions were specifically intended to hide the facts about the fraudulent Westmoreland scheme as well as Lydecker Diaz's role in the scheme.

185. Correa repeatedly urged Plaintiffs' counsel not to file a complaint which would necessarily describe the conduct Plaintiffs' counsel had described to him.

186. Shortly after the call by Correa, Bernard Feldman, representing himself to be a "consultant" for Westmoreland, called Colin Durward, and left a message on his cell phone and sent an email. He said he was inquiring about the Stevenses' transaction. When that call was not answered, "Ed Ryan" called Durward and left a message and sent an email. When that message was not answered, Barbara Leuin called Durward, trying to set up a conference call that would include Ryan. Leuin also called Plaintiffs' counsel, and when Plaintiffs' counsel asked immediately if she was represented by counsel she assured him not only that she was not, but that she lacked any funds to pay for a lawyer.

187. Correa continued to email and call Plaintiffs' counsel, furnishing documents he claimed would show Plaintiffs were not injured and urging Plaintiffs not to file a complaint. He then proposed that the parties mediate their dispute.

107¹²²

Plaintiffs' counsel asked who would attend a mediation on behalf of Westmoreland and Correa said it would be Ed Ryan, but moments later said it might be that Ryan could only attend by telephone even though Westmoreland was located in the same city as the proposed mediation and a date had not yet been set. Plaintiffs' counsel said he would consider mediation only if Correa would accept service for Ryan. On February 22, Correa emailed Plaintiffs' counsel saying that if agreement were reached to mediate, he would accept service for both "his clients," Ryan and Westmoreland. In response Plaintiffs' counsel sent a detailed proposal calling for both limited discovery and mediation.

188. While Correa sent an email as late as March 7, promising to contact Plaintiffs' counsel, the next call Plaintiffs' counsel received on behalf Westmoreland was on March 9 from David Fineman, of the Philadelphia firm Fineman, Kreckstein and Harris, P.C., who left a message that he was now representing Westmoreland. The Fineman firm subsequently withdrew as counsel after Plaintiffs' counsel advised the firm of their concerns about Ed Ryan.

189. Before withdrawing, the Fineman firm moved to quash pre-complaint discovery Plaintiffs had served, successfully arguing to the Court that Plaintiffs had adequate facts upon which to plead their fraud case. The Court of Common Pleas cited this motion in later denying certain Defendants' preliminary objections to

Plaintiffs' complaint that argued that the averments of fraud were not pleaded with sufficient specificity.

190. Plaintiffs lost their property in Arizona and Canada as well as their entire investment in developing the Saskatchewan property. Because of the scheme, Plaintiffs incurred many millions of dollars in damages.

FIRST CLAIM FOR RELIEF

Fraud and Misrepresentation

**Plaintiffs v. Sandy Hutchins, Bernard Feldman, Bernard Feldman PA,
American Escrow & Settlement Services, Barbara Leuin and Sofia Capital
Ventures, LLC.**

**Final Judgment has been entered on this claim against Westmoreland and
"Ed Ryan"**

191. Plaintiffs incorporate all the previous paragraphs of the Complaint.

192. Defendants operated a completely fraudulent up-front fee scheme designed to bilk potential borrowers of fees on loans which Defendants had no intention or capacity of completing.

193. Defendants made affirmative misrepresentations of present or past material facts to Plaintiffs, including, but not limited to the following:

- a. That Westmoreland was a legitimate lender;
- b. That the extensive representations and presentations on its website were true, providing the illusion that it was a genuine lender;
- c. That Westmoreland had funded a large number of prior loans;

124
109

- d. That Westmoreland was willing to lend money to Plaintiffs pursuant to the loan commitments;
- e. That Westmoreland would lend Plaintiffs \$13,900,000CDN.
- f. That Westmoreland would conduct due diligence in good faith with the intent of closing the loan and funding the loan;
- g. That Westmoreland had participated in many prior transactions;
- h. That the various endorsements contained on its website were true statements of natural persons;
- i. That Westmoreland had a lending capacity of \$475,000,000;
- j. That American Escrow had reviewed bank records of Westmoreland to verify Westmoreland's lending capacity;
- k. That Feldman was an independent inspector retained by Westmoreland;
- l. That Ed Ryan was a managing member of Westmoreland; and
- m. That Jason Underwood was the "manager of assets and valuations" of Westmoreland.

194. The proposed loan transactions were a sham intended to induce Plaintiffs to advance substantial lender fees to Westmoreland. The representations made to Plaintiffs were false. At the time of the representations and at the time of contracting, Defendants had the present intent never to make any loan to Plaintiffs

110¹²⁵

and then to retain the fees paid by Plaintiffs on pretextual grounds as part of their plan and secret and undisclosed intent.

195. Defendants made each of their misrepresentations to Plaintiffs with the specific intent that Plaintiffs would rely upon the representations.

196. Plaintiffs relied upon Defendants representations.

197. Plaintiffs' reliance was justified.

198. Defendants acting directly and through Westmoreland and Ryan made material omissions in their representations to Plaintiffs rendering their representations to Plaintiffs false and misleading. Among the material omissions, were the following:

- a. That Westmoreland had no legitimate office at its principal place of business, 1650 Market Street, Philadelphia, PA 19103;
- b. That Ryan had no legitimate office at its principal place of business, 1650 Market Street, Philadelphia, PA 19103;
- c. That Sandy Hutchens had an interest in Westmoreland;
- d. That "Ed Ryan" was, in fact, Sandy Hutchens;
- e. That Sandy Hutchens was a known criminal with a lengthy record of fraud;
- f. That Bernard Feldman had an interest in Westmoreland;

- g. That American Escrow was the exclusive financial services company of Westmoreland.
- h. That Ryan did not exist and was a straw for Hutchens;
- i. Upon information and belief for reasons described above, that Underwood did not exist or was a straw for Hutchens.
- j. Upon information and belief for reasons described above, at Conti or Conte did not exist or was a straw for Feldman;
- k. That Feldman was disbarred as a lawyer in both Michigan and Florida and had been suspended from practice for the reasons described above;
- l. That the endorsements identified on its website had never occurred;
- m. That Westmoreland lacked the capacity to make the loans it committed to make in its commitment letter.

199. Defendants made their omissions in their representations to Plaintiffs with the specific intent that Plaintiffs would rely upon the representations.

200. Plaintiffs relied upon Defendants' representations because of the omissions.

201. Plaintiffs have been damaged as a direct and proximate result of the fraudulent actions described above.

SECOND CLAIM FOR RELIEF

Conversion and Civil Theft

Plaintiffs v. All Defendants.

Final Judgment has been entered on this claim against Westmoreland and “Ed Ryan”

202. Plaintiffs incorporate all the previous paragraphs of the Complaint.

203. Defendants deprived Plaintiffs of their right of property and use of the funds taken as fees without Plaintiffs’ consent having under false pretenses converted sums presented for the fees associated with a mortgage loan and converted such funds to their personal use after Plaintiffs wired those funds to accounts at J.P. Morgan Chase in Florida, to be held in connection with the transaction of Westmoreland.

204. Defendants did not use the funds Plaintiffs had wired to the account to service Plaintiffs’ loan, but, after it was deposited to be held for such purpose, Defendants appropriated the funds by subsequently wiring them to other accounts without the Plaintiffs’ authorization.

205. Defendants retain Plaintiffs’ money and exercise unauthorized dominion and control over such money.

206. Plaintiffs have been damaged as a direct and proximate result of the conversion and civil theft described above.

THIRD CLAIM FOR RELIEF

Fraud and Misrepresentation:

Plaintiffs v. Leuin and Sofia

207. Plaintiffs incorporate all the previous paragraphs of the Complaint.

208. Defendants held themselves out as expert mortgage brokers who could advise Plaintiffs regarding the refinancing of their property, refer them to carefully vetted lenders and serve as their advisor and agent throughout the transaction.

209. Defendants did not carefully vet any lenders, but, in fact referred Plaintiffs to a sham organization with no adequate lending capacity, that had no appropriate references, and perpetrated a fraud upon by Plaintiffs.

210. Defendants made at least the following false representations to Plaintiffs with the specific intent that Plaintiffs would rely on the representations:

- a. That they would carefully vet any lender to whom they referred Plaintiffs;
- b. That they had experience with Westmoreland as a result of a number of prior transactions they had completed with it;
- c. That Westmoreland was a legitimate lender appropriate for Plaintiffs' borrowing needs;

114¹²⁹

d. That they knew Ed Ryan and his family personally and could vouch for their integrity; and

e. That they would bring their expertise to bear and represent Plaintiffs' interests throughout the transaction.

211. Plaintiffs relied on Defendants' misrepresentations and were induced to sign the loan commitment giving rise to this action based upon such reliance.

212. Plaintiffs' reliance was justified;

213. Plaintiffs have been damaged as a direct and proximate result of the fraudulent actions described above.

FOURTH CLAIM FOR RELIEF

Civil Conspiracy

Plaintiffs v. All Defendants.

Final Judgment has been entered on this claim against Westmoreland and "Ed Ryan"

214. Plaintiffs incorporate all previous paragraphs of the Complaint.

215. Defendants consciously conspired with each other and with others, and have pursued an ongoing common plan and design through one or more unlawful acts as alleged herein.

216. Specifically, and without limitation, the common plan and design included five essential elements (1) an entity to serve as the face of the conspiracy and persons to operate that entity, (2) finders to find and refer victims to the

scheme, (4) a corrupt financial agent to collect funds from victims and distribute funds among the conspirators, and (5) a corrupt legal entity to provide legal cover to provide an aura of legitimacy to the scheme and provide the corrupt legal services needed to perpetuate the scheme.

217. The common plan and design included, inter alia: (a) creating a loan scam by, among other things, giving Plaintiffs the appearance of legitimate lenders and other people and entities who were able to fund a legitimate loan transaction and perform appropriate due diligence; (b) inducing Plaintiffs to pay significant advance lender fees as the object of the common plan and design with the intent not to return the lender fees advanced and not to fund the loan; (c) concocting grounds for terminating the loan, and justifying keeping the funds advanced; (d) using the funds they knew, or should have known, were stolen through the scheme to fund payouts to complaining victims; (e) in the case of Lydecker Diaz, among other things enumerated above, (1) allowing the fraudulent scheme to use its name to provide an aura of legitimacy to it, (2) entering formal appearances on behalf of persons they knew, or should have known, were fictitious persons in legal proceedings, (3) negotiating and obtaining releases of persons they knew, or should have known, were fictitious persons in settlement negotiations to conceal and perpetuate the ongoing fraud, while actively negotiating “transactions” with new victims, (4) offering arrangements on behalf of persons they knew or should have

known were fictitious persons, (5) referring victims to scheme, and (6) transmitting and receiving proceeds of the unlawful scheme; and (f) in the case of Leuin and Sofia, referring victims to the scheme and making false statements enumerated above. All of these actions were taken with purpose, and/or with the knowledge, that such actions were perpetuating an ongoing illegal fraud scheme.

218. Defendants and their co-conspirators had a meeting of the minds and an express or tacit consent on their course of action constituting their civil conspiracy as alleged herein.

219. The conspirators joined and carried out the conspiracy through telephone communications and email over a period of years between 2014 and at least May of 2017

220. Pursuant to their unity of interest, conspiracy, and concerted action, Defendants and their co-conspirators acted with actual malice and pursued a course of action, for the sole purpose of injuring Plaintiffs and other victims and without any legitimate purpose, that was predicated on fraudulent inducement and subsequent fraudulent concealment of the conspiratorial scheme.

221. Defendants committed numerous unlawful covert acts in furtherance of the conspiracy, including among other things, making false representations, concealing material information, and engaging in repeated acts of mail and wire fraud and money laundering.

117¹³²

222. Plaintiffs have been damaged as a direct and proximate result of the fraudulent actions described above.

FIFTH CLAIM FOR RELIEF

Breach of Contract

Plaintiff 1174365 Alberta Limited v. Sofia and Leuin

223. Plaintiffs incorporate all previous paragraphs of the Complaint.

224. Plaintiff 1174365 Alberta Limited and Leuin and Sofia entered into an express contract for Sofia to serve as Plaintiffs' agent to obtain either directly or through a cooperating agent, a funding commitment and to facilitate communication between Plaintiff and said potential funding sources through the completion of funding, as required. (A copy of the contract is attached hereto as Exhibit A).

225. Defendants breached the agreement. They did not obtain a funding commitment but rather secured a fraudulent document purporting to be a commitment which had no genuine substance.

226. Sofia and Leuin also had an implied obligation of good faith and fair dealing under the agency agreement.

227. Sofia and Leuin breached their obligations of good faith and fair dealing by, among other things, failing to properly perform due diligence with regard to the lender to whom they referred Plaintiffs, misleading Plaintiffs

regarding their prior experience with the lender, falsely advising Plaintiffs that the lender was a lender appropriate to their borrowing needs, and, if a recent letter from Defendants' counsel is accurate, failing to properly provide materials to the lender.

228. Plaintiffs have been damaged as a direct and proximate result of the breach of contract actions described above.

SIXTH CLAIM FOR RELIEF

Negligence and Malpractice

Plaintiffs v. Sofia and Leuin

229. Plaintiffs incorporate all previous paragraphs of the Complaint.

230. Leuin and Sofia held themselves out to be experts in the field of real estate financing and particularly non-bank financing transactions.

231. Leuin and Sofia failed to conform to the most basic norms of experts in the field of real estate financing and particularly non-bank financing transactions. In at least the following ways:

- a. They performed no due diligence regarding Westmoreland;
- b. Alternatively, the due diligence they performed was so perfunctory and negligent that they failed to discover:
 - i. Westmoreland had no genuine office;

- ii. Westmoreland had no presence at the address provided as its headquarters;
- iii. Westmoreland lacked any genuine employees;
- iv. Westmoreland lacked the assets sufficient to meet Plaintiffs' loan requirements;
- v. Upon information and belief, Westmoreland had not funded any actual loans or none approaching the size required by Plaintiffs;
- vi. That American Escrow and, upon information and belief, Westmoreland was controlled by a disbarred lawyer, Feldman, who, during the time of his dealings with Plaintiffs had been charged with criminal fraud;
- vii. That American Escrow had no genuine office or employees.

232. Plaintiffs have been damaged as a direct and proximate result of the breach of contract actions described above.

SEVENTH CLAIM FOR RELIEF

Aiding and Abetting

Plaintiffs v. All Defendants except Westmoreland

233. Plaintiffs incorporate all the previous paragraphs of the Complaint

234. Each of the Defendants above undertook tortious acts described above in concert with the other or pursuant to a common design with him or her.

235. Plaintiffs have been damaged as a direct and proximate result of the aiding and abetting described above

EIGHTH CLAIM FOR RELIEF

Violation of 18 U.S.C. § 1962(c)

Plaintiffs v. All Defendants

236. Plaintiffs incorporate all the previous paragraphs of the Complaint.

237. American Escrow & Settlement Services, LLC, Bernard Feldman PA, and Westmoreland Equity Fund, LLC (“Westmoreland Enterprise”) is an enterprise as that term is used in 18 U.S.C. § 1961(4). The Westmoreland Enterprise had longevity sufficient to pursue the enterprise’s purposes of devising or intending to devise schemes or artifices to defraud the Plaintiffs and others. The enterprise existed for at least five years and harmed multiple persons in addition to Plaintiffs.

238. Elias Correa, Alan Feldman, Bernard Feldman, Jennifer Hutchens, Sandy Hutchens, Tanya Hutchens, Matthew Kovce, Barbara Leuin, Lydecker, Lee, Berga & De Zayas, LLC, Ed Ryan, Sofia Capital Ventures, LLC, and Jason Underwood is each a “person” as that term is used in 18 U.S.C. § 1961(3). Each participated in the operation, management, and control of the Westmoreland Enterprise through a pattern of racketeering activity.

239. Beginning at least as early as 2013 and continuing until 2017, the Westmoreland Enterprise conducted mail and wire fraud in violation of 18 U.S.C.

121 136

§ 1341 and 18 U.S.C. § 1343, and unlawful monetary transactions, in violation of 18 U.S.C. § 1956 and § 1957, which are predicate offenses for purposes of 18 U.S.C. § 1962(c).

240. Specifically, the Westmoreland Enterprise made affirmative misrepresentations of present or past material facts to Plaintiffs and other victims via the mail and wires, including, but not limited to the following:

- a. That Westmoreland was a legitimate lender;
- b. That the extensive representations and presentations on its website were true, providing the illusion that it was a genuine lender;
- c. That Westmoreland had funded a large number of prior loans;
- d. That Westmoreland was willing to lend money to Plaintiffs pursuant to the loan commitments;
- e. That Westmoreland would conduct due diligence in good faith with the intent of closing the loan and funding the loan;
- f. That Westmoreland had participated in many prior transactions;
- g. That the various endorsements contained on its website were true statements of natural persons;
- h. That Westmoreland had a lending capacity of \$475,000,000;
- i. That American Escrow had reviewed bank records of Westmoreland to verify Westmoreland's lending capacity;

122 137

- j. That Feldman was an independent inspector retained by Westmoreland;
- k. That Ed Ryan was a managing member of Westmoreland;
- l. That Jason Underwood was the “manager of assets and valuations” of Westmoreland.

241. The proposed loan transactions were a sham intended to induce Plaintiffs and others to advance substantial lender fees to Defendants. The representations made to Plaintiffs were false. At the time of the representations and at the time of contracting, the Westmoreland Enterprise had the present intent never to make any loan to Plaintiffs and then to retain the fees paid by Plaintiffs on pretextual grounds as part of their plan and secret and undisclosed intent.

242. The Westmoreland Enterprise made material omissions in their representations to Plaintiffs via the mail and wires, rendering their representations to Plaintiffs false and misleading. Among the material omissions, were the following:

- a. That Westmoreland had no legitimate office at its principal place of business, 1650 Market Street, Philadelphia, PA 19103;
- b. That Ryan had no legitimate office at its principal place of business, 1650 Market Street, Philadelphia, PA 19103;
- c. That Bernard Feldman had an interest in Westmoreland;

138
123

- d. That American Escrow was not independent but organized by Feldman;
- e. That American Escrow had no legitimate office;
- f. That “Ed Ryan” as an alias for Hutchens;
- g. That Sandy Hutchens was a notorious criminal known for engaging in precisely the type of fraud alleged herein;
- h. Upon information and belief for reasons described above, that Underwood did not exist or was a straw for Hutchens;
- i. Upon information and belief for reasons described above, that Conti or Conte did not exist or was a straw for Feldman;
- j. That Bernard Feldman was disbarred as a lawyer in both Michigan and Florida and had been suspended from practice for the reasons described above;
- k. That the endorsements identified on Westmoreland’s website had never occurred;
- l. That Westmoreland lacked the capacity to make the loans it committed to make in its commitment letter.

243. The Westmoreland Enterprise, and the persons named above, conducted numerous financial transactions knowing that they represented the proceeds of unlawful activity with the intent of carrying on the unlawful activities

124 139

of the enterprise and with the intent of concealing the nature, location, source, ownership and control of the proceeds of the unlawful activity, in violation of 18 U.S.C. § 1956.

244. The Westmoreland Enterprise, and the persons named above, conducted numerous financial transactions of greater than \$10,000 knowing that they represented the proceeds of unlawful activity, in violation of 18 U.S.C. § 1957.

245. Plaintiffs suffered domestic injury as a direct and proximate result of the fraudulent and unlawful actions described above, including appropriation of funds in excess of \$50,000 from bank accounts in Florida and loss of their home in Arizona.

246. The activities of the Westmoreland Enterprise affected interstate and foreign commerce.

NINTH CLAIM FOR RELIEF

Violation of 18 U.S.C. § 1962(d)

Plaintiffs v. All Defendants

247. Plaintiffs incorporate all the previous paragraphs of the Complaint.

248. Defendants, in violation of 18 U.S.C. § 1962(d), conspired with the persons managing, operating, and/or controlling the Westmoreland Enterprise to violate 18 U.S.C. § 1962(c).

249. Plaintiffs were the intended targets of the scheme to violate RICO, 18 U.S.C. § 1962(c) alleged herein, and the participation Defendants in a conspiracy to facilitate that scheme, in violation of 18 U.S.C. § 1962(d), caused financial injury to plaintiff and the members of the Class which was a reasonably foreseeable consequence of such conduct.

250. Specifically, and without limitation, the common plan and design included: (a) creating a loan scam by, among other things, giving Plaintiffs the appearance of legitimate lenders and other people and entities who were able to fund a legitimate loan transaction and perform appropriate due diligence; (b) inducing Plaintiffs to pay significant advance lender fees as the object of the common plan and design with the intent not to return the lender fees advanced and not to fund the loan; (c) concocting grounds for terminating the loan, and justifying keeping the funds advanced; (d) using the funds they knew, or should have known, were stolen through the scheme to fund payouts to complaining victims; (e) providing means of hiding the ill-gotten gains; (f) providing fictitious names; (g) concealing the true identity of the operators of the schemes and representing that Hutchens's proxies and aliases were the operators of the scheme; (h) upon information and belief, negotiating and obtaining releases of persons they knew, or should have known, were not the operators of the scheme in order to conceal and perpetuate the ongoing fraud; and (i) offering arrangements on behalf of persons

141
126

they knew or should have known were fictitious persons and/or fronts for the true operators or the schemes. These actions were taken with purpose, and/or with the knowledge, that such actions were perpetuating an ongoing illegal fraud scheme.

251. Defendants and their co-conspirators had a meeting of the minds and an express or tacit consent on their course of action constituting their civil conspiracy as alleged herein.

252. Pursuant to their unity of interest, conspiracy, and concerted action, Defendants and their co-conspirators pursued a course of action that was predicated on fraudulent inducement and subsequent fraudulent concealment of the conspiratorial scheme.

253. Defendants committed numerous unlawful covert acts in furtherance of the conspiracy, including among other things, making false representations, concealing material information, and engaging in repeated acts of mail and wire fraud.

254. Plaintiffs suffered domestic injury as a direct and proximate result of the fraudulent actions described above, including appropriation of funds in excess of \$50,000 from accounts in Florida and loss of their home in Arizona.

TENTH CLAIM FOR RELIEF

Violation of 18 U.S.C. § 1962(c)

Plaintiffs v. All Defendants

255. Plaintiffs incorporate all the previous paragraphs of the Complaint.

256. Westmoreland Equity Fund, LLC, Canadian Funding Corporation, 308 Elgin Street, Inc., First Central Mortgage Funding Inc., and the Great Eastern Investment Fund are an “enterprise” as defined in 18 U.S.C. § 1961(4) (the “Advance Fee Enterprise”). The Advance Fee Enterprise had longevity sufficient to pursue the enterprise’s purposes of devising or intending to devise schemes or artifices to defraud the Plaintiffs and others. The enterprise existed for at least five years and harmed multiple persons in addition to Plaintiffs.

257. American Escrow & Settlement Services, LLC; Elias Correa; Alan Feldman; Bernard Feldman; Bernard Feldman PA; Jennifer Hutchens; Sandy Hutchens; Tanya Hutchens; Shannon Hutchens; Matthew Kovce; Barbara Leuin; Lydecker, Lee, Berga & De Zayas, LLC; Ed Ryan; Sofia Capital Ventures, LLC; and Jason Underwood is each a “person” as that term is used in 18 U.S.C. § 1961(3). Each participated in the operation, management, and control of the Advance Fee Enterprise through a pattern of racketeering activity.

258. Beginning at least as early as January, 2004, and continuing at least until 2017, the Advance Fee Enterprise routinely conducted mail and wire fraud in

violation of 18 U.S.C. § 1341 and 18 U.S.C. § 1343, and unlawful monetary transactions, in violation of 18 U.S.C. § 1956 and § 1957, which are predicate offenses for purposes of 18 U.S.C. § 1962(c).

259. Specifically, the Advance Fee Enterprise made affirmative misrepresentations of present or past material facts to Plaintiffs and others victims via the mail and wires, including, but not limited to the following:

- a. That Westmoreland Equity Fund LLC, Canadian Funding Corporation, 308 Elgin Street, Inc., First Central Mortgage Funding Inc., and the Great Eastern Investment Fund were legitimate lenders;
- b. That the extensive representations and presentations on their websites were true, providing the illusion that they were genuine lenders;
- c. That they had funded a large number of prior loans;
- d. That they were willing to lend money to Plaintiffs and other victims pursuant to the loan commitments;
- e. That they would conduct due diligence in good faith with the intent of closing the loan and funding the loan;
- f. That they had participated in many prior transactions;

129 144

- g. That the various endorsements contained on its website were true statements of natural persons;
- h. That they had hundreds of millions of dollars in lending capacity;
- i. That other actors had reviewed their financials to ensure solvency and legitimacy;

260. The proposed loan transactions were a sham intended to induce Plaintiffs to advance substantial lender fees to the enterprise. The representations made to Plaintiffs were false. At the time of the representations and at the time of contracting, Defendants had the present intent never to make any loan to Plaintiffs and then to retain the fees paid by Plaintiffs on pretextual grounds as part of their plan and secret and undisclosed intent.

261. Defendants operated a completely fraudulent up-front fee scheme designed to bilk potential borrowers of fees on loans which Defendants had no intention or capacity of completing.

262. The Advance Fee Enterprise made material omissions in their representations to Plaintiffs and other victims via the mail and wires, rendering their representations to Plaintiffs false and misleading. Among the material omissions, were the following:

- a. That Westmoreland had no legitimate office at its principal place of business, 1650 Market Street, Philadelphia, PA 19103;

- b. That Ryan had no legitimate office at its principal place of business, 1650 Market Street, Philadelphia, PA 19103;
- c. That Bernard Feldman had an interest in Westmoreland;
- d. That American Escrow was not independent but organized by Feldman;
- e. That American Escrow had no legitimate office;
- f. That "Ed Ryan" as an alias for Hutchens;
- g. That Sandy Hutchens was a notorious criminal known for engaging in precisely the type of fraud alleged herein;
- h. Upon information and belief for reasons described above, that Underwood did not exist or was a straw for Hutchens;
- i. Upon information and belief for reasons described above, that Conti or Conte did not exist or was a straw for Feldman;
- j. That Bernard Feldman was disbarred as a lawyer in both Michigan and Florida and had been suspended from practice for the reasons described above;
- k. That the endorsements identified on Westmoreland's website had never occurred;
- l. That Westmoreland lacked the capacity to make the loans it committed to make in its commitment letter.

13/ 146

263. The Advance Fee Enterprise, and the person named above, conducted numerous financial transactions knowing that they represented the proceeds of unlawful activity with the intent of carrying on the unlawful activities of the enterprise and with the intent of concealing the nature, location, source, ownership and control of the proceeds of the unlawful activity, in violation of 18 U.S.C. § 1956.

264. The Advance Fee Enterprise, and the person named above, conducted numerous financial transactions of greater than \$10,000 knowing that they represented the proceeds of unlawful activity, in violation of 18 U.S.C. § 1957.

265. Plaintiffs suffered domestic injury as a direct and proximate result of the fraudulent and unlawful actions described above, including appropriation of funds in excess of \$50,000 from accounts Plaintiffs established in Florida and loss of their home in Arizona.

266. The activities of the Westmoreland Enterprise affected interstate and foreign commerce.

ELEVENTH CLAIM FOR RELIEF

Violation of 18 U.S.C. § 1962(d)

Plaintiffs v. All Defendants

267. Plaintiffs incorporate all the previous paragraphs of the Complaint.

268. Defendants, in violation of 18 U.S.C. § 1962(d), conspired with the persons managing, operating, and/or controlling the Advance Fee Enterprise to violate 18 U.S.C. § 1962(c).

269. Plaintiffs were the intended targets of the scheme to violate RICO, 18 U.S.C. § 1962(c) alleged herein, and the participation of Defendants in a conspiracy to facilitate that scheme, in violation of 18 U.S.C. § 1962(d), caused financial injury to Plaintiffs which was a reasonably foreseeable consequence of such conduct.

270. Specifically, and without limitation, the common plan and design included: (a) creating a loan scam by, among other things, giving Plaintiffs the appearance of legitimate lenders and other people and entities who were able to fund a legitimate loan transaction and perform appropriate due diligence; (b) inducing Plaintiffs to pay significant advance lender fees as the object of the common plan and design with the intent not to return the lender fees advanced and not to fund the loan; (c) concocting grounds for terminating the loan, and justifying keeping the funds advanced; (d) using the funds they knew, or should have known, were stolen through the scheme to fund payouts to complaining victims; (e) entering formal appearances on behalf of persons they knew, or should have known, were fictitious persons in legal proceedings; (f) upon information and belief, negotiating and obtaining releases of persons they knew, or should have

known, were fictitious persons in settlement negotiations to conceal and perpetuate the ongoing fraud; (g) offering arrangements on behalf of persons they knew or should have known were fictitious persons. These actions were taken with purpose, and/or with the knowledge, that such actions were perpetuating an ongoing illegal fraud scheme.

271. Defendants had a meeting of the minds and an express or tacit consent on their course of action constituting their civil conspiracy as alleged herein.

272. Pursuant to their unity of interest, conspiracy, and concerted action, Defendants pursued a course of action that was predicated on fraudulent inducement and subsequent fraudulent concealment of the conspiratorial scheme.

273. Defendants committed numerous unlawful covert acts in furtherance of the conspiracy, including among other things, making false representations, concealing material information, and engaging in repeated acts of mail and wire fraud.

274. Plaintiffs suffered domestic injury as a direct and proximate result of the fraudulent actions described above, including appropriation of funds in excess of \$50,000 from bank accounts in Florida and loss of their home in Arizona.

134 140

WHEREFORE, Plaintiffs demand judgment against Defendants and each of the them, jointly and severally, and respectfully requests that the Court enter judgment:

- a. awarding compensatory damages in excess of \$50,000;
- b. awarding punitive damages;
- c. trebling on judgment for damages recoverable under the RICO claims;
- d. awarding prejudgment interest, attorneys' fees and litigation expenses;
- e. awarding such other and further relief as the Court deems just and proper,

Jury Trial Demand

Plaintiffs demand trial by jury on all issues so triable.

Dated: March 15, 2018

Respectfully submitted,

By: 

Howard Langer

Edward Diver

Peter Leckman

LANGER GROGAN & DIVER, P.C.

Three Logan Square, Ste. 4130

1717 Arch Street

Philadelphia, PA 19103

Tele: (215) 320-5660

APPENDIX 5

Colorado District Court judgment
dated July 16, 2018

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 11-cv-01012-RBJ

CGC HOLDING COMPANY, LLC, a Colorado limited liability company,
HARLEM ALGONQUIN LLC, an Illinois limited liability company, and
JAMES T. MEDICK, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

SANDY HUTCHENS, a/k/a Fred Hayes, a/k/a Moishe Alexander, a/k/a Moshe Ben Avraham,
TANYA HUTCHENS, and
JENNIFER HUTCHENS,

Defendants.

SECOND AMENDED and FINAL JUDGMENT

In accordance with the orders filed during the pendency of this case, and pursuant to Fed. R. Civ. P. 58(a), the following Amended and Final Judgment is hereby entered.

This action was tried before a jury of six after illness of a seventh juror, duly sworn to try the issues herein with U.S. District Judge R. Brooke Jackson presiding, and the jury has rendered a verdict. The jury rendered verdicts in favor of the plaintiffs (meaning the named plaintiffs and members of the certified plaintiff class) and against defendants Sandy Hutchens, Tanya Hutchens and Jennifer Hutchens, finding as to each defendant that he or she violated both 18 U.S.C. § 1962(c) and 18 U.S.C. § 1962(d), and awarding damages in the total amount of \$8,421,367.00. Pursuant to 18 U.S.C. § 1964(c), those damages are trebled. After trebling, the amount of pretrial settlements is deducted. Accordingly, it is

ORDERED that judgment is entered on behalf of the plaintiffs, CGC HOLDING COMPANY, LLC, a Colorado limited liability company, HARLEM ALGONQUIN LLC, an Illinois limited liability company, JAMES T. MEDICK, and class members, and against the defendants, SANDY HUTCHENS, a/k/a Fred Hayes, a/k/a Moishe Alexander, a/k/a Moshe Ben Avraham, TANYA HUTCHENS and JENNIFER HUTCHENS, jointly and severally, with compensatory damages in the amount of \$8,421,367, trebled, minus pretrial settlements in the amount of \$1,025,000, for a total of \$24,239,101. It is

FURTHER ORDERED that a constructive trust is imposed on the following corporations and properties located in Ontario, Canada such that Sandy Hutchens, or Tanya Hutchens, or Jennifer Hutchens, or any other family member of any of Sandy, Tanya or Jennifer Hutchens are holding the following in trust for the plaintiffs:

a) Shares/Assets of the following Corporations/Entities:

1. 29 Laren Street Inc.
2. 3415 Errington Avenue Inc.
3. 3419 Errington Avenue Inc.
4. 331 Regent Street Inc.
5. 110-114 Pine Street Inc.
6. 15-16 Keziah Court Inc.
7. 193 Mountain Street Inc.
8. 625 Ash Street Inc.
9. 101 Service Road Inc.
10. 146 Whittaker Street Inc.
11. Estate of Judith Hutchens. No less than \$615,000 appears to be traceable to this

152
327

asset.

12. 364 Morris Street Inc. No less than \$4,000 is traceable to this asset.

13. 367-369 Howey Drive Inc. No less than \$4,000 is traceable to this asset.

14. 720 Cambrian Heights Inc. No less than \$1,500 is traceable to this asset.

15. JBD Holding and/or JBD Family. No less than \$400,000 is traceable to this asset.

b) The following Real Property:

	Registered Owner	Property Address	Legal Description of Real Property
1.	29 Laren Street Inc.	29 Laren Street Sudbury, Ontario	PIN #73481-0001 (LT); PCL 12042 SEC SES; PT LT 31 BLK B PL M9 DRYDEN & PT LT 32 BLK B PL M9 DRYDEN AS IN LT67718; PT LT 33 PL M9 DRYDEN PT 1 53R64589; GREATER SUDBURY
2.	29 Laren Street Inc.	29 Laren Street Sudbury, Ontario	PIN #73481-0006 (LT); PCL 12115 SEC SES; LT 30 BLK B PL M9 DRYDEN; GREATER SUDBURY
3.	29 Laren Street Inc.	29 Laren Street Sudbury, Ontario	PIN #73481-0008 (LT); PLC 12201 SEC SES; LT 29 BLK B PL M9 DRYDEN; PT PINE ST PL M9 DRYDEN; PT LANE PL PL M9 DRYDEN (NOW CLOSED) PARTS 3- 5, 53R9050 SAVE & EXPECTING THEREFROM THE CANADIAN PACIFIC RAILWAY COMPANY PROPERTY, & THAT PORTION OF THE WAHNAPIAE RIVER; S/T LT567345; GREATER SUDBURY
4.	29 Laren Street Inc.	29 Laren Street Sudbury, Ontario	PIN #73481-0493 (LT); PCL 3816 SEC SES; LT 5-6 BLK B PL M9 DRYDEN; S/T LT567345; GREATER SUDBURY
5.	29 Laren Street Inc.	29 Laren Street Sudbury, Ontario	PIN #73481-0446 (LT); PCL 12386 SEC SES; LT 1-3 BLK B PL M9 DRYDEN; GREATER SUDBURY

153
328

	Registered Owner	Property Address	Legal Description of Real Property
6.	29 Laren Street Inc.	29 Laren Street Sudbury, Ontario	PIN #73481-0512 (LT); PLC 198 SEC SES; LT 4 BLK B PL M9 DRYDEN; GREATER SUDBURY
7.	3415 Errington Avenue Inc.	3415 Errington Avenue Sudbury, Ontario	PIN: 73349-1569 (LT) PCL 10618 SEC SWS; LT 215 BLK 6 PL M91 BALFOUR; GREATER SUDBURY
8.	3419 Errington Avenue Inc.	3419 Errington Avenue Sudbury, Ontario	PIN: 73349-0720 (LT) PCL 21629 SEC SWS; LT 222 BLK 6 PL M91 BALFOUR; GREATER SUDBURY
9.	331 Regent Street Inc.	331 Regent Street Sudbury, Ontario	PIN #73586-0638 (LT) LT 297 PL 4SC MCKIM; GREATER SUDBURY
10.	110-114 Pine Street Inc.	110-114 Pine Street Sudbury, Ontario	PIN #02135-0246 (LT); LTS 48, 49, PT LT 50, BLK B PLAN 3SA; PTS 2, 4, 5, 6 53R11500 SUBJECT TO S94352 CITY OF SUDBURY
11.	193 Mountain Street Inc.	193 Mountain Street Sudbury, Ontario	PIN #02132-0942 (LT); PCLS 2388, 3113 AND 21292 SEC SES LTI PLAN M28B EXCEPT COMM AT THE S ELY ANGLE OF LT1; THENCE S 37 DEG 16'W ALONG THE SLY LIMIT OF LT1 A DISTANCE OF 42FT 3INCHES TO THE SLY ANGLE OF SAID LT1; THENCE S 73 DEG 04"W ALONG THE SLY LIMIT OF SAID LT1 A DISTANCE OF 10FT, 6INCHES TO THE SW ANGLE OF LT1; THENCE N 52DEG 10"W ALONG THE W LIMIT OF LT1 A DISTANCE OF 10FT, 6INCHES TO A POINT; THENCE N 64DEG 29'E A DISTANCE OF 11 FT MORE OR LESS TO A POINT BEING 11.0FT N 25DEG 31'W OF THE SLY ANGLE OF LT1; THENCE N 52 DEG 00' E A DISTANCE OF 38FT MORE OR LESS TO THE POC, PLAN ATTACHED IN 33273, NOW PCL 5776 SES; LT2 PLAN M28B EXCEPT COMMENCING AT THE S ELY ANGLE OF LT2, THENCE S 73

154
329

Registered Owner	Property Address	Legal Description of Real Property
		DEGREES 04'W ALONG THE SLY LIMIT OF LT2 A DISTANCE OF 63'2" TO THE S WLY ANGLE OF LT2, THEN N64 DEGREES 29' EA DISTANCE OF 62' MORE OR LESS TO A POINT ON THE ELY LIMIT OF LT2, THENCE S 52 DEGREES E ALONG THE ELY LIMIT OF LT2 A DISTANCE OF 10'6" MORE OR LESS TO THE POC; PLAN ATTACHED IN 33273, NOW PLC 5776 SES; EXCEPT COMM AT A POINT IN THE S WESTERN LIMIT OF SAID LT2 DISTANT 95.0FT FROM THE MOST SLY ANGLE OF SAID LT; THENCE N 45DEG 23'W TO A POINT IN THE HIGHWATER MARK OF THE EASTERN BANK OF JUNCTION CREEK; THENCE S WLY FOLLOWING ALONG SAID HIGHWATER MARK TO THE MOST WLY ANGLE OF SAID LT; THENCE S 54DEG 42'E ALONG THE AFORESAID S WESTERN LIMIT 95.0 FT MORE OR LESS TO THE POC, NOW PCL 21291 SES; EXCEPT PT1 53R8264; PT LT3 PLAN M28B COMM AT TA POINT IN THE N ELY ANGLE; THENCE S 70 DEG 32' W ALONG THE S EASTERN LIMIT OF SAID LT 18.0FT; THENCE N 45DEG 23'W TO THE POC; EXCEPT PT 2 53R8264 SUBJECT TO 25265S/T LT868119 PART 6&7 ON PLAN 53R-16220 CITY OF SUDBURY
12.	Tanya Hutchens	1779 Cross Street Innisfil, Ontario PIN #58069-0150 (LT); PT N 1/2 LT 25 CON 6 INNISFIL AS IN R01093173; ST R01093173; INNISFIL
13.	367-369 Howey Drive Inc. No less than \$4,000 is traceable to this asset.	367-369 Howey Drive Sudbury, Ontario PIN #73583-0400 (LT); LT 1-2 BLK A PL 5SA MCKIM S/T & T/W S112782; S/T INTEREST IN S112782; GREATER SUDBURY
14.	Tatiana Hutchens No less than \$379,968 appears to be traceable to this asset.	33 Theodore Place Vaughan, Ontario PIN #03251-0304 (LT); PCL 89-1, SEC 65M2941; LT 89, PL 65M2941, S/T LT746593: Vaughan

	Registered Owner	Property Address	Legal Description of Real Property
15.	Tatiana Hutchens No less than \$379,968 appears to be traceable to this asset.	33 Theodore Place Vaughan, Ontario	PIN #03251-0304 (LT); PCL 89-1, SEC 65M2941; LT 89, PL 65M2941, S/T LT746593: Vaughan

c) Personal Property

1. Sea Doo Boat located at 33 Theodore Place, Vaughan, Ontario. No less than \$21,000 is traceable to this asset.

The constructive trust against these corporations and properties (unless specifically stated otherwise) is for the full amount of the Judgment entered by the Court and includes all monies resulting directly or indirectly from the use, lease or sale of the corporations and properties regardless of the title/ownership to the corporations and properties which are held in trust for the plaintiffs. The burden is on the plaintiffs to trace any additional application fees to specific corporations and properties beyond the tracing found above. It is

FURTHER ORDERED that the Court awards attorney's fees to the plaintiffs of one-third of the amounts collected on the common fund created by this Amended and Final Judgment (\$24,239,101 plus interest), to be taken proportionately out of funds as they are collected so that counsel and clients share the collections contemporaneously and proportionately as they are received. It is

FURTHER ORDERED that pursuant to 18 U.S.C. § 1964(c), Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1, plaintiff are awarded costs against Sandy Hutchens, Tanya Hutchens and Jennifer Hutchens, jointly and severally, in the amount of \$33,237.89. It is

FURTHER ORDERED that plaintiffs are awarded prejudgment interest on \$8,421,367 at the rate of 1.31% compounded annually from April 15, 2011 through September 26, 2017

156

331

against Sandy Hutchens, Tanya Hutchens and Jennifer Hutchens, jointly and severally, in the total amount of \$737,911.68. It is

FURTHER ORDERED that post-judgment interest at the federal rate of 1.31% will run on the unsatisfied portion of the judgment from September 27, 2017 until the judgment is satisfied.

Dated at Denver, Colorado this 16th day of July, 2018

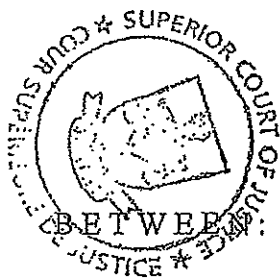
FOR THE COURT:
JEFFREY P. COLWELL, CLERK

By: s/ J. Dynes
J. DYNES
Deputy Clerk

APPROVED BY THE COURT:
s/ R. Brooke Jackson
United States District Judge

APPENDIX 6

Pleadings in the Colorado Enforcement Action



Court File No.: 2651/17

**ONTARIO
SUPERIOR COURT OF JUSTICE**

CGC HOLDING COMPANY, LLC, HARLEM ALGONQUIN LLC,
and JAMES T. MEDICK

Plaintiffs

- and -

SANDY HUTCHENS, also known as CRAIG (SANDY) HUTCHENS, MOSHIE ALEXANDER, MOISHE ALEXANDER, CRAIG HUTCHENS, SANDY CRAIG HUTCHENS, S. CRAIG HUTCHENS, MOISHE HUTCHENS, CRAIG ALEXANDER, MOSHE ALEXANDER, MOISHE BEN AVRAHAM, MOISHE BEN AVROHOM, MOSHE BEN AVROHOM, BEN AVRAHAM, FRED HAYES, ALEXANDER MACDONALD, ED RYAN, AND MATHEW KOVCE, TANYA HUTCHENS, also known as TATIANA BRIK, TATIANA HUTCHENS, and TANYA BRIK-HUTCHENS, JENNIFER HUTCHENS, also known as JENNIFER ARAUJO, JBD HUTCHENS FAMILY HOLDINGS INC. aka JBD HUTCHENS FAMILY HOLDINGS INC., JBD HOLDINGS INC., THE ESTATE OF JUDITH HUTCHENS, 29 LAREN STREET INC., 3415 ERRINGTON AVENUE INC., 367-369 HOWEY DRIVE INC., 3419 ERRINGTON AVENUE INC., 17 SERPENTINE STREET INC., 720 CAMBRIAN HEIGHTS INC., 331 REGENT STREET INC., 789 LAWSON STREET INC., 110-114 PINE STREET INC., 15-16 KEZIAH COURT INC., 193 MOUNTAIN STREET INC., 625 ASH STREET INC., 364 MORRIS STREET INC., 146 WHITTAKER STREET INC. and ADROIT ADVOCATES, LLC, A COLORADO LIMITED LIABILITY COMPANY, dba KLENDIA GESSLER & BLUE LLC

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

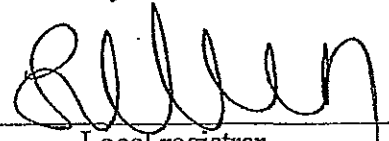
IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5,000 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: November 24, 2017

Issued by


Local registrar

Address of 80 Dundas Street
court office London, Ontario

TO: SANDY HUTCHENS, also known as CRAIG (SANDY) HUTCHENS,
MOSHIE ALEXANDER, MOISHE ALEXANDER, CRAIG HUTCHENS,
SANDY CRAIG HUTCHENS, S. CRAIG HUTCHENS, MOISHE
HUTCHENS, CRAIG ALEXANDER, MOSHE ALEXANDER, MOISHE BEN
AVRAHAM, MOISHE BEN AVROHOM, MOSHE BEN AVROHOM, BEN
AVRAHAM, FRED HAYES, ALEXANDER MACDONALD, ED RYAN and
MATHEW KOVCE
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: TANYA HUTCHENS, also known as TATIANA BRIK, TATIANA
HUTCHENS, and TANYA BRIK-HUTCHENS
33 Theodore Place
Thornhill, ON L4J 8E2

159
375

- 3 -

AND TO: JENNIFER HUTCHENS, also known as JENNIFER ARAUJO
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: JBD HUTCHENS FAMILY HOLDINGS INC. aka JBD HUTCHENS
FAMILY HOLDINGS INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: JBD HOLDINGS INC.
120 Sandcherry Court
Pickering, ON L1V 6V8

AND TO: JBD HUTCHENS FAMILY HOLDINGS INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: THE ESTATE OF JUDITH HUTCHENS
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: 29 LAREN STREET INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: 3415 ERRINGTON AVENUE INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: 367-369 HOWEY DRIVE INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: 3419 ERRINGTON AVENUE INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: 17 SERPENTINE STREET INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: 720 CAMBRIAN HEIGHTS INC.
33 Theodore Place
Thornhill, ON L4J 8E2

160
376

- 4 -

AND TO: 331 REGENT STREET INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: 789 LAWSON STREET INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: 110-114 PINE STREET INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: 15-16 KEZIAH COURT INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: 193 MOUNTAIN STREET INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: 625 ASH STREET INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: 364 MORRIS STREET INC.
125 Durham Street
2nd Floor
Sudbury, ON P3E 3M9

AND TO: 146 WHITTAKER STREET INC.
33 Theodore Place
Thornhill, ON L4J 8E2

AND TO: ADROIT ADVOCATES, LLC, A COLORADO LIMITED LIABILITY
COMPANY, dba KLEND A GESSLER & BLUE LLC
1624 Market Street, Suite 202
Denver, Colorado, U.S.A.

CLAIM

1. The Plaintiffs claim, with respect to all the Defendants except Advocates, LLC, A Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC ("Advocates"), the following:
 - (a) An Order for the recognition and enforcement of the Judgment issued in the United States District Court for the District of Colorado ("Colorado Court"), dated September 26, 2017 ("Colorado Judgment"), and such further Orders as issued by the Colorado Court in furtherance of the Colorado Judgment;
 - (b) Payment of a sum in Canadian currency sufficient to purchase the sum of USD\$24,239,101.00 at a bank in Ontario listed in Schedule 1 to the *Bank Act* (Canada) at the close of business on the first day on which the bank quotes a Canadian dollar rate for the purchase of US dollars before the day payment of the obligation is received by the Plaintiffs, pursuant to the Colorado Judgment;
 - (c) Payment of such further and other amounts for attorney fees and interest as may be Ordered by the Colorado Court;
 - (d) An interim and interlocutory Mareva injunction restraining the Defendants, or any one of them, from dealing with or disposing of real property, personal property and/or other assets;
 - (e) An Order authorizing the issuance of certificates of pending litigation pursuant to the *Courts of Justice Act*, RSO 1990, C. 43, s. 103, against title to the properties legally described in Schedule "A" hereto;

- (f) An Order authorizing the registration of any interlocutory Order made in this proceeding against title to the properties legally described in Schedule "A" hereto;
- (g) A declaration that the Plaintiffs hold a constructive trust over certain properties as described in Schedule "A" hereto;
- (h) A declaration that any real or personal property or any other asset purchased by the Defendants, or any one of them, with funds provided by the Plaintiffs, or any class member, are imposed with a constructive trust in favour of the Plaintiffs;
- (i) A declaration that the personal Defendants are the legal and beneficial owners of all the shares, property and assets of the corporate Defendants;
- (j) A declaration that the personal Defendants are the legal and beneficial owners of all of the real property registered in their names (or either of them), or of the real property registered on their behalf (or either of them);
- (k) A declaration that the Colorado Judgment takes priority over the mortgages that any of the Defendants hold against any of the properties listed in Schedule "A" hereto;
- (l) A tracing order to determine the ultimate recipients of all the funds that originated with the Plaintiffs and were provided to the Defendants;
- (m) An order that upon execution of the tracing order, the Plaintiffs may, in respect of any amounts awarded to, in each instance, elect in whole or in part

- between (1) the imposition of a constructive trust and/or equitable lien, and
(2) a personal remedy against the party or parties liable;
- (n) An accounting of all moneys received by the Defendants, or any of them, directly or indirectly from the Plaintiffs;
 - (o) An Order requiring the Defendants to disgorge to the Plaintiffs, any and all profits, income or money obtained by the Defendants as a result of the Defendants' unlawful misappropriation of the Plaintiffs' funds as described below;
 - (p) A declaration that the Plaintiffs' claim, plus interest and costs, falls within Section 178(1) of the *Bankruptcy and Insolvency Act* and that any Order of discharge does not release the Defendants, Sandy Hutchens, Tanya Hutchens, or Jennifer Hutchens, from liability to the Plaintiffs for the amounts owed herein;
 - (q) If necessary, an Order requesting the assistance of the Courts of the Courts of the United States of America and any other jurisdiction to provide aid and assistance to recognize and enforce this Order and all Orders rendered pursuant to this action and any motions contained therein;
 - (r) An interim, interlocutory, and permanent Order appointing a Receiver to preserve all of the Defendants' real property, personal property and any other assets for the benefit of the Plaintiffs;
 - (s) An interim, interlocutory, and permanent Order, prohibiting and restraining the Defendants, including their servants, employees, agents, assigns, officers,

directors, legal representatives and/or anyone else acting on their behalf or in conjunction with any of them, and any and all persons with notice of this injunction, and any corporations which the individual Defendants own or control, are restrained from directly or indirectly, by any means whatsoever:

- (i) selling, removing, dissipating, alienating, transferring, assigning, encumbering, or similarly dealing with any assets of the Defendants, wherever situate, including but not limited to the assets and accounts listed in Schedule "A" hereto;
- (ii) instructing, requesting, counselling, demanding , or encouraging any other person to do so; and
- (iii) facilitating, assisting in, aiding, abetting, or participating in any acts the effect of which is to do so.
- (t) Such further interim, interlocutory, and permanent injunctive or mandatory Orders as may be necessary or appropriate in order to give effect the relief claimed in paragraphs 1(a) to 1(r) above or as may be necessary or appropriate;
- (u) Pre-judgment and post-judgment interest at the rate(s) imposed by the District Court of Colorado, or alternatively, at the rates prescribed by the *Courts of Justice Act*;
- (v) Costs of this action; and
- (w) Such further and other relief as this Honourable Court deems just.

2. The Plaintiffs claim as against Advocates:

- (a) A declaration that the mortgages registered by Advocates against several of the Defendants properties on or about October 4, 2017 in the amount of \$2,000,000 (the "**Advocates Mortgages**") was made in an attempt to defeat, hinder or defraud creditors of the other Defendants and is therefore void, voidable and/or unenforceable as against the Plaintiffs;
- (b) In the alternative, a declaration that the Colorado Judgment takes priority over the Advocates Mortgages;
- (c) In the further alternative, damages against Advocates in the amount of \$2,000,000;
- (d) Costs of this action; and
- (e) Such further and other relief as this Honourable Court deems just.

THE PARTIES

3. The Plaintiffs are the class representatives of approximately 124 borrowers (businesses and individuals) who applied to receive real estate loans from certain defendants/entities controlled by the defendants (the "**Loan Scheme**") in an action commenced in the United States District Court for the District of Colorado as Court file no. 11-CV-01012-RBJ on or about April 11, 2011 ("**Colorado Action**"). More specifically:

- (a) CGC Holding Company, LLC, is a Colorado limited liability company with its principal place of business located in Parker, Colorado. It was previously engaged in the development of a golf course and residential community near

166
382

Parker, Colorado, in the course of which it sought financing from one or more of the defendants in the Colorado Action;

(b) Harlem Algonquin LLC, is an Illinois limited liability company with its principal place of business located in Lincolnshire, Illinois. It had previously contracted to buy a shopping centre in Lincolnshire, in the course of which it sought financing from one or more of the defendants in the Colorado Action; and

(c) James T. Medick, is an individual who resides in Las Vegas, Nevada. He had previously contracted to buy a house in California, in the course of which he sought financing from one or more of the defendants in the Colorado Action.

4. The fourth named plaintiff in the Colorado Action was Crescent Sound Yacht Club, LLC. It was not certified as a representative of the class, is not named in the Colorado Judgment and is not a named Plaintiff in this Action but it is a member of the Class in the Colorado Action.
5. The Defendant, Sandy Hutchens ("Sandy") is a resident of Toronto, Ontario and a Canadian citizen. Sandy has been known to use at least eight different aliases, including Fred Hayes, Moishe Alexander, Fred Merchant, Moishe Ben Avraham, Alexander MacDonald, Mathew Kovce, Mosh Ben Avraham, and Ed Ryan. In the Colorado Action, the Jury found that Sandy operated, participated in, and profited from the Loan Scheme and conspired with Defendants Tanya and Jennifer (as defined below) to do so.

6. The Defendant, Tanya Hutchens ("Tanya") is a resident of Toronto, Ontario and a Canadian citizen. She is the spouse (or former spouse) of Sandy and was held to have participated in and/or profited from the Loan Scheme along with Sandy and Jennifer. Tanya has also been known to use several aliases, such as Tatiana Hutchens, Tatiana Brik, Tanya Brik-Hutches and Tania Hutchens.
7. The Defendant, Jennifer Hutchens ("Jennifer"), is a resident of Toronto, Ontario and a Canadian citizen. She is the adult daughter of Sandy and was held to have participated in and/or profited from the Loan Scheme along with Sandy and Tanya. Jennifer is also known as "Jennifer Araujo".
8. Sandy, Tanya and Jennifer are hereinafter collectively referred to as the "**Hutchens Defendants**".
9. The Defendants, 29 Laren Street Inc., 3415 Errington Avenue Inc., 3419 Errington Avenue Inc., 367-369 Howey Drive Inc., 17 Serpentine Street Inc., 720 Cambrian Heights Inc., 331 Regent Street Inc., 789 Lawson Street Inc., 110-114 Pine Street Inc., 15-16 Keziah Court Inc., 193 Mountain Street Inc., 625 Ash Street Inc., 364 Morris Street Inc., and 146 Whittaker Street Inc., are Ontario corporations which are owned and/or controlled by Sandy and/or Tanya and are or were the registered owners of real property in Ontario (the "**Hutchens Property Defendants**"). The Hutchens Entities were incorporated between October 27, 2006 and October 30, 2013 for the purpose of holding real estate and other assets for the benefit of the Hutchens Defendants in Ontario. The real property was purchased and/or financed (either wholly or partly), operated and/or maintained using funds from the Loan Scheme.

10. The Defendants, JBD Holdings Inc., JBD Hutchens Family Holdings Inc., and JBD Hutchens Family Holdings Inc. are Ontario corporations which are owned and/or controlled by Sandy and/or Tanya which appear to have (or had) assets in Ontario and which participated in, or profited from, the Loan Scheme. These Defendants are also referred to as the Hutchens Property Defendants.
11. The Defendant, the Estate of Judith Hutchens, is a registered owner of 42 Clemow Avenue, Sudbury, Ontario together with Sandy. The Estate of Judith Hutchens has received proceeds from the Loan Scheme. These Defendants are also referred to as the Hutchens Property Defendants.
12. Advocates is the Hutchens Defendants' lawyer in the Colorado Action. Adroit Advocates registered mortgages against several properties which are owned or controlled by the Hutchens Defendants on October 4, 2017 after the Colorado Judgment was issued. A constructive trust was applied by the Colorado Court on September 26, 2017 against 8 of the properties for which Advocates registered its mortgage against. In the Statement of Claim, the Plaintiffs request an Order to declare the Adroit Mortgages as void, voidable and/or unenforceable, or alternatively a declaration that such mortgages do not take priority over the Colorado Judgment.
13. The Hutchens Property Defendants were used by the Hutchens Defendants to purchase, finance, operate and/or maintain real estate and/or other assets in Ontario using the Advance Fees (defined below) that they obtained through the Loan Scheme. The Hutchens Defendants created various companies, including the Hutchens Entities and Property Defendants for the purpose of holding the proceeds from the Loan Scheme in an effort to defeat, hinder and/or defraud creditors.

14. As stated in the Colorado Action, the Hutchens Defendants formed and used various corporations to perpetrate the Loan Scheme, including First Central Mortgage Funding Inc., Canadian Funding Corporation, 308 Elgin Street Inc., Northern Capital Investments Ltd., and Great Eastern Investment Fund, LLC (collectively referred to as the “Hutchens Entities (Lenders)” or “Lenders”), all of which are Ontario corporations (except for Great Eastern which is a Delaware corporation). The Hutchens Entities (Lenders) are not Defendants to this Action.

THE COLORADO ACTION

The Complaint/ Claim

15. In the Colorado Action, the Plaintiffs claimed that:
- (a) The Hutchens Defendants committed the Loan Scheme by promoting loans to potential U.S. borrowers either directly or indirectly through loan brokers. The Hutchens Defendants then made loan commitments to those U.S. borrowers. A condition of closing was that the U.S. borrower must provide substantial fees in advance (“Advance Fees”). These Advance Fees were described as “lenders legal fees”, “lenders administrative fees”, “inspection fees” or “brokerage fees”. In each case the loans were not advanced allegedly due to the U.S. borrower not satisfying certain requirements. The Hutchens Defendants and the Hutchens Entities (Lenders) never intended to close the loans. They did not have the funds, nor access to the funds, to close the loans they had committed to funding;

- (b) The Hutchens Defendants/Lending Entities made loan commitments to the Plaintiffs and Class Members in excess of \$3.27 billion;
- (c) The Class Members paid Advance Fees of approximately USD\$8,421,367 to the Defendants between the period of 2008 to 2013;
- (d) The communications, the use of professionals, the use of aliases, the incorporation of companies, and all of the activity that was generated surrounding promoting the loans and the loan commitments was done to disguise the fact that the entire exercise was for the purpose of creating and maintaining an image of competence, legitimacy, and capability for the purpose of deceiving the U.S. borrowers;
- (e) Failure to disclose Sandy's true identity and criminal history in support of the Loan Scheme. Further, the Hutchens Defendants disguised Sandy's true identity through a number of different aliases and the use of the different companies as shell corporations; and
- (f) The Plaintiffs would not have paid the Advance Fees had they known that the Hutchens Entities (Lenders) would not and could not fund the mortgage commitments.

The Procedural History

16. On or about March 4, 2013, the Colorado Court certified the Colorado Action as a nationwide class proceeding.

17. On or about December 8, 2014, the U.S. Court of Appeals for the Tenth Circuit affirmed the Colorado Court's decision to certify the Colorado Action as a class action.
18. The Hutchens Defendants were represented by the same counsel for the majority and/or the entirety of the Colorado Action.
19. The Colorado Action was vigorously defended.
20. The Hutchens Defendants challenged the jurisdiction of the Colorado Court; however, their jurisdictional challenge was rejected by the Colorado Court.
21. The court proceedings and judicial filings related to this matter have been extensive. Between the Plaintiffs, the Hutchens Defendants, as well as other defendants whose claims were resolved prior to trial, there have been at least 875 docket entries filed with the Colorado Court (a docket entry represents something filed with the court).

The Jury Finding and Decision

22. A 10-day jury trial of the Colorado Action occurred on May 1-4, 8-12, and 15, 2017.
23. On or about May 15, 2017, the jury reached a unanimous verdict after less than two hours of deliberations and found that the Hutchens Defendants were liable pursuant to Section 1962 (c – d) of the *Racketeer Influenced and Corrupt Organizations Act*, 18 U.S.C. ("RICO"). The jury found that the damages were USD\$8,421,367, that being the amount of Advance Fees that the Plaintiffs had provided to the Hutchens Defendants.
24. On September 26, 2017, the Colorado Court ordered (defined above as the Colorado Judgment), *inter alia*, that:

- (a) the damages of USD\$8,421,367 be trebled pursuant to RICO such that the Hutchens Defendants are required to pay the Plaintiffs the sum of USD\$24,239,101.00 (after deducting pre-trial settlements in the amount of USD\$1,025,000); and
 - (b) a constructive trust be imposed on certain Ontario, Canada properties owned by Sandy, Tanya, and/or Jennifer, as identified at paragraph 48 herein.
25. Since the Colorado Judgment was issued, the Plaintiffs have filed a further motion for attorney fees and pre-judgment interest, at the Colorado statutory rate of 8%, compounded annually.
26. On or about October 24, 2017, the Hutchens Defendants brought a motion to the Colorado Court seeking to alter/amend the Colorado Judgment imposing the constructive trust. No other motions or appeals have been made with respect to the Colorado Judgment.
27. The Hutchens Defendants have not requested that Judge Jackson stay the enforcement of the Judgment and they have not posted the *supersedeas* bond that would be necessary in the event that they requested a stay of enforcement.

THE TORONTO ACTION

28. The Plaintiffs brought an action in the Ontario Superior Court of Justice at Toronto (Court File No.CV-11-428713) (the “Toronto Action”) on or about June 15, 2011 for the purpose of preserving the assets of the Defendants (including additional defendants not included in this Action) pending the outcome of the Colorado Action.

29. On or about June 15, 2011, the Plaintiffs (within the Toronto Action) gave notice of a motion for a Norwich Pharmacal order and a Mareva injunction.
30. On or about November 21, 2011, the Toronto Injunction Motion was stayed *sine die*, without prejudice.
31. In or about January 2012, the Plaintiffs brought an urgent motion for the registration of certificates of pending litigation.
32. A settlement was reached relating to the Plaintiffs January 2012 motion which included, *inter alia*, the following terms:
 - (a) The Hutchens Defendants would undertake that neither they, nor any of the entities they control, would take steps to encumber or otherwise dispose of any of the properties listed at Schedule "A" hereto until a judgment was granted in the Colorado Action;
 - (b) The Hutchens Defendants would provide an undertaking that they did not own or control further real property other than the Properties (as defined therein). If they did, they would provide particulars of same and such properties would be subject to the undertaking referred to above;
 - (c) The settlement was without prejudice to the Plaintiffs' right, in the event judgment was granted in the Colorado Action, to conduct examinations in aid of execution or to perform tracing of accounts, or such other steps as required to enforce a Colorado judgment;
 - (d) The settlement was without prejudice to the Hutchens Defendants' right to bring its motion for security for costs back on if the Plaintiffs brought their

motions for a Mareva injunction and Norwich Pharmacal order or motion seeking a certificates of pending litigation;

(e) Reasonable notice would be provided to the Plaintiffs before any steps were taken to dispose of or otherwise encumber any of the properties; and

(f) The Plaintiffs would post \$25,000 as security for costs with Bennett Jones LLP within 30 days of execution of the settlement agreement.

33. The Plaintiffs state that the Hutchens Defendants refused to execute minutes of settlement relating to the January 2012 motion (as summarized above).

34. The Plaintiffs plead that to resolve the settlement issue, Tanya provided an oral and later written undertaking not to dispose of or encumber any properties that she owned or controlled without providing the Plaintiffs' counsel with reasonable notice (the "Undertaking").

35. The Plaintiffs plead that the Toronto Action was stayed on May 4, 2015.

36. The Plaintiffs commenced this fresh action instead of seeking to lift the stay in the Toronto Action because:

(a) The parties have changed (there are now only three Plaintiffs and 20 defendants (Advocates was not named as a defendant in the Toronto Action);

(b) The relief requested has changed (ie. the Plaintiffs are now seeking to recognize and enforce a judgment/order made in a foreign jurisdiction);

(c) The original claim and the defence filed in the Toronto Action would require substantial amendments;

- (d) No affidavits of documents were exchanged in the Toronto Action and discoveries were not held;
- (e) A motion to lift the stay, substitute/delete parties and to amend the entire claim would need to be made on notice to the Defendants;
- (f) Fresh motions and supporting evidence for a Mareva injunction and certificates of pending litigation would be required due to the passage of time, changes in circumstances, outcome of the Colorado Action and various transfers/encumbrances;
- (g) London, Ontario, is a more convenient forum for the adjudication of this dispute; and
- (h) The Toronto Action has become redundant upon the commencement of this Action.

BREACH OF UNDERTAKING, DISPOSITION AND ENCUMBRANCES

37. The Hutchens Defendants have sold, encumbered, or dealt with certain real properties in Ontario as follows:

- (a) Granted a mortgage in the amount of \$2,000,000 on or about October 4, 2017 (after the Colorado Judgment was issued and the constructive trust was imposed on September 26, 2017), in favour of Adroit Advocates, LLC, a Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC (the Hutchens Defendants' legal representatives in the Colorado Action) against the following properties:
 - (i) 29 Laren Street, Wahnapite (six PINs) as instrument no. SD344634;

- (ii) 3415 Errington Avenue, Sudbury as instrument no. SD344631;
 - (iii) 3419 Errington Avenue, Sudbury as instrument no. SD344632;
 - (iv) 110 Pine Street, Sudbury as instrument no. SD344633;
 - (v) 331 Regent Street, Sudbury as instrument no. SD344635; and
 - (vi) 17 Serpentine Street, Copper Cliffe as instrument no. SD344630.
- (b) Sold the property municipally known as 720 Cambrian Heights, Sudbury, Ontario, to a third party on September 15, 2017, for \$3,100,000; and
- (c) Sold the property municipally known as 364 Morris Street, Sudbury, Ontario, to a third party for \$900,000 on or about February 25, 2016.

38. The Plaintiffs plead that the Hutchens Defendants did not provide notice of the foregoing dispositions and/or encumbrances in breach of the Undertaking.

Other Acquisitions, Dispositions and Encumbrances

39. Since the Colorado Action was commenced on or about April 11, 2011, the Hutchens Defendants made a number of transfers and otherwise encumbered, purchased or dealt with real properties in Ontario, in addition to what is stated in the paragraph 37 herein, as follows:

- (a) Purchased 175 Hilda, Unit 1015, Toronto, Ontario, for \$259,000 and obtained a mortgage from CIBC for \$207,200 on or about June 10, 2011;
- (b) Obtained a mortgage from Catherine Atchison on or about March 29, 2012 in the amount of \$303,000 against 193 Mountain Street, 15 Keziah Court, 16 Keziah Court, and 625 Ash Street, Sudbury. Catherine Atchison subsequently

sold the following properties under power of sale in November 2015 for a total of \$825,000:

- (i) 625 Ash Street to Eric McKay on or about November 6, 2015, for \$225,000;
 - (ii) 15 Keziah Court to 2363404 Ontario Inc. for \$150,000 on or about November 9, 2015; and
 - (iii) 16 Keziah Court to Brites on \$450,000 on or about November 9, 2015 (subsequently sold by Brites to 2363404 Ontario Inc. for \$650,000 on or about October 11, 2016).
- (c) 789 Lawson Street, Sudbury, was transferred to third parties on or about March 30, 2012, for the sum of \$350,000;
 - (d) Obtained a new first mortgage against 1479 Maple Road, Innisfil, from Meridian Credit on or about April 26, 2012, for \$200,000;
 - (e) Obtained a mortgage from Dina Brik (Tanya's mother) on or about February 10, 2012, against 1790 Cross Street, Innisfil, in the amount of \$80,750 (subsequently postponed in favour of the Meridian mortgage referred to below);
 - (f) Obtained a new first mortgage against 1790 Cross Street, Innisfil, in favour of Meridian Credit on or about April 26, 2012, for \$85,000;
 - (g) Obtained a new first mortgage against 1889 Simcoe Blvd., Innisfil, in favour of Meridian Credit on or about April 26, 2012, for \$200,000;

- (h) Obtained a new first mortgage against 33 Theodore Place, Thornhill, in favour of Meridian Credit on or about June 27, 2012, for \$350,000;
 - (i) Obtained a new first mortgage against 1779 Cross Street, Innisfil, in favour of Meridian Credit on or about April 8, 2013, in the amount of \$300,000;
 - (j) Obtained a new mortgage against 367-369 Howey Drive, Sudbury, on or about June 3, 2013, in favour of Bank of Montreal in the amount of \$915,000;
 - (k) Purchased 1760 Cross Street, Innisfil, on or about June 28, 2013, for \$228,000 – no mortgage; and
 - (l) Took an assignment of the mortgage from Solid Rock Mortgages against 331 Regent Street, Sudbury on, or about February 14, 2014, in the amount of \$99,000.
 - (m) Purchased 1573 Houston Street, Innisfil, Ontario, on May 27, 2016 for \$760,000 (no mortgage registered against title); and
 - (n) Granted new first mortgages in favour of Dina Brik, the mother of Tanya (who is also known as Tatiana Brik), against 3415 Errington Avenue and 3419 Errington Avenue on or about April 30, 2015, in the amount of \$150,000 each (for a total of \$300,000);
40. Tanya also took an assignment of the following mortgages registered against certain real properties as follows:

- (a) From the Bank of Montreal against the 29 Laren Street Properties (6 PINs) in the amount of \$597,180 on or about March 24, 2016. Tanya is now the first mortgagee;
 - (b) From Lapell Management against 17 Serpentine Street, Sudbury, in the amount of \$51,000 on January 7, 2016;
 - (c) From Canadian Western Trust against 110-114 Pine Street for the sum of \$602,000 on or about March 27, 2017, and Barbara Carpenter on August 19, 2017, for \$114,000 such that Tanya holds the first and second mortgages against this property;
 - (d) From Canadian Western Trust against 17 Serpentine Street, Sudbury, in the amount of \$200,000 on or about March 27, 2017; and
 - (e) From Bank of Montreal against 367-369 Howey Drive, Sudbury, on September 20, 2017 in the amount of \$464,192.75.
41. The Plaintiffs state that the amounts awarded pursuant to the Colorado Judgment, and any related Orders, ought to take priority over the Advocates Mortgages and any non-arms length mortgages registered against any real property owned by any of the Defendants (excluding Advocates).
42. The Plaintiffs state that Advocates knew, or ought to have known, that the Plaintiffs' were seeking to enforce the Colorado Judgment as against the properties which are subject to the Advocates Mortgages. The Advocates Mortgages were registered after the Colorado Judgment was issued and constructive trusts were applied in favour of the Plaintiffs.

PIERCING THE CORPORATE VEIL

43. The Hutchens Defendants created the Hutchens Property Defendants to hold the proceeds from the Advance Fees for the benefit of the Hutchens Defendants.
44. The Property Defendants and Hutchens Entities were created and used for the purpose of hindering, defeating and/or defrauding the Plaintiffs and/or other creditors.

CONSTRUCTIVE TRUST AND UNJUST ENRICHMENT

45. The Plaintiffs claim a constructive trust against each of the real properties listed in Schedule "A" hereto.
46. The Hutchens Defendants used funds from the Loan Scheme to purchase and/or pay for various real estate, personal property, other assets and/or investments.
47. The Hutchens Defendants acquired and/or maintained at least 14 real properties in Ontario during the time period of the Loan Scheme (2008 to 2013), personally and/or through companies that they incorporated for the purpose of holding title.
48. The Plaintiffs plead that such real estate, personal property, other assets and/or investments that were purchased using the Advance Fees are impressed with a constructive trust in favour of the Plaintiffs.
49. The Plaintiffs state that the Defendants were unjustly enriched as a result of the Loan Scheme and Advance Fees paid by the Plaintiffs.
50. Pursuant to the Colorado Judgment, the Colorado Court granted the Plaintiffs a constructive trust against:

- (a) 29 Laren Street Inc.;
- (b) 3415 Errington Avenue Inc.;
- (c) 3419 Errington Avenue Inc.;
- (d) 331 Regent Street Inc.;
- (e) 110-114 Pine Street Inc.;
- (f) 15-16 Keziah Court Inc.;
- (g) 193 Mountain Street Inc.;
- (h) 625 Ash Street Inc.;
- (i) 101 Service Road Inc.;
- (j) 146 Whittaker Street Inc.; and
- (k) 1779 Cross Street, Innisfil, Ontario; and
- (l) Sea Doo Boat.

51. The Plaintiffs made further submissions in the Colorado Action for a constructive trust against the following (no decision has been rendered as at the time of pleading):

- (a) The Estate of Hutchens;
- (b) 364 Morris Street Inc.;
- (c) 367-369 Howey Drive Inc.;
- (d) 720 Cambrian Heights Inc.;
- (e) 33 Theodore Place;
- (f) JBD Holding; and

(g) JBD Family.

**THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT, 18
U.S.C. ("RICO")**

52. The jury found the Hutchens Defendants liable to the Plaintiffs for breach of section 1962 (c-d) of RICO for:

- (a) Knowingly conspiring to and participating in a pattern of racketeering activity (in particular, wire fraud) that affected interstate or foreign commerce; and
- (b) Participating in unlawful activity of predicate acts in an effort to issue loan commitments in order to fraudulently acquire funds from persons desiring to obtain financing for real estate.

53. Subsections 1962 (c) and (d) of RICO state that:

(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

54. Section 1962 of RICO does not permit claims against corporations, only individuals. As such, the Plaintiffs only obtained Judgment for breach of 1962 of RICO against

the Hutchens Defendants. The RICO claim was dismissed as against the corporate defendants with prejudice.

55. RICO is a well-established federal statute. It was enacted by the United States Congress in 1970 and signed into law by President Richard M. Nixon in October 1970. RICO is codified in Sections 1961-1968 of Title 18 of the United States Code.
56. RICO is designed to combat organized crime through criminal prosecution and civil penalties for racketeering activity performed as part of the conduct of an ongoing "enterprise."
57. Section 1964(c) of RICO states, in part, that: *"Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee...."*
58. Treble damages were awarded to the Plaintiffs pursuant to section 1964(c) above.
59. The United States Supreme Court has issued over twenty decisions regarding the interpretation of RICO. That Court, along with the lower courts below it, have uniformly held that RICO's civil provisions, including its mandatory provision for trebling damages, are compensatory/remedial and are neither punitive and/or penal in nature.

SERVICE OF STATEMENT OF CLAIM IN COLORADO

60. The Plaintiffs are entitled to serve this Statement of Claim outside Ontario, upon Advocates in Denver, Colorado, United States of America, without a court order

184
400

pursuant to the following rules of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 because:

- (a) Rule 17.02(a) - the claim relates to real property in Ontario; and
 - (b) Rule 17.02(e) - the claim relates to mortgages on real property in Ontario.
61. The Plaintiffs plead and rely upon the *Courts of Justice Act*, S.O. 1990, c C-43, *Assignments and Preferences Act*, RSO 1990, c A.33, *Fraudulent Conveyances Act*, RSO 1990, c F.29, *Business Corporations Act*, RSO 1990, c B.16, and the doctrine of knowing assistance and knowing receipt in support of the relief sought herein.
62. The Plaintiffs propose that this action be tried in the City of London, Province of Ontario.

November 24, 2017

Siskinds LLP
Barristers & Solicitors
680 Waterloo Street
P.O. Box 2520
London, ON N6A 3V8

Daniel J. MacKeigan LSUC#: 42564R
Tel: (519) 660-7852
Fax: (519) 660-7853

Cole S. C. Vegso LSUC#: 65389G
Tel: (519) 660-7755
Fax: (519) 660-7756

Lawyers for the Plaintiffs

PROPERTY CHART

A. DEFENDANT PROPERTIES THAT WERE IMPOSED WITH A CONSTRUCTIVE TRUST - COLORADO JUDGMENT DATED SEPTEMBER 26, 2017
(Not including Properties that were sold before the Constructive Trust was applied in Colorado Action)

	Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
1.	1779 Cross Street, Innisfil, Ontario; (Simcoe LRO#51) PIN #58069-0150 (LT); PT N 1/2 LT 25 CON 6 INNISFIL AS IN R01093173; ST R01093173; INNISFIL (Search dated November 23, 2017)	Tanya Hutchens - 2006/07/28 - \$400,000	Meridian Credit - \$300,000 on 2013/04/08	N/A
2.	193 Mountain Street, Sudbury, Ontario; (Sudbury LRO#53) PIN #02132-0942 (LT); PCLS 2388, 3113 AND 21292 SEC SES LT1 PLAN M28B EXCEPT COMM AT THE S ELY ANGLE OF LT1; THENCE S 37 DEG 16'W ALONG THE SLY LIMIT OF LT1 A DISTANCE OF 42FT 3INCHES TO THE SLY ANGLE OF SAID LT1; THENCE S 73 DEG 04"W ALONG THE SLY LIMIT OF SAID LT1 A DISTANCE OF 10FT, 6INCHES TO THE SW ANGLE OF LT1; THENCE N 52DEG 10"W ALONG THE W LIMIT OF LT1 A DISTANCE OF 10FT, 6INCHES TO A POINT; THENCE N 64DEG 29'E A DISTANCE OF 11 FT MORE OR LESS TO A	193 Mountain Street Inc. 2007/07/09 - \$435,000	First National - \$440,700 on 2008/11/10 Catherine Atchison - \$303,000 on 2012/03/29 Notice of Security Interest from 1627596 Ontario Inc. registered on 2017/08/03 for \$1,415	Directors: S. Craig Hutchens - Date Began: 2007/07/04 Tanya Hutchens - Date Began: 2007/07/04 Officers: Tanya Hutchens - Date Began: 2007/07/04 (Secretary; Treasurer) Tanya Hutchens - Date Began: 2011/01/01 (President)

Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
<p>POINT BEING 11.0FT N 25DEG 31'W OF THE SLY ANGLE OF LT1; THENCE N 52 DEG 00' E A DISTANCE OF 38FT MORE OR LESS TO THE POC, PLAN ATTACHED IN 33273, NOW PCL 5776 SES; LT2 PLAN M28B EXCEPT COMMENCING AT THE S ELY ANGLE OF LT2, THENCE S 73 DEGREES 04'W ALONG THE SLY LIMIT OF LT2 A DISTANCE OF 63'2" TO THE S WLY ANGLE OF LT2, THEN N64 DEGREES 29' EA DISTANCE OF 62' MORE OR LESS TO A POINT ON THE ELY LIMIT OF LT2, THENCE S 52 DEGREES E ALONG THE ELY LIMIT OF LT2 A DISTANCE OF 10'6" MORE OR LESS TO THE POC; PLAN ATTACHED IN 33273, NOW PLC 5776 SES; EXCEPT COMM AT A POINT IN THE S WESTERN LIMIT OF SAID LT2 DISTANT 95.0FT FROM THE MOST SLY ANGLE OF SAID LT; THENCE N 45DEG 23'W TO A POINT IN THE HIGHWATER MARK OF THE EASTERN BANK OF JUNCTION CREEK; THENCE S WLY FOLLOWING ALONG SAID HIGHWATER MARK TO THE MOST WLY ANGLE OF SAID LT; THENCE S 54DEG 42'E ALONG THE AFORESAID S WESTERN LIMIT 95.0 FT MORE OR LESS TO THE POC, NOW PCL 21291 SES; EXCEPT PT1 53R8264; PT LT3 PLAN M28B</p>			

	Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
	<p>COMM AT TA POINT IN THE N ELY ANGLE; THENCE S 70 DEG 32' W ALONG THE S EASTERN LIMIT OF SAID LT 18.0FT; THENCE N 45DEG 23'W TO THE POC; EXCEPT PT 2 53R8264 SUBJECT TO 25265S/T LT868119 PART 6&7 ON PLAN 53R-16220 CITY OF SUDBURY (Search dated November 23, 2017)</p>			
3.	<p>110-114 Pine Street, Sudbury, Ontario; (Sudbury LRO#53) PIN #02135-0246 (LT); LTS 48, 49, PT LT 50, BLK B PLAN 3SA; PTS 2, 4, 5, 6 53R11500 SUBJECT TO S94352 CITY OF SUDBURY (Search dated November 23, 2017)</p>	<p>110-114 Pine Street Inc. 2005/05/23 - \$860,000</p>	<p>1st Mtge: B2B Trust Assigned to Canadian Western Trust Assigned to Tanya Hutchens on 03/27/2017 (Consideration: \$602,000) 2nd Mtge: Barbara Carpenter Assigned to Tatiana Hutchens on 08/19/2017 (Consideration: \$114,000) 3rd - Adroit Advocates, LLC, A Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC - \$2,000,000 - 10/04/2017</p>	<p>Directors: Tanya Hutchens - Date Began: 2011/01/04 Officers: Tanya Hutchens - Date Began: 2011/01/01 (President; Secretary; Treasurer)</p>
4.	<p>29 Laren Street, Sudbury (Wahnapiitae) (Sudbury LRO#53) PIN #73481-0001 (LT);</p>	<p>29 Laren Street Inc. 2008/06/30 - \$925,000 (all 6 PINs)</p>	<p>1st Mtge (+Assignment of Rents) was held by BMO (\$800,000) and Assigned to</p>	<p>Directors: S. Craig Hutchens - Date Began: 2007/07/04</p>

Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
PCL 12042 SEC SES; PT LT 31 BLK B PL M9 DRYDEN & PT LT 32 BLK B PL M9 DRYDEN AS IN LT67718; PT LT 33 PL M9 DRYDEN PT 1 53R64589; GREATER SUDBURY (Search dated November 23, 2017)		Tanya Hutchens March 24, 2016 (Consideration: \$597,180) 2 nd -146 Whittaker Street Inc. - \$210,000 on 2010/02/26 3 rd - Adroit Advocates, LLC, A Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC - \$2,000,000 - 10/04/2017	Tanya Hutchens - Date Began: 2007/07/04 Officers: Tanya Hutchens - Date Began: 2007/07/04 (Secretary; Treasurer) Tanya Hutchens - Date Began: 2011/01/01 (President)
5. 29 Laren Street, Sudbury (Wahnapiatae) (Sudbury LRO#53) PIN #73481-0006 (LT); PCL 12115 SEC SES; LT 30 BLK B PL M9 DRYDEN; GREATER SUDBURY (Search dated November 23, 2017)	29 Laren Street Inc. 2008/06/30 - \$925,000 (all 6 PINs)	1 st Mtge (+Assignment of Rents) was held by BMO (\$800,000) and Assigned to Tanya Hutchens March 24, 2016 (Consideration: \$597,180) 2 nd -146 Whittaker Street Inc. - \$210,000 on 2010/02/26 3 rd - Adroit Advocates, LLC, A Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC	Directors: S. Craig Hutchens - Date Began: 2007/07/04 Tanya Hutchens - Date Began: 2007/07/04 Officers: Tanya Hutchens - Date Began: 2007/07/04 (Secretary; Treasurer) Tanya Hutchens - Date Began: 2011/01/01 (President)

Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
6. 29 Laren Street, Sudbury (Wahnapiatae) (Sudbury LRO#53) PIN #73481-0008 (LT); PLC 12201 SEC SES; LT 29 BLK B PL M9 DRYDEN; PT PINE ST PL M9 DRYDEN; PT LANE PL PL M9 DRYDEN (NOW CLOSED) PARTS 3-5, 53R9050 SAVE & EXPECTING THEREFROM THE CANADIAN PACIFIC RAILWAY COMPANY PROPERTY, & THAT PORTION OF THE WAHNAPIATAE RIVER; S/T LT567345; GREATER SUDBURY (Search dated November 23, 2017)	29 Laren Street Inc. 2008/06/30 - \$925,000 (all 6 PINs)	- \$2,000,000 - 10/04/2017 1 st Mtge (+Assignment of Rents) was held by BMO (\$800,000) and Assigned to Tanya Hutchens March 24, 2016 (Consideration: \$597,180) 2 nd -146 Whittaker Street Inc. - \$210,000 on 2010/02/26 3 rd - Adroit Advocates, LLC, A Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC - \$2,000,000 - 10/04/2017	Directors: S. Craig Hutchens - Date Began: 2007/07/04 Tanya Hutchens - Date Began: 2007/07/04 Officers: Tanya Hutchens - Date Began: 2007/07/04 (Secretary; Treasurer) Tanya Hutchens - Date Began: 2011/01/01 (President)
7. 29 Laren Street, Sudbury (Wahnapiatae) (Sudbury LRO#53) PIN #71481-0493 (LT); PCL 3816 SEC SES; LT 5-6 BLK B PL M9 DRYDEN; S/T LT567345; GREATER SUDBURY (Search dated November 23, 2017)	29 Laren Street Inc. 2008/06/30 - \$925,000 (all 6 PINs)	1 st Mtge (+Assignment of Rents) was held by BMO (\$800,000) and Assigned to Tanya Hutchens March 24, 2016 (Consideration: \$597,180) 2 nd -146 Whittaker Street Inc. - \$210,000 on 2010/02/26	Directors: S. Craig Hutchens - Date Began: 2007/07/04 Tanya Hutchens - Date Began: 2007/07/04 Officers: Tanya Hutchens - Date Began: 2007/07/04 (Secretary; Treasurer) Tanya Hutchens - Date Began: 2011/01/01

189
405

	Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
			3 rd - Adroit Advocates, LLC, A Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC - \$2,000,000 - 10/04/2017	(President)
8.	29 Laren Street, Sudbury (Wahnapiatae) (Sudbury LRO#53) PIN #73481-0446 (LT); PCL 12386 SEC SES; LT 1-3 BLK B PL M9 DRYDEN; GREATER SUDBURY (Search dated November 23, 2017)	29 Laren Street Inc. 2008/06/30 - \$925,000 (all 6 PINs)	1 st Mige (+Assignment of Rents) was held by BMO (\$800,000) and Assigned to Tanya Hutchens March 24, 2016 (Consideration: \$597,180) 2 nd -146 Whittaker Street Inc. - \$210,000 on 2010/02/26 3 rd - Adroit Advocates, LLC, A Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC - \$2,000,000 - 10/04/2017	Directors: S. Craig Hutchens - Date Began: 2007/07/04 Tanya Hutchens - Date Began: 2007/07/04 Officers: Tanya Hutchens - Date Began: 2007/07/04 (Secretary; Treasurer) Tanya Hutchens - Date Began: 2011/01/01 (President)
9.	29 Laren Street, Sudbury (Wahnapiatae) (Sudbury LRO#53) PIN #73481-0512 (LT); PLC 198 SEC SES; LT 4 BLK B PL M9 DRYDEN; GREATER SUDBURY	29 Laren Street Inc. 2008/06/30 - \$925,000 (all 6 PINs)	1 st Mige (+Assignment of Rents) was held by BMO (\$800,000) and Assigned to Tanya Hutchens March 24, 2016 (Consideration: \$597,180)	Directors: S. Craig Hutchens - Date Began: 2007/07/04 Tanya Hutchens - Date Began: 2007/07/04 Officers: Tanya Hutchens - Date

	Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
	(Search dated November 23, 2017)		<p>2nd - 146 Whittaker Street Inc. - \$210,000 on 2010/02/26</p> <p>3rd - Adroit Advocates, LLC, A Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC - \$2,000,000 - 10/04/2017</p>	<p>Began: 2007/07/04 (Secretary; Treasurer) Tanya Hutchens - Date Began: 2011/01/01 (President)</p>
10.	<p>3415 Errington Avenue, Sudbury (Sudbury LRO#53)</p> <p>PIN: 73349-1569 (LT)</p> <p>PCL 10618 SEC SWS; LT 215 BLK 6 PL M91 BALFOUR; GREATER SUDBURY</p> <p>(Search dated November 23, 2017)</p>	<p>3415 Errington Avenue Inc. 2007/03/16 - \$150,000</p>	<p>1st - Dina Brik - \$150,000 on 04/30/2015</p> <p>2nd - Adroit Advocates, LLC, A Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC - \$2,000,000 - 10/04/2017</p>	<p>Directors:</p> <p>S. Craig Hutchens - Date Began: 2007/03/09</p> <p>Tatiana Hutchens - Date Began: 2007/03/09</p> <p>Tanya Hutchens - Date Began: 2007/03/09</p> <p>Officers:</p> <p>Tatiana Hutchens - Date Began: 2007/03/09 (Secretary; Treasurer)</p> <p>Tanya Hutchens - Date Began: 2007/03/09 (Secretary; Treasurer)</p> <p>Tanya Hutchens - Date Began: 2011/01/01 (President)</p>

Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
<p>11. 3419 Errington Avenue, Sudbury (Sudbury LRO#53)</p> <p>PIN: 73349-0720 (LT) PCL 21629 SEC SWS; LT 222 BLK 6 PL M91 BALFOUR; GREATER SUDBURY (Search dated November 23, 2017)</p>	<p>3419 Errington Avenue Inc. 2007/03/16 - \$150,000</p>	<p>1st - Dina Brik - \$150,000 on 04/30/2015</p> <p>2nd - Adroit Advocates, LLC, A Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC -\$2,000,000 - 10/04/2017</p>	<p>Directors: Tanya Hutchens - Date Began: 2007/03/09 S. Craig Hutchens - Date Began: 2007/03/09 Tatiana Hutchens - Date Began: 2007/03/09 Officers: Tatiana Hutchens - Date Began: 2007/03/07 (Secretary; Treasurer) Tatiana Hutchens - Date Began: 2011/01/01 (President)</p>

B. OTHER PROPERTIES OWNED BY THE DEFENDANTS BUT CURRENTLY NOT SUBJECT TO A CONSTRUCTIVE TRUST

(Note: This list includes two properties where supplemental submissions for a constructive trust have been made but the Colorado Court has not rendered a decision)

Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
<p>12. 33 Theodore Place, Thornhill (York Region LRO#65)</p> <p>PIN #03251-0304 (LT); PCL 89-1, SEC 65M2941; LT 89, PL</p>	<p>Tatiana Hutchens purchased on 04/08/2008 for \$760,000</p>	<p>Meridian Credit - \$535,000 on 06/27/2012</p>	

	Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
	65M2941, S/T LT746593: Vaughan *Supplemental Submissions to apply constructive trust in Colorado Action made on Oct. 9, 2017. (Search dated November 23, 2017)			
13.	175 Hilda, Unit 1015, Toronto (Toronto LRO#64/66) PIN #11102-0149 (LT); UNIT 15, LEVEL 10, YORK CONDOMINIUM PLAN NO. 102, PTS OF BLKS 9, P & T PLAN 6955 AS DESCRIBED IN SCHEDULE A OF DECLARATION 8364075; TWP OF YORK/NORTH YORK, CITY OF TORONTO	Tatiana Hutchens purchased on 06/10/2011 for \$259,000	None CIBC - \$207,200 on 06/10/2011 - paid out and discharged on 2017/07/05	
14.	1479 Maple Road, Innisfil (Simcoe LRO#51) PIN #58068-0102 (LT); LT 6 PL 642, INNISFIL (Search dated November 23, 2017)	Tatiana Hutchens 06/23/2009 - \$422,000	Meridian Credit - 04/26/2012 - \$200,000 Dina Brik- 02/10/2012 - \$200,000 (Postponement for Meridian)	
15.	1889 Simcoe Blvd., Innisfil (Simcoe LRO#51) PIN #58072-0299 (LT); LT 31, PL 657, INNISFIL (Search dated November 23, 2017)	Tatiana Hutchens 09/02/2008 - \$350,000	Meridian Credit - 2013/04/08 - \$200,000	

	Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
16.	1790 Cross Street, Innisfil (Simcoe LRO#51) PIN #58069-0103 (LT); LT 1 PL 978 INNISFIL; INNISFIL (Search dated November 23, 2017)	Tatiana Hutchens 03/31/2009 - \$161,500	Meridian Credit - 04/26/2012 - \$85,000 Dina Brik - 02/10/2012 - \$80,750 (postponed in favour of Meridian) No Mtgee	
17.	1760 Cross Street, Innisfil (Simcoe LRO#51) PIN #58069-0121 (LT); LT 73 PL 881 INNISFIL; INNISFIL (Search dated November 23, 2017)	Tatiana Hutchens - 06/28/2013 - \$228,000	No Mtgee	
18.	1573 Houston Street, Innisfil (Simcoe LRO#51) PIN: 58070-0327 LT 14 AND PT LT 15 PL 591 PT 2 51R37515; TOWN OF INNISFIL (Search dated November 23, 2017)	Tatiana Hutchens - 2016/05/27 - \$760,000	No Mtgee	
19.	331 Regent Street, Sudbury (Sudbury LRO#53) PIN #73586-0638 (LT) LT 297 PL 4SC MCKIM; GREATER SUDBURY	331 Regent Street Inc. - 2007/02/09 - \$245,000	Tanya Hutchens - \$99,000 - assigned from Solid Rock Mortgages, Wayne and Jane Gater on 2014/02/14 Ronald & Angie Hache - 2007/02/09 - \$100,000	Directors: Tanya Hutchens - Date Began: 2007/02/06 Officers: Tanya Hutchens - Date Began: 2007/02/06 (Secretary; Treasurer)

	Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
	(Search dated November 23, 2017)		Adroit Advocates, LLC, A Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC - \$2,000,000 - 10/04/2017	Tanya Hutchens - Date Began: 2011/01/01 (President)
20.	17 Serpentine Street, Sudbury (Sudbury LRO#53) PIN 73599-0157 (LT); PLC 40961 SEC SES SRO; LT 95 PL M1025 MCKIM; S/T LT 387652, LT387654; GREATER SUDBURY (Search dated November 23, 2017)	17 Serpentine Street Inc. - 2006/10/31 - \$210,000	1 st Mtge: B2B Trust Assigned to Canadian Western Trust Assigned to Tanya Hutchens - \$200,000 on 2017/03/27 2 nd Mtge: Lapell Management - 012/01/30 - Assigned to Taitana Hutchens on 2016/01/07 - \$51,000 3 rd Mtge: 146 Whittaker - 2010/03/09 - \$56,000 3 rd mtge - Adroit Advocates, LLC, A Colorado Limited Liability Company, dba Klenda Gessler & Blue LLC - \$2,000,000 - 10/04/2017	Directors: Tanya Hutchens - Date Began: 2011/01/01 Officers: Tanya Hutchens - Date Began: 2011/01/01 (President; Secretary)
21.	367-369 Howey Drive, Sudbury (Sudbury LRO#53) PIN #73583-0400 (LT); LT 1-2 BLK A PL 5SA MCKIM S/T & T/W S112782; S/T INTEREST IN S112782; GREATER SUDBURY	367-369 Howey Drive Inc. - 2008/04/21 - \$720,000	Transfer of BMO Charge to Tanya Hutchens on 2017/09/20 and Assignment of Rents - \$464,192.75	Directors: Paul Ferguson - Date Began: 2008/04/07 S. Craig Hutchens - Date Began: 2006/10/27 Tanya Hutchens - Date Began: 2011/01/01

	Property Address	Owner	Mortgages	Officers/ Directors (if corporate)
	<p>(Search dated November 23, 2017)</p> <p>*Supplemental Submissions to apply constructive trust in Colorado Action made on Oct. 9, 2017</p>			<p>Officers:</p> <p>Paul Ferguson – Date Began: 2008/04/07 (Secretary; Treasurer)</p> <p>S. Craig Hutchens – Date Began: 2006/10/27 (President; Secretary)</p> <p>Tanya Hutchens – Date Began: 2011/01/01 (President)</p>
22.	<p>42 Clemow Avenue, Sudbury (Sudbury LRO#53)</p> <p>PIN #73588-0383 (LT)</p> <p>PCL 7614 SEC SES; LT 278 PL M128</p> <p>MCKIM; GREATER SUDBURY</p> <p>(Search dated November 23, 2017)</p>	<p>Sandy Hutchens (2005) bought for \$60,000 – Estate of Judith Anne Hutchens added by Order in 2007 –12/06/2012</p>	<p>Ronald Henderson - \$100,000 on 2006/10/11</p>	

43

CGC Holding Company, LLC, et al v. Sandy Hutchens, et al

Court File No.:

2651/17

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

STATEMENT OF CLAIM

Siskinds LLP
Barristers & Solicitors
680 Waterloo Street
P.O. Box 2520
London, ON N6A 3V8

Daniel J. MacKeigan LSUC#: 42564R
Tel: (519) 660-7852
Fax: (519) 660-7853

Cole S. C. Vegso LSUC#: 65389G
Tel: (519) 660-7755
Fax: (519) 660-7756

Lawyers for the Plaintiffs

Our File No. 848613

3392473.1

197

APPENDIX 7

Letter from counsel for the Colorado
plaintiffs dated January 31, 2019

593 198

680 Waterloo Street, London, ON N6A 3V8



EMAIL cole.vegso@siskinds.com

FILE NO. 848613/CSV/kb

January 31, 2019

Mr. Justin Necpal
Necpal Litigation
171 John Street, Suite 101
Toronto, ON M5T 1X3

Dear Mr. Necpal:

Re: CGC Holding Company, LLC, et al v. Hutchens, et al

We are the lawyers for the plaintiffs in an action commenced in London under Court file number 2651/17. Enclosed is a copy of our clients' Statement of Claim.

Pleadings in our matter closed in November of 2018 and we are now in the early discovery stage. The defendants have filed defences and fully contest the claims against them.

Our clients support the applicant's receivership motion in Court file number CV-18-608271-00CL on the condition that we are notified of all steps relating to the receivership motion and any receivership, including receiving an electronic copy of all materials file with the court by the parties and/or receiver, which can be provided to the undersigned via email.

We trust this is satisfactory.

Yours truly,

Siskinds LLP

A handwritten signature in black ink, appearing to be "CV", written over a horizontal line.

Per:

Cole Vegso

CSV/kb

Encl.

DIRECT
TELEPHONE (519) 660-7755
FACSIMILE (519) 660-7756

HEAD OFFICE
TELEPHONE (519) 672-2121
FACSIMILE (519) 672-6065

3789286.2

APPENDIX 8

Table of known real estate
dispositions made by the Companies
between 2008 and 2018

Hutchens et al Properties Sold: 2008 to 2018				
Property	Note	Consideration Value (Note 1)	Vendor/Transferor	Comments
720 Cambrian Heights, Sudbury	2	3,100,000	720 Cambrian Heights Inc.	Sold Sept 15, 2017 to 2510941 Ontario Inc.
15-16 Keziah Court, Sudbury		440,000	15-16 Keziah Court Inc.	Sold November 9, 2015 for \$440,000 to Rui Brites, possibly under power of sale
625 Ash Street, Sudbury		225,000	625 Ash Street Inc.	Sold to Eric McKay for \$225,000 Nov 6, 2016.
364 Morris Street, Sudbury		900,000	364 Morris Street Inc.	Sold Feb 25, 2016 for \$900,000 to Lee Valley Investments Ltd
101 Service Street, Sudbury		248,000	101 Service Street Inc.	Sold Oct 10, 2008 to Robert Boileau for \$248,000
193 Mountain Street, Sudbury	3	400,000	193 Mountain Street Inc.	Sold Nov 16, 2018 pursuant to power of sale by JBD Hutchens Family Holdings to Sudury Apartment Rentals Limited
Total		5,313,000		

Notes	
[1] Consideration values and dates based on Purview (Teranet) broker reports and/or land registry reports.	
[2] Property searches have revealed the following charges, which the Receiver has taken at face value: \$1.875 million to First National on Dec 4, 2007; and, \$256,000 to JBD Hutchens Family Holdings on May 14, 2009	
[3] JBD Hutchens Family Holdings assumed a mortgage from First National Financial GP on April 20, 2018	

APPENDIX 9

Table summarizing the estimated values, mortgage charges, estimated equity and CPLs

Hutchens et al Real Estate Summary All Schedule B Properties [Effective Nov 21, 2018]							
Property	Note	Estimated Value (\$)	Prior Charges [Note 1]	Estimated Equity (\$)	Current Mortgagees/ Registrations		Other Mortgages/ CPL Registrations
					1st	2nd [Note 1]	
Thornhill/ Innisfil, ON							
33 Theodore Place, Thornhill	2	1,521,600	534,746	986,854	Meridian Credit Union		CPL registered by CGC Holdings et al (plaintiffs in Colorado action) on Dec 7, 2017
1779 Cross Street, Innisfil		850,900	298,238	552,662	Meridian Credit Union		CPL registered by CGC Holdings et al (plaintiffs in Colorado action) on Dec 7, 2017
1790 Cross Street, Innisfil		538,600	167,495	371,105	Meridian Credit Union (\$86,745)	Dina Brik (face value of \$80,750)	CPL registered by CGC Holdings et al (plaintiffs in Colorado action) on Dec 7, 2017
1479 Maple Road, Innisfil		899,700	200,000	699,700	Dina Brik (face value of \$200,000)		CPL registered by CGC Holdings et al (plaintiffs in Colorado action) on Dec 7, 2017
1889 Simcoe Blvd, Innisfil		349,300	203,161	146,139	Meridian Credit Union		CPL registered by CGC Holdings et al (plaintiffs in Colorado action) on Dec 7, 2017
Sudbury, ON							
29 Laren Street, Whanapitae (Greater Sudbury area)	3	1,310,000	1,010,000	300,000	BMO charge transfer to Tanya Hutchens March 24, 2016 (face value of \$800k)	146 Whittaker Street Inc. (face value of \$210,000).	Adroit Advocates LLC charge registered for \$2.0 million on October 4, 2017; and, CPL registered by CGC Holdings (plaintiffs in Colorado action) on Dec 7, 2017
367-369 Howey Drive, Sudbury		790,000	962,836	(172,836)	BMO charge transfer to Tanya Hutchens Sept 20, 2017 (face value of \$915, 000)	Tax Arrears - Geater Sudbury (\$47,836)	
193 Mountain Street, Sudbury	4	0	0	0	Sold under power of sale by JBD Hutchens Family Holdings as 1st mortgagee Nov 16, 2018		
110-114 Pine Street, Sudbury		995,000	727,000	268,000	Canadian Western Trust Company charge transfer to Tanya Hutchens March 27, 2017 (face value of \$602,000)	Barbara Carpenter transferred to Tatiana Hutchens Aug 19, 2014 (face value of \$125,000)	Adroit Advocates LLC charge registered for \$2.0 million on October 4, 2017; and, CPL registered by CGC Holdings (plaintiffs in Colorado action) on Dec 7, 2017

Hutchens et al Real Estate Summary All Schedule B Properties [Effective Nov 21, 2018]						
Property	Note	Estimated Value (\$)	Prior Charges [Note 1]	Estimated Equity (\$)	Current Mortgages/ Registrations	
					1st	2nd [Note 1]
3415 Errington Avenue, Chelmsford (Greater Sudbury area)		207,450	150,000	57,450	Dina Brik (face value of \$150,000)	Adroit Advocates LLC charge registered for \$2.0 million on October 4, 2017; and, CPL registered by CGC Holdings (plaintiffs in Colorado action) on Dec 7, 2017
3419 Errington Avenue, Chelmsford (Greater Sudbury area)		204,950	150,000	54,950	Dina Brik (face value of \$150,000)	Adroit Advocates LLC charge registered for \$2.0 million on October 4, 2017; and, CPL registered by CGC Holdings (plaintiffs in Colorado action) on Dec 7, 2017
331 Regent Street, Sudbury	5	245,000	199,000	46,000	R&A Hache	W&J Gater; and Solid Rock Mortgage of \$99,000, which was transferred to Tanya Hutchens on Feb 14, 2014
Total		<u>3,752,400</u>	<u>3,198,836</u>	<u>553,564</u>		
		<u>3,752,400</u>	<u>3,198,836</u>	<u>553,564</u>		

Notes

- [1] "Prior Charges" does not include the amounts relating to "Other Mortgages/ CPL Registrations" for the purpose of estimated equity. In a number of instances, the face value of mortgage charges has been used where no current mortgage balance is available. Actual mortgage balances may be lower and, as a result, additional equity may be available. Moreover, some of the charges are held by either Tanya Hutchens, or her mother, Dina Brik. The face value of these charges totals \$3,331,750.
- [2] Estimated values for the Thornhill / Innisfil Properties are based on Purview (Teranet) broker reports, which are calculated using comparable sales. Actual results may vary. Additionally, Meridian issued notices of sale in September 2018 and a forbearance agreement was subsequently entered into for all five properties. Recently, in or around February 2019, counsel for Meridian advised that the mortgage on 1479 Maple Road, Innisfil, had been paid out and discharged.
- [3] Estimated values for the Properties in the Sudbury region are based on either "drive by" letters of opinion provide by a local Remax real estate brokerage, dated November 15, 2018, or current market values obtained from Purview (Teranet) broker reports.
- [4] Sale of this property was to Sudbury Apartment Rentals Limited. The Receiver has requested, but has not yet received details of this transaction. Current estimated value is \$600,000 to \$610,000 (as of November 15, 2018), based on a "drive-by" letter of opinion of value by the local Remax real estate brokerage.
- [5] Estimated value is based on the purchase price of \$247,000 in or around February 2007 as no letter of opinion or Purview report is available.

APPENDIX 10

Table listing the addresses and
estimated value of each Additional
Property

202

Hutchens et al Real Estate Summary Additional Properties Not Shown on Schedule B - Properties of Interest to Interim Receiver			
Property	Note	Estimated Value	Comments
17 Serpentine Street, Sudbury	1	210,000	Property is currently owned by 17 Serpentine Street Inc., with its registered address at 33 Theodore Place, Thornhill (residence of Tanya Hutchens), and the sole officer and director is Tanya Hutchens. Rental funds paid to 2321676 Ontario Inc.
480 Linda Street, Sudbury	2	1,100,000	Purchased by Linda Street Holding Corp on January 16, 2019 for \$1.1 million. Interim Receiver has been advised that 480 Linda Street Inc. has a bank account registered at 33 Theodore Place, Thornhill (the residence of Tanya Hutchens).
1755 Regent Street, Sudbury	2	900,000	Purchased by Regent North Properties Inc. on January 16, 2019 for \$900,000. Interim Receiver has copies of bank statements from 1755 Regent Street Inc. addressed to 33 Theodore Place, Thornhill (the residence of Tanya Hutchens).
241 Lloyd Street, Sudbury	2	2,100,000	Purchased by 241 Lloyd Street Holdings Inc., on January 16, 2019 for \$2.1 million. Interim Receiver has copies of bank statements from 241 Lloyd Street Inc. addressed to 33 Theodore Place, Thornhill (the residence of Tanya Hutchens).
300 Elgin Street, Sudbury	2	510,000	Currently listed for sale for \$1,250,000 as package with 4 other properties: 300 Elgin Street, 233 Shaughnessy Street, 241 Shaughnessy Street and 247 Shaughnessy Street. Each property owned by George Soule with one being jointly owned with 502 Holdings Inc.
308 Elgin Street, Sudbury	2	Unknown	Currently listed for sale for \$1,250,000 as package with 4 other properties: 300 Elgin Street, 233 Shaughnessy Street, 241 Shaughnessy Street and 247 Shaughnessy Street. 308 Elgin Street Inc. was an entity flagged in the Colorado Class Action.
233 Shaughnessy Street, Sudbury	2	583,300	Currently listed for sale for \$1,250,000 as package with 4 other properties: 300 Elgin Street, 233 Shaughnessy Street, 241 Shaughnessy Street and 247 Shaughnessy Street. Each property owned by George Soule with one being jointly owned with 502 Holdings Inc.
241 Shaughnessy Street, Sudbury	2	237,300	Currently listed for sale for \$1,250,000 as package with 4 other properties: 300 Elgin Street, 233 Shaughnessy Street, 241 Shaughnessy Street and 247 Shaughnessy Street. Each property owned by George Soule with one being jointly owned with 502 Holdings Inc.
247 Shaughnessy Street, Sudbury	2	165,700	Currently listed for sale for \$1,250,000 as package with 4 other properties: 300 Elgin Street, 308 Elgin Street, 233 Shaughnessy Street and 241 Shaughnessy Street. 247 Shaughnessy Street Inc. is referenced in a trust agreement flagged and obtained in the Colorado Class Action.
789 Lawson Street, Sudbury	2, 3	350,000	Sold on March 20, 2012 for \$350,000
42 Clemow Avenue, Sudbury	4	134,400	Owned by Sandy Hutchens and the Estate of Judith Hutchens in trust for Joshua and Daniel Hutchens
Total		6,290,700	

Notes	
[1] Estimated value is based on the last known purchase price in 2006 of \$210,000 by 17 Serpentine Street Inc. Prior charges assumed at face value of mortgages as follows: Lapelle Management Services charge of \$51,000 transferred to Tanya Hutchens Jan 7, 2016; Canadian Western Trust charge of \$200,000 transferred to Tanya Hutchens March 27, 2017; and 146 Whitaker \$56,000 March 9, 2010 appears to remain. In addition, Adroit Advocates LLC has a mortgage charge registered of \$2.0 million	
[2] Properties of interest at this time that the Interim Receiver is investigating to see if there are direct or indirect links to the Debtors/ Respondents.	
[3] Sold on March 20, 2012 by 789 Lawson Street Inc.	
[4] Currently owned by Sandy Hutchens and the Estate of Judith Hutchens in trust for Joshua and Daniel Hutchens. Estimated value based on current Purview (Teranet) broker report.	

APPENDIX 11

Interim Receiver's letter to counsel
for the Applicants,
dated March 6, 2019

File No. 10197

March 6, 2019

BY EMAIL & FAX

Gary Caplan
Mason Caplan Roti LLP
350 Bay Street, Suite 600
Toronto, Ontario, M5H 2S6

Dear Mr. Caplan:

**Re: *Stevens et. al. v. Hutchens et. al.* (Court File No. CV-18-608271-00CL)
Interim Receiver Information Request**

I write as counsel to A. Farber & Partners Inc. (the "**Receiver**"), in its capacity as interim receiver pursuant to the February 28, 2019 order of Justice Penny in this matter (the "**Order**").

Pursuant to paragraph 2(f) of the Order, the Receiver intends to examine Tanya Hutchens under oath. We would like to conduct that examination on March 11 or 12, 2019. **Please advise if she is available on one of those two dates, or if not, what her earliest availability is.**

In addition, pursuant to paragraphs 2 to 6 of the Order, **we ask that Mrs. Hutchens provide the following information and records.** Owing to the short time frame for the Receiver's work, Mrs. Hutchens may produce responsive information and materials on a rolling basis.

1. Provide a statement of net worth itemizing Mrs. Hutchens' assets and liabilities, including real properties, cash, vehicles, securities, term deposits, investments and other assets;
2. Provide copies of Mrs. Hutchens' complete tax returns for 2014-2018;
3. Provide copies of the complete (a) tax returns and (b) financial statements for 2014-2018 for the corporations listed in Schedule A to the Order and for the owners of (a) 241 Lloyd Street, Sudbury; (b) 480 Linda Street, Sudbury; (c) 1755 Regent Street, Sudbury; and (d) 380 Elgin Street, Sudbury (collectively, the "**Companies**"). If any these records are not in Mrs. Hutchens' power, possession or control, please advise where they are located;
4. Identify the shareholders of the Companies, and their respective shareholdings;
5. Provide the name(s) and contact information (address, email address, phone number, and fax number) of the accountant(s) who completed 2 and 3 above;
6. Provide the name(s) and contact information (address, email address, phone number, and fax number) of any other person(s) who maintains the books and records of the Companies and the properties listed in Schedule B to the Order (the "**Properties**");
7. Identify and provide unfettered access to the electronic devices that contain or did contain books and records of the Companies. The Receiver intends to create images of the hard drives of these devices. Please advise whether Mrs. Hutchens has any concerns about privileged or irrelevant, confidential contents, in which case we can discuss appropriate arrangements;
8. Provide a list of corporations for which Mrs. Hutchens is an officer, director, and the position(s) Mrs. Hutchens holds;
9. Provide a list of corporations, partnerships and trusts in which Mrs. Hutchens owns shares or units (directly, indirectly or beneficially), and a description of the nature of her ownership interest (type of shares held, percentage of total equity);

NAYMARK LAW

10. Provide a list of all bank accounts (institution, branch, account number) directly or indirectly controlled by Mrs. Hutchens, the Companies, Sandy Hutchens, and Dina Brik (to the extent that is within Mrs. Hutchens' knowledge), and provide copies of the account statements for each of those accounts from February 2015 to present;
11. Provide a list of all registered and non-registered investment accounts directly or indirectly controlled by Mrs. Hutchens, Sandy Hutchens, the Companies, and Dina Brik (to the extent that is within Mrs. Hutchens' knowledge), and provide copies of the account statements for each of those accounts from February 2015 to present;
12. Identify Mrs. Hutchens' sources of income for the past three years, and provide supporting documentation (pay slips, T4s, etc.);
13. Provide a list of all properties other than the Properties and (a) 241 Lloyd Street, Sudbury; (b) 480 Linda Street, Sudbury; (c) 1755 Regent Street, Sudbury; and (d) 380 Elgin Street, Sudbury, in which Mrs. Hutchens, Mr. Hutchens or the Companies directly or indirectly own a legal or beneficial interest, or which any of them possess or control, and provide details of the nature of their ownership interest;
14. For the Properties and for (a) 241 Lloyd Street, Sudbury; (b) 480 Linda Street, Sudbury; (c) 1755 Regent Street, Sudbury; (d) 380 Elgin Street, Sudbury; and (e) any of the properties identified in response to 13 above:
 - a. Identify how each property is managed, and provide the name and contact information (address, email address, phone number, and fax number) for any property manager(s). **Please provide this information as a priority so that the Receiver can contact the property manager(s) as soon as possible to coordinate site visits;**
 - b. Advise the aggregate monthly rental income;
 - c. Identify where rental proceeds are deposited;
 - d. Provide a rental roll with tenants and monthly rent amount; and
 - e. Provide copies of all current rental/lease agreements;
15. Identify the source(s) of the following payments, and produce supporting account and transaction records:
 - a. Payments to Mrs. Hutchens' credit card, which we understand from counsel in the Colorado proceeding totalled \$143,130 between August 2016 and May 2018 (and perhaps more since), and provide supporting account and transaction records;
 - b. The \$505 filing fee paid on or about March 1, 2019 for the filing of Mrs. Hutchens' notice of appeal in Case Number 2:18-cv-00692-PD (Stevens et al. v. Westmoreland Equity Fund, LLC et al.) (receipt number PPE193261), and provide supporting account and transaction records; and
 - c. The payment to Meridian to discharge its mortgage on 1479 Maple Street, Innisfil (approximately \$204,000);
16. For each of the following mortgages assumed by Mrs. Hutchens or related entities, (a) advise the terms by which Mrs. Hutchens assumed the mortgages and provide copies of any assumption/assignment agreements; and (b) advise the source of funds with which Mrs. Hutchens or related entities paid to assume the mortgages, and provide corresponding bank and transaction records:
 - a. 29 Lauren Street, Sudbury – mortgage assumed from BMO (face value of \$800k) March 24, 2016
 - b. 367-369 Howey Drive - mortgage assumed from BMO (Face value \$915k) on Sept 20, 2017
 - c. 110-114 Pine Street, Sudbury – mortgage assumed from Canadian Western Trust (face value \$602k) on March 27, 2017 and Barbara Carpenter (face value \$125k) August 19, 2014
 - d. 17 Serpentine Street, Sudbury - mortgage assumed from Canadian Western (face value \$200k) on March 27, 2017 and Lapelle Management (face value \$51k) on Jan 7, 2016
17. Provide copies of all mortgage agreements held by Mrs. Hutchens or related entities on any of the Properties.
18. For each of the following property sales, (a) provide copies of agreements of purchase and sale; (b) provide statements of closing adjustments; and (c) provide an accounting of the sale proceeds (i.e., where were they deposited and subsequent flow of funds) and corresponding bank and transaction records:
 - a. 364 Morris Street, Sudbury (sold for \$900,000 February 25, 2016);
 - b. 625 Ash Street, Sudbury (sold for \$225,000 November 6, 2016);
 - c. 720 Cambrian Heights Sudbury (sold for \$3,100,000 September 15, 2017); and
 - d. 193 Mountain Street, Sudbury (sold for \$400,000 November 16, 2018);

NAYMARK LAW

19. At the hearing in this matter on February 28, 2019, you indicated that Mrs. Hutchens holds the Properties and perhaps other assets in trust for her children, directly or via the Companies. Please provide:
- A description of the nature of any such trusts, including the date and circumstances of their creation, the identities of all trustees and beneficiaries, and the assets over which each trust extends; and
 - Documents corresponding to the claimed trust(s), including any trust declarations or deeds, trust financial statements, tax filings, and communications regarding the trust(s) existence and operation;
20. Advise the nature and amount of the debt corresponding to the mortgages held on certain of the properties¹ in the name of Adroit Advocates LLC in the registered amount of \$2 million, and provide corresponding records; and
21. Advise the nature and amount of the debt corresponding to the mortgages held on certain of the properties² in the name of Dina Brik in the registered amount of \$150,000, and provide corresponding records.

Yours truly,



Daniel Naymark

- c. Terrence Liu (Naymark Law)
Paul Denton and Megha Sharma (A. Farber & Partners Inc.)

¹ 29 Laren Street, Sudbury; 110-114 Pine Street, Sudbury; 3415 Errington Avenue, Chelmsford; 3419 Errington Avenue, Chelmsford; 331 Regent Street, Sudbury; 17 Serpentine Street, Sudbury.

² 3415 Errington Avenue, Chelmsford and 3419 Errington Avenue, Chelmsford.

APPENDIX 12

Applicants' letter to the
Interim Receiver,
dated March 12, 2019

March 12, 2019

VIA EMAIL

Naymark Law
Daniel Z. Naymark
171 John Street, Suite 101
Toronto, ON M5T 1X3

Dear Mr. Naymark:

Re: Stevens v. Hutchens – Court File No. CV-18-608271-00CL
Our File No. 10176

I am writing to provide you with the information responsive to your request of March 6, 2019.

The Stevenses made three wire transfers to AESS that were then transferred to 241 Lloyd Street Inc., a company owned solely by Sandy Hutchens, at the request of Sandy Hutchens. The details of the three transfers are as follows:

1. 11/4/14 and 11/5/14 \$10,000 sent by Donald Smith (as agent of Gary Stevens), \$9,985 received by AESS, \$7,500 + \$1,000 sent to 241 Lloyd Street
2. 11/3/15 \$51,765 sent by Donald Smith (as agent of Gary Stevens); \$51,750 received by AESS, \$44,750 + \$1,000 + \$5,500 sent to 241 Lloyd Street
3. 1/13/15 \$12,500 sent by Gary Stevens, \$12,500 received by AESS, \$11,250 sent to 241 Lloyd Street

The enclosed document entitled “Exhibit C to Declaration of Gary Stevens filed in PA Court on 8-22-2017” provides receipt evidence of Gary Stevens making the initial wire transfers either by himself or through his agent for that purpose, Donald Smith.

The enclosed document entitled “2018.11.28 Exhibits A-E to Letter HIL to Judge Diamond” contains evidence of wire transfers directed by AESS to Sandy Hutchens’s bank account in the name of the Stevenses. Exhibit E shows the internal Westmoreland documents that order wire transfers from AESS’s “escrow” to Hutchens’s entity 241 Lloyd Street’s bank account at KEB Hana Bank Canada that cover the time period of November 2014 through January 2015. We have highlighted the transfers that match up with the date and value of the transfers made by AESS to 241 Lloyd Street, minus \$10 transfer fees.

My clients claim a proprietary interest in these funds.

I trust the foregoing is satisfactory. If you require any clarification or further information, please let me know.

Yours truly,

A handwritten signature in black ink, appearing to read 'JN' followed by a stylized flourish.

Justin Nepal

JN/sp
Enclosures

EXHIBIT C

209

gary stevens

From: "Donald Smith" <dona1d@falconleasing.net>
Date: November-04-14 4:28 PM
To: "Colin Durward" <colin.durward@falconcreekindustries.com>
Cc: <garymbr@telus.net>
Subject: FW: Wire transfer receipt

Gentleman, below is the Confirmation I just received from my bank for the \$10,000 USD wire transfer

Donald H. Smith
 361 Marion St.
 Winnipeg, Manitoba
 R2H-0V4
 204-254-4702
dona1d@falconleasing.net

From: Roxanne Laxdal [mailto:rLaxdal@caisse.biz]
Sent: November-04-14 3:53 PM
To: dona1d@falconleasing.net
Subject: Wire transfer receipt

CAISSE POPULAIRE GROUPE FINANCIER -
Wire Transfer Receipt

Date	4-Nov-2014	Transfer Amount	10,000.00USD
Reference	2906911	USD Equivalent @ 1.00000000	10,000.00USD
Number		Charges	19.81USD
		Customer Total	10,019.81USD

Sender

Account Number 100731174
 Name Wieland Management Corp
 Street 361 Marion Street
 City Winnipeg
 Province/State Manitoba
 Postal/Zip R2H 0V4
 Country CANADA

Receiver

Account Number 639917918
 Name American Escrow and Settlement
 Srv
 Street 21301 Powerline Road, no. 106
 City Boca Raton
 Province/State Florida
 Postal/Zip 33433
 Country USA

Payment Details

Line 1 re: 1174365 Alberta Ltd
 Line 2 1st Mortgage and Westmoreland
 Line 3 Equity Fund LLC
 Line 4

Additional Information

Line 1
 Line 2
 Line 3
 Line 4
 Line 5
 Line 6

From FI

Transit 081900507
 Name CAISSE POPULAIRE GROUPE FINANCIER
 Address 100-205, BOULEVARD

To FI

Routing Code 267084131
 Name JPMorgan Chase Bank, NA
 Address 5545 Sheridan St
 City Hollywood, FL, 33021

City	PROVENCHER	Country	United States
Country	WINNIPEG, MB, R2H 0G4		
	Canada		
Sender Correspondant		Receiver Correspondant	
Account		Account	
Line 1		Line 1	
Line 2		Line 2	
Line 3		Line 3	
Line 4		Line 4	
Intermediary		Account With FI	
Account		Account	
Name		Line 1	
Address 1		Line 2	
Address 2		Line 3	
		Line 4	

Bottom of Form

Customer Signature

Concours : Comparez pour gagner max de 5 000 \$ - participez au www.caisse.biz
Contest : Compare to Win up to \$5,000 – enter at www.caisse.biz

Roxanne Laxdal
 Conseillère, services aux membres | Member Service Advisor

Caisse Groupe Financier | Caisse Financial Group
 100 – 205 boulevard Provencher Boulevard
 Winnipeg MB R2H 0G4
 Tél/Tel: (204) 237-8874 Poste | Ext. 1065
 Téléc/Fax: (204) 257-3007
rlaxdal@caisse.biz | www.caisse.biz

Confidentiality Notice: This message is confidential, may be privileged and is intended for the exclusive use of the addressee. Any other person is strictly prohibited from disclosing, distributing or reproducing this message. If you have received this communication in error, please delete it and immediately notify the sender. Thank you.

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2015.0.5557 / Virus Database: 4213/8554 - Release Date: 11/11/14

gary stevens

From: "Donald Smith" <donald@falconleasing.net>
Date: November-12-14 2:43 PM
To: <garymbr@telus.net>
Cc: "Colin Durward" <colin.durward@falconcreekindustries.com>
Subject: FW: Wire transfert receipt

Gentleman...ok I just got this Confirm of the wire transfer for \$51,750 + \$15 for a fee...the \$15 is to cover whoever is taking fees on the way to the Escrow company.

Donald H. Smith
 Falcon Auto Leasing Inc.
 361 Marion St.
 Winnipeg, Manitoba
 R2H-0V4
 204-254-4702
 donald@falconleasing.net

From: Roxanne Laxdal [mailto:rlaxdal@caisse.biz]
Sent: November-12-14 2:32 PM
To: donald@falconleasing.net
Subject: Wire transfert receipt

CAISSE POPULAIRE GROUPE FINANCIER -
Wire Transfer Receipt

Date	12-Nov-2014	Transfer Amount	51,765.00USD
Reference	2911700	USD Equivalent @ 1.00000000	51,765.00USD
Number		Charges	19.81USD
		Customer Total	51,784.81USD

Sender

Account Number 100731174
 Name Wieland Managment Corp
 Street 361 Marion Street
 City Winnipeg
 Province/State Manitoba
 Postal/Zip R2H 0V4
 Country CANADA

Receiver

Account Number 639917918
 Name American Escrow and Settlement
 Srv
 Street 21301 Powerlind Road no. 106
 City Boca Raton
 Province/State Florida
 Postal/Zip 33433
 Country USA

Payment Details

Line 1 Escrow File no. 14-10005
 Line 2 F no. WML 014
 Line 3
 Line 4

Additional Information

Line 1
 Line 2
 Line 3
 Line 4
 Line 5
 Line 6

From FI

Transit 081900507
 Name CAISSE POPULAIRE GROUPE FINANCIER

To FI

Routing Code 267084131
 Name JPMorgan Chase Bank, NA
 Address 5545 Sheridan St

Address	100-205, BOULEVARD PROVENCHER	City	Hollywood, FL, 33021
City	WINNIPEG, MB, R2H 0G4	Country	United States
Country	Canada		
Sender Correspondant		Receiver Correspondant	
Account		Account	
Line 1		Line 1	
Line 2		Line 2	
Line 3		Line 3	
Line 4		Line 4	
Intermediary		Account With FI	
Account		Account	
Name		Line 1	
Address 1		Line 2	
Address 2		Line 3	
		Line 4	

Bottom of Form

Customer Signature

Concours : Comparez pour gagner max de 5 000 \$ - participez au www.caisse.biz
Contest : Compare to Win up to \$5,000 – enter at www.caisse.biz

Roxanne Laxdal

Conseillère, services aux membres | Member Service Advisor

Caisse Groupe Financier | Caisse Financial Group

100 -- 205 boulevard Provencher Boulevard

Winnipeg MB R2H 0G4

Tél/Tel: (204) 237-8874 Poste | Ext. 1065

Télec/Fax: (204) 257-3007

rl.laxdal@caisse.biz | www.caisse.biz

Avis de Confidentialité : Ce message est confidentiel, peut être protégé par le secret professionnel et est réservé à l'usage exclusif du destinataire. Toute autre personne est par les présentes avisée qu'il lui est strictement interdit de diffuser, distribuer ou reproduire ce message. Si vous avez reçu cette communication par erreur, veuillez la détruire immédiatement et en aviser l'expéditeur. Merci.

Confidentiality Notice: This message is confidential, may be privileged and is intended for the exclusive use of the addressee. Any other person is strictly prohibited from disclosing, distributing or reproducing this message. If you have received this communication in error, please delete it and immediately notify the sender. Thank you.

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2015.0.5315 / Virus Database: 4213/8561 - Release Date: 11/12/14

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2015.0.5577 / Virus Database: 4223/8646 - Release Date: 11/28/14

Case ID: 17010286

10/10/2016
 COMPEN: 1707116

ATB Customer Transfer

Originating Transit: 370

Date: January 13, 2013

Please transfer at my/our risk.

Wire To

Transfer Information

Wire Transfer Destination: USA

Effective Date: January 13, 2013

Transfer Amount/Currency: 12500.00 USD

Payment Amount/Currency: 15187.50 CAD

Exchange Rate: 1.215

Charges/Currency: 50.00 CAD

Ordering Customer Information

Business Partner Number: 543847

Customer Name: GARY STEVENS

Account Number: 0000000201564101

Address: PO Box 1555
MAYERTHORPE, Alberta
T0E 1N0
Canada

Telephone: 7807860166

Date of Birth:

Individual Occupation/Nature of Business:

Receiving Institution Information

Institution Name: dPMORGAN CHASE BANK, NA

Bank/Transit Number:

SWIFT/BIC Code:

FedWire Number: 267084131

Sort Code:

Account Number:

Address: BEVERLY HILLS, CA
US

Beneficiary Payment Instructions

X Credit Account

Notify and Pay To

Beneficiary Name: AMERICAN ESCROW AND SETTLEMENT

Account Number: 639917918

Address: 21301 POWERLINE ROAD 108
BOCA RATON, FL
33433
US

Telephone:

Details of Payment

AMERICAN ESCROW AND SETTLEMENT SERVICES LLC SWIFT CODE CHASUS33

Bank to Bank Information

BANK INFORMATION 5545 SHERIDAN STREET HOLLYWOOD FL 33021

The applicant hereby agrees to the attached conditions. Alberta Treasury Branch is hereby authorized to charge the account of the undersigned, or any of them if more than one, for the requested wire transfer payment including any charges.

Signature of Applicant

GARY STEVENS

Name of Applicant

January 13, 2013

Date

Fee Payments

Paid CBRE- Westmoreland Appraiser \$5,040 CAD

Paid Keneco Phase 1 Environmental for Westmoreland \$1,035.50 CAD

----- Forwarded message -----

From: **B.R. Gaffney & Associates** <gaffney.assoc@sasktel.net>

Date: Tue, Jan 6, 2015 at 5:20 PM

Subject: RE: Proposed First Mortgage Loan on 29-2-7-W2 Saskatchewan (Southwest Quarter section 29 27w2), Our File No. WML-014, AESS No. 14-10005 - Appraisal - Wiring Instruction Request

To: Ed Ryan <westmorelandequityfundllc@gmail.com>

Ed,

Below is the required information.

Company Name: 101184290 Saskatchewan Ltd. (B.R. Gaffney and Associates is our registered operating name)

Address: 2330 15th Avenue, Regina, SK S4P 1A2

Branch Address: TD Bank - 1904 Hamilton Street, Regina, SK, S4P 3N5

Transit Number: 75448

Institution Number: 004

Account Number: 5232371

Swift Code: TDOMCATTTOR

The total fee including GST is \$5,040.00.

Should you require anything further please contact us.

Thanks,
Blaise Clements

Page 1 of 1
<https://portal.enterprisefinancial.net/webdynpro/dispatcher/atb.com/wd-transfers/OneTI..> 1/7/2015

Transfer Confirmation

Posting job 2015 has been determined.
 Payment keep check found only(s).

From:	Freedom Account (1875-00201564101) CAD
To:	0004 (75448-5232371) 101164290 Sacko Chowah Ltd.
Amount:	\$0.000000 CAD
Transfer Date:	Jan 07, 2015
Payment Method:	File # WML-014
Reference:	000359223944

[Click here to view Transfer](#)

Transfer

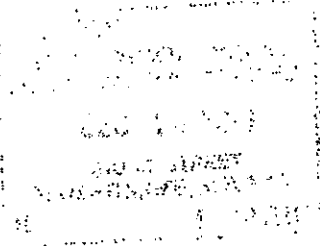
From: Pay As You Go Account (870-00201576501) CAD

To: 0005 (14051-0084226) Keneca Environmental Services

Amount: \$1,035.50 CAD

Transfer Date: Dec 15, 2014

Payment Notes:



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Gary Stevens, et al.	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	Civil No. 2:18-cv-692-PD
Westmoreland Equity Fund LLC, et al.	:	
	:	
Defendants.	:	

Exhibits to Letter

Exhibit A	Copies of Sandy Hutchens's Bank Statements (with Tanya Hutchens's Address) Including Images of Checks Written to and Cashed by Tanya
Exhibit B	Sandy Hutchens's Bank Statements (with Tanya Hutchen's Address) Showing Transfers of Plaintiffs' Funds
Exhibit C	Appraisal of 33 Theodore Place Address
Exhibit D	Email of Ed Ryan to Kathleen Bass, April 23, 2015
Exhibit E	Wire Instructions from Sandy to AESS

EXHIBIT A

Relevant pages from 241 Lloyd Street (0070786) with Buduchnist Credit Union.

Incoming wires from AESS highlighted by plaintiffs.

Outgoing checks to Tanya Hutchens highlighted by plaintiffs.

221

Statement of Account

For period ending January 31, 2016



Buduchnist Credit Union

Member: 0070786 Cheques: 0 Page 1 of 2
North Toronto Branch

241 LLOYD STREET INC.
33 Theodore Pl
Thornhill, ON L4J 8E2
Canada

Patronage Dividends paid
for using BCU Link and electronic payments
Thank You!

BCU Financial Group - With You. For Life.
Please visit or call 1-800-461-5941
www.buduchnist.com

Membership Summary

Account	Balance at end of Period
Current Account, Sub 1	107,160.32
US Savings Account, Sub 1	1,100.16
Patronage Bonus Share Account, Sub 1	15.00
Membership Share Account, Sub 1	100.00

Current Account, Sub 1

Date	Account Activity	Withdrawal	Deposit	Balance
31Dec2015	Balance Forward			0.67
08Jan2016	Transfer In USD from Usacct 1		2,769.40	2,770.07
08Jan2016	Withdrawal Cash	1,000.00		1,770.07
12Jan2016	Deposit Wire cad wire American escrow		13,969.00	15,739.07
12Jan2016	Transaction Fee	10.00		15,729.07
15Jan2016	Transaction Fee	2,000.00		13,729.07
15Jan2016	Certified Cheque Shawwon Hetekers #101	10.00		13,719.07
15Jan2016	Transaction Fee	2,500.00		11,219.07
15Jan2016	Certified Cheque Ed Ryaw #102	10.00		11,209.07
15Jan2016	Transaction Fee		10,646.00	21,855.07
15Jan2016	Deposit Wire CAD WIRE american Escrow	10.00		21,845.07
15Jan2016	Transaction Fee		74,643.50	96,488.57
18Jan2016	Deposit Wire wire american Escrow	10.00		96,478.57
18Jan2016	Transaction Fee		10,691.75	107,170.32
20Jan2016	Deposit Wire cad wire american	10.00		107,160.32
20Jan2016	Transaction Fee			

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.

222

Statement of Account

For period ending February 29, 2016



Buduchnist Credit Union

Member: 0070786 Cheques: 17

Page 1 of 4

North Toronto Branch

241 LLOYD STREET INC.
33 Theodore Pl
Thornhill, ON L4J 8E2
Canada

Take advantage of our Newlyweds account!
Open a Joint Account and bring your banking
business to us (direct deposits, GIC's,
mortgages, loans) and Buduchnist will give
you a Wedding Gift of \$200 dollars.
Call any branch for more information
www.buduchnist.com

Current Account, Sub 1

Date	Account Activity	Withdrawal	Deposit	Balance
31Jan2016	Balance Forward			107,160.32
02Feb2016	Withdrawal Cash	1,650.00		105,510.32
03Feb2016	Clearing Cheque #103	7,500.00		98,010.32
03Feb2016	Clearing Cheque #104	7,500.00		90,510.32
03Feb2016	Funds Not Available		7,500.00	98,010.32
03Feb2016	Transaction Fee	10.00		98,000.32
04Feb2016	Clearing Cheque #105	20,000.00		78,000.32
04Feb2016	Funds Not Available		20,000.00	98,000.32
04Feb2016	Transaction Fee	10.00		97,990.32
05Feb2016	Clearing Cheque #106	222.00		97,768.32
06Feb2016	Cheque Withdrawal #107	2,255.00		95,513.32
08Feb2016	Withdrawal Cash	4,500.00		91,013.32
09Feb2016	Clearing Cheque #110	7,500.00		83,513.32
09Feb2016	Clearing Cheque #114	7,500.00		76,013.32
09Feb2016	Clearing Cheque #112	7,500.00		68,513.32
10Feb2016	Clearing Cheque #113	7,500.00		61,013.32
10Feb2016	Clearing Cheque #111	20,000.00		41,013.32
10Feb2016	Deposit Wire wire american Escrow		93,685.73	134,699.05
10Feb2016	Transaction Fee	10.00		134,689.05
12Feb2016	Deposit Wire cad wire Prothelis		55,102.55	189,791.60
12Feb2016	Transaction Fee	10.00		189,781.60
16Feb2016	Clearing Cheque #115	247.35		189,534.25
16Feb2016	Deposit Wire wire American escrow		71,401.50	260,935.75
16Feb2016	Transaction Fee	10.00		260,925.75
16Feb2016	Deposit Wire cad wire American Escrow		81,236.00	342,161.75
16Feb2016	Transaction Fee	10.00		342,151.75
17Feb2016	Clearing Cheque #116	985.00		341,166.75

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.

223



Buduchnist Credit Union

Statement of Account
For period ending February 29, 2016

Member: 0070786 Cheques: 17 Page 2 of 4
North Toronto Branch

Date	Account Activity	Withdrawal	Deposit	Balance
17Feb2016	Clearing Cheque #108	2,000.00		339,166.75
17Feb2016	Clearing Cheque #109	8,000.00		331,166.75
22Feb2016	Utility Bill Payment - MasterCard, Bank of Montreal	2,500.00		328,666.75
22Feb2016	Utility Bill Payment - Highway 407 Toll Route	100.00		328,566.75
22Feb2016	Withdrawal Cash	1,000.00		327,566.75
22Feb2016	Certified Cheque Mohammed Reza Firooz #122	1,000.00		326,566.75
22Feb2016	Transaction Fee	10.00		326,556.75
22Feb2016	Certified Cheque Mohammed Reza Firooz #120	1,000.00		325,556.75
22Feb2016	Transaction Fee	10.00		325,546.75
22Feb2016	Certified Cheque Mohammed Reza Firooz #121	1,000.00		324,546.75
22Feb2016	Transaction Fee	10.00		324,536.75
23Feb2016	Certified Cheque Top town Auto #124	4,237.50		320,299.25
23Feb2016	Transaction Fee	10.00		320,289.25
25Feb2016	Withdrawal Cash	500.00		319,789.25
26Feb2016	Withdrawal Cash	3,000.00		316,789.25
29Feb2016	Clearing Cheque #127	2,500.00		314,289.25
29Feb2016	Clearing Cheque #126	40,000.00		274,289.25
29Feb2016	Clearing Cheque #125	20,000.00		254,289.25
Account Totals		181,796.85	328,925.78	254,289.25

224



Buduchnist Credit Union

Statement of Account

For period ending February 29, 2016

Member: 0070786

Cheques: 17

Page 3 of 4

North Toronto Branch

004912-001
02/02/2016
010020100070

241 LLOYD STREET INC.
33 Theodora Pl
Toronto, Ontario M4J 1K2

DATE 2016-02-02

PAY TO: 2321676 Ontario limit
Seven thousand five hundred

1000101 006752-828 101007078-692 0000750000

004912-001
02/02/2016
010020100070

241 LLOYD STREET INC.
33 Theodora Pl
Toronto, Ontario M4J 1K2

DATE 2016-02-02

PAY TO: 2321676 Ontario limit
Seven thousand five hundred

1000101 006752-828 101007078-692 0000750000

241 LLOYD STREET INC.
33 Theodora Pl
Toronto, Ontario M4J 1K2

DATE 2016-02-02

PAY TO: Tina Hutchins
Twenty thousand

Child Support

1000105 006752-828 101007078-692 0000022200

241 LLOYD STREET INC.
33 Theodora Pl
Toronto, Ontario M4J 1K2

DATE 2016-02-03

PAY TO: Sue Abramson
Twenty thousand Two hundred

to Feb 3/16

1000106 006752-828 101007078-692 0000022200

241 LLOYD STREET INC.
33 Theodora Pl
Toronto, Ontario M4J 1K2

DATE 2016-02-05

PAY TO: Shannon Hutchins
Two thousand Two hundred Fifty Five

LDN

1000107 006752-828 101007078-692 0000022200

004912-001
02/02/2016
010020100070

241 LLOYD STREET INC.
33 Theodora Pl
Toronto, Ontario M4J 1K2

DATE 2016-02-08

PAY TO: 2321676 Ontario limit
Seven thousand Five Hundred

1000110 006752-828 101007078-692 0000750000

004912-001
02/02/2016
010020100070

241 LLOYD STREET INC.
33 Theodora Pl
Toronto, Ontario M4J 1K2

DATE 2016-02-08

PAY TO: 2321676 Ontario limit
Seven thousand Five Hundred

1000111 006752-828 101007078-692 0000750000

004912-001
02/02/2016
010020100070

241 LLOYD STREET INC.
33 Theodora Pl
Toronto, Ontario M4J 1K2

DATE 2016-02-08

PAY TO: 2321676 Ontario limit
Seven thousand Five Hundred

HA clearance

1000112 006752-828 101007078-692 0000750000

241 LLOYD STREET INC.
33 Theodora Pl
Toronto, Ontario M4J 1K2

DATE 2016-02-08

PAY TO: Tina Hutchins
Seven thousand Five Hundred

1000113 006752-828 101007078-692 0000022200

241 LLOYD STREET INC.
33 Theodora Pl
Toronto, Ontario M4J 1K2

DATE 2016-02-09

PAY TO: Tina Hutchins
Twenty thousand

Replace check #105
Child Support

1000114 006752-828 101007078-692 0000022200

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.



Buduchnist Credit Union

Statement of Account

For period ending February 29, 2016

Member: 0070786 Cheques: 17 Page 4 of 4
North Toronto Branch

241 LLOYD STREET INC.
23 Thompson St.
Toronto, Ontario M4J 1B2

DATE 2016-02-11

PAY TO: Notivot Ho Toanh Family Association \$247.35

Two Hundred and Forty Seven 35 DOLLARS

241 LLOYD STREET INC.

000115 006752-828 101007078-692 0000024735

241 LLOYD STREET INC.
23 Thompson St.
Toronto, Ontario M4J 1B2

DATE 2016-02-11

PAY TO: Whiz Kids \$735.00

Nine Hundred and Eighty Five 00 DOLLARS

241 LLOYD STREET INC.

000116 006752-828 101007078-692 0000098500

241 LLOYD STREET INC.
23 Thompson St.
Toronto, Ontario M4J 1B2

DATE 2016-02-08

PAY TO: Jewish Youth Network \$2100.00

Two Thousand 00 DOLLARS

241 LLOYD STREET INC.

000108 006752-828 101007078-692 0000020000

241 LLOYD STREET INC.
23 Thompson St.
Toronto, Ontario M4J 1B2

DATE 2016-02-08

PAY TO: Jewish Youth Network \$8,000.00

Eight Thousand 00 DOLLARS

241 LLOYD STREET INC.

000109 006752-828 101007078-692 0000080000

241 LLOYD STREET INC.
23 Thompson St.
Toronto, Ontario M4J 1B2

DATE 2016-02-26

PAY TO: 2321675 Ontario limited \$2000.00

Two Thousand 00 DOLLARS

241 LLOYD STREET INC.

000127 006752-828 101007078-692 0000025000

241 LLOYD STREET INC.
23 Thompson St.
Toronto, Ontario M4J 1B2

DATE 2016-02-25

PAY TO: CIBC Wood Gundy \$40,000.00

Forty thousand 00 DOLLARS

241 LLOYD STREET INC.

000126 006752-828 101007078-692 0000000000

241 LLOYD STREET INC.
23 Thompson St.
Toronto, Ontario M4J 1B2

DATE 2016-02-24

PAY TO: CIBC Wood Gundy \$20,000.00

Twenty thousand 00 DOLLARS

241 LLOYD STREET INC.

000125 006752-828 101007078-692 0000000000



Buduchnist Credit Union

Statement of Account

For period ending March 31, 2016

Member: 0070786 Cheques: 18

Page 1 of 4

North Toronto Branch

241 LLOYD STREET INC.
33 Theodore Pl
Thornhill, ON L4J 8E2
Canada

Take advantage of our Newlyweds account!
Open a Joint Account and bring your banking
business to us (direct deposits, GIC's,
mortgages, loans) and Buduchnist will give
you a Wedding Gift of \$200 dollars.
Call any branch for more information
www.buduchnist.com

Current Account, Sub 1

Date	Account Activity	Withdrawal	Deposit	Balance
29Feb2016	Balance Forward			254,289.25
01Mar2016	Clearing Cheque #128	950.00		253,339.25
01Mar2016	Clearing Cheque #129	950.00		252,389.25
01Mar2016	Clearing Cheque #117	1,642.46		250,746.79
02Mar2016	Clearing Cheque #131	7,500.00		243,246.79
02Mar2016	Clearing Cheque #118	1,287.50		241,959.29
03Mar2016	Clearing Cheque #118	3,000.00		238,959.29
03Mar2016	Withdrawal Cash	966.26		237,993.03
04Mar2016	Clearing Cheque #133	5,000.00		232,993.03
04Mar2016	Withdrawal Cash	1,068.13		231,924.90
07Mar2016	Clearing Cheque #130	7,500.00		224,424.90
08Mar2016	Clearing Cheque #134	850.00		223,574.90
08Mar2016	Clearing Cheque #135	7,400.00		216,174.90
11Mar2016	Clearing Cheque #137	10,000.00		206,174.90
11Mar2016	Certified Cheque Zenbody Pole Ltd #140	10.00		206,164.90
11Mar2016	Transaction Fee	750.00		205,414.90
11Mar2016	Withdrawal Cash	6,500.00		198,914.90
14Mar2016	Clearing Cheque #139	1,000.00		197,914.90
14Mar2016	Clearing Cheque #132	950.00		196,964.90
15Mar2016	Clearing Cheque #142	1,450.00		195,514.90
15Mar2016	Clearing Cheque #136	1,500.00		194,014.90
16Mar2016	Withdrawal Cash	10,000.00		184,014.90
18Mar2016	Transfer out to 70783 Cheq 1	2,900.00		181,114.90
18Mar2016	Withdrawal Cash	525.00		180,589.90
21Mar2016	Clearing Cheque #144	3,164.00		177,425.90
22Mar2016	Clearing Cheque #143	400.00		177,025.90
22Mar2016	Clearing Cheque #145	2,500.00		174,525.90
29Mar2016	Utility Bill Payment - MasterCard, Bank of Montreal			

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.

Statement of Account

For period ending March 31, 2016



Buduchnist Credit Union

Member: 0070786 Cheques: 18

Page 3 of 4

North Toronto Branch

000128
241 LLOYD STREET INC.
33 The Queens Pk
Toronto, Ontario M4M 1A7
DATE 2016-02-24
PAY TO: Joe M. Mowbray
Five Thousand and Fifty \$5,500.00
10 Feb 2016
#000128# 4006752-8284 101007078-642# /0000095000/

000129
241 LLOYD STREET INC.
33 The Queens Pk
Toronto, Ontario M4M 1A7
DATE 2016-02-24
PAY TO: Joe M. Mowbray
Five Thousand and Fifty \$5,500.00
10 Feb 2016
#000129# 4006752-8284 101007078-642# /0000095000/

000117
241 LLOYD STREET INC.
33 The Queens Pk
Toronto, Ontario M4M 1A7
DATE 2016-02-19
PAY TO: E-learn Technology Solutions
One Thousand Six Hundred and Forty Two \$1,642.46
14 Feb 2016
#000117# 4006752-8284 101007078-642# /0000164246/

000131
241 LLOYD STREET INC.
33 The Queens Pk
Toronto, Ontario M4M 1A7
DATE 2016-02-28
PAY TO: Tanya Hutchins
Seven Thousand Five Hundred \$7,500.00
28 Feb 2016
#000131# 4006752-8284 101007078-642#

000118
241 LLOYD STREET INC.
33 The Queens Pk
Toronto, Ontario M4M 1A7
DATE 2016-02-21
PAY TO: McLague Bookish
One Thousand Three Hundred and Eighty Six \$1,386.00
21 Feb 2016
#000118# 4006752-8284 101007078-642# /0000138600/

000133
241 LLOYD STREET INC.
33 The Queens Pk
Toronto, Ontario M4M 1A7
DATE 2016-03-03
PAY TO: Topdown
One Thousand and Sixty Six \$1,066.26
03 Mar 2016
#000133# 4006752-8284 101007078-642# /0000096626/

000113
241 LLOYD STREET INC.
33 The Queens Pk
Toronto, Ontario M4M 1A7
DATE 2016-02-29
PAY TO: Mike Spino
One Thousand and Eighty Three \$1,083.13
29 Feb 2016
#000113# 4006752-8284 101007078-642# /0000108313/

000134
241 LLOYD STREET INC.
33 The Queens Pk
Toronto, Ontario M4M 1A7
DATE 2016-03-04
PAY TO: Tanya Hutchins
Seven Thousand Five Hundred \$7,500.00
04 Mar 2016
#000134# 4006752-8284 101007078-642#

000135
241 LLOYD STREET INC.
33 The Queens Pk
Toronto, Ontario M4M 1A7
DATE 2016-03-06
PAY TO: Joe M. Mowbray
Five Thousand and Fifty \$5,500.00
06 Mar 2016
#000135# 4006752-8284 101007078-642# /0000095000/

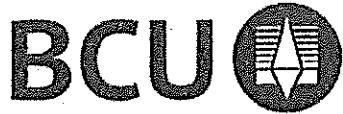
000137
241 LLOYD STREET INC.
33 The Queens Pk
Toronto, Ontario M4M 1A7
DATE 2016-03-08
PAY TO: 2321676 Ontario Inc
Seven Thousand Five Hundred \$7,500.00
08 Mar 2016
#000137# 4006752-8284 101007078-642# /0000095000/

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.

228



Buduchnist Credit Union

Statement of Account

For period ending April 30, 2016

Member: 0070786

Cheques: 7

Page 1 of 2

North Toronto Branch

241 LLOYD STREET INC.
33 Theodore Pl
Thornhill, ON L4J 8E2
Canada

Scholarship Applications now available:
The Wolodymyr Klish Memorial Scholarship
For one award of \$2,500 for Finance Studies,
Buduchnist Credit Union Scholarship awarding
Up to four of \$1,500 for any field of study.
Call your local branch for more information.
www.buduchnist.com

Current Account, Sub 1

Date	Account Activity	Withdrawal	Deposit	Balance
31Mar2016	Balance Forward			164,575.90
05Apr2016	Clearing Cheque #138	7,500.00		157,075.90
05Apr2016	Clearing Cheque #147	700.00		156,375.90
08Apr2016	Withdrawal Cash	1,000.00		155,375.90
12Apr2016	Clearing Cheque #148	1,200.00		154,175.90
20Apr2016	Clearing Cheque #149	5,000.00		149,175.90
26Apr2016	Clearing Cheque #150	237.50		148,938.40
27Apr2016	Clearing Cheque #151	6,000.00		142,938.40
27Apr2016	Clearing Cheque #152	15,000.00		127,938.40
27Apr2016	Withdrawal Cash	1,000.00		126,938.40
28Apr2016	Withdrawal Cash	1,000.00		125,938.40
Account Totals		38,637.50	0.00	125,938.40

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.

229



Buduchnist Credit Union

Statement of Account

For period ending April 30, 2016

Member: 0070786

Cheques: 7

Page 2 of 2

North Toronto Branch

241 LLOYD STREET INC.
23 Theatres Pl.
Toronto, Ontario M4J 0E2

DATE 2016-03-08

PAY TO Tanna Hutchins \$7,500.00
Seven thousand Five Hundred

Child Support Aris

000138 006752-028 101007078-692

00753-001
04/07/2016
010030100052

241 LLOYD STREET INC.
23 Theatres Pl.
Toronto, Ontario M4J 0E2

DATE 2016-04-01

PAY TO Joel Marwachi \$2,000.00
Two thousand

to April 1/16

000147 006752-028 101007078-692 00000700000

241 LLOYD STREET INC.
23 Theatres Pl.
Toronto, Ontario M4J 0E2

DATE 2016-04-10

PAY TO Whiz Kidz \$1,200.00
One thousand Two Hundred

Hutchins

000148 006752-028 101007078-692

241 LLOYD STREET INC.
23 Theatres Pl.
Toronto, Ontario M4J 0E2

DATE 2016-04-19

PAY TO Paul Riley and Associate's Inc \$5,000.00
Five thousand

000149 006752-028 101007078-692 00005000000

00752-003
04/25/2016
010030100062

241 LLOYD STREET INC.
23 Theatres Pl.
Toronto, Ontario M4J 0E2

DATE 2016-04-22

PAY TO Joel Marwachi \$2,375.00
Two thousand and Three hundred and Seventy five

to April 22/16

000150 006752-028 101007078-692 00000237500

00752-003
04/25/2016
010030100062

241 LLOYD STREET INC.
23 Theatres Pl.
Toronto, Ontario M4J 0E2

DATE 2016-04-26

PAY TO 2321678 Ontario Limited \$6,000.00
Six thousand

to April 26/16

000151 006752-028 101007078-692 00006000000

00752-003
04/25/2016
010030100062

241 LLOYD STREET INC.
23 Theatres Pl.
Toronto, Ontario M4J 0E2

DATE 2016-04-26

PAY TO 2321678 Ontario Limited \$15,000.00
Fifteen thousand

to April 26/16

000152 006752-028 101007078-692 00015000000

Your Needs. For Life.™

230



Buduchnist Credit Union

Statement of Account

For period ending May 31, 2016

Member: 0070786 Cheques: 7 Page 1 of 2
North Toronto Branch

241 LLOYD STREET INC.
33 Theodore Pl
Thornhill, ON L4J 8E2
Canada

Scholarship Applications now available:
The Wolodymyr Klish Memorial Scholarship
For one award of \$2,500 for Finance Studies,
Buduchnist Credit Union Scholarship awarding
Up to four of \$1,500 for any field of study.
Call your local branch for more information.
www.buduchnist.com

Current Account, Sub 1

Date	Account Activity	Withdrawal	Deposit	Balance
30Apr2016	Balance Forward			125,938.40
06May2016	Withdrawal Cash	1,000.00		124,938.40
09May2016	Withdrawal Cash	1,000.00		123,938.40
10May2016	Clearing Cheque #153	950.00		122,988.40
12May2016	Withdrawal Cash	1,000.00		121,988.40
13May2016	Withdrawal Cash	1,000.00		120,988.40
16May2016	Clearing Cheque #154	7,500.00		113,488.40
16May2016	Clearing Cheque #155	5,000.00		108,488.40
17May2016	Clearing Cheque #156	10,000.00		98,488.40
18May2016	Withdrawal Cash	1,000.00		97,488.40
19May2016	Withdrawal Cash	1,000.00		96,488.40
26May2016	Withdrawal Cash	1,000.00		95,488.40
30May2016	Clearing Cheque #159	10,904.76		84,583.64
30May2016	Clearing Cheque #157	2,034.00		82,549.64
31May2016	Clearing Cheque #160	975.00		81,574.64
Account Totals		44,363.76	0.00	81,574.64

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.



Buduchnist Credit Union

Statement of Account

For period ending May 31, 2016

Member: 0070786 Cheques: 7

Page 2 of 2

North Toronto Branch

241 LLOYD STREET INC.
33 Theodore St.
Toronto, Ontario M4J 1K2

DATE 2016-05-06

PAY TO Bob Mawardi \$950.00

Nine Hundred and fifty 00 DOLLARS

to May 6/16

000153 006752-028 101007078-692

241 LLOYD STREET INC.
33 Theodore St.
Toronto, Ontario M4J 1K2

DATE 2013-05-13

PAY TO 2321676 Ontario Inc \$7,500.00

Seven thousand five Hundred 00 DOLLARS

000154 006752-028 101007078-692

241 LLOYD STREET INC.
33 Theodore St.
Toronto, Ontario M4J 1K2

DATE 2016-05-13

PAY TO 2321678 Ontario Limited \$5,000.00

Five thousand 00 DOLLARS

loan

000155 006752-028 101007078-692

241 LLOYD STREET INC.
33 Theodore St.
Toronto, Ontario M4J 1K2

DATE 2016-05-13

PAY TO Jawn Hutchins \$10,000.00

Ten thousand 00 DOLLARS

Child Support May 2016

000156 006752-028 101007078-692

241 LLOYD STREET INC.
33 Theodore St.
Toronto, Ontario M4J 1K2

DATE 2016-05-26

PAY TO D.L. Deeks Insurance \$10,704.76

Ten thousand Nine Hundred and five 76 DOLLARS

000157 006752-028 101007078-692

241 LLOYD STREET INC.
33 Theodore St.
Toronto, Ontario M4J 1K2

DATE 2016-05-18

PAY TO The Tree Lovers \$2,034.00

Two thousand and thirty four 00 DOLLARS

Eric Hst

000157 006752-028 101007078-692 0000203400

241 LLOYD STREET INC.
33 Theodore St.
Toronto, Ontario M4J 1K2

DATE 2016-05-26

PAY TO Joel Mawardi \$975.00

Nine Hundred and Seventy Five 00 DOLLARS

to May 26/16

000160 006752-028 101007078-692

Relevant pages from 1755 Regent (0070787) with Buduchnist Credit Union.

Incoming wires from AESS highlighted by plaintiffs.

Outgoing checks to Tanya Hutchens highlighted by plaintiffs.

233



Buduchnist Credit Union

Statement of Account
For period ending December 31, 2015

Member: 0070787 Cheques: 0 Page 1 of 2
North Toronto Branch

1755 REGENT STREET INC.
33 Theodore Pl
Thornhill, ON L4J 8E2
Canada

BCU Financial Group - With You. For Life.
Buduchnist Credit Union
BCU Wealth Management
BCU Insurance
BCU Foundation
Please visit or call 1-800-461-5941
www.buduchnist.com

Membership Summary

Account	Balance at end of Period
Current Account, Sub 1	22.67
US Savings Account, Sub 1	20,834.86
Membership Share Account, Sub 1	100.00

US Savings Account, Sub 1

Date	Account Activity	Withdrawal	Deposit	Balance
30Jun2015	Balance Forward			0.00
16Dec2015	Deposit Cash USD		103.00	103.00
17Dec2015	Deposit Wire USD us wire American		20,741.00	20,844.00
17Dec2015	Transaction Fee	10.00		20,834.00
31Dec2015	Credit Interest		0.86	20,834.86
Account Totals		10.00	20,844.86	20,834.86

Current Account, Sub 1

Date	Account Activity	Withdrawal	Deposit	Balance
30Nov2015	Balance Forward			0.00
16Dec2015	Deposit Cash		50.00	50.00
17Dec2015	Transfer in USD from 70786 Usacct 1		6,784.00	6,834.00
17Dec2015	Certified Cheque 2321678 Ont Limited #001	3,500.00		3,334.00
17Dec2015	Transaction Fee	10.00		3,324.00

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.

234



Buduchnist Credit Union

Statement of Account
For period ending April 30, 2016

Member: 0070787 Cheques: 16 Page 1 of 4
North Toronto Branch

1755 REGENT STREET INC.
33 Theodore Pl
Thornhill, ON L4J 8E2
Canada

Scholarship Applications now available:
The Wolodymyr Klish Memorial Scholarship
For one award of \$2,500 for Finance Studies,
Buduchnist Credit Union Scholarship awarding
Up to four of \$1,500 for any field of study.
Call your local branch for more information.
www.buduchnist.com

Current Account, Sub 1

Date	Account Activity	Withdrawal	Deposit	Balance
31Mar2016	Balance Forward			132,317.83
01Apr2016	Clearing Cheque #137	1,000.00		131,317.83
04Apr2016	Clearing Cheque #138	991.01		130,326.82
05Apr2016	Clearing Cheque #141	900.00		129,426.82
05Apr2016	Clearing Cheque #139	4,000.00		125,426.82
06Apr2016	Withdrawal Cash	500.00		124,926.82
07Apr2016	Clearing Cheque #142	1,250.00		123,676.82
07Apr2016	Utility Bill Payment - MasterCard, Capital One	2,500.00		121,176.82
07Apr2016	Utility Bill Payment - MasterCard, MBNA	5,000.00		116,176.82
07Apr2016	Utility Bill Payment - MasterCard, MBNA	2,000.00		114,176.82
08Apr2016	Withdrawal Cash	1,000.00		113,176.82
12Apr2016	Clearing Cheque #144	8,500.00		104,676.82
12Apr2016	Clearing Cheque #143	825.00		103,851.82
13Apr2016	Transfer in USD from Usacct 1		300,960.00	404,811.82
13Apr2016	Transfer out to 70783 Cheq 1	10,000.00		394,811.82
13Apr2016	Withdrawal Cash	1,000.00		393,811.82
18Apr2016	Utility Bill Payment - Visa - Royal Bank	760.00		393,051.82
18Apr2016	Utility Bill Payment - MasterCard, Presidents Choice	375.25		392,676.57
18Apr2016	Withdrawal Cash	1,000.00		391,676.57
19Apr2016	Clearing Cheque #147	7,500.00		384,176.57
19Apr2016	Clearing Cheque #148	950.00		383,226.57
22Apr2016	Clearing Cheque #152	6,655.45		376,571.12
25Apr2016	Clearing Cheque #146	1,093.91		375,477.21
25Apr2016	Clearing Cheque #149	953.64		374,523.57
25Apr2016	Clearing Cheque #150	203.40		374,320.17
26Apr2016	Clearing Cheque #153	950.00		373,370.17
27Apr2016	Clearing Cheque #154	1,100.00		372,270.17

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.



Buduchnist Credit Union

Statement of Account

For period ending April 30, 2016

Member: 0070787

Cheques: 16

Page 3 of 4

North Toronto Branch

1755 REGENT STREET INC.
21 Thompson St.
Toronto, Ontario M4J 1K2

DATE 2016-03-21

PAY TO: Mohammad Reza Firoz \$1,000.00
One thousand

WML-0217

000137

0000137 006752-028 101007078-772 0000100000

004162-001
03/31/2016
01002060008

1755 REGENT STREET INC.
21 Thompson St.
Toronto, Ontario M4J 1K2

DATE 2016-03-23

PAY TO: Top Town Auto \$971.01
Nine hundred and seventy one

000138

0000138 006752-028 101007078-772 0000099101

000753-001
04/04/2016
010030700051

1755 REGENT STREET INC.
21 Thompson St.
Toronto, Ontario M4J 1K2

DATE 2016-04-01

PAY TO: Joel Mannuchi \$900.00
Nine hundred

000141

0000141 006752-028 101007078-772 0000090000

1755 REGENT STREET INC.
21 Thompson St.
Toronto, Ontario M4J 1K2

DATE 2016-03-23

PAY TO: Nadin Halouna Jasse \$4,000.00
Four thousand

000139

0000139 006752-028 101007078-772 0000000000

1755 REGENT STREET INC.
21 Thompson St.
Toronto, Ontario M4J 1K2

DATE 2016-04-04

PAY TO: Mohammad Reza Firoz \$1,250.00
One thousand Two hundred and Fifty

WML-0220-GARZA

000142

0000142 006752-028 101007078-772 0000125000

1755 REGENT STREET INC.
21 Thompson St.
Toronto, Ontario M4J 1K2

DATE 2016-04-08

PAY TO: Tanya Hutchins \$9,500.00
Nine thousand Five hundred

000144

0000144 006752-028 101007078-772 0000000000

000753-001
04/23/2016
010030700051

1755 REGENT STREET INC.
21 Thompson St.
Toronto, Ontario M4J 1K2

DATE 2016-04-07

PAY TO: Joel Mannuchi \$825.00
Eight hundred and twenty five

000143

0000143 006752-028 101007078-772 0000082500

1755 REGENT STREET INC.
21 Thompson St.
Toronto, Ontario M4J 1K2

DATE 2016-04-15

PAY TO: Tanya Hutchins \$7,500.00
Seven thousand Five hundred

000147

0000147 006752-028 101007078-772 0000000000

000753-001
04/23/2016
010030700051

1755 REGENT STREET INC.
21 Thompson St.
Toronto, Ontario M4J 1K2

DATE 2016-04-15

PAY TO: Joel Mannuchi \$900.00
Nine hundred

000146

0000146 006752-028 101007078-772 0000090000

004162-001
04/23/2016
01002060008

1755 REGENT STREET INC.
21 Thompson St.
Toronto, Ontario M4J 1K2

DATE 2016-04-15

PAY TO: Mike Spino \$6,855.45
Six thousand Eight hundred and fifty five

000152

0000152 006752-028 101007078-772 0000068554

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.

236



Buduchnist Credit Union

Statement of Account

For period ending May 31, 2016

Member: 0070787 Cheques: 13 Page 1 of 4
North Toronto Branch

1755 REGENT STREET INC.
33 Theodore Pl
Thornhill, ON L4J 8E2
Canada

Scholarship Applications now available:
The Wolodymyr Klish Memorial Scholarship
For one award of \$2,500 for Finance Studies,
Buduchnist Credit Union Scholarship awarding
Up to four of \$1,500 for any field of study.
Call your local branch for more information.
www.buduchnist.com

Current Account, Sub 1

Date	Account/Activity	Withdrawal	Deposit	Balance
30Apr2016	Balance Forward			334,003.14
02May2016	Clearing Cheque #157	1,017.00		332,986.14
02May2016	Deposit Rtrn 228987 dupl Insl Tax		2,942.67	335,928.81
03May2016	Clearing Cheque #156	120,000.00		215,928.81
04May2016	Clearing Cheque #151	152.55		215,776.26
05May2016	Clearing Cheque #158	2,085.70		213,690.56
06May2016	Clearing Cheque #160	1,203.45		212,487.11
06May2016	Utility Bill Payment - MasterCard, Bank of Montreal	3,500.00		208,987.11
06May2016	Withdrawal Cash	1,000.00		207,987.11
06May2016	Transfer out to 70783 Cheq 1	5,000.00		202,987.11
09May2016	Withdrawal Cash	1,000.00		201,987.11
10May2016	Clearing Cheque #162	7,500.00		194,487.11
10May2016	Clearing Cheque #161	950.00		193,537.11
10May2016	Clearing Cheque #145	1,350.00		192,187.11
12May2016	Withdrawal Cash	1,000.00		191,187.11
13May2016	Utility Bill Payment - MasterCard, Capital One	8,000.00		183,187.11
13May2016	Utility Bill Payment - MasterCard, MBNA	2,000.00		181,187.11
13May2016	Utility Bill Payment - MasterCard, MBNA	5,000.00		176,187.11
13May2016	Utility Bill Payment - Enbridge Gas	183.42		176,003.69
13May2016	Utility Bill Payment - Enbridge Gas	92.75		175,910.94
13May2016	Withdrawal Cash	1,000.00		174,910.94
13May2016	Transfer out to 70783 Cheq 1	20,000.00		154,910.94
13May2016	Utility Bill Payment - MasterCard, Bank of Montreal	2,500.00		152,410.94
15May2016	EFTPOS Purchase Shoppers Drug Mart 08 Thornhill	264.71		152,146.23
15May2016	Transaction Fee	0.25		152,145.98
17May2016	Clearing Cheque #159	723.20		151,422.78
17May2016	Clearing Cheque #163	950.00		150,472.78

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.



Buduchnist Credit Union

Statement of Account

For period ending May 31, 2016

Member: 0070787 Cheques: 13 Page 3 of 4
North Toronto Branch

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

DATE 2016-04-28

PAY TO: 651 Office Furniture Inc \$1,017.00
ONE thousand and Seventeen DOLLARS

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

Inv# 5751-A

000157 *06752-B2B* 101007078-772* /0000101700/

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

DATE 2016-05-19

PAY TO: Carli Consulting Inc \$20.55
ONE hundred and Fifty Five DOLLARS

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

Inv# 20160330

000151 *06752-B2B* 101007078-772* /0000015255/

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

DATE 2016-05-04

PAY TO: Graphic Plus \$1,203.45
ONE thousand Two hundred and Three DOLLARS

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

Printing

000150 *06752-B2B* 101007078-772* /0000120345/

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

DATE 2016-05-06

PAY TO: Joel Mannuschi \$950.00
NINE hundred and Fifty DOLLARS

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

to May 6/16

000151 *06752-B2B* 101007078-772* /0000120345/

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

DATE 2016-05-04

PAY TO: Tate's/1650990 Ontario Inc \$773.20
Seven hundred and Twenty Three DOLLARS

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

Inv# 19269

000159 *06752-B2B* 101007078-772* /0000159000/

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

DATE 2016-04-28

PAY TO: Tanya Hutchins \$120,000.00
ONE hundred and Twenty Thousand DOLLARS

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

Child Support Arrears 2011

000156 *06752-B2B* 101007078-772* /0000156000/

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

DATE 2016-05-07

PAY TO: E-Lan Technology Solutions \$2,085.70
Two thousand and Eighty Five DOLLARS

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

Inv# 598

000158 *06752-B2B* 101007078-772* /0000208570/

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

DATE 2016-05-06

PAY TO: Tanya Hutchins \$7,500.00
Seven thousand Five hundred DOLLARS

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

Child Support

000152 *06752-B2B* 101007078-772* /0000152000/

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

DATE 2016-04-13

PAY TO: Jewish Youth Network \$1,350.00
ONE thousand Three hundred and Fifty DOLLARS

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

Joshua Hutchins, Roni Hutchins

000145 *06752-B2B* 101007078-772* /0000135000/

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

DATE 2016-05-14

PAY TO: Joel Mannuschi \$950.00
NINE hundred and Fifty DOLLARS

1755 REGENT STREET INC.
23 Theodore Pk
Thornhill, Ontario L4J 8E2

to May 14/16

000153 *06752-B2B* 101007078-772* /0000153000/

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.



Buduchnist Credit Union

Statement of Account
For period ending June 30, 2016

Member: 0070787 Cheques: 9 Page 1 of 4
North Toronto Branch

1755 REGENT STREET INC.
33 Theodore Pl
Thornhill, ON L4J 8E2
Canada

Rebel account for youth ages 14-17!
Make a deposit of \$250 or more for a one-year
term by August 31, 2016 & receive
a 2GB USB memory stick.
Your name will be included in a draw for the
latest Acer Aspire R 11.6 Convertible Laptop.
www.buduchnist.com

US Savings Account, Sub 1

Date	Account Activity	Withdrawal	Deposit	Balance
31Dec2015	Balance Forward			20,834.86
08Jan2016	Transfer out USD to Current 1	10,000.00		10,834.86
08Jan2016	Transfer out USD to 70783 Cheq 1	3,000.00		7,834.86
12Jan2016	Deposit Wire USD wire American		7,490.50	15,325.36
12Jan2016	Transaction Fee	10.00		15,315.36
12Jan2016	Deposit Wire USD us wire American escrow		14,990.50	30,305.86
12Jan2016	Transaction Fee	10.00		30,295.86
15Jan2016	Transfer out USD to Current 1	25,000.00		5,295.86
15Jan2016	Deposit Wire USD CAD WIRE american Escrow		57,990.50	63,286.36
15Jan2016	Transaction Fee	10.00		63,276.36
27Jan2016	Transfer out USD to Current 1	55,000.00		8,276.36
31Jan2016	Credit Interest		2.93	8,279.29
12Feb2016	Deposit Wire USD us wire American Escrow		62,990.50	71,269.79
12Feb2016	Transaction Fee	10.00		71,259.79
12Feb2016	Withdrawal Cash USD	1,000.00		70,259.79
16Feb2016	Deposit Wire USD us wire American Escrow		61,740.50	132,000.29
16Feb2016	Transaction Fee	10.00		131,990.29
25Feb2016	Withdrawal Cash USD	400.00		131,590.29
29Feb2016	Credit Interest		6.08	131,596.37
08Mar2016	Transfer out USD to Current 1	115,000.00		16,596.37
10Mar2016	Withdrawal Cash USD	5,000.00		11,596.37
16Mar2016	Deposit Wire USD us wire American		179,990.50	191,586.87
16Mar2016	Transaction Fee	10.00		191,576.87
31Mar2016	Credit Interest		11.20	191,588.07
07Apr2016	Deposit Wire USD us wire American Escrow		53,556.10	245,144.17
07Apr2016	Transaction Fee	10.00		245,134.17
13Apr2016	Transfer out USD to Current 1	240,000.00		5,134.17

Your Needs. For Life.™

2280 Bloor St. W., Toronto, Ontario M6S 1N9 (416) 763-6883

Please examine this statement thoroughly and report any errors or omissions to: Buduchnist Credit Union within 30 days.

239



Buduchnist Credit Union

Statement of Account
For period ending June 30, 2016

Member: 0070787 Cheques: 9

Page 2 of 4

North Toronto Branch

Date	Account Activity	Withdrawal	Deposit	Balance
30Apr2016	Credit Interest		7.43	5,141.60
31May2016	Credit Interest		0.44	5,142.04
10Jun2016	Deposit Wire USD us wire American Escrow		48,490.50	53,632.54
10Jun2016	Transaction Fee	10.00		53,622.54
10Jun2016	Deposit Wire USD us wire American Escrow		59,940.50	113,563.04
10Jun2016	Transaction Fee	10.00		113,553.04
10Jun2016	Deposit Wire USD us wire American Escrow		72,490.50	186,043.54
10Jun2016	Transaction Fee	10.00		186,033.54
14Jun2016	Transfer out USD to Current 1	100,000.00		86,033.54
30Jun2016	wire withdrawal USD Wire to Morgan Bank, USA	8,000.00		78,033.54
30Jun2016	Transaction Fee	35.00		77,998.54
30Jun2016	Credit Interest		6.15	78,004.69
Account Totals		562,535.00	619,704.83	78,004.69

Current Account, Sub 1

Date	Account Activity	Withdrawal	Deposit	Balance
31May2016	Balance Forward			32,483.44
02Jun2016	Utility Bill Payment - MasterCard, Presidents Choice	1,000.00		31,483.44
02Jun2016	Utility Bill Payment - MasterCard, Capital One	3,500.00		27,983.44
03Jun2016	Clearing Cheque #170	216.00		27,767.44
06Jun2016	Clearing Cheque #172	5,000.00		22,767.44
07Jun2016	Clearing Cheque #173	750.00		22,017.44
07Jun2016	Clearing Cheque #174	2,748.33		19,269.11
09Jun2016	Clearing Cheque #171	5,525.00		13,744.11
09Jun2016	Withdrawal Cash	1,000.00		12,744.11
10Jun2016	Utility Bill Payment - MasterCard, Capital One	5,000.00		7,744.11
14Jun2016	Clearing Cheque #176	850.00		6,894.11
14Jun2016	Clearing Cheque #177	850.00		6,044.11
14Jun2016	Clearing Cheque #178	850.00		5,194.11
14Jun2016	Transfer in USD from Usacct 1		128,020.00	133,214.11
14Jun2016	Withdrawal Cash	3,000.00		130,214.11
14Jun2016	Utility Bill Payment -	10,000.00		120,214.11
14Jun2016	Utility Bill Payment -	5,000.00		115,214.11
16Jun2016	Utility Bill Payment -	15,000.00		100,214.11

Your Needs. For Life.™

EXHIBIT B

241

KEB Hana Bank Canada

THORNHILL BRANCH
7670 YONGE STREET SUITE 5 THORNHILL L4J1W1
Tel: (905)-7077001 Fax: (905)-7070171

241 LLOYD STREET INC.
33 THEODORE PLACE
THORNHILL, ON L4J8E2
Property Address:

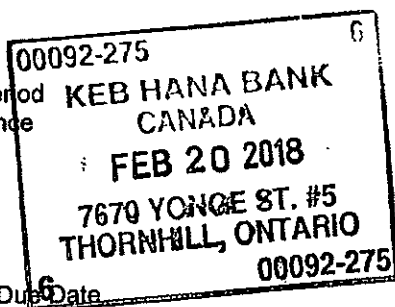
BUSINESS CHECKING (USD)

From July 30, 2014 To December 3, 2015

Statement Date : 02/20/2018
Account Number : 45212000801
Joint Account : N
Account Status : Closed
Next Statement Date :

(Account Summary) CCY : USD
Prior Statement 01/01/2000
Less Debits/Checks 91
Plus Credits 101
Interest Paid During The Period
Minimum Balance
Initial Credit Limit
Ending Balance 02/20/2018
Available Credit Limit

0.00 No. of Days This Period
2,320,521.68 Average Daily Balance
2,320,521.68 Interest Since Jan 1
0.00 Interest Rate
Can. Prime Rate
Can. Prime Rate
0.00 Maturity(term)
Minimum Payment Due



Date	Description	Value/Eff Date	Check Number	Debit	Credit	Balance
07/30/2014	Open for Check A/C	07/30/2014				0.00
07/31/2014	BERNARD FELDMAN PA	07/31/2014			8,485.00	8,485.00
07/31/2014	Monthly service charge	07/31/2014		6.00		8,479.00
08/05/2014	USD	08/05/2014		4,000.00		4,479.00
08/06/2014	BERNARD FELDMAN PA	08/06/2014			58,490.00	62,969.00
08/06/2014	BERNARD FELDMAN PA	08/06/2014			9,990.00	72,959.00
08/07/2014	TRF Customer A/C. [4520201007]	08/07/2014		72,000.00		959.00
08/12/2014	BERNARD FELDMAN PA	08/12/2014			7,490.00	8,449.00
08/14/2014	TRF Customer A/C. [4520201007]	08/14/2014		8,000.00		449.00
08/19/2014	BERNARD FELDMAN PA	08/19/2014			41,323.00	41,772.00
08/19/2014	CAD 44198 @ 1.078	08/19/2014		41,000.00		772.00
08/28/2014	BERNARD FELDMAN PA	08/28/2014			1,490.00	2,262.00
08/28/2014	BERNARD FELDMAN PA	08/28/2014			8,490.00	10,752.00
08/29/2014	CAD10,705	08/29/2014		10,000.00		752.00
08/29/2014	Monthly service charge	08/29/2014		6.00		746.00
09/02/2014	BERNARD FELDMAN PA	09/02/2014			9,490.00	10,236.00
09/05/2014	TRF Customer A/C. [4520201007]	09/05/2014		10,000.00		236.00
09/08/2014	BERNARD FELDMAN PA	09/08/2014			3,390.00	3,626.00
09/09/2014	BERNARD FELDMAN PA	09/09/2014			9,990.00	13,616.00
09/09/2014	BERNARD FELDMAN PA	09/09/2014			4,890.00	18,506.00
09/10/2014	CAD 19,548 @ 1.0860	09/10/2014		18,000.00		506.00
09/15/2014	Remittance	09/15/2014		225.00		281.00
09/17/2014	BERNARD FELDMAN PA	09/17/2014			1,890.00	2,171.00
09/19/2014	TRF Customer A/C. [4520201007]	09/19/2014		1,000.00		1,171.00
09/19/2014	Cash (USD)	09/19/2014		1,000.00		171.00
09/24/2014	WHARTON TITLE LLC	09/24/2014			4,740.00	4,911.00
09/30/2014	TRF Customer A/C. [4520201007]	09/30/2014		4,750.00		161.00

242

KEB Hana Bank Canada

THORNHILL BRANCH
7670 YONGE STREET SUITE 5 THORNHILL L4J1W1
Tel: (905)-7077001 Fax: (905)-7070171

241 LLOYD STREET INC.

33 THEODORE PLACE

THORNHILL, ON L4J8E2

Property Address :

BUSINESS CHECKING (USD)

From July 30, 2014 To December 3, 2015

Statement Date : 02/20/2018
Account Number : 45212000801
Joint Account : N
Account Status : Closed
Next Statement Date :

Date	Description	Value/Eff Date	Check Number	Debit	Credit	Balance
09/30/2014	Monthly service charge	09/30/2014		6.00		155.00
10/07/2014	HOLLYWOOD TITLE SERVICES, 10/07/2014				45.00	200.00
10/31/2014	Monthly service charge	10/31/2014		6.00		194.00
11/03/2014	AMERICAN ESCROW SETTLEM 11/03/2014				24,490.00	24,684.00
11/03/2014	CAD 27318.30@1.1105	11/03/2014		24,600.00		84.00
11/04/2014	AMERICAN ESCROW SETTLEM 11/04/2014				8,490.00	8,574.00
11/05/2014	AMERICAN ESCROW SETTLEM 11/05/2014				8,490.00	17,064.00
11/07/2014	AMERICAN ESCROW SETTLEM 11/07/2014				8,490.00	25,554.00
11/10/2014	TRF Customer A/C. [4520201007] 11/10/2014			25,500.00		54.00
11/14/2014	AMERICAN ESCROW SETTLEM 11/14/2014				51,240.00	51,294.00
11/17/2014	AMERICAN ESCROW SETTLEM 11/17/2014				8,490.00	59,784.00
11/17/2014	TRF Customer A/C. [4520201007] 11/17/2014			59,000.00		784.00
11/18/2014	AMERICAN ESCROW SETTLEM 11/18/2014				2,890.00	3,674.00
11/21/2014	AMERICAN ESCROW SETTLEM 11/21/2014				3,490.00	7,164.00
11/21/2014	AMERICAN ESCROW SETTLEM 11/21/2014				8,490.00	15,654.00
11/24/2014	TRF Customer A/C. [4520201007] 11/24/2014			15,500.00		154.00
11/27/2014	AMERICAN ESCROW SETTLEM 11/27/2014				29,940.00	30,094.00
11/28/2014	Checking Withdrawal	11/28/2014		30,000.00		94.00
11/28/2014	Monthly service charge	11/28/2014		6.00		88.00
12/09/2014	USD Check(15days)	12/09/2014			4,475.24	4,563.24
12/09/2014	AMERICAN ESCROW SETTLEM 12/09/2014				83,990.00	88,553.24
12/09/2014	TRF Customer A/C. [4520201007] 12/09/2014			88,000.00		553.24
12/09/2014	AMERICAN ESCROW SETTLEM 12/09/2014				2,390.00	2,943.24
12/12/2014	AMERICAN ESCROW SETTLEM 12/12/2014				4,990.00	7,933.24
12/12/2014	AMERICAN ESCROW SETTLEM 12/12/2014				4,990.00	12,923.24
12/15/2014	CAD 9120@1.14	12/15/2014		8,000.00		4,923.24
12/15/2014	AMERICAN ESCROW SETTLEM 12/15/2014				1,642.50	6,565.74
12/18/2014	AMERICAN ESCROW SETTLEM 12/18/2014				80,490.00	87,055.74
12/18/2014	TRF Customer A/C. [4520201007] 12/18/2014			80,000.00		7,055.74
12/22/2014	AMERICAN ESCROW SETTLEM 12/22/2014				7,490.00	14,545.74
12/31/2014	Monthly service charge	12/31/2014		6.00		14,539.74
01/12/2015	AMERICAN ESCROW SETTLEM 01/12/2015				99,990.00	114,529.74
01/14/2015	AMERICAN ESCROW SETTLEM 01/14/2015				11,240.00	125,769.74
01/14/2015	AMERICAN ESCROW SETTLEM 01/14/2015				67,390.00	193,159.74
01/15/2015	CAD198,996	01/15/2015		168,000.00		25,159.74
01/15/2015	AMERICAN ESCROW SETTLEM 01/15/2015				24,990.00	50,149.74

EXHIBIT C

PROPERTY REPORT

33 Theodore Place, Thornhill, ONTARIO

11/1/2018

Registered Owner: Hutchens, Tatiana

Findings:

Last Sale: April 8/2008 to Tatiana Hutchens \$760,000

Previous Sale: July 27/1994 to Teresita Mallari \$396,781

Tax/Assessment Value: Current \$1,072,000

Assessed: \$1,179,000

Notes: Area unemployment stands at 42% and owner-to-renter stands at 23% renters. Average household income is \$130,000. Average sale price for all residential properties is \$1,000,000.

Going by street view, the property is very typical for the neighbourhood, with well established sale values. List/sale price would likely be around \$1,100,000 or more considering the market is still very good.

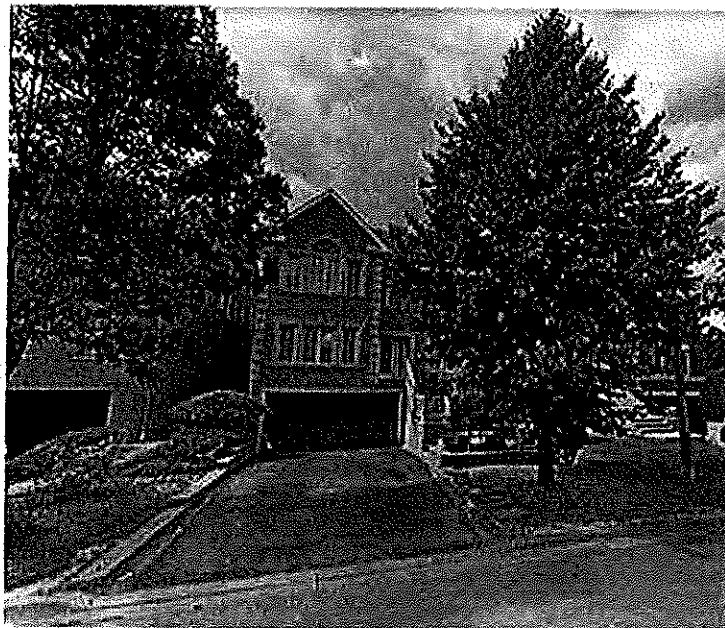


EXHIBIT D

246

Rachel Solomon

From: Ed Ryan <westmorelandequityfundllc@gmail.com>
Sent: Thursday, April 23, 2015 9:38 AM
To: Kathleen Bass
Subject: Re: Confirm your address

If possible this one time could you send them to the following address but do not change the mailing address in the system or even make a notation if possible and send them to our co-lender at 33 Theodore Place, Thornhill Ontario, L4J 8E2, C/O 241 Lloyd Street Inc. However I definitely do not want the system changed and prefer not even a notation on file. If this is not possible, then send it to the address on file and include the word Alcona. I followed up with the P.O. Box Folks and the girl that handles the account is away for another week but they checked their list and for some reason our firm does not show any further so I will have to follow up with them when she gets back. Sorry for the inconvenience. Please advise.

*Ed Ryan
Managing Member
Westmoreland Equity Fund LLC
1650 Market Street, 36th Floor,
Philadelphia PA 19103*

On Thu, Apr 23, 2015 at 9:07 AM, Kathleen Bass <Kathleen.Bass@regus.com> wrote:

Hi Ed,

It will go out in the mail today.

Kathy Bass

Senior Customer Service Representative

Regus

3000 locations, 900 cities, 120 countries

One Liberty Place

1650 Market Street, 36th Floor

Philadelphia, PA 19103

EXHIBIT E



Westmoreland Equity Fund LLC File No: WML-0141

AESS No: 14-10005

Customer Name: 1174365 Alberta Limited/ Gary/Linda Stevens

Funds to Be Received: \$9,985.00

Date: 11/05/2014

RE: Proposed First Mortgage Loan on 29-2-7-W2 Saskatchewan (Southwest Quarter section 29 27w2)

Funds to Be Disbursed

Name	Amount
241 Lloyd Street Inc	\$7,500.00 (Processing Fee)
241 Lloyd Street Inc	\$1,000.00 (RE: Hollywood Title)
AESS	\$1,485.00 (Title Fee)



Westmoreland Equity Fund LLC File No: WML-0141

AESS No: 14-10005

Customer Name: 1174365 Alberta Ltd, Gary & Linda Stevens (Estevan Industrial Park)

Proposed First Mortgage Loan on 29-2-7-W2 Saskatchewan (Southwest Quarter section 29 27w2) – Amended Commitment

Funds to Be Received: \$51,750.00 USD

Date: 11-12-2014

Funds to Be Disbursed

Name	Amount
AESS	\$500.00 USD
241 Lloyd Street Inc	\$44,750.00 USD
241 Lloyd Street Inc	\$1,000.00 USD (RE: Hollywood Title)
241 Lloyd Street Inc	\$5,500.00 (Legal Retainer)



Westmoreland Equity Fund LLC File No: WML-0141

AESS No: 14-10005

Customer Name: Gary & Linda Stevens

RE: Fwd: Proposed First Mortgage Loan on 29-2-7-W2 Saskatchewan (Southwest Quarter section 29 27w2) - Commitment - Extension

Funds to Be Received: \$12,500.00 USD

Date:01-13-15

Funds to Be Disbursed

Name	Amount
241 Lloyd Street Inc	\$11,250.00 USD
AESS	\$1,000.00 USD (Inspection This File)
AESS	\$250.00 USD (Processing This extension)



Westmoreland Equity Fund LLC File No: WML-0243

AESS No: AESS No. 16-10132

Customer Name: The Graveley Family Partnership

RE: Proposed First Mortgage on 2603-2617; 2619-2621 Poplar Street; 911 North Taney Street, 913; 917-941; 943; 909 North Taney Street; Philadelphia, PA 19136.

Funds to Be Received: 10,000.00 USD

Date: 01-08-16

Amended Funds to Be Disbursed

[illegible]

APPENDIX 13

Interim Receiver's letter to
Sandy Hutchens,
dated March 6, 2019

File No. 10197

March 6, 2019

BY EMAIL & FAX

Philip Smith
Donnelly & Murphy Lawyers PC
18 The Square,
Goderich, Ontario, N7A 3Y7

Dear Mr. Smith:

**Re: *Stevens et. al. v. Hutchens et. al.* (Court File No. CV-18-608271-00CL)
Interim Receiver Information Request**

I write as counsel to A. Farber & Partners Inc. (the "**Receiver**"), in its capacity as interim receiver pursuant to the February 28, 2019 order of Justice Penny in this matter (the "**Order**").

Pursuant to paragraph 2(f) of the Order, the Receiver intends to examine Sandy Hutchens under oath. We would like to conduct that examination on March 11 or 12, 2019. **Please advise if he is available on one of those two dates, or if not, what his earliest availability is.** I have seen your email of this morning to Mr. Nepal advising that you are away next week, as am I. My associate will attend the examination and I ask that you similarly arrange to have a colleague or agent attend, so that the examination can be completed in advance of the motion's return on March 18.

In addition, pursuant to paragraphs 2 to 6 of the Order, **we ask that Mr. Hutchens provide the following information and records.** Owing to the short time frame for the Receiver's work, Mr. Hutchens may produce responsive information and materials on a rolling basis.

1. Provide a statement of net worth itemizing Mr. Hutchens' assets and liabilities, including real properties, cash, vehicles, securities, term deposits, investments and other assets;
2. Provide copies of Mr. Hutchens' complete tax returns for 2014-2018;
3. Provide copies of the complete (a) tax returns and (b) financial statements for 2014-2016 for the corporations listed in Schedule A to the Order and for the owners of (a) 241 Lloyd Street, Sudbury; (b) 480 Linda Street, Sudbury; (c) 1755 Regent Street, Sudbury; and (d) 380 Elgin Street, Sudbury (collectively, the "**Companies**"). If any these records are not in Mr. Hutchens' power, possession or control, please advise where they are located;
4. Identify the shareholders of the Companies, and their respective shareholdings;
5. Provide the name(s) and contact information (address, email address, phone number, and fax number) of the accountant(s) who completed 2 and 3 above;
6. Provide the name(s) and contact information (address, email address, phone number, and fax number) of any other person(s) who maintains the books and records of the Companies and the properties listed in Schedule B to the Order (the "**Properties**");
7. Identify and provide unfettered access to the electronic devices that contain or did contain books and records of the Companies. The Receiver intends to create images of the hard drives of these devices. Please advise whether Mr. Hutchens has any concerns about privileged or irrelevant, confidential contents, in which case we can discuss appropriate arrangements;
8. Provide a list of corporations for which Mr. Hutchens is an officer, director, and the position(s) Mr. Hutchens holds;

NAYMARK LAW

9. Provide a list of corporations, partnerships and trusts in which Mr. Hutchens owns shares or units (directly, indirectly or beneficially), and a description of the nature of his ownership interest (type of shares held, percentage of total equity);
10. Provide a list of all bank accounts (institution, branch, account number) directly or indirectly controlled by Mr. Hutchens, Sandy Hutchens, the Companies, and Dina Brik (to the extent that is within Mr. Hutchens' knowledge), and provide copies of the account statements for each of those accounts from February 2015 to present;
11. Provide a list of all registered and non-registered investment accounts directly or indirectly controlled by Mr. Hutchens, the Companies, Tanya Hutchens, and Dina Brik (to the extent that is within Mr. Hutchens' knowledge), and provide copies of the account statements for each of those accounts from February 2015 to present;
12. Identify Mr. Hutchens' sources of income for the past three years, and provide supporting documentation (pay slips, T4s, etc.);
13. Provide a list of all properties other than the Properties and (a) 241 Lloyd Street, Sudbury; (b) 480 Linda Street, Sudbury; (c) 1755 Regent Street, Sudbury; and (d) 380 Elgin Street, Sudbury, in which Mr. Hutchens, Mr. Hutchens or the Companies directly or indirectly own a legal or beneficial interest, or which any of them possess or control, and provide details of the nature of their ownership interest;
14. For the Properties and for (a) 241 Lloyd Street, Sudbury; (b) 480 Linda Street, Sudbury; (c) 1755 Regent Street, Sudbury; (d) 380 Elgin Street, Sudbury; and (e) any of the properties identified in response to 13 above:
 - a. Identify how each property is managed, and provide the name and contact information (address, email address, phone number, and fax number) for any property manager(s). **Please provide this information as a priority so that the Receiver can contact the property manager(s) as soon as possible to coordinate site visits;**
 - b. Advise the aggregate monthly rental income;
 - c. Identify where rental proceeds are deposited;
 - d. Provide a rental roll with tenants and monthly rent amount; and
 - e. Provide copies of all current rental/lease agreements;
15. Identify the source(s) of the following payments, and produce supporting account and transaction records:
 - a. The \$505 filing fee paid on or about March 1, 2019 for the filing of Mr. Hutchens' notice of appeal in Case Number 2:18-cv-00692-PD (Stevens et al. v. Westmoreland Equity Fund, LLC et al.) (receipt number PPE193260), and provide supporting account and transaction records;
 - b. The \$505 filing fee paid on or about March 1, 2019 for the filing of Tanya Hutchens' notice of appeal in Case Number 2:18-cv-00692-PD (Stevens et al. v. Westmoreland Equity Fund, LLC et al.) (receipt number PPE193261), and provide supporting account and transaction records; and
 - c. The payment to Meridian to discharge its mortgage on 1479 Maple Street, Innisfil (approximately \$204,000);
16. For each of the following property sales, (a) provide copies of agreements of purchase and sale; (b) provide statements of closing adjustments; and (c) provide an accounting of the sale proceeds (i.e., where were they deposited and subsequent flow of funds) and corresponding bank and transaction records:
 - a. 364 Morris Street, Sudbury (sold for \$900,000 February 25, 2016);
 - b. 625 Ash Street, Sudbury (sold for \$225,000 November 6, 2016);
 - c. 720 Cambrian Heights Sudbury (sold for \$3,100,000 September 15, 2017); and
 - d. 193 Mountain Street, Sudbury (sold for \$400,000 November 16, 2018);
17. At the hearing in this matter on February 28, 2019, counsel for Mrs. Hutchens took the position that she and Mr. Hutchens hold the Properties and perhaps other assets in trust for their children, directly or via the Companies. Please provide:
 - a. A description of the nature of any such trusts, including the date and circumstances of their creation, the identities of all trustees and beneficiaries, and the assets over which each trust extends; and
 - b. Documents corresponding to the claimed trust(s), including any trust declarations or deeds, trust financial statements, tax filings, and communications regarding the trust(s) existence and operation;

NAYMARK LAW

18. Advise the nature and amount of the debt corresponding to the mortgages held on certain of the properties¹ in the name of Adroit Advocates LLC in the registered amount of \$2 million, and provide corresponding records; and
19. Advise the nature and amount of the debt corresponding to the mortgages held on certain of the properties² in the name of Dina Brik in the registered amount of \$150,000, and provide corresponding records.

Yours truly,



Daniel Naymark

- c. Terrence Liu (Naymark Law)
Paul Denton and Megha Sharma (A. Farber & Partners Inc.)

¹ 29 Laren Street, Sudbury; 110-114 Pine Street, Sudbury; 3415 Errington Avenue, Chelmsford; 3419 Errington Avenue, Chelmsford; 331 Regent Street, Sudbury; 17 Serpentine Street, Sudbury.
² 3415 Errington Avenue, Chelmsford and 3419 Errington Avenue, Chelmsford.

APPENDIX 14

Email response from Sandy Hutchens'
counsel regarding scheduling
conflicts, dated March 8, 2019

Thursday, March 14, 2019 at 10:05:50 AM Eastern Daylight Time

Subject: RE: Stevens et. al. v. Hutchens et. al. (Court File No. CV-18-608271-00CL) - Interim Receiver Information Request
Date: Friday, March 8, 2019 at 9:30:11 AM Eastern Standard Time
From: Phil Smith
To: Daniel Naymark
CC: Terrence Liu, Paul Denton, Megha Sharma, Elizabeth Lentz
Attachments: image001.png

Thank you for your letter of March 6, 2019.

I expect to have answers to you on the vast majority of your questions before the end of the work day today.

In terms of an examination, as previously noted I am away on a long-planned family vacation for Monday-Wednesday of March break, and in two full days discoveries on Thursday and Friday of next week. I operate a small firm in which the lawyers all have discrete areas of expertise, and I not have a colleague who can attend in my place next week.

I can re-arrange my schedule to make myself available the week of the 18th, but it will not be possible for my client to be examined prior to March 18th.

Sincerely,
Phil J. Smith, J.D., B.Math
DONNELLY MURPHY LAWYERS P.C.
519-524-2154 x 310

From: Daniel Naymark <dnaymark@naymarklaw.com>
Sent: Wednesday, March 6, 2019 11:11 AM
To: Phil Smith <psmith@dmlaw.ca>
Cc: Terrence Liu <tliu@naymarklaw.com>; Paul Denton <pdenton@farbergroupp.com>; Megha Sharma <msharma@farbergroupp.com>
Subject: Stevens et. al. v. Hutchens et. al. (Court File No. CV-18-608271-00CL) - Interim Receiver Information Request

Please see the attached letter.

--
Daniel Naymark
dnaymark@naymarklaw.com

APPENDIX 15

Email response from Sandy Hutchens'
counsel regarding information and
document request,
dated March 8, 2019

Privileged

From: Phil Smith <psmith@dmlaw.ca>
Sent: Friday, March 8, 2019 5:25:41 PM
To: Daniel Naymark
Cc: Elizabeth Lentz; Gary Caplan (GCaplan@mcr.law); Sachdeva, Bobby
Subject: Stevens et. al. v. Hutchens et. al. (Court File No. CV-18-608271-00CL) - Interim Receiver Information Request

Good afternoon counsel,
Further to my email from earlier today, please find below my client's answers to the questions posed in your March 6, 2019 letter.

I do stipulate that the below information has been gathered together *very quickly* given the tight timeframe imposed by the Court, and is accordingly subject to modification upon a more fulsome review of the records, as those records are made available to me and my client.

Sincerely,
Phil J. Smith, J.D., B.Math
DONNELLY MURPHY LAWYERS P.C.
519-524-2154 x 310

-
1. Provide a statement of net worth itemizing Mr. Hutchens' assets and liabilities, including real properties, cash, vehicles, securities, term deposits, investments and other assets;
Status: Making inquiries and gathering documentation in order to produce this.
 2. Provide copies of Mr. Hutchens' complete tax returns for 2014-2018;
Answer: No tax returns have been prepared or filed for 2014-2018
 3. Provide copies of the complete (a) tax returns and (b) financial statements for 2014-2016 for the

corporations listed in Schedule A to the Order and for the owners of (a) 241 Lloyd Street, Sudbury; (b) 480 Linda Street, Sudbury; (c) 1755 Regent Street, Sudbury; and (d) 380 Elgin Street, Sudbury (collectively, the "Companies"). If any these records are not in Mr. Hutchens' power, possession or control, please advise where they are located;

Answer: Mr. Hutchens is not aware of any prepared or filed tax returns for the above listed corporations, for 2014-2016.

4. Identify the shareholders of the Companies, and their respective shareholdings;

Answer:

100% of shares are held by Tanya Hutchens, in trust for the children:

- 29 Laren Street Inc.
- 3415 Errington Avenue Inc.
- 3419 Errington Avenue Inc.
- 331 Regent Street Inc.
- 110-114 Pine Street Inc.
- 15-16 Keziah Court Inc.
- 193 Mountain Street Inc.
- 625 Ash Street Inc.
- 101 Service Road Inc.
- JBD Hutchens Family Holdings Inc.
- 17 Serpentine Street Inc.

40% shared are held by Lilly Brook Developments Inc., and 60% shares are held by Tanya Hutchens, in trust for the children:

- 364 Morris Street Inc.
- 367-369 Howey Drive Inc.
- 720 Cambrian Heights Inc.

100% shares are held by Sandy Hutchens:

- 146 Whittaker Street Inc.

5. Provide the name(s) and contact information (address, email address, phone number, and fax number) of the accountant(s) who completed 2 and 3 above;

Answer: n/a

6. Provide the name(s) and contact information (address, email address, phone number, and fax number) of any other person(s) who maintains the books and records of the Companies and the properties listed in Schedule B to the Order (the "Properties");

Answer: Tanya Hutchens

7. Identify and provide unfettered access to the electronic devices that contain or did contain books and records of the Companies. The Receiver intends to create images of the hard drives of these

devices. Please advise whether Mr. Hutchens has any concerns about privileged or irrelevant, confidential contents, in which case we can discuss appropriate arrangements;

Status: My client is investigating this.

8. Provide a list of corporations for which Mr. Hutchens is an officer, director, and the position(s) Mr. Hutchens holds;

Answer:

- 146 Whittaker Street Inc – president
- Westmoreland Equity Fund LLC – president
- Canadian Funding Corporation – president
- First Central Mortgage Corp – president
- First Central Holdings – president
- Northern Capital – president
- Great Eastern US – president

9. Provide a list of corporations, partnerships and trusts in which Mr. Hutchens owns shares or units (directly, indirectly or beneficially), and a description of the nature of his ownership interest (type of shares held, percentage of total equity);

Answer:

100% shares are held by Sandy Hutchens:

- 146 Whittaker Street Inc.
- Westmoreland Equity Fund LLC
- Canadian Funding Corporation
- First Central Mortgage Corp
- First Central Holdings
- Northern Capital
- Great Eastern US

10. Provide a list of all bank accounts (institution, branch, account number) directly or indirectly controlled by Mr. Hutchens, Sandy Hutchens, the Companies, and Dina Brik (to the extent that is within Mr. Hutchens' knowledge), and provide copies of the account statements for each of those accounts from February 2015 to present;

Answer: Mr. Hutchen's only bank account is with Buduchnist Credit Union, account #601007078362. The historic to present bank statements in this account were recently produced in the Colorado proceeding. I will obtain a copy from US counsel.

Mr. Hutchens is unaware of Dina Brik's current bank accounts.

11. Provide a list of all registered and non-registered investment accounts directly or indirectly controlled by Mr. Hutchens, the Companies, Tanya Hutchens, and Dina Brik (to the extent that is within Mr. Hutchens' knowledge), and provide copies of the account statements for each of those accounts from February 2015 to present;

Status: Mr. Hutchens in making inquiries. There may be an RESP for one of the children, holding under \$4k.

12. Identify Mr. Hutchens' sources of income for the past three years, and provide supporting documentation (pay slips, T4s, etc.);

Status: Making inquiries and gathering documentation.

13. Provide a list of all properties other than the Properties and (a) 241 Lloyd Street, Sudbury; (b) 480 Linda Street, Sudbury; (c) 1755 Regent Street, Sudbury; and (d) 380 Elgin Street, Sudbury, in which Mr. Hutchens, Mr. Hutchens or the Companies directly or indirectly own a legal or beneficial interest, or which any of them possess or control, and provide details of the nature of their ownership interest;

Answer: 42 Clemow Avenue, Sudbury, is held by Mr. Hutchens and the Estate of Judith Hutchens (of which Mr. Hutchens is executor), in trust for Joshua Hutchens and Daniel Hutchens.

14. For the Properties and for (a) 241 Lloyd Street, Sudbury; (b) 480 Linda Street, Sudbury; (c) 1755 Regent Street, Sudbury; (d) 380 Elgin Street, Sudbury; and (e) any of the properties identified in response to 13 above:

- Identify how each property is managed, and provide the name and contact information (address, email address, phone number, and fax number) for any property manager(s). Please provide this information as a priority so that the Receiver can contact the property manager(s) as soon as possible to coordinate site visits;
- Advise the aggregate monthly rental income;
- Identify where rental proceeds are deposited;
- Provide a rental roll with tenants and monthly rent amount; and
- Provide copies of all current rental/lease agreements;

Partial Answer: Mr. Hutchens, nor any company controlled by Mr. Hutchens, nor any company controlled by Tanya Hutchens, ever owned the properties located at 241 Lloyd Street, Sudbury; 480 Linda Street, Sudbury; 1755 Regent Street, Sudbury; or 380 Elgin Street, Sudbury.

There will be income and expenses relating to 42 Clemow. That documentation is being gathered.

15. Identify the source(s) of the following payments, and produce supporting account and transaction records:

- The \$505 filing fee paid on or about March 1, 2019 for the filing of Mr. Hutchens' notice of appeal in Case Number 2:18-cv-00692-PD (Stevens et al. v. Westmoreland Equity Fund, LLC et al.) (receipt number PPE193260), and provide supporting account and transaction records;
- The \$505 filing fee paid on or about March 1, 2019 for the filing of Tanya Hutchens' notice of appeal in Case Number 2:18-cv-00692-PD (Stevens et al. v. Westmoreland Equity Fund, LLC

et al.) (receipt number PPE193261), and provide supporting account and transaction records; and

- c. The payment to Meridian to discharge its mortgage on 1479 Maple Street, Innisfil (approximately \$204,000);

Answer: Mr. Hutchens borrowed the money from his daughter Jennifer for the filing fees. Mr. Hutchens is unaware of the source of funds used to discharge the Maple Street mortgage. That question is better directed to Tanya Hutchens.

16. For each of the following property sales, (a) provide copies of agreements of purchase and sale; (b) provide statements of closing adjustments; and (c) provide an accounting of the sale proceeds (i.e., where were they deposited and subsequent flow of funds) and corresponding bank and transaction records:

- a. 364 Morris Street, Sudbury (sold for \$900,000 February 25, 2016);
- b. 625 Ash Street, Sudbury (sold for \$225,000 November 6, 2016);
- c. 720 Cambrian Heights Sudbury (sold for \$3,100,000 September 15, 2017); and
- d. 193 Mountain Street, Sudbury (sold for \$400,000 November 16, 2018);

Answer: 625 Ash Street was sold under power of sale on November 6, 2015 for \$225,000. There were no surplus funds from the sale; no funds were provided to my client or Tanya Hutchens (or any related company). A copy of the requested documents relating to this Power of Sale, and the related Power of Sale for 15-16 Keziah Court are retrievable here:

https://drive.google.com/drive/folders/1Yhu7_N3xRxWZgiHtUDmkZs4NiepkAH2F?usp=sharing

The relevant document is entitled: "16-02-17 Letter from Huneault re accounting.pdf"

With respect to 364 Morris Street, 720 Cambrian, and 193 Mountain Street, Mr. Hutchens is unaware of the exact details; Those questions are better directed to Tanya Hutchens.

17. At the hearing in this matter on February 28, 2019, counsel for Mrs. Hutchens took the position that she and Mr. Hutchens hold the Properties and perhaps other assets in trust for their children, directly or via the Companies. Please provide:

- a. A description of the nature of any such trusts, including the date and circumstances of their creation, the identities of all trustees and beneficiaries, and the assets over which each trust extends; and
- b. Documents corresponding to the claimed trust(s), including any trust declarations or deeds, trust financial statements, tax filings, and communications regarding the trust(s) existence and operation;

Answer: Tanya Hutchens will be providing this documentation requested.

18. Advise the nature and amount of the debt corresponding to the mortgages held on certain of the properties in the name of Adroit Advocates LLC in the registered amount of \$2 million, and provide corresponding records; and

Answer: This mortgage relates to legal fees. Mr. Hutchens is requesting the corresponding records.

19. Advise the nature and amount of the debt corresponding to the mortgages held on certain of the properties in the name of Dina Brik in the registered amount of \$150,000, and provide corresponding records

Answer: Mr. Hutchens is unaware on the details of this debt. This question is better directed to Tanya Hutchens.

APPENDIX 16

Email response from
Tanya Hutchens' counsel regarding
March 6 inquiries,
dated March 11, 2019



Gary Michael Caplan
 Email: GCaplan@mcr.law
 Phone: 416-596-7796 (Direct)
 Fax: 855-880-6271

Our File Number: 18-0072

March 11, 2019

VIA EMAIL

Daniel Naymark
 Naymark Law
 171 John Street, Suite 101
 Toronto, ON M5T 1X3

Dear Mr. Naymark:

Re: Tanya Hutchens et al ats CGC Holdings Company et al

I am instructed to respond to your letter to me of March 6, 2019 as follows. Please note that each of the answers set out below is subject to further investigation and confirmation.

Request #1

Ms. Hutchens will attend to this and gather the necessary information.

Request #2

No tax returns have been prepared or filed.

Request #3

There are no tax returns or financial statements for corporations listed in Schedule A to the Order. The corporations specifically listed in your request are not owned or controlled directly or indirectly by Ms. Hutchens.

Request #4

Except for 720 Cambrian, 364 Morris, and 367-369 Howey, all shareholdings in the Schedule A companies are owned by Ms. Hutchens who holds the shares in trust for her children. For the excepted companies, 60% of the shares are held by JBD Hutchens Family Holdings in trust for the Hutchens children and the balance of the shares are owned by arms length third parties.

Request # 5

For the years prior to 2014, Morris Posner was the accountant who prepared the tax returns for Ms. Hutchens and the companies in which she is a shareholder.

**Request #6**

Ms. Hutchens retains the documents. It is possible that Mr. Posner also has records for the period of his engagement.

Request#7

Ms. Hutchens has possession of a computer which contains records relating to the companies controlled by her in trust. The computer contains files and data not relevant to these proceedings.

Request #8

Ms. Hutchens believes that she is an officer and director of 29 Laren, 3415 Errington, 3419 Errington; 110 Pine Street; 331 Regent; 17 Serpentine JBD Family Holdings Inc., 625 Ash; 15-16 Keziah Street and 193 Mountain.

Request#9

All shareholdings held by Ms. Hutchens, are held by her in trust for the children.

Request #10

Ms. Hutchens has no bank accounts. Ms. Brik has an account BMO no. 1998-893. Ms. Hutchens will search and produce the bank statements.

Request #11

Ms. Hutchens has an RRSP of about \$5000 with Meridian Credit Union.

Request #12

Ms. Hutchens is owed management fees from the companies but has no other source of employment or consulting income.

Request #13

N/A

Request #14

Ms. Hutchens is gathering this information. She manages each of the properties of which she is the shareholder in trust and an officer and director.

Request#15

Ms. Hutchens pays the credit card accounts from rents received. The credit cards are used to pay her personal living expenses, and expenses associated with the management and administration of the corporations.

Ms. Hutchens will have to investigate item 15(c) by contacting Mr. Spiro.



Request # 16

Ms. Hutchens will make inquiries of Mr. Spiro.

Request #17

Ms. Hutchens will make inquiries of Mr. Spiro.

Request # 18

- Ms. Hutchens will ask Mr. Spiro for the documents;
- a) This property was sold at a loss. Ms. Hutchens will ask Mr. Spiro for the documents;
 - b) This property was sold under power of sale;
 - c) Ms. Hutchens will make inquiries of Mr. Spiro;
 - d) Ms. Hutchens will make inquiries of Mr. Spiro.

Request # 19

The trusts agreements will be provided.

Request #20

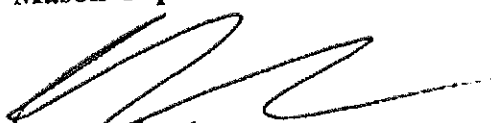
To be provided

Request #21

Ms. Hutchens will ask Mr. Spiro for the documents.

Yours very truly,

Mason Caplan Roti LLP



Gary M. Caplan
GMC/gd

cc: Terrence Liu, Naymark Law
cc Bobby H. Sachdeva, Pallet Valo LLP
cc Daniel J. MacKeigan, Siskinds Law
cc Phillip J. Smith, Donelly Murphy Lawyers P.C.
cc James Zibarras, Brauti Thorning Zibarras LLP
cc Justin Necpal, Necpal Litigation Professional Corporation

APPENDIX 17

Email exchange of March 12, 2019
between Tanya Hutchens' counsel
and the Interim Receiver

Friday, March 15, 2019 at 2:53:41 PM Eastern Daylight Time

Subject: RE: Hutchens, Tanya, personally and 193 Mountain Street ats CGC Holding Company et al;
Date: Tuesday, March 12, 2019 at 8:48:20 AM Eastern Daylight Time
From: Gary Caplan
To: Daniel Naymark, Terrence Liu, 'jzibarras@millerthomson.com', 'psmith@dmlaw.ca',
'justin@necpal.com', 'Sachdeva, Bobby'
CC: Georgina Dawson
Attachments: image001.jpg

I acknowledge receipt of your email and I have passed it on to my client.

Gary M. Caplan, LL.B. LL.M
Barrister, Certified Mediator, Chartered Arbitrator
Certified Specialist in Civil Litigation
Tel: (416) 596-7796 | Fax: (855) 880-6271 | gcaplan@mcr.law



350 Bay Street, Suite 600
Toronto, Ontario M5H 2S6
www.mcr.law

The information contained in this electronic message is legally privileged and confidential information that is exempt from disclosure under applicable law and is intended only for the use of the individual or entity to which it is addressed. If you have received this communication in error, please notify me immediately by replying to this email or by telephone at 416-596-7690. Thank you.

From: Daniel Naymark [mailto:dnaymark@naymarklaw.com]
Sent: Tuesday, March 12, 2019 8:27 AM
To: Gary Caplan; Terrence Liu; 'jzibarras@millerthomson.com'; 'psmith@dmlaw.ca'; 'justin@necpal.com'; 'Sachdeva, Bobby'
Cc: Georgina Dawson
Subject: Re: Hutchens, Tanya, personally and 193 Mountain Street ats CGC Holding Company et al;

Gary,

We have received your email below and acknowledge that Mrs. Hutchens will not be attending today's examination.

The Receiver will be reporting to the Court shortly. Its report will include her non-attendance and the reason she has offered for it. Please provide her hospital admittance record and a note from the treating physician with her diagnosis as soon as possible. The report will indicate whether these have been received.

Please also advise whether Mrs. Hutchens is able to attend any other day this week as soon as you have that information.

Thank you,
Daniel

--

Daniel Naymark
NAYMARK LAW
t: (416) 640-6078 | f: (647) 660-5060
dnaymark@naymarklaw.com

From: Gary Caplan <GCaplan@mcr.law>
Sent: Tuesday, March 12, 2019 6:42:15 AM
To: Terrence Liu; 'jzibarras@millerthomson.com'; 'psmith@dmlaw.ca'; 'justin@necpal.com'; Daniel Naymark; 'Sachdeva, Bobby'
Cc: Georgina Dawson
Subject: Hutchens, Tanya, personally and 193 Mountain Street ats CGC Holding Company et al;

I was advised at 6 26 am this morning that my client was admitted last night to hospital with a severe throat/sinus infection. She is still in the hospital. She has advised me that she will not be in attendance this morning.

Gary M. Caplan, LL.B. LL.M
Barrister, Certified Mediator, Chartered Arbitrator
Certified Specialist in Civil Litigation
Tel: (416) 596-7796 | Fax: (855) 880-6271 | gcaplan@mcr.law



350 Bay Street, Suite 600
Toronto, Ontario M5H 2S6
www.mcr.law

The information contained in this electronic message is legally privileged and confidential information that is exempt from disclosure under applicable law and is intended only for the use of the individual or entity to which it is addressed. If you have received this communication in error, please notify me immediately by replying to this email or by telephone at 416-596-7690. Thank you.

STEVENS *et al.*
Applicants

-and-

HUTCHENS *et al.*
Respondents

Court File No. CV-18-608271-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

FIRST REPORT OF THE RECEIVER
(VOLUME 1 of 2)

NAYMARK LAW
171 John Street, Suite 101
Toronto, ON M5T 1X3

Daniel Z. Naymark LSO#: 56889G
Tel: (416) 640-6078
Fax: (647) 660-5060

Terrence Liu LSO#: 64130M
Tel: (416) 640-2256
Fax: (647) 660-5060

Lawyers for the Receiver,
A. Farber & Partners Inc.