Court file No.: CV-13-10362-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR JUSTICE MEW.	)	TUES, THE 18TH
	)	
	)	DAY OF AUGUST, 2015

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C.C-36, AS AMENDED

IN THE MATTER OF A PLAN OF COMPROMISE OF ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

ORDER

THIS MOTION, made by the Moving Party, Argyle Hardwood & Flooring Supplies Ltd., for an Order lifting the stay of proceedings and granting leave to issue a Statement of Claim and to allow the Applicant Corporations and their directors and officers, Imran Jinnah and Asma Jinnah, to file a Statement of Defence was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING, the Affidavit of Katherine Chau sworn on August 5, 2015 and upon reading the Consent executed by the parties.

1. **THIS COURT ORDERS** that the stay of proceedings imposed in the within matter in favour of Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148993 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc., 2147650 Ontario Inc., Imran Jinnah and Asma Jinnah under paragraphs 11, 12 and 16 of The Order of The Honourable Mr. Justice Newbould dated December 16, 2013 be and is hereby lifted for the limited purposes of enabling Argyle Hardwood & Flooring Supplies Ltd. to commence a breach of trust action in accordance with the

draft pleading attached as Schedule "A" hereto and to allow the Defendants in the action to file a Statement of Defence.

2. **THIS COURT ORDERS** that thereafter the stay shall resume until further order of the court.

3. **THIS COURT ORDERS** that Argyle Hardwood & Flooring Supplies Ltd. is hereby granted leave to issue their Statement of Claim.

Graeme L J.

SCHEDULE "A" TO THE ORDER

Court file No.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

ARGYLE HARDWOOD & FLOORING SUPPLIES LTD.

Plaintiff

- and -

SILVER STREAMS HOMES (PUCCINI) INC., SIVLER STREAMS HOMES INC., 2147681 ONTARIO INC., 2148990 ONTARIO INC., 2147650 ONTARIO INC., 2148993 ONTARIO INC., 2148991 ONTARIO INC., PUCCINI MORTGAGE CORPORATION, DAPAUL MANAGEMENT LIMITED, 388242 ONTARIO LIMITED, 53 PUCCINI MORTGAGE CORPORATION, NASTELL INVESTMENTS LIMITED, JACK GREENBERG, IMRAN JINNAH and ASMA JINNAH

Defendants

STATEMENT OF CLAIM

TO ALL DEFENDANT(S)

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

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

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

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

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

IF YOU PAY THE PLAINTIFF'S CLAIM, and $3000 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and $100 for costs and have the costs assessed by the court.

Date: ....

Issued by: ....
Local registrar

Address of court office:

330 University Avenue
Toronto, Ontario
M5G 1E6

TO: 2147681 ONTARIO INC.
103 NAUGHTON DRIVE
RICHMOND HILL, ONTARIO
L4C 8B3

AND TO: 2148990 ONTARIO INC.
103 NAUGHTON DRIVE

RICHMOND HILL, ONTARIO
L4C 8B3

AND TO: 2148991 ONTARIO INC.
103 NAUGHTON DRIVE
RICHMOND HILL, ONTARIO
L4C 8B3

AND TO: 2147650 ONTARIO INC.
103 NAUGHTON DRIVE
RICHMOND HILL, ONTARIO
L4C 8B3

AND TO: 2148993 ONTARIO INC.
103 NAUGHTON DRIVE
RICHMOND HILL, ONTARIO
L4C 8B3

AND TO: SILVER STREAMS HOMES (PUCCINI) INC.
103 NAUGHTON DRIVE
RICHMOND HILL, ONTARIO
L4C 8B3

AND TO: SILVER STREAMS HOMES INC.
103 NAUGHTON DRIVE
RICHMOND HILL, ONTARIO
L4C 8B3

AND TO: IMRAN JINNAH
103 NAUGHTON DRIVE
RICHMOND HILL, ONTARIO
L4C 8B3

AND TO: ASMA JINNAH
103 NAUGHTON DRIVE
RICHMOND HILL, ONTARIO
L4C 8B3

AND TO: PUCCINI MORTGAGE CORPORATION
c/o SUITE 204, 181 EGLINGTON AVENUE EAST
TORONTO, ONTARIO
M4P 1J4

AND TO: DAPAUL MANAGEMENT LIMITED
c/o SUITE 204, 181 EGLINGTON AVENUE EAST
TORONTO, ONTARIO
M4P 1J4

AND TO: 388242 ONTARIO LIMITED
c/o SUITE 204, 181 EGLINGTON AVENUE EAST
TORONTO, ONTARIO
M4P 1J4

AND TO: 53 PUCCINI MORTGAGE CORPORATION
c/o SUITE 204, 181 EGLINGTON AVENUE EAST
TORONTO, ONTARIO
M4P 1J4

AND TO: NASTELL INVESTMENTS LIMITED
c/o SUITE 204, 181 EGLINGTON AVENUE EAST
TORONTO, ONTARIO
M4P 1J4

AND TO: JACK GREENBERG
c/o SUITE 204, 181 EGLINGTON AVENUE EAST
TORONTO, ONTARIO
M4P 1J4

CLAIM

1. The Plaintiff, Argyle Hardwood & Flooring Supplies Ltd. ("Argyle") claims as against the Defendants, jointly and severally:

(a) payment of the sum of $129,516.11;

(b) in the alternative, damages in the sum of $129,516.11 plus interest for breach of trust, conversion and misappropriation of trust funds;

(c) a declaration that the Defendants are in breach of trust under sections 8 and 13 of the *Construction Lien Act* R.S.O. 1990, c. C. 30, as amended (*"Construction Lien Act"*) with respect to the sums owing at the Project, as defined, and improvements;

(d) a declaration that funds held by Chaitons LLP which are the subject matter of the claim in the Ontario Superior Court of Justice with Court File No. CV-13-115767-00 commenced in the Newmarket Court constitutes trust funds for the benefit of the Plaintiff pursuant to the provisions of the *Construction Lien Act*.

(e) aggravated, punitive and exemplary damages in the sum of $100,000;

(f) a declaration that the Defendants have been unjustly enriched at the expense of the Plaintiff by virtue of the misappropriation of funds and must disgorge all funds misappropriated;

(g) a declaration that the Defendants are all statutory owners under the provisions of the *Construction Lien Act*;

(h) a declaration that the Plaintiff has priority over the charges of the Defendants, Puccini Mortgage Corp., Dapaul Management Limited and 388242 Ontario Limited with respect to the Property and in relation to the Project;

(i) a declaration that the equitable mortgage of the Plaintiff is in priority over the charges of the Defendants, 53 Puccini Mortgage Corp. and Nastell Investments Limited with respect to the Property and in relation to the Project;

(j) an Order requiring 53 Puccini Mortgage Corp. and Nastell Investments Limited to marshal their debt from other security they hold and not from the Property and in relation to the Project;

(k) an Order that Jack Greenberg provide an accounting of the monies flowing through his trust account with respect to the Project;

(l) an accounting of all funds received by the Defendants on account of the improvements and Project, as set forth below;

(m) a declaration that all funds received by the Defendants were on account of the improvement and Project, set forth below and are impressed with a trust pursuant to Part II of the *Construction Lien Act*;

(n) an interim and interlocutory mandatory order requiring the Defendants to deliver up all records of the accounts with respect to the improvements and Project, as set forth below;

(o) a tracing order allowing the Plaintiff to follow all funds found to be trust funds;

(p) a declaratory order that the funds found to be trust funds be applied in and towards payment of the Plaintiff's claim, interest and costs;

(q) a declaration that the Plaintiff is a complainant within the meaning of the *Ontario Business Corporations Act* ("*OBCA*");

(r) a declaration that the actions of the Defendants, or any of them, are oppressive, unfairly prejudicial to or unfairly disregards the interests of the Plaintiff such that the Court may make interim, interlocutory or final orders it thinks fit under section 248(3) of the *OBCA*;

(s) an order that the Defendants, or any of them, compensate the Plaintiff for its losses as a result of the various breaches of the *OBCA*;

(t) a declaration that the Defendants were constructive trustees of funds received from the Projects, as defined, and are liable to the Plaintiff as beneficiaries;

(u) in the alternative, an order under the *OBCA*, *Assignment and Preferences Act*, *Fraudulent Conveyances Act* and *Bulk Sales Act* setting aside any transfers, assignments and transactions of the Defendants and/or any one of the Defendants or combination thereof;

(v) a declaration that any debt or liability of the Defendants, or any of them, shall survive bankruptcy pursuant to Section 178(1)(d), (e) and (h) of the *Bankruptcy and Insolvency Act,* R.S.C. 1985, c. B-3, as amended;

(w) pre-judgement and post-judgement at the rate of ten (10) percent;

(x) pre-judgment and post-judgment interest pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, C.c. 43 and amendments thereto;

(y) their costs of this action plus applicable taxes; and

(z) such further and other relief as the nature of this action requires and this Honourable Court may deem just.

THE PARTIES

2. The Plaintiff, Argyle, is a corporation incorporated pursuant to the laws of the Province of Ontario. At all material times, Argyle carried on business as a supplier and installer of hardwood flooring and carpeting.

3. The Defendant, Silver Streams Homes (Puccini) Inc. ("Silver Streams Puccini"), is a company incorporated pursuant to the laws of the Province of Ontario.

4. The Defendant, Silver Streams Homes Inc., ("Silver Streams"), is a company incorporated pursuant to the laws of the Province of Ontario.

5. The Defendant, 2148991 Ontario Inc. ("2148991"), is a corporation incorporated pursuant to the laws of the Province of Ontario.

6. The Defendant, 2148990 Ontario Inc. ("2148990"), is a corporation incorporated pursuant to the laws of the Province of Ontario.

7. The Defendant, 2147650 Ontario Inc. ("2147650"), is a corporation incorporated pursuant to the laws of the Province of Ontario.

8. The Defendant, 2148993 Ontario Inc. ("2148993"), is a corporation incorporated pursuant to the laws of the Province of Ontario.

9. The Defendant, 2147681 Ontario Inc. ("2147681"), is a corporation incorporated pursuant to the laws of the Province of Ontario.

10. The companies, Silver Streams, Silver Streams Puccini, 2148991, 2148990, 2157650, 2148990 and 2147681 are related and associated companies (collectively "Silver Streams").

11. The Defendants, Imran Jinnah ("Imran") and Asma Jinnah ("Asma"), are individuals residing in the Province of Ontario. At all material times, they were the officers, directors and controlling minds of Silver Streams.

12. The Defendant, Puccini Mortgage Corp. ("Puccini Mortgage"), is a corporation incorporated pursuant to the laws of the Province of Ontario and carries on business as a lender and investor. Jack Greenberg ("Greenberg") is the sole officer and director and/or the controlling mind of Puccini Mortgage and is authorized to bind it.

13. The Defendant, Dapaul Management Limited ("Dapaul Management") is a corporation incorporated pursuant to the laws of the Province of Ontario and carries on business as a lender and investor. Greenberg is the sole officer and director and/or the controlling mind of Dapaul Management and is authorized to bind it.

14. The Defendant, 388242 Ontario Limited ("388242") is a corporation incorporated pursuant to the laws of the Province of Ontario and carries on business as a lender and investor. Greenberg is the sole officer and director and/or the controlling mind of 388242 and is authorized to bind it.

15. The Defendant, 53 Puccini Mortgage Corp. ("53 Puccini Mortgage") is a corporation incorporated pursuant to the laws of the Province of Ontario and carries on business as a lender and investor. Greenberg is the sole officer and director and/or the controlling mind of 53 Puccini Mortgage and is authorized to bind it

16. The Defendant, Nastell Investments Limited ("Nastell") is a corporation incorporated pursuant to the laws of the Province of Ontario and carries on business as a lender and investor. Greenberg is the sole officer and director and/or the controlling mind of Nastell and is authorized to bind it.

17. Puccini Mortgage, Dapaul Management, 388242, 53 Puccini Mortgage and Nastell are related and associated companies (collectively "the Greenberg Companies").

18. Greenberg is licensed to practice law in the Province of Ontario. Greenberg is also the sole officer and director and/or the directing mind of the Greenberg Companies. Greenberg was also acting as lawyer for, or the agent of, or controlling mind of Silver Streams and actively making decisions regarding the construction, development, payment of accounts including those of the trades in the Project, as defined, and was an Owner as defined in the *Construction Lien Act*.

19. Greenberg, at all material times, also represented the various Greenberg Companies described above as lender and investors, both in his capacity as legal counsel, as well as their directing minds. He was authorized to bind them to his sole discretion. Greenberg is himself a significant investor in the various lender corporations.

20. Greenberg directed the flow of funds and making decisions regarding the construction of the Project. He also made decisions as to whether trades would get paid, paying trades and preferring payments to the Greenberg Companies over the trades, both in his personal capacity and as an investor and also on behalf of the various lender corporations or Greenberg Companies. By virtue of Greenberg's actions, more particularly described below, the Plaintiff seeks a declaration that Greenberg, in his personal capacity, and the Greenberg Companies are all statutory owners under the provisions of the *Construction Lien Act*.

21. In addition, the mortgages in favour of the Greenberg Companies were not at arms-length. These mortgages did not act in a commercially reasonable manner in particular by failing to have regular re-payment terms and failing to exercise default remedies under the mortgages in a commercially reasonable manner.

22. The Plaintiff seeks a declaration that the various Greenberg Companies with respect to Puccini Mortgage, Dapaul Mortgage, 388242, 53 Puccini Mortgage and Nastell, are all statutory owners under the provisions of the *Construction Lien Act.*

THE PROJECT

23. Silver Streams constructed a residential project with respect to 118 residential dwellings that included detached homes, semi-detached homes and townhouses located at Bathurst Street and King Road in Richmond Hill ("Project") which include properties as described in Schedule "A", Schedule "B" and Schedule "C".

24. The Plaintiff pleads that the Defendants were all beneficial owners with respect to the purchase and development of the lands more particularly set out in Schedule "D" hereto and were at all material times owners of them by virtue of the definition of an owner under Section (1) item (15) of the *Construction Lien Act.*

25. The Plaintiff agreed to provide and did provide to the corporate Defendants various hardwood flooring, carpeting and related installation services. In relation to what had been supplied, the Plaintiff delivered the invoices in Schedule "F" which remain unpaid.

REGISTERED MORTAGES

26. The Defendants, Dapaul Management, Puccini Mortgage and 388242 registered mortgages against the Property more particularly set out in Schedule "E". Dapaul Management is registered as a second mortgage for the principal amount of $5,500,000. Puccini Mortgage is registered as a third mortgage for the principle amount of $2,600,000. 388242 is registered as a fourth mortgage in the principal amount of $1,500,000 ("Property A Lenders").

27. The defendants, 53 Puccini Mortgage registered mortgages against Property B, more particularly set out in Schedule "E". 53 Puccini Mortgage is registered as a second mortgage in the principal amount of $2,000,000. Nastell is registered as a third mortgage in the principal amount of $3,200,000 ("Property B Lenders").

28. The Plaintiff has priority over the charges of Puccini Mortgage, Dapaul Management and 388242 on Property A and 53 Puccini Mortgage and Nastell on Property B as a result of the following:

a. The mortgages are not arms' length mortgages;

b. No monies were advanced;

c. If monies were advanced they were advanced in excess of the value of the lands before the Plaintiff provided their labour, materials and services;

d. If monies were advanced, some were advanced in the face of knowledge of the breaches of trusts;

e. Such further and other grounds as counsel may advise prior to trial.

CON-DRAIN

29. On or about March 31, 2010, Con-Drain Company (1983) Limited ("Con-Drain") was a trade that reached an agreement with Greenberg and the Jinnahs in respect of amounts owing to it for work performed on the Project.

30. As part of the settlement, Con-Drain appears to have been promised payment from closings of homes with respect to the Project. These payments of $50,000 plus interest were to be paid out of the sale of homes which improvements were provided by the Plaintiff. The payments were for a past debt as opposed to any improvement being made by Con-Drain at the time the Plaintiff was improving the lands. Alternatively, if Con-Drain provided any improvement to the Phase III lands, these improvements were for as far less then the payments being promised which were for a Past Debt not lienable work.

31. Con-Drain claimed to be owed the total sum of $794,882.68 as at July 31, 2013. As a result of an action and application for an injunction, monies from certain closings were by court order paid to the law firm Chaitons LLP to be held pending determination of entitlement of those funds ("Funds").

32. The Plaintiff states that the Funds are trust funds pursuant to the trust provisions of the *Construction Lien Act* for the benefit of the Plaintiff who provided services and improvements to these very lands and premises and must be shared rateably by all Trust beneficiaries under the *Construction Lien Act*.

33. In addition, to the extent that the Greenberg Companies received monies totalling approximately $1.2 million from closings with respect to the Project in June and July 2013, they are constructive trustees of these funds and hold these funds in trust for the Plaintiff. As a result, all such funds must be repaid to the Plaintiff on the basis that same were clearly distributed to the Greenberg Companies in breach of the constructive trust and fiduciary obligations owed to the Plaintiffs by Silver Streams, Greenberg and/or the Greenberg Companies.

BREACH OF TRUST

34. The Plaintiff states that the Project was directed and controlled by Greenberg for the benefit of himself and the Greenberg Companies using the Jinnahs and the Silver Stream companies as tools. There was never any intention to ensure that the Project proceeded in a commercially reasonable fashion and that the construction trades, such as the Plaintiff, would be paid in the ordinary course or full paid at all.

35. Greenberg and the Greenberg Companies allegedly advanced funds into the Project charging high rates of interest and exorbitant fees. Some of the mortgages advanced by the Greenberg Companies were to repay such interest accruing and fees. The Jinnahs and the Silver Streams companies were receiving a fee per home losing, the particulars of which are not known to the Plaintiff at the time of this pleading. The net result of the actions of Greenberg, the Greenberg Companies, the Jinnahs and the Silver Streams companies was that all the equity was appropriate out of the Project, the Project became insolvent and the Plaintiff, who was a trade improving the lands on the Project was left unpaid. The actions by Greenberg, the Greenberg Companies, the Jinnahs and Silver Streams give rise to a legal and equitable justification by the Court to pierce the corporate veil of the various Greenberg and Silver Streams companies as they were operating as one and the same in partnership, entity, joint venture or joint enterprise with the same underlying ownership of Greenberg and the Jinnahs.

36. By virtue of the actions of Greenberg, the Greenberg Companies, the Jinnahs and the Silver Streams companies, they are owners, either by legal title or beneficially, as that term is defined in the *Construction Lien Act* and have trust obligations imposed upon them pursuant to the relevant trust provisions of the *Construction Lien Act*.

37. The actual contract for the supply of labour, materials and services was with Silver Streams Puccini acting as agent for Greenberg, the Greenberg Companies, the Jinnahs and the Silver Streams companies. The acts of Silver Streams Puccini bind Greenberg, the Greenberg Companies, the Silver Streams Companies and the Jinnahs.

38. Greenberg and the Jinnahs are persons liable in an action for breach of trust pursuant to Part II of the *Construction Lien Act*.

39. The Plaintiff pleads that the monies received by the Greenberg, the Greenberg Companies, the Jinnahs and the Silver Streams companies from the sale of the homes in the Project constitute trust funds for the benefit of the Plaintiff pursuant to the provisions of the *Construction Lien Act* including s.7, s.8 and s. 13.

40. The Plaintiff does not have particulars of the monies received by the various Defendants from the financing and sale of homes in the Project as that information is within the exclusive control of the corporate and individual Defendants.

41. The Plaintiff states that the revenue and payments received by the Defendants that used the Plaintiff's materials and services are impressed with a trust in favour of the Plaintiff. Full particulars of these trust payments and the Projects within the knowledge of the Defendants, Imran and Asma.

42. The Plaintiff alleges that monies received by the Defendants were misappropriated and converted for their own use inconsistent with the trust imposed under the *Construction Lien Act* and pleads such actions constitute a breach of trust.

43. Greenberg and the Jinnahs are officers, directors or persons with effective controls of the affairs of the Greenberg Companies and the Silver Streams Companies, respectively, and are liable personally to the Plaintiff for breach of trust as they assented to, or acquiesced in, conduct

that they knew or reasonable ought to have known amounted to a breach of trust pursuant to section 13 of the *Construction Lien Act.*

44. The Plaintiff pleads that the Defendants participated in a breach of trust by participating in a conversion and/or defalcation of the trust funds described above.

45. The Plaintiff submits that they have suffered damages by virtue of the breach of trust by the Defendants. The Plaintiff claims the sum of $129,516.11 plus interest as damages.

46. By reason of the high-handed and callous conduct and complete disregard by the Defendants of the Plaintiff's rights, the Plaintiff claims aggravated, punitive and exemplary damages against the Defendants in the amount of $100,000.00.

47. The Plaintiff further requests a tracing order allowing the Plaintiff to follow all funds found to be trust funds.

48. The Plaintiff pleads and relies upon the *Construction Lien Act* in particular Part II.

OTHER CLAIMS

49. At all material times, the Defendants were, and each of them was, acting in concert and/or as mutual agents each for the other and/or under the control and direction of each other and with the knowledge of each was the knowledge of all and communications to one was communications to all. They are and, each of them is jointly and severally liable in respect of all matters complained of in the within proceeding.

50. Further, and in the alternative, Imran and Asma unlawfully interfered with the economic relations of the Plaintiff by authorizing, condoning or acquiescing in the breach of the contracts and duties owed to the Plaintiff with respect to each of the Projects. They had an intent to injure the Plaintiff by their actions. They caused the breach of the contract and deprived the Plaintiff of their rights. As set out above, the Defendants interfered with the Plaintiff's business expectancy in relation to the Projects. The Defendant interfered by way of unlawful means, namely, inducing the breach of the contracts, improper interference, misappropriation, defalcation, conversion and/or breach of trust, as detailed above.

51. Further, and in the alternative, Imran and Asma induced the breach of the contract with respect to each of the Projects and is liable on the following basis:

a. they had knowledge of the contract for the Projects

b. their conduct was intended to cause a breach of the contract for each of the Projects

c. their conduct caused a breach of the contract for each of the Projects; and

d. the Plaintiff suffered damages.

52. The Plaintiff further states that it has suffered damages by virtue of the actions of the Defendants.

OPPRESSION CLAIMS

53. The Plaintiff further states that it is a complainant within the meaning of the *OBCA*.

54. The Defendants, or any of them, acted in a oppressive or unfairly prejudicial manner in their dealings with the Plaintiff within the meaning of the *OBCA*, including contrary to section 248. In particular, the Defendants used the funds received from the Projects for purposes inconsistent with the trust and unfairly disregarded the interests of the Plaintiff, transferred assets and made payments so as to defeat, delay or hinder the rights of the Plaintiff, as creditor. Full particulars of these breaches and actions are within the knowledge of the Defendants.

55. The Plaintiff is entitled to be compensated for the oppressive and unfair conduct of the Defendants, or any of them.

56. The Defendants have engaged in conduct which is high-handed and with an intention to evade their financial responsibilities and, in doing so, flagrantly disregarded the Plaintiff's rights such as to entitle and justify an award of punitive, exemplary and aggravated damages.

57. The Plaintiff pleads and relies on the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, in particular sections 178(1)(d), (e) and (h). The Defendants debt should also not be released by any order of discharge.

58. The transfers and payments by the Defendants, or any of them, that are inconsistent with the trust are also in contravention of section 2 of the *Fraudulent Conveyances Act*, R.S.O. 1990, c. F. 29, as amended, section 4 of the *Assignment and Preferences Act,* R.S.O. 1990, c. A-33, as amended and sections 91, 95 and 96 of the *Bankruptcy and Insolvency Act*, R.S.O. 1985, c. 31, as amended.

59. The Plaintiff proposes the trial of this action be in the City of Toronto, in the Province of Ontario.

Date of Issue:

GIBSON&BARNES LLP
119 Spadina Avenue
Suite 801
Toronto, Ontario
M5V 2L1

Tel: 416-597-1500
Fax: 416-594-3299

Michael Mazzuca (LSUC 56283V)
Lawyer for the Plaintiff, Argyle
Hardwood & Flooring Supplies Ltd.

SCHEDULE "A"

Phase I, Plan 65M-4156, Town of Richmond Hill:

Lot No./PIN:	Lot No./PIN:	Lot No./PIN:
1 / 03206-3200	8 / 03206-3207	15 / 03206-3214
2 / 03206-3201	9 / 03206-3208	16 / 03206-3215
3 / 03206-3202	10 / 03206-3209	17 / 03206-3216
4 / 03206-3203	11 / 03206-3210	18 / 03206-3217
5 / 03206-3204	12 / 03206-3211	19 / 03206-3218
6 / 03206-3205	13 / 03206-3212	20 / 03206-3219
7 / 03206-3206	14 / 03206-3213	

Phase II, Plan 65M-4249, Town of Richmond Hill:

Lot No./PIN:	Lot No./PIN:	Lot No./PIN:
1 / 03206-3418	10 / 03206-3427	18 / 03206-3435
2 / 03206-3419	11 / 03206-3428	19 / 03206-3436
3 / 03206-3420	12 / 03206-3429	20 / 03206-3437
4 / 03206-3421	13 / 03206-3430	21 / 03206-3438
5 / 03206-3422	14 / 03206-3431	22 / 03206-3439
6 / 03206-3423	15 / 03206-3432	23 / 03206-3440
7 / 03206-3424	16 / 03206-3433	24 / 03206-3441
8 / 03206-3425	17 / 03206-3434	25 / 03206-3442
9 / 03206-3426		

Phase III, Plan 65M-4331, Town of Richmond Hill:

Lot No./PIN:	Lot No./PIN:	Lot No./PIN:
1 / 03206-3484	10 / 03206-3493	18 / 03206-3501
2 / 03206-3485	11 / 03206-3494	19 / 03206-3502
3 / 03206-3486	12 / 03206-3495	20 / 03206-3503
4 / 03206-3487	13 / 03206-3496	21 / 03206-3504
5 / 03206-3488	14 / 03206-3497	22 / 03206-3505
6 / 03206-3489	15 / 03206-3498	23 / 03206-3506
7 / 03206-3490	16 / 03206-3499	24 / 03206-3507
8 / 03206-3491	17 / 03206-3500	25 / 03206-3508
9 / 03206-3492		

SCHEDULE "B"

Phase IV, Plan M-807, Town of Richmond Hill:

Lot No. /PIN:	Lot No. / PIN:
Part Lot 1, Plan M-807, Part 1, 65R-32855/03206-3469	Part Lot 2, Plan M-807, Part 2, 65R-32855/03206-3467

SCHEDULE "C"

Phase II, Plan 65M-4249, Town of Richmond Hill:

Lot No./PIN:	Lot No./PIN:	Lot No./PIN:
1 / 03206-3418	10 / 03206-3427	18 / 03206-3435
2 / 03206-3419	11 / 03206-3428	19 / 03206-3436
3 / 03206-3420	12 / 03206-3429	20 / 03206-3437
4 / 03206-3421	13 / 03206-3430	21 / 03206-3438
5 / 03206-3422	14 / 03206-3431	22 / 03206-3439
6 / 03206-3423	15 / 03206-3432	23 / 03206-3440
7 / 03206-3424	16 / 03206-3433	24 / 03206-3441
8 / 03206-3425	17 / 03206-3434	25 / 03206-3442
9 / 03206-3426		

Phase III, Plan 65M-4331, Town of Richmond Hill:

Lot No./PIN:	Lot No./PIN:	Lot No./PIN:
1 / 03206-3484	10 / 03206-3493	18 / 03206-3501
2 / 03206-3485	11 / 03206-3494	19 / 03206-3502
3 / 03206-3486	12 / 03206-3495	20 / 03206-3503
4 / 03206-3487	13 / 03206-3496	21 / 03206-3504
5 / 03206-3488	14 / 03206-3497	22 / 03206-3505
6 / 03206-3489	15 / 03206-3498	23 / 03206-3506
7 / 03206-3490	16 / 03206-3499	24 / 03206-3507
8 / 03206-3491	17 / 03206-3500	25 / 03206-3508
9 / 03206-3492		

SCHEDULE "D"

Phase I, Plan 65M-4156, Town of Richmond Hill:

Lot No./PIN:	Lot No./PIN:	Lot No./PIN:
1 / 03206-3200	8 / 03206-3207	15 / 03206-3214
2 / 03206-3201	9 / 03206-3208	16 / 03206-3215
3 / 03206-3202	10 / 03206-3209	17 / 03206-3216
4 / 03206-3203	11 / 03206-3210	18 / 03206-3217
5 / 03206-3204	12 / 03206-3211	19 / 03206-3218
6 / 03206-3205	13 / 03206-3212	20 / 03206-3219
7 / 03206-3206	14 / 03206-3213	

Phase II, Plan 65M-4249, Town of Richmond Hill:

Lot No./PIN:	Lot No./PIN:	Lot No./PIN:
1 / 03206-3418	10 / 03206-3427	18 / 03206-3435
2 / 03206-3419	11 / 03206-3428	19 / 03206-3436
3 / 03206-3420	12 / 03206-3429	20 / 03206-3437
4 / 03206-3421	13 / 03206-3430	21 / 03206-3438
5 / 03206-3422	14 / 03206-3431	22 / 03206-3439
6 / 03206-3423	15 / 03206-3432	23 / 03206-3440
7 / 03206-3424	16 / 03206-3433	24 / 03206-3441
8 / 03206-3425	17 / 03206-3434	25 / 03206-3442
9 / 03206-3426		

Phase III, Plan 65M-4331, Town of Richmond Hill:

Lot No./PIN:	Lot No./PIN:	Lot No./PIN:
1 / 03206-3484	10 / 03206-3493	18 / 03206-3501
2 / 03206-3485	11 / 03206-3494	19 / 03206-3502
3 / 03206-3486	12 / 03206-3495	20 / 03206-3503
4 / 03206-3487	13 / 03206-3496	21 / 03206-3504
5 / 03206-3488	14 / 03206-3497	22 / 03206-3505
6 / 03206-3489	15 / 03206-3498	23 / 03206-3506
7 / 03206-3490	16 / 03206-3499	24 / 03206-3507
8 / 03206-3491	17 / 03206-3500	25 / 03206-3508
9 / 03206-3492		

Phase IV, Plan M-807, Town of Richmond Hill:

Lot No. /PIN:	Lot No. / PIN:
Part Lot 1, Plan M-807, Part 1, 65R-32855/03206-3469	Part Lot 2, Plan M-807, Part 2, 65R-32855/03206-3467

SCHEDULE "E"

PROPERTY A

Phase IV, Plan M-807, Town of Richmond Hill:

Lot No. /PIN:	Lot No. / PIN:
Part Lot 1, Plan M-807, Part 1, 65R-32855/03206-3469	Part Lot 2, Plan M-807, Part 2, 65R-32855/03206-3467

PROPERTY B

Phase III, Plan 65M-4331, Town of Richmond Hill:

Lot No./PIN:	Lot No./PIN:	Lot No./PIN:
1 / 03206-3484	10 / 03206-3493	18 / 03206-3501
2 / 03206-3485	11 / 03206-3494	19 / 03206-3502
3 / 03206-3486	12 / 03206-3495	20 / 03206-3503
4 / 03206-3487	13 / 03206-3496	21 / 03206-3504
5 / 03206-3488	14 / 03206-3497	22 / 03206-3505
6 / 03206-3489	15 / 03206-3498	23 / 03206-3506
7 / 03206-3490	16 / 03206-3499	24 / 03206-3507
8 / 03206-3491	17 / 03206-3500	25 / 03206-3508
9 / 03206-3492		

SCHEDULE "F"

Invoice No.	Date	Original Amount	Paid	Balance
2318	November 3, 2012	$10,993.04	-$6,615.94 -$1,954.77	$2,422.33
2338	November 13, 2012	$2,259.37	-	$2,259.37
2627	July 22, 2013	$4,505.88	-$4,055.29	$450.59
2617	July 23, 2013	$22,995.50	-$8,924.77 -$12,663.66	$1,407.07
2625	July 26, 2013	$2,485.58	-$2,144.92 -$238.32	$102.34
2626	July 26, 2013	$6,681.13	-$6,013.01 -$668.11	$0.01
2628	July 26, 2013	$1,548.99	-$1,394.09	$154.90
2631	July 30, 2013	$13,828.38	-$7,624.47	$6,203.91
2650	August 26, 2013	$9,955.00	-	$9,944.00
2651	August 26, 2013	$6,681.13	-	$6,681.13
2675	August 30, 2013	$2,048.71	-	$2,048.71
2684	August 30, 2013	$2,138.46	-	$2,138.46
2662	August 31, 2013	$5,282.75	-	$5,282.75
2663	August 31, 2013	$20,820.25	-	$20,820.25
2664	August 31, 2013	$20,354.13	-	$20,354.13
2677	September 10, 2013	$5,282.75	-	$5,282.75
2679	September 10, 2013	$7,147.25	-	$7,147.25
2687	September 12, 2013	$1,081.41	-	$1,081.41
2689	September 12, 2013	$2,006.95	-	$2,006.95
2701	September 23, 2013	$2,113.99	-	$2,113.99
2702	September 23, 2013	$8,545.63	-	$8,545.63
2712	October 05, 2013	$1,243.00	-	$1,243.00
2716	October 14, 2013	$2,092.55	-	$2,092.55
2721	October 17, 2013	$19,732.63	-	$19,732.63
			TOTAL:	**$129,516.11**

IN THE MATTER OF A PLAN OF COMPROMISE OF ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Court File No. CV-13-10362-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

STATEMENT OF CLAIM

GIBSON&BARNES LLP
119 Spadina Avenue, Suite 801
Toronto, Ontario M5V 2L1

Michael Mazzuca (LSUC 56283V)
Tel: 416-597-1500
Fax: 416-597-3299
E-mail: mmazzuca@gibsonandbarnes.ca

Lawyer for the Plaintiff, Argyle Hardwood & Flooring Supplies Ltd.

IN THE MATTER OF A PLAN OF COMPROMISE OF ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Court File No. CV-13-10362-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

ORDER

GIBSON&BARNES LLP
119 Spadina Avenue, Suite 801
Toronto, Ontario M5V 2L1

Michael Mazzuca (LSUC 56283V)
Tel: 416-597-1500
Fax: 416-597-3299
E-mail: mmazzuca@gibsonandbarnes.ca

Lawyer for Argyle Hardwood & Flooring Supplies Ltd.