

COURT FILE NUMBER

1401 - 12431

Clerk's Stamp

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

PLAINTIFF

ACCESS MORTGAGE CORPORATION (2004) LIMITED

DEFENDANT

ARRES CAPITAL INC.

DOCUMENT

THIRD REPORT OF THE RECEIVER

AUGUST 17, 2018

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

RECEIVER

ALVAREZ & MARSAL CANADA INC.

Bow Valley Square IV

Suite 1110, 250 – 6th Avenue SW

Calgary, Alberta T2P 3H7

Attention: Orest Konowalchuk

Telephone: (403) 538-4736

Email: okonowalchuk@alvarezandmarsal.com

COUNSEL

MCCARTHY TETRAULT LLP

Suite 4000, 421 – 7th Avenue SW

Calgary, Alberta T2P 4K9

Attention: Sean F. Collins/Walker W. MacLeod/Pantelis

Kyriakakis

Phone: (403) 260-3531 / 3710 / 3613

Fax: (403) 260-3501

Email: scollins@mccarthy.ca / wmacleod@mccarthy.ca /

pkiriakakis@mccarthy.ca



ALVAREZ & MARSAL

TABLE OF CONTENTS OF THE THIRD REPORT OF THE RECEIVER

INTRODUCTION	3
TERMS OF REFERENCE.....	4
BACKGROUND.....	4
ADDITIONAL CLAIMS INFORMATION	5

LISTING OF APPENDICES TO THE THIRD REPORT OF THE RECEIVER

APPENDIX A	9
APPENDIX B	12
APPENDIX C	19

INTRODUCTION

1. On July 26, 2017, the Court of Queen's Bench of Alberta (the "**Court**") entered an Order (the "**Receivership Order**") whereby Alvarez & Marsal Canada Inc. ("**A&M**") was appointed receiver (the "**Receiver**") of Arres Capital Inc. ("**Arres**", the "**Company**" or the "**Debtor**") pursuant to Part 9 of *Civil Enforcement Act* ("**CEA**"), R.S.A. 2000, c. C-15. The effective date of the Receivership Order (date of pronouncement) was February 13, 2015 (the "**Receivership Proceedings**").
2. On July 26, 2017, the Court also granted an Order (the "**Bankruptcy Order**") to adjudge Arres into bankruptcy and A&M was appointed as trustee (the "**Trustee**") of the estate of the Arres, without security. On August 4, 2017, counsel to Arres filed a civil notice of appeal to the Court of Appeal of Alberta to have the Bankruptcy Order set aside and otherwise dismissed. On November 14, 2017, Arres was ordered to post security for costs of its appeal. Arres failed to post such costs and its appeal was dismissed. Accordingly, Arres is also a bankrupt.
3. On October 23, 2017, the Receiver sought advice and direction from this Honourable Court to amend the Receivership Order. The Receiver informed the Court that it did not believe it could properly administer the estate of the Debtor on the current terms of the Receivership Order. As a result, an amended and restated order to the Receivership Order (the "**Amended Receivership Order**") was granted by Madame Justice B.E.C Romaine that, amongst other things, amended the existing Receivership Order to that of the Alberta Model Receivership Order.
4. The purpose of this third report of the Receiver (the "**Third Report**" or "**this Report**") is to provide this Honourable Court with information in respect of the Litigation Schedule Agreement as discussed further below.

5. Capitalized words or terms not defined or ascribed a meaning in the Third Report are as defined or ascribed a meaning in the Receivership Order, Amended Receivership Order, the Graybriar Claims Process Order and / or the filed reports of the Receiver.
6. All references to dollars are in Canadian currency unless otherwise noted.

TERMS OF REFERENCE

7. In preparing this Third Report, the Receiver has relied primarily upon stakeholders involved in various Arres' projects, as well as certain financial information contained in Arres' books and records. As discussed further herein, the Receiver has encountered some difficulties in this regard due to the incomplete nature of Arres' books and records. The Receiver has not performed an audit, review or other verification of such information.

BACKGROUND

8. Arres is a corporation registered to carry on business in the Province of Alberta and is owned 100% by Mr. Wesley Serra. Arres is also registered to carry on business in the Province of British Columbia and operates under the name Western Arres Capital Inc. (collectively referred to as "**Arres**"). Western Arres Capital Inc. is an assumed name of Arres Capital Inc. for the purposes of section 26 of the *Business Corporations Act* (British Columbia) and is not a separate legal entity.
9. Arres is a full service mortgage brokerage firm specializing in unconventional financing solutions, which would include but is not limited to all types of residential and commercial, first and second mortgages, builders mortgages, debt consolidations and interim financing. As part of its business, Arres arranges mortgage loans with borrowers, raises the mortgage funds through a group of private investors and then administers the mortgages (as trustee) on behalf of the investors.

10. Arres acts as a trustee for certain projects in British Columbia and also has interests in various other projects in Alberta, but is currently not registered as a mortgage broker in either Alberta or British Columbia.
11. Further background to Arres and its operations is contained in the materials filed in support of and relating to the Receivership Order. These documents and other relevant information have been posted by the Receiver on its website at: www.alvarezandmarsal.com/arrescapital (the “**Receiver’s Website**”).

ADDITIONAL CLAIMS INFORMATION

Overview

12. The Receiver, Terrapin Mortgage Investment Corporation (“**Terrapin**”) and Mr. Wesley Serra, Ms. Staci Serra and 875892 Alberta Ltd. (collectively, the “**Related Parties**”) entered into a scheduling agreement for the purposes of determining Claims that are being advanced by Terrapin and the Related Parties to the Graybriar Funds (the “**Litigation Schedule Agreement**”). The Receiver is submitting this Report in accordance with the Litigation Schedule Agreement and for the purposes of providing certain relevant facts and information to the Court.
13. As discussed in the First Report (and, in particular, at paragraphs 27 to 31 thereof) and in the Second Report (in particular, paragraphs 16 to 23 thereof), the Debtor’s records are incomplete and not up to date. This has led to various challenges in locating records and in verifying alleged Claims, including the quantification of Claims.

The Trust Agreements

14. The Debtor and approximately 76 different investors (the “**Graybriar Investors**”) in the “Graybriar Mortgages” entered into trust agreements pertaining to the mortgage investment made by the Graybriar Investors (the “**Trust Agreements**”). The Receiver understands that all of the Trust Agreements were prepared by the Debtor and / or its legal counsel.

15. The Receiver has reviewed the amount of \$2,537,000 identified as being advanced by or otherwise owing by the Related Parties to the Debtor at paragraph 37 of the Affidavit of Mr. Serra. The Receiver has confirmed that the sum of \$97,500 was advanced by Ms. Serra to the Debtor on or about September 30, 2010 as discussed in the Second Report. Other than this amount, the Receiver has been unable to substantiate any of the other amounts reportedly advanced by the related parties to the debtor based on its review of Arres' financial records (ie. Balance sheet and financial statements). In addition, the Receiver has been unable to identify the recording of the respective \$2.35M liability of the Debtor to any of the Related Parties in the Arres' accounting records.
16. The Receiver has reviewed the amount of \$2,079,747 identified as owing to Arres, and subsequently assigned to the Related Parties, at paragraph 35 of the Affidavit of Mr. Serra. The Receiver advises as follows in respect of the amounts claimed:
 - a) \$425,771 Renewal Fee: The Receiver understands that this amount is claimed based on the Renewal Agreement between the Debtor and Graybriar attached as Exhibit "J" to the Affidavit of Mr. Serra and includes accrued interest. The Receiver has not been able to identify the recording of this amount as an account receivable in Arres' financial records;
 - b) \$484,425 Administrative Costs: The Receiver has been unable to locate any records to substantiate or verify the amount claimed as owing to Arres. The Receiver has not been able to identify the recording of this amount as an account receivable in Arres' financial records;

- c) \$735,512 Administrative Spread: The Trust Agreements that have been tendered into evidence do not appear to identify a spread rate that can be charged by the Debtor and the Receiver has therefore been unable to substantiate or verify the amount claimed as owing to Arres. The Receiver has not been able to identify the recording of this amount as an account receivable in Arres' financial records; and
- d) \$432,078 Home Warranty Advance: The Receiver has been unable to locate any records to suggest that this amount was advanced or paid by the Debtor to any Person. The Receiver has not been able to identify the recording of this amount as an account receivable in Arres' financial records.

The Sale to Plaintiff Application

- 17. Duncan and Craig LLP previously acted for the Debtor in various matters. In October 2013, counsel for certain investors in the Graybriar Mortgage corresponded with Duncan and Craig LLP in respect of claims advanced by investors. Copies of that correspondence are marked as Appendix "A" to this Report.
- 18. Duncan and Craig LLP acted for the Debtor in obtaining the Sale to Plaintiff Order on February 3, 2014. The Sale to Plaintiff Order was obtained by the Debtor without notice to investors who had previously advised Duncan and Craig LLP of claims they were making against the Debtor in respect of the Graybriar Mortgage. A copy of the transcript in respect of the Sale to Plaintiff Order is marked as Appendix "B" to this Report.

The Related Party Litigation

- 19. Paragraph 3(j) of the Amended Receivership Order authorizes and empowers the Receiver to initiate and prosecute proceedings in respect of the Debtor and the Related Parties. On November 7, 2017, the Receiver issued a Statement of Claim

against the Related Parties. A copy of the Statement of Claim is marked as Appendix "C" to this Report.

All of which is respectfully submitted this 17th day of August, 2018.

**ALVAREZ & MARSAL CANADA INC.,
in its capacity as Receiver of Arres Capital Inc. and not in
its personal or corporate capacity**

A handwritten signature in black ink, appearing to read 'Orest Konowalchuk', with a stylized flourish at the end.

Orest Konowalchuk, CPA, CA, CIRP, LIT
Senior Vice-President

Appendix A

SUGIMOTO & COMPANY

BARRISTERS & SOLICITORS

SUITE 204, WEST ATRIUM
2635 - 37 AVENUE N.E.
CALGARY, ALBERTA, T1Y 5Z6
TELEPHONE: (403) 291-4650
FAX: (403) 291-4099

LORAN V. HALYN
Direct Line: (403) 219-4213
Email: lhalyn@sugimotolaw.com

OUR FILE NO. 15,146 LVH

October 23, 2013

DUNCAN & CRAIG LLP
Lawyers & Mediators
2800 Scotia Place
10060 Jasper Avenue
Edmonton, Alberta T5J 3V9

VIA FAX (3 PAGES): 780-428-9683

Attention: Mr. Douglas Gahn, Q.C.

Dear Sir:

**Re: Trust Agreement Graybriar Greens Inc.
Arres Capital Inc. and Richcrooks Enterprises (2000) Ltd. / Richcrooks Holdings Ltd.**

You may recall that we wrote to you on September 12, 2003 regarding the above-referenced matter. We have now been retained by many other Graybriar investors to advance claims against Arres Capital Inc. ("Arres") alleging mismanagement and misappropriation of funds received as trustee associated with the syndicated loan and mortgage granted to Graybriar.

We had sought your advice regarding the timing of any pending sales of Graybriar condominium units and requested your firm hold in trust the net sale proceeds from any future sales of Graybriar condominium units. We later spoke by phone and you confirmed that your firm was not prepared to hold up the distribution to Arres of net sale proceeds deriving from the sale of any Graybriar condominium units without a court order to that effect.

It may interest you to learn that the Graybriar investors have now received written notice from Arres that it has taken and retained virtually all of the net sale proceeds from the recent sale of two Graybriar condominium units totalling \$481,829.23, claiming a mortgage renewal fee relating to the renewal of the Graybriar mortgage back in 2008. Arres' letter in this regard is enclosed.

This is a remarkable and disturbing development considering our understanding that the Graybriar mortgage had been foreclosed some time ago. As counsel for Arres in that foreclosure, we would appreciate your advice regarding the status of that foreclosure, particularly whether there has been a final order or judgment issued regarding the amount owing under the mortgage and if so, that you provide us with a filed copy of the same.

We are presently investigating what recourse the Graybriar investors may have regarding this substantial appropriation of funds by Arres so your very timely response is requested.

Yours truly,
SUGIMOTO & COMPANY
Per:

LORAN V. HALYN
encl.



Our File: 20-166013

Your File: 15,146LVH

Lawyer:

Telephone:

Email:

Fax:

Douglas P. Gahn, QC

780.441.4304

dpgahn@dcllp.com

780.969.6370

October 29, 2013

Via Fax - 1.403.291.4099

Sugimoto & Company
Barristers and Solicitors
204, 2635 - 37 Avenue NE
Calgary, Alberta T1Y 5Z6

Attention: Loran V. Halyn

Dear Sir:

**Re: Arres Capital Inc. v.
Richcrooks Enterprises (2000) Ltd. / Richcrooks Holdings Ltd.**

I acknowledge receipt of your correspondence dated October 23, 2013.

I can make no comment on the application by Arres Capital Inc. of any monies received towards outstanding fees. I have no information which might indicate that the application of those funds is proper, or not.

You have previously served upon our office a Garnishee Summons. In accordance with the requirements of that Garnishee, we have provided a written response to the Clerk of the Court and have provided to you a copy of that response. If you review that response, you will note that it indicates the mortgage registered in favour of Arres Capital Inc. remains registered on those condominium units listed therein. As a result, and in answer to your question, a Final Order or judgment was not issued. There is in place an Order allowing for the sale of the remaining condominium units and the distribution of those sale proceeds.

Yours truly,

DUNCAN CRAIG LLP

Per:

DOUGLAS P. GAHN, QC*

*Denotes Professional Corporation

DPG/dn

DCLLP-1269054-v1-131029_sugimoto.DOCX

www.dcllp.com

780.428.6036 • 1.800.792.9409 • Fax: 780.428.9683

2800 Scotia Place, 10060 Jasper Avenue, Edmonton, Alberta T5J 3V9

Duncan Craig LLP

Appendix B

Action No.: 0903 17685
E-File No.: EVQ14ARRESCAPITAL
Appeal No.: _____

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE OF EDMONTON

BETWEEN:

ARRES CAPITAL INC.

Plaintiff

and

GRAYBRIAR LAND COMPANY LTD. and GRAYBRIAR GREENS INC.

Defendants

P R O C E E D I N G S

Edmonton, Alberta
February 3, 2014

Transcript Management Services, Edmonton
1000, 10123 99th Street
Edmonton, Alberta T5J-3H1
Phone: (780) 427-6181 Fax: (780) 422-2826

TABLE OF CONTENTS

Description	Page
February 3, 2014 Morning Session	1
Application by Ms. Willey (Order for Sale to Plaintiff)	1
Order (Granted)	1
Certificate of Record	3
Certificate of Transcript	4

1 Proceedings taken in the Court of Queen's Bench of Alberta, Law Courts, Edmonton, Alberta

2

3 February 3, 2014

Morning Session

4

5 Master Breitkreuz, Q.C.

Master in Chambers

6

7 A.L. Willey

For the Plaintiff

8 (No Appearance)

For the Defendants

9 S. Secord

Court Clerk

10

11

12 **Application by Ms. Willey (Order for Sale to Plaintiff)**

13

14 MS. WILLEY:

Good morning, Sir. Willey, first initial 'A',

15 with Duncan Craig LLP. I have two without notice matters for your consideration this
16 morning. The first, Sir, is in regards to a commercial foreclosure. The foreclosure was
17 heard in July, on July 6, 2010, pursuant to an order of Master Smart. He directed that the
18 title to this condominium be cleared and that all of the units were to be sold after the
19 receiver had built the project out. All the building -- all the units were to be sold through
20 the developer and as long as the price was higher than the schedule attached to the order
21 granted by Master Smart they may accept those without further application to the Court.

22

23 Sir, we have sold many of the units; however, as this has gone on for a significant period
24 of time our client, the plaintiff in this foreclosure action, are requesting an order for sale
25 to plaintiff on the remaining properties. The remaining properties they are offering to
26 purchase at higher than the list price in the order of Master Smart.

27

28 Sir, the only encumbrance on title since the title was cleared in 2010 was that of the
29 develop who we have spoke to their counsel and they advise that they take no position
30 today to our application. So, Sir, I am seeking an order for sale to plaintiff in this matter
31 and I'll pass up the form of order for your consideration. Sir, I also have the order of
32 Master Smart if you'd like to review same.

33

34 **Order (Granted)**

35

36 MASTER BREITKREUZ:

Thank you.

37

38 MS. WILLEY:

Thank you, Sir.

39

40

41

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

PROCEEDINGS CONCLUDED

1 Certificate of Record

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

I, Shelagh Secord, certify that this recording is the record made of the evidence in the proceedings in Court of Queen's Bench held in courtroom 213 at Edmonton, Alberta on the 3rd day of February, 2014, and that I was the court official in charge of the sound-recording machine during the proceedings.

1 Certificate of Transcript

2

3 I, Kathryn Fanter, certify that

4

5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the best
6 of my skill and ability and the foregoing pages are a complete and accurate transcript of
7 the contents of the record, and

8

9 (b) the Certificate of Record for these proceedings was included orally on the record and
10 is transcribed in this transcript.

11

12

13 Digitally Certified: 2014-06-05 16:57:50

14 Kathryn Fanter, Transcriber

15 Order No. 47514-14-1

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35 Pages: 6

36 Lines: 198

37 Characters: 3028

38

39 File Locator: 2a075e7aec3811e3940e0017a4770810

40 Digital Fingerprint: 6d0fcc8b66defbd9aaa77600e6b1a27f27e39abeb5bb803a1e91f84b95cead4

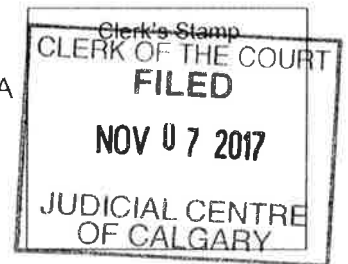
41

Wed Jun 4 16:33:21 2014

Detailed Transcript Statistics	
Order No. 47514-14-1	
Page Statistics	
Title Pages:	1
ToC Pages:	1
Transcript Pages:	4
Total Pages:	6
Line Statistics	
Title Page Lines:	52
ToC Lines:	5
Transcript Lines:	141
Total Lines:	198
Visible Character Count Statistics	
Title Page Characters:	551
ToC Characters:	132
Transcript Characters:	2345
Total Billable Characters:	3028
Multi-Take Adjustment: (-) Duplicated Title Page Characters	2477

Appendix C

COURT FILE NUMBER 1701- 14047
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF ARRES CAPITAL INC.
DEFENDANT 875892 ALBERTA LTD., WESLEY SERRA
and STACI SERRA



DOCUMENT STATEMENT OF CLAIM

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McCarthy Tétrault LLP
Suite 4000, 421 7th Avenue SW
Calgary AB T2P 4K9
Attention: Sean F. Collins / Walker W. MacLeod / Amelia Tritter
Telephone: 403-260-3531 / 3710 / 3613
Facsimile: 403-260-3501
Email: scollins@mccarthy.ca / wmacleod@mccarthy.ca / atritter@mccarthy.ca

NOTICE TO DEFENDANTS

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

STATEMENT OF FACTS RELIED UPON:

The Parties

1. The Plaintiff, Arres Capital Inc. ("**Arres**"), is a body corporate incorporated pursuant to the laws of the Province of Alberta.
2. The Defendant, 875892 Alberta Ltd. ("**875 Alberta**") is, to the best knowledge of the Plaintiff, a body corporate incorporated pursuant to the laws of the Province of Alberta.
3. The Defendant, Wesley Serra ("**Wes**"), is, to the best knowledge of the Plaintiff, an individual residing in the Province of Alberta.
4. The Defendant, Staci Serra ("**Staci**"), is, to the best knowledge of the Plaintiff, an individual residing in the Province of Alberta.

5. The Defendant Wes was, at all material times, the sole director and shareholder of Arres.
6. The Defendants Wes and Staci were, at all material times, related persons by marriage.
7. The Defendant 875 Alberta was, at all material times, wholly owned and controlled by Staci.
8. Pursuant to an amended and restated receivership order issued by the Court of Queen's Bench of Alberta on October 23, 2017 (the "**Receivership Order**"), Alvarez & Marsal Canada Inc. (the "**Receiver**") has been appointed as receiver of all of Arres' Exigible Property (as such term is defined in the Receivership Order). The Exigible Property includes, without limitation, any interest that Arres has in a cause of action. Pursuant to an paragraph 3(j) of the of the Receivership Order, the Receiver was granted exclusive authority to initiate proceedings on behalf of Arres and the Receiver has commenced this Action for the benefit of Arres and its other creditors.

The Transfers

9. In the period commencing in January 1, 2009 to and continuing through to July 2012, Wes caused Arres to make various transfers of accounts receivable due to Arres to Staci and to 875 Alberta (collectively, the "**Transfers**"). It is unknown whether Arres received appropriate consideration from either Staci or 875 Alberta for the Transfers.

Improper Conveyances

10. Arres states that Wes caused Arres to make the Transfers when Arres was in insolvent circumstances, unable to pay its debts in full or with knowledge that Arres was on the eve of insolvency and made with intent to defeat, hinder, delay or prejudice Arres' creditors. As a result thereof, the Transfers are void as against Arres' creditors who have been injured, delayed or prejudiced by the Transfers pursuant to section 1 of the *Fraudulent Preferences Act* (Alberta) (the "**FPA**").

Breach of Fiduciary Duty

11. Arres states that Wes had a duty, arising pursuant to section 122(1) of the *Business Corporations Act* (Alberta) (the "**ABCA**") and at common law, to act honestly, in good

faith with a view to the best interests of Arres and to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Arres states that Wes breached such duty by causing Arres to enter into the Transfers with persons who are related to him and that Arres has suffered damages as a result of such breach.

Breach of Trust

12. Arres states that the Defendants wrongfully caused the Transfers to be made by Arres without any consideration or, in the alternative, without adequate consideration, and have caused damages to Arres thereby. Arres further states that the Defendants have perpetrated a breach of trust and that each of Staci and 875 Alberta hold any monies received in respect of the Transfers in trust and for the benefit of Arres
13. In addition and in the alternative, Arres states that the Defendants, individually and collectively, knowingly assisted, with the knowledge of the wrongful conduct, in a breach of trust against Arres in effecting the Transfers.
14. In addition and in the alternative, Staci and 875 Alberta received any monies received in respect of the Transfers for their own use and benefit with the actual knowledge, wilful blindness to the obvious, without making reasonable inquiry or with knowledge of the circumstances that would reasonably cause inquiry into the nature of the monies received or a breach of trust.

Oppression

15. Arres states that, pursuant to section 239(b)(iv) of the ABCA, it is a proper person to make an application under Part 19 of the ABCA and that it therefore a complainant within the meaning of Part 19 of the ABCA.
16. Arres states that, in causing Arres to make the Transfers without consideration, Wes has effected a result that is oppressive, unfairly prejudicial and exhibited unfair disregard for the interests of Arres and its creditors.
17. Arres states that, in causing Arres to make the Transfers without consideration, Wes exercised his powers as director and officer of Arres in a manner that was oppressive, unfairly prejudicial or exhibited unfair disregard for the interests of Arres and its creditors.

18. Arres states that the conduct of Wes, as particularized herein, has caused Arres to suffer damages. The particulars of the damages suffered by Arres shall be proven at the Trial of this Action.

Unjust Enrichment

19. Arres states that, in causing the Transfers to be made without consideration, the Defendants were unjustly enriched, Arres was correspondingly deprived and there is no juristic reason for the enrichment or the corresponding deprivation. Arres is entitled, *inter alia*, to restitution on a *quantum meruit* basis of the value of the Transfers and the amount of all monies received by the Defendants arising from or relating to the Transfers.
20. Arres does not anticipate the length of this trial will exceed 25 days.
21. Arres proposes that the trial of this action shall be heard at the Court House, in the City of Calgary, in the Province of Alberta.

WHEREFORE THE PLAINTIFF CLAIMS AGAINST THE DEFENDANTS as follows:

- (a) A declaration that the Transfers are void pursuant to section 1 of the FPA;
- (b) A declaration that Arres has a constructive trust over all monies received by the Defendants arising or resulting from the Transfers;
- (c) Judgment against each of the Defendants, on a joint and several basis, in such amount as may be proven at the trial of this Action;
- (d) An award of damages against each of the Defendants, on a joint and several basis, in such amount as may be proven at the trial of this Action;
- (e) A declaration that Wes has breached section 122(1) of the ABCA;
- (f) A declaration that Wes has acted in a manner that is oppressive, unfairly prejudicial and exhibited unfair disregard for the interests of Arres;

- (g) Interest on all amounts declared owing by each of the Defendants in an amount determined by this Honourable Court or, in the alternative, pursuant to the *Judgment Interest Act* (Alberta);
- (h) Costs of this Action on such basis as this Honourable Court may deem appropriate in the circumstances in the exercise of its discretion; and
- (i) Such other relief as this Honourable Court deems just in the circumstances.

NOTICE TO THE DEFENDANT

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND by serving your statement of defence or a demand for notice on the plaintiff's address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff against you.