



This is the 1st affidavit of D. Bergman in this case & and was made on August 2018 NO. VLC-S-S-183355 VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ALL CANADIAN INVESTMENT CORPORATION

PLAINTIFF

AND:

BDO CANADA LLP

DEFENDANT

AND:

DONALD BERGMAN

THIRD PARTY

AFFIDAVIT

I, DONALD BERGMAN, Businessman, care of ACIC (All Canadian Investment Corporation), Suite 2 - 781 Marine Park Drive, in the City of Salmon Arm, Province of British Columbia, SWEAR (OR AFFIRM) THAT:

- 1. I am the sole Director and President of the Plaintiff, All Canadian Investment Corporation("ACIC"), and as such have personal knowledge of the facts and matters hereinafter deposed to save and except where they are stated to be based upon information and belief, and as to those matters I verily believe them to be true.

2. On November 7, 2017, I swore an Affidavit in support of a Petition for ACIC to obtain creditor protection pursuant to the ***Companies' Creditors Arrangement Act***.

3. As part of those proceedings, a Petition was filed seeking creditor protection. One of the factors contributing to the need of the company to seek creditor protection was the actions of resignation of the Defendants as auditors for the company.

4. Paragraph 20 of the Petition reads as follows:

Further, the Petitioner's ability to raise additional capital was also hindered by the sudden resignation of its auditors, BDO Canada LLP ("BDO"). On or about March 29, 2016, which was six (6) months after the Petitioner's year end, BDO resigned without advance warning and without completing the Petitioner's audited financial statement for 2015 or filing the Petitioner's tax return. Due to the timing of BDO's resignation, the Petitioner was unable to retain another auditor in a timely manner. The Petitioner's endeavours to raise additional further capital had to cease as the Petitioner was unable to provide audited financial statements to complete an offering memorandum.

5. ACIC's impecuniosity is due to the conduct and actions of the Defendant.

6. ACIC is a mortgage investment corporation ("MIC") which has been in business since 1998. Its business is to provide loans to owners and developers of single and multi-family residential, commercial, office and industrial real estate properties which are secured by registered, unregistered and equitable mortgages on the properties.

7. The Petitioner's primary objective as a MIC is to provide its preferred shareholders with dividend payments. The Petitioner has two classes of shares: common shares and preferred shares.

8. The Petitioner issued a total of 37,277 preferred shares and 15,647 warrants to investors for an aggregate capital of approximately

\$37,277,000. The beneficiaries of ACIC are its preferred shareholders. The preferred shareholders are the shareholders who would benefit in the event ACIC receives damages in the within claim.

9. Due to its insolvency, ACIC is unable to provide security for costs.
10. As part of its role as Monitor, the Monitor created a creditor list. Now produced and shown to me and marked as **Exhibit "A"** to this my Affidavit is a copy of the Creditor List which appears on the website of Boale Wood, Monitor for ACIC.
11. BDO is not listed as an unsecured or secured creditor.
12. Certain assumptions and statements appear in the Affidavits filed in support of the Defendant's application. I did not misrepresent the status of ACIC's mortgages.
13. At no time did I advise any representative of BDO that the Altezza Loan and the Hastings 4719 Loan were registered. ACIC held some mortgages as equitable mortgages. This is the case with the Altezza Loan and the Hastings 4719 Loan. The fact that a mortgage is not registered does not mean that it is not a mortgage. An equitable mortgage is a mortgage.
14. Contrary to the assertion contained in paragraph 37 of the Affidavit of Angela Spencer, ACIC did not discharge its mortgage security. It only discharged its registration. The mortgage still remains. This was explained to BDO by me on numerous occasions.
15. The statements attributed to me in paragraph 38 of the Spencer Affidavit are totally without foundation. I made no such statements to Ms. Spencer.

16. In response to paragraph 40 of the Spencer Affidavit, the two Censario Loans were secured by mortgages on residential properties held as equitable mortgages.
17. Contrary to the assertions contained in paragraph 29 of the Spencer Affidavit, I deny making any such statements. A Restructuring Agreement had been entered into by ACIC and was in the file and available to BDO throughout. Now produced and shown to me and marked as **Exhibit "B"** to this my Affidavit is a copy of the Restructuring Agreement.
18. I did not forgive the loan as Ms. Spencer contends. I advised Ms. Spencer the debt was restructured. At all times, I understood that this restructuring was a related party transaction and would need to be disclosed. I made no such statement about the position of the Securities Commission, as alleged by Ms. Spencer.
19. The statements attributed to me in paragraphs 22 to 26 of the Spencer Affidavit regarding a meeting of March 21, 2016, are totally untrue. The restructuring had occurred on May 8, 2014.
20. The Defendant's letter of resignation makes no mention of the alleged grounds of resignation asserted in the Affidavit of Mr. Johnson or Ms. Spencer.
21. Counsel for the Plaintiff is retained on a contingency fee basis. There is no obligation on the part of the Plaintiff to pay ongoing legal fees, contrary to the suggestion of the Defendant.
22. Thus, there is no diversion of funds as contended by the Defendant.
23. Prior to the commencement of the litigation on March 1, 2018, I spoke with Mr. John McEown, the Monitor's representative. I advised him of the proposed lawsuit and the fact that the matter would be proceeding by way of a contingency fee agreement.

- 24. At no time was I advised by Mr. McEown that the Monitor objected to the initiation of this lawsuit.
- 25. The lawsuit is in the interest of the preferred shareholders.
- 26. I believe if security for costs is awarded, the Plaintiff's claim will be stifled as it has no funds to provide security in the amount sought.

SWORN BEFORE ME
 at ~~Vancouver~~ ^{Salmon Arm}, British Columbia
 on 8 August, 2018.

lew



~~A commissioner for taking
 affidavits for British Columbia
 Alastair Wade~~

lew

ZOE STEVENS
 A Notary Public in and for
 The Province of British Columbia
 #3 - 120 Harbourfront Drive NE
 Salmon Arm, BC V1E 2T3

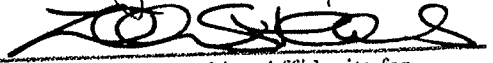
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 DONALD BERGMAN

This is Exhibit "A" referred to in the
Affidavit of Donald Bergman
sworn (or affirmed) before me on

August 8, 2018



A commissioner for taking Affidavits for
British Columbia

ZOË STEVENS
A Notary Public in and for
The Province of British Columbia
#3 - 120 Harbourfront Drive NE
Salmon Arm, BC V1E 2T3

All Canadian Investment Corporation

- Creditor List -

Creditor Type	Name	Address	Claim \$
Secured	Fisgard Capital Corporation	3378 Douglas Street Victoria BC V8Z 3L3	1,285,702.00
	Van Maren Financial Ltd	Suite 202, 45793 Luckakuck Way Chilliwack BC V2R 5S3	500,000.00
Total			1,785,702.00
Unsecured	1083163 Alberta Ltd.	301 Stewardson Way New Westminster BC V3M 2A5	516,666.65
	ACIC CJ Properties Ltd.	Suite 2, 781 Marine Park Dr. NE Salmon Arm BC V1E 2W7	24,000.00
	ACIC Financial Development Inc.	Suite 2, 781 Marine Park Dr. NE Salmon Arm BC V1E 2W7	115,238.56
	Bailey, Roy	#28 - 22740 116 Ave Maple Ridge BC V2X 2X7	154,000.00
	Buchanan, Donald	P.O Box 72 Hudson's Hope BC V0C 1V0	154,000.00
	Clark Wilson LLP	#900 - 885 West Georgia Street Vancouver BC V6C 3H1	12,248.58
	Econ-o-Lith Printing Ltd.	916 102 Ave Dawson Creek BC V1G 2B7	154,000.00
	Gill, Ajit & Simro	550 Fermoy place Victoria BC V8Z 6N2	154,000.00
	Grover, Elliott & Co. Ltd	10th Floor, 609 W Hastings St Vancouver BC V6B 4W4	1,904.44
	Harper Grey LLP	3200 Vancouver Centre, 650 West Georgia Street Vancouver BC V6B 4P7	6,413.89
	James Hancock	1701 - 1499 West Pender St. Vancouver BC V6G 0A7	1,015,123.29
	Lockhart, Robert	1305 W 48th Ave Vancouver BC V6M 2N8	205,333.32
	Ministry of Finance - British Columbia	Station Provincial Government PO Box 9445 Victoria BC V8W 9V5	11,705.92
	Murray, Christopher	4062 Torry Rd Eagle Bay BC V0E 1T0	154,000.00

All Canadian Investment Corporation

- Creditor List -

Creditor Type	Name	Address	Claim \$
	Olson, Mervyn & Margaret	14225 Porlier Pass Rd Galiana BC V0N 1P0	154,000.00
	Palatee Enterprises Ltd.	P.O. Box 84 Lillooet BC V0K 1V0	154,000.00
	Renfrew, Joan & Cliff	201 - 13585 16 Ave Surrey BC V4A 1P6	154,000.00
	Richardson, Douglas A.	2078 Lillooet Court Kelowna BC V1V 1Y2	154,000.00
	Wallbank, Beatrice & Cmolik, Brad	5824 Columbia Ave Peachland BC V0H 1X4	154,000.00
	Yu, Wenge	15-140 Nickel Rd Kelowna BC V1X 4E6	154,000.00
		Total	3,602,634.65
Contingent	Geertje Gort de Lauprecht	c/o Vincent Pigeon, Barrister & Solicitor 410 - 688 West Hasting Street Vancouver BC V6B 1P1	200,000.00
	Joe Garrson	c/o FH&P Lawyers LLP 400 - 275 Lawrence Avenue Kelowna BC V1Y 6L2	225,000.00
	Parkland Fund Ltd.	c/o Sean Kelly Law # 101 - 1353 Ellis Street Kelowna BC V1Y 1Z9	1,000,000.00
		Total	1,425,000.00

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This is Exhibit "B" referred to in the
Affidavit of Donald Bergman
sworn (or affirmed) before me on
August 8, 2018
[Signature]

MEMORANDUM OF AGREEMENT Commissioner for taking Affidavits for
British Columbia

ZOE STEVENS
A Notary Public in and for
The Province of British Columbia
#3 - 120 Harbourfront Drive NE
Salmon Arm, BC V1E 2T3

This Memorandum of Agreement is made as of the 8th day of May, 2014, between William Leslie Allen ("Allen"), Donald F. Bergman ("Bergman"), W.L.A. Holdings Ltd. ("Holdings"), Daniel Point Projects Ltd. ("Daniel Point"), W.L.A. Financial Corporation ("Financial"), 0911368 B.C. Ltd. ("911"), All Canadian Investment Corporation ("ACIC"), ACIC Financial Developments Inc. ("ACICFD"), 1001695 B.C. Ltd. ("Newco"), Meridian Resource Accommodations Inc. ("Meridian") and Don Bergman Inc. ("Bergman Inc.") witnesses that:

WHEREAS:

- A. Holdings, Daniel Point and Allen are the legal and beneficial owners of certain properties located in Pender Harbour, British Columbia and legally described as follows:
 - PID: 026-169-428, Lot 136 District Lot 3923, Group 1, New Westminster District Plan BCP15556;
 - PID: 026-169-436, Lot 137 District Lot 3923, Group 1, New Westminster District Plan BCP15556;
 - PID: 027-093-387, Lot 184 District Lot 3923, Group 1, New Westminster District Plan BCP30066;
 - PID: 026-192-993, Lot 4 and an undivided 3/12th share in Lot 7, District Lot 3923, Group 1, New Westminster District Plan BCP15562;
 - PID: 026-193-001, Lot 5 and an undivided 3/12th share in Lot 7, District Lot 3923, Group 1, New Westminster District Plan BCP15562; and
 - PID: 026-193-019, Lot 6 and an undivided 3/12th share in Lot 7, District Lot 3923, Group 1, New Westminster District Plan BCP15562(collectively, the "Daniel Point Properties")
- B. ACIC has advanced certain funds to Daniel Point and Holdings from time to time pursuant to a loan facility (the "ACIC Daniel Point Loan") secured by mortgage security granted over the Daniel Point Properties, and the outstanding balance of principal and interest under such loan facility was approximately \$5,868,661 as of April 30, 2014;
- C. ACIC has advanced certain funds to 911 from time to time pursuant to a credit facility evidenced by a letter agreement between 911 and ACIC dated June 1, 2011, as amended from time to time (the "911 Loan"), and the outstanding balance of principal and interest under such credit facility was approximately \$3,189,444 as of April 30, 2014;
- D. 911 has advanced certain funds to Meridian from time to time (the "Meridian Loan"), and the outstanding balance of principal and interest under such loan was approximately \$3,189,444 as of April 30, 2014;
- E. Financial is the legal and beneficial owner of 900 Common shares in the capital of Meridian;
- F. Bergman is the President and a director of ACIC and is the principal shareholder and sole director of Newco and Bergman Inc.;

DB

- G. Allen is the sole shareholder of Financial, and as of the date hereof, Allen is the legal and beneficial owner of 200 Common shares in the capital of Financial;
- H. ACIC intends to obtain financing from a third party lender for the benefit of ACIC (the "Daniel Point Refinancing"), which financing will be secured by mortgage security over the Daniel Point Properties;
- I. Newco wishes to purchase an aggregate 20% interest in the shares of Financial for an aggregate subscription price of \$5,189,444 (the "Subscription"), and such purchase is to take place in two tranches; and
- J. The parties wish to set out their respective obligations in respect of the Daniel Point Refinancing and the Subscription.

THEREFORE, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties to this Memorandum of Agreement covenant and agree with each other as follows:

1. The parties covenant and agree that all of the recitals to this Agreement are true.
2. ACIC shall arrange for the Daniel Point Refinancing and the proceeds of the Daniel Point Refinancing shall be paid to ACIC. Holdings, Daniel Point and Allen agree to co-operate with ACIC and with the third party lender advancing the Daniel Point Refinancing (the "Lender") in arranging the Daniel Point Refinancing as quickly as practicable, provided that:
 - (a) Holdings, Daniel Point and Allen shall not be required to provide any covenants, guarantees, indemnities or other financial assurances in respect of the Daniel Point Refinancing, except to the extent of their interest in the Daniel Point Property; and
 - (b) the ACIC Daniel Point Loan shall be subordinated in all respects to the Daniel Point Refinancing.
3. ACIC, ACICFD, Bergman, Bergman Inc. and Newco shall jointly and severally indemnify and hold harmless each of Holdings, Daniel Point and Allen and their respective directors, officers, employees, agents, advisers, executors and shareholders from and against any and all loss, liability, claim, damage and expense whatsoever (including, but not limited to, any and all fees, costs and expenses whatsoever reasonably incurred in investigating, preparing and defending against any claim, law suit, administrative proceeding or investigation whether commenced or threatened) arising from or in connection with the breach by ACIC of its obligations pursuant to paragraph 8 below, the past, present or future environmental condition of the Daniel Point Properties, the Daniel Point Refinancing, or any security granted, personal or other covenants or agreements given or delivered in connection with the Daniel Point Refinancing.
4. As security for the due payment and performance of the obligations of Bergman Inc. pursuant to paragraph 3 above, Bergman Inc. will assign, pledge and hypothecate to Allen and grant to Allen a security interest in all of the issued and outstanding shares in the capital of Newco, in such form as is acceptable to Allen, and such assignment, pledge

and hypothecation shall terminate upon satisfaction by Bergman Inc. of all of his obligations under the indemnity granted pursuant to paragraph 3 above.

- 5. On or before October 1, 2015, ACIC, or its nominee, shall take title to the Daniel Point Properties and Holdings, Daniel Point and Allen shall transfer title to the Daniel Point Properties to ACIC, or its nominee, in consideration for a full and final release from ACIC in favour of Holdings, Daniel Point and Allen in respect of their respective obligations under the ACIC Daniel Point Loan.
- 6. ACIC, or its nominee, will pay the expense of registering the transfers of the Daniel Point Properties with the appropriate Land Title Office and will pay any property transfer tax due in respect of the transfer of the Daniel Point Properties to ACIC, or its nominee.
- 7. ACIC, or its nominee, will pay any GST payable with respect to the transfer of the Daniel Point Properties to ACIC, or its nominee, and to the extent permissible will account directly to Canada Revenue Agency with respect thereto, and will confirm its GST registration number to Holdings, Daniel Point and Allen on the completion of such transfer by providing a signed certificate in the customary form.
- 8. From and after the date hereof, ACIC shall pay all costs and expenses relating to the Daniel Point Properties or the operation and maintenance thereof, including, without limitation, all payments required to be made on account of the Daniel Point Refinancing, property taxes, utility charges and insurance premiums.
- 9. ACIC hereby waives any and all interest payable by Daniel Point and Holdings pursuant to the ACIC Daniel Point Loan and by 911 pursuant to the 911 Loan from and after April 30, 2014.
- 10. Meridian hereby acknowledges that it is indebted to 911 in the amount of \$3,189,444 as of April 30, 2014 under the Meridian Loan.
- 11. As of and from the date hereof, Financial assumes and agrees to pay, discharge and perform all obligations, debts, and liabilities of Meridian under the Meridian Loan and to save Meridian harmless from any claims in that regard, and 911 releases Meridian from his obligations under the Meridian Loan.
- 12. In conjunction with the execution of this Agreement, Financial and Newco shall enter into a Subscription Agreement pursuant to which Newco shall subscribe to 50 Common shares in the capital of Financial, which Subscription Agreement will provide, *inter alia*, that:
 - (a) 22 Common shares in Financial will be issued to Newco on May 31, 2014 (or such other date as is mutually agreed upon) in consideration for the assumption by Newco of the obligations of Financial pursuant to the Meridian Loan (the "First Tranche"); and
 - (b) Financial will grant a warrant to Newco pursuant to which Newco will have the option to purchase a further 28 Common shares in Financial for an aggregate purchase price of \$2,000,000 and such warrant shall be exercisable on or before July 15, 2014 (the "Second Tranche").

- 13. Upon the issuance of the First Tranche, Newco, Bergman, Allen and Financial shall enter into a Shareholder's Agreement with respect to the shares of Financial held by Newco and Allen, upon such terms as are agreed upon by the parties thereto.
- 14. Each party shall from time to time promptly execute and deliver or cause to be executed and delivered all such further documents and instruments and shall do or cause to be done all such further acts and things in connection with this Agreement that the other parties may reasonably require as being necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.
- 15. Time shall be of the essence of this Agreement.
- 16. This Agreement shall be governed by and construed in accordance with the laws of British Columbia, Canada. The parties irrevocably attom to the exclusive jurisdiction of the courts of British Columbia with respect to any matter relating to or arising out of this Agreement.
- 17. No party may assign all or part of its interest in or to this Agreement without the consent of the other parties in writing.
- 18. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument.
- 19. This Agreement or any counterpart may be executed by the parties and transmitted by fax or electronic mail and if so executed and transmitted this Agreement or counterpart will be for all purposes as effective as if the parties had executed and delivered an original Agreement or counterpart.

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BD

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the date first written above.

W L A
WILLIAM LESLIE ALLEN

[Signature]
DONALD F. BERGMAN

W.L.A. HOLDINGS LTD., by its authorized signatory:

W L A
Name: William Leslie Allen

DANIEL POINT PROJECTS LTD., by its authorized signatory:

W L A
Name: William Leslie Allen

W.L.A. FINANCIAL CORPORATION, by its authorized signatory:

W L A
Name: William Leslie Allen

MERIDIAN RESOURCE ACCOMMODATIONS INC., by its authorized signatory:

W L A
Name: William Leslie Allen

0911368 B.C. LTD., by its authorized signatory:

W L A
Name: William Leslie Allen

ALL CANADIAN INVESTMENT CORPORATION, by its authorized signatory:

[Signature]
Name: Donald F. Bergman

ACIC FINANCIAL DEVELOPMENTS INC., by its authorized signatory:

[Signature]
Name: Donald F. Bergman

1001695 B.C. LTD., by its authorized signatory:

[Signature]
Name: Donald F. Bergman

DON BERGMAN INC., by its authorized signatory:

[Signature]
Name: Donald F. Bergman