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No. _____

VANCOUVER
REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DUSTIN FRANK RENZ, DAVID CUMBY and ANDREW TODD WILSON

on behalf of themselves and the Class Members

(together, the “**Plaintiffs**”)

AND:

**GREGORY JOSEPH MARTEL,
MY MORTGAGE AUCTION CORP., dba, SHOP YOUR OWN MORTGAGE
INC.,**

ROYAL BANK OF CANADA,

THE BRITISH COLUMBIA FINANCIAL SERVICES AUTHORITY

(together, the “**Defendants**”)

NOTICE OF CIVIL CLAIM

This Action is a Proposed Class Proceeding

The Plaintiff brings this action pursuant to the *Class Proceedings Act*, R.S.B.C. 1996, c.
50.

CLAIM OF THE PLAINTIFF

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to Civil Claim described below, and
- (b) serve a copy of the filed response to Civil Claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to Civil Claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to Civil Claim described below, and
- (b) serve a copy of the filed response to Civil Claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to Civil Claim within the time for response to Civil Claim described below.

Time for response to Civil Claim

A response to Civil Claim must be filed by the Defendants and served on the plaintiff

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of Civil Claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of Civil Claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of Civil Claim was served on you, or
- (d) if the time for response to Civil Claim has been set by order of the court, within that time.

PART 1: STATEMENT OF FACTS

The Parties:

The Plaintiffs

1. The Plaintiff, Dustin Frank Renz ("**Renz**"), is a military police officer residing in Colwood, British Columbia, with an address for service at c/o 400 – 1681 Chestnut Street, Vancouver, British Columbia, V6J 4M6.
2. The Plaintiff, David Cumby ("**Cumby**"), is a self-employed entrepreneur residing in Edmonton, Alberta, with an address for service at c/o 400 – 1681 Chestnut Street, Vancouver, British Columbia, V6J 4M6.
3. The Plaintiff, Andy Todd Wilson ("**Wilson**"), is a building maintenance contractor residing in Victoria, British Columbia, with an address for service at c/o 400 – 1681 Chestnut Street, Vancouver, British Columbia, V6J 4M6.
4. The Plaintiffs, Renz, Cumby, and Wilson, are collectively referred to herein as the ("**Plaintiffs.**")

The Ponzi Scheme Defendants

5. The Defendant, My Mortgage Auction Corp., doing business as Shop Your Own Mortgage ("**MMAC**"), is a company incorporated under the laws of British Columbia. At all material times, MMAC was registered as a mortgage broker with the British Columbia Financial Services Authority ("**BCFSA**") and operated under that regulatory framework in the business of promoting and soliciting mortgage investment opportunities from the public.
6. The Defendant, Gregory Joseph Martel ("**Martel**"), acted as a sub-mortgage broker under MMAC's license and was the sole owner and director of MMAC. His current address is unknown to the Plaintiffs. He was last known to be residing in Dubai, United Arab Emirates.
7. On May 4, 2023, the Supreme Court of British Columbia issued a Receivership Order appointing PricewaterhouseCoopers Inc. ("**PwC**") as Receiver of MMAC.
8. Subsequently, on June 6, 2023, MMAC was adjudged bankrupt pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3. On August 31, 2023, PwC was appointed as trustee in bankruptcy of the estate of Martel personally, and on September 11, 2023, PwC was appointed as Trustee in Bankruptcy of the consolidated estate of MMAC and Martel (the "**Consolidated Estate**").

The Royal Bank of Canada:

9. The defendant, the Royal Bank of Canada (“RBC”) is a federally regulated financial institution incorporated and operating under the *Bank Act*, S.C. 1991, c. 46. RBC maintains a registered head office in British Columbia at 1055 West Georgia Street, Vancouver, BC V6E 3P3, and carries on business throughout the province.
10. At all material times, RBC provided banking services to Gregory Martel and his affiliated entities and is alleged to have processed the majority of investor deposits and transfers associated with the fraudulent investment scheme described herein.
11. As a reporting entity under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17 (“PCMLTFA”), RBC was subject to statutory obligations to verify client identities, monitor account activity, and report suspicious transactions. The Plaintiffs allege that RBC failed to meet these obligations in relation to Martel and his entities—a failure which enabled the scheme to operate undetected for years. Further particulars of RBC’s role and regulatory breaches are set out in the sections that follow.

The British Columbia Financial Services Authority (the “BCFSA”)

12. The British Columbia Financial Services Authority (“BCFSA”) is the provincial regulator responsible for overseeing financial services in British Columbia, with offices located at 600 - 750 West Pender Street, Vancouver, BC V6C 2T8
13. Established in 2019 under the *Financial Services Authority Act*, S.B.C. 2019, c. 14, BCFSA assumed the functions of the former Financial Institutions Commission (FICOM). Its mandate includes regulating mortgage brokers, credit unions, trust companies, and other provincially licensed financial service providers. BCFSA is responsible for administering the *Mortgage Brokers Act*, R.S.B.C. 1996, c. 313, including the licensing, supervision, and investigation of mortgage brokers.
14. At all material times, Gregory Martel and MMAC were licensed under this regime and subject to BCFSA’s regulatory authority. The Plaintiffs allege that BCFSA received multiple complaints concerning Martel and his affiliated entities, but failed to take adequate steps to investigate or intervene, thereby allowing the fraudulent scheme to continue unchecked.

The Class:

15. The Plaintiffs seek to represent a class of persons (the “Class Members”) consisting

of:

“All persons who suffered financial loss as a result of fraudulent activities conducted through accounts or services provided by the Defendants during the period from January 1, 2020, to May 4, 2023, excluding any persons who received payments from My Mortgage Auction Corp. or Gregory Joseph Martel in excess of their original investment (“Net Winners”) and who are subject to recovery proceedings initiated by PricewaterhouseCoopers Inc., in its capacity as Trustee in Bankruptcy of the Consolidated Estate of My Mortgage Auction Corp. and Gregory Joseph Martel.”

Overview of the Proposed Class Action:

16. This proposed class action arises from a nationwide Ponzi scheme operated by Gregory Martel through My Mortgage Auction Corp. (“MMAC”), which raised over \$300 million from more than 1,800 investors across Canada under the guise of short-term bridge loan investments.
17. On May 4, 2023, the Supreme Court of British Columbia appointed PricewaterhouseCoopers Inc. (“PwC”) as Receiver of MMAC. PwC was subsequently appointed as Trustee in Bankruptcy following MMAC’s insolvency and the collapse of the scheme.
18. In May 2024, after analyzing over 65,000 transactions, PwC confirmed that no legitimate bridge loans were ever made. Instead, Martel operated a classic Ponzi scheme: new investor funds were used to pay earlier investors, while millions were diverted to failed ventures and Martel’s personal expenditures.
19. PwC’s forensic findings revealed the following key facts:
 - Over \$301 million was invested, with \$210 million repaid using incoming funds;
 - \$91 million was lost through options trading, a failed car-share business, and Martel’s personal expenditures;
 - MMAC was insolvent from inception and collapsed with over \$316 million in outstanding claims;

1,229 investors suffered net losses (“Losers”), while 480 investors were net winners (“Winners”), subject to potential clawback.

20. Each of the Plaintiffs invested in the Scheme and incurred losses, receiving back less than the total amount they originally invested. Accordingly, they are classified as “Net Losers” pursuant to PwC’s Funds Flow Analysis.
21. Each Plaintiff was introduced to MMAC in 2022 and 2023 by associates. They received emails, promotional materials, and communications from MMAC describing the investment process, and were provided with the following representations (the “**MMAC Representations**”):
 - That MMAC had been in business for over 15 years brokering mortgage loans;
 - That MMAC pooled investor funds to make secured loans to developers to assist with refinancing or project completion;
 - That investors would be protected by loans secured at no more than a 25% loan-to-value (“LTV”) ratio;
 - That MMAC would obtain a security interest over the collateral; and,
 - That investors would earn interest between 9% and 14%, with loan maturities of four months or less.
22. Relying on the MMAC Representations, each Plaintiff agreed to invest in MMAC through promissory notes.
23. After agreeing to invest, the Plaintiffs were directed to an online Investment Portal managed by MMAC, which displayed available investment opportunities.
24. Upon selecting an investment opportunity, MMAC provided each Plaintiff with a subscription agreement, commitment agreement, investment information sheet, and wire instructions directing them to deposit funds into MMAC’s account at the Royal Bank of Canada branch located at 3541 Blanshard Street, Victoria, British Columbia (the “**RBC Branch**”).
25. Each Plaintiff subsequently deposited investment funds to the RBC Branch, as instructed by MMAC.
26. The Plaintiffs seek to recover losses on behalf of the 1,229 Net Losers identified by PwC, meaning those individuals who received back less than they originally invested.
27. The Plaintiffs allege that the Royal Bank of Canada and the British Columbia Financial Services Authority (“BCFSA”) failed to detect or prevent the misconduct despite having clear regulatory duties. These failures—by the bank responsible for processing the majority of investor funds, and the regulator responsible for supervising the mortgage broker—enabled the Scheme to persist unchecked for years, resulting in massive and avoidable investor losses.

Liability of Martel and MMAC

28. At all material times, MMAC was a licensed mortgage broker under the *Mortgage Brokers Act*, R.S.B.C. 1996, c. 313, and subject to the supervision of the British Columbia Financial Services Authority (“BCFSA”) and Gregory Joseph Martel (“Martel”) operated as a sub-broker under MMAC’s license.
29. MMAC and Martel held this license until 2023, during which Martel promoted and solicited investments from the Plaintiffs and Class Members under the pretense of legitimate mortgage-backed “bridge loan” opportunities.
30. As a licensed broker, MMAC and Martel owed statutory and common law duties to investors, including duties of honesty, disclosure, competence, and to act in the best interests of his clients.
31. Martel knew or ought to have known that the investments he promoted were unsuitable, materially misrepresented, and carried undisclosed risks. The Plaintiffs and Class Members relied on Martel’s representations and his licensure status in deciding to invest.
32. Martel operated MMAC, as the sole director and as his alter ego. These entities were used to facilitate the fraudulent scheme and shield Martel from personal liability.
33. PwC, acting as Court-appointed Receiver and Trustee, determined that MMAC operated as a Ponzi scheme from its inception. No legitimate bridge loans were ever made. Investor funds were instead used to repay earlier investors, finance personal expenditures, and support unrelated ventures.
34. As a direct result of Martel’s breaches of statutory, fiduciary, and common law duties, and his misuse of corporate entities, the Plaintiffs and Class Members suffered significant financial losses.

Liability of Royal Bank of Canada (RBC)

35. The Royal Bank of Canada (“RBC”) is a federally regulated financial institution incorporated under the *Bank Act*, S.C. 1991, c. 46. At all material times, RBC provided banking services to Martel and his affiliated companies and processed the majority of investor deposits and transfers related to the Scheme.

36. As a reporting entity under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (“PCMLTFA”), RBC was required to establish internal controls, verify client identities (KYC), monitor account activity, and report suspicious transactions.
37. RBC failed to detect or act upon multiple red flags, including:
- High-volume investor deposits inconsistent with a mortgage brokerage business;
 - Circular fund flows characteristic of round-tripping; and,
 - Account activity inconsistent with the provision of legitimate mortgage lending services.
38. RBC owed a duty of care to the Plaintiffs and Class Members to act with reasonable diligence in preventing its accounts from being used to facilitate fraud. RBC’s failure to fulfill its legal obligations enabled the Scheme to operate undetected, causing significant financial losses to the Plaintiffs and Class Members.

Liability of the British Columbia Financial Services Authority (BCFSA)

39. BCFSA is the provincial regulator responsible for licensing, supervising, and enforcing compliance among mortgage brokers in British Columbia.
40. In or around 2017 and again in 2021, BCFSA (then operating as the Financial Institutions Commission) received formal complaints regarding Martel and SYOM. These complaints raised concerns which, if properly investigated, could have exposed the ongoing fraudulent scheme.
41. BCFSA conducted superficial investigations and concluded—erroneously—that there was no breach of the *Mortgage Brokers Act*. The complaints were referred to the British Columbia Securities Commission without any effective regulatory intervention.
42. The Plaintiffs plead that BCFSA failed to meet the standard of care expected of a reasonable regulator exercising operational oversight. BCFSA’s failure to investigate and act upon known red flags materially contributed to the prolonged operation of the Scheme and to the losses suffered by Class Members.

PART 2: RELIEF SOUGHT:

The Plaintiffs, on behalf of themselves and all Class Members, claim the following relief:

1. An order certifying this action as a class proceeding pursuant to the *Class Proceedings Act*, R.S.B.C. 1996, c. 50;

2. A declaration that the Defendants owed and breached duties of care owed to the Plaintiffs and Class Members;
3. General damages for economic loss arising from negligence, breach of duty, or knowing assistance;
4. Special damages for out-of-pocket losses and related financial harm;
5. In the alternative, restitution or disgorgement of benefits wrongfully retained by the Defendants as a result of unjust enrichment;
6. Pre-judgment and post-judgment interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79;
7. Costs of this proceeding, including certification costs;
8. Such further and other relief as this Honourable Court may deem just.

PART 3: LEGAL BASIS:

The Plaintiff pleads the following causes of action:

Negligence:

1. The Defendants, Royal Bank of Canada (“RBC”) and the British Columbia Financial Services Authority (“BCFSA”), owed a duty of care to the Plaintiffs and Class Members to act reasonably, prudently, and in accordance with their statutory, regulatory, and common law obligations.
2. RBC’s obligations arose under the Bank Act, R.S.C. 1985, c. B-1, and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17 (“PCMLTFA”), which required internal controls, proper client due diligence (KYC), transaction monitoring, and reporting of suspicious activity.
3. BCFSA, as regulator of mortgage brokers under the *Mortgage Brokers Act*, R.S.B.C. 1996, c. 313, and the *Financial Services Authority Act*, S.B.C. 2019, c. 14, was required to supervise licensed mortgage brokers, investigate complaints, and intervene where necessary to protect investors.
4. It was reasonably foreseeable that failure to fulfill these obligations would result in financial harm to the investing public, including the Plaintiffs and Class Members, who relied on RBC to serve as a gatekeeper in the financial system and on BCFSA to supervise Martel in his capacity as a licensed mortgage broker.

5. The Defendants breached their duties by failing to implement or enforce effective systems to detect, prevent, or act on numerous indicia of fraud, despite having access to transaction data, investor complaints, and licensing authority.
6. These breaches directly enabled the MMAC scheme to operate over several years, causing significant losses to the Class.

Knowing Assistance, Willful Blindness, and AML Failures:

7. RBC was not a passive conduit. It maintained accounts used by Martel and MMAC to solicit, pool, and redistribute investor funds—activity inconsistent with legitimate mortgage brokerage services. RBC failed to detect or respond to repeated red flags.
8. These included:
 - Round-tripping of investor funds;
 - High-volume deposits and withdrawals lacking economic rationale;
 - No evidence of disbursements to borrowers;
 - A commercial profile incompatible with a licensed broker’s business;
 - Failure to conduct enhanced due diligence or escalate internally.
9. The Plaintiffs plead that this conduct amounted to willful blindness, reckless disregard, or knowing assistance in breach of trust. RBC prioritized its commercial relationship over its legal obligations, and in doing so, enabled the scheme to flourish.
10. In *Jer v. Samji*, 2013 BCSC 1671, the British Columbia Supreme Court recognized that financial institutions may be liable not only in negligence but also for knowing assistance in breach of trust, where they process transactions bearing clear indicia of fraud and fail to investigate or intervene. In that case, banks were alleged to have facilitated a Ponzi scheme by negligently and recklessly processing trust funds through general accounts despite multiple red flags. Similarly, in the present case, RBC failed to apply basic Know Your Client (KYC) and Anti-Money Laundering (AML) protocols, and allowed MMAC’s accounts to be used to solicit, pool, and misappropriate investor funds. RBC’s omissions and failures materially contributed to the operation and concealment of the fraudulent scheme.

Duty of Care:

11. In *Hedley Byrne & Co. Ltd. v. Heller & Partners Ltd.*, [1964] A.C. 465, the House of Lords confirmed that a duty of care may arise in cases of “pure economic” loss where

reliance is foreseeable. The Class Members relied on RBC to responsibly monitor its financial relationships and on BCFSa to enforce licensing safeguards. That reliance grounds a duty.

12. In *Livent Inc. v. Deloitte & Touche*, 2017 SCC 63, the Supreme Court affirmed that proximity and foreseeability support a duty of care where the defendant should reasonably expect that its conduct would be relied upon by the plaintiff. The Supreme Court of Canada held that auditors can owe a duty of care to third parties when it is reasonably foreseeable that their reports will be relied upon, and there is sufficient proximity between the parties. RBC and BCFSa were both in such a position here.
13. *Cooper v. Hobart*, 2001 SCC 79, recognized that regulators may owe duties of care where their actions or inactions affect a specific and foreseeable group. This case set out the two-stage Anns/Cooper test for establishing a duty of care, focusing on proximity and foreseeability—in this case, retail investors relying on BCFSa’s oversight of Martel’s licensure and conduct.

Standard of Care:

14. In *Jer v. Samji*, 2013 BCSC 1671, the British Columbia Supreme Court held that financial institutions may be liable for negligence and knowing assistance in breach of trust when they process transactions bearing clear indicia of fraud and fail to act upon obvious red flags. In that case, banks were alleged to have facilitated a Ponzi scheme by negligently processing trust funds through general accounts, despite multiple red flags. Similarly, in the present case, RBC failed to apply basic Know Your Client (KYC) and Anti-Money Laundering (AML) protocols, allowing MMAC’s accounts to be used to solicit, pool, and distribute investor funds in furtherance of a fraudulent scheme.

Systemic Breach of Duty – Class Proceedings Context:

15. In *Cloud v. Canada (Attorney General)*, 2004 CanLII 45444 (ONCA), the Ontario Court of Appeal held that systemic breaches of duty—rooted in common policies and omissions—can support certification. Here, the systemic inaction by RBC and BCFSa forms a central and certifiable common issue.
16. The Plaintiffs plead that these systemic failures created a uniform risk of harm across the class, supporting both liability and the preferability of class-wide resolution.

Breach of Statutory Duty (pleaded in the alternative):

17. In *Kamloops (City) v. Nielsen*, [1984] 2 S.C.R. 2, the Court recognized that regulators undertaking operational tasks may owe duties of care to those foreseeably affected. BCFSa undertook operational investigations and failed to follow through.

18. *Nelson (City) v. Marchi*, 2021 SCC 41, reaffirmed that public authorities can be held liable where their conduct is operational rather than policy-based. The Plaintiffs plead that BCFSA's superficial investigations and failure to intervene were operational errors giving rise to liability.

Unjust Enrichment (pleaded in the alternative):

19. The Plaintiffs plead, in the alternative, that RBC was unjustly enriched by the float income, transaction fees, and other commercial benefits derived from handling over \$220 million in investor funds and processing more than 50,000 transactions associated with the Scheme.
20. These benefits were derived directly from funds contributed by Class Members, who suffered corresponding financial losses. There was no juristic reason for RBC to retain these gains, as articulated by the Supreme Court of Canada in *Pettkus v. Becker*, [1980] 2 S.C.R. 834, which established that unjust enrichment requires proof of: (i) an enrichment of the defendant, (ii) a corresponding deprivation of the plaintiff, and (iii) the absence of a juristic reason for the enrichment.

Plaintiffs address for service:

ELLIS BUSINESS LAWYERS
400 – 1681 Chestnut Street
Vancouver, B.C.
V6C 2J1
Attention: Meldon Ellis

Fax number address for service (if any):

N/A

E-mail address for service (if any):

meldon@ellislawyers.com

Place of trial:

Vancouver, British Columbia

The address of the registry is:

800 Smithe Street
Vancouver, B.C.
V6Z 2E1

Date: April 25, 2025

Meldon Ellis

Signature of lawyer for Plaintiffs
MELDON ELLIS

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial or prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

serve the list on all parties of record.