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Court File No./Estate No.: BK-22-00208582-OT-31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI and AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

# MOTION RECORD OF THE TRUSTEE IN BANKRUPTCY, GRANT THORNTON LIMITED

February 9, 2023


**Thornton Grout Finnigan LLP**
100 Wellington Street West – Suite 3200
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7
Tel: 416-304-1616

**Leanne M. Williams** (LSO# 41877E)
Email: lwilliams@tgf.ca

**Rachel Fielding** (LSO# 72211S)
Email: rfielding@tgf.ca

Lawyers for Grant Thornton Limited, in its capacity as Trustee in Bankruptcy of the Estates of AP Private Equity Limited and Aiden Pleterski

<<

**TO:** **MENA BASTAWROUS**
8 The Esplanade Suite 2705
Toronto, ON, M5E 0A6

Tel: (647) 772-6280
Email: msbcrimlaw@gmail.com

Lawyer for Mitchell Learning

**AND TO:** **THIS HONOURABLE COURT**

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Court File No./Estate No.: BK-22-00208582-OT-31

*ONTARIO*
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI and AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

# INDEX

# TAB 1

Court File No./Estate No.: BK-22-00208582-OT-31

*ONTARIO*
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI and AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

## NOTICE OF MOTION

Grant Thornton Limited, in its capacity as the trustee ( "**Trustee**") of the estates of each of the bankrupts, AP Private Equity Limited ("**AP**") and Aiden Pleterski ("**Pleterski**" and collectively with AP, the "**Bankrupts**"), will make a motion before the Honourable Justice Osborne of the Ontario Superior Court of Justice (in Bankruptcy and Insolvency) on February 21st, 2023 at 9:30 a.m., or as soon after that time as the motion may be heard by judicial videoconference via Zoom at Toronto, Ontario. The videoconference details will be shared by the Court closer to the date of hearing. Please advise if you intend to join the hearing of the motion by email to Alexander Overton at aoverton@tgf.ca.

**PROPOSED METHOD OF HEARING**: The motion is to be heard by videoconference.

**THE MOTION IS FOR:**

1. an Order substantially in the form included at Tab 7 of the Motion Record:

    (a) requiring Mr. Learning, within seven (7) days of the Order, to:

        (i) deliver all of his bank statements from all of his bank accounts for the period June 2020 to October 31, 2022, to the Trustee to the extent not already delivered;

(ii) identify any and all transactions representing funds transferred to the Bankrupts or received from the Bankrupts in the statements referred to in (i) above;

(iii) deliver an unredacted copy of the document titled "Financial Analysis_Redacted", previously provided to the Trustee on January 5, 2023, which includes all payees and payors together with a listing of all payments to and/or from Mr. Learning relating to other parties' investments with the Bankrupts; and

(iv) deliver all receipts and proof of transactions or investments between himself and the Bankrupts, including copies of wire transfers, bank drafts and cheques.

(b) directing the parties to reappear before this Court should Mr. Learning fail to provide the production described in (a)(i) to (iv) above for a contempt hearing pursuant to Rule 34.15(2) of the Rules, such hearing to be scheduled no later than fifteen (15) days after the deadline for such delivery;

(c) the costs of this motion on a full indemnity basis; and

(d) such further and other relief as this Court deems just.

2. Capitalized terms used but not defined in this Notice of Motion shall have the meanings given to them in the Trustee's Preliminary Report dated August 29, 2022 (the "**Preliminary Report**"), the First Report of the Trustee dated September 9, 2022 (the "**First Report**"), the Supplement to the First Report of the Trustee dated September 26, 2022 (the "**Supplement to the First Report**") and the Second Report of the Trustee dated October 21, 2022 (the "**Second Report**").

**THE GROUNDS FOR THE MOTION ARE**:

***Nature of the Proceeding***

3. AP and Pleterski operated an investment scheme on behalf of a pool of investors that centered on cryptocurrency and foreign exchange positions. Pleterski is the sole director and officer of AP.

4. On July 7, 2022, certain investors in the investment scheme successfully obtained an *ex parte* worldwide *Mareva* injunction against the Bankrupts, after demonstrating *prima facie* fraudulent misrepresentation, civil fraud, misappropriation of funds, conversion, and unjust enrichment.

5. On August 9, 2022, on application by certain other creditors of the Bankrupts, the Ontario Superior Court of Justice ordered that Pleterski and AP be adjudged bankrupt. Grant Thornton Limited was appointed Trustee of the Bankrupts. Since the commencement of the bankruptcy proceedings, and as of the date of the Second Report, claims filed against the Bankrupts' estates exceed $25 million.

6. During the course of its investigation of the Bankrupts estate, the Trustee has been advised that much of the funding raised by the Bankrupts was raised through "originators" who introduced potential investors to Pleterski. The Trustee has been advised that Mr. Mitchell Learning was one of those Originators.

***History of Request for Documents***

7. On October 11, 2022, Mr. Learning was formally examined pursuant to section 163 of the BIA, wherein he gave the following undertaking: "To provide all of Mr. Learning's bank

statements for all of his bank accounts from June 2020 to present. Also, to identify which transactions represent money going to Aiden Pleterski or AP Private Equity, or any transaction where he received money from AP Private Equity or Aiden Pleterski." Mr. Learning undertook to provide this accounting within two weeks, being by October 25, 2022 (the "**Undertaking**").

8. After failing to receive a reply to the Undertaking by October 25, 2022, counsel for the Trustee corresponded on multiple occasions with counsel for Mr. Learning, who advised that Mr. Learning would deliver answers to the Undertaking on October 31, 2022, November 1, 2022, November 15, 2022, November 18, 2022, November 25, 2022, and December 5, 2022.

9. On December 13, 2022, counsel for the Trustee, Thornton Grout Finnigan LLP ("**TGF**"), served Mr. Learning with a Notice for Production under section 164 of the BIA requiring that Mr. Learning deliver up "any and all banking records, receipts, and proof of any transactions and/or investments between yourself and Aiden Pleterski and/or AP Private Equity Limited in your possession and/or control, by no later than December 20, 2022," (the "**Production Notice**" and together with the Undertaking, are referred to collectively as the "**Accounting**").

10. Counsel for Mr. Learning verbally advised counsel for the Trustee on December 23, 2022, that Mr. Learning would provide the Accounting later that evening, but nothing was produced.

11. By email on January 3, 2023, counsel for Mr. Learning again advised counsel for the Trustee that the Accounting would be sent that evening.

12. On January 5, 2023, counsel for the Trustee received a document titled "Financial Analysis_Redacted" from counsel for Mr. Learning, which purported to satisfy Mr. Learning's obligations under the Accounting. That document consisted of a redacted excel spreadsheet listing

excerpts from banking records without any explanation or supporting documentation. In his email enclosing the excel document, counsel for Mr. Learning also stated that Mr. Learning did not "come out of this situation financially whole."

13. Counsel for the Trustee advised counsel for Mr. Learning that this document did not satisfy Mr. Learning's obligations under the Accounting. Counsel for the Trustee also stated that the Trustee would be seeking an order to compel the production of documents from Mr. Learning. Counsel for the Trustee proceeded to schedule a case conference on January 16, 2023, with notice to counsel to Mr. Learning.

14. On January 13, 2023, TGF served counsel for Mr. Learning with its Aide Memoire in advance of the January 16, 2023 case conference.

15. On January 16, 2023, counsel for the Trustee appeared before Justice Steele, who adjourned scheduling of the Trustee's motion to a subsequent case conference to be heard by January 27, 2023.

16. On January 26, 2023, counsel for Mr. Learning and for the Trustee appeared before Justice Osborne, who ordered that the Trustee's motion to compel Mr. Learning to comply with the Undertaking and the Production Notice would be heard on February 21, 2023.

17. On February 5, 2023, counsel for Mr. Learning served the Trustee with copies of Mr. Learning's bank statements from the period of July 2020 to the end of August 2022 (the "**Bank Statements**"). The Bank Statements were for two BMO bank accounts and contained no added notes highlighting any transactions or payments to Mr. Learning from either of the Bankrupts, nor

were there any notes indicating transactions which represent Mr. Learning's investment with either of the Bankrupts.

18. No other bank records, receipts, or proof of transactions between Mr. Learning and any of the Bankrupts were received.

19. On February 7, 2023, counsel for the Trustee emailed counsel for Mr. Learning informing him that the Bank Statements and the "Financial Analysis_Redacted" document on their own did not satisfy Mr. Learning's obligations.

***Importance of the Accounting***

20. Mr. Learning's refusal to adequately answer the Undertaking given on examination under section 163 and refusal to produce the documents requested in the Production Notice under section 164 are a violation of his obligations under the BIA and the Rules.

21. Further, Mr. Learning's non-cooperative behaviour has a material impact on the Trustee's ability to fulfil its statutory duties and for the proper administration of the Bankrupts' estates for the benefit of their various stakeholders. These duties include properly investigating the affairs of the Bankrupts and taking possession of all assets which belong to the Bankrupts' estates for the distribution of the Bankrupts' creditors based on their proven claims.

22. The Accounting sought by the Trustee concerns Mr. Learning's banking records and information relating to the Bankrupts, the Bankrupts' dealings and property, and is necessary for the Trustee's investigation and administration of the Bankrupts' estates. Without the Accounting, the Trustee will not be able to adequately investigate and confirm Mr. Learning's potential profits from the Bankrupts' scheme.

23. The Trustee therefore brings this motion and seeks the proposed requested Order.

***Other Grounds***

24. In addition to the other grounds enumerated in this Notice of Motion, the Trustee relies on:

    (a) Rules 1.04, 1.05, 2.03, 31.07, 34.15, 37, and 59.06 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;

    (b) Sections 163 and 164 of the BIA; and

    (c) such further and other grounds as the lawyers may advise.

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

1. the Affidavit of Alexander Overton, sworn February 9, 2023;

2. the Preliminary Report, the First Report, the Supplement to the First Report, and the Second Report, filed in this proceeding; and

3. such further and other evidence as the lawyers may advise and this Court may permit.

February 9, 2023

**Thornton Grout Finnigan LLP**
100 Wellington Street West – Suite 3200
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7

**Leanne M. Williams** (LSO# 41877E)
Email: lwilliams@tgf.ca

**Rachel Fielding** (LSO# 72211S)
Email: rfielding@tgf.ca

Tel: 416-304-1616

Lawyers for Grant Thornton Limited, in its capacity as trustee in bankruptcy of the estates of AP Private Equity Limited and Aiden Pleterski

**TO:** **MENA BASTAWROUS**
8 The Esplanade Suite 2705
Toronto, ON, M5E 0A6

Tel: (647) 772-6280
Email: msbcrimlaw@gmail.com

Lawyer for Mitchell Learning

**AND TO:** **THIS HONOURABLE COURT**

**IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI and AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

Court File No./Estate No.: BK-22-00208582-OT-31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

Proceedings commenced at Toronto, Ontario

**NOTICE OF MOTION**

**Thornton Grout Finnigan LLP**
100 Wellington Street West – Suite 3200
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7
Tel: 416-304-1616

**Leanne M. Williams** (LSO# 41877E)
Email: lwilliams@tgf.ca

**Rachel Fielding** (LSO# 72211S)
Email: rfielding@tgf.ca

Lawyers for Grant Thornton Limited, in its capacity as Trustee in Bankruptcy of the Estates of AP Private Equity Limited and Aiden Pleterski

# TAB 2

Court File No./Estate No.: BK-22-00208582-OT-31

*ONTARIO*
**SUPERIOR COURT OF JUSTICE**
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**IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI and AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

**AFFIDAVIT OF ALEXANDER OVERTON**

I, Alexander Overton, of the City of Toronto, in the Province of Ontario, make oath and say:

1. I am a lawyer with Thornton Grout Finnigan ("**TGF**"), the lawyers for Grant Thornton Limited, in its capacity as the trustee ("**Trustee**") of the estates of each of the bankrupts, AP Private Equity Limited ("**AP**") and Aiden Pleterski ("**Pleterski**" and collectively with AP, the "**Bankrupts**"), and as such, I have knowledge of the matters set out below. The facts stated in this affidavit are within my personal knowledge or determined from the face of the documents attached as exhibits and I believe such information to be true. Where I do not have direct knowledge of the matters set out below, I have stated the source of my information and I believe such information to be true.

**Motion for Productions**

2. The Trustee seeks to compel Mr. Learning to produce certain banking records, receipts, and proof of any transactions and/or investments between himself and the Bankrupts, and to provide all of Mr. Learning's bank statements for all his bank accounts from June 2020 to the present day, pursuant to an undertaking given by Mr. Learning during his examination under

section 163 of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 as amended (the "**BIA**") and pursuant to a Notice for Production served on Mr. Learning via his counsel pursuant to section 164 of the BIA. These events are further detailed in the Aide Memoire of the Trustee in Bankruptcy prepared for the January 26, 2023 case conference related to this motion. Attached hereto is a copy of the Aide Memoire marked as **Exhibit "A"**.

**Examination of Mr. Learning and Mr. Learning's Undertaking**

3. I am advised by my colleague Rachel Fielding, counsel for the Trustee, that on October 6, 2022, she served Mena Bastawrous, counsel for Mr. Learning, with a BIA section 163 Notice of Examination of Mr. Learning by email. Attached hereto is a copy of the October 6, 2022, email marked as **Exhibit "B"** and a copy of the section 163 Notice of Examination marked as **Exhibit "C"**.

4. On October 11, 2022, Ms. Fielding formally examined Mr. Learning pursuant to section 163 of the BIA. Attached hereto is an extract of the examination transcript evidencing the October 11, 2022, examination marked as **Exhibit "D"**.

5. During the examination, Mr. Learning provided the following undertaking: "To provide all of Mr. Learning's bank statements for all of his bank accounts from June 2020 to present. Also, to identify which transactions represent money going to Aiden Pleterski or AP Private Equity, or any transaction where he received money from AP Private Equity or Aiden Pleterski." Mr. Learning further undertook to provide the accounting within two weeks, being by October 25, 2022 (the "**Undertaking**"). Attached hereto is an extract of the examination transcript evidencing the Undertaking marked as **Exhibit "E".**

**Mr. Learning's Undertaking is Unanswered**

6. I am advised by Ms. Fielding and believe that Mr. Learning did not answer the Undertaking by October 25, 2022, or at all. In email correspondence with Ms. Fielding, counsel for Mr. Learning committed to providing Mr. Learning's response to the Undertaking by the following deadlines: October 31, 2022, November 1, 2022, November 15, 2022, and November 18, 2022. Attached hereto are copies of the emails between Ms. Fielding and counsel for Mr. Learning regarding the agreed production deadline extensions marked as **Exhibit "F"**.

7. By email dated November 18, 2022, counsel for Mr. Learning served counsel for the Trustee with a copy of the Refusals and Undertakings Chart including Mr. Learning's replies. In response to the Undertaking, the chart stated that Mr. Learning had obtained his records from his bank on November 18, 2022, and would provide them the following week (being the week ending November 25, 2022). Ms. Fielding replied on the same day, noting deficiencies in the replies to other undertakings and requesting an update on when the Undertaking would be answered. Attached hereto are copies of the November 18, 2022 emails marked as **Exhibit "G"** and a copy of the Refusals and Undertakings Chart including Mr. Learning's replies marked as **Exhibit "H"**.

8. Despite the commitment to answer the Undertaking by November 25, 2022, I am advised by Ms. Fielding that she received nothing from Mr. Learning or his counsel by that date.

9. By email dated November 29, 2022, enclosing letter correspondence, Ms. Fielding advised counsel for Mr. Learning that if Mr. Learning did not comply with the Undertaking, the Trustee would consider legal action against Mr. Learning. The Trustee offered an additional extension to December 5, 2022 for Mr. Learning to answer the Undertaking. I am advised by Ms. Fielding that no further information or documents were received by the revised December 5, 2022 deadline.

Attached hereto is a copy of the November 29, 2022 letter correspondence and enclosing email from Ms. Fielding to counsel for Mr. Learning marked as **Exhibit "I"**.

10. I am advised by Ms. Fielding that on December 13, 2022, TGF served counsel for Mr. Learning with a BIA section 164 Notice for Production for Mr. Learning (the "**Production Notice**", and together with the Undertaking, collectively referred to as the "**Accounting**"), requiring that Mr. Learning deliver up "any and all banking records, receipts, and proof of any transactions and/or investments between yourself and Aiden Pleterski and/or AP Private Equity Limited in your possession and/or control, by no later than December 20, 2022." Attached hereto is a copy of the Production Notice and enclosing email marked as **Exhibit "J"**.

11. I am advised by my colleague Leanne Williams, counsel for the Trustee with carriage of this matter, that on December 23, 2022, counsel for Mr. Learning confirmed by phone call that the Accounting would be provided the same day. I am advised by Ms. Williams that the Accounting was not received that day. Attached hereto is a copy of related emails between Ms. Williams and counsel for Mr. Learning regarding the December 23, 2022 phone call marked as **Exhibit "K"**.

12. By email dated January 3, 2023, counsel for Mr. Learning advised Ms. Williams that the Accounting would be sent that same day. I am advised by Ms. Williams that again the Accounting was not received that day. Attached hereto is copy of the January 3, 2023 email marked as **Exhibit "L"**.

13. By email dated January 4, 2023, Ms. Williams informed counsel for Mr. Learning that the Trustee was seeking dates for a case conference to schedule a contempt proceeding against Mr. Learning arising from his failure to provide the Accounting. Attached hereto is a copy of the January 4, 2023 email marked as **Exhibit "M"**.

14. By email dated January 5, 2023, counsel for Mr. Learning provided a document titled "Financial Analysis_Redacted" to Ms. Williams. This document consists of a redacted excel spreadsheet listing excerpts from banking records without explanation or supporting documentation. Ms. Williams responded the same day and informed counsel for Mr. Learning that the document provided did not comply with Mr. Learning's obligation to produce the Accounting. Ms. Williams advised counsel for Mr. Learning that the Trustee would be proceeding to schedule a case conference for January 16, 2023. Attached hereto are copies of the January 5, 2023 emails, and a copy of the "Financial Analysis_Redacted" document marked as **Exhibit "N"**.

15. By email dated January 13, 2023, TGF served counsel for Mr. Learning with a copy of the Trustee's Aide Memoire in connection with the scheduled January 16, 2023 case conference. Attached hereto is a copy of the January 13, 2023 email from Ms. Williams marked as **Exhibit "O"**.

16. I am advised by Ms. Williams that the case conference took place on January 16, 2023, and at the case conference, Justice Steele adjourned scheduling of the Trustee's motion to a subsequent case conference to be heard by January 27, 2023, to accommodate attendance by counsel for Mr. Learning.

17. I am advised by Ms. Williams that the rescheduled case conference took place on January 26, 2023, and at the case conference, Justice Osborne ordered that the Trustee's motion to compel Mr. Learning to comply with his Undertaking and with the Production Notice be heard on February 21, 2023.

18. On February 5, 2023, I am advised by Ms. Williams that Mr. Learning produced unredacted copies of certain of his bank statements (the "**Bank Statements**"). Ms. Williams advised that these documents were delivered directly to the Trustee.

19. I am advised by Ms. Fielding that the Bank Statements appear to cover the date range from July 2020 to the end of August 2022.

20. The Bank Statements appear to be for two of Mr. Learning's bank accounts, a BMO Premium Rate Savings account ending in 236 and a BMO Primary Chequing account ending in 543. Attached hereto is a redacted sample of a bank statement for the BMO Premium Rate Savings account ending in 236 marked as **Exhibit "P"**.

21. I am advised by Ms. Williams that no other banking records, receipts, or proof of transactions between Mr. Learning and any of the Bankrupts, or any other documentation was received by the Trustee.

22. On February 6, 2023, counsel for Mr. Learning emailed Ms. Williams stating that his assistant dropped off "all bank records" in his possession to Mr. Jesse Cooper. I am advised by Ms. Fielding that Mr. Cooper is a Senior Associate at Grant Thornton Limited.

23. Counsel for Mr. Learning asked for confirmation of receipt and asked if the Trustee would vacate the upcoming motion date. Attached hereto is a copy of the February 6, 2023 email from counsel for Mr. Learning to Ms. Williams marked as **Exhibit "Q"**.

24. On February 7, 2023, Ms. Williams emailed counsel for Mr. Learning informing him that the Bank Statements and the "Financial Analysis_Redacted" document did not satisfy Mr. Learning's obligations, and that the Trustee intended on proceeding with the motion on February

21, 2023. Attached hereto is a copy of the February 7, 2023 email correspondence from Ms. Williams to counsel for Mr. Learning marked as **Exhibit "R"**.

| | |
|---|---|
| SWORN remotely via videoconference, by ALEXANDER OVERTON stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, this 9th day of February 2023, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely* | Alexander Overton<br>**ALEXANDER OVERTON** |
| Commissioner for Taking Affidavits, etc.<br>**Rachel Fielding** | |

**EXHIBIT "A"**

This is Exhibit "A" referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

Court File No./Estate No.: BK-22-00208582-OT-31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI and AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

# AIDE MEMOIRE OF THE TRUSTEE IN BANKRUPTCY, GRANT THORNTON LIMITED

**(January 26, 2023 Case Conference)**

***Nature of the Proceeding***

1. Certain creditors of Aiden Pleterski ("**Pleterski**") and AP Private Equity Limited ("**AP**" and together with Pleterski, the "**Bankrupts**" or individually each a "**Bankrupt**") successfully obtained an *ex parte* worldwide *Mareva* injunction on July 7, 2022. The plaintiffs in the *Mareva* proceeding claimed relief based on breach of contract, fraudulent misrepresentation, civil fraud, misappropriation of funds, conversion, and unjust enrichment as a result of their inducement into making substantial investments with Pleterski based on fraudulent misrepresentation. The Court was satisfied that there was a strong *prima facie* case that Aiden Pleterski committed a breach of contract and civil fraud.

2. On application by certain other creditors of the Bankrupts, the Ontario Superior Court of Justice ordered that Pleterski and AP be adjudged bankrupt (the "**Bankruptcy Orders**"). Grant Thornton Limited was appointed as the trustee in bankruptcy (the "**Trustee**") of both Bankrupts. Since the commencement of the bankruptcy proceedings, claims totaling approximately $27 million have been filed in the consolidated estates of the Bankrupts.

3. The Trustee has been advised that certain of the funding raised by the Bankrupts was raised through originators who introduced potential investors to Pleterski. The Trustee has been advised that Mitchell Learning ("**Learning**") was one of those originators.

***Relief Sought***

4. The Trustee is seeking to schedule motions to compel the production of documents by Learning and for contempt. To date, Learning has failed to comply with both his obligations under s.164 of the *Bankruptcy and Insolvency Act* ("**BIA**") as well as his undertakings given during his examination pursuant to section 163 of the BIA.

***History of Request for Documents***

5. On September 6, 2022, the Trustee met with Learning and his counsel, Mr. Bastawrous, wherein the Trustee requested copies of Learning's bank records to support Learning's assertions as to the profit he obtained from the Bankrupts' investment scheme. Learning gave the Trustee his personal assurances that all the records would be promptly provided to the Trustee for its review. Although Learning cooperated with the Trustee and provided certain information, his bank records were not provided.

6. On October 11, 2022, Learning was formally examined pursuant to s.163 of the BIA, wherein he gave the following undertaking, "To provide all of Mr. Learning's bank statements for all of his bank accounts from June 2020 to present. Also, to identify which transactions represent money going to Aiden Pleterski or AP Private Equity, or any transaction where he received money from AP Private Equity or Aiden Pleterski." Learning undertook to provide the accounting within two weeks, being by October 25, 2022.

7. After failing to receive the accounting by October 25, 2022, counsel for the Trustee, Thornton Grout Finnigan LLP (“**TGF**”), corresponded on multiple occasions with Mr. Bastawrous who promised to deliver Learning’s undertakings multiple times including on October 31, 2022, November 1, 2022, November 15, 2022, and November 18, 2022.

8. On December 13, 2022, TGF served Learning with a notice under s.164 of the BIA requiring that Learning deliver up “any and all banking records, receipts, and proof of any transactions and/or investments between yourself and Aiden Pleterski and/or AP Private Equity Limited in your possession and/or control, by no later than December 20, 2022.”

9. Mr. Bastawrous verbally agreed on December 23, 2022 to send the requested accounting later that evening. Nothing was received. By email on January 3, 2023, Mr. Bastawrous advised that the documents would be sent that evening. Nothing was received.

10. Finally on January 5, 2023, our office received a document titled “Financial Analysis_Redacted”. The document provided is essentially a redacted Excel spreadsheet listing excerpts from banking records without any explanation or supporting documentation. TGF advised Mr. Bastawrous on behalf of Learning that this document did not satisfy his undertaking or his obligations pursuant to section 164 of the BIA and that the Trustee would be seeking a contempt order. No further information or documentation has been forthcoming leaving the Trustee no choice but to bring a motion for production and contempt.

11. A case conference was scheduled for January 16, 2023 to schedule the motions for production and contempt. That morning, Mr. Bastawrous advised Leanne Williams of TGF that he would not be available and accused Ms. Williams, among other things, of sharp

practice for booking the date without his consent. At the case conference, Ms. Williams read Mr. Bastawrous' email into the record and advised the Court of the steps taken to make Mr. Bastawrous aware of the January 16, 2023 date which were not responded to. Justice Steele adjourned the case conference to a date to be rescheduled by January 27, 2023.

January 23, 2023

**Thornton Grout Finnigan LLP**
TD West Tower, Toronto-Dominion Centre
100 Wellington Street West, Suite 3200
Toronto, ON M5K 1K7
Fax: (416) 304-1313

**Leanne M. Williams** (LSO# 41877E)
Email: lwilliams@tgf.ca

**Puya Fesharaki** (LSO# 70588L)
Email: pfesharaki@tgf.ca

Tel: 416-304-1616

Lawyers for Grant Thornton Limited, in its capacity as trustee in bankruptcy of the estates of the Bankrupts

IN THE MATTER OF THE BANKRUPTCY OF **AP PRIVATE EQUITY LIMITED and AIDEN PLETERSKI**, of the Town of Whitby, in the Province of Ontario

Court File No./Estate No.: BK-22-00208582-OT-31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

Proceedings commenced at Toronto, Ontario

**AIDE MEMOIRE OF THE TRUSTEE IN BANKRUPTCY, GRANT THORNTON LIMITED**

**Thornton Grout Finnigan LLP**
100 Wellington Street West – Suite 3200
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7

**Leanne M. Williams** (LSO# 41877E)
Email: lwilliams@tgf.ca

**Puya Fesharaki** (LSO# 70588L)
Email: pfesharaki@tgf.ca

Tel: 416-304-1616

Lawyers for Grant Thornton Limited, in its capacity as trustee in bankruptcy of the estates of AP Private Equity Limited and Aiden Pleterski

This is Exhibit “B” referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

**From:** Rachel Fielding
**Sent:** Thursday, October 6, 2022 8:09 PM
**To:** mbcrimlaw@gmail.com
**Cc:** Roxana Manea; Leanne Williams
**Subject:** Examination of Mitchell Learning under s163(1) of the BIA
**Attachments:** 6.10.2022 Notice of Examination under S163(1) BIA Mitchell Learning.pdf

Hello Mena,

Please see attached the Notice of Examination for your client, with respect to his examination next week.

Sincerely,
Rachel

Rachel Fielding | | RFielding@tgf.ca | Direct Line +1 416-304-0971 | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | www.tgf.ca

This is Exhibit "C" referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

Court File No./Estate No.: BK-22-00208581-OT-31
Court File No./Estate No.: BK-22-00208582-OT-31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE BANKRUPTCY OF**
**AP PRIVATE EQUITY LIMITED, of the Town of Whitby,**
**in the Province of Ontario**

**AND IN THE MATTER OF THE BANKRUPTCY OF**
**AIDEN PLETERSKI, of the Town of Whitby, in the Province**
**of Ontario**

# NOTICE OF EXAMINATION

(pursuant to Section 163 of the *Bankruptcy and Insolvency Act*)

**TO: MITCHELL LEARNING, a person reasonably thought to have knowledge of the affairs of Aiden Pleterski and AP Private Equity Limited, bankrupts**

**YOU ARE REQUIRED TO ATTEND** on **Tuesday, October 11, 2022 at 2:00 p.m.** virtually by Zoom videoconference, the details of which are set out in Schedule "A" hereto, for an Examination under oath in accordance with Section 163(1) of the *Bankruptcy and Insolvency Act*.

October 6, 2022

**THORNTON GROUT FINNIGAN LLP**
100 Wellington Street West, Suite 3200
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7
Fax: 416-304-1313

**Leanne M. Williams** (LSO# 41877E)
Tel: (416) 304-0060 / Email: lwilliams@tgf.ca

**Rachel Fielding** (LSO# 72211S)
Tel: (416) 304-0971 / Email: rfielding@tgf.ca

Lawyers for Grant Thornton Limited, in its capacity as trustee in bankruptcy of the estates of AP Private Equity Limited and Aiden Pleterski

**TO:** **MITCHELL LEARNING**
2 Downey Drive
Brooklin, ON L1M 1J3

**AND TO:** **MENA BASTAWROUS**
8 The Esplanade
L Tower, Suite 2705
Toronto, ON M5E 0A6

Tel: (647) 982-3373
Email: mbcrimlaw@gmail.com

**Schedule "A"**
**Details of Zoom Videoconference**

Join Zoom Meeting
https://us06web.zoom.us/j/88099209003?pwd=YXB6SXRSeU0xUkpldS8xOVBCN3crQT09

**Meeting ID: 880 9920 9003**
**Passcode: 114275**

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+1 778 907 2071 Canada
+1 312 626 6799 US (Chicago)
+1 646 876 9923 US (New York)
+1 646 931 3860 US
+1 301 715 8592 US (Washington DC)
+1 309 205 3325 US
+1 719 359 4580 US
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 386 347 5053 US
+1 564 217 2000 US
+1 669 444 9171 US
+1 669 900 6833 US (San Jose)
Meeting ID: 880 9920 9003

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Join by SIP
88099209003@zoomcrc.com

Join by H.323
162.255.37.11 (US West)
162.255.36.11 (US East)
69.174.57.160 (Canada Toronto)
65.39.152.160 (Canada Vancouver)
**Meeting ID: 880 9920 9003**
**Passcode: 114275**

IN THE MATTER OF THE BANKRUPTCY OF **AP PRIVATE EQUITY LIMITED**, of the Town of Whitby, in the Province of Ontario

AND IN THE MATTER OF THE BANKRUPTCY OF **AIDEN PLETERSKI**, of the Town of Whitby, in the Province of Ontario

Court File No./Estate No.: BK-22-00208581-OT-31
Court File No./Estate No.: BK-22-00208582-OT-31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

Proceedings commenced at Toronto, Ontario

**NOTICE OF EXAMINATION**
(pursuant to Section 163 of the *Bankruptcy and Insolvency Act*)

**THORNTON GROUT FINNIGAN LLP**
100 Wellington Street West – Suite 3200
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7
Fax: 416-304-1313

**Leanne M. Williams** (LSO# 41877E)
Tel: (416) 304-0060 / Email: lwilliams@tgf.ca

**Rachel Fielding** (LSO# 72211S)
Tel: (416) 304-0971 / Email: rfielding@tgf.ca

Lawyers for Grant Thornton Limited, in its capacity as trustee in bankruptcy of the estates of AP Private Equity Limited and Aiden Pleterski

This is Exhibit "D" referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

Page 1

Court File No./Estate No.: BK-22-00208581-OT-31
Court File No./Estate No.: BK-22-00208582-OT-31

ONTARIO

SUPERIOR COURT OF JUSTICE

(IN BANKRUPTCY AND INSOLVENCY)

IN THE MATTER OF THE BANKRUPTCY OF AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario

AND IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI, of the Town of Whitby, in the Province of Ontario

----------

--- This is the Examination for Discovery of MITCHELL LEARNING, taken via Neesons, a Veritext Company's virtual platform, on the 11th day of October, 2022

----------

Job No. ON5514744

Page 2

(All via virtual platform)

A P P E A R A N C E S:

| | |
|---|---|
| Rachel Fielding Esq., | for Grant Thornton Limited, in its capacity as trustee in bankruptcy of the estates of AP Private Equity Limited and Aiden Pleterski |
| Mena Bastawrous, Esq., | for M. Learning |

Also present:
Jesse Cooper,
Rob Stelzer,
Trustees in bankruptcy,
Grant Thornton

Reported by: Leila Heckert, CVR, RCP-M

This is Exhibit “E” referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

[redacted]

55 Q. Counsel, I'd like an undertaking for all of Mitchell's bank statements for all of his bank accounts since June 2020 until now. And within that, I would like him, to the best of his knowledge, to identify which transactions represent money going to Aiden or AP Private Equity, and any transaction where he received money from AP or Aiden?

U/T MS. BASTAWROUS: We can provide that.

What timeline are we looking at?

MS. FIELDING: One week.

MS. BASTAWROUS: Can you put that together in a week?

THE WITNESS: I should be able to.

MS. FIELDING: Thank you.

MS. BASTAWROUS: I would go for two weeks just because I would have to meet with Mr. Learning prior to submitting it, the undertaking, so --

MS. FIELDING: Sure. We can give you the two weeks.

MS. BASTAWROUS: Okay. Perfect. Thank you.

MS. FIELDING: Although I think the underlying message is as soon as possible.

MS. BASTAWROUS: It's more on account of my schedule than his ability to get it quickly. But I can update once I do receive it from him.

MS. FIELDING: Sounds good.

BY MS. FIELDING:

56 Q. And this would be for a -- do you have your own trading accounts, Mitchell, do you trade?

This is Exhibit “F” referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

**From:** Stelzer, Rob <Rob.Stelzer@ca.gt.com>
**Sent:** Tuesday, November 15, 2022 8:50 PM
**To:** Mena Bastawrous; mitchell learning
**Cc:** Cooper, Jesse; Rachel Fielding; Leanne Williams
**Subject:** Information to be provided

*[Adding Leanne Williams and removing Leanne Gregory from this chain]*

Mena & Mitchell,

Further to the call today with Jesse (and later me), my understanding from our discussion is as follows:

[redacted]

2) Accounting – Before 5PM on Friday, November 18, 2022, you will send us an accounting of the total amount Mitchell has benefited from the scheme with Aiden & AP Private Equity Limited along with supporting documentation. After we review the accounting and agree on a number (the "over payment amount"), Michell will make payment to the Trustee of the agreed upon the over payment amount. The Trustee is prepared to accept the agreed upon "overpayment amount" from Mitchell and not pursue him for further funds. The Trustee will also detail its forensic review of Mitchell's banking records in a future Court report.

[redacted]

[redacted]

We agree not proceed with the Court motion Rachel had referenced provided the above is provided within the agreed upon timeframes noted above. [redacted]

Rob

---

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Tuesday, November 15, 2022 9:58 AM
**To:** Rachel Fielding <rfielding@tgf.ca>
**Cc:** Cooper, Jesse <Jesse.Cooper@ca.gt.com>; Gregory, Leanne <Leanne.Gregory@ppsc-sppc.gc.ca>; Stelzer, Rob <Rob.Stelzer@ca.gt.com>; mitchelllearning@gmail.com
**Subject:** Re: Meeting Today



Hi Rachel,

I will be joining the call shortly. Not sure how productive it will be given how sick I feel and how my client looked this morning when I sent him home.

Speak soon,

On Tue, Nov 15, 2022 at 9:52 AM Rachel Fielding <RFielding@tgf.ca> wrote:

> Mena,
>
> I am following up on Mr. Stelzer's email below regarding the option of a teams meeting. Please confirm that you and your client are willing to meet with the trustee virtually today and we can circulate a teams invitation.
>
> In addition, we await your client's answers to undertakings which you promised you would send by the end of day today.
>
> Sincerely,
>
> Rachel

Thornton Grout Finnigan LLP
RESTRUCTURING + LITIGATION

Rachel Fielding | | RFielding@tgf.ca | Direct Line +1 416-304-0971 | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | www.tgf.ca



---

**From:** Stelzer, Rob <Rob.Stelzer@ca.gt.com>
**Sent:** Tuesday, November 15, 2022 9:00 AM
**To:** Mena Bastawrous <msbcrimlaw@gmail.com>; Cooper, Jesse <Jesse.Cooper@ca.gt.com>; Gregory, Leanne <Leanne.Gregory@ppsc-sppc.gc.ca>; Rachel Fielding <RFielding@tgf.ca>
**Cc:** mitchelllearning@gmail.com
**Subject:** RE: Meeting Today

Mena,

I am just following up on my note below. Jesse can circulate a Teams dial in given that you will not be attending in person. Please confirm.

Rob

---

**From:** Stelzer, Rob <Rob.Stelzer@ca.gt.com>
**Sent:** Tuesday, November 15, 2022 8:11 AM
**To:** Mena Bastawrous <msbcrimlaw@gmail.com>; Cooper, Jesse <Jesse.Cooper@ca.gt.com>; Gregory, Leanne <Leanne.Gregory@ppsc-sppc.gc.ca>; Rachel Fielding <RFielding@tgf.ca>
**Cc:** mitchelllearning@gmail.com
**Subject:** Re: Meeting Today

If you feel you cannot come in then let's do this virtually on a teams call [redacted].

Get Outlook for Android

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Tuesday, November 15, 2022 7:42:25 AM
**To:** Cooper, Jesse <Jesse.Cooper@ca.gt.com>; Stelzer, Rob <Rob.Stelzer@ca.gt.com>; Gregory, Leanne <Leanne.Gregory@ppsc-sppc.gc.ca>; Rachel Fielding <RFielding@tgf.ca>
**Cc:** mitchelllearning@gmail.com <mitchelllearning@gmail.com>
**Subject:** Meeting Today



Good morning,

Both my client and I are very ill and will not be able to come in today for the scheduled meeting . I will test for COVID-19 later in the day. Would you like to wait until I receive results for test to reschedule?

Mena Bastawrous
*B.A.(hons), LL.B., LL.M.*
*Barrister & Solicitor*

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|info@msbcrimlaw.ca
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| Toronto, ON

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--
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B.A.(hons), LL.B., LL.M.
MSB Law - Criminal Defence
Barrister & Solicitor

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📧 | msbcrimlaw@gmail.com
☎️ | (647) 772-6280
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📠 | (416) 391-6011
🏢 | 8 The Esplanade Suite 2705
📍 | Toronto, ON, M5E0A6

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Monday, November 7, 2022 10:25 PM
**To:** Rachel Fielding
**Cc:** Marie Criscione
**Subject:** Re: In the Matter of the Bankruptcy of Aiden Pleterski and AP Private Equity Limited [IMAN-CLIENT.FID161565]

[redacted] I can acknowledge receipt of your clients intention to bring said motion if answers are not provided. Won't be a problem. Hope you've been well and enjoyed your time away from the office.

[redacted]

[redacted]

**From:** Rachel Fielding <RFielding@tgf.ca>
**Sent:** Tuesday, November 1, 2022 9:37 AM
**To:** Mena Bastawrous <msbcrimlaw@gmail.com>; Marie Criscione <MCriscione@tgf.ca>
**Cc:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** RE: In the Matter of the Bankruptcy of Aiden Pleterski and AP Private Equity Limited [IMAN-CLIENT.FID161565]

Hi Mena,

Can we get the answers to undertakings at some point today?

Best,

Rachel

Rachel Fielding | RFielding@tgf.ca | Direct Line +1 416-304-0971 | www.tgf.ca
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**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Monday, October 31, 2022 10:31 PM
**To:** Rachel Fielding <RFielding@tgf.ca>; Marie Criscione <MCriscione@tgf.ca>
**Cc:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** Re: In the Matter of the Bankruptcy of Aiden Pleterski and AP Private Equity Limited [IMAN-CLIENT.FID161565]

Good evening,

[redacted]

Re answers: would appreciate an extra day or two to put them together. Please let me know if this is something you are agreeable to. If not, I will send later in the night but I do have a continuing trial tomorrow!

Thanks, Rachel.

Mena Bastawrous
*B.A.(hons), LL.B., LL.M.*
*Barrister & Solicitor*

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|info@msbcrimlaw.ca
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---

**From:** Rachel Fielding <RFielding@tgf.ca>
**Sent:** Monday, October 31, 2022 10:03:03 PM
**To:** Mena Bastawrous <msbcrimlaw@gmail.com>; Marie Criscione <MCriscione@tgf.ca>
**Cc:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** RE: In the Matter of the Bankruptcy of Aiden Pleterski and AP Private Equity Limited [IMAN-CLIENT.FID161565]

Hello Mena,

[redacted]

In addition, I believe you stated that you would be providing us with your client's answers to undertakings today. Can you please provide us with your client's answers?

Best,

Rachel

Rachel Fielding | RFielding@tgf.ca | Direct Line +1 416-304-0971 | www.tgf.ca


[redacted]

[redacted]

[redacted]

[redacted]

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Friday, October 28, 2022 5:03 PM
**To:** Rachel Fielding <RFielding@tgf.ca>; Marie Criscione <MCriscione@tgf.ca>
**Cc:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** Re: In the Matter of the Bankruptcy of Aiden Pleterski and AP Private Equity Limited [IMAN-CLIENT.FID161565]

Good afternoon, Rachel:

[redacted]

[redacted]

All undertakings and/or refusals' if any, should be provided by Monday.

I have a lengthy trial beginning at old city hall on Monday. If there is any additional conversations to be had, it would be best to have them over the weekend and prior to my trial - if possible.

Sincerely,

Mena Bastawrous

*B.A.(hons), LL.B., LL.M.*
*Barrister & Solicitor*

**MSB Law | Defence**

| info@msbcrimlaw.ca
|(647) 772-6280
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| Toronto, ON

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**From:** Rachel Fielding <RFielding@tgf.ca>
**Sent:** Friday, October 28, 2022 3:56 PM
**To:** Mena Bastawrous <msbcrimlaw@gmail.com>; Marie Criscione <MCriscione@tgf.ca>
**Cc:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** RE: In the Matter of the Bankruptcy of Aiden Pleterski and AP Private Equity Limited [IMAN-CLIENT.FID161565]

Hi Mena,

Please see attached the undertakings and refusals' chart from Mitchell's examination. Do you know when we can expect to begin receiving your client's undertakings?

[redacted]

Sincerely,

Rachel

Rachel Fielding | RFielding@tgf.ca | Direct Line +1 416-304-0971 | www.tgf.ca
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---

**From:** Rachel Fielding <RFielding@tgf.ca>
**Sent:** Friday, October 21, 2022 3:29 PM
**To:** Mena Bastawrous <msbcrimlaw@gmail.com>; Marie Criscione <MCriscione@tgf.ca>
**Cc:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** Re: In the Matter of the Bankruptcy of Aiden Pleterski and AP Private Equity Limited [IMAN-CLIENT.FID161565]

Hi Mena,

We are still waiting on a copy of the transcript to send you a formal chart of undertakings. However, in the interests of time, can you please provide us your client's answers to undertakings as you receive them?

[redacted]

Best,

Rachel

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Rachel Fielding | RFielding@tgf.ca | Direct Line +1 416-304-0971 | www.tgf.ca
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and delete this e-mail without forwarding it or making a copy.

---

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Thursday, October 13, 2022 3:56 PM
**To:** Marie Criscione <MCriscione@tgf.ca>
**Cc:** Leanne Williams <LWilliams@tgf.ca>; Rachel Fielding <RFielding@tgf.ca>; Stelzer, Rob <rob.stelzer@ca.gt.com>
**Subject:** Re: In the Matter of the Bankruptcy of Aiden Pleterski and AP Private Equity Limited [IMAN-CLIENT.FID161565]

Good afternoon:

Acknowledging receipt of your email and attachments.

Thank you, Marie.

On Thu, Oct 13, 2022 at 12:26 PM Marie Criscione <MCriscione@tgf.ca> wrote:

> Please see the attached correspondence and enclosure from Rachel Fielding in connection with the above-noted matter.
>
> Thank you,
>
> Marie

Marie Criscione | Law Clerk and Legal Assistant | MCriscione@tgf.ca | Direct Line +1 416-304-1017 | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | www.tgf.ca



--

Mena Bastawrous
B.A.(hons), LL.B., LL.M.
MSB Law - Criminal Defence
Barrister & Solicitor

| www.msbcrimlaw.ca
| msbcrimlaw@gmail.com
| (647) 772-6280
| (647) 982-3373
| (416) 391-6011
| 8 The Esplanade Suite 2705
| Toronto, ON, M5E0A6



--

Mena Bastawrous
B.A.(hons), LL.B., LL.M.
MSB Law - Criminal Defence
Barrister & Solicitor

| www.msbcrimlaw.ca
| msbcrimlaw@gmail.com
| (647) 772-6280
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This is Exhibit “G” referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

**From:** Rachel Fielding
**Sent:** Friday, November 18, 2022 5:42 PM
**To:** Mena Bastawrous
**Cc:** Marie Criscione; Leanne Williams; Stelzer, Rob
**Subject:** RE: Personal Circumstances

Hi Mena,

[redacted]

[redacted] When will your client be sending those and when can we expect to receive the accounting?

Sincerely,
Rachel

Rachel Fielding | RFielding@tgf.ca | Direct Line +1 416-304-0971 | www.tgf.ca


**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Friday, November 18, 2022 5:35 PM
**To:** Rachel Fielding <RFielding@tgf.ca>
**Cc:** Marie Criscione <MCriscione@tgf.ca>; Leanne Williams <LWilliams@tgf.ca>; Stelzer, Rob <Rob.Stelzer@ca.gt.com>
**Subject:** RE: Personal Circumstances

Good Evening,

Please see attached and feel free to contact me if you have any questions or concerns.

Thank you,

**Mena Bastawrous**
*B.A.(hons), LL.B., LL.M.*
Barrister & Solicitor

**MSB Law | Criminal Defence**
| www.msbcrimlaw.ca
| info@msbcrimlaw.ca
| (647) 772-6280
| (647) 982-3373
| (416) 390-6011
| 28 Uptown Drive
| Markham, ON

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---

**From:** Rachel Fielding
**Sent:** November 18, 2022 1:17 PM
**To:** Mena Bastawrous
**Cc:** Marie Criscione; Leanne Williams; Stelzer, Rob
**Subject:** RE: Personal Circumstances

Hi Mena,

Please provide your client's accounting by 5pm today as promised earlier this week.

[redacted]

If we do not receive anything today, then we will be forced to bring a motion to compel same.

Best,
Rachel

Rachel Fielding | | RFielding@tgf.ca | Direct Line +1 416-304-0971 | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | www.tgf.ca



---

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Thursday, November 17, 2022 7:29 PM
**To:** Stelzer, Rob <Rob.Stelzer@ca.gt.com>; Rachel Fielding <RFielding@tgf.ca>
**Subject:** Personal Circumstances

Good evening,

I tested negative for COVID-19 however I am still fighting whatever cold or flu I have. My trial concluded yesterday at Old City Hall. I wouldn't have been able to meet that 5pm deadline.

I am meeting with my client tomorrow to finalize everything and will endeavor to provide all by tomorrows deadline provided.

Respectfully,

Mena Bastawrous
*B.A.(hons), LL.B., LL.M.*
*Barrister & Solicitor*

**MSB Law |Criminal Defence**
|www.msbcrimlaw.ca
|info@msbcrimlaw.ca
|(647) 772-6280
|(647) 982-3373
|(416) 390-6011
| 8 The Esplanade Suite 2705
| Toronto, ON

This is Exhibit "H" referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

Court File No./Estate No.: BK-22-00208581-OT-31
Court File No./Estate No.: BK-22-00208582-OT-31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE BANKRUPTCY OF AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

**AND IN IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI, of the Town of Whitby, in the Province of Ontario**

## REFUSALS AND UNDERTAKINGS CHART

| **REFUSALS** | | | | | |
|---|---|---|---|---|---|
| Refusals to answer questions on the examination of Mitchell Learning, dated October 11, 2022. | | | | | |
| **Issue & relationship to pleadings or affidavit** (*Group the questions by issues.*) | **Question No.** | **Page No.** | **Specific question** | **Answer or precise basis for refusal** | **Disposition by the Court** |
| 1. | [redacted] | [redacted] | [redacted] | [redacted] | |

**UNDERTAKINGS**

Outstanding undertakings given on the examination of Mitchell Learning, dated October 11, 2022.

| **Issue & relationship to pleadings or affidavit** (*Group the undertakings by issues.*) | **Question No.** | **Page No.** | **Specific undertaking** | **Date answered or precise reason for not doing so** | **Disposition by the Court** |
|---|---|---|---|---|---|
| 1. | 55 | 16 | To provide all of Mr. Learning's bank statements for all of his bank accounts from June 2020 to present. Also, to identify which transactions represent money going to Aiden Pleterski or AP Private Equity, or any transaction where he received money from AP Private Equity or Aiden Pleterski | Banking records were provided to me today (11/18/22) by my client. They were only made available to him today by his branch where he attended in person.<br><br>Accordingly, these records will be reviewed and provided in the next week. The Trustee is aware of the privacy concerns inherent to a request of this nature and volume.<br><br>Type text here | |
| 2. | [redacted] | [redacted] | [redacted] | [redacted] | |
| 3. | 83 | 24 | With respect to bank drafts, for Mr. Learning to identify which funds came from other people that were transferred to him, and then were also transferred to Aiden. | This is ascertainable through Mr. Learning's Bank Records illustrating the relevant records for these transfers. | |
| 4. | 86 | 25 | To provide a list of all the people who invested with Aiden through Mr. Learning. | My client is putting forth his best effort to satisfy this request.<br>At this time he is unable to provide an exhaustive list but advises that the majority of names discussed with the Trustee in the context of this query represent a substantial number of investments he recalls. | |
| 5. | [redacted] | [redacted] | [redacted] | [redacted] | |
| 6. | [redacted] | [redacted] | [redacted] | [redacted] | |

| **UNDERTAKINGS** | | | | | |
|---|---|---|---|---|---|
| Outstanding undertakings given on the examination of Mitchell Learning, dated October 11, 2022. | | | | | |
| **Issue & relationship to pleadings or affidavit** (*Group the undertakings by issues.*) | **Question No.** | **Page No.** | **Specific undertaking** | **Date answered or precise reason for not doing so** | **Disposition by the Court** |
| 7. | [redacted] | [redacted] | [redacted] | [redacted] | |
| 8. | [redacted] | [redacted] | [redacted] | [redacted] | |
| 9. | [redacted] | [redacted] | [redacted] | [redacted] | |
| 10. | [redacted] | [redacted] | [redacted] | [redacted] | |
| 11. | [redacted] | [redacted] | [redacted] | [redacted] | |
| 12. | [redacted] | [redacted] | [redacted] | [redacted] | |
| 13. | [redacted] | [redacted] | [redacted] | [redacted] | |

| **UNDER ADVISEMENTS** | | | | | |
|---|---|---|---|---|---|
| Outstanding advisements given on the examination of Mitchell Learning, dated October 11, 2022. | | | | | |
| **Issue & relationship to pleadings or affidavit** (*Group the advisements by issues.*) | **Question No.** | **Page No.** | **Specific under advisement** | **Answer or precise reason for not doing so** | **Disposition by the Court** |
| [redacted] | [redacted] | [redacted] | [redacted]. | [redacted] | |

October 28, 2022

**Thornton Grout Finnigan LLP**
TD West Tower, Toronto-Dominion Centre
100 Wellington Street West, Suite 3200
Toronto, ON M5K 1K7
Fax: (416) 304-1313

**Leanne M. Williams** (LSO# 41877E)
Email: lwilliams@tgf.ca

**Puya Fesharaki** (LSO# 70588L)
Email: pfesharaki@tgf.ca

Tel: 416-304-1616
Fax: 416-304-1313

Lawyers for Grant Thornton Limited, in its capacity as trustee in bankruptcy of the estates of AP Private Equity Limited and Aiden Pleterski

This is Exhibit "I" referred to in the Affidavit of ALEXANDER OVERTON sworn by Alexander Overton of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, this 9th day of February, 2023 in accordance with *O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

**From:** Marie Criscione
**Sent:** Tuesday, November 29, 2022 11:02 AM
**To:** Mena Bastawrous
**Cc:** Rachel Fielding; Stelzer, Rob; Leanne Williams
**Subject:** In the Matter of the Bankruptcy of Aiden Pleterski and AP Private Equity Limited [IMAN-CLIENT.FID161565]
**Attachments:** Letter to M. Bastawrous re Undertakings - Nov 29 2022.pdf

Please see the attached correspondence from Rachel Fielding in connection with the above-noted matter.
Thank you,
Marie

Thornton Grout Finnigan LLP
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre
100 Wellington Street West
Suite 3200, P.O. Box 329
Toronto, ON Canada M5K 1K7
T 416.304.1616 F 416.304.1313

Rachel Fielding
T: 416-304-0971
E: rfielding@tgf.ca
File No. 523-043

November 29, 2022

**VIA EMAIL**

Mena Bastawrous
MSB Law
8 The Esplanade, Suite 2705
Toronto, ON M5E 0A6

Dear Mr. Bastawrous:

**Re: In the Matter of the Bankruptcy of Aiden Pleterski and AP Private Equity Limited (collectively, the "Bankrupt")**

Since September 2022 and more recently during his examinations, Mr. Learning has promised to provide us with accounting documentation, [redacted] Not only has your client given personal assurances to provide this information, but your client also gave undertakings during his examination on October 11, 2022, to this effect.

[redacted]

However, despite multiple requests and promised deadlines, the latest being last Friday, we still do not have any of the documentation, [redacted] It is the Trustee's position that Mr. Learning has not been cooperative in any substantive manner to date.

[redacted]

The Trustee client is willing to give your client one final opportunity to cooperate and provide us with all of the requested accounting information, [redacted] by no later than **5:00 pm (Toronto time) on December 5, 2022**.

Thornton Grout Finnigan LLP



If we are not in possession of the aforementioned documents and information by the deadline, then we will proceed to commence proceedings against Mr. Learning.

Yours truly,

**Thornton Grout Finnigan LLP**

Rachel Fielding

RF/RF

Encl.

cc. Rob Stelzer, Grant Thornton Limited

This is Exhibit "J" referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

**From:** Roxana Manea
**Sent:** Tuesday, December 13, 2022 11:02 AM
**To:** mbcrimlaw@gmail.com
**Cc:** Rachel Fielding; Leanne Williams
**Subject:** Notice for Production under S164 of the BIA - Mitchell Learning [IMAN-CLIENT.FID161565]
**Attachments:** 13.12.2022 Notice for Production under S164 BIA Mitchell Learning.pdf

**In the Matter of the Bankruptcy of Aiden Pleterski and AP Private Equity Limited (Court File No./Estate No.: BK-22-00208582-OT-31)**

Good morning,
In connection with the above-noted matter, attached and served upon you please find the Trustee's Notice for Production addressed to Mr. Learning pursuant to Section 164 of the *Bankruptcy and Insolvency Act*.

Regards,
Roxana Manea

Court File No./Estate No.: BK-22-00208582-OT-31

*ONTARIO*
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE BANKRUPTCY OF**
**AIDEN PLETERSKI and AP PRIVATE EQUITY LIMITED,**
**of the Town of Whitby, in the Province of Ontario**

# NOTICE FOR PRODUCTION

(pursuant to Section 164 of the *Bankruptcy and Insolvency Act*)

**TO: MITCHELL LEARNING**

**YOU ARE REQUIRED TO PRODUCE AND DELIVER TO THE TRUSTEE,** in accordance with Section 164 of the *Bankruptcy and Insolvency Act*, any and all banking records, receipts, and proof of any transactions and/or investments between yourself and Aiden Pleterski and/or AP Privately Equity Limited in your possession and/or control, by no later than December 20, 2022.

December 13, 2022

**THORNTON GROUT FINNIGAN LLP**
100 Wellington Street West, Suite 3200
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7
Fax: 416-304-1313

**Leanne M. Williams** (LSO# 41877E)
Tel: (416) 304-0060 / Email: lwilliams@tgf.ca

**Rachel Fielding** (LSO# 72211S)
Tel: (416) 304-0971 / Email: rfielding@tgf.ca

Lawyers for Grant Thornton Limited, in its capacity as trustee in bankruptcy of the estates of AP Private Equity Limited and Aiden Pleterski

**TO:** **MITCHELL LEARNING**
2 Downey Drive
Whitby, ON L1M 1J3

**AND TO:** **MENA BASTAWROUS**
8 The Esplanade
L Tower, Suite 2705
Toronto, ON M5E 0A6

Tel: (647) 982-3373
Email: mbcrimlaw@gmail.com

**IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI and AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

Court File No./Estate No.: BK-22-00208582-OT-31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

Proceedings commenced at Toronto, Ontario

**NOTICE FOR PRODUCTION**
(pursuant to Section 164 of the *Bankruptcy and Insolvency Act*)

**THORNTON GROUT FINNIGAN LLP**
100 Wellington Street West – Suite 3200
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7
Fax: 416-304-1313

**Leanne M. Williams** (LSO# 41877E)
Tel: (416) 304-0060 / Email: lwilliams@tgf.ca

**Rachel Fielding** (LSO# 72211S)
Tel: (416) 304-0971 / Email: rfielding@tgf.ca

Lawyers for Grant Thornton Limited, in its capacity as trustee in bankruptcy of the estates of AP Private Equity Limited and Aiden Pleterski

This is Exhibit “K” referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

**From:** Leanne Williams
**Sent:** Friday, December 23, 2022 8:58 PM
**To:** Mena Bastawrous
**Subject:** Re: Mitchell Learning

Mena,

Thanks for our discussion this afternoon. I look forward to receipt of the documents as discussed this evening.

Leanne

Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca


---

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Friday, December 23, 2022 5:16:23 PM
**To:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** Re: Mitchell Learning

6479823373

Mena Bastawrous
*B.A.(hons), LL.B., LL.M.*
*Barrister & Solicitor*

**MSB Law |Criminal Defence**
|www.msbcrimlaw.ca
|info@msbcrimlaw.ca
|(647) 772-6280
|(647) 982-3373
|(416) 390-6011
| 6 Ivan Road
| Toronto, ON



---

**From:** Leanne Williams <LWilliams@tgf.ca>
**Sent:** Friday, December 23, 2022 5:15:25 PM
**To:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Subject:** Re: Mitchell Learning

What number is best to call you on?

Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca
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above. Any other distribution, copying or disclosure is strictly prohibited. If you have received this e-mail in error, please notify our office immediately by cal
and delete this e-mail without forwarding it or making a copy.

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**Sent:** Friday, December 23, 2022 5:14:13 PM
**To:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** Re: Mitchell Learning

Im good now!

On Fri, 23 Dec 2022 at 14:50, Leanne Williams <LWilliams@tgf.ca> wrote:

Let me know when you free up.

Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca
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**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Friday, December 23, 2022 12:32:07 PM
**To:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** Re: Mitchell Learning

I am in a Bail Review in Kittchener until 4pm then I am available anytime.

On Fri, 23 Dec 2022 at 11:15, Leanne Williams <LWilliams@tgf.ca> wrote:

Mena,

I hope that you are well. Can you let me know a time today that you would be available for a short call.

Leanne

Leanne M. Williams | | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | www.tgf.ca

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This is Exhibit "L" referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Tuesday, January 3, 2023 3:34 PM
**To:** Leanne Williams
**Cc:** Stelzer, Rob
**Subject:** Re: Mitchell Learning [IMAN-CLIENT.FID161565]

Good afternoon,

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

I will reserve any additional remarks for the appropriate forum. Please keep an eye out for an email from me tonight regarding the information requested.

I am not available until January 10, 2023. Please advise whether additional dates were offered.

Happy New Year,

Mena

On Tue, 3 Jan 2023 at 09:10, Leanne Williams <LWilliams@tgf.ca> wrote:

Mena,

You advised on December 23rd that you would be providing Mitchell's banking records that evening. This was after many failed promises. After our discussion, I trusted that they would be provided. However, despite the reminders, they still have not been provided. Unfortunately, you have left us no option but to schedule a case conference to bring a motion for contempt. The Court has advised that there is availability tomorrow and Thursday. Please confirm your availability. Thanks.

Leanne

Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca


**From:** Leanne Williams <LWilliams@tgf.ca>
**Sent:** Tuesday, December 27, 2022 3:22 PM
**To:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Subject:** Re: Mitchell Learning

Mena,

Can you please send me the document as discussed. Thanks.

Leanne

Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca
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**To:** Leanne Williams <LWilliams@tgf.ca>
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| Toronto, ON

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**To:** Leanne Williams <LWilliams@tgf.ca>
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Im good now!

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> Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca
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**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Friday, December 23, 2022 12:32:07 PM
**To:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** Re: Mitchell Learning

I am in a Bail Review in Kittchener until 4pm then I am available anytime.

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> Mena,
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> I hope that you are well. Can you let me know a time today that you would be available for a short call.
>
> Leanne
>
> Leanne M. Williams | | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | www.tgf.ca
>
> 

--
Mena Bastawrous
B.A.(hons), LL.B., LL.M.
MSB Law - Criminal Defence
Barrister & Solicitor

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| msbcrimlaw@gmail.com
| (647) 772-6280
| (647) 982-3373
| (416) 391-6011
| 8 The Esplanade Suite 2705

📍 | Toronto, ON, M5E0A6

This is Exhibit “M” referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

**From:** Leanne Williams
**Sent:** Wednesday, January 4, 2023 2:58 PM
**To:** Mena Bastawrous
**Cc:** Stelzer, Rob
**Subject:** RE: Mitchell Learning [IMAN-CLIENT.FID165535]

Mena, the court advises that January 16th is available. We will secure that date if we don't hear from you this evening with the documents.

Leanne

---

**From:** Leanne Williams <LWilliams@tgf.ca>
**Sent:** Wednesday, January 4, 2023 9:52 AM
**To:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Cc:** Stelzer, Rob <rob.stelzer@ca.gt.com>
**Subject:** RE: Mitchell Learning

Mena,

Yet again, we received nothing from you last night. We will contact the court this morning for dates next week for a case conference to schedule the contempt proceeding.

[redacted]

[redacted]

You have advised that the documents are available to be produced and we continue to fail to see why you have not done so. The Trustee has spent a lot of time, effort and fees chasing these documents. We will advise as to the Court's availability as soon as we hear back.

Leanne

Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Tuesday, January 3, 2023 3:34 PM
**To:** Leanne Williams <LWilliams@tgf.ca>
**Cc:** Stelzer, Rob <rob.stelzer@ca.gt.com>
**Subject:** Re: Mitchell Learning [IMAN-CLIENT.FID161565]

Good afternoon,

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[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

I will reserve any additional remarks for the appropriate forum. Please keep an eye out for an email from me tonight regarding the information requested.

I am not available until January 10, 2023. Please advise whether additional dates were offered.

Happy New Year,

Mena

On Tue, 3 Jan 2023 at 09:10, Leanne Williams <LWilliams@tgf.ca> wrote:

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**To:** Leanne Williams <LWilliams@tgf.ca>
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**Subject:** Re: Mitchell Learning

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Mena Bastawrous
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MSB Law - Criminal Defence
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| 8 The Esplanade Suite 2705
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ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

**From:** Leanne Williams
**Sent:** Thursday, January 5, 2023 4:01 PM
**To:** Mena Bastawrous
**Cc:** Stelzer, Rob
**Subject:** RE: Mitchell Learning [IMAN-CLIENT.FID165535]
**Attachments:** 13.12.2022 Notice for Production under S164 BIA Mitchell Learning.pdf; Refusals and Undertakings Chart - Mitchell Learning.pdf; Pages from 5514744 B.pdf

Mena,

Thank you for the document you provided, however, respectfully it does not comply with the undertaking given or Mr. Learning's obligations under section 164 of the BIA. I have attached a copy of the undertaking chart and the Section 164 Notice which are clear that Mr. Learning is to provide all unredacted bank statements and records, receipts, and proof of any transactions and/or investments between [Mr. Learning] and Aiden Pleterski and/or AP Private Equity Limited. What you have provided clearly does not satisfy this request and is not satisfactory to the Trustee. What was provided is merely a PDF of what appears to be a redacted excel spreadsheet of excerpts from banking records without any supporting documentation. You advised on December 23rd that one of the reasons why it has taken so long to produce the statements is the fact that Mr. Learning had to request all of his statements, cancelled cheques, etc. from his banks. In other words, Mr. Learning has these documents but has continued to fail to provide them to the Trustee. As a result, the Trustee will be booking the scheduling hearing on January 16th.

[redacted]

[redacted]

[redacted]

Leanne

---

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Thursday, January 5, 2023 9:10 AM
**To:** Leanne Williams <LWilliams@tgf.ca>
**Cc:** Stelzer, Rob <rob.stelzer@ca.gt.com>
**Subject:** Re: Mitchell Learning [IMAN-CLIENT.FID165535]

Good morning,

Please see attached financial records. If you have any questions please let me know. I will send the password for the document in a separate email.

At this point my client has satisfied all inquiries, assisted in the pursuit and seizure of several assets, met with the Trustee in person for a meeting scheduled without counsel, participated in a thorough and meaningful manner throughout examination and in general.

[redacted]

[redacted]

Thank you,

On Wed, 4 Jan 2023 at 14:58, Leanne Williams <LWilliams@tgf.ca> wrote:

> Mena, the court advises that January 16th is available. We will secure that date if we don't hear from you this evening with the documents.
>
> Leanne
>
> Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca
> 
>
> **From:** Leanne Williams <LWilliams@tgf.ca>
> **Sent:** Wednesday, January 4, 2023 9:52 AM
> **To:** Mena Bastawrous <msbcrimlaw@gmail.com>
> **Cc:** Stelzer, Rob <rob.stelzer@ca.gt.com>
> **Subject:** RE: Mitchell Learning
>
> Mena,
>
> Yet again, we received nothing from you last night. We will contact the court this morning for dates next week for a case conference to schedule the contempt proceeding.

[redacted]

[redacted]

You have advised that the documents are available to be produced and we continue to fail to see why you have not done so. The Trustee has spent a lot of time, effort and fees chasing these documents. We will advise as to the Court's availability as soon as we hear back.

Leanne

Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca


---

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Tuesday, January 3, 2023 3:34 PM
**To:** Leanne Williams <LWilliams@tgf.ca>
**Cc:** Stelzer, Rob <rob.stelzer@ca.gt.com>
**Subject:** Re: Mitchell Learning [IMAN-CLIENT.FID161565]

Good afternoon,

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

I will reserve any additional remarks for the appropriate forum. Please keep an eye out for an email from me tonight regarding the information requested.

I am not available until January 10, 2023. Please advise whether additional dates were offered.

Happy New Year,

Mena

On Tue, 3 Jan 2023 at 09:10, Leanne Williams <LWilliams@tgf.ca> wrote:

Mena,

You advised on December 23rd that you would be providing Mitchell's banking records that evening. This was after many failed promises. After our discussion, I trusted that they would be provided. However, despite the reminders, they still have not been provided. Unfortunately, you have left us no option but to schedule a case conference to bring a motion for contempt. The Court has advised that there is availability tomorrow and Thursday. Please confirm your availability. Thanks.

Leanne

Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca


---

**From:** Leanne Williams <LWilliams@tgf.ca>
**Sent:** Tuesday, December 27, 2022 3:22 PM
**To:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Subject:** Re: Mitchell Learning

Mena,

Can you please send me the document as discussed. Thanks.

Leanne

Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca
PRIVILEGED & CONFIDENTIAL - This electronic transmission is subject to solicitor-client privilege and contains confidential information intended only for t
above. Any other distribution, copying or disclosure is strictly prohibited. If you have received this e-mail in error, please notify our office immediately by
and delete this e-mail without forwarding it or making a copy.

---

**From:** Leanne Williams <LWilliams@tgf.ca>
**Sent:** Friday, December 23, 2022 8:58:14 PM
**To:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Subject:** Re: Mitchell Learning

Mena,

Thanks for our discussion this afternoon. I look forward to receipt of the documents as discussed this evening.

Leanne

Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca
PRIVILEGED & CONFIDENTIAL - This electronic transmission is subject to solicitor-client privilege and contains confidential information intended only for t
above. Any other distribution, copying or disclosure is strictly prohibited. If you have received this e-mail in error, please notify our office immediately by
and delete this e-mail without forwarding it or making a copy.

---

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Friday, December 23, 2022 5:16:23 PM
**To:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** Re: Mitchell Learning

6479823373

Mena Bastawrous
*B.A.(hons), LL.B., LL.M.*
*Barrister & Solicitor*

**MSB Law |Criminal Defence**

|www.msbcrimlaw.ca
|info@msbcrimlaw.ca
|(647) 772-6280
|(647) 982-3373
|(416) 390-6011
| 6 Ivan Road
| Toronto, ON



---

**From:** Leanne Williams <LWilliams@tgf.ca>
**Sent:** Friday, December 23, 2022 5:15:25 PM
**To:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Subject:** Re: Mitchell Learning

What number is best to call you on?

Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca


---

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Friday, December 23, 2022 5:14:13 PM
**To:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** Re: Mitchell Learning

Im good now!

On Fri, 23 Dec 2022 at 14:50, Leanne Williams <LWilliams@tgf.ca> wrote:

Let me know when you free up.

Leanne M. Williams | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | www.tgf.ca


---

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Friday, December 23, 2022 12:32:07 PM
**To:** Leanne Williams <LWilliams@tgf.ca>
**Subject:** Re: Mitchell Learning

I am in a Bail Review in Kittchener until 4pm then I am available anytime.

On Fri, 23 Dec 2022 at 11:15, Leanne Williams <LWilliams@tgf.ca> wrote:

Mena,

I hope that you are well. Can you let me know a time today that you would be available for a short call.

Leanne

Leanne M. Williams | | LWilliams@tgf.ca | Direct Line +1 416 304 0060 | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | www.tgf.ca

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Mena Bastawrous
B.A.(hons), LL.B., LL.M.
MSB Law - Criminal Defence
Barrister & Solicitor

🌐 | www.msbcrimlaw.ca
📧 | msbcrimlaw@gmail.com
☎️ | (647) 772-6280
📱 | (647) 982-3373
📠 | (416) 391-6011
🏢 | 8 The Esplanade Suite 2705
📍 | Toronto, ON, M5E0A6

**PRIVILEGED INFORMATION PROVIDED ON A WITHOUT PREJUDICE BASIS**
**- M. Bastawrous**
**832512i**
**01.05.23**

MITCHELL LEARNING

Financial Analysis

**For 10/07/2020 through 06/06/2022** **Balance -$36,497.99**

| DATE | BANK | ACCOUNT | FORM OF DEPOSIT/PAYMENT | AMOUNT DEPOSITED | AMOUNT PAID | PAYOR | PAYEE | TRACKING | FILE |
|---|---|---|---|---|---|---|---|---|---|
| 2020-10-07 | BMO | 236 | Interac | $2,500.00 | | | | | C |
| 2020-10-26 | BMO | 236 | Cheque | $47,000.41 | | M. Learning | [redacted] | 21015553 | D |
| 2020-10-26 | BMO | 236 | WD | | $7,800.00 | | | BR 3941 | D |
| 2020-11-05 | BMO | 236 | E-Transfer | $2,300.00 | | | | | D |
| 2020-11-05 | | 609 | Cheque | $125,000.00 | | A. Learning | M. Learning | | V |
| 2020-11-05 | | 609 | Cheque | | $125,000.00 | A. Learning/pe | M. Learning | | W |
| 2020-11-09 | BMO | 236 | E-Transfer | $1,250.00 | | | | | D |
| 2020-11-09 | | 609 | Cheque | $125,000.00 | | A. Learning | M. Learning | | W |
| 2020-11-09 | | 609 | Cheque | | $125,000.00 | A. Learning/pe | [redacted] | | W |
| 2020-11-10 | BMO | 236 | E-Transfer | $1,400.00 | | | | | D |
| 2020-11-13 | BMO | 236 | Cheque | | $17,500.00 | M. Learning | [redacted] | 24000076 | D |
| 2020-11-16 | BMO | 236 | E-Transfer | $6,524.41 | | | | | D |
| 2020-12-10 | BMO | 543 | Cheque | | $25,000.00 | M. Learning | [redacted] | 393179 | E |
| 2021-01-15 | BMO | 236 | E-Transfer | $2,666.67 | | | | | F |

| DATE | BANK | ACCOUNT | FORM OF DEPOSIT/PAYMENT | AMOUNT DEPOSITED | AMOUNT PAID | PAYOR | PAYEE | TRACKING | FILE |
|---|---|---|---|---|---|---|---|---|---|
| 2021-01-22 | BMO | 236 | E-Transfer | $4,300.00 | | | | | F |
| 2021-02-11 | BMO | 236 | E-Transfer | $4,200.00 | | | | | F |
| 2021-02-16 | BMO | 236 | E-Transfer | $4,200.00 | | | | | F |
| 2021-02-22 | BMO | 236 | Deposit | $40,000.00 | | | | | F |
| 2021-03-15 | BMO | 236 | E-Transfer | $8,200.00 | | | | | G |
| 2021-03-15 | BMO | 236 | WD | | $5,000.00 | | | BR 2592 | G |
| 2021-03-15 | BMO | 236 | Cheque | | $20,000.00 | | | 25555506 | G |
| 2021-03-25 | BMO | 236 | Cheque | | $30,000.00 | M. Learning | [redacted] | 26647412 | H |
| 2021-04-26 | BMO | 236 | E-Transfer | $7,100.00 | | | | | I |
| 2021-04-28 | | 609 | Cheque | $160,000.00 | | A. Learning | [redacted] | 25938464 | W |
| 2021-04-28 | | 609 | Cheque | | $160,000.00 | A. Learning/pe | [redacted] | 25938464 | W |
| 2021-04-30 | BMO | 236 | E-Transfer | $7,000.00 | | | | | I |
| 2021-05-10 | | 609 | Cheque | $100,000.00 | | A. Learning | [redacted] | 364697 | I |
| 2021-05-10 | | 609 | Cheque | | $100,000.00 | A. Learning/pe | [redacted] | 364697 | I |
| 2021-05-14 | BMO | 543 | Cheque | | $90,000.00 | M. Learning | [redacted] | | I |
| 2021-05-17 | BMO | 236 | E-Transfer | $4,600.00 | | | | | I |
| 2021-06-14 | BMO | 236 | E-Transfer | $9,000.00 | | | | | J |
| 2021-06-19 | BMO | 543 | Cheque | | $60,000.00 | M. Learning | [redacted] | 875693 | J |

| DATE | BANK | ACCOUNT | FORM OF DEPOSIT/PAYMENT | AMOUNT DEPOSITED | AMOUNT PAID | PAYOR | PAYEE | TRACKING | FILE |
|---|---|---|---|---|---|---|---|---|---|
| 2021-06-30 | BMO | | Cheque | | $21,128.42 | M. Learning | [redacted] | 525939 | J |
| 2021-07-26 | BMO | 543 | Cheque | | $110,000.00 | M. Learning | [redacted] | 25262057 | K |
| 2021-08-03 | BMO | | Cheque | | $130,000.00 | M. Learning | [redacted] | 875932 | K |
| 2021-08-19 | Scotia | | Deposit | $55,000.00 | | [redacted] | M. Learning | | W |
| 2021-08-20 | BMO | 543 | Deposit | $150,000.00 | | | | BR 3941 | K |
| 2021-08-20 | BMO | 543 | Cheque | | $150,000.00 | | | 21803327 | K |
| 2021-08-23 | BMO | 543 | Deposit | $15,000.00 | | | | BR 3941 | K |
| 2021-08-23 | BMO | 543 | Cheque | | $15,000.00 | [redacted] | M. Learning | 753022 | K |
| 2021-08-24 | Scotia | | Deposit | $50,000.00 | | [redacted] | M. Learning | | W |
| 2021-08-24 | Scotia | | Draft | | $37,043.10 | M. Learning | [redacted] | | W |
| 2021-09-09 | CIBC | | Cheque | $150,000.00 | | [redacted] | M. Learning | 359302791 | L |
| 2021-09-20 | BMO | 236 | E-Transfer | $2,500.00 | | | | | L |
| 2021-09-20 | BMO | 236 | E-Transfer | $2,500.00 | | | | | L |
| 2021-09-20 | BMO | 236 | E-Transfer | $2,500.00 | | | | | L |
| 2021-09-21 | BMO | 236 | E-Transfer | $2,500.00 | | | | | L |
| 2021-09-27 | BMO | | Cheque | | $220,393.76 | M. Learning | [redacted] | 702486 | L |
| 2021-09-27 | BMO | | Cheque | | $29,606.24 | M. Learning | [redacted] | 180537 | L |
| 2021-09-27 | BMO | 543 | Deposit | $250,000.00 | | | | BR 3941 | M |

| DATE | BANK | ACCOUNT | FORM OF DEPOSIT/PAYMENT | AMOUNT DEPOSITED | AMOUNT PAID | PAYOR | PAYEE | TRACKING | FILE |
|---|---|---|---|---|---|---|---|---|---|
| 2021-10-01 | BMO | 236 | Cheque | | $40,000.00 | M. Learning | [redacted] | 21805551 | M |
| 2021-10-12 | BMO | 236 | E-Transfer | $80,550.00 | | | | 3.9414E+14 | M |
| 2021-10-13 | BMO | 236 | Cheque | | $40,000.00 | M. Learning | [redacted] | | M |
| 2021-10-18 | BMO | 236 | Deposit | $344,000.00 | | | | BR 3941 | M |
| 2021-10-19 | BMO | 236 | Wire Payment | | $44,000.00 | | | 2.9003E+12 | M |
| 2021-10-26 | BMO | 236 | Deposit | $120,000.00 | | | | BR 3941 | N |
| 2021-10-26 | BMO | 236 | Cheque | | $330,000.00 | M. Learning | [redacted] | 23893256 | N |
| 2021-11-20 | BMO | 236 | Cheque | | $28,415.49 | M. Learning | [redacted] | 702555 | N |
| 2021-12-06 | BMO | 543 | E-Transfer | $58,000.03 | | | | 3.9414E+14 | O |
| 2021-12-29 | RBC | 563 | Deposit | $192,000.00 | | | | BR 1718 | O |
| 2021-12-29 | RBC | 563 | WD | | $50,008.50 | | | BR 1718 | O |
| 2022-01-04 | RBC | 563 | E-Transfer | | $1,000.00 | M. Learning | [redacted] | | O |
| 2022-01-05 | RBC | 563 | WD | | $30,000.00 | | | BR 6762 | O |
| 2022-01-24 | RBC | 563 | WD | | $25,000.00 | | | BR 1718 | P |
| 2022-01-24 | RBC | 563 | WD | | $40,000.00 | | | BR 1718 | P |
| 2022-01-26 | RBC | 563 | WD | | $12,614.00 | | | BR 1718 | P |
| 2022-02-09 | RBC | 563 | E-Transfer | | $1,780.00 | M. Learning | [redacted] | | P |
| 2022-03-15 | RBC | 508 | E-Transfer | | $15,000.00 | M. Learning | [redacted] | | Q |

| DATE | BANK | ACCOUNT | FORM OF DEPOSIT/PAYMENT | AMOUNT DEPOSITED | AMOUNT PAID | PAYOR | PAYEE | TRACKING | FILE |
|---|---|---|---|---|---|---|---|---|---|
| 2022-02-23 | BMO | 543 | Cheque | | $25,000.00 | | | 24727841 | Q |
| 2022-03-28 | BMO | 236 | E-Transfer | $2,000.00 | | | | | S |
| 2022-03-28 | BMO | 236 | E-Transfer | $10,000.00 | | | | | S |
| 2022-05-02 | BMO | 236 | E-Transfer | $7,000.00 | | | | | T |
| 2022-05-17 | BMO | 543 | E-Transfer | $2,000.00 | | | | | T |
| 2022-05-18 | BMO | 543 | E-Transfer | $2,000.00 | | | | | T |
| 2022-06-06 | BMO | 543 | Cheque | | $20,000.00 | M. Learning | [redacted] | 37027636 | U |
| 2022-06-06 | BMO | 543 | Cheque | | $15,000.00 | M. Learning | [redacted] | 37027611 | U |
| **Total** | | **68** | | **$2,159,791.52** | **$2,196,289.51** | | | | |

This is Exhibit “O” referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

**From:** Maria Magni on behalf of Leanne Williams
**Sent:** Friday, January 13, 2023 11:51 AM
**To:** msbcrimlaw@gmail.com
**Cc:** Stelzer, Rob; 523_043 _Bankruptcy of Aiden Pleterski and AP Private Rquity Limited_ January _ March
**Subject:** Bankruptcies of Aiden Pleterski and AP Private Equity Limited (File Nos. 31-2856381/31-2856382) [IMAN-CLIENT.FID165535]
**Attachments:** Aide Memoire - Trustee in Bankruptcy - Grant Thornton Limited - January 12 2022.pdf

Good morning Mr. Bastawrous,
Please find attached a copy of the Trustee in Bankruptcy's Aid Memoire, in connection with the contempt motion scheduling hearing to take place on Monday, January 16, 2023 before the Honourable Justice Steele, which we serve upon you pursuant to the *Rules of Civil Procedure*.
Regards,
Mary, *Assistant to Leanne Williams*

This is Exhibit "P" referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

Your branch address:

[redacted]

# Everyday Banking

**Your Branch**
[redacted]

**For questions about your statement call**
(905) 665-2740

**Direct Banking**
1-800-363-9992
www.bmo.com

**Your Plan**
Premium Plan with Student Special Discount Program

MR MITCHELL LEARNING
[redacted]

# Your Everyday Banking statement

For the period ending August 23, 2021

## Summary of your account

| Account | Opening balance ($) | - Total amounts deducted ($) | + Total amounts added ($) | = Closing balance ($) on Aug 23, 2021 |
|---|---|---|---|---|
| Premium Rate Savings # [redacted]-236 | [redacted] | [redacted] | [redacted] | [redacted] |

As cyber threats have evolved, mobile security has become more important. Always keep your software and apps current and download software updates regularly. For more security tips, visit **bmo.com/security.**

## Here's what happened in your account

| Date | Description | Amounts deducted from your account ($) | Amounts added to your account ($) | Balance ($) |
|---|---|---|---|---|
| | **Premium Rate Savings # [redacted]-236** | | | |
| | Owner: MR MITCHELL LEARNING | | | |
| **Jul 24** | **Opening balance** | | | [redacted] |
| Jul 26 | Online Transfer, TF 3190#3949-657 | [redacted] | [redacted] | [redacted] |
| Jul 26 | Online Transfer, TF 3190#3029-543 | | [redacted] | [redacted] |
| Jul 26 | Online Transfer, TF 3190#3949-657 | [redacted] | [redacted] | [redacted] |
| Jul 26 | Online Transfer, TF 3190#3949-657 | [redacted] | | [redacted] |
| Jul 26 | Online Transfer, TF 3190#3029-543 | [redacted] | | [redacted] |
| Jul 28 | Online Transfer, TF 3190#3949-657 | [redacted] | | [redacted] |
| Jul 28 | Online Transfer, TF 3190#3949-657 | [redacted] | [redacted] | [redacted] |
| Jul 30 | Interest Earned | | [redacted] | [redacted] |
| Aug 03 | INTERAC e-Transfer Received | | [redacted] | [redacted] |
| Aug 03 | INTERAC e-Transfer Sent | [redacted] | | [redacted] |
| Aug 03 | INTERAC e-Transfer Sent | [redacted] | | [redacted] |

continued



BMO Bank of Montreal

A member of BMO Financial Group

This is Exhibit "Q" referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** Monday, February 6, 2023 3:19 PM
**To:** Leanne Williams <LWilliams@tgf.ca>
**Cc:** Cooper, Jesse <Jesse.Cooper@ca.gt.com>
**Subject:** Learning Documents

Good Afternoon Counsel,

My assistant dropped off all bank records in my possession to Jesse COOPER late last night. Can you please confirm the same and advise whether you will vacate the date set for the Motion relating to the records provided.

Thank you,

--
Mena Bastawrous
B.A.(hons), LL.B., LL.M.
MSB Law - Criminal Defence
Barrister & Solicitor

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✉ | msbcrimlaw@gmail.com
☎ | (647) 772-6280
📱 | (647) 982-3373
📠 | (416) 391-6011
🏢 | 8 The Esplanade Suite 2705
📍 | Toronto, ON, M5E0A6

This is Exhibit "R" referred to in the Affidavit of
ALEXANDER OVERTON sworn by Alexander Overton of
the City of Toronto, in the Province of Ontario, before me at
the City of Toronto, in the Province of Ontario,
this 9th day of February, 2023 in accordance with
*O. Reg. 432/20, Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits

**From:** Leanne Williams
**Sent:** February 7, 2023 2:20 PM
**To:** Mena Bastawrous
**Cc:** Cooper, Jesse; Stelzer, Rob; Rachel Fielding
**Subject:** RE: Learning Documents [IMAN-CLIENT.FID165535]

**Importance:** High

Mena,

We acknowledge receipt of certain banking records of Mitchell Learning on February 5th at 1:00am. We also acknowledge receipt on January 5th of a redacted spreadsheet listing excerpts from certain banking records. However, these documents do not satisfy Mr. Learning's obligations pursuant to his undertaking or the notice issued pursuant to s.164 of the BIA.

The undertaking provided by Mr. Learning was as follows: "To provide all of Mr. Learning's bank statements for all of his bank accounts from June 2020 to present. **Also, to identify which transactions represent money going to Aiden Pleterski or AP Private Equity, or any transaction where he received money from AP Private Equity or Aiden Pleterski**." The Trustee also delivered a notice under s.164 of the BIA requiring that Mr. Learning deliver up "any and all banking records, **receipts, and proof of any transactions and/or investments between yourself and Aiden Pleterski and/or AP Private Equity Limited** in your possession and/or control, by no later than December 20, 2022."

The Trustee has reviewed the records provided and the redacted spreadsheet and notes that the following items still have yet to be provided:

1. The accounts delivered are only from July 2020 to August 2022. Please provide the statements for June 2020 and September and October 2022;
2. The February 2022 statement in respect of the BMO account ending in 543;
3. The redacted spreadsheet refers to the following accounts which statements have not been provided:
    a. RBC accounts ending in 563 and 508;
    b. Antonio Learning's 609 account;
    c. Unnamed Scotiabank account; and
    d. Unnamed CIBC account;
4. The undertaking requires that Mr. Learning identify which transactions represent money going to or from Pleterski or AP. Please provide the unredacted spreadsheet indicating all payee and payors together with a listing of all the payments to/from Mr. Learning relating to other people's investments. This is crucial to determine the amount that Mr. Learning benefitted from Pleterski's scheme; and
4. The section 164 notice requires that Mr. Learning provide receipts, and proof of any transactions and/or investments between himself and Pleterski and/or AP. The Trustee requires the supporting documents (ie copies of wires, draft, cheques, etc) to substantiate the transactions noted in the spreadsheet.

The bank statements on their own do not satisfy the undertaking given by Mr. Learning or his obligations pursuant to section 164 of the BIA. The Trustee requires all of this information to properly trace the funds of the Bankrupts in order to fulfill its mandate and administer the estates. All of the documents referred to above should have been delivered to the Trustee. It is the Trustee's intention to proceed with the motion on February 21st as instructed by Justice Osborne.

Leanne

**From:** Mena Bastawrous <msbcrimlaw@gmail.com>
**Sent:** February 6, 2023 3:19 PM
**To:** Leanne Williams <LWilliams@tgf.ca>
**Cc:** Cooper, Jesse <Jesse.Cooper@ca.gt.com>
**Subject:** Learning Documents

Good Afternoon Counsel,

My assistant dropped off all bank records in my possession to Jesse COOPER late last night. Can you please confirm the same and advise whether you will vacate the date set for the Motion relating to the records provided.

Thank you,

--
Mena Bastawrous
B.A.(hons), LL.B., LL.M.
MSB Law - Criminal Defence
Barrister & Solicitor

🌐 | www.msbcrimlaw.ca
🖂 | msbcrimlaw@gmail.com
☎ | (647) 772-6280
📱 | (647) 982-3373
📠 | (416) 391-6011
🏢 | 8 The Esplanade Suite 2705
📍 | Toronto, ON, M5E0A6

**IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI AND AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

Court File No./Estate No.: BK-22-00208582-OT-31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

Proceedings commenced at Toronto, Ontario

**AFFIDAVIT OF ALEXANDER OVERTON**

**Thornton Grout Finnigan LLP**
100 Wellington Street West – Suite 3200
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7
Tel: 416-304-1616

**Leanne M. Williams** (LSO# 41877E)
Email: lwilliams@tgf.ca

**Rachel Fielding** (LSO# 72211S)
Email: rfielding@tgf.ca

Lawyers for Grant Thornton Limited, in its capacity as Trustee in Bankruptcy of the Estates of AP Private Equity Limited and Aiden Pleterski

# TAB 3

District of Ontario
Division No. 07 - Hamilton
Court No. BK-22-00208581-OT-31 31-2856381 (AP Private Equity Limited)
Court No. BK-22-00208582-O-T31 31-2856382 (Aiden Pleterski)

IN THE MATTER OF THE BANKRUPTCY OF
AIDEN PLETERSKI AND AP PRIVATE EQUITY LIMITED
OF THE TOWN OF WHITBY, IN THE PROVINCE OF ONTARIO

# TRUSTEE'S REPORT ON ITS PRELIMINARY ADMINISTRATION

## SECTION A

### Introduction

1. On August 9, 2022 the Ontario Superior Court of Justice (the "**Court**") ordered that Aiden Pleterski ("**Pleterski**") and the company he owned, AP Private Equity Limited ("**AP**" and together with Pleterski, the "**Bankrupts**") be adjudged bankrupt. The Order was made following a petition filed by several creditors represented by Baker McKenzie LLP ("**Baker McKenzie**") who are owed money by the Bankrupts. Grant Thornton Limited was appointed as the trustee in bankruptcy (the "**Trustee**" or "**Grant Thornton**"). Because the assets and liabilities of Pleterski and AP are interrelated, the findings for each bankrupt are consolidated into one report.

### Background

2. Pleterski, the self described "Crypto King", claims to have operated AP as an investment business in which, among other things, monies were allegedly invested on behalf of investors in cryptocurrency and foreign exchange positions. Pleterski is the sole officer and director of AP. Investments appear to have been made both through Pleterski personally and through AP. In some cases, investors provided funds to Pleterski directly and, in other cases, they gave funds to AP.

3. The Trustee understands that much of the funding was raised through originators who raised money for the Bankrupts. The Trustee has been advised that the originators included: Mitchell Learning, Tyson Heyes, Patrick Fetras, Mason Doucette, and Colin Murphy (collectively, the "**Originators**"). Many of the Originators appear to have been given the use of expensive vehicles owned or leased by Pleterski such as a

Lamborghini, Range Rover, BMW, etc. to entice investors. The Trustee has attempted to contact the Originators by phone but they have not responded to the Trustee's enquires. As the Trustee has thus far been unsuccessful in contacting the Originators, the Trustee is urging anyone with contact information, including physical addresses, for the Originators, to provide it to the Trustee. The Trustee would like to speak with the Originators as soon as possible and may wish to conduct formal examinations of them pursuant to section 163 of the *Bankruptcy and Insolvency Act* ("**BIA**") in respect of the business and assets of the Bankrupts.

4. The Trustee has been advised that, throughout 2022, creditors became increasingly concerned about recovering the funds they invested with the Bankrupts. On June 27, 2022, a statement of Claim (the "**Singh Claim**") was filed on behalf of Sacha Amar Dario Singh and 9319697 Canada Ltd. (collectively, the "**Singh Creditors**") represented by Walker Law Professional Corporation in order to pursue funds claimed to be owed by Pleterski.

Mareva Proceedings and the Bankruptcy

5. There has been a great deal of confusion among creditors in respect of the Mareva proceedings and the bankruptcies. This section provides some background on the bankruptcies and Grant Thornton's role in an effort to clarify the confusion. Creditors will have the opportunity to ask questions directly of Grant Thornton at the meeting and appoint inspectors who will give directions to the Trustee.

6. On July 7, 2022, the Court issued a Mareva order to "freeze" Pleterski's assets (the "**Mareva Order**") at the request of the Singh Creditors as part of the Singh Claim. The Mareva Order was expanded on July 15, 2022 to include Akil Heywood and Banknote Capital Inc. represented by DMG Advocates LLP.

7. A Mareva Order freezes assets pending a trial in an action commenced by a plaintiff. It prevents the defendant from disposing of his assets. A Mareva Order is intended to preserve assets pending a trial of a lawsuit. It, therefore, benefits the party that brought the Mareva Order. In contrast, a bankruptcy is a legal procedure in which the bankrupt's property is surrendered to a licensed insolvency trustee. Once adjudged

bankrupt, a person or company or an entity holding their assets (for example, a bank holding funds in the name of the bankrupt) must deliver all property to the Trustee (with the exception of certain exempt assets, such as, clothing).

8. The Trustee's role is outlined in the BIA. Grant Thornton was appointed by the Court in this mandate and is an officer of the Court. As a result, its duties are to the Court and to the creditors of the Bankrupt including to:

   (a) impartially represent the interests of all creditors;

   (b) act with an even hand as between competing classes of creditors;

   (c) act for the benefit of creditors generally; and

   (d) take possession of and realize on the assets of the Bankrupts and to distribute the proceeds to creditors based on their proven claims.

9. As part of these duties, the Trustee is also responsible for investigating the affairs of the Bankrupts.

10. At the First Meeting of Creditors, creditors may affirm the appointment of the trustee (or substitute the trustee with another licensed insolvency trustee) and elect up to five inspectors who are responsible for representing the interests of the creditors at large. The Trustee is somewhat analogous to the management of a company and the inspectors to a board of directors. Major decisions made by the Trustee must be approved by the inspectors similar to the way that major decisions of management are approved by a board of directors.

11. The Trustee understands that all of the creditors of the Bankrupts are unsecured. That means that the creditors that gave their money to the Bankrupts to invest have an equal entitlement to any proceeds available for distribution. Creditors will be paid based upon the claims they are able to prove to the Trustee in accordance with the BIA. Distributions are not based upon the claim amounts listed on the Statement of Affairs which was prepared based upon incomplete information for reasons described later in this report.

Rumours Relating to This Proceeding

12. In discussions with creditors, the Trustee has become aware of a number of rumours that the Trustee wishes to directly address. These rumors include:

(a) proof of claims and proxies must be sent to Investigative Counsel;

(b) the Trustee was chosen by Pleterski;

(c) the Trustee takes its instructions from Baker McKenzie; and,

(d) the Trustee does not have experience with fraud or ponzi cases.

*Grant Thornton's Experience*

13. Grant Thornton Canada a member firm in Grant Thornton International, a global accounting firm with over 50,000 employees worldwide. Grant Thornton Canada has extensive experience with fraud or ponzi scheme cases, including:

(a) Grant Thornton was retained on a confidential basis by a lending syndicate of Canadian banks as their financial advisor for a loan in excess of $200 million. After the discovery of fraud, the mandate included a significant amount of investigative work, including asset tracing focused in Europe;

(b) Grant Thornton was appointed by the Court as Trustee pursuant to section 37 of the *Mortgage Brokerages and Administrations Act* after the discovery of a Ponzi scheme at Tier I Trustee Corporations. As Trustee, Grant Thornton conducted extensive asset tracing, including property traced across Canada, the United States and the Caribbean;

(c) Grant Thornton was appointed as the Court-appointed Receiver of Crystal Wealth Management`s 15 mutual funds on application by the Ontario Securities Commission. The company has assets under management prior to the receivership in the amount of $193 million. More than 3,000 investors were involved across Canada, who invested in the Crystal Wealth Funds via registered and non-registered accounts. The Receiver has engaged in extensive asset tracing, investigative and asset recovery exercises in Canada and the United States.

*The Trustee's Independence*

14. As discussed above, the Trustee was appointed by the Court on application by certain creditors. The Trustee was not appointed by Pleterski. Prior to its appointment, the Trustee had never spoken to Pleterski.

15. Although the Trustee was appointed by a group of creditors represented by Baker McKenzie, it does not seek or take instructions from Baker McKenzie or its clients. The Trustee has never spoken to Baker McKenzie's clients. The Trustee is an officer of the Court whose mandate is prescribed by the BIA for the benefit of all creditors. Once the inspectors are appointed in these proceedings, the Trustee will work with the inspectors who represent all of the creditors of the Bankrupts. The Trustee has a license to practice and could have its licensed revoked or face other penalties were it found to favour the creditor requesting its appointment or any other creditors.

<u>Conduct of the Bankrupts</u>

16. Shortly before his bankruptcy, Pleterski was the owner (directly or indirectly) of approximately 11 high-end vehicles (in addition to leasing several others) and rented a home on the waterfront in Burlington for approximately $20,000 per month.

17. Immediately after the issuance of the Bankruptcy Orders, the Trustee had a video call with Pleterski and his legal counsel. The next morning (August 10, 2022), the Trustee met with Pleterski at his apartment; he was cooperative and provided his assets in the apartment including jewelry, guitars, etc. as well as information related to certain of his assets and their whereabouts. As a result of the information obtained, the Trustee immediately took steps to secure as many of the vehicles as they could locate with the information provided.

18. Notwithstanding his initial cooperation, starting on the afternoon of August 10, 2022 until August 18, 2022, Pleterski was unresponsive to phone calls, text messages and E-mail. During that time, the Trustee visited Pleterski's apartment outside of the city and even took the step of visiting his family home in Whitby and speaking with his

parents. Due to the unresponsiveness of Pleterski, the Trustee to the extraordinary step of instructing its proposed counsel to begin drafting court materials seeking a contempt order and ultimately, failing compliance with that order, requesting a bench warrant (i.e. an arrest warrant) against Pleterski. Before the materials were completed, on August 18, 2022, Pleterski responded to the Trustee but indicated he was unavailable to speak until the morning of August 21, 2022. Pleterski pushed back the morning call on August 21, 2022 to the afternoon of that same day and then asked to cancel the afternoon call; the Trustee insisted that the call proceed as there were many urgent questions regarding Pleterski's assets and creditors.

19. Without assistance from Pleterski during the period of August 10, 2022 until August 21, 2022, the Trustee:

(a) was unable to review Pleterski's records when putting together the Statement of Affairs which lists all of his assets and creditors. Accordingly, the Trustee was only able to contact creditors of which it was aware pursuant to the existing litigation or the limited records it had in its possession; and

(b) was unable to take possession of the Lamborghini Huracan, BMW M8, Audi R8, Honda Civic Type R, and other vehicles on a timely basis.

20. Even when Pleterski did make himself available on August 21, 2022, he did not provide the documentation he agreed to provide after the call and refused to answer the Trustee's questions related to his conduct before bankruptcy including, contact information for the Originators and details on payments he made before his bankruptcy. The Trustee pressed Pleterski on why, with a creditor pool believed to exceed $25 million, he had so few assets. Pleterski insisted his counsel be present before answering these types of questions. As a result, the Trustee arranged for a video call with Pleterski and his counsel on August 24, 2022 which was subsequently cancelled by Pleterski. The Trustee insisted that if Pleterski did not answer the Trustee's questions within 24 hours that the Trustee would move forward and request a contempt Order from Court. The Trustee was finally able to obtain the information it was seeking and ask its questions on August 25, 2022 (the creditor's list which the

Trustee had been seeking since August 10, 2022 was finally provided by Pleterski's counsel on August 24, 2022).

21. As a result of the above, in addition to delaying the Trustee's investigation and adding needless cost to the administration of this estate, from the period August 10, 2022 until August 24, 2022, the Trustee was unable (despite multiple attempts) to get a proper listing of Pleterski's creditors. The Trustee reached out to the creditors provided by Pleterski within 24 hours via the E-mail addresses provided and has had contact with a number of these creditors. Unfortunately, as a consequence of Pleterski's inaction, certain creditors were not advised about the First Meeting of Creditors until August 25, 2022 – only 4 days before the creditor's meeting. The Trustee has made every effort in a highly condensed timeline to answer the questions of such creditors and assist them in filing claims.

22. Ultimately, Pleterski's conduct has resulted in many creditors not receiving timely notification of the bankruptcy or the First Meeting of Creditors. Furthermore, the lack of cooperation, particularly in locating and securing the vehicles, has greatly added to the cost of the administration of the estate. The Trustee had to attend multiple different locations in order to get each of the cars. In some cases, the cars were not where Pleterski advised they were or the parties holding them would not release them without payment or a significant amount of information from the Trustee. Thankfully, all but one known vehicle, an Audi A4, has been secured by the Trustee as at the date of this report. The Trustee understands that the Audi A4 is being driven by Pleterski's former girlfriend, Mya Patricia Trentadue.

23. The Trustee believes that Pleterski has not complied with his duties pursuant to section 158 of the BIA.

Consolidation

24. It is the Trustee's preliminary view that the bankruptcies of Pleterski and AP should be consolidated into one estate. Pleterski did not appear to separate his business dealings in AP from his personal dealings. For example, in some instances, agreements were entered into with AP but funds were delivered to Pleterski

personally. Following a more thorough consolidation analysis, the Trustee intends to seek approval of the Court to consolidate the two estates thus combining the assets and liabilities of AP and Pleterski for the benefit of creditors. Such application will be discussed with the inspectors to be appointed and will be brought on notice to all creditors.

25. In the meantime, since the Trustee does not yet have the approval from the Court to consolidate, it will continue to separate assets and claims to the extent possible. In the event of a conflict, the Trustee intends to consider the party who actually received the funds is the prevailing bankrupt. For example, if a creditor has a signed contract with AP but paid Pleterski personally, the Trustee will assume that the creditor has a claim against Pleterski rather than AP. Consolidation would greatly simplify administration of the estates and result in an equitable outcome for all creditors who invested with Pleterski (either directly or through AP).

Assets

26. Below is a table summarizing the assets of the Bankrupts given the information currently in the possession of the Trustee and prior to any further investigation. Cars are listed at their estimated wholesale value per the Trustee's appraiser.

| | Pleterski | AP | Combined | Comments |
|---|---|---|---|---|
| Cash & Bank Drafts | 561,473 | 45,000 | 606,473 | |
| Investments* | 281,000 | 62,000 | 343,000 | |
| 2020 Audi R8 convertible | 180,000 | - | 180,000 | |
| 2018 Honda Type R | 35,000 | - | 35,000 | |
| 2017 Maclaren 570GT | 120,000 | - | 120,000 | |
| 2018 Maclaren 720s | 280,000 | - | 280,000 | |
| 2015 BMW I8 | 70,000 | - | 70,000 | |
| 2020 BMW M8 spider | 115,000 | - | 115,000 | |
| 2018 Lamborghini Huracan | 350,000 | - | 350,000 | |
| 2019 Range Rover Velar | 53,000 | - | 53,000 | |
| 2021 CFMOTO ATV | 10,000 | - | 10,000 | |
| 2018 Kawasaki Ninja | 5,000 | - | 5,000 | |
| 2020 Audi A4* | 30,000 | - | 30,000 | |
| Jewellery & Personal Effects | 32,000 | - | 32,000 | Detailed list available for creditors upon request. |
| Deposit on Real Estate | - | - | - | Value unknown. |
| **Total** | **2,122,473** | **107,000** | **2,229,473** | |

**The Trustee believes that these are estate assets, but they have not yet been collected by the Trustee. Investments consist of approximately $120,000 with TD belonging to Pleterski. Investments also consist of $3,000 held by Pleterski, $158,000 in an investment account held by Pleterski and $62,000 held by AP. All investment amounts have been rounded as amounts to be collected are subject to bank fees.*

## SECTION B

Conservatory and Protective Measures

27. As noted above, the Trustee has, so far, taken possession of all known vehicles except for an Audi A4.

Carrying on Business

28. The Trustee has not carried on any business conducted by Pleterski or AP's business.

## SECTION C

Legal Proceedings

29. The Trustee is not aware of any legal proceedings currently ongoing against the Bankrupts other than the Singh Claim.

## SECTION D

Provable Claims

30. The Statement of Affairs of the Bankrupts disclose approximately $13 million in claims. As noted earlier in the Conduct of the Bankrupt section of this Report, the Statement of Affairs was prepared without assistance from Pleterski and the Trustee believes that it does not accurately reflect the true claims against the Bankrupts. The Trustee believes that the true creditor pool exceeds $25 million. Set out below is a table summarizing total unsecured claims of approximately $13 million (as at August 27, 2022 at 11:00 AM). The total balance of the claims pool continues to increase as claims are received. No preferred or secured claims have been filed.

| | Pleterski | AP | Combined |
|---|---|---|---|
| Unsecured Claims | **$ 8,602,976** | **$ 4,313,334** | **$ 12,916,310** |

**SECTION E**

Secured Creditors

31. No secured claims have been filed as is noted above.

**SECTION F**

Anticipated Realization and Distribution

32. Until the issue of whether the Pleterski and AP estates should be consolidated is resolved, it is not possible to provide accurate guidance on realizations. The Trustee notes that only $2.2 million of assets have currently been located by the Trustee and that claims filed amount to approximately $13 million. The Trustee believes that further investigation is warranted to potentially uncover additional assets of the Bankrupts.

**SECTION G**

Investigations and Transfers at Undervalue/Preference

33. The Trustee's primary efforts over the past three weeks have focused on locating and taking possession of the known assets of Pleterski, liaising with creditors and their counsel and preparing for the First Meeting of Creditors. The Trustee's investigation efforts thus far include the following:

(a) Coordinating with counsel that initiated the Mareva application and asking for a copy of the transcripts from their examinations;

(b) Online research into Pleterski, the Originators and others who may have information related to the assets of the Bankrupts.

(c) Speaking with creditors and receiving and reviewing documents from them regarding the whereabouts of Pleterski's assets;

(d) Conducting a preliminary examination of the Bankrupt on August 24, 2022 and asking detailed questions about his assets including:

   (1) The whereabouts of vehicles which we understood he had previously owned;
   (2) Questions related to offshore assets;
   (3) Questions related to gold bars Pleterski allegedly possessed;
   (4) Information on why Pleterski's assets are much less than his liabilities and the exact nature of his investments; and
   (5) The role and identity of the Originators.

(e) Searching for undisclosed vehicles by obtaining a list of vehicles from Pleterski's insurance broker and performing Registration Identification Number searches to determine vehicles registered directly or indirectly to Pleterski;

(f) Speaking with Dragan Pleterski (Aiden Pleterski's father) about vehicles registered in his name which were paid for by Pleterski. The Trustee has found Dragan Pleterski to be cooperative thus far and has facilitated the Trustee's efforts to determine if there is equity and take possession of such vehicles;

(g) Requesting that Thornton Grout Finnigan LLP ("**TGF**"), the law firm asked to serve as estate counsel (subject to inspector approval), to conduct land title searches for the residence Pleterski rented as there have been allegations that Pleterski has an ownership interest in the property;

(h) Contacting legal counsel acting for Pleterski requesting details related to a $500,000 deposit made by Pleterski in respect of the acquisition of real property located at 725 Westney Road South in Ajax which has not yet closed to determine if the deposit could be recovered;

(i) Reaching out to the Originators (with the limited information provided) to determine whether certain payments are recoverable as a preference pursuant to the BIA for the benefit of creditors and other information about the Bankrupts; and,

(j) Asking the financial institutions and exchanges which Pleterski dealt with to provide bank statements (most of the funds have already been collected).

34. The Trustee does not want to provide further detail in this Report about its additional investigation efforts since this report will be available to the Bankrupt. The Trustee will share further details with the inspectors elected by the creditors.

35. As is detailed below in this report, the Trustee estimates the gross value of the property that the Bankrupt has disclosed is estimated to be worth an estimated $2.2 million whereas the creditor's have filed claims totalling approximately $13 million and the Trustee believes that the actual creditor pool exceeds $25 million. The deficiency between assets and liabilities is conspicuous and warrants further investigation.

36. As noted above, it may be possible to pursue the payments to the Originators as preferences under the BIA.

**SECTION H**

Other Matters

37. None.

DATED at Toronto, Ontario this 29th day of August 2022
(based on claims received as at 11:00 AM EDT on August 27, 2022).

**GRANT THORNTON LIMITED**
In its capacity as Trustee for the bankrupt estate of
Aiden Pleterski
AP Private Equity Limited
and not in its personal or corporate capacity

Per.

Rob Stelzer, CPA, CA, CIRP, LIT
Senior Vice President

# TAB 4

District of Ontario
Division No. 07 - Hamilton
Court No. BK-22-00208581-OT-31 31-2856381 (AP Private Equity Limited)

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

IN THE MATTER OF THE BANKRUPTCY OF
AP PRIVATE EQUITY LIMITED
OF THE TOWN OF WHITBY, IN THE PROVINCE OF ONTARIO

District of Ontario
Division No. 07 - Hamilton
Court No. BK-22-00208582-O-T31 31-2856382 (Aiden Pleterski)

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

IN THE MATTER OF THE BANKRUPTCY OF
AIDEN PLETERSKI OF THE TOWN OF WHITBY,
IN THE PROVINCE OF ONTARIO

# FIRST REPORT OF THE TRUSTEE

## Background

1. On April 21, 2022, Sacha Amar Dario Singh and 9319697 Canada Ltd. (the “**Mareva Plaintiffs**”) commenced an action against Aiden Pleterski (“**Pleterski**”) and AP Private Equity Limited (“**AP**” and together with Pleterski, the “**Bankrupts**”) claiming relief based on breach of contract, fraudulent misrepresentation, civil fraud, misappropriation of funds, conversion, and unjust enrichment. The Mareva Plaintiffs allege that they were induced into making substantial investments with Pleterski between April 2021 and January 2022 and that the inducement was based on fraudulent misrepresentation.

2. Pleterski, the self-described “Crypto King”, claims to have operated AP as an investment business in which, among other things, monies were allegedly invested on behalf of investors, including the Mareva Plaintiffs, in cryptocurrency and foreign exchange positions. Pleterski is the sole officer and director of AP.

3. The Mareva Plaintiffs successfully obtained an *ex parte* worldwide *Mareva* injunction pursuant to the Order of Justice Sutherland dated July 7, 2022 (the "**Mareva Order**"), a copy of which, together with the Endorsement, is attached as **Appendix "A"**. As set out in the Endorsement, the Court was satisfied that there was a strong *prima facie* case that Pleterski committed a breach of contract and civil fraud.

4. The Trustee has been advised that, throughout 2022, investors became increasingly concerned about recovering the funds they invested with the Bankrupts. Several investors in the same position as the Mareva Plaintiffs brought an application for bankruptcy orders against Pleterski and AP. On August 9, 2022, the Ontario Superior Court of Justice (the "**Court**") ordered Pleterski and AP be adjudged bankrupt (the "**Bankruptcy Orders**"). Grant Thornton Limited was appointed as the trustee in bankruptcy (the "**Trustee**") of both Bankrupts. Copies of the Bankruptcy Orders are attached as **Appendix "B"**.

5. The First Meeting of Creditors of the Bankrupts (the "**First Meeting**") was held on August 29, 2022. A copy of the Trustee's Report on its Preliminary Administration dated August 29, 2022 (the "**Preliminary Report**") is attached as **Appendix "C"**. As at the First Meeting, claims totaling approximately $13 million were filed in the estates of the Bankrupts, but the Trustee believes that the actual claims could significantly exceed this amount.

<u>Relief Sought</u>

6. The Trustee seeks the issuance of a warrant for the arrest of Pleterski, on behalf of himself and AP, and an Order requiring that all books, papers and property in his possession, including any cell phones, computers and any other electronic devices used by the Bankrupts be immediately delivered up to the Trustee.

<u>Conduct of the Bankrupts</u>

7. As set out in the Preliminary Report, although Pleterski was initially cooperative with the Trustee on a call which took place on August 9, 2022 and an in-person meeting the morning of August 10, 2022, beginning in the afternoon of August 10, 2022 until August 18, 2022, Pleterski was unresponsive to phone calls, text messages and emails from the Trustee. Finally on August 18, 2022, Pleterski agreed to speak with the Trustee on August 21, 2022. However, on August 21, 2022, Pleterski attempted to again defer speaking with the Trustee who insisted that the call proceed as there were many urgent unanswered

questions regarding his assets and creditors of the Bankrupts that needed a response prior to the First Meeting.

8. Without assistance from Pleterski during the initial bankruptcy period, the Trustee:

(a) was unable to review the Bankrupts' records in compiling the Statement of Affairs which caused certain creditors to have little or no notice of the First Meeting; and

(b) was unable to take possession of certain high-end automobiles on a timely basis as their locations previously disclosed by Pleterski were not correct which considerably increased the costs of administration of the estates of the Bankrupts.

9. Even after making himself available on August 21, 2022, Pleterski did not provide the documentation requested by the Trustee and refused to answer the Trustee's questions related to his conduct prior to the bankruptcy. Pleterski ultimately provided certain information through his counsel on the eve of the First Meeting but failed to fully discharge his duties pursuant to section 158 of the *Bankruptcy and Insolvency Act* (Canada). To date, the Bankrupts have still not executed the Statement of Affairs or provided adequate books and records to the Trustee.

10. Pleterski expressed concerns about appearing at the First Meeting due to threats he had received from investors. As a result, the Trustee arranged for security to be present at the First Meeting and impressed upon him, on several occasions (including via emails on August 27 and August 28, 2022), the requirement for him to attend the First Meeting in person. An hour and eight minutes before the First Meeting (Pleterski lives an hour and forty five minutes from downtown Toronto), Pleterski contacted the Trustee to advise that he was unable to secure transportation to the First Meeting because his ride did not show up. He further advised that he was unable to drive because his driver's license had been suspended and did not have any money for a taxi. The Trustee offered to pay for a taxi, but Pleterski advised that a taxi would only accept payment upfront. As a result, Pleterski failed to appear in person at the First Meeting but attended virtually.

11. As is evident from the questions posed by creditors at the First Meeting and the findings set out in the Mareva Order and Endorsement, there is a strong belief among investors

that the Bankrupts defrauded countless individuals out of millions of dollars and that Pleterski is continuing to liquidate and hide assets. Attached as **Appendix "D"** is a copy of the Minutes of the First Meeting.

12. Prior to his bankruptcy, Pleterski led an extravagant lifestyle. Pleterski was the owner (directly or indirectly) of approximately 15 high-end vehicles (in addition to leasing several others) which included 3 McLarens, 2 Lamborghinis, 3 Audis and 2 BMWs. Pleterski was also renting a home on the waterfront in Burlington for approximately $43,000 per month and had negotiated to purchase the home for approximately $8.5 million.

Request for Electronic Devices

13. The Trustee understands that the Bankrupts purported to invest millions of dollars on behalf of investors but that those investments were lost due to poor trades. The Trustee has repeatedly requested that the Bankrupts provide evidence of these trades and an accounting of the funds received from investors. As set out in the Minutes from the First Meeting, Pleterski has stated that he was very disorganized and has very little in the way of records. To date, Pleterski had not provided any records showing his trades and the only listing of creditors provided was through his counsel.

14. In order to obtain evidence of the alleged trading conducted by Pleterski and AP, on August 12, 2022, the Trustee requested that Pleterski turn over his computer to the Trustee Pleterski advised the Trustee that he only had one computer and that it was in the possession of his former girlfriend. The Trustee has since come to understand that Pleterski had at least two desktop computers but that the majority of his trading was done on applications on his cell phone.

15. It was the intention of the Trustee to request to image Pleterski's cell phone at the First Meeting, however Pleterski did not attend in person. As a result, on August 31, 2022, the Trustee emailed and texted Pleterski to advise that a representative of the Trustee would attend at his residence that day to image his cell phones and computers. Although Pleterski appeared to be home, he refused to answer the door but responded to the Trustee that he was not comfortable allowing the Trustee to image his cell phones due to personal content on the devices. The Trustee assured Pleterski that the Trustee was not interested in personal information or photographs and that the devices would be imaged

in his presence so personal information could be excluded from what was being imaged. Pleterski failed to further respond or allow the Trustee access to his electronic devices. Attached as **Appendix "E"** is a copy of the email trail between the Trustee and Pleterski on August 31, 2022.

16. Due to Pleterski's failure to respond or deliver up his electronic devices for imaging, the Trustee issued a notice to Pleterski pursuant to section 164 of the BIA (the "**164 Notice**") late in the evening of August 31, 2022. The 164 Notice required that Pleterski immediately deliver up (i) his cell phone and any other electronic device which may contain any records relating to the Bankrupts, and (ii) any other books and records relating to the dealings or property of the Bankrupts, to the Trustee. Attached as **Appendix "F"** is a copy of 164 Notice.

17. Pleterski has not responded to the 164 Notice. By email on September 7, 2022, the Trustee again requested production of Pleterski's cell phones and electronic devices and advised that if same were not produced, the Trustee would be seeking a warrant. Pleterski has failed to respond to the Trustee's request. Attached as **Appendix "G"** is a copy of the email dated September 7, 2022. The Trustee also sent Pleterski a text message on September 7, 2022 in respect of the delivery of his electronic devices which has gone unanswered. Attached as **Appendix "H"** is a copy of the text message to Pleterski.

<u>Recommendation</u>

18. Pleterski continues to be in violation of his duties under section 158 of the BIA which constitutes a bankruptcy offence pursuant to section 198(2) of the BIA. It is the Trustee's position that, given the nature of the allegations against the Bankrupts, it is imperative that Pleterski turn over his electronic devices to the Trustee for imaging. Without those devices, the Trustee will be unable to adequately administer the Bankrupts' estates.

19. It is also the Trustee's position that the Bankrupts are attempting to conceal records from the Trustee pertaining to the assets and dealings of the Bankrupts contrary to section 168 of the BIA.

20. The Trustee recommends that the Court exercise its jurisdiction pursuant to sections 198(2) and 168 of the BIA to require that the electronic devices be immediately delivered up and that a warrant be issued for the arrest of Pleterski as a result of his conduct. The

Trustee believes that without repercussions for his actions, Pleterski will continue to thwart the bankruptcy process to the detriment of the Bankrupts' creditors.

DATED at Toronto, Ontario this 9th day of September 2022.

**GRANT THORNTON LIMITED**
In its capacity as Trustee for the bankrupt estate of
Aiden Pleterski and AP Private Equity Limited
and not in its personal or corporate capacity

Per.

______________________________
Rob Stelzer, CPA, CA, CIRP, LIT
Senior Vice President

# TAB 5

District of Ontario
Division No. 07 - Hamilton
Court No. BK-22-00208581-OT-31 31-2856381 (AP Private Equity Limited)

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

IN THE MATTER OF THE BANKRUPTCY OF
AP PRIVATE EQUITY LIMITED
OF THE TOWN OF WHITBY, IN THE PROVINCE OF ONTARIO

District of Ontario
Division No. 07 - Hamilton
Court No. BK-22-00208582-O-T31 31-2856382 (Aiden Pleterski)

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

IN THE MATTER OF THE BANKRUPTCY OF
AIDEN PLETERSKI OF THE TOWN OF WHITBY,
IN THE PROVINCE OF ONTARIO

# SUPPLEMENT TO THE FIRST REPORT OF THE TRUSTEE

<u>Background</u>

1. On April 21, 2022, Sacha Amar Dario Singh and 9319697 Canada Ltd. (the "**Mareva Plaintiffs**") commenced an action against Aiden Pleterski ("**Pleterski**") and AP Private Equity Limited ("**AP**" and together with Pleterski, the "**Bankrupts**") claiming relief based on breach of contract, fraudulent misrepresentation, civil fraud, misappropriation of funds, conversion, and unjust enrichment. The Mareva Plaintiffs allege that they were induced into making substantial investments with Pleterski between April 2021 and January 2022 and that the inducement was based on fraudulent misrepresentation.

2. Pleterski, the self-described "Crypto King", claims to have operated AP as an investment business in which, among other things, monies were allegedly invested on behalf of investors, including the Mareva Plaintiffs, in cryptocurrency and foreign exchange positions. Pleterski is the sole officer and director of AP.

3. The Mareva Plaintiffs successfully obtained an *ex parte* worldwide *Mareva* injunction pursuant to the Order of Justice Sutherland dated July 7, 2022 (the "**Mareva Order**"), a copy of which, together with the Endorsement, is attached as **Appendix "A"**. As set out in the Endorsement, the Court was satisfied that there was a strong *prima facie* case that Pleterski committed a breach of contract and civil fraud.

4. The Trustee has been advised that, throughout 2022, investors became increasingly concerned about recovering the funds they invested with the Bankrupts. Several investors in the same position as the Mareva Plaintiffs brought an application for bankruptcy orders against Pleterski and AP. On August 9, 2022, the Ontario Superior Court of Justice (the "**Court**") ordered Pleterski and AP be adjudged bankrupt (the "**Bankruptcy Orders**"). Grant Thornton Limited was appointed as the trustee in bankruptcy (the "**Trustee**") of both Bankrupts. Copies of the Bankruptcy Orders are attached as **Appendix "B"**.

5. The First Meeting of Creditors of the Bankrupts (the "**First Meeting**") was held on August 29, 2022. As at the First Meeting, claims totaling approximately $13 million were filed in the estates of the Bankrupts (as of the date of this report, claims filed exceed $25 million). At the First Meeting, the Trustee tabled a copy of the Trustee's Report on its Preliminary Administration dated August 29, 2022 (the "**Preliminary Report**") a copy of which is attached as **Appendix "C"**. Among other things, the Preliminary Report noted Pleterski's lack of cooperation.

6. On September 9, 2022, the Trustee issued its first Report (the "**First Report**"), a copy of which (without exhibits) is attached as **Appendix "D"**. Among other things, the First Report noted Pleterski's:

   a) Lack of cooperation to date which has drastically increased the costs of the administration thereby impacting recoveries of creditors;
   b) Failure to attend to basic duties, including preparing a Statement of Affairs, which hampered the Trustee's ability to contact all creditors and notify them of the First Meeting and of the bankruptcy;
   c) Refusal to answer basic questions about his affairs;
   d) Failure to attend the First Meeting in person;
   e) Failure to provide books and records to the Trustee; and

f) Failure to provide his cell phone after a series of requests from the Trustee – the Trustee understands that the majority of his trading was done on applications on his cell phone.

7. The Trustee brought a motion seeking a warrant for Pleterski's arrest and an Order requiring that all books, papers and property in his possession, including any cell phones, computers and any other electronic devices used by the Bankrupts be immediately delivered up to the Trustee.

8. On September 13, 2022, the Honourable Justice Kimmel issued an endorsement (the "**September Endorsement**") noting that, "Pleterski, through his counsel appearing today, has agreed to deliver the requested cell phone for imaging and various other assets that the Trustee has requested and to sign the bankrupts' statements of affairs. The protocol for compliance that has been agreed to between counsel shall be adhered to… The Trustee's motion returnable today seeking Pleterski's arrest and other criminal sanctions is adjourned sine die." The September Endorsement is attached as **Appendix "E"**.

Subsequent Events

9. In the afternoon of September 13, 2022, the Trustee and counsel to Pleterski agreed upon a protocol related to the imaging of Pleterski's cell phone. Pleterski arrived at the offices of the Trustee between 4:30-5:00 PM on September 13, 2022 and provided his iPhone and signed the Statement of Affairs.

10. Pleterski only brought one cell phone to the meeting with the Trustee on September 13, 2022. The Trustee had reminded Pleterski in an email approximately 3 hours prior to the meeting to bring his second cell phone but Pleterski responded that it was too late as he had already left to come to the Trustee's offices. The Trustee requested that Pleterski make arrangements to deliver the second cell phone to the Trustee on September 14, 2022 or September 15, 2022 for imaging. Attached as **Appendix "F"** is the email chain regarding the second cell phone.

11. Separately, the Trustee has been trying to take possession of an Audi RSQ8 registered to Pleterski. The lessor, Volkswagen Canada, has also employed a bailiff who is attempting to locate the vehicle. Starting on September 9, 2022, through to September 19,

2022, the Trustee made six separate requests via email of Pleterski to provide the vehicle. The Trustee notes that some of these messages were responded to by Pleterski in which he indicated he was driving the vehicle. Copies of the emails and any responses thereto are attached as **Appendix "G"**. The Trustee understands the vehicle has a market value of approximately $125,000 and a total of $15,000 of equity after accounting for the lease.

12. On September 16, 2022, Pleterski's father, Dragan Pleterski, called the Trustee asking to pickup Pleterski's cell phone. The Trustee indicated that it would be happy to make the cell phone available for pickup, but that it required the second cell phone be provided for imaging along with delivery of the Rolex and Audi RSQ8 in Pleterski's possession. During the call, Dragan Pleterski acknowledged that he was in contact with his son via the second cell phone, but refused to provide the telephone number to the Trustee. The Trustee followed up with emails to Pleterski and Dragan Pleterski on September 16, 2022 and September 19, 2022 which provided a deadline of 5:00 p.m. on September 20, 2022 for Pleterski to respond to the Trustee's requests. Attached as **Appendix "H"** are copies of these emails. The Trustee also contacted Pleterski's counsel to reiterate its requests for cooperation, copies of which are attached as **Appendix "I"**.

13. The Trustee's review of the information from Pleterski's cell phone in its possession is ongoing. The Trustee has observed that no text messages between Pleterski and his father, Dragan Pleterski, could be located, however, text messages with Pleterski's mother, Kathy Pleterski, refer to texts exchanged between Pleterski and Dragan Pleterski. The Trustee continues to assess what other information, if any, may have been deleted or potentially contained on the second cell phone.

14. The Trustee continues to be contacted regularly by investors who were not identified by Pleterski in his Statement of Affairs. Some of the stories of the impact that the losses caused by Pleterski's alleged actions have on investors are heartbreaking. Recently, Pleterski's conduct and lifestyle has been the subject of news pieces in CBC, CTV and other media publications which has also led to other investors coming forward.

<u>Recommendation</u>

15. Pleterski remains uncooperative and has not fully complied with the September Endorsement. He did not deliver his second cell phone to the Trustee despite multiple

requests to do so. He is also in possession of a $125,000 Audi and a Rolex which he has refused to provide to the Trustee.

16. Pleterski continues to be in violation of his duties under section 158 of the BIA which constitutes a bankruptcy offence pursuant to section 198(2) of the BIA. It is the Trustee's position that, given the nature of the allegations against the Bankrupts, it is imperative that Pleterski immediately turn over the additional cell phone and any other electronic devices to the Trustee for imaging. Without those devices, the Trustee will be unable to adequately administer the Bankrupts' estates.

17. It is also the Trustee's position that the Bankrupts are attempting to conceal records from the Trustee pertaining to the assets and dealings of the Bankrupts contrary to section 168 of the BIA.

18. The Trustee recommends that the Court exercise its jurisdiction pursuant to sections 198(2) and 168 of the BIA to require that the electronic devices be immediately delivered up and that a warrant be issued for the arrest of Pleterski as a result of his conduct. The Trustee believes that without repercussions for his actions, Pleterski will continue to thwart the bankruptcy process to the detriment of the Bankrupts' creditors.

DATED at Toronto, Ontario this 26th day of September 2022.

**GRANT THORNTON LIMITED**
In its capacity as Trustee for the bankrupt estate of
Aiden Pleterski and AP Private Equity Limited
and not in its personal or corporate capacity

Per.

______________________________
Rob Stelzer, CPA, CA, CIRP, LIT
Senior Vice President

# TAB 6

District of Ontario
Division No. 07 - Hamilton
Court No. BK-22-00208581-OT-31 31-2856381 (AP Private Equity Limited)

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

IN THE MATTER OF THE BANKRUPTCY OF
AP PRIVATE EQUITY LIMITED
OF THE TOWN OF WHITBY, IN THE PROVINCE OF ONTARIO

District of Ontario
Division No. 07 - Hamilton
Court No. BK-22-00208582-O-T31 31-2856382 (Aiden Pleterski)

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

IN THE MATTER OF THE BANKRUPTCY OF
AIDEN PLETERSKI OF THE TOWN OF WHITBY,
IN THE PROVINCE OF ONTARIO

# SECOND REPORT OF THE TRUSTEE

## INTRODUCTION

1. On August 9, 2022, the Ontario Superior Court of Justice (the "**Court**") ordered that Aiden Pleterski ("**Pleterski**") and AP Private Equity Limited ("**AP**" and together with Pleterski, the "**Bankrupts**" or individually each a "**Bankrupt**") be adjudged bankrupt (the "**Bankruptcy Orders**"). The Bankruptcy Orders were made following a petition filed by several creditors who are owed money by the Bankrupts (the "**Petitioning Creditors**"). Grant Thornton Limited was appointed as the trustee in bankruptcy (the "**Trustee**") of both Bankrupts. Copies of the Bankruptcy Orders are attached as **Appendix "A"**.

2. Pleterski, the self-described "Crypto King", claims to have operated AP as an investment business in which, among other things, monies were allegedly invested on behalf of investors in cryptocurrency and foreign exchange positions. AP was incorporated on December 13, 2021. Pleterski is the sole officer and director of AP. Investments appear

to have been made both through Pleterski personally and through AP without regard to the parties to the documents executed by investors.

**PURPOSE**

3. The purpose of this report (the “**Second Report**”) is to:

a) Provide an update to the Court and the creditors on key developments related to the Bankrupts and seek Court approval of the Trustee’s activities;

b) Provide support for the Trustee’s request for an order:

(1) directing the financial institutions utilized by the Bankrupts (the “**Banks**”), including but not limited to Toronto-Dominion Bank (“**TD**”), Royal Bank of Canada (“**RBC**”) and Scotiabank (“**BNS**”), to pay any and all funds of the Bankrupts to the Trustee; and

(2) directing the Banks to provide information requested by the Trustee relating to certain banking transactions;

c) Provide support for the Trustee’s request for an order:

(1) substantively and procedurally consolidating the estates of the Bankrupts;

(2) directing counsel to the Mareva Plaintiffs, Walker Law Professional Corporation (“**Mareva Counsel**”), to forthwith deliver up a copy of the transcript of the examination of Pleterski conducted in the Mareva Proceedings (as defined below), together with any exhibits referred to therein and any undertakings provided in respect thereto, (collectively, the “**Mareva Examination Documents**”) to the Trustee;

(3) directing the Trustee to pay legal costs totaling $97,132.37 to the Mareva Plaintiffs (as defined below) upon receipt of the Mareva Examination Documents;

(4) directing the Trustee to pay legal costs totaling $63,534.98 to the Petitioning Creditors;

(5) directing the Car Dealers (as defined below) to forthwith deliver any and all documents in their possession and control relating to the Pleterski Vehicles, the Lamborghini or the Bentley (each as defined

below), including but not limited to any credit application or documentation evidencing the method of payment; and

(6) authorizing and directing the Trustee to sell the Dragan BMW (as defined below) for the benefit of the estates of the Bankrupts.

**BACKGROUND**

4. On April 21, 2022, Sacha Amar Dario Singh and 9319697 Canada Ltd. (the "**Mareva Plaintiffs**") commenced an action against the Bankrupts (the "**Mareva Proceeding**") claiming relief based on breach of contract, fraudulent misrepresentation, civil fraud, misappropriation of funds, conversion, and unjust enrichment. The Mareva Plaintiffs allege that they were induced into making substantial investments with Pleterski between April 2021 and January 2022 and that the inducement was based on fraudulent misrepresentation.

5. The Mareva Plaintiffs successfully obtained an *ex parte* worldwide *Mareva* injunction pursuant to the Order of Justice Sutherland dated July 7, 2022 (the "**Mareva Order**"), a copy of which, together with the Endorsement, is attached as **Appendix "B"**. As set out in the Endorsement, the Court was satisfied that there was a strong *prima facie* case that Pleterski committed a breach of contract and civil fraud.

6. The Trustee has been advised that, throughout 2022, investors became increasingly concerned about recovering the funds they invested with the Bankrupts. Several investors in the same position as the Mareva Plaintiffs sought and obtained the Bankruptcy Orders against the Bankrupts on August 9, 2022 which resulted in all of the investors becoming creditors in these proceedings.

7. The First Meeting of Creditors of the Bankrupts (the "**First Meeting**") was held on August 29, 2022. As at the First Meeting, claims totaling approximately $13 million were filed in the estates of the Bankrupts (as of the date of the Second Report, claims filed exceed $25 million).

8. The minutes of the First Meeting, attached as **Appendix "C"**, outline the votes cast by the creditors of the Bankrupts present at the First Meeting to affirm the appointment of the Trustee. Although there were insufficient votes to technically affirm, no motion was made

to substitute the Trustee as there would not have been the requisite majority to make such a motion. As a result, pursuant to the provisions of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), the Trustee's appointment has continued in accordance with the Bankruptcy Orders.

9. At the First Meeting, the Trustee tabled a copy of the Trustee's Report on its Preliminary Administration dated August 29, 2022 (the "**Preliminary Report**"), a copy of which is attached as **Appendix "D"**. Among other things, the Preliminary Report noted Pleterski's lack of cooperation in attending to his duties as a bankrupt and providing his assets to the Trustee.

10. On September 9, 2022, the Trustee issued its First Report (the "**First Report**"), a copy of which (without exhibits) is attached as **Appendix "E"**. Among other things, the First Report noted Pleterski's:

a) Lack of cooperation which drastically increased the costs of the administration thereby impacting potential recoveries to creditors;
b) Failure to attend to basic duties, including preparing a Statement of Affairs, which hampered the Trustee's ability to contact all creditors and notify them of the First Meeting and of the bankruptcies;
c) Refusal to answer basic questions about his affairs;
d) Failure to attend the First Meeting in person;
e) Failure to provide books and records to the Trustee; and
f) Failure to provide his cell phone after a series of requests from the Trustee. Pleterski's cell phone was important to the Trustee as it understands that any trading done by Pleterski was done through applications on his cell phone.

11. The Trustee brought a motion for an Order requiring that all books, papers and property in the possession of Pleterski, including any cell phones, computers and any other electronic devices used by the Bankrupts be immediately delivered up to the Trustee. The Trustee was of the opinion that Pleterski, personally and on behalf of AP, continually and repeatedly violated his duties pursuant to section 158 of the BIA thereby committing several bankruptcy offences. As a result, the Trustee sought the extraordinary remedy of having Pleterski arrested due to his conduct and failure to comply with his duties.

12. At the hearing on September 13, 2022, Pleterski agreed to deliver up the requested cell phone, assets and sworn Statement of Affairs to the Trustee. As a result, the Court delayed the Trustee's request for an arrest warrant but issued an endorsement (the "**September Endorsement**") requiring Pleterski's compliance and adjourning the Trustee's motion to be brought on again "if there are further instances of non-compliance." The September Endorsement is attached as **Appendix "F"**.

13. Following the issuance of the September Endorsement, Pleterski delivered his cell phone for imaging and sworn Statement of Affairs. However, as a result of Pleterski's continued non-compliance with his duties and responsibilities after the September Endorsement, the Trustee issued a Supplement to the First Report, a copy of which is attached as **Appendix "G"**, outlining Pleterski's continued bankruptcy offences and requesting that the original relief, including Pleterski's arrest, be granted. In particular, Pleterski:

a) refused to provide the Trustee with his second cell phone;
b) was in possession of an Audi RSQ8 (the "**RSQ8**") which was believed to have $15,000 in equity value, after deduction of amounts owing to Volkswagen Leasing, which he refused to deliver to the Trustee;
c) failed to provide his diamond-studded Rolex (the "**Rolex**") watch to the Trustee which he acknowledged was in his possession; and
d) did not respond to messages from the Trustee.

14. On the eve of the subsequent return of the motion, Pleterski delivered up the RSQ8 and the Rolex and agreed to make arrangements for the delivery of his second cell phone. As a result of Pleterski's last minute compliance, the Court again adjourned the Trustee's motion for the arrest of Pleterski pursuant to the Endorsement dated October 6, 2022 (the "**October Endorsement**"), a copy of which is attached as **Appendix "H"**. The October Endorsement specifically noted that the Court was not foreclosed from finding that the arrest of Pleterski was a possible future remedy if the pattern of conduct continued.

15. The Trustee continues to be contacted regularly by creditors who were not identified by Pleterski in his sworn Statement of Affairs. Some of the stories of the impact that the losses caused by Pleterski's alleged actions have on creditors are heartbreaking. Recently, Pleterski's conduct and lifestyle has been the subject of news stories conducted by CBC,

CTV and other media publications. These stories have led to other creditors unknown to the Trustee coming forward after becoming aware of the Bankruptcy Orders.

**ACTIVITIES AND CONDUCT OF THE TRUSTEE**

16. A number of creditors have requested an update on the proceedings. Although the Trustee wants to keep creditors updated on the steps it has taken to date, the Trustee thinks it unwise to publicly provide the details of its strategy for the recovery of assets given the nature of the allegations against the Bankrupts. As a result, the Trustee will only disclose those steps taken which it considers publicly advisable to disclose.

17. At the First Meeting, the creditors of the Bankrupts voted to elect five inspectors, namely Braden Martyniuk, Sacha Singh, Akil Heywood, Alice Chornenka and Stewart Wilson (collectively, the "**Inspectors**"). The Inspectors are responsible for representing the interests of the creditors at large. The Trustee is somewhat analogous to the management of a company and the Inspectors to a board of directors. Major decisions made by the Trustee must be approved by the Inspectors similar to the manner in which major decisions of management are approved by a board of directors. Since the First Meeting on August 29, 2022, the Trustee has met with the inspectors eight (8) times and has provided the details of all aspects of the Trustee's strategy and activities. The Trustee's strategy and activities have been approved by the Inspectors.

*Investigative Steps*

18. As noted in the Trustee's Preliminary Report, the initial investigative steps taken by the Trustee prior to the First Meeting included the following:

a) Making attempts to obtain the materials relating to the Mareva Proceeding, including the Mareva Examination Documents;
b) Online research into Pleterski, the Originators (as defined in the Preliminary Report) and others who may have information related to the assets and business dealings of the Bankrupts;
c) Speaking with creditors, reviewing the 119 proofs of claim received and the documents provided by creditors regarding the whereabouts of Pleterski's assets and the details of the allegations against the Bankrupts;

d) Conducting a preliminary examination of Pleterski, personally and on behalf of AP, on August 24, 2022 and asking detailed questions about his assets including:

(1) The whereabouts of vehicles which we understood he had previously owned;

(2) Questions related to offshore assets;

(3) Questions related to gold and silver bars Pleterski allegedly owned;

(4) An explanation for the drastic decrease in Pleterski's assets in comparison to his liabilities and the exact nature of current and prior investments; and

(5) The role and identity of the Originators.

e) Searching for undisclosed vehicles by obtaining a list of vehicles from Pleterski's insurance broker and performing Registration Identification Number searches to determine vehicles registered directly or indirectly to Pleterski;

f) Speaking with Pleterski's father, Dragan Pleterski, in respect of vehicles registered in his name which were paid for by Pleterski;

g) Requesting that Thornton Grout Finnigan LLP ("**TGF**"), the Trustee's legal counsel, conduct a land title search in respect of 5126 Lakeshore Road, Burlington (the "**Burlington Property**"), being the residence where Pleterski was previously living, as a result of allegations that Pleterski has an ownership interest in the Burlington Property;

h) Contacting legal counsel acting for Pleterski requesting details relating to a $500,000 deposit (the "**Ajax Deposit**") made by Pleterski in respect of the acquisition of real property located at 725 Westney Road South, Ajax (the "**Ajax Property**") to determine the status of the transaction and whether the deposit could be recovered;

i) Reaching out to the Originators to determine whether certain payments were and should be recoverable for the benefit of creditors and other information relating to the Bankrupts; and

j) Requesting statements from the financial institutions and investment exchanges with which Pleterski had dealings.

19. Since the issuance of the Preliminary Report, the Trustee's investigation has expanded to include:

a) Completion of background checks on key people thought to be involved in the business dealings of the Bankrupts;

b) Imaging and reviewing the two cell phones used by Pleterski;

c) Speaking with representatives of Sunray Group of Hotels ("**Sunray**") in respect of the Burlington Property which the Trustee determined was subject to an Agreement of Purchase and Sale and Lease to Own between Pleterski and a number company that the Trustee was advised is owned by Sunray;

d) Speaking with representatives of Sunray relating to a McLaren Senna automobile which may have a market value of over $1.5 million and was transferred by Pleterski to Sunray (which Sunray advised was held as collateral for the lease to own of the Burlington Property); and

e) Gathering information and preparing for examinations conducted and to be conducted by TGF pursuant to section 163 of the BIA.

*Recovery of Assets*

20. In addition to the investigative steps noted above, the Trustee has taken the following steps in respect of the recovery of assets for the benefit of the estates since its appointment, including:

a) Locating and taking possession of 13 automobiles with very little cooperation from Pleterski and entering into an agreement to sell these vehicles;

b) Recovering jewelry including the Rolex from Pleterski;

c) Recovering the Audi A4 previously in the possession of Pleterski's former girlfriend, Mya Patricia Trentadue. The Trustee understands that Ms. Trentadue may also be in possession of luxury handbags, designer clothing and jewelry that was purchased for her by Pleterski, but Ms. Trentadue has not responded to the Trustee's request that these items be delivered to the Trustee – the Trustee continues to consider its options in respect of these assets;

d) Collecting and depositing $543,000 in bank drafts payable to the Bankrupts at the time of the bankruptcies; and

e) Contacting 21 financial institutions to put them on notice of the bankruptcies and requesting them to freeze the Bankrupts' assets and provide the funds to the Trustee – to date, the Trustee has seized funds totaling $307,905.04 from such financial institutions, with another estimated $125,000 which has been frozen, but not yet seized.

21. As a result of information obtained through its investigation, the Trustee will be focusing on repatriating assets paid for by Pleterski using investor funds, but currently in the

possession and control of other individuals, including but not limited to, Pleterski's family members.

*Other Activities*

22. Since the First Meeting, the Trustee has been liaising with the Office of the Superintendent of Bankruptcy (the "**OSB**") (which regulates bankruptcies) and answering their inquires in respect of the proceedings. Representatives of the OSB attended the First Meeting and the hearing which resulted in the October Endorsement.

23. A number of creditors have asked the Trustee to comment on whether the Bankrupts were operating a Ponzi scheme and if the Trustee will be pursuing criminal action. The Trustee has not completed its investigation and it would be inappropriate to draw any conclusions or determine next steps until the investigation is complete. As detailed below, the Trustee is still awaiting key banking transaction details from a number of financial institutions and other information and the investigation cannot be completed until the Trustee has all of this information.

**DIRECTION TO FINANCIAL INSTITUTIONS**

24. The Bankrupts main bank accounts appear to have been at RBC, BNS and TD Bank (collectively the "**Banks**"). RBC and BNS have provided all of the funds in the name of the Bankrupts to the Trustee. However, given the direction under the Mareva Order, counsel for TD Bank was concerned that there is a conflict between the Mareva Order and the Bankruptcy Orders in respect of the delivery of those funds and have requested that the Trustee seek an order directing that the funds be paid over to the Trustee, notwithstanding the Mareva Order.

25. The Trustee also requested that the Banks provide the banking statements of the Bankrupts to the Trustee covering the period January 1, 2020 to August 9, 2022 (the "**Relevant Period**"). The Banks have provided the banking statements to the Trustee but the statements lack details regarding the payees and the payors of the funds. Counsel to TD Bank has expressed privacy concerns in respect of the provision of this additional information and requested that the Trustee seek an order directing that the information be provided to the Trustee notwithstanding the *Personal Information Protection and Electronic Documents Act,* S.C. 2000, c. 5. ("**PIPEDA**"). Although RBC and BNS have not

indicated a reluctance to provide the additional information due to PIPEDA concerns, the information has not yet been provided. The information relating to any funds paid by the Bankrupts during the Relevant Period is imperative to the Trustee's investigation and the Trustee believes it appropriate that the Banks, or any other financial institution having dealings with the Bankrupts, should be protected in respect of the provision of this information.

**CONSOLIDATION OF ESTATES**

26. In its Preliminary Report delivered to the creditors of the Bankrupts, the Trustee stated that it was the Trustee's preliminary view that the bankruptcies of Pleterski and AP should be consolidated into one estate. In order to have some basis for valuing claims for the purpose of voting at the First Meeting, the Trustee took the approach that, where there was a conflict between the contracting party in the investment agreement and the party who received the funds, the party who received the funds was determined to be the debtor. For example, if an investor entered into an agreement with AP but paid Pleterski, then that investor was considered to be a creditor of Pleterski. While this approach was a practical way to value claims at the First Meeting, there is no legal basis for this approach and it results in an arbitrary outcome whereby creditors who paid Pleterski would received a much larger recovery than creditors who paid AP since most of the assets recovered are in the name of Pleterski for the reasons outlined below.

27. Since the First Meeting, the Trustee has had an opportunity to review the additional proofs of claim received, including any documents provided in support of the claims filed. The Trustee notes that all of the investment agreements originally appear to be entered into personally by Pleterski (the oldest agreement provided to the Trustee is dated January, 2021). However, based on the information obtained by the Trustee, starting in August, 2021 (before AP had even been incorporated), AP became the primary signatory to the investment agreements (although investment agreements were entered into by Pleterski personally as recently as March, 2022). The Trustee has been made aware that payments made directly to AP did not commence until January, 2022 but direct payments to Pleterski continued after that date.

28. The Trustee remains uncertain as to which Bankrupt each claimant's claim should be against. The Trustee believes that there are three approaches that could be used:

(i) Determine the Bankrupt based on the name of the party paid – This was the approach used at the First Meeting. Under this approach, if the creditor's proof of claim showed that they paid Pleterski, then they would have a claim against Pleterski even if the investment agreement was entered into in the name of AP;

(ii) Determine the Bankrupt based on the name in the investment agreement – Under this approach, if the creditor's claim was supported by an agreement with AP, then the creditor would be considered to be a creditor of AP even if the proof of claim documentation showed that they had paid Pleterski directly; and

(iii) Consolidate the claims and assets of Pleterski and AP – Under this approach, all assets would be pooled and all claims would be consolidated.

29. Unlike other consolidation cases which the Trustee is aware of, there is no clear alternative to consolidation. For the reasons set out below, the two alternatives suggested above are each arbitrary approaches to a determination of the appropriate debtor. The chart below provides a breakdown of the creditors under each approach:

| | **Approach** | | |
|---|---|---|---|
| **Debtor** | **i) Based on Bankrupt Paid** | **ii) Based on which Bankrupt the agreement was with** | **iii) Consolidation** |
| AP | 32 | 66 | N/A |
| Pleterski | 58 | 18 | N/A |
| Consolidated | N/A | N/A | 119 |
| Another party | 10 | 1 | N/A |
| Unclear | 19 | 34 | N/A |
| **Total** | **119** | **119** | **119** |

30. The Trustee notes that approach i) and ii) as illustrated above, each seem equally reasonable, yet yield very different outcomes. It is the opinion of the Trustee that a pooling of the assets and claims of the creditors of the Bankrupts is fair and reasonable in the circumstances. The Trustee will provide all of the creditors with notice of this proceeding

and specifically of its intent to seek a consolidation order. The following set out the reasons for the Trustee's request for consolidation:

a) Pleterski claimed at the First Meeting that he had no accounting system and did not keep specific records of monies received or payments made; there are no records of the Bankrupts to allow the Trustee to determine whether a creditor is a creditor of AP or Pleterski;
b) In many cases, creditors signed a contract with AP but paid funds to Pleterski personally. As outlined above, different approaches to avoid consolidation result in very different outcomes for creditors which are arbitrary and are not fair or equitable;
c) Pleterski did not treat AP as a separate legal entity – at the First Meeting, Pleterski described the investment funds as being treated as one pool which he used to invest and fund his lifestyle expenses;
d) Pleterski is the sole officer and director of AP and AP has no employees;
e) Pleterski swore an affidavit in the Mareva Proceedings wherein he claims to have guaranteed the debts of AP (a copy of the affidavit is attached as **Appendix "I"**);
f) There is a commonality of interests between the creditors regardless of which entity received the funds or which Bankrupt entered into the investment agreement; and
g) The estate inspectors support consolidation (a redacted copy of the 6th inspector meeting minutes is attached as **Appendix "J"**).

31. Almost all of the assets recovered to date by the Trustee are in the name of Pleterski rather than AP. As Pleterski purchased assets personally using funds received from creditors of AP, it would be unfair for the creditors of Pleterski to benefit from the recovery of those assets. The pooling of the assets of the Bankrupts for the benefit of all creditors outweighs any prejudice to the creditors of Pleterski.

32. Consolidation would greatly simplify the administration of the estates and result in an equitable outcome for all creditors who invested with Pleterski.

**PREPETITION COSTS**

33. The Trustee has received a proof of claim from Braden Martyniuk requesting a payment to counsel for the Petitioning Creditors in the amount of $63,534.98. Pursuant to the Bankruptcy Orders, the Petitioning Creditors are entitled to payment of the costs of the

Application. The Trustee is satisfied having reviewed the accounts that the amounts claimed should be paid in accordance with the Bankruptcy Orders.

34. The Mareva Plaintiffs incurred significant legal costs in initiating the Mareva Proceeding resulting in the Mareva Order. The bankruptcy estates benefited from the Mareva Proceedings in the following ways:

a) Investments of approximately $343,000 were frozen by the Mareva Order and remained available to the Trustee at the date of its appointment;
b) Pleterski provided an affidavit in the Mareva Proceedings dated July 15, 2022. The affidavit listed the assets he had at that time (including his vehicles) and certain other transactions that he had recently entered into including the purchase of the Ajax Property. The Trustee was able to use the information in that affidavit to seize and monetize the vehicles totaling approximately $1.4 million and investigate the return of the Ajax Deposit which remains ongoing; and
c) Information obtained from the Mareva Proceedings has assisted the Trustee in its ongoing investigation which has avoided duplication of activities and decreased costs.

35. It is impossible to determine the exact financial benefit of the Mareva Proceedings to the estates of the Bankrupts and their creditors at this time, but the Trustee is confident that the benefits have been significant. At the request of Sacha Singh, one of the Mareva Plaintiffs who is also an Inspector, the other Inspectors approved a payment of 50% of the legal fees of the Mareva Plaintiffs totaling $97,132.37. Attached as **Appendix "K"** is a redacted copy of the minutes of the 4th Inspector's meeting evidencing such approval. Given the benefits to the estates of the Bankrupts, the Trustee requests that the Court approve payment to the Mareva Plaintiffs in the amount prescribed above.

36. The Trustee requested copies of the Mareva Examination Documents from Mareva Counsel who has refused to provide same on the grounds that doing so would be a breach of the deemed undertaking rule unless the Court ordered they be provided. The Trustee believes that the Mareva Examination Documents would be helpful in its investigation and could save costs and time thereby increasing recoveries to creditors. The Trustee seeks an order directing Mareva Counsel to forthwith deliver the Mareva Examination Documents to the Trustee.

## PRODUCTION OF DOCUMENTS

*Transaction Documents*

37. During the course of the Trustee's investigation, it has made requests for documentation from counsel to the Bankrupts in respect of certain transactions but no such documentation has been forthcoming. By letter dated September 1, 2022, counsel to the Trustee sent a preservation notice to Shapiro Real Estate and Business Lawyers requesting that all documents be preserved relating to the Bankrupts, a copy of which is attached as **Appendix "L"**.

38. The Trustee subsequently learned that Mr. Shapiro acted on the transaction on behalf of the owners of the Burlington Property and sought to obtain documents relating to that transaction pursuant to section 164(1) of the BIA. A copy of the letter to Mr. Shapiro dated October 12, 2022 is attached as **Appendix "M"**. Mr. Shapiro responded to counsel to the Trustee on October 20, 2022. It has been difficult for the Trustee to obtain all of the documents relevant to the Burlington Property and the Trustee is hopeful that an agreement can be reached to provide same.

*Car Sale and Lease Documents*

39. During the course of its investigation, the Trustee has been provided with information that certain vehicles (the "**Pleterski Vehicles**") registered in the names of Pleterski's family members were, in fact, paid for by Pleterski with creditor funds. These include:

   a) A Porsche 718 Boxter (VIN# WP0CB2A8XJS229265) purchased from Porsche Centre North Toronto ("**Porsche Centre**") and driven by Pleterski's mother, Kathy Pleterski;
   b) An Audi e-tron (VIN# WA13AAGE4MB034139) purchased from Audi Durham and driven by Kathy Pleterski; and
   c) An Audi S5 (VIN# WAUB4CF54NA011048) purchased from Audi Durham and driven by Pleterski's brother, Lucas Pleterski.

40. The Trustee contacted Porsche Centre and Audi Durham requesting the payment details and the credit application in respect of each of the Pleterski Vehicles. The Trustee has been advised by Porsche Centre that they will not release this information without a court

order on the grounds that it contains private information. Audi Durham also refused to release this information on the grounds that the Bankrupts are not the registered owners of the Pleterski Vehicles. Therefore, the Trustee seeks an Order that Porsche Centre and Audi Durham provide the Trustee with the details relating to the source of payment of the Pleterski Vehicles as it is the Trustee's opinion that there are reasonable grounds to believe that they were paid for with funds obtained from the creditors.

41. The Trustee has been requesting information from Paul Motor Company ("**Paul Motor**") in respect of a Lamborghini Aventador SVJ (VIN# ZHWCM6ZD1KLA08758) (the "**Lamborghini**") which was leased by Pleterski. Paul Motor has not provided the Trustee with the credit application, buyout value and mileage for the Lamborghini. The Trustee requires this information to determine if there is any equity in the lease which could be monetized and what assets were disclosed by Pleterski as part of the credit application.

42. The Trustee has also contacted NewRoads National Leasing ("**NewRoads**" and together with, Porsche Centre, Audi Durham, Paul Motor, the "**Car Dealers**") which, to date, has been cooperative and reasonable in its dealings with the Trustee. The Trustee understands that a Bentley Bentayga (VIN# SJAAC2ZV4HC016039) (the "**Bentley**") driven by Pleterski's father, Dragan Pleterski, was purchased from an individual who originally purchased the vehicle from NewRoads (the "**Bentley Vendor**"). The Trustee has requested the contact particulars for the Bentley Vendor from NewRoads which they are reluctant to provide without a Court Order due to privacy concerns. The Trustee, therefore, seeks an Order directing NewRoads to provide such contact information so that it may determine the source of funds for the purchase of the Bentley.

**SALE OF DRAGAN BMW**

43. The Trustee is in possession of a BMW M8 which is registered in the name of Dragan Pleterski (the "**Dragan BMW**") for the purposes of obtaining insurance but was purchased by Pleterski. By email on August 22, 2022, a copy of which is attached as **Appendix "N"**, Dragan Pleterski consented to the Trustee taking possession of the Dragan BMW for the benefit of Pleterski's creditors. As a result of the title ownership being registered in the name of Dragon Pleterski, the Trustee requires an order permitting its sale for the benefit of the Bankrupts' creditors.

DATED at Toronto, Ontario this 21st day of October 2022.

**GRANT THORNTON LIMITED**
In its capacity as Trustee for the bankrupt estate of
Aiden Pleterski and AP Private Equity Limited
and not in its personal or corporate capacity

Per.
______________________________
Rob Stelzer, CPA, CA, CIRP, LIT
Senior Vice President

# Appendix “A”

District of Ontario
Division No.: 07
Court File No.: BK-22-00208582-OT31
Estate No.: BK-22-00208582-OT31

*ONTARIO*
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

| | | |
|---|---|---|
| THE HONOURABLE | ) | TUESDAY, THE 9TH |
| | ) | |
| JUSTICE CAVANAGH | ) | DAY OF AUGUST, 2022 |
| | ) | |
| | ) | |

**IN THE MATTER OF THE BANKRUPTCY OF**
**AIDEN PLETERSKI, of the Town of Whitby, in the Province of Ontario**

**BANKRUPTCY ORDER**

ON the Application of **Braden Martyniuk, Brad Rogers, Nelson Lang, Dave Hotrum, Jeff Dignard and Ryan Brown** (the "**Applicants**"), creditors, of Aiden Pleterski of the Town of Whitby, in the Province of Ontario, filed the 4th day of August, 2022.

ON READING the Application for a Bankruptcy Order, the Affidavits of Verification, and the consent of the proposed trustee, Rob Stelzer of Grant Thornton Limited, of the City of Toronto, in the Province of Ontario, and upon being advised of the consent of Aiden Pleterski by his counsel, AND it appearing to the court that the following acts of bankruptcy have been committed:

(a) the debtor, Aiden Pleterski, has ceased to meet his liabilities generally as they become due and has failed to pay the Applicants and other creditors within the six months next preceding the petition, and

(b) the debtor, Aiden Pleterski, has given notice to his creditors that he has suspended or that he is about to suspend payment of his debts.

1. THE COURT HEREBY ORDERS that Aiden Pleterski, of 9 Corner Court, in the Town of Whitby, in the Province of Ontario, be adjudged bankrupt by virtue of a bankruptcy order hereby made on this date.

2. THE COURT HEREBY ORDERS that Rob Stelzer of Grant Thornton Limited, of the City of Toronto, in the Province of Ontario, be appointed as trustee of the estate of the bankrupt.

3. THE COURT HEREBY ORDERS that the costs of the Applicants in connection with this application shall be paid out of the estate of the bankrupt upon taxation of the estate.

DATED at Toronto, this 9th day of August, 2022.

Digitally signed by Mr. Justice Cavanagh

**IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI, of the Town of Whitby, in the Province of Ontario**

Court File No.: BK-22-00208582-OT31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at Toronto

**BANKRUPTCY ORDER**

**BAKER & McKENZIE LLP**
181 Bay Street, Suite 2100
Toronto, ON  M5J 2T3

**David Gadsden  (LSO #50749U)**
e:  david.gadsden@bakermckenzie.com
t.: 416.865.6983 / f:  416.863.6275

**Michael Nowina (LSO #49633O)**
e:  michael.nowina@bakermckenzie.com
t.: 416.865.2312 / f:  416.863.6275

**Ben Sakamoto (LSO #75240O)**
e: ben.sakamoto@bakermckenzie.com
t: 416.865.2316 / f: 416.863.6275

Lawyers for the Applicants

District of Ontario
Division No.: 07
Court File No.: BK-22-00208581-OT31
Estate No.: BK-22-00208581-OT31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

| | | |
|---|---|---|
| THE HONOURABLE | ) | TUESDAY, THE 9TH |
| | ) | |
| JUSTICE CAVANAGH | ) | DAY OF AUGUST, 2022 |
| | ) | |
| | ) | |

**IN THE MATTER OF THE BANKRUPTCY OF**
**AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

## BANKRUPTCY ORDER

ON the Application of **Braden Martyniuk, Brad Rogers, Nelson Lang, Dave Hotrum, Jeff Dignard and Ryan Brown** (the "**Applicants**"), creditors, of the AP Private Equity Limited, in the Town of Whitby, in the Province of Ontario, filed the 4th day of August, 2022.

ON READING the Application for a Bankruptcy Order, the Affidavits of Verification, and the consent of the proposed trustee, Rob Stelzer of Grant Thornton Limited, of the City of Toronto, in the Province of Ontario, and upon being advised of the consent of the company by its counsel, AND it appearing to the court that the following act of bankruptcy have been committed:

(a) AP Private Equity Limited, has ceased to meet its liabilities generally as they become due and has failed to pay the Applicants and other creditors within the six months next preceding the petition, and

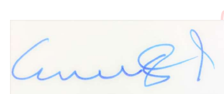
(b) AP Private Equity Limited, has given notice to its creditors that it has suspended or that it is about to suspend payment of its debts.

1. THE COURT HEREBY ORDERS that the said AP Private Equity Limited, of 9 Corner Court, in the Town of Whitby, in the Province of Ontario, be adjudged bankrupt by virtue of a bankruptcy order hereby made on this date.

2. THE COURT HEREBY ORDERS that Rob Stelzer of Grant Thornton Limited, of the City of Toronto, in the Province of Ontario, be appointed as trustee of the estate of the bankrupt.

3. THE COURT HEREBY ORDERS that the costs of the Applicants in connection with this application shall be paid out of the estate of the bankrupt upon taxation of the estate.

DATED at Toronto, this 9th day of August, 2022.



Digitally signed by
Mr. Justice
Cavanagh

**IN THE MATTER OF THE BANKRUPTCY OF AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

Court File No.: BK-22-00208581-OT31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at Toronto

**BANKRUPTCY ORDER**

**BAKER & McKENZIE LLP**
181 Bay Street, Suite 2100
Toronto, ON M5J 2T3

**David Gadsden (LSO #50749U)**
e: david.gadsden@bakermckenzie.com
t.: 416.865.6983 / f: 416.863.6275

**Michael Nowina (LSO #49633O)**
e: michael.nowina@bakermckenzie.com
t.: 416.865.2312 / f: 416.863.6275

**Ben Sakamoto (LSO #75240O)**
e: ben.sakamoto@bakermckenzie.com
t: 416.865.2316 / f: 416.863.6275

Lawyers for the Applicants

# Appendix “B”

**CITATION:** Dario v. Pleterski, 2022 ONSC 4036
**OSHAWA COURT FILE NO.:** CV-22-00915-00
**DATE:** 20220707

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

| | |
|---|---|
| **BETWEEN:** | |
| Sacha Amar Dario Singh and 9319697 Canada Ltd. | Tanya C. Walker and Jordan Koeing, for the Plaintiffs |
| Plaintiffs | |
| – and – | |
| Aiden Pleterski and AP Private Equity Ltd. | |
| Defendants | |
| | **Heard: June 28, 2022-in writing and oral submissions on July 7, 2022.** |

**ENDORSEMENT**

**SUTHERLAND J.:**

**Overview**

[1] The plaintiffs bring an *ex parte* motion seeking a worldwide *Mareva* injunction. The plaintiffs have commenced their action but have not served the Statement of Claim upon the defendants.

[2] The plaintiffs allege that there were induced into making substantial investments with the defendant Aiden Pleterski (Aiden) between April 2021 and January 2022. The plaintiffs claim that the inducement was based on fraudulent misrepresentation and that their investment has been transferred to the defendant corporation, AP Private Equity Ltd. (AP Equity), which is owned and solely controlled by Aiden.

[3] On April 21, 2022, the plaintiffs commenced this proceeding claiming relief based on breach of contract, fraudulent misrepresentation, civil fraud, misappropriation of funds, conversion, and unjust enrichment.

[4] The plaintiffs claim that the Defendants have assets in Ontario and that there is a serious risk that the Defendants will dissipate or remove assets from Ontario prior to a judgment being granted in this proceeding and that they would suffer irreparable harm if the injunction requested is not granted.

[5] For the reasons that follow, a *Mareva* injunction is granted.

**Background**

[6] The Plaintiff, Sacha Amar Dario Singh (Singh), is a businessperson and licensed real estate salesperson, who is also the sole director and officer of the Plaintiff corporation, 9319697 Canada Ltd, (931).

[7] In or around March 2021, Singh was introduced to the defendant Aiden by an Akil Heywood (Heywood) after informing Singh that Aiden had superior trading ability in cryptocurrency and other investments.

[8] Singh conducted some research into Aiden through social media and the numerous posts by Aiden.

[9] Between April 1, 2021, and January 16, 2022, the Plaintiffs invested $4,565,000 with the Defendants. These funds were provided by a series of wire transfers, bank drafts and cash payments. The wire transfer payments were submitted to the TD Canada Trust (TD) account and a Bank of Nova Scotia (Scotiabank) account registered to Aiden.

[10] Each investment made by the Plaintiffs with the Defendant Aiden was documented in a written contract that was prepared by Aiden. Each contract contained various identical terms, including *inter alia* the following:

a) that the Plaintiffs were investing funds with Aiden in exchange for a 70%/30% split on capital gains, whereby the Plaintiffs would receive 70% of capital gains and Aiden would receive 30% of capital gains;

b) that if the investment were lost, the full initial investment plus any subsequent additions to capital would be repaid to the Plaintiffs, in increments of 25% of the total amount, in biweekly instalments;

c) that the Plaintiffs would be entitled to withdraw any amount they choose from their personal portion of capital gains and that such withdrawals would be provided by Aiden within three business days of being requested; and

d) that Aiden's target goals for capital gains would be in the range of 10% - 20% growth biweekly.

[11] The contract provided that the brokerage company used for the investment was FXChoice Ltd. (FXChoice), which is a company headquartered and registered in Belize. The plaintiffs allege that Aiden represented to Mr. Singh that Aiden's brokerage account with FXChoice held funds in excess of $100,000,000 CAD.

[12] Between approximately April 1, 2021, and approximately April 4, 2022, Aiden regularly sent weekly updates to Singh to inform him the rate of return the investments the Plaintiffs had yielded. Singh kept records of the return rates Aiden represented he had achieved, which showed that Singh's investment had earned approximately $23,292,096 CAD in profit, in addition to his principal investments.

[13] On or around February 6, 2022, Singh requested to Aiden that he withdraw $1,000,000 CAD from his investments with the Defendants, so that he could meet certain financial obligations. On or around February 20, 2022, Singh requested to Aiden that he be able to withdraw $300,000 CAD from the investment fund. On or around March 5, 2022, Mr. Singh requested to Aiden that he be able to withdraw $3,500,000 from the investment fund. Aiden informed Mr. Singh that this withdrawal would be arranged within 2-3 weeks. The Plaintiffs stated that they have only received $10,000 of these funds.

[14] On March 28, 2022, Singh deposes that Aiden informed him that Aiden had been having issues withdrawing funds from FXChoice and, as a result, had started an account at a newer brokerage. Aiden and an associate of his, Mitchell Learning (Learning), informed Singh that the new account that belongs to Aiden was held with Friedberg Direct. On or around May 23, 2022, Learning told Mr. Singh that this Friedberg Direct account had been closed and the funds had been moved to Forex.com. The global head office for Forex.com is located in New Jersey, USA.

[15] On March 12, 2022, Singh indicates that Heywood forwarded to him a document that was purported to be a financial statement from the Defendants' FXChoice account, which he had been provided by Learning. This purported statement provided that the Defendants' FXChoice account contained approximately $135,000,000 USD and that Aiden had conducted a trade for $1,279,252.37 USD.

[16] Singh deposes that FXChoice's Legal Department confirmed in an email dated May 5, 2022, that this account statement was not from FXChoice.

[17] On May 18, 2022, Heywood informed Singh that he had been sent $53,000 from AP Equity, which was a company controlled by Aiden. On May 20, 2022, Singh met with Learning, who showed him pictures and a video displaying another account statement from FXChoice, which was in the name of AP Equity. One picture that Learning showed Singh indicated that there was $311,300,307.15 CAD in the AP Equity FXChoice Account. The video that Learning showed Singh indicated that there was $1,401,494.45 in Aiden's personal FXChoice account.

[18] Singh states that AP Equity is an active corporation, of which Aiden is the sole director and officer.

[19] On or around May 21, 2022, Singh had a meeting with a representative of FXChoice, Paul Tagger (Tagger). Singh indicates that he showed Tagger the pictures and video that Learning had provided displaying what were purported to be account statements for Aiden's and AP Equity's FXChoice accounts. Tagger confirmed that $311,000,000 was not in any FXChoice accounts held by Aiden or AP Equity.

[20] Singh deposes that on June 23, 2022, Heywood learned from Aiden that Aiden had taken pictures of all his vehicles and was listing them for sale. Aiden also informed Heywood that Aiden removed a bank safe from a rental storage facility that he had been storing his vehicles in.

[21] Singh deposes that Aiden is taking steps to dissipate, sell or hide his assets to prevent any creditor from acquiring said assets. This includes expensive vehicles such Lamborghinis, Audis, Ferrari, Land Rover along with liquid assets in bank and cryptocurrency accounts in other countries, such as Belize.

[22] Singh deposes that on or around June 16, 2022, Singh had a phone call with Aiden to discuss the repayment of his investment funds. Prior to having this call, Singh had requested that Aiden pay him a good-faith payment of up to $50,000, in order to reassure him that Aiden intended to repay the funds that he owed to him. During the call, Aiden represented that he would make such a good faith payment and that he would meet with Singh for lunch at 1:00 p.m. on June 18, 2022, to further discuss the status of repaying Singh's full investment.

[23] Aiden cancelled the lunch meeting and stated that he would submit a good-faith payment later that day. The payment that Aiden transferred to Singh was only in the amount of $10,000 CAD. Singh states that Aiden represented that he would reschedule the lunch meeting. Mr. Singh deposes that he has been unable to contact Aiden, despite making numerous attempts to do so via WhatsApp and telephone. Aiden has not responded to Singh's attempts to reach him.

[24] The evidence provided also indicates that there are other individuals who were introduced to Aiden and have provided millions of dollars and Bitcoin to Aiden for investment. These investors have requested repayment of substantial amounts of their investment money, being millions of dollars and Bitcoin, and have not received any funds from Aiden repaying their principal investments.

[25] One of the investors, Mr. Rumble, retained Kroll, Inc. (Kroll), a corporate investigation and risk consulting firm, to investigate the crypto wallet that he had deposited funds into, at Aiden's direction. This Investigative Analysis revealed that Aiden had transferred, at most, 2.867 of the Bitcoin Mr. Rumble had sent him on FXChoice and that some of the Bitcoin Mr. Rumble had sent him was being held in a Bitcoin wallet associated with Aiden. The Investigative Analysis further showed that some of the Bitcoin Mr. Rumble transferred to Aiden had been transferred to various cryptocurrency exchanges, as well as a cryptographic-asset-based gambling service.

[26] Singh alleges that Aiden is taking steps to dissipate and sell his assets.

**Legal Framework**

[27] Section 101 of the *Courts of Justice Act*[1] and Rule 40.01 of the *Rules of Civil Procedure*[2] authorize the Court to grant an interlocutory injunction: "where it appears to a judge of the court to be just or convenient to do so."

[28] Rule 40.01 mandates that an interlocutory injunction may be granted for a period not exceeding 10 days and that the moving party shall undertake to abide by any order concerning damages that the Court may make. The Plaintiff has provided such an undertaking.

[29] A *Mareva* injunction is an extraordinary remedy. If granted, it, in effect, freezes assets of the recipient. Thus, it becomes a form of execution before judgment.

[30] The leading cases on temporary or final injunctions are *RJR MacDonald Inc. v. Canada (Attorney General) (RJR MacDonald)*[3] and *R. v. Canadian Broadcasting Corp.*[4] *(R. v. CBC).*

[31] The test to grant an injunction as set out in *RJR MacDonald* is well known. The criteria that the party requesting an injunction must demonstrate are:

(a) From a preliminary assessment of the merits of the case, there is a serious question to be tried;

(b) Irreparable harm will result if the relief is not granted; and

(c) Which of the parties would suffer greater harm from the granting or refusing of the injunction pending a decision on the merits.[5]

[32] The test in *RJR MacDonald* was slightly modified by the Supreme Court of Canada in *R. v. CBC*. In *R. v. CBC*, the Court indicated:

> The applicant must demonstrate a strong prima facie case that it will succeed at trial. This entails a strong likelihood on the law and the evidence presented that, at trial, the applicant will be ultimately successful in proving the allegations set out in the originating notice.[6]
>
> The party seeking the injunction would, unless the injunction is granted, suffer irreparable harm that is not susceptible or would be difficult to be compensated in damages.

---

[1] RSO 1990 c. C.43
[2] RRO 1990, Reg.194
[3] [1994] 1 S.C.R. 311.
[4] 2018 SCC 5 (CanLII).
[5] *Supra*, note 3, at para 43.
[6] *Supra,* note 4, at para 18.

> The party seeking the injunction "must show that the balance of convenience favours granting the injunction."[7]

[33] The Court, in *R. v. CBC*, emphasized that the burden upon the party seeking the injunction is to show a case of "such merit that it is very likely to succeed at trial." The Court defined the meaning of "very likely to succeed at trial" in stating: "Meaning, that upon a preliminary review of the case, the application judge must be satisfied that there is a strong likelihood on the law and the evidence presented that, at trial, the applicant will be ultimately successful in proving the allegations set out in the originating notice."[8]

[34] In the *Mareva* injunction context, when the moving party is seeking a freezing of the assets of the recipient, the moving party must establish:

i. A strong *prima facie* case against the defendants;

ii. The defendants have assets in the jurisdiction;

iii. There is a risk of the assets being removed from the jurisdiction, or disposed of within the jurisdiction or otherwise put beyond the reach of the Court such that the plaintiff will be unable to realize on a judgment in its favour;

iv. The moving party would suffer irreparable harm if the order is not made; and

v. The balance of convenience favours the granting of the order.[9]

[35] The overriding consideration of the Court "is that the defendant threatens to so arrange his assets as to defeat his adversary, should that adversary ultimately prevail and obtain judgment, in any attempt to recover from the defendant on that judgment."[10]

[36] In cases concerning fraud or the removal or dissipation of assets, the moving party need not show direct evidence of dissipation or removal of assets. It is sufficient to show "that all the circumstances, including the circumstances of the fraud itself, demonstrate a serious risk that defendant will attempt to dissipate assets or put them beyond the reach of the plaintiff."[11]

---

[7] *Ibid* at para 18.
[8] *Supra*, note 4 at para 17.
[9] *HZC Capital Inc. v. Lee,* 2019 ONSC 4622, at para. 45.
[10] *Aetna Financial Services Ltd. v. Feigelman*, [1985] 1 S.C.R. 2, at para. 25 quoted from *HZC Capital Inc., supra,* note 9 at para. 46; *Chitel v. Rothbart*, 1982 CarswellOnt 508 (CA) at paras. 30-32.
[11] *Sibley & Associates LP v. Ross,* 2011 ONSC 2951, at para. 63.

**Position of the Plaintiffs**

[37] The Plaintiffs argues that they have a strong *prima facie* case of civil fraud/fraudulent misrepresentation, breach of contract, conversion, and misappropriation of funds.

[38] The Plaintiffs submit that the Aiden made numerous false representations to Singh which include:

i. That in the event of any loss, Aiden would fully indemnity the initial investments plus additions to capital.

ii. The target goals on the investments in the range of 10% to 20% per week and would pay to the Plaintiffs 70% of the return on investments.

iii. The investments would have consistent profit from week to week.

iv. Aiden would personally be liable for any loss of the investments.

[39] The Plaintiffs contend that they have a strong *prima facie* case on unjust enrichment. Aiden has received an enrichment of million of dollars. The Plaintiffs have been deprived of these monies and there is no juristic reason why the Defendants should retain these funds. Accordingly, the plaintiff submits, they have a strong *prima facie* case based on unjust enrichment.

[40] In addition, the Plaintiffs contend that they have a strong *prima facie* case on conversion and misappropriation of funds. The Plaintiffs contend that Aiden has wrongfully interfered with their money, that is inconsistent with the Plaintiffs' right to possession. Aiden has not provided the investment monies though having been requested to do so. This is conversion and misappropriation of funds.

[41] The Plaintiffs would suffer irreparable harm if the injunction is not granted. Aiden has and is taking steps to dissipate his assets. If the Plaintiffs would obtain judgment with no injunction in place, there will be no assets that would be recoverable to satisfy any judgment. Aiden is selling or removing his assets, his luxury vehicles, safe and accounts, money, and cryptocurrency out of the reach of any creditor.

[42] Aiden does have substantial assets in Ontario which include the luxury vehicles of a Ferrari, four Audis, three Lamborghinis, three McLarens, a Land Rover, and a BMW. He has also has $300 million dollars in cryptocurrency, and bank accounts in Ontario.

[43] Considering all the circumstances and the pattern of conduct of Aiden of not responding, not transferring the principal investments, not paying monies promised, the social media posts of assets purchased along with cancelling of meetings and his conduct with other investors, there is a demonstrable pattern of behaviour that the balance of convenience favours the Plaintiffs, and an injunction should be granted.

**Issues**

[44] The issues for this Court to determine on this *ex parte* motion are:

i. Have the Plaintiffs satisfied the criteria for a *Mareva* injunction, and should an injunction be granted?

ii. If so, what are the terms of the injunction order that should be made?

**Analysis**

**Should a *Mareva* injunction be granted?**

*Strong Prima Facie case*

[45] I am satisfied that at this stage that the Plaintiffs have provided a strong *prima facie* case based on breach of contract and civil fraud/fraudulent misrepresentation.

[46] For civil fraud/fraudulent misrepresentation, the Plaintiffs must establish that:

i. A false representation of the Aiden.

ii. A level of knowledge of the falsehood of the representation by Aiden, whether through knowledge or recklessness.

iii. The false representation caused the Plaintiffs to act; and

iv. The Plaintiffs' actions resulted in a loss to them.[12]

[47] Based on the evidence presented on this motion, the Court is satisfied that there is strong *prima facie* case because:

i. Aiden has not complied with the term of the contracts to indemnify the Plaintiffs on their monies or losses and has not repaid the investments to the Plaintiffs after numerous requests to do so.

ii. The representations of the Aiden to indemnify which appears to have been fraudulent, through either knowledge or recklessness.

iii. The representation of the percentage of return on a weekly basis.

iv. The representation of repayment in 25% increments.

v. The entitlement to withdraw any amount chosen from the Plaintiffs' investments on three days notice.

---

[12] *Bruni Appliance and Furniture, Inc. v. Hryniak*, 2014 SCC 8 (CanLII), [2014] 1 SCR 126 at para. 21.

[48] I find that the Plaintiffs have satisfied the first stage of a strong *prima facie* case and, on the evidence, provided that they are likely to be successful at trial. Given my conclusion on breach of contract and civil fraud, I need not consider conversion, misappropriation of funds or unjust enrichment.

*Defendants have assets in the jurisdiction*

[49] There is no issue from the evidence presented that the Defendants have assets in the Ontario. This stage of the test has been satisfied.

*There is a risk of the assets being removed from the jurisdiction or disposed of*

[50] The Plaintiffs have provided evidence that Aiden is attempting to liquidate assets and move assets. The evidence indicates that Aiden has transferred cryptocurrency, vehicles, and entities in his name. He has listed vehicles for sale. He removed a safe from his residence. He has misrepresented his assets and global investment fund assets.

[51] Also, in the world of technology in which we presently live, transferring liquid assets, money, and cryptocurrency, can occur at the click of a mouse.

[52] The overall conduct presented, relating not only to the Plaintiffs but other investors as well, demonstrate a strong likelihood that Aiden will not only remove assets from the jurisdiction but also move his assets to areas that may very well prevent the Plaintiffs, the investors, and any creditor from realizing on any judgment for damages that may be obtained.

[53] I am therefore satisfied that the Plaintiffs have met this stage of the test.

*Will the Plaintiffs suffer irreparable harm?*

[54] I am also satisfied that the Plaintiffs will suffer irreparable harm if the injunction is not granted. The evidence indicates that the Plaintiffs have provided significant funds, over 4 million dollars, to Aiden. These are monies the Plaintiffs require for their businesses and personal use.

[55] If the injunction is not granted, in all likelihood, there will be no assets available for the Plaintiffs to realize on any judgment if they are successful in this action.

[56] I am satisfied that this meets the test of irreparable harm.

*Balance of Convenience*

[57] The balance of convenience is in favour of the Plaintiffs in granting the *Mareva* injunction.

[58] The conduct of Aiden and the ramifications to the Plaintiffs tilt in favour of the Plaintiffs. The precariousness of the type of assets involved – money and cryptocurrency – along with

the actions of Aiden to dissipate and liquidate his assets tilts the balance in favour of the Plaintiffs.

[59] Furthermore, the overriding consideration of the Court is if the conduct of the Defendants threatens to arrange their assets in such a way to defeat the Plaintiffs if they should ultimately prevail and obtain a judgment. I find that this applies in the factual situation presented to the Court through the evidence provided.

*Conclusion*

[60] Consequently, I conclude that the Plaintiffs have satisfied the criteria for a *Mareva* injunction and hereby grant a temporary *Mareva* injunction in their favour.

**Terms of the Order**

[61] The Plaintiffs have provided the Court with a draft order. Having reviewed the order, I am not agreeable to all the terms set out in the order with changes. The Court is not persuaded that evidence has been provided to show that the defendants have an interest in or have the accounts requested at RBC. The Court is persuaded from the material provided that the defendants have accounts or interest in accounts listed in the Order, namely with TD Bank and Bank of Nova Scotia, along with 5.12 BTC from unspent Cluster A Assets as described in the Kroll Report, as summarized at page 22.

[62] The Court has amended the terms requested by the Plaintiffs in the draft order. The Court is agreeable to provide the Plaintiffs with an order in the form and content as in the Order attached hereto as Schedule "A".

**Disposition**

[63] A temporary *Mareva* injunction is granted to the Plaintiffs.

[64] The terms of the temporary *Mareva* injunction and order are as set out in Schedule "A" attached hereto.

[65] This motion is returnable on July 18, 2022, at 9:30 am.

[66] Costs reserved.

Justice P.W. Sutherland

**Released: July 7, 2022**

**SCHEDULE "A"**

Court File No. CV-22-00000915-0000

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**

| | | |
|---|---|---|
| THE HONOURABLE JUSTICE | ) | __________, THE ___ |
| | ) | DAY OF JUNE 2022 |
| | ) | |

B E T W E E N:

(*Court Seal*)

**SACHA AMAR DARIO SINGH and 9319697 CANADA LTD.**

Plaintiffs/
Moving Parties

- and –

**AIDEN PLETERSKI and AP PRIVATE EQUITY LTD.**

Defendants

**ORDER**

**ORDER PROHIBITING DISSIPATION OF ASSETS**

**THIS MOTION**, is made without notice by the Plaintiffs, Sacha Amar Dario Singh and 9319697 Canada Ltd. for an Order in the form of a worldwide *Mareva* injunction restraining the Defendant Aiden Pleterski ("**Mr. Pleterski**") and AP Private Equity Ltd. ("**AP Private**") from removing from Ontario or in any way disposing of or diminishing the value of its assets wherever located anywhere in the world, was heard this day in writing at the Oshawa Courthouse at 150 Bond Street.

**ON READING** the Motion Record and Factum of the Plaintiffs, dated June 28, 2022, and upon reading the submissions of counsel for the Plaintiff, and on noting the undertaking of the Plaintiff to abide by any Order this Court may make concerning damages which the Court may make if it is subsequently determined that the granting of this Order has caused damage to the Defendants or any other person for which the Plaintiffs ought to compensate the Defendants or such other person and to pay the reasonable costs of any person other than the Defendants which have been incurred as a result of this Order including the costs of ascertaining whether that person holds any of the Defendants' assets,

**Mareva Injunction**

1. **THIS COURT ORDERS** that the Defendants (including as known by any aliases, whether listed in the style of cause or otherwise), and their servants, employees, agents, assigns and anyone else acting on their behalf or in conjunction with them, and any and all persons with notice of this injunction, are restrained from directly or indirectly, by any means whatsoever:

    a. from selling, removing, dissipating, alienating, transferring, disposing, assigning, encumbering, or similarly dealing with any assets of the Defendants, other than as provided for in this Order, wherever situated in the world, including but not limited to the following bank accounts:

**Bank:** TD Canada Trust

**Institution Number:** 004

**Transit Number:** 01622

**Account Number:** 6558549 DEPOSIT SLIP VOL 2 156

**Bank:** Bank of Nova Scotia

**Institution Number:** 002

**Swift Code:** NOSCCATT

**Account Number:** 576120034622 VOL 2 80

b. from selling, withdrawing, removing, transferring, dissipating, or encumbering the funds or financial instruments held in the cryptocurrency wallet identified by the digital address 1PqVKRJL26PX8RZzrh6sijSqmPKYbC1QSD… as detailed in Exhibit "A" in the Affidavit of David Sigmundson, which was affirmed on June 24, 2022; VOL 4 27 and 45

c. instructing, requesting, counselling, demanding, or encouraging any other person to do so; and

d. facilitating, assisting in, aiding, abetting, or participating in any acts the effect of which is to do so.

2. **THIS COURT ORDERS** that paragraph 1 applies to all of the Defendants' assets, wherever situated in the world, whether or not they are in their own names and whether they are solely or jointly owned. For the purpose of this order, the Defendants' assets include any asset which they have the power, directly or indirectly, to dispose of or deal with as if it were their own. The Defendants are to be regarded as having such power if a third party holds or controls the assets in accordance with their direct or indirect instructions.

3. **THIS COURT ORDERS** that the Plaintiffs shall pay to any person served with this order pursuant this Order, the reasonable expenses associated with conducting the therein required searches of records, which expenses shall not exceed $100.00 or any other amount the parties may agree or a Court may Order.

4. **THIS COURT ORDERS** that if the total value free of charges or other securities of the Defendants' assets exceeds $33,000,000 CAD, or the equivalent in any other currency, the Defendants may sell, remove, dissipate, alienate, transfer, assign, encumber, or similarly deal with them so long as the total

unencumbered value of the Defendants' assets remains above $33,000,000 CAD, or the equivalent in any other currency.

**Ordinary Living Expenses**

5. **THIS COURT ORDERS** that the Defendants, or any of them, may apply for an order, on at least one (1) business day notice to the Plaintiffs, for an order granting them sufficient funds for ordinary living or business expenses or legal advice and representation.

**Disclosure of Information**

6. **THIS COURT ORDERS** that the Defendants prepare and provide to the Plaintiffs within 10 days of the date of service of this Order, a sworn affidavit listing and describing the nature, value and location of their assets worldwide, whether in their own name or not and whether solely or jointly owned. Wrongful refusal to provide this information referred to in this paragraph may result in a finding of contempt of court and may render the Defendants liable to be imprisoned, fined or have their assets seized.

7. **THIS COURT ORDERS** that the Defendant, Mr. Pleterski submit to an examination under oath, in his personal capacity and on behalf of the Defendant AP Equity Ltd., within 14 days of the delivery by the Defendants of the aforementioned sworn statement. Wrongful refusal to provide this information referred to in this paragraph herein maybe result in a finding of contempt of court and may render the Defendants liable to be imprisoned, fined or have their assets seized.

**Third Parties**

8. **THIS COURT ORDERS** that TD Canada Trust, FXChoice, Friedberg Direct, and the Bank of Nova Scotia ("**the Banks**") forthwith freeze and prevent any removal or transfer of monies or assets of the Defendants held in any account or on credit on behalf of the Defendants with the Banks, until further order of this Court.

9. **THIS COURT ORDERS** that the Banks forthwith disclose and deliver up to the Plaintiffs all records held by the Banks concerning the Defendants assets and accounts, including the existence, nature, value and location of any monies or assets or credit, wherever situate, held on behalf of the Defendants by the Banks, which will include the identity of the owner or owners of the said accounts.

10. **THIS COURT ORDERS** that the Banks, forthwith disclose and deliver up to the Plaintiffs any and all records held by the Banks concerning the Defendants assets and accounts, including the existence, nature, value and location of any monies or assets or credit wherever situate, held on behalf of the Defendants by the Banks.

11. **THIS COURT ORDERS** that any individual or corporation is, upon being served with this order, is prohibited from transferring any asset that they are in possession of which belong to any of the Defendants.

12. **THIS COURT ORDERS** that any individual or corporation shall, upon being served with this order, conduct a diligent search of its records to ascertain if it is in the possession of any of the Defendants' assets and to confirm to the lawyer for the Plaintiffs, in writing within 14 business days of being served with this order, whether or not that individual or corporation is in possession of the Defendants assets.

**Further Orders**

13. **THIS COURT ORDERS** that the Plaintiffs are entitled to an accounting of all funds, assets, effects and property of the Defendants, including any accounts and any improper dissipation thereof, and all funds and assets had or received by the Defendants, or any person or entity on their behalf, and all the dealings and transactions between the Defendants and between the Defendants and Plaintiffs, related to all amounts paid by the Plaintiffs to the Defendants, and any profits thereof.

14. **THIS COURT ORDERS** that the Plaintiffs are entitled to a worldwide equitable tracing of all funds, which were obtained by the Defendants from the

Plaintiffs, into and through any financial accounts or deposit facilities in the name of, or held on behalf of or for the benefit of, the Defendants and into and through any assets purchased by the Defendants using funds that were fraudulently obtained from the Plaintiffs.

**Variation, Discharge or Extension of the Order**

15. **THIS COURT ORDERS** that anyone served with or notified of this Order may apply to the Court at any time to vary or discharge this order in accordance with Rule 37.14 of the *Rules of Civil Procedure* on ten (10) days notice to the Plaintiffs.

**Service of Order**

12. **THIS COURT ORDERS** that this Order and the associated motion materials may be served on the Defendants by email service to [redacted] and by WhatsApp messaging to the phone number [redacted].

13. **THIAS COURT ORDERS THAT** motion be returnable on July 18, 2022 at 9:30 am by zoom. Staff to send out the call-in details.

14. **THIS COURT ORDERS** that this notwithstanding Rule 59.05, this Order is effective immediately and is enforceable without any need for formal entry.

15. **THIS COURT ORDERS** that the costs of the Plaintiff's motion for injunctive relief will be reserved to the trial judge.

Justice P. Sutherland

SACHA AMAR DARIO SINGH et *al*. - and - AIDEN PLETERSKI et *al*.
Plaintiffs Defendants

Court File No.: CV-22-00000915-0000

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***ONTARIO***
**SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
OSHAWA

**ORDER**

**WALKER LAW**
**PROFESSIONAL CORPORATION**
1 Adelaide Street E, Suite 2501
Toronto, Ontario
M5C 2V4

Tanya C. Walker (52997A)
tanya@tcwalkerlawyers.com
Tel: 647-342-2234 ext. 302
Fax: 416-362-2334

Jordan Koenig (75094L)
jkoenig@tcwalkerlawyers.com
Tel: 647-342-2334 ext. 300

Lawyers for the Plaintiffs/
Moving Parties

# TAB 7

Court File No./Estate No.: BK-22-00208582-OT-31

*ONTARIO*
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

| | | |
|---|---|---|
| THE HONOURABLE MR. JUSTICE OSBORNE | ) ) ) | TUESDAY, THE 21ST DAY OF FEBRUARY, 2023 |

**IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI and AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

**PRODUCTION ORDER**

**THIS MOTION**, made by Grant Thornton Limited in its capacity as the trustee in bankruptcy (in such capacity, the "**Trustee**") of the estates of each of the bankrupts, AP Private Equity Limited and Aiden Pleterski ("**Pleterski**" and collectively, the "**Bankrupts**") for an Order pursuant to sections 164 and 163 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**") and Rules 34.15(1) and (2) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (the "**Rules**") compelling Mitchell Learning to answer his undertakings given on examination by the Trustee dated October 11, 2022 and to produce documents relevant to this proceeding in accordance with the BIA was heard this day by Zoom judicial video conference in Toronto, Ontario.

**ON READING** the Preliminary Report of the Trustee dated September 9, 2022, the First Report dated September 9, 2022, the Supplement to the First Report dated September 26, 2022 and the Second Report dated October 21, 2022 (together, the "**Reports**"), and the Affidavit of Alexander Overton sworn February 8, 2023, and the Exhibits thereto (the "**Overton Affidavit**"), the Factum of the moving party, and on hearing the submissions of counsel for the Trustee and counsel for Mr. Learning, and with no one else attending;

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Motion Record be and is hereby abridged and validated, such that this motion is properly returnable today and hereby dispenses with further service thereof.

**PRODUCTION OF DOCUMENTS**

2. **THIS COURT ORDERS** that Mr. Learning shall, within seven (7) business days of this Order:

(a) deliver all of his bank statements from all of his bank accounts for the period June 2020 to October 31, 2022, to the Trustee to the extent not already delivered;

(b) identify any and all transactions representing funds transferred to the Bankrupts or received from the Bankrupts in the statements referred to in (a) above;

(c) deliver an unredacted copy of the document titled "Financial Analysis_Redacted", previously provided to the Trustee on January 5, 2023, which includes all payees and payors together with a listing of all payments to and/or from Mr. Learning relating to other parties' investments with the Bankrupts;

(d) deliver all receipts and proof of transactions or investments between himself and the Bankrupts, including copies of wire transfers, bank drafts and cheques.

**REAPPEARANCE FOR CONTEMPT HEARING**

3. **THIS COURT ORDERS** that should Mr. Learning fail to deliver the records described in paragraph 2 of this Order, the parties shall reappear before this Court for a contempt hearing pursuant to Rule 34.15(2) of the Rules, such hearing to be scheduled no later than fifteen (15) business days after the deadline for such delivery.

**COSTS OF THIS HEARING**

4. **THIS COURT ORDERS** the costs of these proceedings against Mr. Learning personally on a full indemnity basis in the sum of $______________.

**GENERAL**

5. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry or filing.

_____________________________

IN THE MATTER OF THE BANKRUPTCY OF AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario

AND IN IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI, of the Town of Whitby, in the Province of Ontario

Court File No./Estate No.: BK-22-00208581-OT-31
Court File No./Estate No.: BK-22-00208582-OT-31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

Proceedings commenced at Toronto, Ontario

**PRODUCTION ORDER**

**Thornton Grout Finnigan LLP**
100 Wellington Street West – Suite 3200
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7

**Leanne M. Williams** (LSO# 41877E)
Email: lwilliams@tgf.ca

**Rachel Fielding** (LSO# 72211S)
Email: rfielding@tgf.ca

Tel: 416-304-1616

Lawyers for Grant Thornton Limited, in its capacity as trustee in bankruptcy of the estates of AP Private Equity Limited and Aiden Pleterski

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**IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI and AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario**

Court File No./Estate No.: BK-22-00208582-OT-31

***ONTARIO***
**SUPERIOR COURT OF JUSTICE**
**(IN BANKRUPTCY AND INSOLVENCY)**

Proceedings commenced at Toronto, Ontario

**MOTION RECORD OF THE TRUSTEE IN BANKRUPTCY, GRANT THORNTON LIMITED**


**Thornton Grout Finnigan LLP**
100 Wellington Street West – Suite 3200
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7
Tel: 416-304-1616

**Leanne M. Williams** (LSO# 41877E)
Email: lwilliams@tgf.ca

**Rachel Fielding** (LSO# 72211S)
Email: rfielding@tgf.ca

Lawyers for Grant Thornton Limited, in its capacity as Trustee in Bankruptcy of the Estates of AP Private Equity Limited and Aiden Pleterski