

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE POLISH ALLIANCE OF CANADA

Plaintiff

- and -

POLISH ASSOCIATION OF TORONTO LIMITED,
MAREK MIASIK aka MAREK ADAM MIASIK, MARIA MIASIK,
JAN ARGYRIS aka LOUIS JOHN ELIE ARGYRIS
aka LOUIS JOHN ARGYRIS aka JOHN ARGYRIS,
WLADYSLAW JASLAN aka WLADYSLAW JULIAN JASLAN,
HELENA JASLAN, EUGENIUSZ SKIBICKI, CZESLAWA ERICKSEN,
STANISLAW ROGOZ aka STAN ROGOZ and ALBERT JOSEPH FLIS
and RICHARD RUSEK

Defendants

- and -

AND BETWEEN:

POLISH ASSOCIATION OF TORONTO LIMITED,
MAREK MIASIK aka MAREK ADAM MIASIK, MARIA MIASIK,
JAN ARGYRIS aka LOUIS JOHN ELIE ARGYRIS
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STANISLAW ROGOZ aka STAN ROGOZ and ALBERT JOSEPH FLIS

Plaintiffs by Counterclaim

- and -

THE POLISH ALLIANCE OF CANADA, ROBERT ZAWIERUCHA, TADEUSZ
MAZIARZ, ELIZABETH BETOWSKI, DANUTA ZAWIERUCHA, TERESA SZRAMEK,
ANDRZEJ SZUBA, ADAM SIKORA, ELZBIETA GAZDA, STANISLAW GIDZINSKI,
STANISLAW IWANICKI and TADEUSZ SMETANA

Defendants by Counterclaim

PLAINTIFF'S MOTION AND CASE CONFERENCE RECORD

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 And for the Added Defendants
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 and Tadeusz Smietana*

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Bernie Romano

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 the Plaintiffs by Counterclaim, being Polish Association
 of Toronto Limited, Marek Miasik aka Marek Adam Miasik,
 Maria Miasik, Jan Argyris aka Louis John Elie Argyris aka
 Louis John Argyris aka John Argyris, Wladyslaw Jaslan aka
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 Czeslawa Ericksen, Stanislaw Rogoz aka Stan Rogoz and
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*Lawyer for the Defendants Elizabeth Betowski
 and Stanislaw Gidzinski*

**ONTARIO
SUPERIOR COURT OF JUSTICE**

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STANISLAW IWANICKI and TADEUSZ SMJETANA**

Defendants by Counterclaim

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Tab 1

**ONTARIO
SUPERIOR COURT OF JUSTICE**

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Plaintiff

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SZRAMEK, ANDRZEJ SZUBA, ADAM SIKORA, ELZBIETA GAZDA, STANISLAW
GIDZINSKI, STANISLAW IWANICKI and TADEUSZ SMJETANA**

Defendants by Counterclaim

NOTICE OF MOTION

The PLAINTIFF, The Polish Alliance Of Canada, will make a motion to The Honourable
Mr Justice F. L. Myers, the Trial Of An Issue Judge, as so appointed pursuant to the Order made

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February 21, 2012 by The Honourable Mr Justice C. Campbell, as he then was, the Case Management Judge, on Tuesday, the 2nd day of September 2014 at 10:00 a.m., or as soon after that time as the motion can be heard, or the Case Conference held, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR

- (1) An Order, if needed, to abridge the time for the service of this motion;
- (2) An Order, if needed, to regularize the service of this motion and the plaintiff's Motion Record;
- (3) An Order pursuant to paragraph 7 of the Order dated June 20, 2014 and pursuant to the Order dated May 27, 2014, granting leave to the Plaintiff to commence an action for damages, neglect, incompetence, dereliction of duty and failure to carry out its obligations, against Collins Barrow Toronto Limited;
- (4) In the alternative, an Order pursuant to paragraph 7 of the Order dated June 20, 2014 and pursuant to the Order of May 27, 2014, granting leave to the Plaintiff to commence an action against Daniel Weisz and Brenda Wong for knowing receipt of wrongfully obtained trust property and/or knowing acceptance of wrongfully obtained trust property, knowing assistance, wrongful failure to receive and carry out the responsibilities due to the plaintiff and to Collins Barrow Toronto Limited;
- (5) In the further alternative, an Order removing Collins Barrow Toronto Limited as Court appointed Receiver of all the assets, undertakings and properties of the members, from time to time, of Branch 1-7 of the Plaintiff (the "Branch"), and acquired for, or used in

relation to any businesses, services or enterprises carried on by the Branch including all proceeds thereof.

- (6) An Order that Collins Barrow Toronto Limited maintain and hold the Plaintiff's \$25,000.00 provided to it in trust until further Order of the Court, or written consent of all of the parties in this matter;
- (7) In the alternative, an Order varying the above-mentioned Order made June 20, 2014, an Order that Collins Barrow Toronto Limited post security in the amount of \$1,000,000.00 by September 13, 2014 with the Registrar of the Court in relation to the damages and losses the Plaintiff, The Polish Alliance of Canada and its members, including its Branch 1-7 which currently has no members but has application forms and will have members from time to time, pursuant to the Order of May 27, 2014, may incur due to the acts and omissions which may or have occurred now or in the future;
- (8) An Order directing this motion, if necessary, to be heard on the Masters' Motion List or Motion Judge's Motion List, on an expedited basis, as soon reasonably as this Motion can be heard;
- (9) Costs either as thrown away, or, as, in the discretion of the Court, to be reserved to the Trial Judge; and
- (10) Such further and better Order as this Honourable Court deems just.

THE GROUNDS FOR THIS MOTION ARE:

- (1) Such grounds as will be submitted orally before this Honourable Court by counsel for the Plaintiff, including those grounds that are self evident from the orders required and the supporting Affidavits, and by counsel for the other Parties hereto, whether present or absent;

- (2) The Honourable Trial of an Issue Judge is *functus officio* as appeals and motions for leave to appeal and for stay of the governing orders have been filed, dates for hearing set for September 18, 2014, October 8, 2014, October 23, 2014 and the Order of May 27, 2014 and the Order of June 20, 2014 have both been issued and entered; and
- (3) Such other and further grounds as this Honourable Court may permit.

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

- (1) Pleadings in the proceedings herein;
- (2) The Order made by The Honourable Madam Justice Pollak on May 8, 2009 on her Orders and Endorsements that day on the Plaintiff's Motion for Dismissal of part or all of the Defendants-by-Counterclaim's pleadings, adjourned generally that day until the Defendants, except Richard Rusek who brought no Counterclaim, and the Plaintiffs-by-Counterclaim's Motion to remove the Plaintiff's counsel for conflict of interest and other grounds, then returnable incorrectly to the Judge's Motion List when it should have been brought first before on the Masters' Motion List, was fully and finally resolved, which former Motion is now to be heard on October 8, 2014, since the Defendants and Plaintiffs-by-Counterclaim's Motion of said date was abandoned by necessary implication by the Defendants and Plaintiffs-by-Counterclaim having signed and filed their Consent to the making of the above-mentioned February 21, 2012 Order of The Honourable Mr Justice Colin Campbell, as he then was, made on consent of all the parties to this action and counterclaim herein;

- (3) The Affidavit of Elizabeth Betowski sworn August 28, 2014, and the Exhibits appended thereto; and
- (4) Such further and other material as counsel may advise and present, and this Honourable Court find just and/or appropriate.

August 30, 2014

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Solicitor for Collins Barrow Toronto Limited
Court Appointed Receiver and Manager

AND TO: **Collins Barrow Toronto Limited**
11 King Street West, Suite 700
Toronto, Ontario M9W 6R2

Court Appointed Receiver and Manager

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1

Tab 2

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

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Plaintiff

- and -

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and RICHARD RUSEK**

Defendants

AFFIDAVIT

I, Elizabeth Betowski of the City of Toronto in the Province of Ontario, MAKE OATH AND SAY:

1. I was the corporate representative of the Plaintiff during the trial, so appointed by signed and written resolution of the Head Executive Board of The Polish Alliance of Canada, a non-profit corporation incorporated pursuant to the laws of Ontario under the "Corporations Act in September of 1973, whose head office by its registered documents is in Toronto.¹ ("HEB").²

¹ If you work by the hour, is it a breach of fiduciary duty to waste time? If you work by the result is it a breach of fiduciary duty to achieve next to nothing? If you are not working by time, and not by result, then is it a breach of fiduciary duty to charge for just having fun, when you haven't even figured out, there are no bingo receipts and the building has a bingo sign?

² My email in Exhibit B was written somewhat in haste and unfortunately misspelled "Marek" and what I meant was the Defendant now excluded from membership of Branch 1-7 Marek Miasik. ("EDMM").

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2. I attended every day of the Trial Of The Issue ("TOI") as was my responsibility as the representative of the Plaintiff.
3. To my knowledge, also in attendance from time to time as supporters of the excluded Defendants ("ED") were the following former members of the Plaintiff as set out in a list prepared by the lawyer for the ED during the trial, who at this moment has filed appellate papers³ on behalf of the same ED.
4. I personally saw the interactions during the breaks and during the trial of the attending supporters of the ED, all of whom to the best of my knowledge have not paid membership dues to the Polish Alliance of Canada ("PAC"). These people include those proposed names on the list prepared by counsel for the ED which is attached to this my Affidavit as **Exhibit "N"**.
5. Exhibit "N" is dated August 13, 2014 according to its face.
6. Of the people in Exhibit "N" I recognize Contance Zboch, Krystyna Kowalska, I also heard there was someone named Bernice who I assume to be Bernice Zub and a person with the first name Jadwiga which could be either Danwoody or Jasinski. In addition, there were three other women, two predominantly Polish speaking and one which only used English language. There were some other people coming and going who supported the EDs, but I don't know their names.

³ These include one, notice of appeal, two, appellant's certificate, three, motion for a stay to be heard on September 18, 2014, four, a response to the Plaintiff's Notice of Return of a Motion to strike the EDs' counterclaim, which has been ordered stayed by The Honourable Madam Justice Pollock on May 8, 2009 because of the EDs' motion brought by their counsel at the time, Mr. Romano, until the resolution of Mr. Romano's motion to remove the Plaintiff's solicitor which Mr. Romano abandoned by proposing that this matter be resolved by a TOI which was held before The Honourable F.L. Meyers in March and April 2014; the Plaintiff's Notice of Return of motion to strike the ED's counterclaim and the added-defendants-by-counterclaim.

7. I compared all the names in Mr. Romano's list in Exhibit "N" above with the membership records found by the Receiver Collins Barrow Toronto Limited ("CBTL") at 2282 Lakeshore Boulevard West. From comparison to the existing corporate records of the PAC and such corporate records of the PAC's Branch which since around 1974 has been generally referred to as Grupa Jeden-Siedem⁴, Branch 1, Branch 7, Branch 1-7, but all being understood to the best of my knowledge, and uncontradicted since I have joined the PAC to be anything other than a branch of the PAC. I have compared the membership list provided by CBTL with the membership ledgers provided by CBTL and the corporate records of the PAC which includes a Master Membership Book ("MMB"), financial records as they relate to membership dues and any correspondence between HEB, Branch 1-7 and the other branches.
8. I have done this in my free time and I have not been directly or indirectly paid by the PAC except for out of pocket expenses which is the same for the other Defendants by Counterclaim, however, the other Defendants by Counterclaim, I am not aware of them being ever reimbursed by the PAC for out of pocket expenses such as mileage, parking and other incidentals.
9. From time to time the PAC has compensated me for a significant amount of time I have sacrificed from my business and professional opportunities by paying me small amounts for the translation work I completed on its behalf.

⁴ "Jeden" in Polish has a dual meanings: it means number one and it also means something single; "Siedem" means in Polish the number seven and nothing else, to the best of my knowledge.

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10. In addition, the PAC is responsible for providing my defence litigation expenses as a result of my being added as a personal Defendant by counterclaim by the EDs due to the potential conflict of interest which may arise due to my business relationship to the added Defendant by counterclaim Stanis Gidzinski ("SG").
11. Now shown to me is the Decision of the Honourable Mr. Justice Broad made after trial in Kitchener just shortly before, for three days in February 2014 and completed shortly after in June 2014.
12. SG is now appealing this Decision.⁵
13. The law firm of Gowling LaFleur Henderson LLP ("Gowlings") withdrew from another action in the eve of their summary judgment motion brought before this Honourable Court in Milton just recently. I am advised by the Plaintiff's counsel herein, Mr. P.I. Waldmann, that Gowlings withdrew on the eve of their own Motion for Summary Judgment where they acted for The Toronto Dominion Bank in Court file No. 1549/13.
14. The apparent reason for Gowlings withdrawing was that they had previously acted in the same matter for the defendant Lino Novielli, a factor that was just discovered by the parties on the eve of the Summary Judgment Motion in that case in Milton.

⁵ Attached as Exhibit "O" is SG's letter to my counsel of today with attachments being a draft order and a letter dated August 12, 2014 from Mr. Gary Flaxbard, SG's previous lawyer, who, just before the trial before The Honourable Mr. Justice Broad, was fired by SG; Throughout the five days of trial, SG self-represented. It is my view from knowing SG when he was a member of the HEB until he was asked to resign and the HEB filed a complaint to the Real Estate Council which resulted in a reprimand to SG as a licensed realtor, that SG is not capable of drafting such a Draft Order without the assistance of counsel. I am not aware of what lawyer SG is now consulting, but before ending the retainer of Mr. Flaxbard, SG had four previous lawyers of record. Also, in Exhibit "O" is a copy of SG's Appellant's Factum: See paragraph 5 of same.

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15. In this case, SG is a previous client of Gowlings as well as being an added Defendant by Counterclaim.
16. The Plaintiff's counsel herein has requested a number of times to receive assurances from CBTL that they would not be adding Gowlings' account as a disbursement.
17. To the best of my knowledge, and after the preliminary review of the Receiver's Motion Record served recently in two volumes the Receiver has not answered the PAC's inquiry as to whether or not it would be adding Gowlings' bill to the PAC's invoices. I noticed some charges for the Receiver's time spent on consultations with Gowlings charged to the PAC. To the best of my knowledge the Receiver is seeking payment of approximately \$98,000.00 from June 20, 2014 to date.
18. I have reviewed all of the other Exhibits from "A" to "R" in this my Affidavit and all of these indicate that, in my view, the Receiver is not acting completely without impartiality, could be acting negligently, could be in breach of either the Order made on June 20, 2014, or in breach of its fiduciary responsibilities, or in breach of trust, churning the account to increase its fees, and it not behaving fairly as between the Plaintiff and the ED.
19. The Receiver allowed the ED who have no right to be in the 2282 Lakeshore Building, and other people such as Richard Rusak to attend the premises.
20. The PAC has commenced a new action against Richard Rusak partially on the basis of the facts disclosed in the testimony of the Defendant Richard Rusak who was a witness

but not a party to the TOI and who gave the PAC testimonial confession of facts of which the PAC was not earlier aware.

21. Furthermore, the Receiver retained services of Mr. Miasik, Mrs. Miasik as administrators of the Polish Association of Toronto Limited.
22. Based on the Receiver's invoices, the Miasiks are paid \$1,500.00 per month. And the cheques are issued to ED Maria Miasik.
23. In addition to the above, and to the best of my recollection, the Receiver charged for the time to attend the property when Mr. Miasik removed what the receiver described as personal possession but did not either list or identify the items.
24. Twice I saw the ED Marek Miasik on the property and twice I saw his car in addition parked in the property while driving by the property, since my business partner lives in New Toronto. There were no other cars on the parking lot indicating the presence the presence of the Receiver at the same time.
25. It is unclear to the members of the HEB and the PAC whether or not the Receiver is wasting time by doing unnecessary tasks for which Mrs. Miasik is being paid amounts in breach its fiduciary duty, or whether the conflicts which appear to exist, which I have described above should amount to a breach of fiduciary duty on the part of the Receiver or a breach of the Order of June 20, 2014 of This Honourable Court.
26. A numbers of the members of the HEB have contacted me, they include Elizabeth Gazda of Branch 17 and Jerzy Roszak of Branch 95, and expressed concern regarding Mr. and

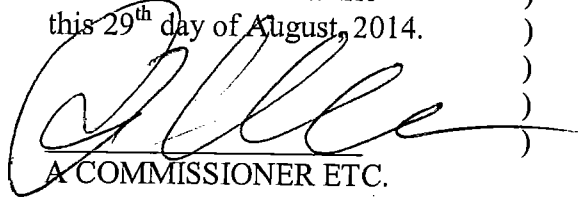
12

Mrs. Miasek attendance at the property, and a number of statements which they advised me and I believe are true, including that Mr. and Mrs. Miasek still have access to the property and are still in charge.

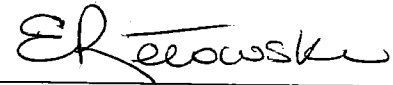
27. As a result, the HEB has authorized the preparation of an accountant's draft report, a copy of which is attached as **Exhibit "Q"**.

28. This Affidavit is sworn for no improper purpose.

SWORN BEFORE ME)
in the City of Toronto,)
in the Province of Ontario)
this 29th day of August, 2014.)



A COMMISSIONER ETC.
(Peter I. Waldmann)



Elizabeth Betowski

Tab A

This is Exhibit "A"
to the Affidavit of Elimar Betsoski
sworn this 27th day of Aug, 2014

Court File No. CV-08-361644

[Signature]
Commissioner for Affidavits

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE
MR. JUSTICE F. MYERS

)
)
)
)
FRIDAY THE 20th
DAY OF JUNE 2014

BETWEEN:

THE POLISH ALLIANCE OF CANADA

Plaintiff

- and -

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and RICHARD RUSEK

Defendants

ORDER
(appointing receiver)

THIS MOTION made by the plaintiff for an order pursuant to the reasons for decision of the Honourable Mr. Justice F. Myers released May 27, 2014, appointing Collins Barrow Toronto Limited as receiver and manager (in such capacities, the "Receiver) without security, of all of the assets, undertakings and properties of Branch 1-7 of the Polish Alliance of Canada and Polish Association of Toronto, Limited (the "Branch and Corporate Defendant") acquired for, or used in relation to the businesses, services and enterprises carried on by the Branch and Corporate Defendant, was heard this day at 361 University Avenue, Toronto, Ontario.

ON READING the affidavit of Janusz Sajna sworn June 18, 2014 and the Exhibits thereto and on reading the affidavit of Marianne Rabczak sworn July 19, 2014 and on hearing the submissions of counsel for the plaintiff and for the defendants, and on reading the consent of Collins Barrow Toronto Limited to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to Rule 60.02(1)(d) and section 101 of the *Courts of Justice Act* and the order of the Honourable Justice F. Myers made May 27, 2014, Collins Barrow Toronto Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Branch and the Corporate Defendant^{6/} acquired for, or used in relation to any businesses, services or enterprises carried on by the Branch and Corporate Defendant, including all proceeds thereof (the "Property").

RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of the locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business, services or enterprise of the Branch and Corporate Defendant, including the power to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or part of the business, or cease to carry on all or any part of the business, or cease to perform any contracts of the Branch of the Corporate Defendant;
- (d) to engage consultants, property managers, agents, counsel and such other persons from time to time on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such inventories, supplies, premises or other assets to continue the business, services or enterprises of the Branch and Corporate Defendant or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing in respect of the Property and to exercise all remedies of the Branch or Corporate Defendant in collecting such monies, including, without limitation, to enforce any security held by the Branch of Corporate Defendant;

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- (g) to execute, assign, issue and endorse documents of whatever nature in respect of any Property, whether in the Receiver's name or in the name and on behalf of the Branch or Corporate Defendant, for any purpose pursuant to this Order;
- (h) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to any of the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (i) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property; and
- (j) to take any steps reasonable incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorised and empowered to do so, to the exclusion of other persons (as defined below), including the Branch or Corporate Defendant, and without interference from any other person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Branch and Corporate Defendant, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any matters relating to the Property in such Person's possession or control, shall grant immediate and continued access to the Property

to the Receiver, and shall deliver all such matters relating to the Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the 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 Property, and any computer programs, computer tapes, computer disks, or any 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 Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, providing however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may or may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions such disclosure.
6. 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 Receiver for the purpose of allowing the 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 Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE 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 Receiver except with the written consent of the Receiver or with leave of this Court.

NO INTERFERENCE WITH THE RECEIVER

8. 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, license or permit in favour of or held by the Branch or Corporate Defendant in respect of the Property, without written consent of the Receiver or with leave of this Court.

CONTINUATION OF SERVICES

9. THIS COURT ORDERS that all Persons having oral or written agreements with the Branch or Corporate Defendant or statutory or regulatory mandates for the supply of goods and/or services to the Property, including without limitation, and computer software, communication and other data services, centralised banking services, payroll services, insurance, transportation services, utility or other services to the Branch or Corporate Defendant 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 Receiver, and that the Receiver shall be entitled to the continued use of the Branch or Corporate Defendant's 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 Receiver in accordance with normal payment practices of the Branch or Corporate Defendant or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

10. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

11. THIS COURT ORDERS that all employees of the Branch or Corporate Defendant shall remain employees of the Branch or Corporate Defendant until such time as the Receiver, on the Branch or Corporate Defendant's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including and successor employee liabilities as provided in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.14(5) or 81.6(3) or under the *Wage Earner Protection Program Act*.

PIPEDA

12. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or

required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchase or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Branch or Corporate Defendant, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

13. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conversation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

14. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out of 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 Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

15. THIS COURT ORDERS that the Receiver and counsel to the 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 Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "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 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.
16. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Superior Court of Justice.
17. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

18. THIS COURT ORDERS that prior to the commencement of the Receiver's appointment, and by no later than June 24, 2014, the Plaintiff shall provide a retainer of \$25,000.00 plus H.S.T. to the Receiver to be held by the Receiver to be applied against its final account. The Receiver shall render accounts to the Plaintiff and Defendant on a regular basis and shall forthwith pay such accounts upon receipt. In the event that the Receiver is of the view that its unpaid invoices and Work-in-Progress will exceed \$25,000.00, the Receiver shall be at liberty to apply to the Court for its discharge.
19. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$15,000.00 (or such greater amount as this Court may by further Order authorise) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowing Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in ^{✓✓✓} favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 18.4(4) and 81.6(2) of the BIA.
20. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
21. THIS COURT ORDERS that the Receiver is at liberty and authorised to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

22. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.
23. THIS COURT ORDERS that the 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 email, ordinary mail, courier, personal delivery or facsimile transmission to the Branch and Corporate Defendant's creditors or other interested parties at their respective addresses as last shown on the records of the Branch and Corporate Defendant 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

24. THIS COURT ORDERS that the Receiver and anyone affected by the execution or proposed execution of the Receiver's powers may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
25. 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 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

26. 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 Receiver and to any other party likely to be affected by the order sought or upon such notice, if any, as this Court may order.

C. Chisa

ENTRÉ EN VIGUEUR À TORONTO
ON 15 2014
LE / DANS LE REGISTRE NO.

AUG 28 2014

C. CHISA
REGISTRAR, SUPERIOR COURT OF JUSTICE
GREFFIER ADJOINT, COUR SUPÉRIEURE DE JUSTICE

330 UNIVERSITY AVE. 330 AVE. UNIVERSITY
7TH FLOOR 7E ÉTAGE
TORONTO, ONTARIO TORONTO, ONTARIO
M5G 1R7 M5G 1R7

24

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

1. THIS IS TO CERTIFY that Collins Barrow Toronto Limited, the receiver (the "Receiver") of the assets, undertakings and properties of the Branch or Corporate Defendant acquired for, or used in relation to any business, services or enterprises carried on by the Branch or Corporate Defendant, appointed by Order of the Ontario Superior Court of Justice Superior Court dated the 20 day of June, 2014 (the "Order") made in an action having Court file number CV-08-361644.
2. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
3. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
4. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20__.

Collins Barrow Toronto Limited], solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____
Name: Daniel Weisz
Title: Vice Preseident

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SCHEDULE "B"

THIS COURT ORDERS THAT Wladyslaw Rabczak, Marianne Rabczak, Marlene Matyszczuk, Teresa Skibicki and anyone with knowledge of this order are prohibited from holding any meeting or a purported meeting of the members of Branch 1-7 of the Polish Alliance of Canada and from conducting or purporting to conduct any election of the executive of Branch 1-7 of the Polish Alliance of Canada.

THIS COURT ORDERS that despite anything in this Order, Mr. Bernie Romano may retain possession of all Property that is currently in his possession on his undertaking to turn such material over to the Receiver or Branch 1-7 of the Polish Alliance of Canada upon the time for appeal from the Order of Justice F. Myers dated May 27, 2014 expiring without an appeal being brought or, if an appeal I brought, to deal with such Property as may be finally directed by the appellate court(s). In the event that the Receiver wishes access to any Property in Mr. Romano's possession, the Receiver and Mr. Romano shall find a cooperative resolution or either may move for directions.

THE POLISH ALLIANCE OF CANADA

and
PLAINTIFF

POLISH ASSOCIATION OF TORONTO LIMITED, E.I. AL.
DEFENDANTS

(Short title of proceeding)

Court file no. CV 08-361644

ONTARIO SUPERIOR
COURT OF JUSTICE

Proceeding commenced at Toronto

ORDER (Appointing receiver)

Name, address and telephone number of solicitor or party

Peter I. Waldmann [LSUC # 23289M]

Barrister and Solicitor

183 Augusta Avenue

Toronto, Ontario M5T 2L4

tel: (416) 921-3185

fax: (416) 921-3183

Lawyer for the Plaintiff.

The Polish Alliance of Canada

27

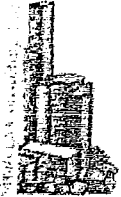
3

Tab B

Peter Waldmann

From: Ms Elizabeth E. Betowski [elizabeth@strategaconsulding.ca]
Sent: Thursday, August 28, 2014 9:27 AM
To: Peter Waldmann
Cc: Robert Zawierucha; Stanislaw Iwanicki; Henryk Kaliszewski; Teresa Szramek
Subject: Re: Our File PAC/CASE E re FW: 2282 Lakeshore Blvd West on 140827 @ 7pm - parked cars

Ford Pick up Truck Plate ZZ8 150 belongs to Mark Miasik



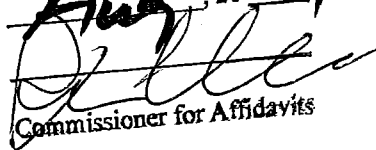
Elizabeth Betowski, Principal
Stratega Consulting Ltd.
c: 416 410-8489

www.strategaconsulding.ca

This communication is intended solely for the named addressee(s) and may contain information that is privileged, confidential, protected or otherwise exempt from disclosure. No waiver of confidence, privilege, protection or otherwise is made. If you are not the intended recipient of this communication, please advise us immediately and delete this email without reading, copying or forwarding it to anyone.

On Aug 28, 2014, at 7:35 AM, Peter Waldmann <peter@peteriwaldmann.com> wrote:

<Memo - Polish Cultural Centre.pdf>

This is Exhibit "B"
to the Affidavit of
Elizabeth Betowski
sworn this 29th day of
Aug, 2014

Commissioner for Affidavits

Tab C

Peter Waldmann

From: Lisa Bleiwas [lbleiwas@torkinmanes.com]
Sent: Thursday, August 28, 2014 2:56 PM
To: Peter Waldmann
Subject: Automatic reply: Go forward involvement

Thank you for your e-mail. Please be advised that I will be away from the office from August 25th to September 2nd, with limited access to e-mail.

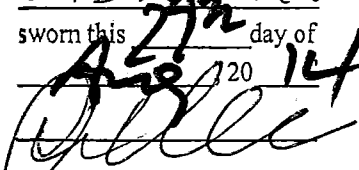
If this is an urgent matter, please contact our receptionist at (416)863-1188. Otherwise, I will reply to your message upon my return.

Thank you.

Lisa Bleiwas
Legal Assistant to Valerie A. Edwards and Jonathan Levy
Direct Tel: 416 863 1220 Ext. 206
lbleiwas@torkinmanes.com

Torkin Manes LLP
Barristers & Solicitors
151 Yonge Street, Suite 1500
Toronto ON M5C 2W7
Tel: 416 863 1188
Fax: 416 863 0305
www.torkinmanes.com<<http://www.torkinmanes.com>>

NOTE: This e-mail message, and any attachments, is intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you have received this message in error, or are not the named recipient(s), please immediately notify the sender and delete this e-mail message. Thank you.

This is Exhibit "C"
to the Affidavit of
Elizabeth Betowski
sworn this 27th day of
Aug 2014

Commissioner for Affidavits

Tab D

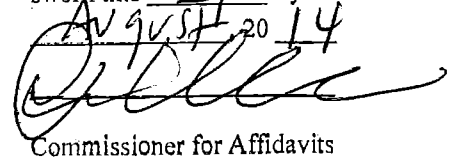
Peter Waldmann

From: lawsociety@lsbc.org
Sent: Thursday, August 28, 2014 6:54 PM
To: Peter Waldmann
Subject: Fraud alert: Real estate firm's licence suspended, receiver appointed

****Please do not reply to this message. If you cannot properly receive HTML e-mails, go to:
http://www.lawsociety.bc.ca/apps/broadcast/ntp.cfm?msg_id=934&capvalue=exxua to view this message. Please add lawsociety@lsbc.org to your address book or to your safe list in your mail settings to ensure delivery to your Inbox.

Notice to the Profession

This is Exhibit " D "
to the Affidavit of
Elizabeth Betowski
sworn this 29 day of
August, 2014



Commissioner for Affidavits

Fraud alert

Real estate firm's licence suspended and receiver appointed

The Real Estate Council of BC (RECBC) has suspended the licence of 8th Avenue Elite Realty Ltd., dba 8th Avenue Elite Realty ("Elite") in Surrey, and has frozen its bank accounts. The RECBC says it suspended Elite's licence in the public interest, as a result of the failure of the firm to account for trust monies held on behalf of clients.



D. Manning & Associates Inc. was appointed receiver on August 27, 2014 by order of the Supreme Court of British Columbia. Lawyers may contact William Choo at wc@manning-trustee.com or 604.683.8030 with any enquiries relating to money due to Elite or its agents. New bank accounts in the name of the court-ordered receiver, D. Manning and Associates Inc., have been opened.

Questions or concerns about money received or due from Elite to complete the closing of transactions should be directed to Angie Smith, Senior Compliance Officer at the RECBC, at asmith@recbc.ca or 604.683.9664.

For any other questions, lawyers may contact a Law Society practice advisor.

Does your contact information need updating? Three ways to update your information:
1. **Online:** <http://www.lawsociety.bc.ca/apps/members/login.cfm> (Currently, only your email address and email choices can be updated online. You will need to know your password to log in.)
2. **Email:** memberinfo@lsbc.org
3. **Phone:** 604-605-5311

*** Lawyer under fire after \$15M in condo deposits goes missing

Monday, 25 August 2014 08:00 | Written By Yamri Taddese |  | 

21

As a Toronto lawyer is facing a Law Society of Upper Canada investigation over \$15 million in buyers' missing property deposit fees after she transferred the money to the developer even though the transactions hadn't closed and the project wasn't complete.

Tweet

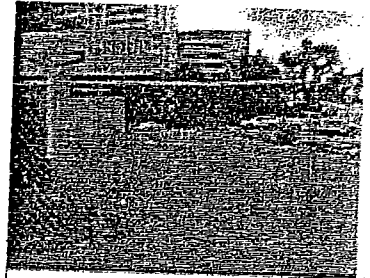
Share

49

Lawyer Meerai Cho had received about \$14.9 million in trust from purchasers of condo units in the Centrium condominium project at 5220 Yonge St. in Toronto. But with the project now cancelled, the deposit money is missing after Cho paid it to her client, the developer of the condo project, in what she says was a mistake due to her inexperience.

Share

In response to the law society's motion to suspend her licence while it investigates the matter, Cho said she had never represented a builder before the Centrium project and never held trust funds that didn't belong to her clients. When the Centrium developer, Joseph Lee, started asking her to transfer the deposit fees to him in November 2010, she believed he had authority to instruct her to do so, her lawyer, Bill Trudell, wrote in a response filed in the law



The building at 5220 Yonge St. is at the heart of concerns about \$15 million in missing deposits.

society case.

Cho believes Lee is now in Korea. She said he first told her to transfer the deposit monies to him because the purchasers had defaulted on their payments but he later said he needed the funds to complete the project. A new developer took over the project in October 2013.

By then, Cho had transferred essentially all of the deposit funds to Lee even though the project wasn't yet complete. Cho "attributes this failure to her lack of experience and her desire to see the project proceed to a successful completion, at which time she believed all the transactions would close and credit would be given for the deposits," Trudell wrote in the response.

Cho, who's 63, graduated from law school at the age of 50 and the Centrium project was "by far the biggest project on which Ms. Cho had worked," Trudell noted.

"Ms. Cho simply made a mistake," he added. "She did not keep any of the money for herself. She has been let down, if not misled, by a client with whom she had an ongoing professional relationship."

The purchasers, meanwhile, aren't buying that story. "I will never, ever believe she just [transferred] our deposit to the builder who's in Korea in error," says Cheng-Sen Ho, one of the purchasers of the commercial units in the building.

"I do not know what the deal [is] between Meerai Cho and the builder Joseph Lee, but Meerai as a professional lawyer should know the deposit should stay in her trust account until the project is done," adds Ho.

Another purchaser, Vivian Wong, says she and her sister are out \$90,000 after paying that amount in deposit for two commercial units in the building. Recently, Wong says she received a letter in the mail indicating Cho had filed for bankruptcy.

"I think my money is gone," says Wong, who says she's looking to hire a lawyer to help her recover her cash.

"It's very hard to make that money."

According to the sworn affidavit of the law society's forensic auditor, Ken Doering, there are currently four or five civil lawsuits against Cho by purchasers who want their money back with 40 other lawsuits threatened.

Doering's affidavit noted that according to Cho's version of the story, Lee had originally retained Brattys LLP to carry out the legal work for the project. Later, Lee approached Cho to say he'd like her to do work on the commercial units of the building while Brattys took care of the residential component. But he soon told her she would handle the purchase of residential units as well.

"Based on my review of the lawyer's client trust ledgers for the project, I believe that she received deposits of approximately \$3.1 million for residential units, \$8.6 million for commercial units, and \$3.2 million for hotel units for a total of approximately \$14.9 million," Doering wrote.

There's currently just \$10,000 left in Cho's trust account, according to Doering. In July, a Superior Court judge ordered an injunction against all bank accounts held by Cho.

The court also ordered an inspection into charges Cho granted against her home in favour of a person she described as a longtime friend who had lent her a substantial amount of money.

"The house mortgage has nothing to do with this issue," says Trudell. He adds his client has been co-operating fully with the law society's investigation and wants the best outcome for the purchasers.

In her affidavit, Cho said Lee hadn't paid her anything for three years "despite spending hundreds of hours working on the files related to the project."

Meanwhile, police say they've launched a fraud investigation after a number of purchasers went to them with complaints. Toronto police Const. Chris Bennoch tells Law Times the investigation is in its infancy. He has received complaints from about eight people so far and says he's in the process of organizing their complaints.

"I have a lot of initial contracts in front of me that people signed and copies of cheques. Outside of that, not much else," he says. "I'm in the evidence-gathering stage. It's difficult to provide any details."

Bennoch notes someone new calls him every day to say they're part of the wronged group. The case "could get pretty big, so I want to organize it early," he adds.

On Aug. 26, the law society will seek to suspend Cho's licence to practise law on an interlocutory basis.

"There are reasonable grounds to believe that there is a significant risk of harm to members of the public and to the public interest in the administration of justice if an interlocutory order is not made suspending or restricting the licence to practice of Meerai Cho," reads the notice of motion penned law society discipline counsel Ian Godfrey.

Cho didn't return a call from *Law Times*. A secretary who answered the phone said she was out of the office.

According to Cho's law society submission, she has contacted Lee "on a number of occasions" to have the deposits returned to the buyers. "Mr. Lee has advised Ms. Cho, and intimated to counsel, that the money is forthcoming."

Comments

Philip Brent 2014-08-25 15:34

+7

The LSUC would be a "significant risk to the public" if it did not suspend this lawyers licence. I suspect that there is more to this than "inexperience". This naive explanation, coupled with Canada's almost non-existent punishment for white collar crime, would suggest sophisticated fraud. With the developer and presumably the money, now in Korea, there is probably nothing to be squeezed out of Ms. Cho and the purchasers are left in the wind.

Reply | Reply with quote | Quote

Gail Nichoills 2014-08-26 10:47

+9

If this woman is not disbarred for fraudulent activity, she should be disbarred for stupidity.

Reply | Reply with quote | Quote

Eduard Literate 2014-08-27 15:09

+2

This is the unfortunate result a system that allows anyone with a law degree and a call to the bar to hold themselves out as a Subject Matter Expert.

The LSUC should never allow a sole practitioner who is primarily a legal aid referral lawyer to collect ANY real estate trust funds (or any trust funds, for that matter). Just having a law degree should never entitle a person to be in a position to disburse millions of dollars without any oversight. This is purely a systemic issue.

It is pure hubris to think that we are both "barristers & solicitors". We need to impose reasonable limits, restrictions and rules to prevent this from happening again. Because it will happen again without the LSUC taking action.

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●●● Lawyer under fire after \$15M in condo deposits goes missing

Monday, 25 August 2014 08:00 | Written By Yamri Taddese

As a Toronto lawyer is facing a Law Society of Upper Canada investigation over \$15 million in buyers' missing property deposit fees after she transferred the money to the developer even though the transactions hadn't closed and the project wasn't complete.

Lawyer Meera Cho had received about \$14.9 million in trust from purchasers of condo units in the Centrium condominium project at 5220 Yonge St. in Toronto. But with the project now cancelled, the deposit money is missing after Cho paid it to her client, the developer of the condo project, in what she says was a mistake due to her inexperience.

In response to the law society's motion to suspend her licence while it investigates the matter, Cho said she had never represented a builder before the Centrium project and never held trust funds that didn't belong to her clients. When the Centrium developer, Joseph Lee, started asking her to transfer the deposit fees to him in November 2010, she believed he had authority to instruct her to do so, her lawyer, Bill Trudell, wrote in a response filed in the law society case.

Cho believes Lee is now in Korea. She said he first told her to transfer the deposit monies to him because the purchasers had defaulted on their payments but he later said he needed the funds to complete the project. A new developer took over the project in October 2013.

By then, Cho had transferred essentially all of the deposit funds to Lee even though the project wasn't yet complete. Cho "attributes this failure to her lack of experience and her desire to see the project proceed to a successful completion, at which time she believed all the transactions would close and credit would be given for the deposits," Trudell wrote in the response.

Cho, who's 63, graduated from law school at the age of 50 and the Centrium project was "by far the biggest project on which Ms. Cho had worked," Trudell noted.

"Ms. Cho simply made a mistake," he added. "She did not keep any of the money for herself. She has been let down, if not misled, by a client with whom she had an ongoing professional relationship."

The purchasers, meanwhile, aren't buying that story. "I will never, ever believe she just [transferred] our deposit to the builder who's in Korea in error," says Cheng-Sen Ho, one of the purchasers of the commercial units in the building.

"I do not know what the deal [is] between Meera Cho and the builder Joseph Lee, but Meera as a professional lawyer should know the deposit should stay in her trust account until the project is done," adds Ho.

Another purchaser, Vivian Wong, says she and her sister are out \$90,000 after paying that amount in deposit for two commercial units in the building. Recently, Wong says she received a letter in the mail indicating Cho had filed for bankruptcy.

"I think my money is gone," says Wong, who says she's looking to hire a lawyer to help her recover her cash.

"It's very hard to make that money."

According to the sworn affidavit of the law society's forensic auditor, Ken Doering, there are currently four or five civil lawsuits against Cho by purchasers who want their money back with 40 other lawsuits threatened.

Doering's affidavit noted that according to Cho's version of the story, Lee had originally retained Brattys LLP to carry out the legal work for the project. Later, Lee approached Cho to say he'd like her to do work on the commercial units of the building while Brattys took care of the residential component. But he soon told her she would handle the purchase of residential units as well.

"Based on my review of the lawyer's client trust ledgers for the project, I believe that she received deposits of approximately \$3.1 million for residential units, \$8.6 million for commercial units, and \$3.2 million for hotel units for a total of approximately \$14.9 million," Doering wrote.

There's currently just \$10,000 left in Cho's trust account, according to Doering. In July, a Superior Court judge ordered



The building at 5220 Yonge St. is at the heart of concerns about \$15 million in missing deposits.

an injunction against all bank accounts held by Cho.

The court also ordered an inspection into charges Cho granted against her home in favour of a person she described as longtime friend who had lent her a substantial amount of money.

"The house mortgage has nothing to do with this issue," says Trudell. He adds his client has been co-operating fully with the law society's investigation and wants the best outcome for the purchasers.

In her affidavit, Cho said Lee hadn't paid her anything for three years "despite spending hundreds of hours working on the files related to the project."

Meanwhile, police say they've launched a fraud investigation after a number of purchasers went to them with complaints. Toronto police Const. Chris Bennoch tells Law Times the investigation is in its infancy. He has received complaints from about eight people so far and says he's in the process of organizing their complaints.

"I have a lot of initial contracts in front of me that people signed and copies of cheques. Outside of that, not much else," he says. "I'm in the evidence-gathering stage. It's difficult to provide any details."

Bennoch notes someone new calls him every day to say they're part of the wronged group. The case "could get pretty big, so I want to organize it early," he adds.

On Aug. 26, the law society will seek to suspend Cho's licence to practise law on an interlocutory basis.

"There are reasonable grounds to believe that there is a significant risk of harm to members of the public and to the public interest in the administration of justice if an interlocutory order is not made suspending or restricting the licence to practice of Meerai Cho," reads the notice of motion penned law society discipline counsel Ian Godfrey.

Cho didn't return a call from *Law Times*. A secretary who answered the phone said she was out of the office.

According to Cho's law society submission, she has contacted Lee "on a number of occasions" to have the deposits returned to the buyers. "Mr. Lee has advised Ms. Cho, and intimated to counsel, that the money is forthcoming."



Tab E

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Written by Stephen Mabey

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Dr. Larry Richard, seen by many as an



Heard about the high margins a...

2:59:52 PM

2/28/2014

This is Exhibit " E " to the Affidavit of Elizabeth Betawski sworn this 29th day of Aug 2014

 Commissioner for Affidavits

...expert on the personality profile of lawyers, has pointed out the following characteristics of lawyers in the past:

- very skeptical;
- disproportionately high degree of negative thinking;
- low in sociability;
- low in interpersonal sensitivity;
- low in resilience;
- high in urgency; and,
- very autonomous.

But let's move on from their traits for now and talk about "margins." When clients and other for-profit companies talk about net income before income tax they are speaking of a number after which the salary and bonus pay for all of the executive team has been deducted. This is unlike a law firm, where when the partners talk about net income it is an amount before they have paid themselves anything.

To put it on comparable footing, the law firm would have to treat partners' income distributions as salary and then compare the return on revenue after the distributions had been deducted.

While I recognize that exceptions would exist, the vast majority of law firms' return on revenue would be worse than for-profit companies.

To some degree driven by the income tax treatment of partnerships, there is the high need/demand to pay out all of the earnings sooner rather than later. Paying income tax on monies not received is a very difficult sell to partners at the best of times and when for investing in innovations, the results of which cannot be guaranteed, nigh impossible.

The money companies leave on the table is for re-investing in innovation (competitive edge) and creating a return for their shareholders. The return many investors weigh on evaluating companies to invest in is the combination of the return (dividends) and the appreciation in the share value.

If a company is not earning a return other than just appreciation in share value, its attraction as an investment is diminished. It is further diminished if potential investors don't see there being any incentive tied to the company's results for management to take it beyond expected results.

So in order to make investing in a law firm generally attractive to non-lawyer investors the following are a few of the compensation changes that would have to occur.

1. Salaries would have to be assigned to each partner that would obviously be less than their current draw;
2. A bonus plan would have to be embraced that did not guarantee further income to all former partners but to only those qualifying under the bonus plan and that the proceeds under the plan may not be solely cash but could include warrants and options for additional shares in the company; and,
3. Partners would receive part of what they formerly received in cash through a combination of appreciation in the value of the shares and dividends.

For sure the lawyers would have to understand and accept that their combined actual cash flow under all three aspects of the compensation arrangement would not equal their former drawings but for sure any cash-tax difference would be minimized and they would have the potential upside of appreciation in the shares held.

An almost equally daunting challenge would be the required switch in mindset from partner to shareholder. There will be a required change in how things are done and more importantly who makes the final call, which will fly in the face of what partners have come to feel entitled to as owners.

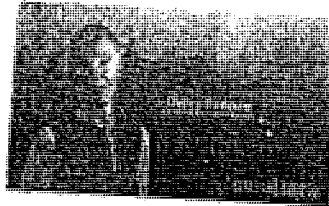
I would have you reflect back on the seven traits identified at the start of the column and ask you to think about the alignment of these traits with those that would be required to make an investment in a law firm by non-lawyers even thinkable.

That is not to say it is impossible. Slater & Gordon, the first law firm to go public in April 2007 in Australia, had an initial share offering of AUS \$1 a share and recently traded at AUS \$5.75 at the close of the Australian Exchange on Aug. 15. It is paying a dividend this quarter of AUS \$0.05 for a yield of 1.39 per cent. I



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would be remiss if I did not point out that its board just designated one million shares for distribution to employees under a profit-sharing arrangement.

A note of caution, however, Slater & Gordon is a litigation boutique that takes on class actions against corporations, the funding of which would make it ripe to align with non-traditional funding provided by non-lawyer ownership.

The other categories that seem to be most prevalent in the take-up of alternative business structures include "law firms wanting non-lawyers to be partners; accountancy firms providing legal services; property one-stop shops; legal and other experts working together to address particular business challenges; and virtual firms with lawyers working from client premises," according to an August *UK Managing Partner Firm Weekly Briefing*. You will note an absence of general service firms in the preceding list.

One of the recommendations (No. 5) contained in the recently released CBA Futures report titled *Futures: Transforming the delivery of legal services in Canada* if approved may have more immediate impact on a broader stratum of the Canadian legal market. That change would, within some reasonable parameters, permit fee-sharing with non-lawyers and paying referral fees to non-lawyers.

I would speculate that this would remove the final hurdle to law firms utilizing both internal and external "sales forces" to generate work. One hopeful outcome would be better client service by finally providing some economic incentive for the pushing of work out to firms that can handle the particular matters by lawyers and firms that cannot.

Until next month, as George Soros is quoted as having said: "It is much easier to put existing resources to better use, than to develop resources where they do not exist."

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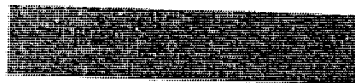
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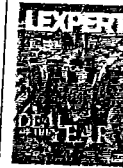
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Stephen Mabey

Stephen Mabey, is managing director of Applied Strategies, Inc. which has a long-term contract to provide the chief operating officer function to Atlantic Canada law firm Stewart McKelvey. As well, Applied Strategies works with only small to mid-sized law firms outside of Atlantic Canada providing strategic tactics planning, crisis management, organizational development, financial analysis, and private coaching to lawyers involved in law-firm management. He has written articles on law firm management that have been published in various legal industry periodicals.

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Tab F

Corporate Update
Theresa L.M. Man

Canada Not-for-Profit Corporations Act

The number of corporations incorporated under Part II of the *Canada Corporations Act* (CCA) that have continued under the new *Canada Not-for-profit Corporations Act* (CNCA) grew from 3795 at the end of April to 4175 at the end of May. This still leaves 12,825, i.e., 75%, of approximately 17,000 corporations that have not continued. Failure to continue under by the deadline may result in those corporations being dissolved. However, dissolution is not automatic. See *Charity Law Bulletin* No. 336 (<http://www.carters.ca/pub/bulletin/charity/2014/chylb336.pdf>) for an overview of the dissolution process and how to revive such dissolved corporations.

Corporations Canada continues to actively remind Part II CCA corporations of the need to continue by the deadline. With less than four months left before the deadline, time is fast running out to complete the continuance process, let alone time to hold two separate meetings to collapse membership classes in order to avoid class approval. As well, registered charities that want to revise their corporate objects may want to consider first continuing using the same objects and then revising the objects afterwards.

This is Exhibit " F "

to the Affidavit of Elizabeth Betowski

sworn this 29th day of

2014

Commissioner for Affidavits

Tab G

PETER I. WALDMANN
BARRISTER & SOLICITOR
member of the British Columbia, Ontario, USCA (11th Cir.) and New York Bars
Peter I. Waldmann Professional Corporation

183 Augusta Avenue
TORONTO, Ontario
CANADA M5T 2L4
Email: peter@peteriwaldmann.com
TEL: (416) 921-3185
FAX: (416) 921-3183

Memorandum

File: PAC/CASE E

TO: Peter I. Waldmann
FROM: Matthew Armstrong
RE: Assignment due Thursday, August 28, 2014 at 5:00 p.m.

Date: August 27, 2014

This is Exhibit "G"
to the Affidavit of
Elizabeth Betowski,
sworn this 27th day of
August, 2014
[Signature]
Commissioner for Affidavits

Removal of a Trustee

Welfare of the Beneficiaries Test

The governing principle on which Canadian courts have relied to determine whether or not a trustee should be removed is the welfare of the beneficiaries. This principle was established in the case of *Letterstedt v. Broers*¹, where Lord Blackburn stated that the "main guide must be the welfare of the beneficiaries."

Professor Waters, in his seminal text on the law of trust in Canada, makes the following comments with respect to this principle: the law of trust in Canada, in reference to Lord Blackburn's guidelines, states that if it is clear that the continuance of the trustee would be detrimental to the execution of the trust, and on request he refuses to retire without any reasonable ground for his refusal, the court might then consider it proper to remove him. Lord Blackburn went on to hold that the acts or omissions must be such as to endanger the trust property, or to show a want of honesty, or a want of proper capacity to execute the duties, or a want of reasonable fidelity.²

Applying the test of the welfare of the beneficiaries, the courts have refused to remove trustees who have made isolated mistakes in the execution of their duties. In *National Hockey League Pension Society* (1991), the court approved the words of Lord Blackburn in *Letterstedt v. Broers* that a trustee's mistake or neglect of duty, or inaccuracy of calculation, or a want of honesty, or a want of proper capacity of Equity to adopt such a course. The acts or omissions must be such as to endanger the trust property, or to show a want of honesty, or a want of proper capacity to execute the duties, or a want of reasonable fidelity.

Professor Waters elaborates on the welfare of the beneficiaries test as follows:

RBC Royal Bank
[Signature]
EX B

¹ (1884), (1883-84) L.R. 9 App. Cas. 371 (South Africa)
² D.W.M. Waters, *Law of Trusts in Canada*, 3rd ed. (Toronto: Carswell, 1994) at 643 at 57.

Margaret Andrade
Mortgage Specialist
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margaret.andrade@rbc.com

dishonesty or negligence cannot be established, the failings must show an "incapacity" to execute the trustee's duties. The crucial factor would be whether the trust and the beneficiaries are suffering as a result of this "incapacity". Waters goes on to explain that it is clear from the jurisprudence that it is hard to dislodge a trustee whose act or acts were honest, believed to be in the best interests of all, and who was not partial.⁴

Hostility

Lord Blackburn's holding and Professor Waters' comments thereon were specifically noted with approval by Tulloch J. in *Oldfield v. Hewson*.⁵ Tulloch J. went on to hold that the hostility between the trustee and the beneficiary alone was sufficient, in that case, to justify the removal of the trustee even if there was no malfeasance on the part of the trustee, since his continuance as a trustee, in this case, would be detrimental to the execution of the trusts.

Disagreement, friction or hostility between the trustees and the beneficiaries had typically not been found to be grounds from removing the trustee as noted by Professor Waters. The mere desire of some or all of the beneficiaries to remove the trustee is not enough.⁶ However, the recent decision in *Oldfield v. Hewson* provides an example of the court ruling that hostility is sufficient grounds from the removal of a trustee. Tulloch J. in *Oldfield v. Hewson* relied on *Davis, Re*⁷ and notes that the Ontario Court of Appeal held that, regardless of the causes of hostility between the trustee and the beneficiaries, the existence of hostility in and of itself impaired the relationship such that it was appropriate to remove and replace the trustee.

Discretion

The trustee's power also reflects a discretionary aspect, and the courts have consistently refused to interfere with a trustee's *bona fide* exercise of discretion. What the trustee is required to do is to put his mind to the matter in question, and, if he then makes the kind of decision which an honest and attentive person could have made, the court will not agree to his removal.⁸

Removal of a Receiver

Burden and Standard

In *Canada Trustco Mortgage Co. v. York-Trillium Development Group Ltd.*⁹ it was held that there is a heavy onus on the party seeking to remove a receiver. The onus is heavier than that on a party seeking to oppose the court appointment in the first place. The court held that if the receiver is engaged in blatant intentional action contrary to the interests of

⁴ *Supra* note 2 at 848.

⁵ 2005 CarswellOnt 405 at 27.

⁶ *Genova v. Giroday*, 2000 O.J. No. 3396.

⁷ 1983 CarswellOnt 608 at 7.

⁸ *Ibid.*

⁹ 1992 CarswellOnt 168 at 5.

one involved group, this would be a situation where the court would readily step in to replace the receiver. If it is shown that the receiver inadvertently caused a problem, then the court would apply the standard of a balance of convenience.

Discretion

In *Gentra Canada Investments Inc. v. 724270 Ontario Ltd.*¹⁰ the court refused to grant a motion to remove the receiver for its decision to undergo costly repairs to the property held in trust where alternative, cheaper repair options existed. Dennis Lane, J. held that the court's role of supervision in a case such as this one, does not involve hearing evidence and deciding the appropriate course that the receiver should have taken but rather, ensuring that the choices actually made by the receiver are within the range of choices that are open to a reasonable receiver acting in good faith. The motion to remove the receiver failed even on the minimal standard of the balance of convenience.

In *Kraner v. Kraner*¹¹ the court held that it must consider the added cost involved in replacing a receiver with another receiver, and must assess the foundation for the alleged claim for *mala fides*. In normal circumstances, a receiver will not be removed short of proof that the receiver is engaged in blatant intentional action contrary to the interest of one or more parties. The receiver owes the duty to exercise its responsibilities in a careful manner considering the circumstances, but at the same time the court ought not to be assessing the actions taken by the receiver in the context of the perfect light of hindsight.

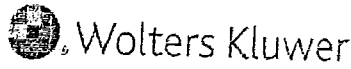
¹⁰ 1994 CarswellOnt 3852 at 71.

¹¹ 2012 CarswellOnt 10876 at 25.



Tab H

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The Estate Planner No. 233

TRUSTEES NOT ALLOWED TO DELEGATE THEIR ESSENTIAL AUTHORITY AND DISCRETION

The recent decision of the Ontario Court of Appeal in *Penman v. Penman*, 2014 ONCA 83, serves as a reminder that being a trustee of a family trust is not simply an honorary position, and that a trustee who fails to fulfill his or her duties as such may find himself or herself personally liable and that this is so notwithstanding provisions of the *Trustee Act* that might be construed as offering relief or the existence of an exculpatory clause in the trust instrument that might be read as sufficient to exonerate the trustee.

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The Appellant's Liability

This is Exhibit "H"
to the Affidavit of Elizabeth Belowski!
sworn this 29th day of Aug 20 14

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The appellant appealed from the application judge's ruling that she was jointly and severally liable, together with her two nephews, RP and MP, for the sum of \$453,048.20 on account of trust funds wrongfully removed from a trust created by her late brother and her sister-in-law for the benefit of their grandchildren. At all relevant times, the appellant and MP were co-trustees of the trust. (On this appeal, the parties accepted that RP, although not named as a co-trustee, was a trustee *de son tort* of the trust.)

The appellant's central submission was that she acted honestly and reasonably, in good faith, and with the benefit of legal advice from her nephew, RP, an Alberta lawyer, in all her dealings with the trust, that she was "duped" by her two nephews who wrongfully used the trust funds for their own benefit, and that no act or omission on her part caused the admitted loss of the trust funds.

This was not the finding of the application judge. She found that, while the appellant did not act dishonestly, she completely delegated the exercise of her discretion to MP and to RP, and she failed to make any reasonable inquiries about the proposed investments or to follow up regarding their status. According to the application judge, the appellant "barely read anything to do with the proposed investment of the trust funds but simply signed whatever was placed in front of her". Further, rather than tracking the trust investments, she "simply assumed without any rational justification that things were going well."

The Court of Appeal found that, on the evidence, the application judge was open to make these findings and that these factual findings were dispositive of the issue of the appellant's personal liability for the wrongfully exhausted trust funds - unless she was relieved of liability by operation of law or under the terms of the trust indenture.

The Trustee Act

Subsection 35(1) of the *Trustee Act* provides as follows:

35. (1) If in any proceeding affecting a trustee or trust property it appears to the court that a trustee, or that any person who may be held to be fiduciarily responsible as a trustee, is or may be personally liable for any breach of trust whenever the transaction alleged or found to be a breach of trust occurred, but has acted honestly and reasonably, and ought fairly to be excused for the breach of trust, and for omitting to obtain the directions of the court in the matter in which the trustee committed the breach, the court may relieve the trustee either wholly or partly from personal liability for the same.

The application judge held that this provision was not applicable because, pursuant to subsection 35(2), subsection 35(1) does not apply to the *investment* of trust property. Moreover, subsection 35(1) only applies where the trustee acted "reasonably" and not just honestly. On the application judge's findings, that was not this case here.

Again, the Court of Appeal agreed.

The Exculpatory Clause

As is commonly the case, the trust indenture in this case contained an exculpatory clause. The appellant claimed this clause relieved her of any personal liability. The application judge held that the clause in question was not applicable to the facts of the case:

... an exculpatory clause will not protect a trustee when it is found that the trustee improperly delegated the power or discretion in question. Each trustee must actively consider his or her discretion and will not be exonerated for passively acquiescing in the actions of a co-trustee. The law does not distinguish between passive and active trustees. [para. 13]

Again, the Court of Appeal agreed. In so doing it noted that, in their leading text, *Waters' Law of Trusts in Canada*, 4th edition (Toronto: Carswell, 2012), at pp. 981-82, Waters, Gillen, and Smith suggest that there is some

uncertainty in Canadian law concerning the validity of indemnity or exculpatory clauses in trust instruments in relation to a trustee's liability for gross negligence; however, they also state that clauses of this kind "will not protect the trustee when it is found that he improperly delegated [his or her] power or discretion." Accordingly, the Appeal was dismissed.

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Tab I

Peter Waldmann

From: Peter Waldmann
Sent: Thursday, August 28, 2014 6:18 PM
To: Valerie A. Edwards; Bernie Romano
Cc: Lisa Bleiwas; Peter I. Waldmann Law Corp; Peter I. Waldmann Law Corp; Peter Waldmann
Subject: Our file PAC CASE E - RE: Go forward involvement

Importance: High

Val,

I do not plan to seek any relief against Mr Rusek at the September 2, 2014 Case Conference or Motion Hearing. I am not clear which it is from the confusing messages from Myers, J.'s assistant who once wrote it was a Case Conference and then sent something about sending motion materials by hyperlink.

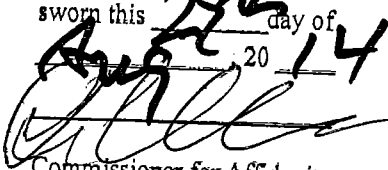
Does anyone know what exactly a "Hyperlink" is? It must be easier for you two young people who grew up with computers and internet than for me.

I will have to ask one of my students.

However, one of you must know whether September 2 is a motion or a case conference. June 20th was a case conference which turned into a motion proprio motu. However, we had the motion separately in the afternoon in a courtroom, rather than in chambers. If you can help me with this question, it would be most appreciated. Whichever of you may know. I am too embarrassed to ask the Judge's assistant, who may not know either judging from her various email correspondences.

Thank you for your anticipated co-operation.

Peter I. Waldmann
Barrister & Solicitor
183 Augusta Avenue
Toronto, Ontario M5T 2L4
(416) 921-3185
(416) 921-3183 [fax]

This is Exhibit " I "
to the Affidavit of Elizabeth Bekwsk.
sworn this 28 day of Aug, 20 14

Commissioner for Affidavits

This message is confidential and may be solicitor-client privileged. If you receive it by mistake, please contact us.

From: Valerie A. Edwards [<mailto:vedwards@torkinmanes.com>]
Sent: Thursday, August 28, 2014 9:51 AM
To: Bernie Romano; Peter Waldmann
Cc: Lisa Bleiwas
Subject: Go forward involvement

Bernie and Peter, there is no need to serve me with any material pertaining to this matter, unless you are seeking relief against Richard Rusek. I will ask for updates re status from time to time, and will want the facts for the appeal down the road – otherwise, you can save your clients the photocopy costs.

Many thanks,

Tab J

This is Exhibit
to the Affidavit of
Elizabeth Betowski
sworn this 21 day of
June, 2014

Court of Appeal No.:
Superior Court File No. CV-08-361644

Commissioner for Affidavits
COURT OF APPEAL FOR ONTARIO

BETWEEN:

THE POLISH ALLIANCE OF CANADA

Respondent
(Plaintiff)

and

POLISH ASSOCIATION OF TORONTO LIMITED,
MAREK MIASIK aka MAREK ADAM MIASIK, MARIA MIASIK,
JAN ARGYRIS aka LOUIS JOHN ELIE ARGYRIS
aka LOUIS JOHN ARGYRIS aka JOHN ARGYRIS,
WLADYSLAW JASLAN aka WLADYSLAW JULIAN JASLAN,
HELENA JASLAN, EUGENIUSZ SKIBICKI, CZESLAWA ERICKSEN,
STANISLAW ROGOZ aka STAN ROGOZ, ALBERT JOSEPH FLIS
and RICHARD RUSEK

Appellants
(Defendants)

and

AND BETWEEN:

POLISH ASSOCIATION OF TORONTO LIMITED,
MAREK MIASIK aka MAREK ADAM MIASIK, MARIA MIASIK,
JAN ARGYRIS aka LOUIS JOHN ELIE ARGYRIS
aka LOUIS JOHN ARGYRIS aka JOHN ARGYRIS,
WLADYSLAW JASLAN aka WLADYSLAW JULIAN JASLAN,
HELENA JASLAN, EUGENIUSZ SKIBICKI, CZESLAWA ERICKSEN,
STANISLAW ROGOZ aka STAN ROGOZ, ALBERT JOSEPH FLIS
and RICHARD RUSEK

Plaintiffs by Counterclaim

- and -

THE POLISH ALLIANCE OF CANADA, ROBERT ZAWIERUCHA, TADEUSZ MAZIARZ,
ELIZABETH BETOWSKI, DANUTA ZAWIERUCHA, TERESA SZRAMEK, ANDRZEJ
SZUBA, ADAM SIKORA, ELZBIETA GAZDA, STANISLAW GIDZINSKI, STANISLAW
IWANICKI and TADEUSZ SMETANA

Defendants by Counterclaim

NOTICE OF APPEAL

THE APPELLANTS APPEAL to the Court of Appeal from the Order of the
Honourable Mr. Justice Myers dated May 27, 2014, pursuant to the "Trial of Issues" as directed
by the Order of Campbell J. dated February 21, 2012, without a jury at Toronto, Ontario.

THE APPELLANTS ASK that:

1. The findings of Myers J. be set aside to the extent that they were not prescribed as issues to be tried by the Order of Campbell J. dated February 21, 2012;
2. In the alternative, that the finding of the learned trial judge that the withdrawal by the membership of Branch 1-7 from the Respondent, Polish Alliance of Canada ("PAC") on August 26, 2006 was invalid, be set aside.
3. The learned trial judge's requirement for the members of Branch 1-7 to be "reconstituted" as a branch of the PAC and the procedure prescribed for the said reconstitution be set aside. Instead, an Order is requested permitting Branch 1-7 to continue to exist and thrive completely independently from the PAC.
4. The finding of the learned trial judge that the individual Appellants were to be excluded from membership in Branch 1-7 and that they were effectively banished for life, be set aside;
5. That finding of resulting trust whereby the PAC was found to hold the shares in the Appellant, Polish Association of Toronto Limited ("PATL") in trust for the membership of Branch 1-7 be set aside. The assets of the PATL and all the assets that are the subject of this action ought to be determined to be held in trust directly for the benefit of the members from time to time of Branch 1-7, without the inclusion or involvement of the PAC.
6. The Appellants seek leave to appeal the ruling that there were to be no costs awarded to either party. The Appellants seek their costs of the action and the Appeal.

7. Such further and other relief as the Appellants may advise and this Honourable Court may permit.

THE GROUNDS OF THE APPEAL are as follows:

1. The Appellants in this appeal are the Polish Association of Toronto Limited , Marek Miasik aka Marek Adam Miasik, Maria Miasik, Jan Argyris aka Louis John Elie Argyris aka Louis John Argyris aka John Argyris, Czeslawa Ericksen, and Albert Joseph Flis.

2. Pursuant to the Order of Campbell J. dated February 21, 2012, the Court ordered that there shall be a "Trial of an Issue" relating to the following issues:

a) Who is the legal and beneficial owner of the shares of the Polish Association of Toronto Limited?

b) Who is the legal and beneficial owner of the assets of the Polish Association of Toronto Limited, including but not limited to:

i. Properties municipally known as 2282 Lakeshore Boulevard West, 2284 Lakeshore Boulevard West, 2286 Lakeshore Boulevard West, 2288 Lakeshore Boulevard West, 2290 Lakeshore Boulevard West, Toronto, with the legal description: P.J.N. 07631-0223 – PCL 39-3, SEC M246, PT LTS 39, 40 & 41, PL M246, lying northwesterly of the Lakeshore Rd as widened by by-law 682; PT LTS 43, 44 & 45, PL M246; LT 370, PL M164; PT LT 353, PL 164, PART 1, 5, 6, & 10, 66R8520 [formerly described as Parcels 39-1, 39-2, 40-1, 40-2 and 40-3 in the register for Section M-246, Parcels 12250 and 12593 in the Register for the Borough of Etobicoke, and Parcel 353-1 in the Register for Section B-164] (hereinafter referred to as the "Lakeshore Property");

- v. The property municipally known as 32 Twenty-Fourth Street, Toronto, or 32 - 24th Street, Toronto, (hereinafter referred to as the "32-24th Street Property") with the legal description: *P.I.N. 07597-0012 (LT), PT LT 98, PL 1571, AS IN EB462486; ETOBICOKE, CITY OF TORONTO* [formerly Part of Lot 98, Plan: 1571, as in EB462486, Etobicoke, City of Toronto, Land Titles Division of Metropolitan Toronto (No. 66)];
 - vi. All bank accounts, securities, shares, certificates, proceeds of insurance, documents evidencing ownership of rights to assets relating to the Polish Association of Toronto Limited;
- c) Is the Polish Alliance of Canada, Branch 1 - 7 a distinct legal entity?
- d) Is the Polish Alliance of Canada, Branch 1 -7 the legal entity known as "The Polish Alliance Friendly Society of Canada" which received its charter under the laws of the Province of Ontario on or about December 19, 1907?
- e) Whether an order should be made as to the possession of the assets, records, documents, reports, correspondence, corporate seal and other material of the Polish Alliance Friendly Society of Canada.
- (Collectively, the "Issues")
3. Pursuant to the Order of Campbell J. dated February 21, 2012, the Court ordered that the trial judge dealing with the Trial of the Issues had the discretion to amend the Issues to be tried.
4. Pursuant to the Order of Campbell J. dated February 21, 2012, the Court ordered that the said Order did not limit the right of a judge to amend the Issues to be tried prior to trial.

- ii. Properties municipally known as 9 Louisa Street and 11 Louisa Street, Toronto, which are part of the Lakeshore Property, with the same legal description as the Lakeshore Property within: *P.I.N. 07631-223*;
- iii. The property municipally known as 13 Louisa Street, Toronto, which is part of the Lakeshore Property with the legal description: *P.I.N. 07631-217 - PCL 42 -1, SEC M246; LT 42, PL 3246, T/W A ROW IN, OVER, ALONG & UPON THE MOST ELY 5 FT OF THE MOST SLY 93 FT OF LT 43 ON SAID PL M246, PROVIDED THAT THE PROJECTIONS (IF ANY) EXISTING ON 20/10/192B OVER THE SAID ROW SHALL BE DEEMED NOT TO BE AN ENCROACHMENT UPON THE SAID ROW*;
- iv. The property municipally known as 17 Louisa Street, Toronto, (hereinafter referred to as "17 Louisa Property") abutting the Lakeshore Property with the legal description: *P.I.N. 07631-0216 (LT) - PCL 43-2, SEC M246; PT LT 43, PLM246, BOUNDED ON THE NW BY A LINE DRAWN BTN POINTS IN THE N EASTERN & S WESTERN LIMITS OF THE SAID LT DISTANCE 25 FT SOUTHEASTERLY ALONG SAID LIMITS FROM THE N WESTERN LIMIT OF SAID LT; ON THE NE BY A LINE DRAWN PARALLEL TO THE S WESTERN LIMIT OF THE SAID LT FRM A POINT IN THE S EASTERN LIMIT OF HTE SAID LT DISTANCE 90 FT NORTHEASTERLY THEREON FROM THE MOST SLY ANGLE OF THE SAID LT [formerly described as PCL 42-2, Parcel 43-3, Section M-246 Being Part of Lot 43, Plan M-246, City of Toronto (formerly City of Etobicoke), Land Titles Division of Metropolitan Toronto (No.66)]*;

5. The learned trial judge did not amend any of the issues to be tried pursuant to the Order of Campbell J., dated February 21, 2012, either prior to or during the trial of the issues.

6. The learned trial judge erred in law by failing to restrict his decision and his findings to the issues that were directed to be tried pursuant to the Order of Campbell J., dated February 21, 2012.

7. The learned trial judge erred in law by making findings and rulings without providing proper notice to the Appellants, thereby depriving them of the opportunity to tender evidence and make argument in respect of those issues.

8. The learned trial judge erred in law in holding that the *Polish Veterans* case only carved out a very narrow exception to the general rule that unanimous consent of the membership is required and that a mere majority of members cannot cause property to be diverted to another association having different objects. The learned trial judge erred in failing to consider the evidence and his own findings, including but not limited to the finding that the subject properties in this action were purchased with monies from the sale of properties that were owned by Branch 1-7 prior to the existence of the PAC. The members of Branch 1-7 did not attempt to divert any property; the subject properties were never a part of the PAC. In addition, the issue of unanimous branch approval was not disputed by the PAC at trial.

9. The learned trial judge erred in law by failing to apply the conclusion of the *Polish Veterans* case to the facts of this case.

10. The learned trial judge erred in law by attaching only "little weight" to the historical documents which detailed the history of the "Polish Alliance of Canada" and the "Polish Alliance Friendly Society" ~~decades prior to the incorporation of the PAC.~~

11. The learned trial judge erred in failing to consider the Appellants' submissions at trial that PATL would agree to be converted to a non-profit corporation, or alternatively that PATL would incorporate a new corporation as a non-profit organization to hold the shares of PATL.

12. The learned trial judge erred by failing to consider the totality of the evidence whereby the Appellant, the PATL, and its membership always acted and governed themselves as a not-for-profit organization with no intention whatsoever of ever developing the subject lands or dividing up the Branch 1-7 assets *in specie* amongst its members.

13. The learned trial judge failed to consider his own findings at Paragraph 31 of his reasons wherein he finds that Branch 1 existed as an unincorporated entity for many years prior to the incorporation of the PAC by stating that "PATL's *raison d'être* was to hold land for the members of the unincorporated Branch 1 in 1927".

14. The learned trial judge failed to consider his own findings of fact in paragraph 35 of his reasons:

"Notwithstanding the legal machinations, there is no evidence indicating that the members at large of the PAC knew that the PAC had formed a corporation, understood any implication from that legality, or agreed to donate their equitable title to the new corporation. There is no indication of unanimity or of any notice being provided to members that could form the basis of a finding that they knowingly and unanimously gave up their property interests or their clubman's veto."

15. The learned trial judge erred by failing to consider that since neither the members or the Branch 1-7 unanimously assented to grant the legal title to the Lakeshore Property (or any assets of the Branch) to the PAC or to join the PAC, unanimous consent of the members of Branch 1-7 should not be required for Branch 1-7 to leave PAC, in any event, even if there was a triable issue relating to whether the decision to leave was unanimous.

16. The learned judge stated in paragraph 31 of his reasons: "In all, I see no indication that PATL owns the Lakeshore Property on its own account and no basis to rebut the presumption of resulting trust." The learned trial judge failed to consider his own findings at Paragraph 31 of his reasons as quoted when he states: "I hold that PATL owns any legal title to the Lakeshore Property and that it holds the equitable title to the land in trust for the members of Branch 1 -7 of the PAC from time-to-time."

17. The learned trial judge erred in failing to consider his own findings at paragraph 53, wherein he stated: "It is clear that by 2005, the defendants were planning to take Branch 1-7 out of the PAC. Unbeknownst to the PAC, prior to 2005, Branch 1 -7 had approved several resolutions authorizing the Executive of the branch to declare independence. What happened in 2005 and 2006 was the culmination of years of events". The learned trial judge failed to consider the evidence that the Executive had the authority to withdraw the Branch from PAC.

18. The learned trial judge erred in failing to consider his own findings as being justifiable grounds for the members of Branch 1-7 to leave the PAC. For example, at Paragraph 56: "The issue at play seems to have been the fear of Ms. Betowski and the autocratic style adopted by the Head Executive Board when she joined Mr. Zawierucha at the helm. The best support for this concern is that over the past decade, the PAC has done little else but litigate (Grimsby, Port Hope, Polish Alliance Press, W. Reymont Foundation, Branch 1 -7, etc). While the branches (including the current iteration of Branch 1- 7) have continued to perform their cultural events and hold dances, pageants, dinners and the like, the PAC Head Executive Board seems to have become a professional litigant under the stewardship of the very organized and officious Ms. Betowski. Although she is no longer a member of the Head Executive Board, Ms. Betowski was

the plaintiff's authorized witness for discovery, its lead witness at trial and as noted above, was the person in charge for the plaintiff throughout the trial".

19. The learned trial judge erred in failing to consider these findings when evaluating the Appellants and their withdrawal from the PAC to protect the members and the Branch 1-7 properties, which are the subject of this action.

20. The learned trial judge, when making his findings of resulting trust, failed to consider that the membership of Branch 1-7 traces its origins to 1907 and pre-dates the incorporation of the PAC, which did not exist until 1973.

21. The learned trial judge erred by stating at Paragraph 63 of his reasons that: "While Mr. Miasik's actions are consistent with an effort to wrest the Lakeshore Property from the PAC, ...". The learned trial judge failed to consider the fact that the Lakeshore Property was never the property of the PAC.

22. The learned trial judge erred by failing to consider the uncontested evidence that the Lakeshore Property and all the properties in issue were obtained entirely independently from and without any financial contribution from the PAC. The Lakeshore Property was purchased from the sale of lands which pre-dated the existence of the PAC.

23. The learned trial judge erred in his finding that the individual Appellants were deemed to have resigned from Branch 1-7 and that they could no longer be members of Branch 1-7.

24. The learned trial judge erred by failing to consider that the PAC conceded that the Branch 1-7 had withdrawn from the PAC and the PAC did not oppose same. The PAC took the position that the Appellants had the right to leave the PAC and that all of the members of Branch 1-7 were no longer members of the PAC; however, the PAC took the position that the Lakeshore

Properties and all the assets of the PATL belonged to the PAC by virtue of Article 8 of the PAC's Constitution which entitled the PAC to all of the shares of the PATL which the trial judge correctly found to be properly amended to remove that provision. In addition, the trial of issues did not deal with whether or not the method by which Branch 1-7 withdrew from the PAC was valid or invalid was not an additional issue added prior to the trial.

25. The learned trial judge erred by failing to determine that once Article 8 of the PAC Constitution did not apply to assist the PAC, as pleaded in its statement of claim, that all of the PAC's claims of ownership ought to have been dismissed.

26. The learned trial judge erred in his findings from Paragraphs 81 to 83 with respect to the membership of Branch 1-7 and the withdrawal of August, 2006, and its effect on the members from August 2006 to the date of trial as these were not made issues prior to the trial.

27. The learned trial judge erred in his determination at Paragraph 84 of his reasons that: "However, neither can eight disgruntled members withdraw the Branch from the PAC while purporting to continue to be the same organization with the same property rights." The learned trial judge erred in failing to consider that the history of Branch 1-7 predates the existence of the Respondent by approximately 67 years. The origins of Branch 1-7 date back to the incorporation of the Polish Alliance Friendly Society in 1907, and likely predate that event; the Polish Alliance of Canada did not exist until 1973. The monies used to purchase the Lakeshore Properties was traced to the sale of other properties that were owned by the PATL, as trustee for the members of Branch 1-7, prior to the existence of the PAC.

28. The learned trial judge made findings of fact that were not supported by the evidence. In doing so, he accepted the commentary of counsel for the PAC as evidence, which is an error of law.

29. The learned trial judge erred in his finding that the only members in existence of Branch 1-7 today are those members who were members as at August 26, 2006.

30. The learned trial judge, it is submitted, ought to have provided notice of this issue and potential finding to enable the Appellants the opportunity to elect to call evidence as to the present membership of the Branch and to provide further details of the members' contributions and volunteer efforts, pertaining to those members who joined Branch 1-7 after August 26, 2006.

31. The learned trial judge erred in prescribing the steps with respect to the reconstitution of the executive of Branch 1-7 as set out in paragraphs 91 D to G of his reasons.

32. The learned trial judge erred in determining that the Branch 1-7 was not a distinct legal entity.

33. The learned trial judge erred in determining that the Branch 1-7 were not the Polish Alliance Friendly Society of Canada.

34. The learned trial judge erred in failing to request submissions on the issue of costs.

35. The learned trial judge erred in not awarding costs to the Appellants.

THE BASIS OF THE APPELLATE COURT'S JURISDICTION IS:

36. The Judgment appealed from is a final Order where Section 19(1)(a) of the *Courts of Justice Act* does not apply. The Judgment appealed from is a final Judgment following trial where the amounts in issue exceeded \$50,000.00, exclusive of costs. The within appeal lies to the Court of Appeal pursuant to Section 6(1)(b) of the *Courts of Justice Act*. Leave to appeal is not required.

Dated: June 26, 2014

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Barristers & Solicitors
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M9W 6R2
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Fax: (416) 213-1251
Bernie Romano
Law Society # 34447T
Lawyers for the Appellants, the Polish
Association of Toronto Limited, Marek
Miasik, Maria Miasik, Albert Flis, Czeslawa
Ericksen, and John Argyris

TO: PETER I. WALDMANN
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Fax: (416) 921-3183
Lawyer for the Respondent

AND TO:

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Valerie Edwards

Tel. 416 863 1188
Fax 416 865 0305

Lawyer for the Defendant, Richard Rusek

THE POLISH ALLIANCE OF CANADA
Plaintiff / Defendants by Counterclaim

and
POLISH ASSOCIATION OF TORONTO LIMITED
Defendants / Plaintiffs by Counterclaim

Court of Appeal No.:
Superior Court File No. CV-08-361644

62

COURT OF APPEAL FOR ONTARIO

NOTICE OF APPEAL

BERNIE ROMANO PROFESSIONAL CORPORATION
22 Goodmark Place
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Bernie Romano
Law Society #34447T
Tel: 416-213-1225
Fax: 416-213-1251

Lawyer for the Defendants, except Richard Rusek

Memorandum

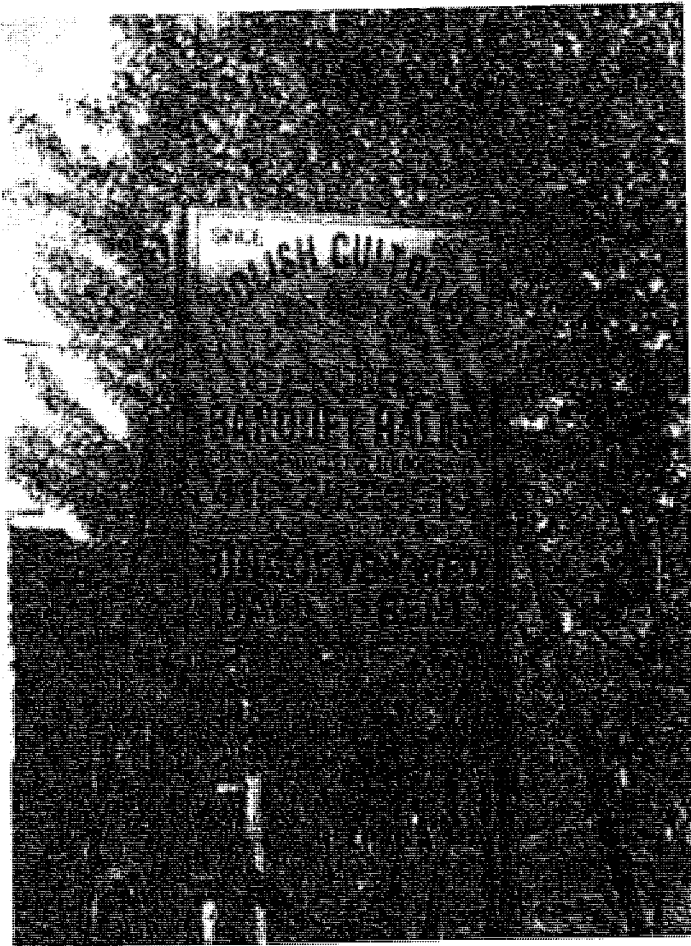
Date: August 27, 2014

TO: Peter I. Waldmann

FROM: Marissa Armstrong

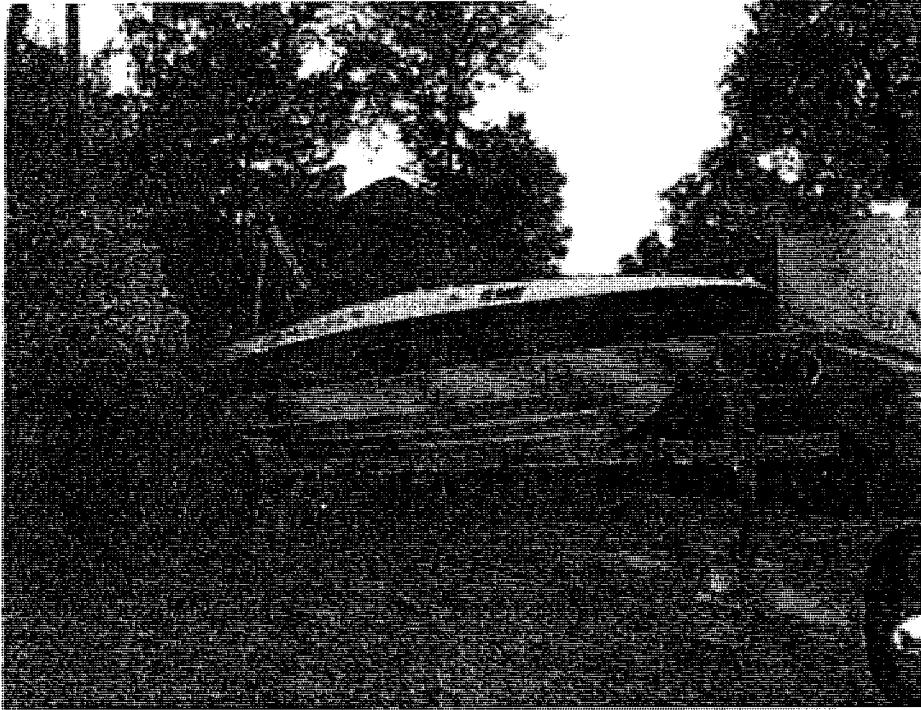
RE: Polish Alliance of Canada - 2282 Lakeshore Blvd. W Photographs and Vehicle Information

On August 27th, the following photographs and vehicle information were recorded at the above address at 7:00 PM.

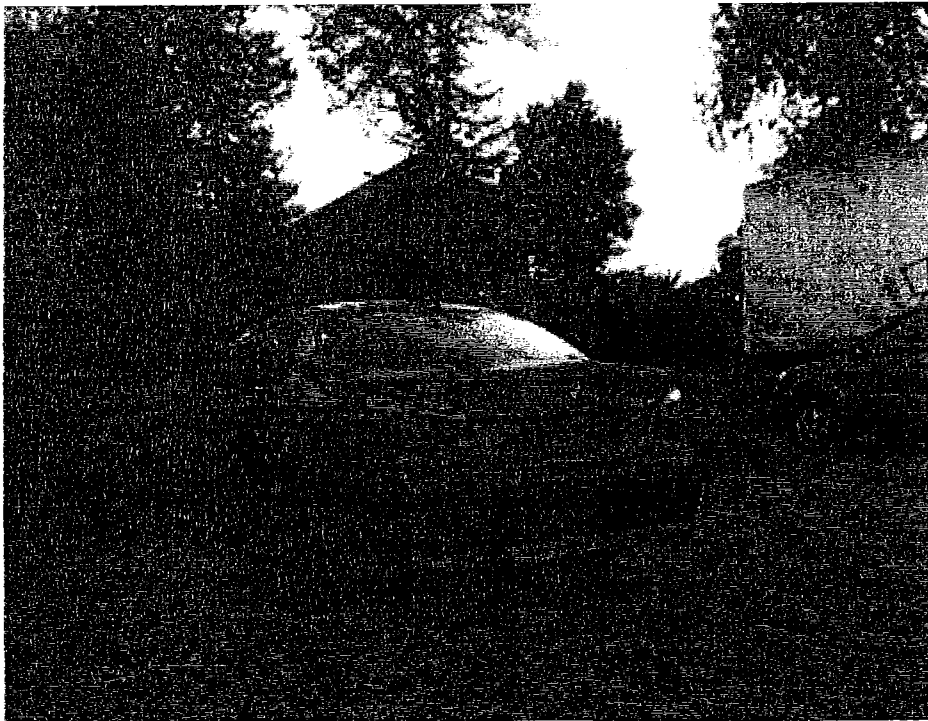


This is Exhibit "J-2"
to the Affidavit of [Signature]
sworn this 29th day of Aug
2014.
[Signature]
Commissioner for Affidavits

Vehicle No. 1: Bayliner Boat
ON 340438 - Number on boat; no license plate



Vehicle No. 2: BMW 530X1
License Plate: BCXT 246



Vehicle No. 3: Kia Sportage
License Plate: BBVA 671

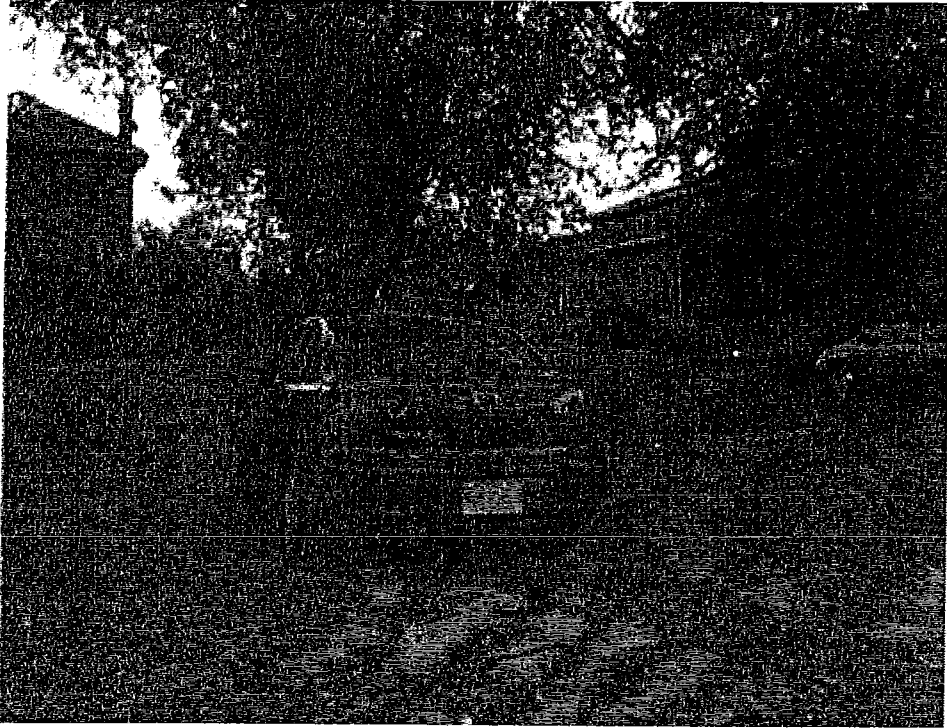


Vehicle No. 4: Bako's Transportation Truck 131199713
VIN# 3HK52685
License Plate: 156 6MB



65

Vehicle No. 5: Mazda 3
License Plate: AZCA 419

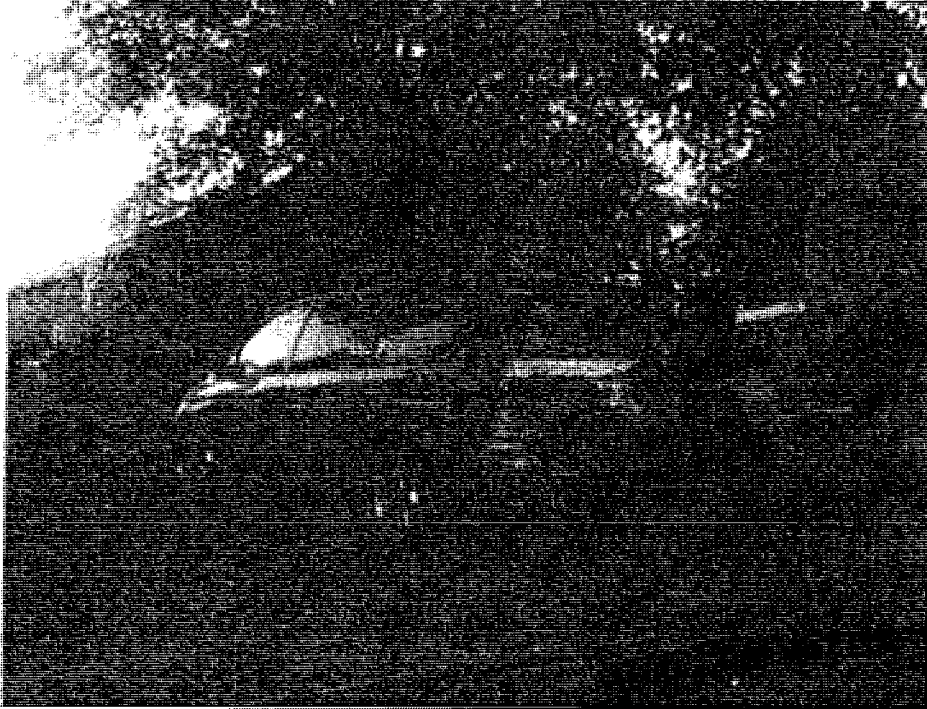


Vehicle No. 6: Chris Jr. Ready Mix Cement Truck
Phone #: (416) 858-9117
License Plate: AD15 318

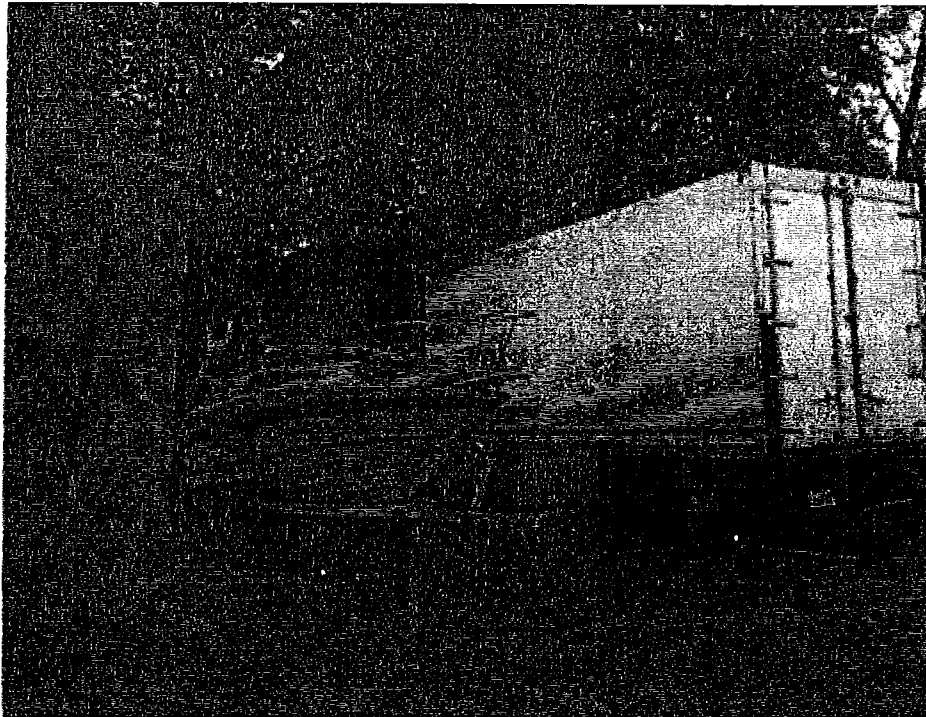


66

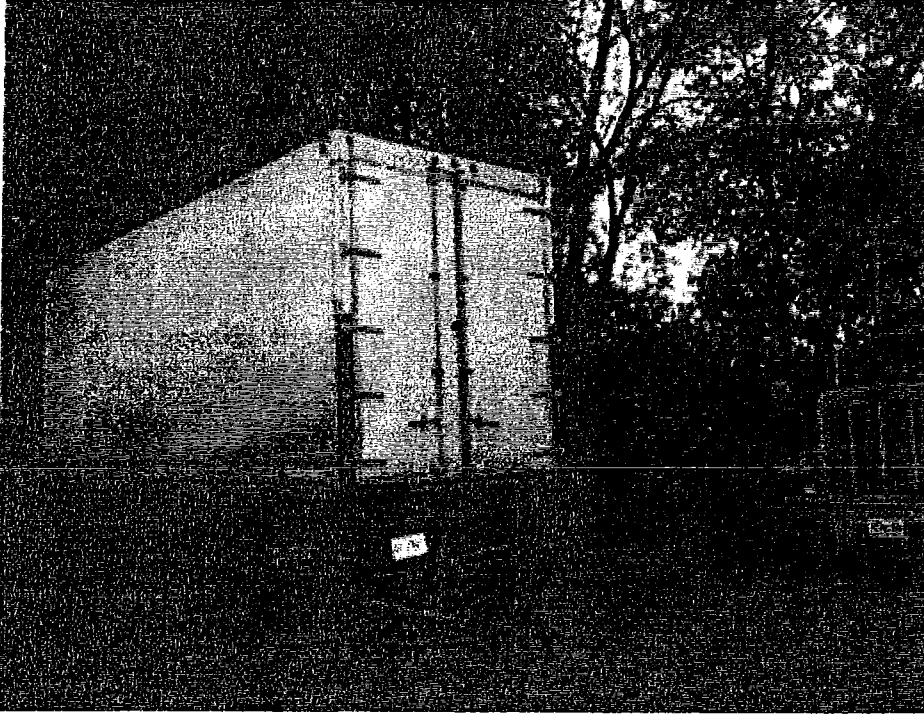
Vehicle No. 7: Honda Odyssey Classic
License Plate: BOPC 769



Vehicle No. 8: Bayliner Boat
24E14227 - Number on boat; no license plate



Vehicle No. 9: Home Art Moving Delivery Truck
Phone #: (416) 253-0579
Website: www.homeartmoving.com
License Plate: AF37 621



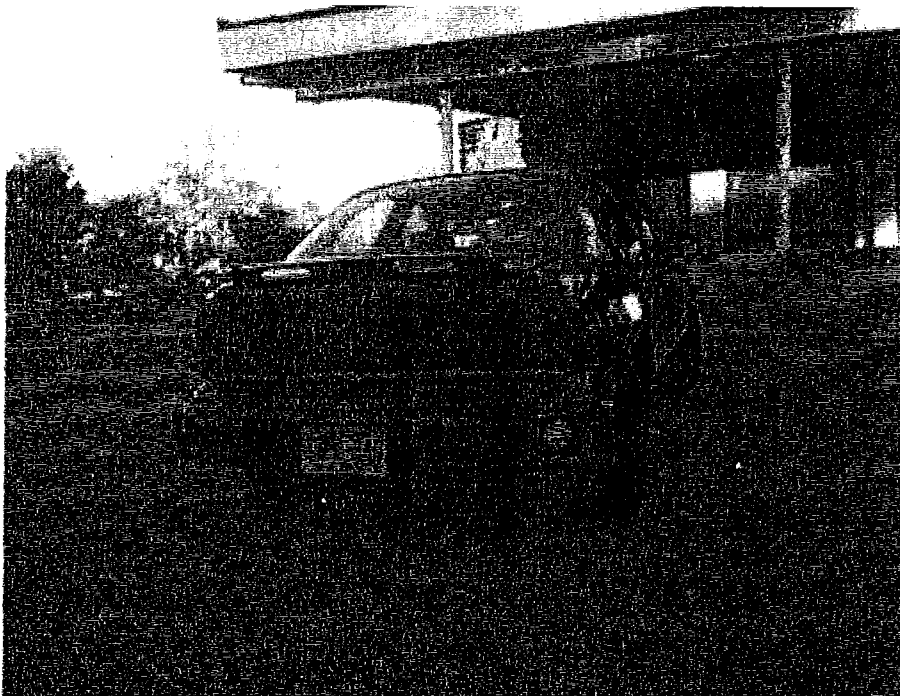
Vehicle No. 10: AT Services Peterbuilt Thermoking Truck
Peterborough, ON
VIN #: 1XP5DB9X43D805291
License Plate: PZ4 362



Vehicle No. 11: Ford Escape
License Plate: BJSS 262



Vehicle No. 12: Pontiac Sunfire
License Plate; ASER 846



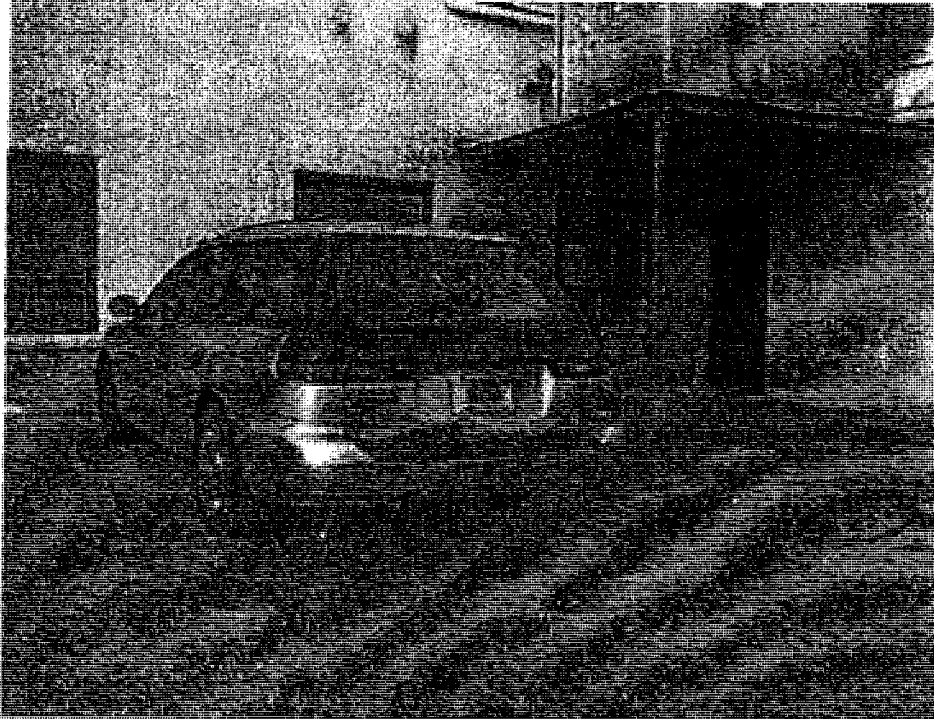
Vehicle No. 13: Honda Civic
License Plate: BSCN 686



Vehicle No. 14: Honda Accord
License Plate: BSZD 634



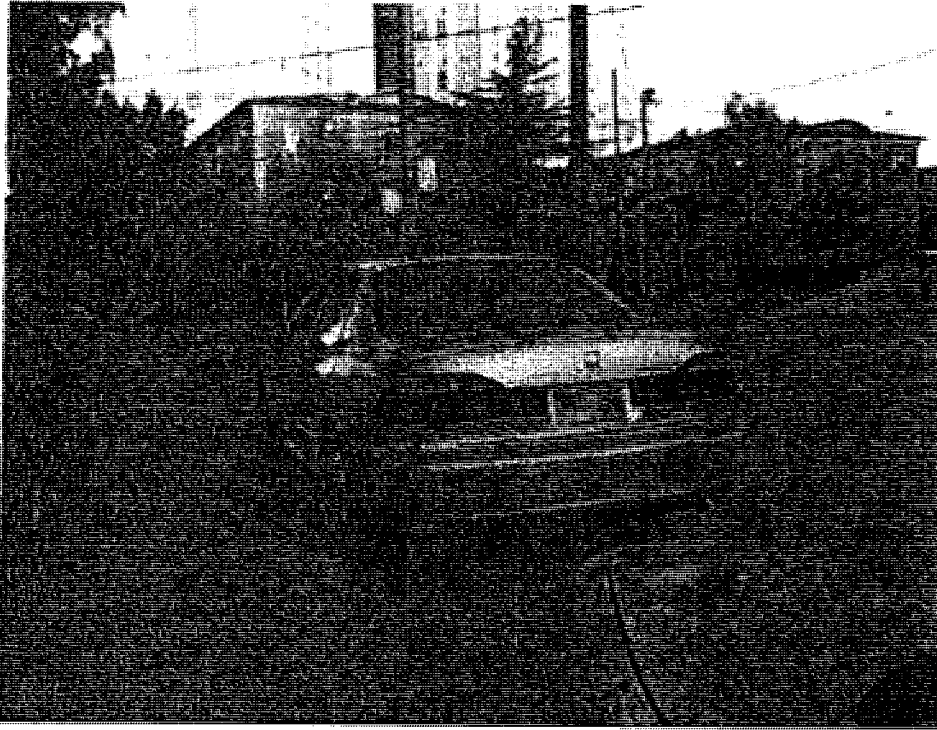
Vehicle No. 15: Subaru Legacy
License Plate: ARCKK



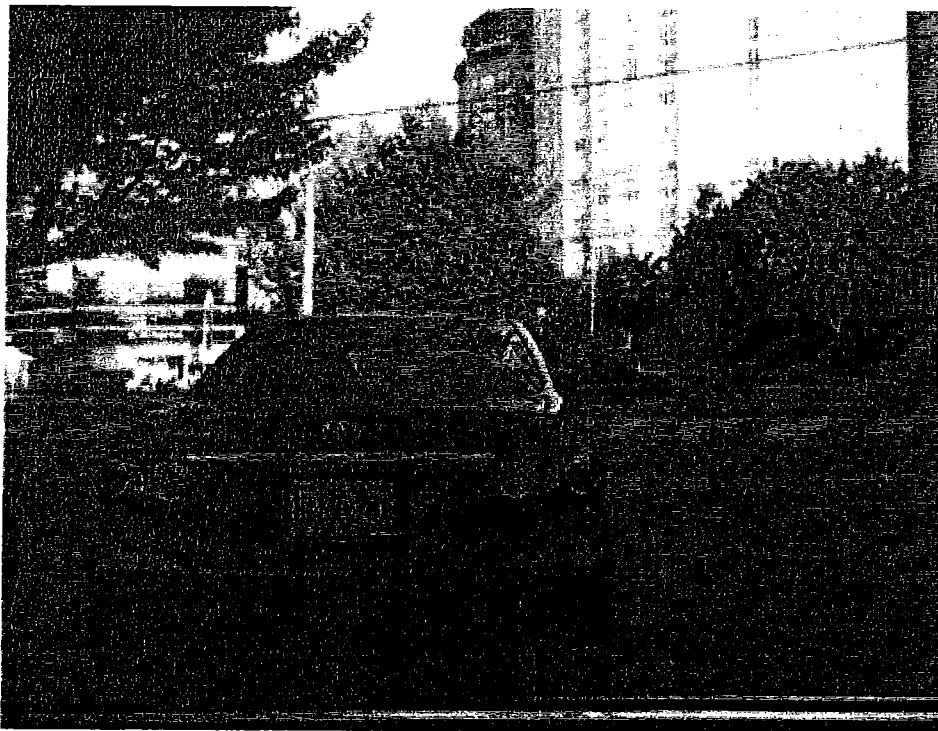
Vehicle No. 16: Toyota Corolla
License Plate: ACPB 824



Vehicle No. 17: Honda Accord
License Plate: 160 ZEN



Vehicle No. 18: Toyota Corolla
License Plate: BLSW 781



Vehicle No. 19: Dodge Journey
License Plate: BKWF 301



Vehicle No. 20: Ford Pickup Truck
License Plate: ZZ8 150



Vehicle No. 21: Liberty International GMC Safari Truck
Phone #: (416) 255-8809
Website: www.myliberty.ca
License Plate: 408 9X2



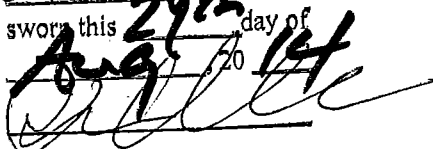
Tab K

PETER I. WALDMANN
BARRISTER & SOLICITOR
member of the British Columbia, Ontario, USCA (11th Cir.) and New York Bars
PETER I. WALDMANN PROFESSIONAL CORPORATION

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FAX: (416) 921-3183

August 21, 2014

Bernie Romano
Bernie Romano Professional Corporation
Barristers and Solicitors
22 Goodmark Place, Suite 11
Toronto, Ontario M9W 6R2

This is Exhibit "K"
to the Affidavit of Elizabeth Betowski
sworn this 29th day of Aug, 2014


Commissioner for Affidavits

1 page by fax to (416) 213-1251

Dear Mr Romano,

RE: The Polish Alliance of Canada v. Polish Association of Toronto Limited et al.
Court File no. CV-08-361644

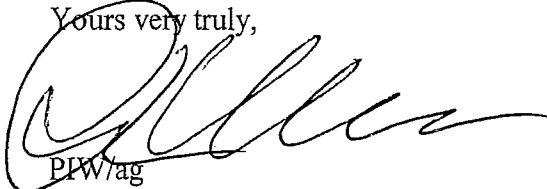
Thank you for your letter dated August 15, 2014. The letter appears to be incorrect on its face as it states it encloses the Certificate for ordering the "Transcript for Appeal", while the enclosed Certificate of Ordering Transcript for Appeal is only for the June 20, 2014 motion hearing where you requested that the court reporter take a transcript, and the Honourable Justice F.L. Myers requested my position on same, to which I indicated I had no objection. At least, that is my recollection, but your transcript will of course set out exactly what the exchange was in courtroom 6-4 (???) that day.

However, you have not advised whether you have ordered the Transcript for the Appeal of the May 27, 2014 decision of the Court for which you filed a Notice of Appeal, and my client responded with a Notice of Cross-Appeal.

Please advise whether your clients have abandoned their appeal, given the time to order that transcript has expired, or whether you can forward confirmation that your clients have actually ordered, as required, in timely fashion the evidence of the transcript of the March 10th to the last date in April of the Trial of the Issue. Your Certificate of Evidence indicated you considered all the witnesses' evidence and all the Exhibits were needed for that appeal.

Your earliest response would be appreciated.

Yours very truly,


PIW/ag

cc. Valerie Edwards (by fax to 1-888-732-6508)
Collins Barrow (Attn: Danny Weisz by fax to its lawyer, Patrick Shea of Gowlings,
Lafleur, Henderson LLP: fax no. 416-862-7661)

TRANSACTION REPORT

AUG/21/2014/THU 06:28 PM

AX(TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FIL
001	AUG/21	06:28PM	4162131251	0:00:23	1	MEMORY OK	SG3 2538

PETER I. WALDMANN
 BARRISTER & SOLICITOR
 member of the British Columbia, Ontario, USCA (11th Cir.) and New York Bars
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 CANADA M5T 2L4
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 TEL: (416) 921-3185
 FAX: (416) 921-3183

August 21, 2014

Bernie Romano
 Bernie Romano Professional Corporation
 Barristers and Solicitors
 22 Goodmark Place, Suite 11
 Toronto, Ontario M9W 6R2

1 page by fax to (416) 213-1251

Dear Mr Romano,

RE: The Polish Alliance of Canada v. Polish Association of Toronto Limited et al.
Court File no. CV-08-361644

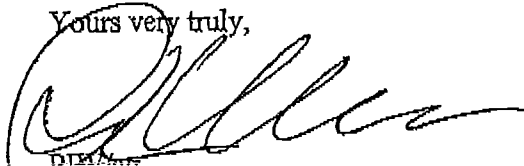
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PIW/ag

cc. Valerie Edwards (*by fax to 1-888-732-6508*) ✓
Collins Barrow (Attn: Danny Weisz *by fax to its lawyer, Patrick Shea of Gowlings, Lafleur, Henderson LLP: fax no. 416-862-7661*)

77

TRANSACTION REPORT

AUG/21/2014/THU 06:29 PM

FAX (TX)

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AUG/21/2014/THU 06:30 PM

FAX (TX)

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81

Tab L

This is Exhibit " L "
to the Affidavit of

Elizabeth Betowski
sworn this 29th day of

August, 20 14
[Signature]
Commissioner for Affidavits

Draft only v.2

File: PAC/CASE E

Date: August 28, 2014

Memorandum

TO: PIW
FROM: MJA
RE: Assignment due Thursday, August 28, 2014 at 5:00 p.m.

Removal of a Court-Appointed Receiver

Welfare of the Beneficiaries Test

The governing principle on which Canadian courts have relied to determine whether or not a court-appointed receiver should be removed is the welfare of the beneficiaries. This principle was established in the case of *Letterstedt v. Broers*¹, where Lord Blackburn stated that the "main guide must be the welfare of the beneficiaries."

Professor Waters, in his seminal text on the law of trust in Canada, makes the following comments with respect to this principle: the law of trust in Canada, in reference to Lord Blackburn's guidelines, states that if it is clear that the continuance of the trustee would be detrimental to the execution of the trust, and on request he refuses to retire without any reasonable ground for his refusal, the court might then consider it proper to remove him. Lord Blackburn went on to hold that the acts or omissions must be such as to endanger the trust property, or to show a want of honesty, or a want of proper capacity to execute the duties, or a want of reasonable fidelity.²

¹ (1884), (1883-84) L.R. 9 App. Cas. 371 (South Africa P.C.), at 385 - 389.

² D.W.M. Waters, *Law of Trusts in Canada*, 3rd ed. (Toronto: Carswell, 2005) at 845.



Draft only v.2

Applying the test of the welfare of the beneficiaries, the courts have refused to remove court-appointed receivers who have made isolated mistakes in the exercise of their powers. In *Bathgate v. National Hockey League Pension Society* (1994)³, the Ontario Court of Appeal cited with approval the words of Lord Blackburn in *Letterstedt v. Broers* that it is not indeed every mistake or neglect of duty, or inaccuracy of conduct of trustee, which will induce Courts of Equity to adopt such a course. The acts or omissions must be such as to endanger the trust property or to show a want of honesty, or a want of proper capacity to execute the duties, or a want of reasonable fidelity.

Professor Waters elaborates on the welfare of the beneficiaries test stating that if dishonesty or negligence cannot be established, the failings must show an "incapacity" to execute the trustee's duties. The crucial factor would be whether the trust and the beneficiaries are suffering as a result of this "incapacity". Waters goes on to explain that it is clear from the jurisprudence that it is hard to dislodge a trustee whose act or acts were honest, believed to be in the best interests of all, and who was not partial.⁴

Hostility

Lord Blackburn's holding and Professor Waters' comments thereon were specifically noted with approval by Tulloch J. in *Oldfield v. Hewson*.⁵ Tulloch J. went on to hold that the hostility between the trustee and the beneficiary alone was sufficient, in that case, to justify the removal of the trustee even if there was no malfeasance on the part of the trustee, since his continuance as a trustee, in this case, would be detrimental to the execution of the trusts.

Disagreement, friction or hostility between the trustees and the beneficiaries had typically not been found to be grounds from removing the trustee as noted by Professor Waters. The mere desire of some or all of the beneficiaries to remove the trustee is not enough.⁶ However, the recent decision in *Oldfield v. Hewson* provides an example of the court ruling that hostility is sufficient grounds from the removal of a trustee. Tulloch J. in *Oldfield v. Hewson* relied on *Davis, Re*⁷ and notes that the Ontario Court of Appeal held that, regardless of the causes of hostility between the trustee and the beneficiaries, the existence of hostility in and of itself impaired the relationship such that it was appropriate to remove and replace the trustee.

Discretion

The court-appointed receiver's power also reflects a discretionary aspect, and the courts have consistently refused to interfere with a court-appointed receiver's *bona fide* exercise

³ 1994 CarswellOnt 643 at 57.

⁴ *Supra* note 2 at 848.

⁵ 2005 CarswellOnt 405 at 27.

⁶ *Genova v. Giroday*, 2000 O.J. No. 3396.

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Draft only v.2

(83)

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Burden and Standard

In *Canada Trustco Mortgage Co. v. York-Trillium Development Group Ltd.*⁹ it was held that there is a heavy onus on the party seeking to remove a court-appointed receiver. The onus is heavier than that on a party seeking to oppose the court appointment in the first place. The court held that if the court-appointed receiver is engaged in blatant intentional action contrary to the interests of one involved group, this would be a situation where the court would readily step in to replace the court-appointed receiver. If it is shown that the court-appointed receiver inadvertently caused a problem, then the court would apply the standard of a balance of convenience.

Discretion

In *Genra Canada Investments Inc. v. 724270 Ontario Ltd.*¹⁰ the court refused to grant a motion to remove the court-appointed receiver for its decision to undergo costly repairs to the property held in trust where alternative, cheaper repair options existed. Dennis Lane, J. held that the court's role of supervision in a case such as this one, does not involve hearing evidence and deciding the appropriate course that the court-appointed receiver should have taken but rather, ensuring that the choices actually made by the court-appointed receiver are within the range of choices that are open to a reasonable court-appointed receiver acting in good faith. The motion to remove the court-appointed receiver failed even on the minimal standard of the balance of convenience.

In *Kraner v. Kraner*¹¹ the court held that it must consider the added cost involved in replacing a court-appointed receiver with another receiver, and must assess the foundation for the alleged claim for *mala fides*. In normal circumstances, a court-appointed receiver will not be removed short of proof that the court-appointed receiver is engaged in blatant intentional action contrary to the interest of one or more parties. The court-appointed receiver owes the duty to exercise its responsibilities in a careful manner considering the circumstances, but at the same time the court ought not to be assessing the actions taken by the court-appointed receiver in the context of the perfect light of hindsight.

⁸ *Ibid.*

⁹ 1992 CarswellOnt 168 at 5.

¹⁰ 1994 CarswellOnt 3852 at 71.

¹¹ 2012 CarswellOnt 10876 at 25.

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Draft only v.2

File: PAC/CASE E

Memorandum

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TO: PIW
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In *Canada Trustco Mortgage Co. v. York-Trillium Development Group Ltd.*⁹ it was held that there is a heavy onus on the party seeking to remove a court-appointed receiver. The onus is heavier than that on a party seeking to oppose the court appointment in the first place. The court held that if the court-appointed receiver is engaged in blatant intentional action contrary to the interests of one involved group, this would be a situation where the court would readily step in to replace the court-appointed receiver. If it is shown that the court-appointed receiver inadvertently caused a problem, then the court would apply the standard of a balance of convenience.

Discretion

In *Genra Canada Investments Inc. v. 724270 Ontario Ltd.*¹⁰ the court refused to grant a motion to remove the court-appointed receiver for its decision to undergo costly repairs to the property held in trust where alternative, cheaper repair options existed. Dennis Lane, J. held that the court's role of supervision in a case such as this one, does not involve hearing evidence and deciding the appropriate course that the court-appointed receiver should have taken but rather, ensuring that the choices actually made by the court-appointed receiver are within the range of choices that are open to a reasonable court-appointed receiver acting in good faith. The motion to remove the court-appointed receiver failed even on the minimal standard of the balance of convenience.

In *Kraner v. Kraner*¹¹ the court held that it must consider the added cost involved in replacing a court-appointed receiver with another receiver, and must assess the foundation for the alleged claim for *mala fides*. In normal circumstances, a court-appointed receiver will not be removed short of proof that the court-appointed receiver is engaged in blatant intentional action contrary to the interest of one or more parties. The court-appointed receiver owes the duty to exercise its responsibilities in a careful manner considering the circumstances, but at the same time the court ought not to be assessing the actions taken by the court-appointed receiver in the context of the perfect light of hindsight.

⁸ *Ibid.*

⁹ 1992 CarswellOnt 168 at 5.

¹⁰ 1994 CarswellOnt 3852 at 71.

¹¹ 2012 CarswellOnt 10876 at 25.

Draft only v.2

(90)

Peter Waldmann

From: Matthew Armstrong [m.armstrong@alum.utoronto.ca]
Sent: Wednesday, August 27, 2014 11:24 AM
To: Peter Waldmann
Subject: Memorandum re Removal of Receiver
Attachments: Memo Re Removal of Receiver.docx; 1. Letterstedt v. Broers.docx; 2. Bathgate v National Hockey League Pension Society.doc; 3. Oldfield v Hewson.doc; 4. Genova v Giroday.docx; 5. Davis Re.doc; 6. Canada Trustco Mortgage Co. v. York-Trillium Development Group Ltd..doc; 7. Gentra Canada Investments Inc v 724270 Ontario Ltd.doc; 8. Kraner v. Kraner.doc; 1. Letterstedt v. Broers.docx; 2. Bathgate v National Hockey League Pension Society.doc; 3. Oldfield v Hewson.doc; 4. Genova v Giroday.docx; 5. Davis Re.doc; 6. Canada Trustco Mortgage Co. v. York-Trillium Development Group Ltd..doc; 7. Gentra Canada Investments Inc v 724270 Ontario Ltd.doc; 8. Kraner v. Kraner.doc

Hi Peter,

Attached please find:

1. the memorandum you requested regarding options for removing a receiver or trustee; and
2. the cases relied upon in same.

Please let me know if you have any questions or would like to discuss.

Regards,
Matthew

Tab M

Court File No. This is Exhibit "M"

ONTARIO
SUPERIOR COURT OF JUSTICE

to the Affidavit of Elizabeth Betowski

sworn this 23 day of Aug, 20 14

[Signature]
Commissioner for Affidavits
Plaintiff

BETWEEN:

THE POLISH ALLIANCE OF CANADA

- and -

RICHARD RUSEK

Defendant

NOTICE OF ACTION

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the statement of claim served with this notice of action.

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, 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 \$ 950.00 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.

Date: August , 2014 Issued by: _____

Address of Court office:
Ontario Superior Court of Justice
Court House
361 University Ave.
Toronto ON M5G 1T3

TO:

Richard Rusek
1623 Bloor Street West
Toronto, ON M6P 1A6

CLAIM

The Defendant acted in conflict of interest and in knowing breach of Plaintiff bylaws and constitution and obtained property in deceit and breach of fiduciary duty, including two shares of the Polish Association of Toronto Limited, while acting as solicitor for all persons involved including the Plaintiff.

August 28, 2014

Peter I. Waldmann [LSUC #23289M]
Barrister and Solicitor
183 Augusta Avenue
Toronto, ON M5T 2L4
Tel: (416) 921-3185
Fax: (416) 921-3183
*Lawyer for the Plaintiff The Polish Alliance
of Canada*

POLISH ALLIANCE OF CANADA

PLAINTIFF

and

RICHARD RUSEK

DEFENDANT

194

Court File No.

**ONTARIO SUPERIOR
COURT OF JUSTICE**

Proceeding Commenced in Toronto

NOTICE OF ACTION

Peter I. Waldmann Law Corporation
Barrister and Solicitor
183 Augusta Ave.
Toronto, Ontario M5T 2L4

Peter I. Waldmann (LSUC #23289M)
Tel: (416) 921-3185
Fax: (416) 921-3183

Lawyer for the Defendants

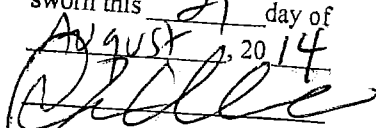
Tab N

List of Members of Branch 1-7

Date: August 13, 2014

In accordance with the Decisions of Myers J. of May 27, 2014 and June 20, 2014

Number	Name
1	Cebej, Marian
2	Cebej, Helen
3	Chomentowski, Andrzej
4	Dreher, Maria
5	Danwoody, Jadwiga
6	Flis, Emily
7	Gadzala, Michalina
8	Grabowski, Helena
9	Jasinski, Jadwiga
10	Koprowski, Szbigniew
11	Kowalska, Krystyna
12	Kucharska, Wladyslawa
13	McPherson, Edward
14	McPherson, Wanda
15	Miasik, Adam
16	Miasik, Eva
17	Miasik, Andrzej
18	Miasik, Piotr
19	Miasik, Renata
20	Mielec, Malgorzata
21	Mielec, Stanislaw
22	Neuff, Eugeniusz
23	Neuff, Ksawera
24	Ogurian, Sophie
25	Piekut, Anna
26	Piltz, Juno
27	Pomorska, Janina
28	Pomorski, Lucjan
29	Ross, Virginia
30	Sierota, Maria
31	Skibicki, Teresa
32	Slojewski, Josephine
33	Snaglewska, Barbara
34	Warszawski, Danuta
35	Warszawski, Zygmunt
36	Zboch, Constance
37	Zwara, Cecylia
38	Zub, Bernice
39	Zub, Lillian

This is Exhibit " N "
to the Affidavit of
Elizabeth Belowski
sworn this 29 day of
August, 2014

Commissioner for Affidavits

Tab 0

August 28, 2014

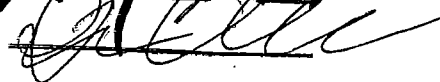
This is Exhibit " 0 "

to the Affidavit of

Elizabeth Betowski

sworn on this 27th day of

Aug 2014



Commissioner for Affidavits

Via fax (3 pages)

Peter I. Waldmann
Barrister & Solicitor
183 Augusta Avenue
Toronto, On M5T 2L4

Tel: 416 921-3185
Fax: 416 921- 3183

Dear Mr. Waldmann


RE: Gldzinski v. Lake Simcoe Aeropark Inc. Mascioli,

Court File No: C-121-11

Pursuant to the *Rules of Civil Procedure*, I am sending you a draft Order.

Please revise the Order and return it back, that it can be forwarded to Justice Broad to be issued and entered.

With regards,



Stan Gldzinski

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

STAN GIDZINSKI a.k.a. STANISLAW GIDZINSKI

Applicant

-and-

**LAKE SIMCOE AEROPARK INC., BERARDO MASCIOLI,
ELIZABETH BETOWSKI a.k.a. EWA BETOWSKI**

Respondents

ORDER

THIS MOTION, made by Stan Gidzinski a.k.a. Stanislaw Gidzinski for the relief set out in Statement of Claim, was heard on February 26, 27 and June 10, 2014, at The Court House 85 Frederick Street, Kitchener, Ontario.

ON RENEWING the material filed on the hearing and the submission of Stan Gidzinski and Mr. Waldmann for Lake Simcoe Aeropark Inc., Berardo Mascioli, Elizabeth Betowski. Cross examination of Stan Gidzinski by Mr. Waldmann and direct examination of Mss. Betowski by Mr. Waldmann

1. **THIS COURT ORDERS** that, from the holdback of \$39,165.61 maintained by Mr. Flaxbard \$34,171.00 shall be paid to the Corporation, plus prejudgment interest of 1.3% per annum. The remaining balance of the holdback together with the accrued interest, if any shall be released to Mr. Gidzinski.
2. **THIS COURT ORDERS** that, the full amount (\$40,524.63) being held by Mr. Waldmann, together with accrued interest, if any, shall be released to Mr. Gidzinski representing the balance of the purchase price of the shares transferred by him.
3. **THIS COURT ORDERES** that, the shares of the Corporation purchased from Mr. Gidzinski, presently being held in escrow, shall be released to the purchase(s) thereof.
4. **THIS COURT ORDERES** that, Mr. Gidzinski, on one hand, and Mr. Mascioli and Ms. Betowski, on the other, were each in breach of the Order of Kent, J. dated October 25, 2011.
5. **THIS COURT ORDERS** that, if the parties are unable to agree on cost, they may file written submission on no more than five pages, double-spaced, in addition to any pertinent offers and draft bills of cost, within 30 days.

ANSKI V. LAKE SIMCOE AEROPARK, BETOWSKI, MASCIOLI

Court File No. C-121-11

98

ONTARIO

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT KITCHENER

ORDER

STAN GIDZINSKI
SELF REPRESENTED

5 KILKENNY PLACE
GUELPH, ON N1L 1H1
stan@gidzinski.com
Tel: 519-823-6152
Fax: 519-821-0842

GARY E. FLAXBARD, B.A., LL.B.
BARRISTER AND SOLICITOR

TELEPHONE: (519) 623-8340
FACSIMILE: (519) 623-8720

1315 BISHOP STREET
SUITE 140
CAMBRIDGE, ONTARIO N1R 6Z2

August 12, 2014

STAN GIDZINSKI
5 Kilkenny Place
Guelph, Ontario
N1L 1H1
(519) 823-6152 - Cell
(519) 821-0842 - Home

PETER I. WALDMANN
Barrister & Solicitor
183 Augusta Avenue
Toronto, Ontario
M5T 2L4
(416) 921-3185
(416) 921-3183 - Fax

Dear Sirs:

RE: **GIDZINSKI v. LAKE SIMCOE AEROPARK INC., BERARDO
MASIOLI, ELIZABETH BETOWSKI a.k.a. EWA BETOWSKI
COURT FILE NUMBER: C-121-11**

Further to my letter of July 30, 2014, I received a letter on August 6, 2014 by mail dated August 1, 2014 from Mr. Waldmann enclosing the Reasons for Judgment of the Honourable Mr. Justice D. A. Broad released June 20, 2014 and the Notice of Appeal delivered by Mr. Gidzinski dated July 19, 2014.

Mr. Waldmann drew my attention to paragraph 47 of the Reasons for Judgment directing me to send \$34,171.00 to Lake Simcoe Aeropark Inc. He asked me to advise whether I require a Direction concerning funds to send that money to him in trust.

Firstly, I wish to point out that I have not been served with a Court Order or Court Judgment. Secondly, it is my understanding that Mr. Gidzinski has filed a Notice of Appeal and accordingly pursuant to Rule 63.01(1) of the Rules of Civil Procedure, the delivery of a Notice of Appeal stays, until the disposition of the

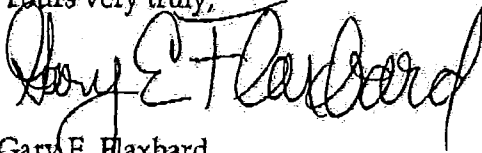
Appeal, any provision of the order for the payment of money, except a provision that awards support or enforces a support order.

Subject to what I hear from both of you, it is my view that I am required to hold this money in my trust account until Mr. Gidzinski's Appeal has been disposed of, or until there is an order of the Appeal Court dealing with the money held in trust by me, or until both of you should agree in writing.

With respect to Mr. Waldmann's question, because of the wording of the Reasons for Judgment and in particular paragraph 47 thereof, I will have to make the cheque payable, when I am in a position to do so, to the corporation, which is Lake Simcoe Aeropark Inc. unless I receive a valid Direction signed by Lake Simcoe Aeropark Inc. directing me to pay it otherwise.

I look forward to hearing from both of you.

Yours very truly,



Gary E. Flaxbard
GEF:kk

GARY E. FLAXBARD, B.A., LL.B
Barrister & Solicitor
140-1315 Bishop Street
Cambridge, Ontario
N1R 6Z2

**GARY E. FLAXBARD,
B.A., LL.B.**

Telephone: (519) 623-8340
Fax: (519) 623-8720

FAX

To: Peter L. Waldmann	Att.:
Fax: 416-921-3183	Pages: 3 (Including cover sheet)
Phone:	Date: August 12, 2014
Re: Gidzinski v. Lake Simcoe Aeropark Inc. et al. Court File No. C-121-11	

- Urgent
 For Review
 Please Comment
 Please Reply
 Please Recycle

Message

Please see attached.

*** The information contained in this facsimile is intended for the named recipients only. It may contain privileged and confidential information and if you are not an intended recipient, you must not copy, distribute or take any action in reliance on it. If you have received this facsimile in error, please notify us immediately by a collect telephone call to (519) 623-8340 and return the original to the sender by mail, we will reimburse you for the postage. ***

If you have any problems in receiving this facsimile transmission, please call (519) 623-8340 and ask for Kayla.

101

Tab Q

Heather Laurie Shon, CPA – CA, MPA, MSc
34 Lippincott Street
Toronto, Ontario
M5T 2R5

This is Exhibit "Q"
to the Affidavit of
Elizabeth Roberts
sworn this *20th* day of
August, 20 *14*
[Signature]
Commissioner for Affidavits

DRAFT – for review

August 10, 2014

Peter I Waldmann
Peter I Waldmann Professional Corporation
183 Augusta Avenue
Toronto, Ontario
M5T 2L4

Re: Collins Barrow Toronto Limited – Invoice # 1 – 6500068 dated July 7, 2014 and
Invoice # 2 – 6500079 dated July 21, 2014 to the Polish Alliance of Canada

I have reviewed the above noted invoices from Collins Barrow (attached) and at your request, have performed a review of the said invoices professional charges and descriptions.

I provide the following general comments on those invoices.

1. Professional fees billed were for services provided almost exclusively by senior staff, Daniel Weisz, Senior Vice President (hourly rate of \$495) and Brenda Wong, Senior Manager (hourly rate of \$350). It appears that Collins Barrow Toronto Limited has assigned senior professional staff to this file who are charged out at higher rates than assigning some of the tasks to more junior staff members.
2. There appears to be multiple instances where there could be duplication of charges for specific, one-time tasks based on the invoice descriptions provided in the Collins Barrow Toronto Limited invoices such as "tour of the building and taking pictures of building" (see Brenda Wong, billed for on June 20 and June 21). It is not certain why the task was repeated and the client invoiced. Other charges of tasks related to parking lot renters are identified in the Appendix A – Analysis of Potential Issues with Collins Barrow Toronto Limited – Invoices 1 and 2. Specific billing issues are summarized in this Appendix.
3. Junior and administrative tasks, such as preparing draft information for Collins Barrow Toronto Ltd website and preparing letters to "parking lot renters", were completed by senior staff and corresponding higher rate fee charges. These tasks are typically assigned to more junior staff who are billed out at lower rates.
4. Descriptions of work activities billed are not always clear as to purpose (see June 27, 2014 entry, charged by D Weisz, telephone call to R Rusek). Specific details appear to be absent related to meetings, emails, telephone conversations, etc.

5. The number of hours/portion of hours for each entry description is missing in both Invoice # 1 and Invoice # 2. It is difficult to determine whether the number of hours charged is reasonable.
6. Blanket charge for "To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing" is worrisome and peculiar given that only two senior Collins Barrow Toronto Limited staff appear to have time charged to this matter. As noted in item 3, above, administrative tasks were performed almost exclusively by Daniel Weisz and Brenda Wong, both who hold senior positions at the firm.

I have included as Appendix B (pages X through XX) detailed Receiver and Manager invoices from PriceWaterhouseCoopers Inc. Receiver

1. Statement of Fees Summary;
2. Invoice(s);
3. Time and disbursements summaries; and
4. Time details

(downloaded from the Pricewaterhouse Coopers website

http://www.pwc.com/en_CA/CA/car/labelad/assets/labelad-029_040113.pdf).

The PriceWaterhouse Coopers invoices, time and disbursement summaries **along with supporting time details and explanation of tasks** represents best practice billing practices. It is my professional opinion that the Collins Barrow Toronto Limited invoices to Polish Alliance of Canada do not meet professional best practices for billing in matters related to receiverships where transparency and accountability of professional services is warranted.

I trust that you will find this information helpful. If you need further details, please do not hesitate to contact me.

Regards,

DRAFT ONLY

Heather Laurie Shon, CPA – CA, MPA, MSc

Tab R



The Polish Alliance of Canada
Związek Polaków w Kanadzie
 Incorporated in the Province of Ontario, December 19, 1907

BRANCH MEMBERSHIP LIST

Branch name 1-7
 Address 2282 Lakeshore Blvd West
 Contact name [Signature] Phone [Signature]
 E-mail [Signature]
 This is Exhibit # R to the Affidavit of [Signature] sworn this 29th day of August, 2014
 Date [Signature]
 Commissioner for Affidavits

Q	Member's Number & Year Dues Paid	Last & First name	address	Phone	e-mail
1.	2014	Burdyme Norczyca	317 Parkdown Rd #35 Toronto	647 209 3880	Nolai's of Notmas / .com
2.	2014	Dubicki Pawel	66 Roncesvalles #801 Toronto	416 534 3423	
3	2014	Dubicki Maria	66 Roncesvalles #801 Toronto	416 534 3423	
4	2014	Egodzik Janina	412 Queen St Toronto M5A 1T3	416 436 3287	
5	2014	Gryciuk Patrick	64-2700 Dufferin St Toronto	647 470 7774	
6	2014	Gryciuk Magda	250 Manitoba St. #823 Toronto	647 883 2504	
7	2014	Paulina Harmonjan	2606-21 Wadmar St Toronto	647 526 9202	
8	2014	Janula Stanomir	412 Queen St Toronto	416 884 4464	
9	2014	Klieb Regina	24 Southcrest #752 Toronto	416 668 5433	
10	2014	Kayprzek Halima	77 Summitcrest Dr Toronto	416 244 2161	
11	2014	Lis Mariej	22 Oakmount #103 Toronto	416 992 8260	
12	2014	Majewski Elizabeth	17 Munhall Rd Toronto	416 249 8287	
13	2014	Norotarska Marie	22 Oakmount #103 Toronto	416 760 9745	
14	2014	Pake David	317 Parkdown #35 Toronto	647 210 3407	
15	2014	Pilitowska Ugate	22 Oakmount 103 Toronto	647 463 2100	
16	2014	Romanuk Janina	1838 Bloor St Y #804 Toronto	416 662 6671	



BRANCH MEMBERSHIP LIST

Branch name..... 1-7

Address..... 2282 Lakeshore Blv West

Contact name Phone.....

E-mail..... Date.....

The Polish Alliance of Canada
Związek Polaków w Kanadzie

Incorporated in the Province of Ontario, December 19, 1907

Q	Member's Number & Year Dues Paid	Last & First name	address	Phone	e-mail
17	2014	Sapinski Krzysztof	470 Rogers Rd Toronto	416 536 9543	
18	2014	Szajna Stanek	2606-21 Hardmer St Toronto	416 992 429	
19	2014	Wlodyczanski Wanda	20 Daisy Ave Toronto	416 255 2951	
20	2014	Lapota Olga	250 Manitoba St # 823 Toronto	647 892 8111	
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The Polish Alliance of Canada
Związek Polaków w Kanadzie
Incorporated in the Province of Ontario, December 19, 1907

1586A Bloor Street West
Toronto, Ontario M6P 1A7
E-mail: zgzpwk@yahoo.com
Tel. 416-531-2491, Fax 416-531-5153

MEMBER APPLICATION

Applicant's first & last name Olgierd Zapala
Address 250 Manitoba St #823
Toronto, ON Phone 647 882 8111
Birth data 31/05/1983 Birth place Poland
E-mail zapala0@hotmail.com Status in Canada Citizen
Profession Floaxist Applicant's Signature & data Aug 03/2014

SPONSOR'S CONTACT INFORMATION

First & last name Czeslawa Lawendz
Address 3175 KIRWIN AVE UNIT 116 MISSISSAUGA L5A 3M4
E-mail: Lawendzcsn@yahoo.ca Phone 905 279 4634
Sponsor's signature & data Lucina Aug 28. 14

ADMITTED TO THE BRANCH # _____ in _____

At the meeting (day) _____ (month) _____ (year) _____

President's signature _____ Secretary's signature _____

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2014

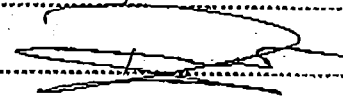
President's Signature _____ Secretary's signature _____

106

MEMBER APPLICATION

Applicant's first & last name WANDA WKADYERANSKA
 Address 20 DAISY AVE
TORONTO ONT M8V 2J2 Phone 416 255-2951
 Birth date 17.07.28 Birth place POLAND
 E-mail Status in Canada CANADIAN
 Profession..... Applicant's Signature & date (Wladyczeranska 28.08/14)

SPONSOR'S CONTACT INFORMATION

First & last name Robert Laczemski
 Address 3175 Kivim Ave #116
 E-mail: Phone 905 279 4634
 Sponsor's signature & date 28.08.14 

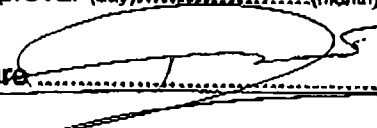
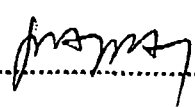
ADMITTED TO THE BRANCH #.....in.....

At the meeting (day)..... (month)..... (year).....

President's signature Secretary's signature

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2013

President's Signature  Secretary's signature 



The Polish Alliance of Canada
Związek Polaków w Kanadzie
Incorporated in the Province of Ontario, December 19, 1907

1586A Bloor Str.
Toronto, Ontario M6A
E-mail: zglzpwk@yahoo.co
Tel. 416-531-2491, Fax 416-531-5153

MEMBER APPLICATION

Applicant's first & last name Marek Szajna
Address 2606-21 Wadmer St., Toronto, ON M5V 0B8
Phone 416 992 7429
Birth data 11.11.1982 Birth place Wroclaw, Poland
E-mail marek.szajna@gmail.com Status in Canada Citizen
Profession Immigration Consultant Applicant's Signature & data Marek Szajna 28.08.2014

SPONSOR'S CONTACT INFORMATION

First & last name JANUSZ SZAJNA
Address 364 THRACE AVE, MISSISSAUGA, ON
E-mail: janusz.szajna@gmail.com Phone 416-910-2883
Sponsor's signature & data Janusz Szajna 28.08.2014

ADMITTED TO THE BRANCH # in
At the meeting (day) (month) (year)
President's signature Secretary's signature

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2014
President's Signature [Signature] Secretary's signature [Signature]



The Polish Alliance of Canada
Związek Polaków w Kanadzie
Incorporated in the Province of Ontario, December 19, 1907

1586A Bloor Street W.
Toronto, Ontario M6P 1A7
E-mail: zglzpwk@yahoo.com
Tel. 416-531-2491, Fax 416-531-5153

MEMBER APPLICATION

Applicant's first & last name Krzysztof Sapinski
Address 470 Rogers Road TORONTO ONT
..... M6M 1B1 Phone 416-536-9543
Birth data 28.06.59 Birth place Golka Nofectka - POLAND
E-mail Gedmount@rogers.com Status in Canada citizen
Profession... int. mech. Applicant's Signature & data [Signature] 08.28.14

SPONSOR'S CONTACT INFORMATION

First & last name.....
Address.....
E-mail:..... Phone

Sponsor's signature & data.....

ADMITTED TO THE BRANCH #..... in.....
At the meeting (day)..... (month)..... (year).....
President's signature Secretary's signature

Approval of the Head Executive Board

The admittance approval (day)..... 29 (month)..... Aug (year)..... 2014

President's Signature [Signature] Secretary's signature [Signature]

109



The Polish Alliance of Canada
Związek Polaków w Kanadzie
Incorporated in the Province of Ontario, December 19, 1907

1586A Bloor Street West
Toronto, Ontario M6P 1A7
E-mail: zglzpwk@yahoo.com
Tel. 416-531-2491, Fax 416-531-5153

MEMBER APPLICATION

Applicant's first & last name JAROSLAW ROMANIUK
Address 1638 Bloor St. W # 804 TORONTO ON
..... M6P 0A6 Phone 416-662-6671
Birth date 07.08.62 Birth place POLAND
E-mail Status in Canada CAN. CITIZEN
Profession..... RN Applicant's Signature & date [Signature] 28.08.2014

SPONSOR'S CONTACT INFORMATION

First & last name..... ELZBIETA ROMANIUK
Address..... ~~1638~~ 1625 BLOOR ST. MISSISSAUGA ONT L4X 1S3
E-mail:..... ela.romaniuk@gmail.com Phone 905-629-1099
Sponsor's signature & date 28.8/14 [Signature]

ADMITTED TO THE BRANCH # in
.....

At the meeting (day)..... (month) (year)

President's signature Secretary's signature

Approval of the Head Executive Board

The admittance approval (day)..... 29 (month)..... Aug (year)..... 2014

President's Signature Secretary's signature [Signature]



The Polish Alliance of Canada
Związek Polaków w Kanadzie
Incorporated in the Province of Ontario, December 19, 1907

1586A Bloor Street West
Toronto, Ontario M6P 1A7
E-mail: zqlzpwk@yahoo.com
Tel. 416-531-2491, Fax 416-531-5153

MEMBER APPLICATION

Applicant's first & last name AGATA PILITOWSKA

Address 22 OAKMOUNT RD. AP 1103. TORONTO-ONT
M6P-2M7

Phone 647 463 2100

Birth date 29 XI 1958 N Birth place KRAKOW

E-mail _____ Status in Canada CANADIAN

Profession ACTRES Applicant's Signature & date 10.08.2014
Agata Pilibud

SPONSOR'S CONTACT INFORMATION

First & last name GRAZYNA TRYTKO

Address 1638 BLOOR ST W # 804 TORONTO, ONT

E-mail: _____ Phone 416 655-1880

Sponsor's signature & date D. Hyle Aug 10 2014

ADMITTED TO THE BRANCH # _____ in _____

At the meeting (day) _____ (month) _____ (year) _____

President's signature _____ Secretary's signature _____

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2014

President's Signature _____ Secretary's signature [Signature]

(11)



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Tel. 416-531-2491, Fax 416-531-5153

MEMBER APPLICATION

Applicant's first & last name DAVID PAKE

Address 317 Pake Lane Rd #35
Toronto, ON

Phone 416-210-3407

Birth data March 30, 1983 Birth place Canada

E-mail davepake@hotmail.com Status in Canada Canadian Citizen

Profession Musician Applicant's Signature & data Aug 28, 2014
[Signature]

SPONSOR'S CONTACT INFORMATION

First & last name Czeslawa Laurinucche

Address 3175 KIRWIN AVE UNIT 116 Mississauga Ont L7A 3A1

E-mail: Laurinucche Czeslawa@YAHOO.CA Phone 905 279 4634

Sponsor's signature & data Laurinucche in Aug 28. 14
[Signature]

ADMITTED TO THE BRANCH # in

At the meeting (day) (month) (year)

President's signature Secretary's signature

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2014

President's Signature *[Signature]* Secretary's signature *[Signature]*



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E-mail: zglpwk@yahoo.com
Tel. 416-531-2491, Fax 416-531-5153

MEMBER APPLICATION

Applicant's first & last name Marie Nowotarska

Address 22 OAKMOUNT RD, AP 1103

TORONTO - M6P-2M7 Phone 416.7609745

Birth date 2.11.1936 Birth place KRAKÓW

E-mail Status in Canada CITIZEN CANAD

Profession ACTRES Applicant's Signature & date 10.08.2014
Marie Nowotarska

SPONSOR'S CONTACT INFORMATION

First & last name GRAZYNA TRYTKO

Address 1638 BLOOR ST W #804 TORONTO, ONT

E-mail: Phone 416 655-1880

Sponsor's signature & date Dhylew 10/08/14

ADMITTED TO THE BRANCH # in

At the meeting (day) (month) (year)

President's signature Secretary's signature

Approval of the Head Executive Board


The admittance approval (day) 29 (month) Aug (year) 2014

President's Signature [Signature] Secretary's signature [Signature]

MEMBER APPLICATION

Applicant's first & last name ELIZABETH MAJEWSKI
 Address 17 MUNHALL RD. TORONTO ONT.
M9P 1R1 Phone 416-249 8287
 Birth date 18.02.1944 Birth place DROBICZYN POLAND
 E-mail _____ Status in Canada CANADIAN
 Profession _____ Applicant's Signature & date Elizabeth Majewski
June 26, 2014

SPONSOR'S CONTACT INFORMATION

First & last name Robert Laurimelion
 Address 3175 Givern Ave #116
 E-mail: _____ Phone 905 279 4654
 Sponsor's signature & date June 26, 2014 

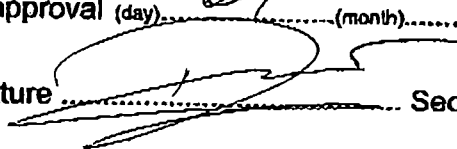
ADMITTED TO THE BRANCH # _____ in _____

At the meeting (day) _____ (month) _____ (year) _____

President's signature _____ Secretary's signature _____

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2014

President's Signature  Secretary's signature jm

MEMBER APPLICATION

Applicant's first & last name HALINA KASPRZAK
 Address 77 SUMMITCREST DR. M9P 1H7
TORONTO ONT Phone 416-244-2161
 Birth date 17.07.50 Birth place POLAND
 E-mail Status in Canada CANADIAN
 Profession..... Applicant's Signature & date H. Kasprzak June 30, 2014

SPONSOR'S CONTACT INFORMATION

First & last name Robert Sawicki
 Address 3175 Kivora Ave # 116
 E-mail: Phone 905 279-4634
 Sponsor's signature & date June 30, 2014

ADMITTED TO THE BRANCH #.....in.....

At the meeting (day)..... (month)..... (year).....

President's signature Secretary's signature

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2014

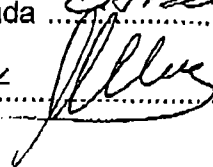
President's Signature Secretary's signature [Signature]



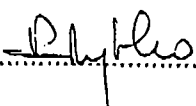
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Tel. 416-531-2491, Fax 416-531-5151

MEMBER APPLICATION

Applicant's first & last name Maciej Lis
Address 22 Oakmount # 1103
Phone 416 992-8260
Birth date 24 March 82 Birth place Kalisz
E-mail mattlis@gmail.com Status in Canada Citizen
Profession biz. manager Applicant's Signature & date 10.08.2014 

SPONSOR'S CONTACT INFORMATION

First & last name GRAZYNA TRAKO
Address 1638 BLOOR ST. W #804 TORONTO, ONTARIO
E-mail: _____ Phone 416 655-1880
Sponsor's signature & date  10/08/14

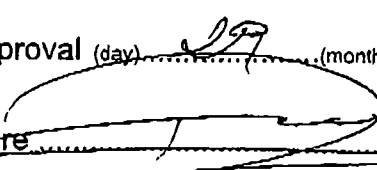
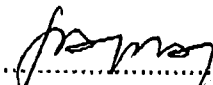
ADMITTED TO THE BRANCH # _____ in _____

At the meeting (day) _____ (month) _____ (year) _____

President's signature _____ Secretary's signature _____

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2014

President's Signature  Secretary's signature 

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Incorporated in the Province of Ontario, December 19, 1907

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Toronto, Ontario M6P 1A7
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MEMBER APPLICATION

Applicant's first & last name REGINA KIEŁB

Address 24 SOUTH BURT ST #752

TORONTO ONT M6S 4Z1 Phone 416-668-5433

Birth date 7/06/1956 Birth place POLAND

E-mail _____ Status in Canada CANADIAN

Profession _____ Applicant's Signature & date AUG 28 2014 R. Kiełb

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E-mail: ela.romaniuk@gmail.com Phone 905-629-10-99

Sponsor's signature & date 28.8/14 E. Romaniuk

ADMITTED TO THE BRANCH #.....in.....

At the meeting (day).....(month).....(year).....

President's signature Secretary's signature

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2014

President's Signature [Signature] Secretary's signature [Signature]

(17)



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1586A Bloor Street Wes
Toronto, Ontario M6P 1A7
E-mail: zglzpwk@yahoo.com
Tel. 416-531-2491, Fax 416-531-5153

MEMBER APPLICATION

Applicant's first & last name SLAWOMIR JANICKI
Address 412 QUEEN ST TORONTO ON M5A 1T3
Phone 416-884 4464
Birth date 10 DEC 1968 Birth place POLAND
E-mail alex.jc68@yahoo.ca Status in Canada CANADIAN
Profession SUPERINTENDANT Applicant's Signature & date 28 AUG 2014 Janicki Slawomir

SPONSOR'S CONTACT INFORMATION

First & last name ELZBIETA ROMANIUK
Address 1625 BLOOR ST MISSISSAUGA ONT L4X 1S3
E-mail ela.romaniuk@gmail.com Phone 905-629-1099
Sponsor's signature & date 28.8/14 E. Romaniuk

ADMITTED TO THE BRANCH #.....in.....

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President's signature Secretary's signature

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The admittance approval (day) 29 (month) Aug (year) 2014

President's Signature Secretary's signature [Signature]



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MEMBER APPLICATION

Applicant's first & last name Paulina Hariribafan
 Address 2606-21 Widmer St., Toronto ON,
MSV 0B8 Phone 647 526-9202
 Birth data 14.06.1980 Birth place Wroclaw, Poland
 E-mail Paulina.hariribafan@office3mail.com Status in Canada Citizen
 Profession Admin Applicant's Signature & data [Signature] 28.08.2014

SPONSOR'S CONTACT INFORMATION

First & last name JANUSZ SZAJNA
 Address 364 TRACE AVE, MISSISSAUGA ON
 E-mail: janusz.szajna@gmail.com Phone 416-910-2883
 Sponsor's signature & data [Signature] 28.08.2014

ADMITTED TO THE BRANCH # _____ in _____

At the meeting (day) _____ (month) _____ (year) _____

President's signature _____ Secretary's signature _____

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2014

President's Signature [Signature] Secretary's signature [Signature]



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MEMBER APPLICATION

Applicant's first & last name Magda Gryciuk
 Address 250 Manitoba St #823
Toronto, ON Phone 647 883 2504
 Birth data 28/04/1983 Birth place Poland
 E-mail Gryciuk Magda@gmail.com Status in Canada Citizen
 Profession Project Manager Applicant's Signature & data Aug 03 / 2014
[Signature]

SPONSOR'S CONTACT INFORMATION

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 Address 3175 KIRVIN AVE UNIT 116 MISSISSAUGA L5A 3K4
 E-mail: Janina.cochane@yahoo.ca Phone 905 279 4634
 Sponsor's signature & data [Signature] Aug 28.14

ADMITTED TO THE BRANCH #.....in.....

At the meeting (day).....(month).....(year).....

President's signature Secretary's signature

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The admittance approval (day) 29 (month) Aug (year) 2014

President's Signature [Signature] Secretary's signature [Signature]

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Applicant's first & last name Patrick Goguel

Address 64 - 2700 Dufferin St., Toronto,
M6B 4J3 Phone 647 470 7774

Birth data July 3 1989 Birth place Toronto

E-mail chinchilla@gmail.com Status in Canada Citizen

Profession Doctor Applicant's Signature & data P. Goguel
2810812014

SPONSOR'S CONTACT INFORMATION

First & last name Czerhna Lawienche

Address 3175 KIRKTON AVE 116 MISSISSAUGA L5A 3M4

E-mail: Lawienche ors & YAHOO. CA Phone 905 279 4684

Sponsor's signature & data Lawienche Aug 28.14

ADMITTED TO THE BRANCH #.....in.....

At the meeting (day)..... (month) (year)

President's signature Secretary's signature

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2014

President's Signature [Signature] Secretary's signature [Signature]

(121)



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Incorporated in the Province of Ontario, December 19, 1907

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E-mail: zglzpwk@yahoo.com
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MEMBER APPLICATION

Applicant's first & last name JAROSLAW GOZDZIK
Address 412 QUEEN ST W TORONTO ONT M5A 1T3
Phone 416-436-3287
Birth data 25 DEC 1981 Birth place POLAND
E-mail Status in Canada PERMANENT RES.
Profession STUDENT Applicant's Signature & data 28 AUG 2014 J Gozdziak

SPONSOR'S CONTACT INFORMATION

First & last name ELZBIETA ROMANIUK
Address 1625 BLOOR ST W MISSISSAUGA ONT L4X 1S3
E-mail: ela.romaniuk@gmail.com Phone 905-629-1099
Sponsor's signature & data 28.8/14 E. Romaniuk

ADMITTED TO THE BRANCH # in

At the meeting (day) (month) (year)

President's signature Secretary's signature

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2014

President's Signature [Signature] Secretary's signature [Signature]

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The Polish Alliance of Canada
Związek Polaków w Kanadzie
Incorporated in the Province of Ontario, December 19, 1907

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E-mail: zqlzpwk@yahoo.ca
Tel. 416-531-2491, Fax 416-531-5153

MEMBER APPLICATION

Applicant's first & last name Maria Dubicki

Address 66 Concesselles # 801
Toronto Phone 416 534-3423

Birth data 1938.01.15 Birth place Poland

E-mail Status in Canada Citizen

Profession..... Applicant's Signature & data Aug 28, 2014
M. Dubicki

SPONSOR'S CONTACT INFORMATION

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Address 3175 Givern Ave # 116 L5A 3M4

E-mail loewenmelinrobert@yahoo.ca Phone 905 279-4634

Sponsor's signature & data [Signature]

ADMITTED TO THE BRANCH #.....in.....

At the meeting (day)..... (month)..... (year).....

President's signature Secretary's signature

Approval of the Head Executive Board

The admittance approval (day) 29 (month) Aug (year) 2014

President's Signature [Signature] Secretary's signature [Signature]

123



The Polish Alliance of Canada
Związek Polaków w Kanadzie
Incorporated in the Province of Ontario, December 19, 1907

1586A Bloor Street W.
Toronto, Ontario M6P 1A,
E-mail: zglzpwk@yahoo.com
Tel. 416-531-2491, Fax 416-531-5153

MEMBER APPLICATION

Applicant's first & last name Pawel Dubicki

Address 66 Concessvelles # 801

..... Toronto Phone 416 534 3423

Birth data 1930.12.30 Birth place Poland

E-mail Status in Canada Citizen

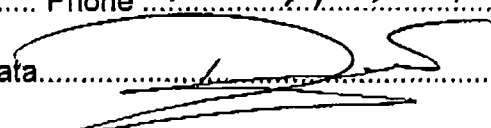
Profession..... Applicant's Signature & data Aug 28, 2014
P. Dubicki

SPONSOR'S CONTACT INFORMATION

First & last name..... Robert Lawienko

Address..... 3175 Kivim Ave #116 L5A 3M4

E-mail:..... Phone 905 279-4634

Sponsor's signature & data..... 

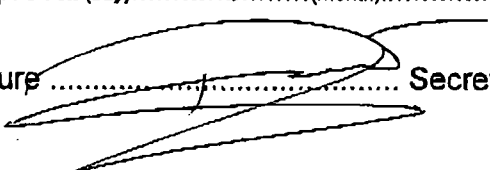
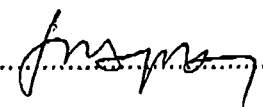
ADMITTED TO THE BRANCH #..... in.....

At the meeting (day)..... (month)..... (year).....

President's signature Secretary's signature

Approval of the Head Executive Board

The admittance approval (day)..... 29 (month)..... August (year)..... 2014

President's Signature  Secretary's signature 

(124)



The Polish Alliance of Canada
Związek Polaków w Kanadzie
Incorporated in the Province of Ontario, December 19, 1907

1586A Bloor Street
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E-mail: zgzpwk@yahoo.com
Tel. 416-531-2491, Fax 416-531-5153

MEMBER APPLICATION

Applicant's first & last name NARCYZA BURDYNA

Address 317 PARK LAWN RD # 35
TORONTO, ON Phone 416-209-3880

Birth data JUNE 9, 1982 Birth place SALOWA WOLA, POLSKA

E-mail malais@netman.com Status in Canada Canadian Citizen

Profession FLORAL DESIGNER Applicant's Signature & data [Signature]
& Singer in band Aug. 28/2014

SPONSOR'S CONTACT INFORMATION

First & last name Czeslawa Laurimucha

Address 3175 KIRWIN AVE UNIT 116 MISSISSAUGA ON L5A 3K4

E-mail: Laurimucha Czesl @ YAHOO. CA Phone 905 279 4634

Sponsor's signature & data [Signature] Aug 28.14

ADMITTED TO THE BRANCH #.....in.....

At the meeting (day)..... (month)..... (year).....

President's signature Secretary's signature

Approval of the Head Executive Board

The admittance approval (day) 29 (month) August (year) 2014

President's Signature Secretary's signature

125

THE POLISH ALLIANCE OF CANADA

(Short title of proceeding)

PLAINTIFF and

POLISH ASSOCIATION OF TORONTO LIMITED, ET AL.

DEFENDANTS

126

Court file no. CV 08-361644

**ONTARIO SUPERIOR
COURT OF JUSTICE**
Proceeding commenced at Toronto

AFFIDAVIT

Name, address and telephone number of solicitor or party

Peter I. Waldmann [LSUC # 23289MJ]

Barrister and Solicitor

183 Augusta Avenue

Toronto, Ontario, M5T 2L4

tel: (416) 921-3185

fax: (416) 021-3183

Lawyer for the Plaintiff:

PLAINTIFF and

POLISH ASSOCIATION OF TORONTO LIMITED, ET AL.

DEFENDANTS

Court file no. CV 08-361644

ONTARIO SUPERIOR
COURT OF JUSTICE

Proceeding commenced at Toronto

MOTION RECORD
FOR TRIAL OF AN ISSUE

Name, address and telephone number of solicitor or party

Peter I. Waldmann [LSUC # 13289MJ]

Barrister and Solicitor

183 Augusta Avenue

Toronto, Ontario

Canada M5T 2L4

tel: (416) 921-3185

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*Lawyer for the Plaintiff/Defendant by Counterclaim
The Polish Alliance of Canada and the Aided
Defendants by Counterclaim Robert Zawierucha,
Tadeusz Maziarz, Danuta Zawierucha, Teresa
Szramek, Andrzej Szuda, Adam Sikora, Elzbieta
Gazda, Stanislaw Iwanicki and Tadeusz Smetana*

(Served by facsimile)

Court File No. CV 00-051874

ONTARIO SUPERIOR
COURT OF JUSTICE

Proceeding commenced at Toronto

MOTION RECORD
FOR TRIAL OF AN ISSUE

For the purposes and location of this motion, the parties are:
Peter Waldman, ESQC # 13289M

Barak & Solovick
188 Augusta Avenue
Toronto, Ontario
Canada M5H 2L4

Tel: (416) 921-3185
Fax: (416) 991-3183

*Lawyer for the Plaintiff/Defendant by Counterclaim
The Polish Alliance of Canada and the Added
Defendants by Counterclaim Robert Zawierucha,
Tadeusz Maziarz, Danuta Zawierucha, Teresa
Szamiek, Andrzej Szuba, Adam Sikora, Elzbieta
Gazda, Stanislaw Iwanicki and Tadeusz Smetana*