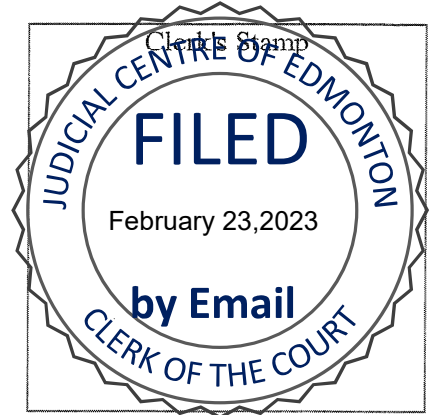


FORM 49
[RULE 13.19]

COURT FILE NO. 1503 16803
COURT COURT OF KING'S BENCH
OF ALBERTA
JUDICIAL CENTRE EDMONTON



PLAINTIFF/APPLICANT WADE WOOD
DEFENDANTS/RESPONDENTS GERALD BEVAN, SPHERICAL CAPTIAL INC., AND
SPHERICAL BOND LTD.

DOCUMENT **AFFIDAVIT**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
BENNETT JONES LLP
Barristers and Solicitors
3200, 10020 100 Street
Edmonton, Alberta T5J 0N3

Attention: Mathieu J. LaFleche
Telephone No.: 780-917-5249
Fax No.: 780-421-7951
Client File No.: 74124.1

AFFIDAVIT OF WADE WOOD

Affirmed on February 14, 2023.

I, **Wade Wood**, of Wizard Lake, Alberta, **AFFIRM** AND SAY THAT:

1. I am the Plaintiff in this Action and as such have personal knowledge of the matters hereinafter deposed to except where stated to be based upon information and belief, in which case I verily believe the same to be true.
2. I am advised by my counsel, Bennett Jones LLP, of the following:

- (a) The Trial of this Action took place before the Honourable Justice D.R. Mah from October 12 to 15, 2021 and November 3, 2021, and the Reasons for Judgment were issued on December 10, 2021. Attached hereto as **Exhibit "1"** is a copy of the Reasons for Judgment.
- (b) A copy of the judgment roll arising from the Reasons for Judgment (the "Judgment") is attached as **Exhibit "2"** and granted the following relief:
 - (i) As against Mr. Bevan as follows:
 - (A) \$1,800,000.00 in damages; and
 - (B) Pre-judgment interest calculated at a rate of 8.75% from January 1, 2015 to the date of judgment.
 - (ii) As against Mr. Bevan and Spherical Bond Ltd., jointly and severally, as follows:
 - (A) \$589,000.00 in damages; and
 - (B) Pre-judgment interest calculated at a rate of 7.00% from July 5, 2017 to the date of judgment.
 - (iii) From the aggregate of the amounts described in paragraphs (a) and (b), above, a credit of \$20,000 shall be applied to the amount owing by Mr. Bevan.
 - (iv) Interest pursuant to the *Judgment Interest Act*, R.S.A. 2000, c. J-1.
 - (v) Costs on a solicitor-client basis.
- (c) On or about January 26, 2022, my solicitor-client costs were certified by the Court of King's Bench of Alberta at the assessed amount of \$76,201.47 (the "**Costs**"). A copy of the Costs is attached hereto as **Exhibit "3"**.

- (d) On or about February 4, 2022, a Writ of Enforcement (the "**Writ**") was filed on my behalf, pursuant to the *Civil Enforcement Act*, RSA 2000, c-15, against Mr. Bevan for the Judgment in the total amount of \$3,723,635.11, including the Costs and pre- and post-judgment interest (the "**Outstanding Judgment Debt**"). A copy of the Writ is attached hereto as **Exhibit "4"**.
- (e) On March 14, 2022, my counsel was provided with a financial statement of debtor sworn by Mr. Bevan (the "**Financial Statement of Debtor**"). In that document, Mr. Bevan attests to having no material assets. Mr. Bevan further attested to having debts, excluding those owed to me, in excess of \$280,000. A copy of the Financial Statement of Debtor is attached hereto as **Exhibit "5"**.
- (f) Furthermore, in the Financial Statement of Debtor, Mr. Bevan attests to having purportedly moved to Mexico in and around the time the Judgment was issued in December of 2021.
- (g) On May 3, 2022, Mr. Bevan underwent an examination in aid to obtain information about his current assets, his transfers of assets, and his ability to pay the Judgment (the "**Examination of Aid**"). Attached hereto and marked as **Exhibit "6"** is a copy of the transcript from the Examination in Aid.
- (h) During the Examination in Aid, Mr. Bevan deposed that he did not know where the share certificates and minute books were located for both of the Defendant corporations owned by Mr. Bevan, Spherical Capital Inc. ("**Spherical Capital**") and Spherical Bond Ltd. ("**Spherical Bond**"). He confirmed same in his Answers to Undertakings (#7-10), which are attached hereto as **Exhibit "7"**.
- (i) A corporate search of Spherical Capital is attached hereto as **Exhibit "8"**.
- (j) Spherical Bond was struck from the corporate registry on October 2, 2021, so Spherical Bond's corporate search is attached hereto as **Exhibit "9"**.
- (k) Mr. Bevan further deposed in the Examination in Aid that he was the owner of all shares of Lionhart Capital Ltd. ("**Lionhart**"). Notwithstanding that, in Mr. Bevan's

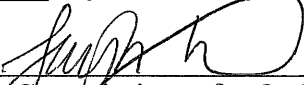
Answers to Undertakings, Mr. Bevan stated that he did not know the location of Lionhart's minute books or share certificates.

- (l) A corporate search of Lionhart shows that Mr. Bevan is listed as a Director and its registered office is 1022-240 70 Shawville Blvd SE. A copy of the corporate search for Lionhart is attached hereto as **Exhibit "10"**.
- (m) In the Examination in Aid, Mr. Bevan also stated that he had separated from his ex-spouse, Suzannah T. Hahrt ("**Ms. Hahrt**") and that they had entered into a separation agreement, dated February 11, 2020 to divide their property and assets (the "**Separation Agreement**"). Section 1.4 of the Separation Agreement indicates that Mr. Bevan owns Lionhart and Spherical. Pursuant to the Separation Agreement, Mr. Bevan retained Lionhart and Spherical, as well as his personal belongings, tools and garage equipment, Cadillac, motorhome, Tollycraft Boat, utility trailer, two quads, and a 1987 Mustang Convertible. All other matrimonial property and assets were given to Ms. Harht. A copy of the Separation Agreement, which was Mr. Bevan's Answer to Undertaking #3, is attached hereto as **Exhibit "11"**.
- (n) On October 7, 2022, the Writ was registered at the Personal Property Registry. A copy of the PPR Verification Statement is attached hereto as **Exhibit "12"**.
- (o) Consolidated Civil Enforcement was retained to enforce the Judgment against Mr. Bevan and accordingly on October 14, 2022, Consolidated Civil Enforcement sent a bailiff to effect seizure of the shares of Lionhart, pursuant to the *Civil Enforcement Act*, RSA 2000, c C-15. However, when the bailiff arrived at Lionhart's registered office (1022-240 70 Shawville Blvd SE), the location was a Calgary Pack and Ship Store and Unit 1022 was a mail box. The bailiff was therefore unable to seize the shares. A copy of the Bailiff's Report, dated October 16, 2022 is attached hereto as **Exhibit "13"**.
- (p) To date, Mr. Bevan has failed and refused to pay any portion of the Outstanding Judgment Debt.

(q) MNP Ltd. is prepared to act as a Court Appointed Receiver/Receiver Manager of Lionhart for purposes of asset protection, investigation, and realization.

3. I make this Affidavit in support of the relief set out in the Application to appoint a receiver over Lionhart.

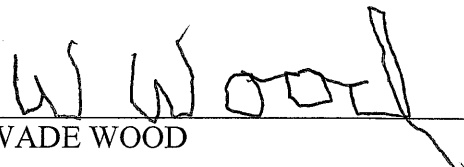
AFFIRMED BEFORE ME
at Edmonton, Alberta, this
14 day of February 2023.



A Commissioner for Oaths
in and for Alberta

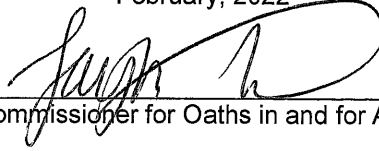
Taylor Meagher
Barrister & Solicitor

Tayler R. Meagher



WADE WOOD

This is **Exhibit "1"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022



A Commissioner for Oaths in and for Alberta

Taylor Meagher
Barrister & Solicitor

Court of Queen's Bench of Alberta

Citation: Wood v Bevan, 2021 ABQB 981



Date:
Docket: 1503 16803
Registry: Edmonton

Between:

Wade Wood

Plaintiff

- and -

Gerald Bevan, Spherical Capital Inc., and Spherical Bond Ltd.

Defendant(s)

**Reasons for Decision
of the
Honourable Mr. Justice Douglas R. Mah**

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A. Background

[1] Wade Wood seeks to recover funds personally from his former friend Gerald Bevan for loans used to capitalize and maintain Mr. Bevan’s leasing business, Spherical Capital Inc. As a result, I am tasked with answering the following questions:

- Did Mr. Wood make a cash loan of \$1.8 million to Spherical Capital, or to Mr. Bevan personally?
- Is Mr. Bevan liable to Mr. Wood for an RRSP loan of \$589,000 because of misrepresentation?
- Further, or in the alternative, should the corporate veil be pierced to make Mr. Bevan personally liable for both loans, or has Mr. Bevan engaged in oppressive conduct against Mr. Wood?
- Did the parties settle the indebtedness at a settlement meeting in December 2015?

[2] This case will be determined primarily by the facts. Fact-finding will depend mainly on the credibility of the two principals to the action

B. Mr. Wood and Mr. Bevan

[3] Mr. Wood is a retired elevator technician. During his career, he worked both as a repairman in the elevator industry and, for a time, as a safety codes officer for a government agency. He has a grade 12 education, a mechanical ticket and a certification from NAIT as safety codes officer. Mr. Wood was able to accumulate some wealth over the years, allowing him at times to lend sums of money to family, friends and other acquaintances, with interest.

[4] Starting in the late 1990s, Mr. Wood financially assisted Stoneridge Development Ltd. Stoneridge was the builder that had built Mr. Wood’s home. Mr. Wood said he financed a “show home and a half” for Stoneridge. In or about the mid-2000’s, interest rates dropped and Stoneridge went back to the banks for its financing. Mr. Wood was completely paid out by Stoneridge. Stoneridge had issued promissory notes to Mr. Wood as evidence of the indebtedness.

[5] Mr. Wood had also lent money to his son between 2005 and 2007. The son was also in the home-building business. The son’s business failed but the loan was totally repaid.

[6] Based on my observation of Mr. Wood and his description of his investment practices, I conclude that Mr. Wood was experienced in lending money at the time he entered into the transactions in question, but was not particularly sophisticated. The forms of investment he had previously engaged in seem quite straightforward. The loans in question were not even documented at first, according to Mr. Wood, because Mr. Bevan was a friend and he trusted him.

[7] Mr. Bevan earned a degree in business administration from SAIT in 1970. He began a career in the credit industry in 1970 and recounted for the court a 20-year period during which he was successfully employed in the leasing business. In 1990, he started his own leasing brokerage, Lionhart Capital, where he matched lenders with lessees of large equipment.

[8] Later, he founded Spherical Capital Ltd as a finance company to complement Lionhart. Spherical Capital became one of the lenders for whom Lionhart found customers. The operations of the two companies were completely integrated, sharing the same employees and infrastructure. Mr. Bevan was the sole director and shareholder of both. Mr. Bevan's long-term vision for Spherical Capital was to book \$10 million worth of business.

[9] Mr. Bevan has a high-level understanding of the leasing industry and how it is financed. This expertise is based on many years of first-hand experience. He described in some detail the documentation required to set up a leasing company, including step-by-step policy and procedure manuals, which he put together himself for Spherical Capital.

[10] Mr. Wood and Mr. Bevan were acquainted because they had married a pair of sisters. Mr. Wood described Mr. Bevan as his best friend between 1979 and 2015. The families would vacation together every summer. Mr. Wood and Mr. Bevan went hunting together. Mr. Bevan stayed at Mr. Wood's home at Wizard Lake when required to attend auctions at the Ritchie Brothers site in Grand Prairie. Mr. Wood said that typically Mr. Bevan would stay at Mr. Wood's home 10 to 12 times per year, 3 to 5 days or more at a time. Mr. Bevan had the security code to Mr. Wood's home and would stay there even if Mr. Wood was away.

[11] Mr. Bevan did not dispute the nature of the relationship between the two, although he indicated that he stayed at Mr. Wood's home less frequently than Mr. Wood said he did.

C. The Cash Loan

[12] Of Mr. Bevan's businesses, Mr. Wood understood that Lionhart leased computers, restaurant equipment, heavy equipment and vehicles to clients and that Spherical Capital funded the leases. He purported not to understand the precise mechanics of the business, although he generally understood that the difference between the lease rates to the customer and the finance costs of the leased equipment provided Spherical Capital with a profit.

[13] Mr. Wood said that Mr. Bevan knew that he (Mr. Wood) had money available to lend. Mr. Bevan had known about how Mr. Wood had helped out Stoneridge and had lent money to his son. According to Mr. Wood, in 2007 Mr. Bevan raised the idea of Mr. Wood lending money to Mr. Bevan in order to reduce the finance costs of Spherical Capital and increase its margin.

[14] Mr. Bevan, on the other hand, suggests it was Mr. Wood who was looking for an investment opportunity and suggested placing his money with Spherical Capital. Whichever it was, it is agreed that the following sums were advanced by Mr. Wood:

<u>Date Deposited</u>	<u>Amount Deposited</u>
17-Dec-07	150,000.00
19-Mar-08	350,000.00
20-May-08	250,000.00
1-Oct-08	200,000.00
5-May-09	150,000.00
5-Aug-09	100,000.00
6-Oct-09	50,000.00
15-Jun-10	100,000.00
3-May-11	150,000.00
19-Aug-11	92,500.00
19-Aug-11	7,500.00
18-Jan-12	42,000.00
18-Jan-12	8,000.00
1-May-12	41,750.00
1-May-12	8,250.00
16-Dec-12	91,500.00
16-Dec-12	8,500.00
Totals	1,800,000.00

[15] Included in the above are the repayment amounts received by Mr. Wood from Stoneridge which were “rolled over” into the new investment. It is also agreed that:

- Interest was payable on each loan segment at the rate of 12% per annum (or 1% per month) from inception until the end of 2014. As of January 2015, the interest rate was renegotiated at 8.75%. There was no fixed term of repayment, at least initially.
- There was no loan agreement in place documenting these loans. (Mr. Wood alleges that he later obtained a series of promissory notes from Mr. Bevan, but more on that later.)
- Mr. Wood duly received the prescribed interest payments between inception and December 31, 2014. Typically, Mr. Wood directed that the interest payments be “rolled over” into the investment, incrementally increasing the principal amount of the loan.
- Mr. Wood directed these injections of principal in the manner directed by Mr. Bevan. Of the cheques produced under Tab 10 of the Agreed Exhibit Book, 13 of the cheques written by Mr. Wood were made out to Mr. Bevan personally and 16 to Spherical Capital. Of the cheques made out to Spherical Capital, 9 of them bore a notation of “loan Gerry Bevan” (3), “Gerry Bevan” (3) or “Gerry” (3) in the memo line of the cheque.
- There was no stipulation as to how the invested funds would be used. It was understood they would be deployed in the operations of Spherical Capital, whether to acquire assets to be leased or pay for operating costs.
- The interest payments, at Mr. Wood’s direction, were made out in the name of a bank referencing Mr. Wood’s account number at that bank. These payments came out of a Spherical Capital bank account.
- There were other investors who had advanced funds for use in the business of Spherical Capital, but Mr. Wood was by far the largest investor.

- The total principal amount of the loan of \$1.8 million remains outstanding.

[16] Mr. Wood said that he understood the interest payments to him were issued from a Spherical Capital bank account so that the company could write-off the interest costs.

[17] Mr. Bevan noted during his testimony that it was unusual in his experience for a business loan not to be documented, and said that the arrangement with Mr. Wood operated on trust and good faith. None of the loans from other investors were documented either.

[18] The 2008 financial statements for Spherical Capital show long-term debt of \$150,000, bearing interest at the rate of 12% per annum, payable on demand, matching Mr. Wood's initial advance. Later financial statements show the amounts lent by Mr. Wood as shareholder loans (Mr. Bevan being the only shareholder). In 2014, with a new accountant, the financial statements again reflected these amounts as long-term debt.

[19] For his part, Mr. Bevan says that Mr. Wood always knew what he was doing and appreciated the risk of lending money in an undocumented and unsecured transaction to Spherical Capital, which itself operated in a higher risk sector of the industry. He gives two reasons for the loan going into default. The first is general economic demise in the province in 2014 as a result of depressed oil prices. The second is that he left the business of Spherical Capital in the hands of an incompetent minion when he moved to Victoria in 2010, resulting in the company's financial status being severely overstated.

[20] Mr. Wood says all of the cash loan was made to Mr. Bevan personally and that the advances and loan arrangement were documented in a series of promissory notes signed by Mr. Bevan personally. However, only one such promissory note in the series remains extant. The rest of them were stolen during a break-in at the Wizard Lake home between January and March 2015, while Mr. Wood was on an extended trip to Thailand.

D. The Promissory Notes

[21] At the heart of the dispute concerning the cash loan is whether the loan was made to Spherical Capital or to Mr. Bevan personally. This issue, in turn, depends on whether the promissory notes alleged by Mr. Wood were or were not issued by Mr. Bevan. Mr. Wood is not suing on the promissory notes themselves or a particular promissory note. Rather, he says the fact that the entire series of promissory notes was signed by Mr. Bevan personally establishes that the amount claimed is Mr. Bevan's personal liability.

[22] According to Mr. Wood:

- When the level of advances reached \$950,000 (which occurred in or about October 2008), Mr. Wood thought he had better document the loan by way of promissory note.
- Stoneridge had provided him with a form of promissory note under corporate seal. Using that document as a prototype, Mr. Wood typed out a promissory note for Mr. Bevan to sign in the amount of \$950,000.
- Mr. Wood would have Mr. Bevan execute a promissory note for the then current amount with each successive advance, whenever it was that Mr. Bevan visited next. Mr. Bevan was in the room and observed Mr. Wood filing the executed promissory notes in his filing cabinet.

- In such manner, Mr. Bevan executed a series of promissory notes to document the advances between \$950,000 and \$1.8 million. The last advance taking the total to \$1.8 million occurred in December 2012.
- In creating this series of promissory notes on his laptop, Mr. Wood did not pay much attention to version control. The Stoneridge promissory note was his model. He might create a new document, or use a previous version as a template for the next promissory note and might save the changes as the same or a different document, or not save the changes at all. Mr. Wood is not quite sure what he did in every case. He did not appear to me to be a sophisticated computer user.
- While he was on an extended vacation in Thailand between January and March 2015, someone broke into his home and stole the file containing the signed promissory notes. Nothing else was taken. Mr. Wood reported the theft to the RCMP and obtained a 2015 police file number but there was not much in the way of an investigation.
- A promissory note dated May 1, 2009, ostensibly signed by Mr. Bevan in his personal capacity in favour of Mr. Wood, in the amount of \$1,100,000, was the only original promissory note produced at trial (Exhibit 7). Mr. Wood testified that this particular promissory note had been stored in the filing cabinet in his will file and consequently was not among the stolen promissory notes.

[23] Exhibit 7 is produced only as an example of the promissory notes Mr. Wade says that Mr. Bevan iteratively signed in his personal capacity. Mr. Wood has further digital examples of promissory notes (which are unsigned) stored in his computer. These examples and the associated metadata were printed off as exhibits for the trial and indicate the following:

Content Created	Modified	Promissory Note Amount
4/30/2009	September 6, 2010	\$1,350,000
4/30/2009	August 13, 2011	\$1,600,000
5/5/2011	November 11, 2012	\$1,700,000

[24] Upon close inspection, the first two of the examples have a similar appearance and appear identical except for the amount. The third example has a different appearance in a couple of respects. This suggests that the first two are modified versions of the same document and the third is a different document. Of significance, the amounts in each example match-up with the amounts that were actually owed on or about the date the document was modified.

[25] I have been given no reason to question the accuracy of the metadata. However, there are other promissory notes in the series that Mr. Wood was not able to produce digitally. For example, the May 9, 2009 promissory note that was produced at the trial as an executed hard copy was not available in digital form from Mr. Wood's laptop. Still others appear to be missing outright from his laptop. He says this is the result of his lack of diligence in managing documents on his laptop.

[26] Mr. Wood's position is that the May 1, 2009 promissory note that was signed by Mr. Bevan, the existence of the digital examples and their associated metadata on his laptop, and the fact the advances were made, in totality, support his contention that Mr. Bevan did sign the whole series of promissory notes as alleged, as evidence of his personal indebtedness.

[27] Counsel for Mr. Wood submitted that only Mr. Bevan, and no one else, could be responsible for the theft of the promissory note file, stating that Mr. Bevan knew that Mr. Wood was out of country at the time, knew the location of the promissory note file, was motivated to steal the file and had access to the residence.

[28] According to Mr. Bevan:

- He did not and would not ever sign a personal promissory note.
- Exhibit 7 is a forgery in two ways: first, his signature has been forged and second, the document has been altered to remove any reference to Spherical Capital.
- He did sign a promissory note on behalf of Spherical Capital in favour of Mr. Wood in or about August 2008. At the time, Mr. Wood was in the throes of divorce with his first wife. Mr. Bevan suggested that Mr. Wood was trying to deceive his wife as to his income level. At Mr. Wood's request, Mr. Bevan had Spherical Capital staff prepare a corporate promissory note based on the Stoneridge prototype that Mr. Wood had faxed from his employer's office. This corporate promissory note had to be later corrected to reflect the correct frequency of interest payments (twice a month as opposed to monthly). A copy of the uncorrected promissory note was retained by Spherical Capital for its records.
- This corrected promissory note was provided in blank to Mr. Wood. Counsel for Mr. Bevan now submits that Exhibit 7 is an altered version of this corrected promissory note, with the Spherical Capital logo and signature block removed and Mr. Bevan's forged signature added.
- Mr. Bevan subsequently obtained a cell phone picture of the uncorrected Spherical Capital promissory note that he had signed and it had been filled out to show \$1,750,000 owing as of August 20, 2008. He said this picture came from his daughter who had been visiting Mr. Wood's ex-wife (the daughter being the niece of the ex-wife). The ex-wife had the filled in and signed Spherical Capital promissory note in her possession.
- He had nothing to do with the break-in at the Wizard Lake residence in 2015. He speculated that the ex-wife might be responsible.

[29] A major factor in determining whether any promissory notes were issued by Mr. Bevan, as alleged or at all, is determining whether Exhibit 7 is authentic or not. I will deal with this question later in this decision.

[30] Mr. Bevan's counsel makes the point that Mr. Wood may well have typed up promissory notes (thus accounting for the metadata) for Mr. Bevan to sign but that does not prove that Mr. Bevan actually signed any. Indeed, in January 2015 when the interest on the loan had dropped to 8.75%, Mr. Wood prepared a new promissory note for Mr. Bevan to sign with a total amount owing of \$1.8 million and the new interest rate. It is common ground that Mr. Bevan did not sign this promissory note, although he was asked by Mr. Wood to do so.

E. The RRSP Loan

[31] Unlike the cash loan, there is definitive documentation surrounding the RRSP loan.

[32] When Mr. Wood left the elevator trade to work for the provincial government, he rolled over the money in his pension plan into an RRSP. The specific investment vehicle was a series of bond offerings made by FL Bonds Inc. FL Bonds is a company associated with Admiralty Leasing, a business operated by Greg Boyle. Mr. Boyle and Mr. Bevan had become acquainted with one another in Victoria, BC as both worked in the leasing industry.

[33] The RRSP investment was another means by which Mr. Wood could inject capital into Spherical Capital. Although the bonds were issued by FL Bonds, Mr. Wood understood that his RRSP funds were being forwarded to Spherical Capital for its use. Starting about February 2012, Mr. Wood made bond purchases to the tune of some \$589,000. The interest produced by the bonds was 7.5% per annum.

[34] Spherical Capital paid fees to FL Bonds for its services. In addition, FL Bonds required Spherical Capital to execute promissory notes equivalent to the amount of Mr. Wood's bond purchases, which promissory notes were personally guaranteed by Mr. Bevan. The issuance of the promissory notes and granting of the guarantees were to document and ensure that Spherical Capital or Mr. Bevan were ultimately responsible for paying out the principal and the interest on the bonds. FL Bonds merely functioned as the conduit for the funds. Olympia Trust acted as the trustee, which permitted Mr. Wood to shelter this loan as an RRSP investment.

[35] As the bonds approached maturity, Mr. Wood made inquiries with FL Bonds about the return of his funds. He received a February 10, 2015 reply from Jan MacDonald, General Manager of FL Bonds, stating that Spherical Capital is the party liable to return the RRSP funds, not FL Bonds or Olympia Trust, and that he should contact Mr. Bevan directly in that regard. She stated that FL Bonds acted only as an intermediary between himself and Mr. Bevan so that the RRSP funds could be invested in Spherical Capital.

[36] Mr. Wood advised Mr. Bevan by email on February 17, 2015 that he intended to "take any required recourse" against Admiralty Leasing (the sister company of FL Bonds) to obtain the return of his RRSP funds. Mr. Wood also reminded Mr. Bevan that he owed him \$1.8 million on the cash loan for a 2-year term, bearing interest at 8.75% annually, to be paid on the 1st and 15th of each month.

[37] Mr. Bevan replied on March 10, 2015 to the effect that the bond funds had been lost through lease delinquencies.

[38] He also advised Mr. Wood in this email that since no T5's had been issued for interest payments on the cash loan, his initial investment of \$950,000 is considered paid back in full since Mr. Wood had received cash payments of \$1,192,250. In a follow-up email on March 12, 2015, Mr. Bevan advised Mr. Wood that he would be owed \$1.8 million only if he could prove that he had paid taxes on the interest payments received. If not, Mr. Bevan advised Mr. Wood that he would be in deep trouble with CRA, including a not-so-veiled insinuation that Mr. Wood could be prosecuted for tax evasion. Mr. Bevan said he would help out with the CRA problem by saying the initial capital investment of \$950,000 had been paid back in full.

[39] In effect, Mr. Bevan was saying that what was previously described as interest payments during the previous seven years or so should be converted to payments on principal, since no T5's had been issued for the interest income, and presumably Mr. Wood had not paid a tax on it.

[40] On March 28, 2015 Mr. Bevan wrote to Mr. Wood to advise that the Olympia Trust/FL Bond program had “collapsed and expired” and that the only way to preserve his RRSP funds was to transfer those funds into a new bond program offered by Spherical Bond, a company that Mr. Bevan was in the process of establishing. Olympia Trust would remain the trustee for the new program. According to Mr. Bevan, this transfer was necessary to allow Spherical Capital to recover and eventually pay out all of the investors. It was all part of a rescue plan for Spherical Capital.

[41] Mr. Bevan did not want Mr. Wood to be contacting anyone else about his RRSP money. He wanted Mr. Wood to deal exclusively with him, not with FL Bonds. He told Mr. Wood that if he insisted on “harassing these people” then the deal (with Spherical Bond) would be off.

[42] Mr. Wood says he was cajoled into transferring his RRSP money into Spherical Bond by Mr. Bevan. The latter made statements to Mr. Wood stressing that the RRSP funds would only be secure if this transfer took place:

- In the same March 28, 2015 email, Mr. Bevan advised Mr. Wood that the only way that Mr. Wood could avoid losing all of his RRSP funds was to transfer the funds to the Olympia/Spherical Bond program that he was setting up. He expected to have the program ready in a few short weeks at great personal cost so that Mr. Wood could start earning interest again on the RRSP funds. Mr. Bevan said that Spherical Capital was on the path to recovery but that it would take time. The alternative was to lose the RRSP funds in their entirety.
- On March 30, 2015 Mr. Bevan advised Mr. Wood by email that he was risking any possible recovery by contacting FL Bonds and that a transfer to Spherical Bond was the only possible way to recover his funds. Mr. Bevan stated that Mr. Wood would not get any money back if the Spherical Bond program did not go through.
- On April 20, 2015 Mr. Bevan sent Mr. Wade an email stating that a lot of time and money had been spent on planning the turnaround the Spherical Capital so that Mr. Wade and other investors would have the opportunity to recoup their funds. Transferring the funds from FL Bonds to Spherical Bond would ensure that the funds of all investors would remain intact.

[43] At trial, Mr. Bevan stated that it was Mr. Wood who wished to move his RRSP funds from FL Bonds to Spherical Bond because he objected to the fees that were charged by FL Bonds. When pointed out to him that it was Spherical Capital, not Mr. Wood, that was charged the fees, he responded by saying the fees would eventually be passed on to Mr. Wood. There is no mention of the fees of FL Bonds in any of the email passing between Mr. Bevan and Mr. Wood in March and April 2015 concerning the transfer.

[44] On May 26, 2015 Mr. Wood agreed to transfer his investment from FL Bonds to Spherical Bond and executed documentation to affect the assignment. Under the agreement between Mr. Wood and Spherical Bond, the latter would repay the capital amount by July 3, 2018 and annual interest of 7% would be payable on July 3 of each year.

[45] It seems that Mr. Wood received his interest payments from the bond program in 2015 and 2016. In July 2017, he was advised by Mr. Bevan that no further interest would be paid. The capital amount has also not been repaid.

[46] Mr. Wood now says the Spherical Bond program was merely a ploy by Mr. Bevan to stave off Mr. Wood's demands for payment on the RRSP loan in 2015. He says that Mr. Bevan knew that FL Bonds as the issuer was liable to Mr. Wood and that through the promissory notes and personal guarantees that Spherical Capital and Mr. Bevan had respectively executed in favour of FL Bonds, he was exposed if FL Bonds was called upon to pay. Consequently, says Mr. Wood, Mr. Bevan concocted this scheme whereby Mr. Wood's RRSP investment would be transferred from FL Bonds to a new entity called Spherical Bond for a further three-year term.

[47] Mr. Wood contends that this transfer only had the effect of extricating Mr. Bevan from personal liability. Conversely, by agreeing to the transfer, Mr. Wood says he lost any recourse he may have had against FL Bonds. He points out that Spherical Bond was in fact merely a shell company that had no assets. Furthermore, the company that supposedly backed Spherical Bond, Spherical Capital, was already insolvent and its supposed prospects for recovery and growth were a complete fabrication. Mr. Wood asserts that Spherical Capital was already in a death spiral at the time.

F. Spherical Capital's Problems

[48] Mr. Bevan moved from Calgary to Victoria in 2010 to take advantage of better weather and because he said the company was doing so well. As he testified, he left Spherical Capital's day-to-day operation in the hands of a bookkeeper named Nancy. He continued to monitor the operations from afar. He said he found out in 2013 that the bookkeeper was incompetent, and his accountant had fallen behind in maintaining the financial statements. Due to the state of the economy in Alberta, leases were falling into default. He said that the bookkeeper, contrary to the detailed policy and procedure manuals prepared by Mr. Bevan, would simply add the amount of default to the principal on each lease, thus converting bad assets into "good assets" and severely misstating the financial worth of the company.

[49] When asked about how much of Spherical Capital's book of business consisted of these phantom assets in the 2014-2015 period, Mr. Bevan estimated that about half the stated value of the company was not real.

[50] This resulted in Mr. Bevan realizing that Spherical Capital was in severe financial trouble. He says that in order to rectify the situation, Mr. Bevan initiated the Spherical Bond program to facilitate a turnaround plan for Spherical Capital. In Victoria, Mr. Boyle introduced Mr. Bevan to a new accountant, Mr. Wade, who took over responsibility for Spherical Capital's financial statements in 2014. Mr. Bevan also retained a consultant, the same Jan MacDonald who was Mr. Boyle's employee in Admiralty Leasing/FL Bonds, to review and correct Spherical Capital's lease accounts and discern the company's true financial state. He told the Court that Ms. MacDonald reported that the company was "upside down", meaning that it was insolvent. No formal report from Ms. MacDonald was placed in evidence.

[51] At that point, Mr. Bevan says he notified all the investors that the company was in financial trouble. As an ameliorative measure, Mr. Bevan says he then renegotiated the interest rate on the cash loan with Mr. Bevan down to 8.75% on a principal of \$1.8 million. Mr. Bevan says that he also initiated legal action on behalf of Spherical Capital against his former accountant for negligence. As it happens, the bookkeeper who caused all the problems was the accountant's daughter.

[52] The financial statements for Spherical Capital for (with a February 28 year-end) indicate that the company incurred operating losses for the years 2014-2016 as follows:

2014	(\$48,488)
2015	(\$94,783)
2016	(\$339,457)

and a deficit for the years 2010 through 2016 as follows:

2010	(\$273,137)
2011	(\$608,320)
2012	(\$616,366)
2013	(\$279,914)
2014	(\$328,062)
2015	(\$1,269,844)
2016	(\$1,609,303).

[53] The parties agree that during the period of Mr. Wood's investment in Spherical Capital, Mr. Bevan drew the following in dividends from Spherical Capital:

2007-08	\$ 30,000
2008-09	\$ 45,000
2009-10	\$ 46,000
2010-11	\$ 70,000
2011-12	\$115,000
2012-13	\$200,000
2013-14	\$ 73,000.

[54] In addition to those dividends, Mr. Bevan confirmed that between 2007 and 2017 he had withdrawn some \$800,000 from Lionhart in the form of management fees, expenses, dividends and loans. As at March 2015, Lionhart was indebted to Spherical Capital in the sum of \$554,007. Mr. Wood's counsel made the point that the funds withdrawn from Lionhart would have been more than enough to reimburse the amount owed to Spherical Capital. Further, by May 2015 Spherical Capital had advanced year-to-date about \$96,000 to Mr. Bevan in shareholder loans. In September and October 2015, Mr. Bevan made \$30,000 worth of payments on a personal LOC from Spherical Capital. Finally, Mr. Bevan starting in 2017 took an ongoing salary from Spherical Capital of \$120,000 per annum.

[55] At trial, Mr. Bevan did not mention any of these dividends or other payments taken out when describing Spherical Capital's financial situation in the relevant years.

[56] Aside from \$20,000 (as will be described in the next section), Mr. Wood has not been paid anything further on the cash loan of \$1.8 million and interest at 8.75% per annum that he says was agreed to in late 2014-early 2015. He has not received any interest payments on the Spherical Bond bonds since July 5, 2017 and has not received back any of the capital amount.

G. The Settlement Meeting

[57] Mr. Wood started this action, or an earlier version of it, in October 2015. On December 20, 2015 Mr. Wood and his wife went to Victoria to meet with Mr. Bevan for the ostensible purpose of settlement discussions. Mr. Boyle had agreed to also attend the meeting as a mediator. Aaron Wade, the new accountant, was also supposed to attend in order to provide tax advice. Mr. Wade did not show up for the meeting.

[58] Mr. Bevan began the meeting by saying it was “off the records (sic) and there’s no prejudice here so that everybody knows that’s where we sit on it.” Of course, the meeting was on the record because it was being recorded by Mr. Bevan and it was not without prejudice because the recording and its transcript were placed into trial evidence by consent. As noted in *Heinzelman v Heinzelman*, 2017 ABQB 424 at para 13:

It is accepted that the content of discussions at mediation are in the nature of without prejudice negotiations and therefore privileged. However, there can be one exception and that is where the existence or interpretation of a consensual agreement is at issue in subsequent litigation. See *AH v JTH*, 2005 BCSC 185 (CanLII), [2005] BCJ No. 321 at para 33 and *Stewart v Stewart*, 2008 ABQB 348 at para 19.

[59] On the issue of personal liability, the transcript of the meeting is illuminating. Mr. Wood begins the meeting by emphatically stating, on numerous occasions, that the \$1.8 million lent was lent to Mr. Bevan personally. He receives no pushback from Mr. Bevan. He repeats this statement throughout the meeting. Only at one point does Mr. Bevan suggest that the \$1.8 million was lent to Spherical Capital at the beginning of 2015 but he is immediately corrected by Mr. Wood. Mr. Boyle at a different point later in the meeting suggests that personal liability on Mr. Bevan’s part might flow because he personally guaranteed the loan, but it is unknown what Mr. Boyle knew about the relationship or exactly what the basis is for the suggestion. As the conversation unfolds, the participants discuss how Mr. Bevan has little in the way of net worth to satisfy a personal judgment, that a personal judgment against him would be futile and that all of his money has been put into Spherical Capital. Consequently, Mr. Bevan and Mr. Boyle both suggest to Mr. Wood that Spherical Capital is the only source satisfy repayment or judgment.

[60] In the transcript, Mr. Wood says “well you got me to keep putting money in by telling me how great it was.” Mr. Bevan replies “... that’s what we are being fed” in reference to the misleading information that Mr. Bevan says was supplied by Spherical Capital’s bookkeeper. Mr. Wood makes the point that the reason the loans have not been repaid is irrelevant.

[61] A process of discussion ensues through which Mr. Boyle comes up with the following proposal:

- Spherical Capital would pay out the RRSP loan in cash. Mr. Boyle’s company, Admiralty Leasing, would purchase Spherical Capital’s book of business for its anticipated value between \$500,000 and \$600,000 in order to generate that cash.
- Lionhart, which continued to operate, would pay Mr. Wood \$2000 per month “tax-free” for 75 months for total of \$150,000.

- Aaron Wade, the accountant, would provide advice and assist Mr. Wood in retroactively restructuring his taxes so as to take maximum advantage of write-offs from his losses; and
- The above components would settle both Mr. Wood's claim for the \$1.8 million cash loan and the \$589,000 RRSP loan. Mr. Wood would cancel his legal action and Spherical Capital would pay Mr. Wood's legal account to date.

[62] Mr. Wood is clear in the discussion that determining the tax consequences was integral to the settlement. He says at page 51 of the transcript:

Yeah I haven't, I haven't accepted that portfolio so ... the reality is I have if Aaron Wade shows up or whatever I, I said Gerry settling the stuff as a loss and then they don't pay taxes on the RSP legally as its coming out. If the cost for re-doing my taxes for the last five years or whatever so I can get my money back out or whatever the tax implications are so it works out to getting the best solution out of this.

[63] Further, at page 59 Mr. Wood says:

As I said I hope the RRSP money or a portion of it is cleared. And I get account, my accountant can figure out the tax implications and the other things and figure out where that's going to but, I can't agree to fifteen hundred dollars a month for sixty months or this or that because I want to figure out what it comes to over here.

[64] At page 65:

If Aaron figures out how to redo the taxes then to figure out to bringing it to however it works out to the January 2015, and we got to \$1.8 million, and then however I work, they carry through the losses from your missed payments of March going forward so whatever taxes I still ...

[65] At the end of the meeting, Mr. Boyle reiterates the components of the proposed settlement and the following discussion takes place (Note: Throughout the transcript "Jerry" appears for "Gerry"):

Jerry: Okay.

Greg: Yup?

Jerry: Yup.

Greg: We Good?

Unknown person: We agreeing.

Wade: Jerry, I guess I need to know what the tax implications are backed by...

Jerry: Yeah, I don't know, I'm just saying this is tax strategy. It may or may...
Some of it may work, some of it may not. It's just a matter of sitting down with Aaron and say 100% sure, if he doesn't show it as an in... I'm sure we can...

Wade: We can still negotiate and the legal action will be stopped. We're in agreement on the RRSP money, we'll figure out what works best for the tax strategy or whatever.

Jerry: Yeah that's what I'm saying.

(Unrelated discussion.)

Jerry: Were you going to write that down? And how you're going to...?

Greg: Yeah.

Jerry: Okay.

Greg: You know we've got an agreement so I think we're all clear on what it is. I don't think we're going to change anything. There's obviously details to iron out.

(Discussion about where the parties should have lunch. Meeting ends.)

[66] Later that day, Mr. Boyle emailed Mr. Bevan and Mr. Wood to confirm the agreement, again setting out the various components. Mr. Wood replied to Mr. Boyle and Mr. Bevan the next day indicating that the legal action had been placed on hold "as we continue to work threw (sic) this". Mr. Wood had planned to use the cash from Lionhart to buy a house in Thailand, and in the same email, he also said that upon reflection he and his wife did not want to wait four years to build the house so therefore the cash from Lionhart should be paid in one lump sum, not over 75 months.

[67] I note that in a January 4, 2016 email from Mr. Bevan to Mr. Boyle, Mr. Bevan stated:

I am hopeful this does come to a reasonable conclusion but only time will tell, as you saw from Wade's last email things have already changed from what was agreed to and I expect more before this is concluded.

Yes, Greg for sure, I do not want you to spend any more of your valuable time with the 2 old men grinding through this settlement either and your offer.

For until we have concluded the settlement in writing and we all agreed to it, it is just a dream!

[68] Unbeknownst to Mr. Wood, Mr. Boyle had placed a deadline of January 20, 2016 on Mr. Bevan to close the sale of the Spherical Capital lease portfolio to Admiralty Leasing. Mr. Bevan blamed the delay on further valuation problems. The deadline elapsed without a sale and Mr. Boyle wanted nothing further to do with Mr. Bevan and Mr. Wood.

[69] Mr. Bevan told the court that his then counsel at the Ogilvie law firm in Edmonton had prepared a settlement agreement to memorialize the settlement reached on December 20, 2015 with Mr. Wood and that Mr. Wood had been contacted by Ogilvie to schedule an appointment so that he could attend at their offices to sign the agreement, but never showed up. Mr. Wood denies that this ever occurred. His counsel at trial, who has been his counsel throughout, said it would be unusual for a law firm to contact an adverse party directly to sign a settlement agreement while knowing that there is counsel of record on the matter. No such drafted settlement agreement was placed into evidence.

[70] By February 7, 2016 Mr. Wood apparently felt that the settlement would not take place. He emailed Mr. Bevan again to say that the only intact agreement between them was the January 1, 2015 loan agreement by which Mr. Wood lent Mr. Bevan the sum of \$1.8 million at an annual interest rate of 8.75%, to be paid on the first and 15th of each month. In an apparent attempt to breathe life into the settlement agreement, Mr. Bevan caused Spherical Capital to send monthly cheques to Mr. Wood in the sum of \$2000 each. Mr. Wood acknowledges receiving 10 such payments, which he credited to missed interest payments on the \$1.8 million loan.

[71] Mr. Wood was never put in touch with the tax accountant Mr. Wade and never received the tax advice that had been discussed as part of the proposed settlement.

H. Credibility Generally

[72] Only two witnesses gave fact evidence in this trial, Mr. Wood and Mr. Bevan. The other two witnesses gave opinion evidence. Mr. Wood and Mr. Bevan agree that \$1.8 million was loaned in the cash loan and \$589,000 in the RRSP loan. They further agree that both amounts have not been repaid. They disagree fundamentally as to whom the money was lent in the case of the cash loan, and they disagree fundamentally as to the circumstances under which each loan was made. As I said at the beginning, this case turns on whether Mr. Wood or Mr. Bevan is believed, or which of their versions of the events is more likely to have actually happened.

[73] The assessment of credibility is not, as the Supreme Court of Canada reminds us in *R v Gagnon*, 2006 SCC 17 at para 20, a precise science but rather a

...complex intermingling of impressions that emerge after watching and listening to witnesses and attempting to reconcile the various versions of events.

[74] In assessing credibility, each of us as triers of fact, or as ordinary people for that matter, will form our “complex intermingling of impressions” by applying factors which are well known in human experience or are simply intuitive.

[75] As noted by Renke J in *R v JAB*, 2016 ABQB 362 at para 20, a good summary of the proper approach to credibility assessment is provided by Justice Ferguson at para 78 of *R v Storey*, 2010 NBQB 80:

... the proper approach is to consider the evidence of a particular witness against the backdrop of the rest of the evidence led or other evidence tendered, searching for connectors that may not necessarily rise to the level of legal corroboration between witnesses, the other evidence tendered or a combination of the two in deciding what worth should be attributed to it. In the final analysis it becomes a matter of determining the veracity of the evidence utilizing the age old tools of logic, reason and common sense in measuring the probability, if it is deducible from the evidence, that the witness or witnesses’ honesty on the central issue or issues is assailable.

[76] *JAB* also refers to O’Halloran JA’s frequently cited description of credibility assessment in *Faryna v Chorny*, 1951 CanLII 252 (BC CA), [1952] 2 D.L.R. 354 at para 11:

The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanour of the particular witness carried conviction of the truth. The test must reasonably

subject his story to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions. Only thus can a Court satisfactorily appraise the testimony of quick-minded, experienced and confident witnesses, and of those shrewd persons adept in the half-lie and of long and successful experience in combining skilful exaggeration with partial suppression of the truth. Again, a witness may testify what he sincerely believes to be true, but he may be quite honestly mistaken. For a trial Judge to say "I believe him because I judge him to be telling the truth," is to come to a conclusion on consideration of only half the problem. In truth it may easily be self-direction of a dangerous kind

[77] After referring to the above paragraph from *Faryna*, Justice Ryan in *R v Sue*, 2011 BCCA 91 notes at para 47:

Doubtless, a skilled liar or a good actor can easily feign sincerity. But it is also the case that most people of average intelligence can tailor a story to fit the circumstances if they put their minds to it. Thus, a trier of fact will test a story for both its logic and, with the appropriate cautions, the manner in which it was told.

[78] In *R v JB*, 2018 ABQB 452, Miller J stated at para 45:

... There is no actual science to credibility assessment, and judges and juries are asked to use their own knowledge and experience involving human nature combined with logic and common sense. While the demeanour of a witness plays some role, it is important not to let it take over the process. The issues of credibility and reliability cannot be concluded simply by looking at a formula or a strict set of rules. There are some "guidelines" that have been provided by other trial judges that can be of some assistance. One such set of factors that should be considered has been listed by Mossip J in *R v Filion*, [2003] OJ No 3419, 2003 CanLII 517 (ONSC), at para 27, as follows:

In assessing the reliability and credibility of witnesses' testimony, I have considered factors that judges invite juries to consider such as:

- Does the witness seem honest? Is there any particular reason why the witness should not be telling the truth or that his/her evidence would not be reliable.
- Does the witness have an interest in the outcome of the case, or any reason to give evidence that is more favourable to one side than to the other?
- Does the witness seem to have a good memory? Does any inability or difficulty that the witness has in remembering events seem genuine, or does it seem made up as an excuse to avoid answering questions?

- Does the witnesses' testimony seem reasonable and consistent as she/he gives it? Is it similar to or different from what other witnesses say about the same events? Did the witness say or do something different on an earlier occasion?
- Do any inconsistencies in the witness' evidence make the main points of the testimony more or less believable and reliable? Is the inconsistency about something important, or a minor detail? Does it seem like an honest mistake? Is it a deliberate lie? Is the inconsistency because the witness said something different, or because she/he failed to mention something? Is there any explanation for it? Does it make sense?
- The manner in which a witness testifies may be a factor, and it may not, depending on other variables with respect to a particular witness.

[79] A similar list of factors to consider in assessing credibility is found in *Zerbin v Vrbanek*, 2020 ABQB 797 at para 85, aff'd 2021 ABCA 317 and *CWB Maxium Financial Inc v 2026998 Alberta Ltd*, 2021 ABQB 137 at paras 83-84, and in a case cited by Mr. Wood's counsel, *Sylvan Lake Golf & Tennis Club Ltd v Performance Industries Ltd*, [1996] AJ No 952, 190 AR 321 (ABQB) at para 27.

[80] In summary, credibility is to be assessed by looking at the logic of what the witness says and its consistency with the preponderance of probabilities, as understood by reasonable people having full appreciation of the circumstances and having regard to certain guiding factors.

I. Credibility of the Parties

Mr. Wood

[81] Mr. Wood portrayed himself as a salt-of-the-earth type, someone who worked hard to earn his money, was trusting to a fault and expected those who borrowed money from him to pay it back. He told Mr. Bevan that he did not accept the failure of Spherical Capital as an adequate reason not to get the cash loan back. Mr. Wood's son had also experienced business failure but that did not prevent the son from making full repayment. He expected Mr. Bevan to do the same.

[82] Mr. Bevan suggested that Mr. Wood was more worldly about investment than he let on and knew exactly what he was doing in making high risk investments in Spherical Capital in return for a high rate of interest. Mr. Bevan also suggested to the Court that Mr. Wood was wily and deceptive, and for that reason should not be believed. For example, according to Mr. Bevan, Mr. Wood took extraordinary measures to evade income tax on the cash loan interest payments by having the cheques made out to his bank and thereby disguising the income as LOC payments. Mr. Bevan said Mr. Wood tried to deceive his ex-wife during divorce proceedings in 2008 by creating a fake promissory note to falsify his net worth (while admitting that he was a willing participant in such deception).

[83] Mr. Bevan suggests that Mr. Wood has tried to perpetrate a fraud upon this Court by producing a forged promissory note for \$1.1 million as evidence of Mr. Bevan's personal liability. For that matter, Mr. Bevan suggests that the matter of promissory notes did not arise until rather late in the litigation. If the promissory notes had existed, Mr. Bevan says they should have been brought up at the outset. As they were not, the promissory notes are a relatively recent contrivance.

[84] Overall, Mr. Bevan urges me not to believe Mr. Wood because he has demonstrated deception in other aspects of his life. In assessing Mr. Wood's credibility, I will address the various points relating to deceptive conduct, and other credibility arguments advanced on behalf of Mr. Bevan:

Failure to pay tax on investment income:

[85] Mr. Wood conceded that he had not paid any tax on payments received from Stoneridge. The loan to Stoneridge also produced periodic interest payments. Mr. Wood testified that it was his understanding that he was not required to report anything until he cashed in his investment, at which time he would be required to pay capital gains tax. He said he had not paid any tax "to date", leaving open the possibility of tax payable in future.

[86] With regard to the payments received on the loans in this action, I do not know what (if any) steps Mr. Wood took or plans to take to report interest income for tax purposes. He confirmed that he directed the payments to be sent to one or the other of his banks, payable to the bank and referencing an account number, such that the payments would appear to an outside observer as payments on his LOC. He was not asked why he directed the payments to be made in this way, or if his intention was to deceive CRA. He was not asked about his belief as to the tax effect of continually "rolling over" the interest payments into further principal, although it would be reasonable to infer that he believed the same as he did with regard to the Stoneridge payments. I do not need to assess the legal correctness of Mr. Wood's understanding, only his state of mind.

[87] If Mr. Wood's funds had been invested in Spherical Capital, then Spherical Capital would have been obliged to issue T5s to Mr. Wood in respect of the interest payments. No such T5s were ever issued.

[88] No evidence, beyond mere surmise, of Mr. Wood's actual tax situation or of any attempt to evade tax was presented. His tax returns were not placed into evidence.

[89] In the result, I cannot conclude if Mr. Wood was engaged in actively deceiving CRA. I do not know what Mr. Wood's tax situation actually is, nor what tax advice he may have received, if any. Certainly, from the information given to him by Mr. Bevan in late 2015, Mr. Wood believed he may some tax liability, but I do not know if that is in fact the case.

Misrepresentations to ex-wife:

[90] This allegation takes two forms. First, there is the August 26, 2008 email from Mr. Wood to Mr. Bevan in which he says he told his ex-wife that he was receiving \$100 per month in investment income, when of course he was receiving much more. Mr. Wood explains that his ex-wife was attempting to wheedle his financial information from Mr. Bevan's daughter (her niece). In order to put a stop to it, he made the statement about the \$100 per month. While the statement is untrue, Mr. Wood's explanation of the circumstances places it in context. I interpret it as a comment meant to end the ex-wife's backdoor attempts to ferret out his financial information. I also note that in matrimonial litigation, there are mutual disclosure obligations that carry consequences for non-compliance. I have no information about what was or was not ultimately disclosed in that litigation.

[91] The second form of misrepresentation to Mr. Wood's ex-wife is the bogus promissory note under Spherical Capital letterhead that Mr. Bevan says he produced and signed in order to help Mr. Wood deceive his ex-wife. The problem with this theory, as Mr. Wood's counsel points

out, is that this promissory note reflects an amount greater than the total advances at the time, and it would make no sense for Mr. Wood to inflate his assets for the purposes of matrimonial litigation. Mr. Wood says he knows nothing about this promissory note.

[92] Mr. Wood's ex-wife was not called to testify as to whether and how she had acquired Spherical Capital promissory note, nor whether she thought Mr. Wood was trying to deceive her as to his level of assets.

No attempt to get bank records until undertaking to do so during questioning:

[93] Mr. Bevan's counsel suggests the Court should be suspicious of Mr. Wood's failure to obtain his bank records (primarily cancelled cheques) when he realized in late 2015 that it was necessary to sue in order to recover his funds.

[94] When Mr. Wood tried to get the cheques from his banks to fulfill an undertaking given at questioning, he was told the records only go back 7 years and were no longer available. The evidence of the cheques ultimately came from the Defendants' production.

[95] Mr. Wood's evidence was that he saw no need to access the bank records at or around the time the action was commenced. The total amount of the advances has never been disputed. In fact, the lawsuit proceeded on the basis of the extent of indebtedness as shown in the Defendants' records. Besides, Mr. Wood says he didn't have any records. He maintains that they were stolen.

Late appearance of the Promissory Notes:

[96] Mr. Bevan says that the timing of the disclosure of the promissory notes on which Mr. Wood now relies as evidence suggest they are a relatively recent, after-the-fact fabrication. They were not pled in the original October 2015 statement of claim and not mentioned at all in the December 2015 settlement meeting. The promissory notes first appear in Mr. Wood's January 2017 Affidavit of Records.

[97] If the promissory notes that Mr. Wood says Mr. Bevan signed personally are a recent concoction, it would mean that:

- Mr. Wood was able to create metadata dating back to 2010 retroactively, or had planned to use fake promissory notes to prop up his claim as far back as 2010.
- Mr. Wood was able to create a near-perfect forgery in the form of the May 2009 promissory note. (I will comment on this promissory note, which is Exhibit 7, at length in the next section).
- Mr. Wood reported the theft of the Bevan loan file to the RCMP in 2015 in anticipation that a few years down the road he might need a contemporaneous police file number to support a false story to the Court.

[98] None of these scenarios are plausible. I agree with Mr. Wood's counsel that Mr. Wood does not have the technical wherewithal to fake metadata or pull off the forgery.

[99] It is worthwhile noting that the only personal promissory note that Mr. Bevan says was presented to him for signature was the 2015 note for \$1.8 million with an interest rate of 8.75%, which the parties agree Mr. Bevan did not sign. If this is the case, then one wonders why Mr. Wood was creating promissory notes on his laptop five years earlier. The metadata was not

challenged. The existence of the metadata is consistent with Mr. Wood's version of what happened.

[100] Further, there is a good reason why the existence (or former existence) of the promissory notes was not originally pled and not discussed in the December 2015 meeting. First, Mr. Wood did not have any originally signed promissory notes apart from the May 2009 note that he says was in his will file, his Bevan loan file having been stolen. Second, and more importantly, Mr. Wood is not relying on any promissory note as a financial instrument on which he sues. He is not relying on the written promise to pay in any promissory note. He says the signing and issuance of the entire series of notes is merely evidence that the obligation to pay is a personal one on Mr. Bevan's part. In point of fact, he is suing on what he says is Mr. Bevan's agreement to loan terms documented in email in September 2014 after renegotiation resulted in the total of \$1.8 million being reinvested at an interest rate of 8.75%. Further, while not mentioning promissory notes in the December 20, 2015 meeting, what Mr. Wood does raise repeatedly and emphatically during the meeting is that the whole of the cash loan was made to Mr. Bevan personally.

[101] Suppose you lend me \$100 and I give you a promissory note for that amount. If the promissory note is later lost or destroyed, do I still owe you \$100? The answer is yes, although it is harder for you to prove. If you lend me \$100 and I promise to give you a promissory note for that amount but never do, do I still owe you \$100? The answer is also yes, but again it is harder for you to prove. By this lawsuit, Mr. Wood is trying to prove the indebtedness the hard way.

July 10, 2009 email to Nancyb@lionhartcapital.com:

[102] This is the email in which Mr. Wood tells Nancy (the bookkeeper) "Funds on loan to Spherical are of the demand on request repayment." Mr. Bevan's counsel says this statement, made in an unguarded moment, is telling of Mr. Wood's true state of mind and belief concerning who was liable for the cash loan.

[103] At trial, Mr. Wood explained that he was taking Nancy to task for issuing the last interest payment late and in the wrong amount, and was using a certain tone to convey the seriousness of the matter. Of course, Mr. Wood knew that the funds were being injected into Spherical Capital by Mr. Bevan and that the interest payments took the form of Spherical Capital cheques. Nancy was an employee of Spherical Capital/Lionhart (not Mr. Bevan personally) and in charge of making the payments but, as Mr. Wood said, would not have not known about the exact arrangements between himself and Mr. Bevan.

[104] I do not consider the email to be a serious inconsistency, if it is an inconsistency at all. Mr. Wood gave his reasons for his choice of words and tone. This single utterance does not override his emphatic insistence at the December 20, 2015 meeting and at other times that Mr. Bevan was personally liable. Examples are:

- the July 1, 2014 email from Mr. Wood to Mr. Bevan which in part reads: "I loaned the money to you and you put it into your companies";
- the February 17, 2015 email in which Mr. Wood writes to Mr. Bevan: "Gerry Bevan ... You and I have A Current Agreement With regards to \$1,800,000 That you Currently owe me in Cash."

- the January 5, 2015 email in which Mr. Wood references the latest promissory note for \$1.8 million at 8.75% interest as “the same paper work we have had since the start it just represents the current balance and interest.”;
- the March 10, 2015 email where Mr. Wood says to Mr. Bevan: “You have 1,800,000 in cash of our money loaned to you personally and 600,000 RRSP money invested at ADMIRALTY LEASING INC / FL BONDS”;
- the April 26, 2015 email in which Mr. Wood writes to Mr. Bevan: “ I am glad that you are taking this seriously as I take it quite serious as well. Especially the 1.8 million you owe and that you are not making any attempt to resolve and keep missing payments which is just increasing your indebtedness. You were loaned this in good faith it was you who controlled how it was used. The only control I had over these funds was I loaned it to someone I trusted would repay them. You got this money loaned to you with the same terms as Damon & Jen the difference is when their business went under they took ownership of their debt and repaid Janette and I in full.”

Segregation of the May 1, 2009 Promissory Note:

[105] Counsel for Mr. Bevan suggested that it was unlikely that of all the promissory notes in the loan file, Mr. Wood would pick the May 1, 2009 (Exhibit 7) note to place in the will file. If he truly wanted to protect his new wife and his son, he would have selected the most recent promissory note with the up-to-date amount owing.

[106] I have no information about when this act would have occurred. It might have been around May 1, 2009, making this promissory note the most recent one. The fact that it was this note, and not some other, is said to have been safely lodged in the will file is not a factor in determining Mr. Wood’s credibility one way or the other.

No demand on cash account in February/March 2015:

[107] Mr. Bevan’s counsel makes the point that at the time Mr. Wood was being told by Mr. Bevan that Spherical Capital was “upside down”, Mr. Wood was seeking payment on the RRSP funds but made no demand on the cash account. If the cash loan had been personal, Mr. Wood should be making demand upon Mr. Bevan personally. He did not, contends counsel, because he knew he only had a claim against Spherical Capital for the cash loan and he knew that Spherical Capital was “upside down” financially.

[108] The response to this contention is that the latest iteration of the cash loan was newly in place. This latest version of the loan was for \$1.8 million at 87.5% annual interest for the period January 1, 2015 to December 31, 2016. The terms of this loan were reiterated in Mr. Wood’s February 17, 2015 email to Mr. Bevan. Mr. Wood at the time did not take the position that the loan was in default, so there was no need to make demand. He wrote to Mr. Bevan on March 11, 2015 to the effect that “I expect you to continue to make your biweekly payments on the 1,800,000.00.”

No promissory note alleged for the RRSP loan:

[109] Mr. Bevan’s counsel suggests there is an inconsistency in Mr. Wood’s evidence because he does not allege a promissory note was taken for the RRSP loan. To me, this is not an inconsistency. The RRSP loan was well documented. In this lawsuit, the basis for personal

liability is not that Mr. Bevan personally promised either verbally or in writing that he would repay the loan; rather, the legal basis for personal liability here is misrepresentation.

Carelessness in evidence:

[110] There are three examples in the evidence where Mr. Wood said things that ultimately turned out not be true. First, in the December 2015 meeting, he told Mr. Bevan that he had all of the cheques made out in Mr. Bevan's name. In fact, as discussed above, he didn't have any of them, except for one made out much later in the course of events. Second, twice in questioning he answered affirmatively to the question about whether he received a new promissory note from Mr. Bevan each time an advance was made. At trial, his evidence was that the first promissory note was signed only after the aggregate loan amount had reached \$950,000. Third, during questioning he confidently stated that he had digital drafts of all the promissory notes on his laptop but in reality, he only had the three.

[111] I attribute these statements more to carelessness than deliberate lying. With regard to the first and third statements, he obviously should have checked what he actually had (or was accessible to him) before blurting out the statement. With respect to the second statement, he should have clarified the time period under discussion before agreeing with the statement. The statement is consistent with what Mr. Wood said to Mr. Bevan in the January 5, 2015 email about the paperwork (i.e. the promissory notes) being the same since the start. The email is unclear about whether the "start" means the start of the loans or the start of the use of promissory notes. The snippets read in from questioning during Mr. Wood's cross-examination at trial are equally unclear as to timeframe.

[112] In conclusion on Mr. Wood's credibility, I say that Mr. Wood's evidence is not perfect. However, I do not think that the Defendants have been successful in undermining Mr. Wood's credibility such that I should not believe him on the main points. The flaws in his evidence show carelessness and over-confidence on some of the details supporting the overall factual position that Mr. Wood put forward at trial but do not render the whole of his evidence unbelievable. In my view, Mr. Wood's version of the crucial facts, in comparison to Mr. Bevan's version, is more consistent with the preponderance of probabilities.

Mr. Bevan

[113] Mr. Bevan's evidence is problematic in a number of respects. He was elusive at times, deliberately obtuse and some of his evidence was implausible. He was caught in an outright lie at one point when he testified about the involvement of a certain wealthy investor, and then conceded that an obituary predating those supposed discussions referred to the same individual.

[114] My particular concerns with Mr. Bevan's credibility are summarized below.

Inconsistencies in Evidence

[115] There are number of instances of inescapable inconsistencies in his evidence. First, Mr. Bevan suggested that he would never sign a personal guarantee in respect of funds put into his business, except possibly in the case of a bank guarantee. However, the FL Bonds documentation clearly shows that Mr. Bevan personally guaranteed the RRSP loan, presumably as additional security in the event FL Bonds was ever called upon to pay on the bonds issued to Mr. Wood.

[116] Mr. Bevan also testified that Mr. Wood was displeased with the fees charged by FL Bonds and that was the reason that Mr. Wood requested the switch from FL Bonds to Spherical

Bond. However, the email exchange between the parties discloses no mention of fees and furthermore any fees would have been charged by FL Bonds to Mr. Bevan or one of the Spherical companies, not Mr. Wood. Further, the email exchange clearly shows that it was Mr. Bevan cajoling Mr. Wood into making the switch from FL Bonds to Spherical Bond (not the other way around as Mr. Bevan contends), with the dire warning that if he did not do so, his RRSP funds would be lost.

[117] In a moment of embellishment, Mr. Bevan testified in chief about obtaining a court judgment against his former accountant for negligence, but in cross-examination conceded that the matter had not gone to trial and that there was no finding of negligence.

[118] Mr. Bevan testified at questioning on February 6, 2018 that he signed the May 1, 2009 personal promissory note. Only later did he take the position that it is a forgery. At trial, he attempted to explain the inconsistency by saying that at questioning the signature looked genuine but subsequently realized that it must be forgery because he does not sign documents that create personal liability. The explanation is unconvincing because he could not deny having signed the guarantees to FL Bonds.

[119] At trial, Mr. Bevan testified that Spherical Capital's business was thriving until 2014 when the price of oil dropped. However, Spherical Capital's financial statements show that it was technically insolvent from 2010 onwards. It is also noteworthy that during the period in which Nancy the bookkeeper was supposedly inflating the value of the portfolio by 50%, the company remained in deficit.

[120] Despite his extensive evidence about the work put in by Jan MacDonald to re-input data into a new software program, overhaul Spherical Capital's books and provide an accurate valuation of the assets, Mr. Bevan could not produce through undertaking, nor at trial, any evidence that Ms. MacDonald had done anything. There were no new books, and no report from Ms. MacDonald. Ms. MacDonald was not called as a witness, nor was the bookkeeper Nancy. Beyond Mr. Bevan's say-so, there is no credible reliable evidence before the court that Spherical Capital's financial demise was caused in part by the negligence of the bookkeeper.

[121] Mr. Bevan explained that his email to Mr. Wood of March 28, 2015 was a request that Mr. Wood forbear on collecting back his RRSP funds while Spherical Capital was in the process of recovery. Mr. Wood testified that he was optimistic about recovery because there was more business coming in and he was attempting to secure the support of an angel investor, Stephen Singer of Calgary, who was considering injecting \$10 million into the business. Of course, the problem with this assertion is that Mr. Bevan subsequently agreed that the published obituary relating Mr. Singer's death in 2013 following a long bout of cancer referred to the same person. This testimony is nothing but pure embellishment.

[122] These inconsistencies are materially different than the inconsistencies identified for Mr. Wood. In Mr. Wood's case, the inconsistencies related to documentation that he thought he had but, it turned out in the end, he did not have. Mr. Wood explained the other inconsistencies. Mr. Bevan's inconsistencies, on the other hand, are alternate versions of the facts which are completely unexplained.

Inconsistencies in Behaviour

[123] There are also a number of inescapable inconsistencies in his behaviour. Mr. Bevan was well experienced in the business of secured transactions. The whole premise of Spherical Capital

was extending credit to high-risk lessees on the security of equipment leases. He had personally prepared detailed policy and procedure manuals on how to create and document secured transactions. Mr. Bevan had dealt with banks before. He knew about the arrangement between Mr. Wood and Stoneridge. Mr. Wood was by far the largest investor in Spherical Capital's business. It seems incongruous that the cash loan was not documented in any manner, particularly if it was a debt of Spherical Capital. It is incongruous that if the cash loan was a loan to the corporation, it would show up in Spherical Capital's financial statements as a credit in Mr. Bevan's shareholder account for the years between 2009 and 2014. Equally, Mr. Bevan did not cause Spherical Capital to correct its corporate tax returns for those years in which Mr. Wood's investment was reflected as a loan to the corporation from Mr. Bevan. At trial, Mr. Bevan agreed that it was unusual for such a loan not to be documented. It seems more likely that a personal loan would be undocumented and premised only on "trust and good faith" as opposed to a corporate loan.

[124] Being in the finance business himself, Mr. Bevan was familiar with financial instruments, and their effect. It is incongruous to me that Mr. Bevan would sign to blank promissory notes, albeit under the letterhead of Spherical Capital, as he said he did and provide them to Mr. Wood.

[125] At trial, Mr. Bevan described at length how his consultant Jan MacDonald uncovered gross inaccuracies in 2014 in Spherical Capital's financial presentation, and how she worked to correct them. There is no evidence that Mr. Bevan ever showed Ms. MacDonald's revised valuation to Mr. Wood or to anyone. Ms. MacDonald was not present at the December 2015 meeting. Other than talking about it, Mr. Bevan did nothing to put this critical information in the hands of his main investor, Mr. Wood, to secure his buy-in to the rescue plan. Ultimately, Mr. Bevan could produce no work-product from Ms. MacDonald.

[126] While Mr. Bevan did not sign the personal promissory note for \$1.8 million at 8.75% interest sent to him by Mr. Wood in early 2015, he did not react at all to Mr. Wood's transmission of the new promissory note or Mr. Wood's covering email, which said: "Hi Gerry. Here is paper to cover the new interest rate. Please sign 2 copies for my records and mail back too me." One would have thought that Mr. Bevan would have replied, "What is this? I have never signed a personal promissory note before." Instead, his response was "Got your email on the loan. We are still working out to correct a bad data problem so can't make the commitment on the time details."

Bad Data

[127] The connection between executing the loan documentation and Spherical Capital fixing its "bad data problem" is a complete *non sequiter*. It is an example of Mr. Bevan being evasive or deliberately obtuse. The terms of the loan had been settled by email exchange back in September 2014 (Mr. Wood's email to Mr. Bevan of September 6, 2014 which offered the terms and Mr. Bevan's acceptance by email on September 7, 2014). Mr. Wood observed on January 5, 2015 after Mr. Bevan had failed to execute the new promissory note that "there is no timeline" and that the promissory note had been presented to document the loan previously agreed to. Mr. Wood ended the email with his comment "This is the same paperwork we have had since the start it just represents the current balance and interest." Mr. Bevan did not dispute the statement. He merely continued to refer to bad data.

[128] A year later, Mr. Bevan was still relying on the bad data problem as the reason the Spherical Capital lease portfolio had not been sold to Mr. Boyle/Admiralty leasing. By this time,

Mr. Bevan had had his new team in place for the better part of a year and a half. This would have been ample time to sort out Spherical Capital's books, especially since the consultant Jan MacDonald (as he testified) had completed re-inputting all of the data into the new Casitron software by August 18, 2014. Mr. Boyle, who had set aside capital to purchase the lease portfolio, lost patience and retracted his offer to purchase those assets.

[129] The "bad data problem" was used by Mr. Bevan to stall and delay. It shows insincerity and evasion on Mr. Bevan's part, particularly in light of his inability to produce any work product authored by Ms. MacDonald.

Deflecting Blame

[130] Mr. Bevan did not mention the payments and funds taken out of Spherical Capital, described in paragraphs 53-54 above, in discussing its dire financial situation beginning in 2014. He was careful to deflect blame for mismanagement solely onto the bookkeeper Nancy. Lionhart/Spherical Capital constituted Mr. Bevan's livelihood. He was the sole director, shareholder and controlling mind of both. It is unlikely he would have delegated the responsibility for the entire operation to his bookkeeper.

Statements Concerning Loss of RRSP Funds

[131] The statement by Mr. Bevan to Mr. Wood that all the RRSP funds would be lost unless there was a switch from FL Bonds to Spherical Bond was also insincere. Part of Mr. Bevan's pitch was that Spherical Bond was backed by the assets in Spherical Capital but in reality, Spherical Bond had no security over the assets of Spherical Capital. On the other hand, as Mr. Bevan well knew, if FL Bonds was ever called upon to pay out on the bonds to Mr. Wood, FL Bonds would rely on the corporate promissory notes signed by Mr. Bevan on behalf of Spherical Capital and his personal guarantees. Thus, it was incorrect to say that Mr. Wood requiring payment from FL Bonds would result in no recovery. Aside from whatever assets FL Bonds had in support of the bond issue, Mr. Bevan also knew that Spherical Capital and his personal guarantee also backed those bonds.

[132] Moreover, the Redeemable Bond Certificates issued by FL Bonds obliged FL Bonds to make good on the principal and interest to the bond holder (Olympia Trust in trust for Mr. Wood). Although it may have been understood that Mr. Wood's RRSP funds would be funneled through FL Bonds to Spherical Capital, FL Bonds retained the primary obligation to the bond holder. There is no mention in the Certificate or the five-page schedule that is attached, which are the documents governing the relationship between FL Bonds and the bond holder, of Spherical Capital. There was no evidence before me that FL Bonds was in any way insolvent. Therefore, in making the switch from FL Bonds to Spherical Bond, Mr. Wood gave up any recourse he may have had against FL Bonds. By inducing Mr. Wood to make the switch, Mr. Bevan gained time (in not having to pay back the RRSP funds) and relieved Spherical Capital and himself of any liability to FL Bonds.

Other Miscellaneous Problems with Mr. Bevan's Evidence

[133] Mr. Bevan could not account in a satisfactory way for why the cash loan proceeds were not reflected in Spherical Capital's financial statements as assets or cash on deposit, only as liabilities. He adverted to some special accounting rules applicable to leasing companies. There was no mention of these special rules in any of the financial statements by either of the two accountants. His explanation presents as obfuscation.

[134] Mr. Bevan could not account for why he referred to the sum of \$950,000 as Mr. Wood's "initial investment" in emails he sent to Mr. Wood on March 10 and March 12, 2015. This figure corresponds to the aggregate amount invested by Mr. Wood as of October 1, 2008, when Mr. Wood says he first requested Mr. Bevan to sign a personal promissory note in that amount. It seems convenient to me that Mr. Bevan could not recall why he used that precise number, which was repeated several times in his emails. This memory loss allowed him to avoid answering a difficult question.

[135] Mr. Bevan resorted to threats and intimidation as a negotiating tactic, telling Mr. Wood in a March 12, 2015 email that he would turn Mr. Wood in to CRA by having Spherical Capital issue T5s for the interest payments, if Mr. Wood did not agree that the cash loan had been repaid in total. These tactics suggest the opposite of good faith.

[136] With regard to the break-in at Mr. Wood's Wizard Lake residence, Mr. Bevan stated that he had nothing to do with such a break-in and opined that Mr. Wood's former wife was the responsible party. That would explain, suggested Mr. Bevan, how Mr. Wood's ex-wife came into possession of the signed and completed promissory note on Spherical Capital letterhead. However, as Mr. Bevan tells it, this promissory note was created by Mr. Wood and Mr. Bevan for the express purpose of deceiving Mr. Wood's former wife. If so, it would not make sense that she would have to break into the home in order to get a hold of it. The casting of the ex-wife as the responsible party is, in my view, another example of implausibility and evidentiary embellishment. On the other hand, it is also a concession by Mr. Bevan that the Bevan loan file existed in Mr. Wood's file cabinet and that a break-in occurred.

[137] Notably, in all of the email exchanges described above concerning Mr. Wood's assertion that the \$1.8 million loan is a personal one to Mr. Bevan, not once does Mr. Bevan attempt to correct Mr. Wood by saying that the loan was not to him personally but rather to Spherical Capital.

[138] Finally, Mr. Bevan has no explanation for the May 9, 2009 personal promissory note bearing his signature other than to say it is a clever forgery by Mr. Wood. Mr. Wood does not have the technical wherewithal to pull off a nearly flawless forgery. The whole idea is implausible.

[139] As a consequence of the foregoing, I find that Mr. Bevan's behaviour in the events giving rise to the lawsuit and his testimony at trial are fraught with inconsistencies, insincerity, evasion and implausibility, and that his evidence reveals a certain amount of embellishment. He will say what he thinks he needs to in order to get himself out of a tight spot. In the result, my reservations about Mr. Bevan's trustworthiness means that I disbelieve him on the main points of contention. His evidence as a whole does not accord with the preponderance of probabilities.

J. Dueling Forensic Experts

[140] A significant issue for determination in this trial is whether the promissory note for \$1.1 million dated May 1, 2009 (Exhibit 7) is authentic or not. If authentic, as contended by Mr. Wood, then its existence supports Mr. Wood's narrative that Mr. Bevan personally signed a succession of promissory notes to evidence his ever-increasing personal indebtedness as Mr. Wood made successive investments or reinvestments. Mr. Wood explained that this one promissory note survived the theft because it had been fortuitously filed in a different file.

[141] Mr. Bevan suggests that Exhibit 7 is a forgery in that it is an altered version of one of the corporate promissory notes that he signed and that the signature on Exhibit 7 is itself a forgery. If Exhibit 7 is inauthentic, then the inauthenticity supports Mr. Bevan's evidence that no personal promissory notes were ever signed, and Mr. Wood is attempting to perpetrate a fraud upon the court.

[142] Each side proffered an expert witness to advance their respective positions at trial. The plaintiff produced Leslie Peace as an expert. Mr. Peace is a former RCMP forensic document examiner with some 20 years of police experience in document examination. He completed a two-year training program at the RCMP Laboratory in Edmonton and successfully completed the written examinations. As an RCMP member, Mr. Peace completed 2000 separate case examinations involving the study of some 30,000 exhibits, and was required to testify as an expert in forensic document examination in many criminal court cases. In 1988, he started his private forensic consulting service and has been involved in approximately 1500 cases all across Canada, in both the criminal and civil realms. As a private practitioner, he has been qualified as an expert in 4 Canadian provinces. He well understood his duties to the court as an expert witness.

[143] Mr. Peace examined both a copy and the original of Exhibit 7. He testified that the signature on Exhibit 7 was an original ink signature that was placed on the document after the signature line had been printed. After comparing the signature on Exhibit 7 with the sample signatures of Mr. Bevan (43 specimens from cancelled cheques, 8 specimens from promissory notes signed by Mr. Bevan in favour of FL Bonds, and the signature from Mr. Bevan's May 21, 2019 affidavit), he concluded as follows at page 7 of his report:

Although the questioned signature apparently contains the structural elements of just two letters, it is noteworthy that both the questioned and specimen signatures contain a fluidly written and continuous collection of complex overlapping loops, ovals, and eyelets, with tapering line endings and very good pressure transitions. These characteristics are completely inconsistent with any signature which has been produced by a simulation or tracing process, and a completely consistent with being the rapidly written and highly personalized representation of certain letters in the writer's name. To summarize these observations, in the experience of the examiner, and in the absence of any significant differences the collective weight of the above-noted features is considerable, and sufficient to support an unqualified opinion of identification.

[144] Mr. Peace concluded that the signature on Exhibit 7 and the specimen signatures were written by the same person. He noted that the signature in question was one of the more distinctive signatures he has encountered in his long experience.

[145] The defendants produced Wendy Carlson as their expert. Ms. Carlson is a forensic document examiner who completed a two-year online certificate course from the International School of Forensic Document Examination in 2009. She is specifically trained in handwriting identification, signature comparison and techniques for distinguishing forged signatures in handwriting. Ms. Carlson has worked on nearly 2000 cases and examined 20,000 documents in her career thus far and has been qualified as an expert in numerous American states and two Canadian provinces.

[146] At trial, counsel for Mr. Wood questioned Ms. Carlson's professional *bona fides*. He pointed out that the school from which Ms. Carlson obtained her certification is not accredited. He referred the court to the school's website, which states in part:

If you have ever considered a career change to something related to criminal justice, becoming an expert witness, or handwriting expert, this is the distance-learning program which can train you and help you build your own business – while you learn from home.

Courts are filled with forged wills, fake checks, and mocked up contracts cluttering the legal system. Until recently, it was “free reign” for criminals to forge documents to support their dubious claims in the thousands of uncontested trials statewide because of a serious shortage of court qualified document examiners.

[147] Mr. Wood's counsel suggested that Ms. Carlson's training is aimed more at producing a certain outcome for a client as opposed to engaging in the search for truth. He also pointed out that while Ms. Carlson endorsed the SWGDOC¹ standards in her report, she does not meet the minimum training requirements for forensic document examination established by that body.

[148] I ruled at the trial that Ms. Carlson met the test in *R v Mohan*, [1994] 2 SCR 9 and was permitted to provide expert evidence regarding the authenticity of the disputed signature, and any differences in training and expertise between the two experts would be dealt with as a matter of weight. Ms. Carlson did advise the court that she was aware of her primary duty to the court and consequently met the minimum threshold for admissibility described in *White Burgess Langille Inman v Abbott and Haliburton Co*, 2015 SCC 23, [2015] 2 SCR 182 at para 49.

[149] Ms. Carlson concluded on page 7 of her report:

There were many similarities found in the questioned signature when compared to the purported known signatures, including general structure, layout, position, placement and similar style stroke formations. However, the dissimilarities found in the questioned Gerry Bevan signature are distinct and significant enough to call into question the authorship of the questioned Gerry Bevan signature.

[150] Ms. Carlson then listed 5 observations regarding her comparison of the disputed signature with the specimens provided to her, including that

The questioned signature displays a drawn appearance with distinct lines and shapes drawn and wider spacing within the signature than the purported known signatures that display a larger overall size but tighter formation with overdrawn lines that are difficult to follow and appear tangled.

[151] Her overall conclusion was that “the handwriting characteristics found in the questioned signature do not conform to the handwriting characteristics found in the purported known Gerry Bevan signatures” and consequently it was a different person who wrote the disputed signature.

[152] As specimens, Ms. Carlson reviewed 23 undisputed cheque signatures. She did not review the original of Exhibit 7, but only a photocopy. Curiously, in her oral evidence, she pointed to what she considered to be the single fundamental and unexplainable difference

¹ Scientific Working Group for Examination of Documents

between the disputed signature and the specimen signatures which precludes common authorship, mainly how the top large loop in the disputed signature points to the right-hand corner of the page. This difference was not mentioned in her report.

[153] In evaluating the evidence of the respective experts, I note the following:

- Ms. Carlson did not review the original of Exhibit 7. Accordingly, unlike Mr. Peace, she was unable to provide an opinion as to when the signature was applied to the exhibit. Her description of some of the anomalies in the disputed signature and signature line, she admitted, might be the result of photocopying.
- Ms. Carlson reviewed fewer signature specimens than Mr. Peace (24 compared to 53, including the disputed signature). The two experts also looked at different specimen signatures. Admittedly, a person's signature can vary. Mr. Peace had a greater appreciation of the universe of Mr. Bevan's signature variation.
- Ms. Carlson compared the writing of the "May 1, 2009" below the disputed signature to writing on the specimen cheques and noted differences, which she suggested support her conclusion that the disputed document is a forgery. Then she conceded in cross-examination that she has no information about who may have done the handwriting on the cheques. In consequence, the difference in handwriting does not support her conclusion.
- Mr. Peace's training and experience is superior to that of Ms. Carlson.

[154] Most troubling of all about Ms. Carlson's evidence was her statement that the top loop pointing to the right-hand corner in the disputed signature shows in a fundamental way that the disputed signature is a forgery, since this is not a characteristic of Mr. Bevan signature. I am not a handwriting expert, but like any person I can look at a signature to see if a top loop points toward the right-hand corner. In the Agreed Exhibit Book, there are several examples of Mr. Bevan's signature where the top loop points to the right-hand corner of the page: the deposit slip at page 61; the second cheque on page 110, and the two bottom cheques on page 111. In Exhibit 8, a bundle of copies of Spherical Capital cheques, there are at least three examples (cheques 0365, 0329 and 0334) where the top loop points to the right-hand corner. Obviously, these documents were not made available to Ms. Carlson to examine. There is no dispute that Mr. Bevan signed these particular documents. Therefore, Ms. Carlson is mistaken on her main argument supporting inauthenticity.

[155] Mr. Woods counsel argues that the review of Mr. Bevan signatures throughout the agreed exhibits shows that there is no consistency in the angle of the loops. Sometimes they slope down, sometimes they are horizontal and sometimes they slope up. Since no one signature is exactly the same all of the time, these would be appear to be normal variations in Mr. Bevan signature. Mr. Peace states at page 6 of his report:

A thorough examination and interest comparison of the 53 specimen signatures in exhibits B, C, and D disclose that each of the signatures was produced with a relatively good degree of writing speed, consistency and naturalness, although this assessment was somewhat restricted to the reproduced nature of all the documents. But in the case of exhibits B and C, the reproduction quality is relatively good, and considering the volume of signatures, the overall assessment of naturalness was considered to be quite reliable. As a group, the specimen

signatures contain a certain degree of variation in absolute letter dimensions, slant, spacing, initial/terminal strokes, and curvature of the looped and arched formations, but this degree of variation is not unexpected in the natural spontaneous signatures of the same person produced over a period of 11 years. In this case, the range of variation within the various specimen signatures was considered to be a normal feature of Gerry Bevan's natural spontaneous signature, and allow for a meaningful interpretation of the many consistent similarities and letter structures, spacing, alignment, proportions, initial strokes, terminal strokes, slant, and connections. As a result, the 53 specimen signatures were considered to be a very good submission of relatively contemporary sample material produced by one person, and a reliable basis for comparison with one or more disputed signatures. No evidence was found to suggest that any of the specimen signatures were reproduced by another writer.

[156] Mr. Peace gave his evidence in a measured and straightforward way. He had a broader spectrum of specimens to consider. He concludes at page 7, and I accept:

Based on the cumulative weight of the features and characteristics described in paragraph 6 (5) above, the questioned "G· B···" signature on Exhibit A was written by the person who produced the sample signatures on Exhibits B, C, and D, purportedly Gerry Bevan.

[157] Mr. Peace did allow that Exhibit 7 is an amateurish document. The person who put it together, he said, has poor word-processing skills. Although Exhibit 7 appears to be a photocopy as opposed to originally printed, the signature is an original ink signature. This leads me to conclude that Exhibit 7 was in the form presented when the signature was applied.

[158] Mr. Bevan's counsel raised the spectre that Exhibit 7 was the second of the two Spherical Capital promissory notes that Mr. Bevan says were signed by him in blank. The first of these is in evidence and the physical set-up of that document is slightly different from that of Exhibit 7 and there is a minor wording change between the two. The second version of this document, which Mr. Bevan says he also produced and signed at Mr. Wood's behest, corrected the interest payment dates. The second version is not in evidence. It is the second version that Mr. Bevan submits was altered to remove the Spherical Capital letterhead and signature block. Mr. Bevan suggests that after doing so, Mr. Wood forged Mr. Bevan signature on the document.

[159] Given my acceptance of Mr. Peace's evidence and what I know about Mr. Woods technology skills, I cannot accept that Exhibit 7 is a forgery. I find that it is genuine. The production of Exhibit 7 is more in keeping with someone who has amateurish word-processing skills.

K. Findings

Cash Loan – Personal or Corporate Debt?

[160] I conclude based on a preponderance of probabilities that the cash loan by Mr. Wood was a personal loan to Mr. Bevan as opposed to a corporate loan to Spherical Capital. I conclude this for the following reasons:

- As I have found, the May 1, 2009 promissory note appearing to be personally signed by Mr. Bevan is genuine. This note, along with the metadata in Mr. Wood's laptop, support

Mr. Wood's contention that Mr. Bevan, at Mr. Wood's request, signed a series of promissory notes when the total advances reached \$950,000 and at each subsequent advance. Mr. Wood's loan file was stolen from his Wizard Lake home, by a person or persons unknown, while he was on holiday in Thailand in the first quarter of 2015. The May 1, 2009 promissory note survived the theft because it was in a different file.

- The signing of this series of promissory notes denotes that the parties always intended that the cash loan was Mr. Bevan's personal responsibility to repay, regardless of the use to which Mr. Bevan put the funds.
- Mr. Wood did not dispute that he faxed Mr. Bevan the wording of the Stoneridge promissory note in 2008. However, he denies having a hand in creating the August 20, 2008 promissory note on the letterhead of Spherical Capital. As I said earlier, it does not make sense for Mr. Wood to inflate his assets for the purposes of his matrimonial dispute, and so I accept his evidence that the corporate promissory note was not of his making.
- Mr. Wood has been consistent throughout that the cash loan was Mr. Bevan's personal responsibility. This is reflected in the emails of Mr. Wood to Mr. Bevan on July 1, 2014, in February and March 2015, and on April 26, 2015, and during the meeting of December 20, 2015. In none of these instances did Mr. Bevan contest that the liability was his personally, except for one time in the meeting and he was immediately corrected by Mr. Wood. Nor did he question the presentation of the final promissory note in January 2015 nor Mr. Wood's statement that it was the same paperwork that had been used from the start.
- There scant documentation within the records of Spherical Capital indicating that the loans had been taken out by the corporation. Between 2009 and 2014, the financial statements and tax records of Spherical Capital showed the loans in Mr. Bevan's shareholder account. Mr. Bevan has never attempted to correct the information reported to CRA to accord with his current position regarding the indebtedness.
- The fact that the interest payments were made to Mr. Wood from a Spherical Capital bank account is not a factor, as Mr. Wood would have no knowledge of the state of transfers, advances, loans or dividends between Spherical Capital and its sole shareholder.
- Mr. Bevan's repeated use of the figure \$950,000 in his March 10 and 12, 2015 emails to Mr. Wood as Mr. Wood's "initial investment" corresponds to what Mr. Wood says is the amount of the first promissory note signed by Mr. Bevan.
- The basis for the current claim for the cash loan is the loan agreement found in the exchange of email between Mr. Wood and Mr. Bevan on September 6, 2014 (Mr. Wood proposing terms for the \$1.8 million loan) and September 7, 2014 (Mr. Bevan accepting those terms). Ultimately Mr. Bevan did not sign the promissory note to formally document the loan, but nonetheless the terms of the loan were clearly set out and accepted through the emails.
- In the latter regard, it is important to remember that Mr. Wood is not suing on any particular promissory note. Rather, the history of the promissory notes provides factual background to the claim of personal liability against Mr. Bevan. The loans were always

meant to be personal to Mr. Bevan, whether documented by promissory note or not. As such, considerations do not arise under the *Guarantees Acknowledgement Act*.

[161] Accordingly, I conclude on the basis of the whole of the evidence that I accept, that Mr. Bevan is personally liable to Mr. Wood for the cash loan in the sum of \$1.8 million plus interest at the annual rate of 8.75%. Since I have found the loans were made to Mr. Bevan personally, and not to Spherical Capital, there is no judgment against the latter.

RRSP Loan - Misrepresentation?

[162] Mr. Wood contends that the misrepresentation herein consists of Mr. Bevan repeatedly telling Mr. Wood that his RRSP funds would be lost unless he transferred them from FL Bonds to Spherical Bond. Mr. Bevan said to Mr. Wood in a March 28, 2015 email:

In order for you keep your RRSP money safe by transferring it, (since Spherical Capital does not have the funds at present to pay you as you are demanding) and to keep your principle and earned interest to date in tack [sic]. You have to transfer from Olympia Trust/FL Bonds your RRSP to an Olympia Trust/Spherical Bond RRSP on the same terms as it was set up and renewed for the same 3 year term. I will get you out the paperwork once it is complete. This is the only way to not lose the [sic] all your RRSP funds.

That is the only way to not lose the all your RRSP funds. The Olympia Trust/FL Bond has collapsed and expired and will be dissolved if not transferred to Olympia Trust/spherical Bond as you will see in your contract Olympia trust authorization for registration forms. I have got a short window of time to do the RRSP transfer for you and Juab.

[163] On March 30, 2015, while admonishing Mr. Wood for seeking recovery of his RRSP funds from FL Bonds, Mr. Bevan wrote to Mr. Wood in an email:

I just want to make this very clear!!!

You are risking any possible recovery as my hands will be tied as this is the ONLY possible way to recover the situation.

This course of Spherical Bond works for you and of course all of the investors!

By, contacting these other people, you are jeopardizing your funds and theirs!

You will not get anything back if this does not go through!

[164] In May 2015, Mr. Wood transferred his RRSP funds from FL Bonds to Spherical Bond.

[165] As I found in Section I above, the representations that the RRSP funds would be lost unless transferred were not true. Spherical Bond had no assets and held no security over Spherical Capital's assets. Hence, Mr. Wood did not improve his position by making the transfer. Before the transfer, Mr. Wood had recourse against FL Bonds as the bond issuer. FL Bonds in turn was indemnified by both Spherical Capital through promissory notes and Mr. Bevan personally by way of guarantees. Mr. Wood could have taken the legal route against FL Bonds but instead, based on the representations made by Mr. Bevan noted above, made the switch to Spherical Bond. The effect of the transfer was to deprive Mr. Wood of recourse against FL Bonds (and by extension the assets of both Spherical Capital and Mr. Bevan) and to liberate

Spherical Capital and Mr. Bevan from legal liability under the promissory note and guarantee to FL Bonds.

[166] With regard to the transfer of the RRSP funds, it is clear that Mr. Wood and Mr. Bevan were in a kind of special relationship, resulting from:

- the fact that all of Mr. Wood's retirement funds, accumulated over career in the elevator trade, had been invested at Mr. Bevan's advice for the purpose of funding Mr. Bevan's enterprises;
- that the entire business relationship between Mr. Wood and Mr. Bevan was premised on familial ties, trust and good faith; and
- the fact that Mr. Wood had already invested another \$1.8 million under Mr. Bevan's guidance and for the purpose of funding Mr. Bevan's business.

[167] On the basis of the special relationship and the above facts, Mr. Wood asks the court to find Mr. Bevan personally liable on the basis of negligent misrepresentation per *Queen v Cognos*, [1993] 1 SCR 87 at para 34. Mr. Wood's counsel also submitted that, on these facts, it is difficult for the court not to conclude that Mr. Bevan deliberately made the false statements upon which Mr. Wood relied, resulting in his loss.

[168] Based on:

- Mr. Bevan being the principal of both Spherical Capital and Spherical Bond, and
- knowing that bonds issued by the latter were not secured against assets held by the former, and that Spherical Capital was technically insolvent or "upside down" in any event, and
- that Mr. Bevan must have known that the transfer of the RRSP money from FL Bonds to Spherical Bond released both the Spherical Capital promissory notes and Mr. Bevan's personal guarantees to FL Bonds,

I am inclined to find that Mr. Bevan had a degree of knowledge regarding the falsity of the statements. In the very least, I find that the statements were made recklessly.

[169] The Supreme Court of Canada in *Bruno Appliance and Furniture, Inc v Hryniak*, 2014 SCC 8 (CanLII), [2014] 1 SCR 126 describes the tort of civil fraud as follows at para 21:

From this jurisprudential history, I summarize the following four elements of the tort of civil fraud: (1) a false representation made by the defendant; (2) some level of knowledge of the falsehood of the representation on the part of the defendant (whether through knowledge or recklessness); (3) the false representation caused the plaintiff to act; and (4) the plaintiff's actions resulted in a loss.

[170] As stated in *Canadian Imperial Bank of Commerce v Deloitte & Touche*, 2016 ONCA 922 at para 42:

Reckless misrepresentation is a kind of fraudulent misrepresentation: *Redican v Nesbitt*, 1923 CanLII 10 (SCC), [1924] S.C.R. 135, at p. 154. In the law of torts, a fraudulent misrepresentation that causes loss to the recipient grounds an action in "deceit" or "civil fraud": Bruce MacDougall, *Misrepresentation* (Toronto: LexisNexis Canada, 2016), at para. 5.8.

[171] The court can safely conclude from the chain of events described above that the statements made by Mr. Bevan to Mr. Wood did induce Mr. Wood to make the switch from FL Bonds to Spherical Bond. It had nothing to do with commission fees charged by FL Bonds. That was clearly a made-up excuse by Mr. Bevan for the trial. The remaining question is whether Mr. Wood's switch in bond issuer has resulted in a loss. The bonds were supposed to bear interest on the capital amount at the rate of 7% per annum payable on July 3 of each year. Mr. Wood has not received any interest payments on the bonds issued by Spherical Bond since July 5, 2017.

[172] On July 8, 2021, Mr. Wood was advised in writing by Olympia Trust Company that it had not been able to reach Spherical Bond or obtain an updated share valuation despite multiple contact attempts. Olympia Trust told Mr. Wood that his account would be closed in 45 days with a nil balance, unless it held other assets. Accordingly, Mr. Wood has incurred a capital loss of \$589,000 along with the missed interest payments.

[173] I find that Mr. Bevan is personally liable to Mr. Wood for the RRSP loan based on reckless misrepresentation. As the issuer who has defaulted on the bonds, Spherical Bond is jointly and severally liable.

Piercing the Corporate Veil and Oppression

[174] Both piercing the corporate veil and the oppression remedy under section 242 of the *Business Corporations Act* were pled as alternative bases for Mr. Bevan's personal liability. However, given my findings above, it is not necessary for me to make a further finding with respect to whether or not the corporate veil should be pierced: *Zerbin v Vrbanek*, 2021 ABCA 317 at paras 18-19. The oppression remedy was not really pursued by the plaintiff in final argument and I conclude it is also unnecessary to determine whether it is available in this case, given the findings of personal liability in respect of both the cash loan and the RRSP loan.

Settlement or not?

[175] Having regard to the facts recited in section G above, I conclude that no settlement between these parties was reached on December 20, 2015 or at any time. I base this conclusion on the following:

- It is clear to me that there were two pre-conditions to the settlement. The first is that Mr. Boyle, through Admiralty Leasing, would acquire Spherical Capital's portfolio of leases in order to fund the cash necessary to retire the RRSP indebtedness. It was Admiralty Leasing that was stipulated as the buyer and only Admiralty Leasing, because its principal (Mr. Boyle) had been the mediator. The sale never happened. The sale was a true condition precedent to the settlement because it depended entirely on Mr. Boyle/Admiralty Leasing completing the sale: *Fraser Valley Building Supplies Inc v Home & Style Design & Construction Inc*, 2014 BCSC 1584 at para 25.
- The second precondition is that Aaron Wade would provide satisfactory tax advice to Mr. Wood. I interpret Mr. Wood's comments during the meeting to mean that he did not consider the cash loan part of the proposed settlement to be final until he was satisfied that his tax situation could be worked out favourably, based on what Mr. Wade told him. Mr. Wood was, in my view, expecting a certain level of benefit from this tax advice. In other words, there was no settlement until Mr. Wood was satisfied with what Mr. Wade could provide him by way of advice. Indeed, the last comment made by Mr. Wood in the

meeting concerning the proposed settlement is that the parties should keep negotiating pending receipt of the tax advice. Mr. Bevan is then heard concurring with this statement.

- Mr. Boyle's next-day confirmation of the settlement cannot bind Mr. Wood. Only Mr. Wood can bind Mr. Wood. Mr. Wood did not affirm Mr. Boyle's memorialization. Indeed, he disaffirmed it by continuing negotiations. Moreover, to the extent it matters, it is unclear what Mr. Boyle's subjective impressions might have been, as he did not testify at trial, and later backed out himself of any involvement in the settlement.
- The chain of emails exchanged between December 20, 2015 and February 7, 2016 show that the parties were still negotiating. Mr. Bevan did not assert there was a completed settlement agreement when Mr. Wood proposed different terms on December 21, 2015. Indeed, Mr. Bevan appears to have treated the communications as a continued course of negotiations, stating as much to Mr. Boyle in his January 4, 2016 email, even indicating that there was no final settlement until it had been concluded in writing. By this course of conduct, on both sides, a reasonable person would not conclude that they intended to be bound: *Ethiopian Orthodox Tewahedo Church of Canada St Mary Cathedral v Aga*, 2021 SCC 22 at paras 36-37.
- Mr. Wood did not accept the ten \$2000 monthly payments as part performance of the settlement. He expressly rejected that position and recharacterized the payments immediately.
- It is doubtful that Ogilvie reached out to Mr. Wood directly, instead of his counsel, to sign a settlement agreement. As I said, this is embellishment that makes Mr. Bevan's assertion that there was a settlement even more unlikely.

L. Result

[176] Accordingly, Mr. Wood is granted judgment against Mr. Bevan as follows:

- with respect to the cash loan, judgment in the sum of \$1.8 million plus interest at the rate of 8.75% per annum from January 1, 2015 to the date of judgment;
- with respect to the RRSP loan, judgment in the sum of \$589,000 plus interest at the rate of 7% per annum from July 5, 2017 to the date of judgment;
- Spherical Bond is jointly and severally liable for the RRSP loan;
- from the aggregate of the two amounts above, there shall be a credit to Mr. Bevan of \$20,000 for payments made by Mr. Bevan to date; and
- interest on the remaining aggregate amount shall continue to accrue in accordance with the *Judgment Interest Act*.

[177] Counsel may address costs of the action, if required, within 60 days of the date of this decision.

[178] I thank both counsel for their able assistance throughout.

Heard on the 12th -15th day of October, 2021 and the 3rd of November, 2021.

Dated at the City of Edmonton, Alberta this 10th day of December, 2021.

A handwritten signature in black ink, appearing to read 'Douglas R. Mah', is written over a horizontal line.

Douglas R. Mah
J.C.Q.B.A.

Appearances:

Mathieu LaFleche and Elizabeth Jonah (Student-at-Law), Bennett Jones LLP
for Mr. Wood

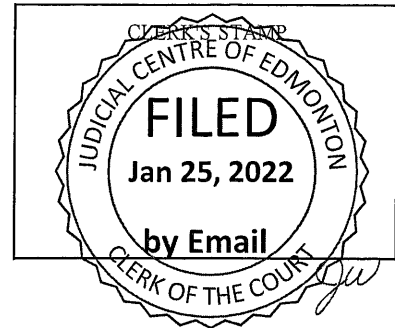
Terry L. Czechowskyj, QC, Miles Davison LLP
for Mr. Bevan

This is **Exhibit "2"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022



A Commissioner for Oaths in and for Alberta

Taylor Meagher
Barrister & Solicitor



COURT FILE NUMBER 1503 16803

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLAINTIFF(S) WADE WOOD

DEFENDANT(S) GERALD BEVAN and SPHERICAL
CAPITAL INC., and SPHERICAL BOND LTD.

DOCUMENT

JUDGMENT

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

BENNETT JONES LLP
Barristers and Solicitors
3200, 10020 100 Street
Edmonton, Alberta T5J 0N3

Attention: Mathieu J. LaFleche
Telephone No.: 780-917-5249
Fax No.: 780-421-7951
Client File No.: 74124.1

**DATE ON WHICH ORDER WAS
PRONOUNCED:**

December 10, 2021

LOCATION OF HEARING OR TRIAL:

Edmonton

**NAME OF MASTER/JUDGE
WHO MADE THIS ORDER:**

Justice D.R. Mah

JUDGMENT

THIS MATTER having come on for trial before Justice D.R. Mah on October 12, 2021 to October 15, 2021 in the presence of counsel for the Plaintiff and the Defendants; AND UPON

HEARING and considering the evidence presented at trial and hearing the parties' submissions; AND FURTHER to the Reasons for Judgment issued December 10, 2021; IT IS HEREBY ORDERED AND ADJUDGED THAT:


1. Judgment is granted to the Plaintiff, Wade Wood, as against the Defendant, Gerald Bevan, as follows:
 - (a) \$1,800,000.00 in damages; and
 - (b) Pre-judgment interest calculated at a rate of 8.75% from January 1, 2015 to the date of judgment;
2. Judgment is granted to the Plaintiff, Wade Wood, as against the Defendants, Gerald Bevan and Spherical Bond Ltd., jointly and severally, as follows:
 - (a) \$589,000.00 in damages; and
 - (b) Pre-judgment interest calculated at a rate of 7.00% from July 5, 2017 to the date of judgment;
3. From the aggregate of the amounts described in Paragraph 1 and 2, above, a credit of \$20,000 shall be applied to the amount owing by Gerald Bevan.
4. Interest from the date of judgment onwards shall accrue in accordance with the *Judgment Interest Act* on the amounts described in Paragraph 1 and 2 of the within judgment, net of the \$20,000 credit set out in Paragraph 3.
5. Costs of the Action may be spoken to within 60 days of the date the judgment if the parties cannot otherwise agree.



J.C.Q.B.A.

APPROVED AS TO THE JUDGMENT
GRANTED

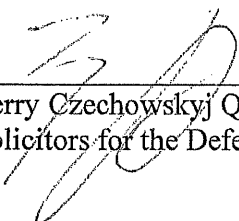
BENNETT JONES LLP

Per: 

Mathieu LaFleche
Solicitors for the Plaintiff

APPROVED AS TO THE JUDGMENT
GRANTED

MILES DAVISON LLP

Per: 

Terry Czechowskyj Q.C.
Solicitors for the Defendants

This is **Exhibit "3"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022



A Commissioner for Oaths in and for Alberta

Taylor Meagher
Barrister & Solicitor

FORM44
[RULE 10.35(1)]



COURT FILE NUMBER 1503 16803
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF(S) WADE WOOD
DEFENDANT(S) GERALD BEVAN and SPHERICAL
CAPITAL INC., and SPHERICAL BOND LTD.

DOCUMENT

BILL OF COSTS

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

BENNETT JONES LLP
Barristers and Solicitors
3200, 10020 100 Street
Edmonton, Alberta T5J 0N3

Attention: Mathieu J. LaFleche
Telephone No.: 780-917-5249
Fax No.: 780-421-7951
Client File No.: 74124.1

BILL OF COSTS OF THE PLAINTIFF, WADE WOOD

Fees claimed:

ITEM NO.	ITEM	AMOUNT (Column 5)
Commencement Documents, Pleadings and Related Documents		
1(1)	Statement of Claim	\$4,725.00
Document Disclosure		
3(1)	Affidavit of Records: Wade Wood	\$2,025.00
3(2)	Review of opposite party's documents	\$2,025.00
Oral Questioning		

5(1)	Preparation for Questioning	\$2,025.00
5(3)	Questioning: Wade Wood November 13, 2019 (Half Day) October 24, 2018 (Full Day)	\$6,075.00
5(3)	Questioning: Gerald Bevan February 6, 2018 (Full Day) October 25, 2018 (Half Day) November 13, 2019 (Half Day)	\$8,100.00
Trial		
10(1)	Preparation for trial.	\$13,500.00
11(1)	First ½ day of trial (Lead Counsel)	\$2,700.00
11(3)	Additional Trial Days: <ul style="list-style-type: none"> • October 12, 2021 (Half Day) • October 13, 2021 (Full Day) • October 14, 2021 (Full Day) • October 15, 2021 (Half Day) • November 3, 2021 (Half Day) 	\$18,900.00
12	Written Argument of the Plaintiff (Closing Submissions)	\$6,750.00
Offsetting Costs		
	Costs awarded by Master Schlosser arising from July 15, 2019 Order Dismissing Summary Judgment Application	\$(7,097.00)
	Total Fees	\$59,728.00

Taxable Disbursements (subject to GST):

DESCRIPTION	AMOUNT
Questioning Transcripts and Court Reporters	\$3,268.35
Courier Charges	\$426.40
Professional Services / Expert Disbursements	\$7,001.98
Total Disbursements	\$ 10,696.73

Non-taxable Disbursements (not subject to GST):

DESCRIPTION	AMOUNT
Filing Fees	\$1,300.00
Total Disbursements	\$ 1,300.00

Other Charges:

DESCRIPTION	AMOUNT
Photocopying	\$249.00
Printing Costs	\$661.00
Total Other Charges	\$ 910.00

GST:


(a) Amount claimed on fees:	\$	<u>2,986.40</u>
(b) Amount claimed on disbursements	\$	<u>534.84</u>
(c) Amount claimed on other charges	\$	<u>45.50</u>
TOTAL GST:	\$	<u>3,566.74</u>

By making the above claim for an additional amount on account of goods and services tax, the party entitled to the costs award warrants that it is not entitled under the *Excise Tax Act* (Canada) to a refund or rebate of any goods and services tax paid.

Total amount claimed:

Fees:	\$	<u>59,728.00</u>
Taxable Disbursements:	\$	<u>10,696.73</u>
Non-taxable Disbursements:	\$	<u>1,300.00</u>
Other Charges:	\$	<u>910.00</u>
GST:	\$	<u>3,566.74</u>
TOTAL:	\$	<u>76,201.47</u>

Signature

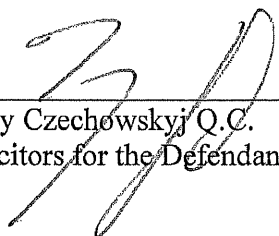


Mathieu LaFleche, counsel for the Plaintiff

AGREED AS TO FORM AND CONTENT:

MILES DAVISON LLP

Per:



Terry Czechowskyj Q.C.
Solicitors for the Defendants

CERTIFICATE OF ASSESSMENT OFFICER:

I, Natalija Varevac, certify the following amount(s) that is (are) to be paid

By Plaintiff: \$ _____

By Defendant(s) \$ 76,201.47

to [NAME OF PARTY OR PARTIES TO RECEIVE THE COSTS AWARDED].

I also certify the following special circumstance(s) and the amount to be paid by each party with respect to the special circumstance(s):

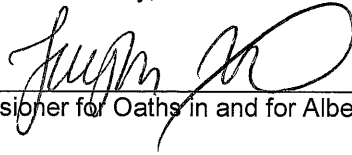
Special Circumstances

Description	Amount to be paid

Dated: January 26 2022

Natalija Varevac
Signature of Assessment Officer

This is **Exhibit "4"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022



A Commissioner for Oaths in and for Alberta

Tayler Meagher
Barrister & Solicitor

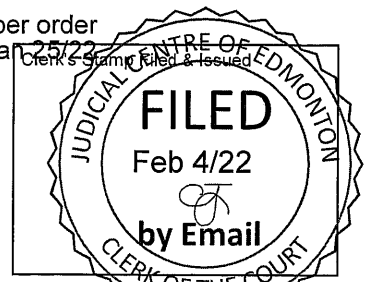


Protected A (when completed)

Writ of Enforcement Financing Statement

Civil Enforcement Act

Filed per order
filed Jan 25/22
Clerk's Office Filed & Issued



Court Location Edmonton	Court File Number 1503 16803	Type of Judgment <input type="radio"/> Crown <input type="radio"/> Employment Standards <input checked="" type="radio"/> Other
----------------------------	---------------------------------	-----------------------------------------------------------------------------------------------------------------------------------

This Writ authorizes enforcement proceedings in accordance with the *Civil Enforcement Act*.
The particulars of the Writ are as follows:

Debtor

Select one Business Individual Occupation CEO

Business Name or Last Name Bevan First Name Gerald Middle Name Richard

Street Address 11396 Chalet Road City North Saanich Province BC Postal Code V8L 5L9 Gender M F Birthdate (if known) _____

Creditor

Select one Business Individual

Personal Property Registry (P.P.R.) Party Code _____ Business Name or Last Name Wood First Name Wade Middle Name _____

Street Address Box 5, Site 3, RR2 City Thorsby Province AB Postal Code TOC 2P0

Email Address wizardlake@hotmail.com

Additional Debtors and Creditors and/or other information listed on attached addendum.

If claiming priority based on an Attachment Order or partial Assignment, indicate previous P.P.R. Registration Number. _____

Date of Judgment (or date Judgment effective, if different) 10 Day of December Month in Full, 2021 Year

Original Judgment \$ 3,666,294.79 Costs \$ 76,201.47

Post Judgment Interest \$ 1,138.84 Current Amount Owning \$ 3,723,635.11

Solicitor/Agent/Creditor

Personal Property Registry (P.P.R.) Party Code _____ Name in Full Bennett Jones LLP, Attn: Mathieu Lefleche

Street Address 3200 TELUS House, South Tower, 10020-100th Street City Edmonton Province AB Postal Code T5J 0N3

Telephone Number 780-917-5249 Fax Number 780-421-7951 Email Address laflechem@bennettjones.com Call Box 18 Your Reference Number 74124.1

To Register Against Serial # Goods at Personal Property Registry, complete the following:

Serial Number (Only applicable to serial number goods, e.g. motor vehicles.)	Year yyyy	Make and Model	Category

Name of Person Authorized to Complete this Form (PRINT) Mathieu LaFleche Authorized Signature

Registry Agent Office Use Only
Date of Submission yyyy-mm-dd

Court File Number

1503 16803

Debtor *Select one* Business Individual Occupation _____ Debtor's Block Number if adding alias _____

Business Name or Last Name _____ First Name _____ Middle Name _____

Street Address _____ City _____ Province _____ Postal Code _____ Gender M F Birthdate if known _____ yyyy-mm-dd

Debtor *Select one* Business Individual Occupation _____ Debtor's Block Number if adding alias _____

Business Name or Last Name _____ First Name _____ Middle Name _____

Street Address _____ City _____ Province _____ Postal Code _____ Gender M F Birthdate if known _____ yyyy-mm-dd

Creditor *Select one* Business Individual

Personal Property Registry (P.P.R.) Party Code _____ Business Name or Last Name _____ First Name _____ Middle Name _____

Street Address _____ City _____ Province _____ Postal Code _____

Email Address _____

Creditor *Select one* Business Individual

Personal Property Registry (P.P.R.) Party Code _____ Business Name or Last Name _____ First Name _____ Middle Name _____

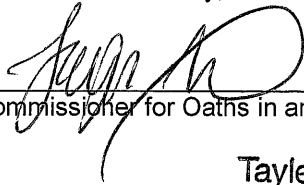
Street Address _____ City _____ Province _____ Postal Code _____

Email Address _____

Additional Information

This Writ of Enforcement is issued pursuant to the Judgment of Justice D.R. Mah dated December 10, 2021 as against Gerald Richard Bevan only.

This is **Exhibit "5"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022



A Commissioner for Oaths in and for Alberta

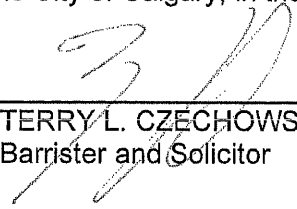
Tayler Meagher
Barrister & Solicitor

CERTIFICATE OF COMMISSIONER

I, **TERRY L. CZECHOWSKYJ**, of the City of Calgary, in the Province of Alberta, Barrister and Solicitor, DO HEREBY CERTIFY THAT:

1. On March 5, 2022, I was present by video technology and did see the affiant, Gerry Bevan (the "Affiant") swear and sign the Statement of Financial Debtor ("SFD") annexed hereto.
2. The Affiant showed me the front and back of her current government-issued photo identification, being his passport, and I have taken a screenshot of same.
3. I have compared the video image of the Affiant and the information on the said photo identification and believe it to be the same person and that the photo identification is valid and current.
4. Both the Affiant and I had a paper copy of the SFD, before us while connected via video technology. The Affiant and I reviewed each page of our respective copy of the SFD together, and verified that they were identical and have initialed each page in the lower right corner.
5. The SFD was sworn and signed by the Affiant in Mexico, and I am the Commissioner thereof.
6. The steps taken by myself as Commissioner follow the process for remote commissioning as set out in the Notice to the Profession & Public – Remote Commissioning, issued by the Court of Queen's Bench of Alberta on March 25, 2020. This process was necessary as it is unsafe, for medical reasons, for the Affiant and I to be physically present together.

DATED on the 14th day of March, 2022, in the City of Calgary, in the Province of Alberta.



TERRY L. CZECHOWSKYJ
Barrister and Solicitor

Alberta

Financial Statement of Debtor
(Individual Debtor)

Claims and Recoveries

Form 13
Statutory Declaration

File Number

In accordance with section 35.10 of the *Civil Enforcement Regulation*, you must, within 15 days of being served with this form, provide the completed form to the enforcement creditor.

A. Debtor Information

I, Gerald Richard Bevan Full Name 322-120-4507 Telephone Number

Gerry Aliases, Nicknames or Previous Names

of Av. Paseo del marina #245 Present Street Address Puerta Vallarta City/Town AB Province/Territory MEXICO Postal Code

solemnly declare that the contents of this document are true and accurate.

How long have you lived at this address? <u>3 1 2 months</u>	Date of Birth (yyyy-mm-dd) <u>1951 - 01 - 09</u>	Social Insurance Number (SIN) <u>619-787-153</u>
-----------------------------------------------------------------	-----------------------------------------------------	-----------------------------------------------------

B. Dependants

Present Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Married <input checked="" type="checkbox"/> Other If Other, Specify <u>Legal Separation</u>	
Name of Spouse or Adult Interdependent Partner <u>N A</u>	Birthdate of Spouse or Adult Interdependent Partner (yyyy-mm-dd) <u>- -</u>

Do you have any children living with you who are legally dependent upon you for financial support? Yes No
If yes, provide the dependant's full name, age and relationship to you.

Full Name of Dependand	Age	Relationship to you
------------------------	-----	---------------------

Do you have any other dependants who are dependent on your financial support? Yes No
If yes, provide the dependant's full name, address, age and relationship to you, and the reason for the dependant's dependency.

Full Name <u>Suzannah Hahrt</u>	Age <u>62</u>	Relationship to you <u>Legal Separation</u>
Address <u>11396 Chalet Road</u>	Reason for Dependency <u>Alimony</u>	

C. Employment

Full Name of Current Employer <u>N A</u>	Telephone Number	Fax Number
Present Address of Employer	City/Town	Province/Territory <u>AB</u>
Name of Business	Position Occupied	
Place of Employment, if different from employer's address	City/Town	Province/Territory <u>AB</u>
How frequently are you paid?	If you are paid by the hour, what is your hourly wage?	
If you are paid monthly, what is your gross monthly wage or salary?	What is your net monthly wage or salary?	

What deductions are made from your salary? Provide complete listing.

N/A

Are you qualified as a tradesman, professional or otherwise? Yes No

If yes, state nature of qualifications or special training.

Do you receive bonuses from your employer? Yes No If yes, when did you receive your last bonus? (yyyy-mm-dd)

On what basis are bonuses paid?

Do you expect to receive another bonus in the near future? Yes No

If yes, when and for how much?

Do you receive money in the form of commission? Yes No

If yes, state type of work, amount of income received and the most recent commission received.

Do you receive money from any part time employment? Yes No

If yes, give employer's name, full address and telephone number and the amount of income.

Do you have any income-producing hobbies? Yes No

If yes, state type of hobby and amount of income received per year.

List all other income not set out above (e.g. dividends, rental income, annuities, pensions, etc.).
Canada Pension Plan

Have you received any income tax refunds in the past year? Yes No

Do you expect to receive any income tax refunds in the near future? Yes No

If yes, when and for how much?

Are you a veteran? Yes No

If yes, specify any veteran's benefits and allowances to which you are entitled

What is the total income of your dependants from all sources?
\$585.82

D. Income from Business or Self Employment

If you are self employed or your business is a proprietorship or partnership, list the names, addresses and telephone numbers of any partners, principals or participants

Name N/A	Address	Telephone Number
Type of Business	Name of Business	Telephone Number
Business Location Street Address	City/Town	Province of Canada / Postal Code
What percentage of the business is owned by you?	What is the net book value of the business?	What is the estimated market value of the business?
		Nil

Itemize your yearly income: salary, business, dividends and other

Salary	\$0.00
Bonuses	\$0.00
Dividends	\$0.00
Other (automobile allowances, expenses, etc. Provide details)	\$0.00

Itemize other benefits: company car, house, loans, saving plans, share purchase options, etc.

	\$0.00
--	--------

If business is a corporation, complete the following:

Are you an officer or director? Yes No

Title
President

Total number of shares issued by the corporation and outstanding (describe type and class of share)

Class	Number	Net Book Value
A	100	\$0.00

Total number of shares of each class held by you:

Class	Number	Net Book Value

Total amount of all loans payable to you by the corporation:

Amount	Interest earned (if any)	Terms of repayment
\$0.00		

Attach a copy of most recent financial statement.

E. Monthly Expenses

List all of your monthly debt payments (loans, credit cards, personal debts, etc.), specifying the following:

Type of Debt Credit Card	To Whom Payable MBNA	Amount Outstanding \$47,405.39	Monthly Payment \$1,000.00
Type of Debt Credit Card	To Whom Payable CIBC	Amount Outstanding \$46,073.51	Monthly Payment \$1,000.00
Type of Debt Credit Card	To Whom Payable VISA	Amount Outstanding \$48,817.38	Monthly Payment \$1,000.00
Type of Debt Line of Credit	To Whom Payable TD Bank	Amount Outstanding \$29,525.49	Monthly Payment \$1,000.00
Type of Debt Line of Credit	To Whom Payable RBC	Amount Outstanding \$48,998.86	Monthly Payment \$1,000.00
Type of Debt CEBA	To Whom Payable Govt Canada	Amount Outstanding \$80,000.00	Monthly Payment \$100.00
Type of Debt Alimony	To Whom Payable Suzannah Harht	Amount Outstanding	Monthly Payment \$4,500.00

List other personal liabilities (personal guarantees, encumbrances and debts specifically attached to personal property, etc.), specifying name and address of creditor, and amount of liability.

Name of Creditor Mr. Wade Wood	Address of Creditor Box 5 Site 3 RR2 Thorsby AB	Amount \$1,800,000.00
Name of Creditor Mr. Wade Wood	Address of Creditor	Amount \$589,000.00
Name of Creditor Mr. Wade Wood	Address of Creditor	Amount \$76,201.47

List and give details regarding any other debts.

F. Assets

Real Estate

List all real estate (homes, rental properties, cottages, condominiums, etc.) both within and outside the Province of Alberta in which you own an interest, including municipal address, legal description, purchase price, balance owing and current market value.

Municipal Address	Legal Description	Purchase Price	Balance Owing	Current Market Value
N/A				

List the name and address of any mortgagee for each property described above, as well as the date the mortgage was granted and the amount outstanding on the mortgage.

Name of Mortgage	Address of Mortgage	Date Mortgage Granted (yyyy-mm-dd)	Amount Outstanding on Mortgage
N/A			

Motor Vehicles

List all motor vehicles, including cars, trucks, farm machinery, construction equipment, recreational vehicles, aircraft, etc. in which you own an interest.

Type - Make - Model - Year	Serial Number	Purchase Price	Current Market Value
Cadillac Escalade 2002	1GYEK63N72R116086	\$35,000.00	\$1,500.00
Type - Make - Model - Year	Serial Number	Purchase Price	Current Market Value
Chev Winnebago 1989	1GBKP37WBK3306616	\$12,000.00	\$5,000.00

If any of the above vehicles are subject to any liens or encumbrances, specify:

Holder of Lien or Encumbrance	Date of Lien/Encumbrance (yyyy-mm-dd)	Balance Owing on Lien/Encumbrance
TD Bank	2010 2 10	\$29,525.49

Bank Accounts, etc.

List all chequing and savings accounts, term deposits, RRSPs, annuities, etc., specifying the following:

Type of Deposit Chequing	Name of Institution TD Bank	Account Number 8075214812	Branch Address Sidney BC	Amount \$1,886.13
Type of Deposit Savings	Name of Institution TD Bank	Account Number 5956329515	Branch Address Sidney	Amount \$37.75
Type of Deposit Boardless	Name of Institution TD Bank	Account Number 5957127332	Branch Address Sidney	Amount \$35.76
Type of Deposit Retirement	Name of Institution TD Bank	Account Number 80755004018	Branch Address Sidney	Amount \$1.20
Type of Deposit Retire Save	Name of Institution TD Bank	Account Number 80755009391	Branch Address Sidney	Amount \$2.48

Shares and Securities

If you have holdings in a corporation, complete the following:

List all shares, options, warrants, etc., and their current market value.

Type Shares	Name of Corporation Karnalyste	Number 120	Current Market Value \$8,546.34	Dividends 0	Date Payable (www.ann.d/b)
Type Shares	Name of Corporation Nevada Copper	Number 50	Current Market Value \$1,673.40	Dividends 0	Date Payable (www.ann.d/b)

List all bonds and debentures held and their current market value.

Name of Issuer N/A	Class or Series	Quantity Held	Total Market Value
-----------------------	-----------------	---------------	--------------------

List location of all certificates for all corporate holdings and the name(s) and address(es) of the respective broker(s).

Location of Security Certificates or Other Evidence of Ownership of Securities N/A	Name and Address of Broker(s)
---------------------------------------------------------------------------------------	-------------------------------

Trust Properties

List all properties or interests held by a trustee on your behalf.

Description of Assets Held N/A	Location of Assets	Name and Address of Trustee
-----------------------------------	--------------------	-----------------------------


Other Assets

List all other assets, specifying kind, value and location, and whether solely or jointly owned.

Type of Asset	Description	Sole Owner	Location	Value
Interests in Other Businesses	N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Promissory notes, judgment debts	N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Loans and mortgages receivable	N/A	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Pension plans, registered pension plans, self administered pension plans, life insurance policies (cash surrender value)	RRSP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	TD Bank	\$28,187.11

List all other assets, specifying kind, value and location, and whether solely or jointly owned (e.g. art, jewellery, bullion, coins, cameras, household furniture and appliances, stereos, TVs, computers, crystal, dishwashers, etc.).

Description of Asset HP Computer	Sole Owner <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Location Puerto Vallarta	Value \$500.00
Description of Asset Printer	Sole Owner <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Location Puerto Vallarta	Value \$100.00

TC 

Description of Asset Desk	Sole Owner <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Location Sidney	Value \$100.00
Description of Asset Bose Stereo	Sole Owner <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Location Sidney	Value \$300.00
Description of Asset Monitor	Sole Owner <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Location Puerto	Value \$25.00
Description of Asset TV Sony	Sole Owner <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Location Sidney	Value \$75.00
Description of Asset 2 Chairs	Sole Owner <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Location Sidney	Value \$35.00
Description of Asset Blender	Sole Owner <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Location Sidney	Value \$5.00
Description of Asset Filling Cabinet	Sole Owner <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Location Sidney	Value \$35.00
Description of Asset Kitchen Set	Sole Owner <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Location Sidney	Value \$10.00
Description of Asset Coffee Maker	Sole Owner <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Location Sidney	Value \$50.00
Description of Asset Toaster	Sole Owner <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Location Sidney	Value \$50.00

G. Transfer of Property

Have you given away, sold, assigned or otherwise transferred any property (land, buildings, vehicles, money, household furnishings, etc.) to anyone within the past year? Specify details below.

Description of Property	To Whom Transferred	Date of Transfer (yyyy-mm-dd)	How Much Money, if Any, Was Recovered by You?
N/A			

H. Insurance

List all insurance policies in which you are a named beneficiary, including the insurance company granting the policy, the policy number, the amount, the person insured, the premium and its cash surrender value.

Insurance Company	Policy No.	Amount	Person Insured	Premium	Cash Surrender Value
Canada Life	141004726	\$5,000.00	Gerald Bevan	\$525.51	\$6,523.56

I. Parties Who Owe You Money

List all parties who owe you money.

Name	Address	Reason for Debt	Amount Owing	Status of Court Action, if any
N/A				

J. Inheritances

List all estates in which you are the beneficiary of an inheritance.

Name of Deceased	Address	Value of Inheritance
N/A		

K. Additional Income and Assets

List all income and assets not itemized above (e.g. legal action claims under insurance policies, etc.).

N/A

J.C.

Description of Asset	Is it a Major Asset?	Is it a Financial Asset?	Value
Desk	Yes	No	\$100.00
Description of Asset Rose Stairs	Yes	No	\$100.00
Description of Asset Mirror	Yes	No	\$100.00
Description of Asset TV Sony	Yes	No	\$100.00
Description of Asset Curtains	Yes	No	\$100.00
Description of Asset Refrigerator	Yes	No	\$100.00
Description of Asset Filing Cabinet	Yes	No	\$100.00
Description of Asset Kitchen Set	Yes	No	\$100.00
Description of Asset Coffee Maker	Yes	No	\$100.00
Description of Asset Washer	Yes	No	\$100.00

G. Transfer of Property

Have you given away, sold, assigned or otherwise transferred any property (land, buildings, vehicles, motor, household furnishings, etc.) to anyone within the past year? Specify details below:

Description of Property	To Whom Transferred	Date of Transfer (MM/DD/YY)	How Much Money Did You Receive from the Transfer?
NA			

H. Insurance

List all insurance policies in which you are a named beneficiary, including the insurance company granting the policy, the policy number, the amount, the person insured, the premium and its cash surrender value.

Insurance Company	Policy No.	Amount	Person Insured	Premium	Cash Surrender Value
Canada Life	141004726	\$5,000.00	Gerald Bevan	\$825.81	\$6,511.00

I. Parties Who Owe You Money

List all parties who owe you money:

Name	Address	Reason for Debt	Amount Owed	Status of Court Action, if any
NA				

J. Inheritances

List all estates in which you are the beneficiary of an inheritance:

Name of Estate	Address	Value of Inheritance
NA		

K. Additional Income and Assets

List all income and assets not reported above (e.g. legal action claims, under award, etc.):

NA

2

FC

Debtor Signature

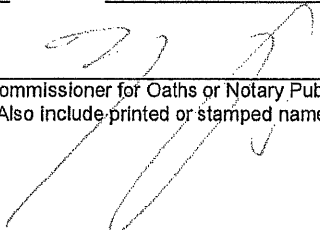
And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared Before me at the City of

Calgary, in the Province of Alberta,

this 5 day of March, 2020.

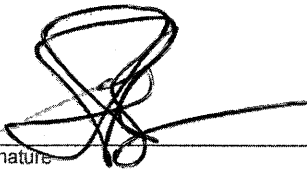
A Commissioner for Oaths or Notary Public in and for Alberta
(Also include printed or stamped name and expiry date)


TERRY L. CZECHOWSKYJ - LAWYER
Notary Public
A Commissioner for Oaths in and for Alberta

Signature of Affiant

Commissioner for Oaths Stamp

Debtor Signature



And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared Before me at the City of

_____, in the Province of Alberta,


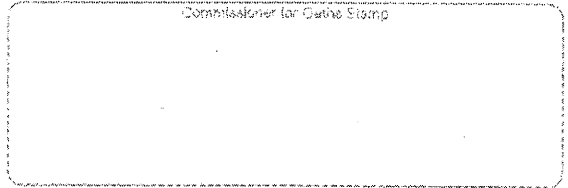
this _____ day of _____, 20 _____.

A Commissioner for Oaths or Notary Public in and for Alberta
(Also include printed or stamped name and expiry date)

Signature of Affiant



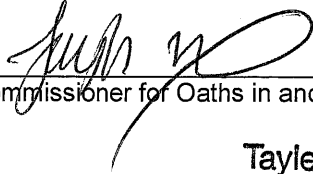
Commissioner for Oaths Stamp



**Amount Owing to Wade Wood
(Including Judgment Interest Calculations)
Wade Wood, Action No. 1503 16803
74124.1, Mathieu LaFleche**

10-Dec-21	Principal 1 (Para. 1 of Judgment)	\$1,800,000.00
10-Dec-21	\$1,800,000.00 @ 8.75% [x 8.75/100 x 2536/365] (01-Jan-15 - 10-Dec-21)	<u>\$1,094,301.37</u>
10-Dec-21	Total (Principal 1 plus Pre-Judgment Interest)	\$2,894,301.37
	Less Principal 1 (to zero balance)	-\$2,894,301.37
	Plus amount of Principal 2 (Para. 2 of Judgment)	<u>\$589,000.00</u>
	= Principal 2	\$589,000.00
10-Dec-21	Principal 2	\$589,000.00
10-Dec-21	\$589,000.00 @ 7.00% [x 7/100 x 1620/365] (05-Jul-17 - 10-Dec-21)	<u>\$182,993.42</u>
10-Dec-21	Total (Principal 2 plus Pre-Judgment Interest)	\$771,993.42
	Principal 2 (incl. Pre-Judgment Interest)	\$771,993.42
	Principal 1 (incl. Pre-Judgment Interest)	<u>\$2,894,301.37</u>
10-Dec-21	Total (Judgment Amount)	\$3,666,294.79
	Judgment Amount	\$3,666,294.79
	Less Credit Applied (Para. 3 of Judgment)	<u>-\$20,000.00</u>
10-Dec-21	Total (NEW Judgment Amount)	\$3,646,294.79
	Judgment Amount	\$3,646,294.79
04-Feb-22	\$3,646,294.79 @ 0.20% [x 0.2/100 x 57/365] (10-Dec-21 - 04-Feb-22)	<u>\$1,138.84</u>
04-Feb-22	Total (Judgment Amount plus Post-Judgment Interest)	\$3,647,433.64
	Plus Bill of Costs	\$76,201.47
04-Feb-22	TOTAL Amount Owing	\$3,723,635.11

This is **Exhibit "6"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022



A Commissioner for Oaths in and for Alberta

Taylor Meagher
Barrister & Solicitor

**Wade Wood v.
Gerald Bevan, Spherical Capital,
Spherical Bond**

Gerald Bevan
on Tuesday, May 3, 2022



10080 Jasper Avenue, Suite 709
Edmonton, Alberta T5J 1V9

acereporting.ca | 780.497.4223

1	COURT FILE NUMBER: NO. S-222849
2	COURT: SUPREME COURT OF BRITISH COLUMBIA
3	JUDICIAL CENTRE: VANCOUVER
4	PLAINTIFF: WADE WOOD
5	DEFENDANTS: GERALD BEVAN AND SUZANNAH HAHRT
6	
7	
8	
9	-----
10	VIRTUAL EXAMINATION IN AID
11	OF
12	GERALD RICHARD BEVAN
13	-----
14	ALL PARTIES APPEARING BY VIDEOCONFERENCE
15	
16	
17	M. J. LaFleche For the Plaintiff
18	T. L. Czechowskyj For the Defendants
19	Leanne Harcourt, CSR(A) Court Reporter
20	
21	
22	
23	
24	Edmonton, Alberta
25	May 3, 2022

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3	QUESTIONING OF GERALD RICHARD BEVAN	PAGE
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5	Questioned by Mr. LaFleche	9
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INDEX OF UNDERTAKINGS

(Undertakings are provided for your assistance.

Counsel's records may differ.

Please check to ensure that all undertakings have been
listed according to your records.)

NO.	DESCRIPTION	PAGE
1	To produce a copy of this lease contract.	11
2	To provide us with a copy or, at the very least, provide us with the court file number for those papers if you don't have them.	22
3	To produce a copy of the separation agreement.	22
4	(Under advisement) To provide bank records since 2015, or as far back as they're available, for all of your TD Bank accounts.	27
5	To provide the name of the lawyer who	28

1		acted on your behalf with the	
2		matrimonial matters.	
3			
4	6	To produce the sale documents,	30
5		including a bill of sale for that yacht,	
6		and advise what happened to the proceeds	
7		of the disposition of that yacht.	
8			
9	7	To make inquiries and provide the	32
10		location of the share certificates for	
11		Spherical Capital.	
12			
13	8	(Under advisement) To make inquiries	32
14		and provide a copy of the minute book	
15		for Spherical Capital.	
16			
17	9	To provide the share certificates for	33
18		Spherical Bond.	
19			
20	10	(Under advisement) To provide a copy	33
21		of the minute book for Spherical Bond.	
22			
23	11	To provide the share certificates for	33
24		Lionhart Capital.	
25			

1	12	(Under advisement) To provide a copy	34
2		of the minute book for Lionhart Capital.	
3			
4	13	If the records are available to	38
5		Mr. Bevan, to produce tax returns since	
6		2015.	
7			
8	14	To the extent the records are still	46
9		available, provide statements for	
10		Karnalyte going all the way back to	
11		2015.	
12			
13	15	(Under advisement) To the extent it's	47
14		not captured in the other requests, for	
15		statements from TD that this be included	
16		as an account that we receive statements	
17		for.	
18			
19			
20	16	To provide the terms of that policy as	49
21		well as any beneficiary designation, to	
22		the extent one has been made as of this	
23		date, and the most recent statement.	
24			
25			

1 17 To be provided with a copy of the most 57
2 recent statement for the loan
3 outstanding as against the vehicles
4 described in the financial statement of
5 debtor.

6
7 18 To be provided with copies going back 58
8 to 2015, or as early as they are
9 available, for these accounts, statements
10 for those, if they're still available.

11
12 19 To be provided with account statements 63
13 for the expense accounts that are listed
14 in your financial statement of debtor,
15 as well as the documents showing the
16 amount outstanding to the Government of
17 Canada under the CEBA account, as well
18 as who is the debtor for that amount.

19
20 20 To provide statements of any personal 74
21 credit cards that you have, whether they
22 have zero balances or otherwise.

23
24
25

INDEX OF OBJECTIONS

(Objections are provided for your assistance.

Counsel's records may differ.

Please check to ensure that all objections have been
listed according to your records.)

OBJECTION	PAGE
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Are you able to tell me what prompted the marital breakdown?	60
-----------------------------------------------------------------	----

Well, at the time you concluded the matrimonial property settlement, was she employed at that point in time.	65
--------------------------------------------------------------------------------------------------------------------	----

1 COURT REPORTER: Counsel, as you all know, because we
2 are using a virtual connection, everyone is going
3 to have to be more conscious than ever of not
4 speaking over each other. If I cannot hear the end
5 of a question or the beginning of an answer, you
6 are going to have a very poor record. If I have to
7 consistently interrupt because I cannot hear or
8 understand something that is said, you will not
9 have a good examination flow.

10 If there is an objection, I must be able to
11 hear it and know who is objecting. If I do have to
12 interrupt, please be patient and understand my goal
13 is to provide you with a perfect record of these
14 proceedings. Please move your papers and/or legal
15 pads away from your phone so there is no ambient
16 noise.

17 From time to time, we've noticed the audio
18 can be affected, and if so, we may need to stop the
19 proceedings and wait a moment for the audio to
20 improve, either by reconnecting or asking that
21 everyone use the conference call number if you're
22 using computer audio.

23 So could the witness please spell me all of
24 your names, please, sir?

25 THE WITNESS: Gerald Richard Bevan.

1 COURT REPORTER: Okay. And can you spell them for me,
2 please?

3 THE WITNESS: My first name as well?

4 COURT REPORTER: All of them, please.

5 THE WITNESS: Okay. G-E-R-A-L-D; Richard's spelt
6 R-I-C-H-A-R-D; Bevan, B-E-V-A-N.

7 THE COURT REPORTER: Wonderful. Our witness today is
8 Gerald Richard Bevan. If there's any questions
9 about the witness's identity, would counsel please
10 advise on the record now?

11 GERALD RICHARD BEVAN, AFFIRMED, AT 9:01 A.M.,

12 QUESTIONED BY MR. LAFLECHE:

13 Q. Good morning, Mr. Bevan.

14 A. Good morning, Matt.

15 Q. So you understand that you're here to give evidence
16 in aid of execution, which means that you're going
17 to be asked questions about your current assets and
18 the transfer of assets that have taken place over
19 the years; do you understand that?

20 A. I do.

21 Q. And where are you currently living?

22 A. I'm currently living in Puerto Vallarta, Mexico.

23 Q. What is the address you are currently living at?

24 A. The address is Avenue, which is A-V, P-A-C-S-O,
25 D-E-L Marina, Number 245.

1 Q. And is Number 245 the street address of the
2 building, or is it the unit address of the unit
3 you're occupying?

4 A. I'm not positive what that is. I think that's the
5 street address of it.

6 Q. And what is the nature of the property? Is it an
7 apartment? Is it a condominium? Is it a house?

8 A. No, it's a complex.

9 Q. And what unit would you be living in? What number
10 would be on your door?

11 A. 3403.

12 Q. And who owns that property?

13 A. I don't know.

14 Q. Well, how do you not know?

15 A. They don't give you that information. We just pay
16 the rent to the property management company, and
17 they don't provide the name of the company that
18 owns it.

19 Q. What company do you pay rent to?

20 A. I would have to check on that, Matt. I don't have
21 that information right in front of me.

22 Q. Well, how --

23 A. If you'd like, I can pull it up. I have a -- I
24 have a lease contract with them.

25 Q. Yeah, well, I'd like --

1 **A.** Is that what you're after?

2 MR. LAFLECHE: Yeah. I'd like that, please. So if you
3 could --

4 **A.** Okay.

5 MR. LAFLECHE: -- undertake to produce a copy of this
6 lease contract?

7 **A.** Yes, I can.

8 MR. LAFLECHE: Terry, is that okay?

9 MR. CZECHOWSKYJ: Yeah, sure.

10 UNDERTAKING NO. 1:

11 To produce a copy of this lease contract.

12 BY MR. LAFLECHE:

13 **Q.** What is the amount of rent you are paying?

14 **A.** I'm splitting it with another person that's here
15 with me, another guy that's here. And I'm paying
16 750, approximately.

17 **Q.** A month?

18 **A.** Canadian -- yeah, Canadian per month, correct.

19 **Q.** Who are you splitting the apartment with?

20 **A.** John Leaky.

21 **Q.** And how long have you been leasing this property
22 for?

23 **A.** I came in on January the 4th.

24 **Q.** Aside from the rent, are there any other regular
25 expenses associated with the property, such as

1 utilities?

2 **A.** Utilities -- we pay the electrical bill, which has
3 been running about 150 pesos a month, and we pay
4 for cable, of course, our -- that's an addition to
5 it as well.

6 **Q.** And who makes those payments? Is that you, or --

7 **A.** The property management company pays the
8 electrical, and I pay for the cable.

9 **Q.** And how is it that you have the funds available to
10 pay for that and the rent?

11 **A.** That was from funds that I'd brought -- brought
12 down from Canada.

13 **Q.** And how are you storing those funds? Do you have
14 them in cash, or do you have them in a bank account
15 or some other means?

16 **A.** No. I transfer them down in cash, take the cash
17 out.

18 **Q.** And how much money did you take with you down to
19 Mexico?

20 **A.** Well, I take it down in pieces, so I think totally
21 right now I'm sitting at \$7,500.

22 **Q.** Canadian dollars?

23 **A.** Canadian dollars, correct.

24 **Q.** And so is that cash that you have in your
25 apartment?

1 **A.** No. That's been spent since I came here. So each
2 month I've been spending portions of that. That
3 was the total amount that I had transferred down.

4 **Q.** And where are you transferring those funds from?

5 **A.** From my TD Bank account.

6 **Q.** So as of the statutory declaration you swore,
7 there's, approximately, \$2- or \$3,000 in your TD
8 Bank account. What's the plan for paying the rent
9 going forward?

10 **A.** Paying the rent going forward is, since I'm past 71
11 years of age now, I'm going to start to liquidate
12 my RRSPs and on the -- the rest of the accounts
13 that are like that.

14 **Q.** What are the rest of the accounts that you're
15 referencing?

16 **A.** Those -- there's a stock that's listed on the list
17 there, Karnalyte, I'm going to look at liquidating
18 that one as well.

19 **Q.** So the 7,500 that you've transferred since, has
20 that been since January of 2022?

21 **A.** That's correct.

22 **Q.** What is your immigration status in Mexico?

23 **A.** I'm not a citizen here. I can apply for it,
24 though, but I'm not a citizen here.

25 **Q.** So what visa are you currently residing in Mexico

1 under?

2 **A.** The Canadian one.

3 **Q.** But do you have a temporary visa to be there for
4 180 days? Do you have a permanent visa? What's
5 the nature of your visa?

6 **A.** The hundred -- the 180 days; you're correct.

7 **Q.** So we're getting pretty close to the 180-day mark,
8 obviously. What's your intention following the
9 expiration of that temporary visa?

10 **A.** You can apply for an extension on that and get a --
11 what they call a "temporary residency," and that
12 can go up to 4 years.

13 **Q.** And I understand that, generally speaking, to apply
14 for such a status, you would need to demonstrate
15 that you have the financial means to support
16 yourself in Mexico; isn't that right?

17 **A.** I'm -- I'm not sure of the -- that information. I
18 don't know.

19 **Q.** Have you submitted any of those forms yet?

20 **A.** No.

21 **Q.** How long is your lease contract for?

22 **A.** 'Til June the 10th.

23 **Q.** What's the nature of the relationship -- your
24 relationship with the person that you're currently
25 residing with?

- 1 **A.** He's a friend.
- 2 **Q.** Why did you move to Mexico?
- 3 **A.** The weather, it's much cheaper to live here.
- 4 **Q.** But what prompted the timing of the move? You
5 moved, as I understand it, earlier this year,
6 January -- December of last year, why then?
- 7 **A.** I had come down last year as well and extended the
8 period of time down here. I like --
- 9 **Q.** So prior to you --
- 10 **A.** -- Puerto Vallarta -- Puerto Vallarta.
- 11 **Q.** So prior to moving to Mexico, where were you
12 living?
- 13 **A.** Prior to Mexico where was I living? Well, I was
14 living at 11396 Chalet Road.
- 15 **Q.** When did you last reside there?
- 16 **A.** Prior to January the 4th, I guess it was.
- 17 **Q.** So up until -- it's fair to say up until January
18 the 4, 2022, you were residing in Victoria at that
19 Chalet Road property?
- 20 **A.** Yes -- not all the time, but that'd be correct.
- 21 **Q.** That would be where you get your mail sent?
- 22 **A.** No.
- 23 **Q.** Where would you get your mail sent?
- 24 **A.** It's sent to a post office box now. It has been
25 for a couple of years.

1 Q. Which post office box?

2 A. It's a post office box in Sidney. I would have to
3 get that for you, what the number is.

4 Q. What personal possessions did you take with you
5 down to Mexico?

6 A. Not really anything. You know, clothing,
7 toothbrush, things like that, you know, medical
8 things that I'm on.

9 Q. What did you leave behind at Chalet Road?

10 A. I left my -- well, the motor home and the -- the
11 Escalade.

12 Q. Any other property?

13 A. Pardon?

14 Q. Any other property? Like your furniture, the other
15 types of things that you were using to live with,
16 your utensils, your --

17 A. Oh -- oh.

18 Q. -- kitchen -- like, is that all at Chalet Road?

19 A. Yes, I would say so, correct.

20 Q. Do you have any clothing left at Chalet Road?

21 A. There's some clothing there. That's correct.
22 Winter items that you don't wear here.

23 Q. What about, like, your books and photographs or
24 other types of keepsakes, did you take those down
25 with you to Mexico or are those still in Victoria,

1 or in Sidney?

2 **A.** I -- I did bring books down here. You're correct
3 in that, yeah, reading material.

4 **Q.** But, like, family photo albums, that type of thing,
5 did you bring those types of personal effects with
6 you, or are those still at the Chalet --

7 **A.** Well, most --

8 **Q.** -- property?

9 **A.** Most of those is all in my phone now and on the
10 internet, so that's where the -- it's accessible
11 down here through that.

12 **Q.** What about sporting equipment, tools, where would
13 those be?

14 **A.** Tools would still be -- well, there and -- and at
15 my son's place. I did bring some tools down here,
16 you remind me of that, Matt, but they're kind of --
17 I don't know if you're familiar with Mexico too
18 much, but tools down here are very valuable and
19 very rare, so I did bring some tools down with me.
20 And I also brought some, like, knives, forks, and
21 spoons, and things like that. I don't know if
22 you've been to PV, but most of these places are --
23 still got aluminium frying pans.

24 **Q.** And so you said the motor home and the Escalade,
25 those are still at the Chalet Road property? Is

1 that fair?

2 **A.** That's correct. I don't -- I don't think the
3 Escalade's there anymore. It was -- somehow the
4 roof was left open. You know, it's got a power
5 roof on it and it had a -- the roof was left open
6 and leaked a lot of water into it, so it kind of
7 destroyed the interior from what I've heard.

8 **Q.** Who have you heard that --

9 **A.** So I think my son --

10 **Q.** Who have you heard --

11 **A.** From my son.

12 **Q.** -- that from?

13 **A.** My son. So I think he has the vehicle now, drying
14 it out, or doing whatever they can do to fix it up,
15 but it's -- you know, as you know, it's fairly old,
16 over 20 years old.

17 **Q.** And does the Chalet Road property not have a
18 garage?

19 **A.** It does, but the garage doesn't have a roof -- or
20 the Escalade, the roof was not that high. Can't
21 fit the Escalade into it.

22 **Q.** What's stored in the garage?

23 **A.** It would be tools in there. There's things like
24 furniture -- items like that that are in the
25 garage.

1 Q. Just extra stuff that doesn't fit in the house?

2 A. Yeah, extra stuff that doesn't fit in the house. A
3 compressor, there's -- it's not that big of a
4 garage, and so a lot of items that are in there are
5 almost garbage, really, should be getting rid of.
6 Chairs, things like that.

7 Q. And that's all you --

8 A. And a tool bench.

9 Q. And, then, some of those items are yours, I would
10 gather?

11 A. Yes. Some of the items are mine, yeah. And I have
12 some storage there of my son's stuff as well.

13 Q. And so what vehicles are stored at that property?

14 A. The vehicle would be stored at the property is the
15 motor home. If you're talking about vehicles that
16 I own, yes. The motor home is the only piece
17 that's there.

18 Q. What other vehicles are there?

19 A. I -- I don't know because I'm not there. So I
20 presume Suzannah's vehicle's there, which is a
21 Journey. I don't know if there's anything else on
22 the property.

23 Q. I take it you still have access to the property,
24 given that a lot of your possessions are still
25 there?

1 **A.** I don't know about that yet, Matt, but -- you
2 know...

3 **Q.** Why do you say that?

4 **A.** Well, I would say that just because of what's
5 happened, it doesn't seem to be too much of a
6 friendly environment around.

7 **Q.** I take it you're referring to your relationship
8 with Ms. Hahrt?

9 **A.** That's correct.

10 **Q.** And what can you tell me about that?

11 **A.** It started deteriorating a number of years ago, and
12 we ended up separating. She served me with the
13 legal document to separate, and --

14 **Q.** When did she -- when did --

15 **A.** When was I served?

16 **Q.** -- she serve -- yeah. When did she serve you with
17 those documents?

18 **A.** It was -- I'm -- I'm not exactly on the dates,
19 Matt, but it was in 2019. And then during that
20 time period, we wrestled back and forth on
21 different items.

22 **Q.** And what was the conclusion of that?

23 **A.** We ended up legally separating. I hired a lawyer
24 to fight that and get an equal amount, and we
25 separated. The separation agreement was made up --

1 I'm pretty sure it was February of 2020.

2 Q. And you were still living, though, at the Chalet
3 Road property up 'til 2022, correct?

4 A. And past that because, of course, Covid had come in
5 at that time, and so it was kind of forced into not
6 being able to leave from the property. But I had
7 started taking some extended absences from the
8 property, such as down here to Mexico and also
9 trips in my motor home by myself. So...

10 Q. So you're legally separated in 2020, and yet you're
11 cohabitating with Ms. Hahrt up until 2022; is that
12 right?

13 A. Yes. That's correct.

14 Q. And what was the nature of the matrimonial property
15 division?

16 A. The nature? You'd have to explain that a little
17 bit more for me.

18 Q. Okay.

19 A. I'm not clear what you're meaning by "the nature."

20 Q. So do you still have copies of the documents that
21 Ms. Hahrt served you with initiating separation
22 proceedings?

23 A. I'd have to check for those, but I -- I don't know.

24 MR. LAFLECHE: Okay. Well, I'd ask that you do and
25 provide us with a copy or, at the very least,

1 provide us with the court file number for those
2 papers if you don't have them?

3 **A.** Okay.

4 **MR. LAFLECHE:** Is that okay, Terry?

5 **MR. CZECHOWSKYJ:** Yeah, you can have that undertaking.
6 Sure.

7 **UNDERTAKING NO. 2:**

8 To provide us with a copy or, at the very
9 least, provide us with the court file
10 number for those papers if you don't have
11 them.

12 **BY MR. LAFLECHE:**

13 **Q.** And did you go to court with Ms. Hahrt, or was
14 there a court order that was granted? How did the
15 proceedings end?

16 **A.** The proceedings ended with a separation agreement
17 written up by her lawyer, and agreed to with my
18 counsel and signed off.

19 **Q.** And do you have a copy of that agreement?

20 **A.** I don't know. I'd have to check on that, too.

21 **MR. LAFLECHE:** Okay. Well, I'd ask for that to be
22 produced by way of undertaking as well.

23 **MR. CZECHOWSKYJ:** Okay.

24 **UNDERTAKING NO. 3:**

25 To produce a copy of the separation

1 agreement.

2 BY MR. LAFLECHE:

3 Q. And how was the property, the matrimonial property,
4 divided between you and Ms. Hahrt?

5 A. The only thing I can do is virtually tell you the
6 way that the -- was writ and done in the sense that
7 I do know what the -- and I pulled it up for this
8 meeting, the value of the property on tax
9 assessment. And then subtracting the amount of the
10 outstanding mortgage and line of credit, and then
11 the division of the equity of the property was left
12 in the property was separated between the two of
13 us.

14 Q. Okay. That didn't really answer my question,
15 though. My question was how were the assets of the
16 relationship divided? Was it split 50/50?

17 A. Yeah, 50/50. She took the property, and I took the
18 assets on my side, which was the motor home, the
19 yacht, the -- the other assets the business, of
20 course, Spherical, which you're well aware of, and
21 the equity in those -- that company, and that was
22 my portion of it.

23 Q. Because I've looked at your financial statement of
24 debtor, and it appears you have zero assets, or
25 less than zero assets, as set out in your financial

1 statement of debtor, you're paying Ms. Hahrt
2 alimony; so I don't see what you received out of
3 this matrimonial property division. Can you
4 explain?

5 **A.** Well, at the time of the separation, I took
6 Spherical Capital, which shows the amount that was
7 left in leases at that time, which was -- I think
8 there was -- what I recall, \$677,000 worth of lease
9 receivables, \$134,000 in the Royal Bank, GST
10 receivables, accounts receivables, coming to about
11 867,000. I took that and retained the businesses,
12 and in hindsight, it looks good that I did. And
13 from there, she was able to offset the difference
14 in the equity to her taking the matrimonial house.
15 Does that explain it for you?

16 **Q.** Not really, but I guess that's your evidence. So
17 you were aware, though, that in 2020, Spherical
18 Capital was insolvent, right?

19 **A.** Yes, we established that, but it still had \$677,000
20 in leases outstanding, which has a value and it
21 could be sold, which is what we established back
22 then.

23 **Q.** But --

24 **A.** Whether the company's upside down, it's irrelevant
25 to the amount of assets that are in it, and that's

1 what we'd established -- that as well, but...

2 **Q.** You do realize that you can't sell a business if
3 its liabilities exceed its assets, right? I mean,
4 that's not a value -- that business has no value.
5 You'd agree?

6 **A.** No. That's not correct. You could sell the
7 assets. They had no liability against those
8 assets. They were not registered with a bank, or
9 there was no covenant on those assets. They were
10 free to be sold. And, I guess, in the sense of
11 hindsight, established by Judge Mah, it was money
12 leant to me personally and not to the company.

13 **Q.** So how much money have you received out of
14 Spherical since your matrimonial property
15 separation?

16 **A.** Almost all of it has been received by me over that
17 time period.

18 **Q.** What is "all of it"? How much is that?

19 **A.** The amount that was outstanding that we had at that
20 time. Each year I was on salary -- I think that
21 was established as well when we were in court, and
22 so I've been paying myself each month \$10,000 a
23 month, up until December of 2021.

24 **Q.** So where did that money go?

25 **A.** Where was it spent on? Living expenses, all of the

1 above in the sense of where that money was spent.

2 It was consumed.

3 Q. Where were you receiving those funds?

4 A. I was receiving those funds -- you mean in the
5 sense of what bank? I'm not clear on what you're
6 meaning of "receiving those funds"? I was an
7 employee of the company, so I was receiving a pay
8 cheque each month.

9 Q. But where were those funds being deposited to?

10 A. TD Bank account.

11 Q. Is that the one that's described in your financial
12 statement of debtor?

13 A. Correct.

14 MR. LAFLECHE: Okay. I'd like your bank records since
15 2015, or as far back as they're available, for all
16 of your TD Bank accounts by way of undertaking?

17 MR. CZECHOWSKYJ: We'll take that under advisement as to
18 how far back. Is 2015 the date the Statement of
19 Claim was issued?

20 MR. LAFLECHE: 2015 is the date of the default, so we're
21 going to take the position that any transfers after
22 that point in time were made knowing that the
23 company was insolvent and the debt was not paid.
24 So I'm going to take the position that 2015 onwards
25 is relevant, and the Statement of Claim was filed

1 in October of 2015, so for sure, by that point in
2 time, I think all of this is producible.

3 MR. CZECHOWSKYJ: Yeah, I would agree with you from the
4 date the Statement of Claim for sure. But anything
5 prior to that, I'll -- well, we'll take it under
6 advisement, and we'll produce what we produce, and
7 then see where that goes.

8 UNDERTAKING NO. 4:

9 (Under advisement) To provide bank
10 records since 2015, or as far back as
11 they're available, for all of your TD
12 Bank accounts.

13 BY MR. LAFLECHE:

14 Q. Aside from your TD Bank accounts, have you had any
15 other bank accounts since 2015?

16 A. No.

17 Q. Have you had control over any other bank accounts
18 since those TD Bank accounts, since 2015?

19 A. No.

20 Q. On page 4 of your statutory declaration, it says
21 that you're paying Ms. Hahrt alimony of \$4,500 per
22 month.

23 A. Correct.

24 Q. Are you actually making those payments?

25 A. Not now.

1 Q. When did you stop?

2 A. In January.

3 Q. Why did you stop?

4 A. Ran out of money.

5 Q. Well, I think you've said that you've taken out
6 \$7,500 since then, so have you been paying yourself
7 over paying your obligation to pay Ms. Hahrt
8 alimony?

9 A. Correct.

10 Q. And has anything transpired because of that?

11 A. Yeah.

12 Q. What has happened?

13 A. Well, she's definitely had conversations that's --

14 Q. Who did --

15 A. -- definitely opened up the communication.

16 Q. Who did you engage to act on your behalf in
17 connection with the matrimonial matters?

18 A. I'd have to pull up his name, but -- I'd have to
19 pull it up. I have his name. He was the lawyer
20 that we handled -- or that handled the case for me.

21 MR. LAFLECHE: Well, I'd ask that you do that by way of
22 undertaking, please?

23 MR. CZECHOWSKYJ: Sure. Yeah, we can give you that.

24 UNDERTAKING NO. 5:

25 To provide the name of the lawyer who

1 acted on your behalf with the matrimonial
2 matters.

3 BY MR. LAFLECHE:

4 Q. Are you aware of whether or not your matrimonial
5 property agreement was formalized into a court
6 order?

7 A. I'm not aware. I don't know.

8 Q. So in your financial statement of debtor, you've
9 described two motor vehicles: one being a Chevrolet
10 Winnebago and the other being the Cadillac
11 Escalade. How are you transporting yourself down
12 in Mexico?

13 A. I flew down.

14 Q. And are you just taking taxis to get around --

15 A. Correct.

16 Q. -- or do you have a vehicle there?

17 A. No vehicle.

18 Q. You mentioned you had a yacht as part of the
19 matrimonial property settlement. What happened to
20 that yacht?

21 A. Sold.

22 Q. When was it sold?

23 A. I'd have to pull the date on it.

24 Q. What did you sell it for?

25 A. I'm not positive on the number either -- exactly on

1 the number of what I sold it for.

2 Q. Who did you sell it to?

3 A. It was an individual. I'd have to pull up what his
4 name was on the bill of sale, but...

5 Q. How did you sell the yacht? Did you post --

6 A. Used Victoria.

7 Q. -- it on Kijiji? What's --

8 A. Used Victoria is, I think, where we had it on my --
9 I should say, I had it on Used Victoria, and I
10 think on -- you're right, Matt, I think it was on
11 Kijiji as well.

12 Q. When did you sell it?

13 A. I'm just trying to recollect, but I think it was 2
14 years ago.

15 MR. LAFLECHE: So I'm going to ask that you, by way of
16 undertaking, produce the sale documents, including
17 a bill of sale for that yacht, and advise what
18 happened to the proceeds of the disposition of that
19 yacht?

20 MR. CZECHOWSKYJ: Okay. We'll give that undertaking,
21 yeah.

22 UNDERTAKING NO. 6:

23 To produce the sale documents, including
24 a bill of sale for that yacht, and advise
25 what happened to the proceeds of the

1 disposition of that yacht.

2 BY MR. LAFLECHE:

3 Q. So I take it that you still own all of the issued
4 and outstanding shares of Spherical Capital; is
5 that right?

6 A. Correct.

7 Q. Where is the minute book for that company stored?

8 A. That, I'd have to check. I -- I think it's in
9 Alberta. I'm not positive. It's an Alberta
10 corporation. So...

11 Q. And where are the share certificates for that
12 company? Are they in the minute book, or are they
13 in your personal possession?

14 A. I don't know, Matt. I -- I don't recall.

15 MR. LAFLECHE: Okay. Well, I'm going to ask, by way of
16 undertaking, that inquiries be made and we be
17 provided with a copy of the minute book and the
18 location of the share certificates for Spherical
19 Capital?

20 MR. CZECHOWSKYJ: I think we can certainly give you the
21 share certificates. I'm not sure you're entitled
22 to the minute book, but we'll take that part under
23 advisement.

24 COURT REPORTER: So, then, just two separate
25 undertakings under that?

1 MR. CZECHOWSKYJ: Yeah, we'll agree for the share
2 certificates to be produced. And the production of
3 the minute book, we'll take that under advisement.

4 UNDERTAKING NO. 7:

5 To make inquiries and provide the
6 location of the share certificates for
7 Spherical Capital.

8 UNDERTAKING NO. 8:

9 (Under advisement) To make inquiries and
10 provide a copy of the minute book for
11 Spherical Capital.

12 BY MR. LAFLECHE:

13 Q. I take it you're the owner of all of the issued and
14 outstanding shares of Spherical Bond, correct?

15 A. Correct.

16 Q. Are you aware of where the minute book for that
17 corporation is, along with the share certificates?

18 A. No.

19 MR. LAFLECHE: So similar to the previous undertaking,
20 I'm going to ask that those be produced by way of
21 undertaking?

22 MR. CZECHOWSKYJ: Right. And same response. We'll give
23 you -- if there's share certificates for Spherical
24 Bond, that undertaking will be given. And then for
25 the minute book, we'll take that under advisement.

1 UNDERTAKING NO. 9:

2 To provide the share certificates for
3 Spherical Bond.

4 UNDERTAKING NO. 10:

5 (Under advisement) To provide a copy of
6 the minute book for Spherical Bond.

7 BY MR. LAFLECHE:

8 Q. Similarly, I take it that you're the owner of all
9 the issued and outstanding shares of Lionhart
10 Capital, correct?

11 A. Right.

12 Q. And, likewise, are you aware of the location of the
13 minute book and share certificates for that
14 corporation?

15 A. No.

16 MR. LAFLECHE: So similar to my previous requests for
17 undertakings, I'm going to ask, by way of
18 undertaking, that you produce the share
19 certificates and minute book for that corporation?

20 MR. CZECHOWSKYJ: And, again, for the share
21 certificates, we'll give that undertaking. And for
22 the minute book, we'll take it under advisement.

23 UNDERTAKING NO. 11:

24 To provide the share certificates for
25 Lionhart Capital.

1 UNDERTAKING NO. 12:

2 (Under advisement) To provide a copy of
3 the minute book for Lionhart Capital.

4 BY MR. LAFLECHE:

5 Q. Aside from those companies and the two companies
6 listed in your financial statement of debtor of
7 Karnalyte and Nevada Copper, do you own any shares
8 or other securities in any other corporate entity?

9 A. Not that I recall, no.

10 Q. Have you been involved in the business of any other
11 company, other than Spherical Capital, Spherical
12 Bond, or Lionhart Capital?

13 A. No.

14 Q. Since 2015, have you been employed or done any
15 business or received any payment from any other
16 company other than Spherical Bond, Spherical
17 Capital, or Lionhart Capital?

18 A. No.

19 Q. Have you received any payment from any company that
20 is owned or controlled by Greg Boyle, to your
21 knowledge?

22 A. Owned or -- I -- I don't know what all Greg owns,
23 so I can't give you that answer.

24 Q. Can you tell me about your business relationship
25 with Mr. Boyle?

1 **A.** With Mr. Boyle, from -- from what I recall now,
2 Mr. Boyle is retired and the corporation that he
3 owned, he sold to his daughter, and -- no, I -- I
4 don't recall we've done any deals with him for a
5 number of years.

6 **Q.** Okay.

7 **A.** I'm not in charge of all of Lionhart, so I can't
8 really give you an answer on that.

9 **Q.** I understand from Lionhart's website that your
10 daughter is currently operating that company,
11 correct?

12 **A.** No.

13 **Q.** Well, can you tell me about the current operations
14 of Lionhart?

15 **A.** Lionhart is being run by Candace Kingma (phonetic).

16 **Q.** Who's that?

17 **A.** She's the branch manager.

18 **Q.** What is the nature of your relationship with
19 Candace King, I think you said?

20 **A.** Yeah, Kingma.

21 **Q.** Kingma.

22 **A.** Well, she's the branch manager. She runs Lionhart
23 Capital.

24 **Q.** And is Breanna (phonetic) involved in any way of
25 the business operations of Lionhart Capital?

1 **A.** Involved in -- in what sense are you talking?

2 **Q.** In any capacity.

3 **A.** In any capacity. She is the salesperson for them,
4 but she's a contractor. She's not an employee of
5 the company.

6 **Q.** Are you still working for Lionhart Capital?

7 **A.** Could you explain what you mean by "working for
8 Lionhart Capital"? I'm the founder and CEO.

9 **Q.** And are you working, in any capacity, for Lionhart
10 Capital? Are you an employee, are you a
11 contractor, are you receiving any type of salary?

12 **A.** No. I'm not an employee. I'm not a contractor to
13 them.

14 **Q.** When's the last time you received a payment, of any
15 kind, from Lionhart Capital?

16 **A.** I'd have to check, Matt, but it's been quite some
17 time.

18 **Q.** Who's the banking signatories for Lionhart Capital?

19 **A.** I don't know. I'd have to check on that, too, but
20 I think I am -- well, I know I am.

21 **Q.** What bank does Lionhart Capital use for its
22 activities?

23 **A.** The bank that it uses is the TD Bank.

24 **Q.** Have you, since 2015, had any bank account opened
25 in Alberta through an Alberta branch with the TD

1 Bank?

2 **A.** You mean had one opened during that time period?

3 **Q.** Yeah.

4 **A.** Yeah. Lionhart has -- has had a bank account there
5 for -- I don't know how many years --
6 approximately, how many years, but that's correct.

7 **Q.** But I understand that you moved to Victoria --
8 although you moved to Victoria prior to 2015,
9 correct?

10 **A.** Correct.

11 **Q.** Before you moved, what bank did you use?

12 **A.** The same bank.

13 **Q.** Like, a TD Bank branch in Calgary?

14 **A.** That's correct.

15 **Q.** What branch was that?

16 **A.** I don't recall.

17 **Q.** You don't remember what branch of the bank you
18 would usually go to?

19 **A.** We -- everything is done electronic; so, no, I
20 don't recall.

21 **Q.** Since 2015, have you filed annual tax returns
22 personally?

23 **A.** That's correct. We just finished the last ones off
24 for April 30th.

25 **MR. LAFLECHE:** So I'm going to ask, by way of

1 undertaking, that you produce your tax returns
2 since 2015?

3 MR. CZECHOWSKYJ: And if those records are available to
4 Mr. Bevan, we can provide that undertaking.

5 UNDERTAKING NO. 13:

6 If the records are available to
7 Mr. Bevan, to produce tax returns since
8 2015.

9 BY MR. LAFLECHE:

10 Q. You've got, in your financial statement of debtor,
11 a description of shares owned in the companies of
12 Karnalyte and Nevada Copper. When did you acquire
13 those shares?

14 A. They would have been -- Karnalyte -- oh, boy, I'm
15 thinking -- 2007, I think, was approximately the
16 time on Karnalyte. As you can tell, they haven't
17 been very well. And Nevada Copper, you know, I'm
18 not positive on the date, Matt -- 3 -- 4 years ago.
19 I forgot Nevada Copper was even on there. The
20 shares are worth almost nothing.

21 Q. What steps did you take to identify what share
22 holdings you had?

23 A. What steps did I take?

24 Q. Yeah. So how did you know to list these shares on
25 your financial statement of debtor?

1 **A.** Oh, I've got them on my phone under -- what is it
2 called? YouTube Financial, or -- it's on my phone,
3 showing which shares I had.

4 **Q.** So what brokerage did you use to acquire these
5 shares?

6 **A.** I think that Karnalyte was done through BMO, and
7 the -- Nevada Copper was done online through TD
8 Waterhouse.

9 **Q.** So what kind of investment accounts do you have
10 with TD Waterhouse and BMO?

11 **A.** Those are the ones that I have listed there, that
12 -- the Waterhouse account is the one I have with --
13 with TD. With BMO -- I have no accounts with BMO.
14 That's just who was issuing the shares -- the
15 certificate, I guess, is what it was, to that
16 effect.

17 **Q.** How is it that you came to acquire these particular
18 shares? Why did you buy these ones?

19 **A.** A friend of mine had worked at Karnalyte and --
20 Karnalyte is a potash company in Saskatchewan that
21 they had found potash with, and he was an engineer
22 that worked there -- a guy of a name of Robin
23 Finney (phonetic). And so I knew Robin from
24 business dealings, and so I contact -- he contacted
25 me and said, Would you be interested in buying some

1 shares in the company? So, at that time, I picked
2 up some -- I guess they kind of called them
3 "founder shares," but that's how I bought into the
4 company.

5 **Q.** How did you determine the current market value
6 that's listed in your financial statement of
7 debtor?

8 **A.** Well, at that time, the shares were \$1 a share -- I
9 think I can probably tell you even right now what
10 they're worth. I think the last time I took a
11 peek, they were worth 63 cents. And they seem to
12 be waffling. They were, for a long time, at 23
13 cents. The company has not done well, it's been
14 burning through its capital. And the last four, I
15 guess, principals of the company, have now moved to
16 their homes and they're trying to hold on to the
17 company, because potash -- you've probably saw
18 what's happened in the Ukraine. They're optimistic
19 that potash can skyrocket. The problem with this
20 company is the potash is all still in the ground.
21 They have to get it out and sell it.

22 **Q.** So, I mean, you've got it listed here that the
23 market value of \$8,546 on 120 shares, and yet
24 you're telling me that the value of these are 23
25 cents. I don't understand how that adds up.

1 Can --

2 A. Well --

3 Q. -- you explain that discrepancy?

4 A. Sure. It moves with the market. So the share
5 value goes up and down depending on what the spot
6 price is that day. So it's been down at 23 cents
7 and it's been up to a dollar -- I think, the last
8 time I saw, \$1.37, or something to that effect.
9 But it hasn't seen the massive growth of what it
10 was before. It was up as high as \$17 years back.
11 But since the company's been burning through its
12 capital trying to operate it and pay the -- the
13 directors of the company, they've been burning up
14 their capital, and it looks like they're on a road
15 from the last readings, that they could be right
16 down to zero. And that means those funds would be
17 lost completely.

18 Q. Well, you told me that your plan for carrying on
19 living in Mexico was to sell these shares; so does
20 this cause you some concern?

21 A. It all causes me concern with the judgment on me
22 for the rest of my life. You're correct about
23 that.

24 Q. So is Karnalyte the ones that are held by -- you
25 hold those in a BMO brokerage account; is that

1 correct?

2 **A.** From what I understand. I haven't looked at these,
3 Matt, for a long -- long time, so from what I
4 understand it, they're still there. I -- I haven't
5 touched them and done anything with them. They've
6 just been sitting there.

7 **Q.** Well, you just told me that you know all about what
8 the directors are doing and that it's burning
9 through share capital, but then you also tell me
10 that you have no idea what's going on with the
11 actual shares. Do you get regular statements from
12 BMO? Or --

13 **A.** No.

14 **Q.** -- like, how are you keeping tabs on the share
15 price for these shares?

16 **A.** Through the phone, through Yahoo Stock, you can
17 take a look at it, and they also print out their --
18 or not print out, they write out exactly what your
19 stock's doing, what the -- what the market's doing.
20 So with stocks, they analyze. And there's guys
21 that go in there and analyze the stock and give you
22 an update of what's happening with it. And I've
23 been watching it the last while because it stayed
24 flat for 20 -- at 23 cents for literally years.
25 And you can take a look at the printout on

1 Karnalyte, it's -- it's called -- "KRN" is their
2 stock symbol. And then all of a sudden it jumped
3 to \$1.37, and the reason it jumped was because of
4 the war in the Ukraine. Because demand for potash,
5 there's only, from what I can -- what I read in it
6 just a couple of days ago, there's only three
7 places in the world that produce it, one being
8 Saskatchewan, Russia, and the Ukraine. So anybody
9 that's a speculator is jumping in on it. This
10 company has been purchased by an Indian company, a
11 very large Indian company.

12 So I'm just trying to give you an override
13 of what my thinking is with it. Maybe I'm not
14 being as succinct or as black-and-white with it,
15 but I am reading the information that was on it,
16 but I'm not familiar with where stocks are being
17 held at BMO or whatever the certificates are.

18 **Q.** So, I mean, in your financial statement of debtor
19 that you swore, you identified that the market
20 price of your shareholdings in Karnalyte were worth
21 \$8,546 --

22 **A.** Correct.

23 **Q.** -- on 120 shares, which is a share price of,
24 approximately, \$80. And yet you're telling me now
25 that you've been watching and the share price has

1 been flat at 23 cents for a number of years. So is
2 it fair to say that the market value that's
3 identified in your financial statement of debtor is
4 wrong?

5 **A.** The stocks -- with stocks they go up and down. So
6 if you said at the time that this was filled out,
7 this was what I had the value of the stocks' worth
8 today, compared that date, they have moved. So if
9 you bought stocks -- I don't care if you bought
10 them in Coca-Cola, and today you said they're worth
11 \$100,000, and Coca-Cola does a correction and drops
12 to half its value. As of today, the value would be
13 half of the half -- the \$100,000 you put into
14 there. But, at the time, that was my estimation of
15 what the value of the Karnalyte shares were worth
16 on that date. So stocks move up and down, and so
17 the value moves up and down as well with it. So if
18 -- went to liquidate it, you could be getting
19 whatever the spot price is today on that share.

20 **Q.** So your evidence is when you prepared this
21 financial statement of debtor, which was not that
22 long ago --

23 **A.** Right.

24 **Q.** -- your assessment was that these shares had a
25 market value of \$80 per share, and now they're

1 worth 23 cents per share; is that what you're
2 saying?

3 **A.** No. If I put down that they were worth \$8,000,
4 that was what the value of the shares I had in
5 Karnalyte were worth. Now, you asked me the --

6 **Q.** So if you were to go to sell those shares, what
7 would you do?

8 **A.** Went to sell those shares? You would put up a bid
9 offer through Waterhouse of what you feel that
10 somebody would buy the shares for, and if it's
11 picked up, then it's liquidated and you receive
12 that cash.

13 **MR. LAFLECHE:** So I'm just going to ask that you
14 confirm, by way of undertaking, what brokerage you
15 hold those shares in and produce any statements
16 that you have, to the extent you have them, with
17 respect to --

18 **A.** TD Waterhouse -- TD Waterhouse is where the shares
19 are held.

20 **MR. LAFLECHE:** Okay. Well, then that's the brokerage
21 that I want the statements for.

22 **A.** Oh, okay.

23 **MR. LAFLECHE:** And I'm going to ask for statements going
24 all the way back to 2015 on that account by way of
25 undertaking. And I'll let Terry answer.

1 MR. CZECHOWSKYJ: Yeah, if those records are still
2 available to Mr. Bevan, we can produce that. Sure.

3 UNDERTAKING NO. 14:

4 To the extent the records are still
5 available, provide statements for
6 Karnalyte going all the way back to 2015.

7 BY MR. LAFLECHE:

8 Q. And is Nevada Copper -- were those shares also held
9 in the TD Waterhouse account?

10 A. Correct.

11 Q. Have you held any other shares in that account over
12 the years?

13 A. I don't recall which ones I might have had in
14 there. It would have been some time period, but...

15 Q. You've got on your financial statement of debtor
16 and RRSP plan through TD Bank with a value of
17 \$28,187.11, correct?

18 A. Correct.

19 Q. What is the nature of that RRSP plan?

20 A. That was an RRSP plan that was put together when I
21 was employed with a company called AFCO Finance.

22 Q. When were you employed with AFCO Finance?

23 A. In the '70s.

24 Q. And so do you receive regular statements from TD
25 Bank showing the value of that RRSP?

1 A. No. You have to go online to take a look at it.

2 Q. Online you'd have access and the statements would
3 be available?

4 A. I'm not sure about that, but that's where I
5 gathered that information for you. It was off of
6 the online...

7 Q. And so have you made any contributions to your RRSP
8 account in the last 7 years?

9 A. No.

10 MR. LAFLECHE: Okay. So then all I'd ask is that you
11 just produce, by way of undertaking, to the extent
12 it's not captured in the other requests, for
13 statements from TD that this be included as an
14 account that we receive statements for?

15 MR. CZECHOWSKYJ: Okay. We'll take that under
16 advisement. I mean, this would be an exempt asset,
17 but, in any event, we'll consider providing that.

18 MR. LAFLECHE: It's only exempt, I guess, if it's made
19 in the ordinary course, rather than otherwise. So
20 I just want to confirm Mr. Bevan's comments about
21 Apex Financial.

22 MR. CZECHOWSKYJ: Okay.

23 UNDERTAKING NO. 15:

24 (Under advisement) To the extent it's not
25 captured in the other requests, for

1 statements from TD that this be included
2 as an account that we receive statements
3 for.

4 BY MR. LAFLECHE:

5 Q. You've got on your financial statement debtor a
6 reference to Canada Life Insurance Policy
7 141004726?

8 A. Okay.

9 Q. I could pull it up for you here, but it's tab H of
10 the financial statement of debtor.

11 MR. CZECHOWSKYJ: Page 6 of the statement, yeah.

12 A. Okay.

13 BY MR. LAFLECHE:

14 Q. Yeah.

15 A. M-hm. Correct.

16 Q. Who paid the premiums for that policy?

17 A. It's -- it's self-paying. It was purchased for me
18 when I was born, by my parents, and so it's just a
19 -- a rollover.

20 Q. Is there a beneficiary designation on that policy,
21 to your knowledge?

22 A. I would say so, but I -- I don't know who it's made
23 out to. I'd have to check on that. It's a pretty
24 old policy, 71 years old.

25 MR. LAFLECHE: So I'd ask that by way of undertaking we

1 be provided with the terms of that policy as well
2 as any beneficiary designation to the extent one
3 has been made as of this date?

4 MR. CZECHOWSKYJ: Yeah, okay. If we can locate that
5 document, we'll produce it.

6 UNDERTAKING NO. 16:

7 To provide the terms of that policy as
8 well as any beneficiary designation, to
9 the extent one has been made as of this
10 date, and the most recent statement.

11 BY MR. LAFLECHE:

12 Q. How did you know to put that on your financial
13 statement of debtor, Mr. Bevan?

14 A. I requested it. It's written on there as
15 insurance.

16 Q. No. I understand that. But, I mean, how did you
17 know you had that policy?

18 A. Oh, they send you a statement every year.

19 MR. LAFLECHE: Okay. So, then, I guess, to broaden just
20 my previous undertaking, I'd request the previous
21 -- the most recent statement that you've received
22 for that policy.

23 MR. CZECHOWSKYJ: Yeah, we'll give you that undertaking.

24 BY MR. LAFLECHE:

25 Q. Mr. Bevan, the Statement of Claim was filed in this

1 matter in 2015; have you disposed of or transferred
2 any real estate?

3 **A.** I don't follow what you mean by that. Are you
4 talking the separation agreement?

5 **Q.** So since 2015, since the Statement of Claim was
6 filed in 2015, have you disposed of or transferred
7 any real estate, whether it's part of the
8 matrimonial property settlement or otherwise?

9 **A.** Yes.

10 **Q.** And what property did you transfer or dispose of?

11 **A.** 11396 Chalet Road.

12 **Q.** Any other properties?

13 **A.** Yes. There's a -- was a condo that Suzannah had
14 owned and my name was on in Calgary, and that was
15 also transferred.

16 **Q.** When was that transferred?

17 **A.** The same time.

18 **Q.** So in 2020?

19 **A.** Whenever the agreement was signed, she took title
20 of her property back.

21 **Q.** So, I mean, I guess we'll see from the matrimonial
22 property agreement, but was it the case -- or are
23 you saying that Ms. Hahrt took title free and clear
24 on the Calgary condominium property as well as the
25 Chalet Road property?

1 **A.** Correct.

2 **Q.** And were there any other properties that you've
3 disposed of since 2015?

4 **A.** No.

5 **Q.** Prior to it being transferred, did you have any
6 type of valuation done of the Calgary condominium?

7 **A.** The value -- I'm pretty sure they took the tax
8 assessment. I don't know exactly how their lawyers
9 did it, but...

10 **Q.** Well, were you not involved in the negotiations for
11 the matrimonial property distribution agreement?

12 **A.** Through my lawyer. That's correct.

13 **Q.** So what value did you use for the Calgary
14 condominium property?

15 **A.** I -- I don't recall what that was. I do remember
16 his name now, though, Robert Klassen (phonetic).

17 **Q.** What was the address of the Calgary condominium
18 property?

19 **A.** I -- I'm -- I'm not clear on that either.

20 **Q.** Well, did you reside, at any point in time, in the
21 Calgary condominium property?

22 **A.** No.

23 **Q.** When you were in Calgary, where you did live? A
24 different property?

25 **A.** Correct.

1 Q. Who resided in the Calgary condominium property up
2 until the time it was transferred into Ms. Hahrt's
3 name?

4 A. Tenants.

5 Q. And did you receive income via rent payments from
6 them?

7 A. I didn't. She did.

8 Q. Well, up until 2020, you're joint tenants on the
9 Calgary property. Are you saying you didn't
10 receive any income from the rental income?

11 A. I was only on it for a short time. I wasn't on it
12 for the entire time of the property. She owned the
13 property, and then I became on the property to
14 qualify for the mortgage. And then I was on it for
15 a short period of time. I don't know how many
16 years that was, but that was virtually it.

17 Q. Qualify for which mortgage?

18 A. Qualified for the mortgage on the property.

19 Q. I'm not sure I understand. So you were put on
20 title to the Calgary condominium property to
21 qualify for a mortgage on that property?

22 A. Correct.

23 Q. And did Ms. Hahrt own that property prior to this
24 happening?

25 A. Correct.

1 Q. So why did you guys take the mortgage out on that
2 property?

3 A. I think she had expanded the property, or taken --
4 I'm more along -- I'm just trying to get it clear,
5 but it required me and my income to enhance the
6 value of what the condo mortgage was, and so I was
7 put onto the mortgage and, thusly, onto the title.

8 Q. And where did the proceeds from that mortgage go?

9 A. To Ms. Hahrt.

10 Q. Well, were you a party to the mortgage?

11 A. "A party" meaning -- I don't understand what you
12 mean.

13 Q. Well, were you a person who signed the mortgage
14 agreement with the bank in relation to --

15 A. Correct.

16 Q. -- that Calgary condominium property?

17 A. Correct.

18 Q. So you owed the bank the money in conjunction with
19 Ms. Hahrt, and you're saying to me today that the
20 proceeds from that mortgage went exclusively to
21 Ms. Hahrt?

22 A. That's correct.

23 Q. What happened with those funds?

24 A. Don't know.

25 Q. Did you make any inquires of Ms. Hahrt as to what

1 happened with those funds?

2 **A.** No.

3 **Q.** Why not?

4 **A.** I don't think you're familiar with what our
5 relationship's like.

6 **Q.** I'm not. But, obviously, you went on title, and
7 you became a party to a mortgage; so you incurred a
8 legal liability to repay the funds.

9 **A.** Correct.

10 **Q.** And you're telling me that you made no inquiries
11 whatsoever as to where those funds went?

12 **A.** No.

13 **Q.** And how much are we --

14 **A.** She had taken the funds out of it.

15 **Q.** And did Ms. Hahrt have a separate bank account from
16 you during the course of your marital relationship?

17 **A.** Correct.

18 **Q.** And did you have a joint bank account with
19 Ms. Hahrt in the course of your martial
20 relationship?

21 **A.** Not that I recall.

22 **Q.** So how would you pay for household expenses?

23 **A.** Out of my bank account.

24 **Q.** So, for example, I understand that you had a
25 mortgage on the Chalet Road property, correct?

1 **A.** Correct.

2 **Q.** And how were the monthly payments on that mortgage
3 paid?

4 **A.** Deducted from my TD Bank.

5 **Q.** So you paid for them exclusively. Is that fair?

6 **A.** That's correct.

7 **Q.** And with respect to the mortgage payment on the
8 Calgary condominium property, who made the payments
9 on that?

10 **A.** She did.

11 **Q.** Out of what bank account?

12 **A.** I don't know.

13 **Q.** Did you ever make any payments in connection with
14 that mortgage?

15 **A.** Not that I recall.

16 **Q.** So, in 2020, when you came off title, how was the
17 situation with the mortgage resolved? Was it still
18 on title at that point in time, on the Calgary
19 condominium property?

20 **A.** No. They removed my name from that title as well
21 as the mortgage.

22 **Q.** And how was that achieved?

23 **A.** I don't know, Matt. My name's not on it.

24 **Q.** Aside from the Calgary condominium property and the
25 Chalet Road property, was there any other real

1 estate that you've transferred or disposed of since
2 2015?

3 **A.** No.

4 **Q.** Was any valuation of Spherical undertaken at the
5 time of your matrimonial property separation
6 agreement?

7 **A.** I don't recall on that.

8 **Q.** Was there any valuation undertaken in respect of
9 Lionhart Capital at the time of your matrimonial
10 property settlement agreement?

11 **A.** I don't recall that either.

12 **Q.** Has Ms. Hahrt given you a date by which you have to
13 have all of your property removed from the Chalet
14 Road residence?

15 **A.** Not a date, but definitely -- just wants the --

16 **Q.** What does that mean?

17 **A.** -- stuff removed. Well, the Escalade's removed
18 from there. She would like the motor home removed
19 as well.

20 **Q.** But the motor home is still there as of today's
21 date, correct?

22 **A.** That's correct.

23 **Q.** And the Escalade was there until there was damage
24 and your son took it away, correct?

25 **A.** No. It actually was taken away before then, but

1 he's the one working on the damage.

2 Q. And you say, in your financial statement of debtor,
3 that there are financial encumbrances on those
4 vehicles?

5 A. That's correct.

6 Q. Who do you owe funds to?

7 A. The TD Bank.

8 Q. And do you get a regular statement showing the
9 amount outstanding on that loan?

10 A. Line of credit.

11 MR. LAFLECHE: So I'd ask that, by way of undertaking,
12 we be provided with a copy of the most recent
13 statement for the loan outstanding as against the
14 vehicles described in the financial statement of
15 debtor?

16 MR. CZECHOWSKYJ: Okay. We'll give you that.

17 UNDERTAKING NO. 17:

18 To be provided with a copy of the most
19 recent statement for the loan outstanding
20 as against the vehicles described in the
21 financial statement of debtor.

22 BY MR. LAFLECHE:

23 Q. From January 2015 onwards, have you disposed of or
24 transferred any personal property with a market
25 value of more than \$5,000?

1 **A.** Yeah, the -- the motor -- or, I would say the --
2 the yacht would be more than 5,000.

3 **Q.** And aside from the yacht?

4 **A.** I don't recall anything else.

5 **Q.** I think I've asked for this, but if I didn't, I
6 apologize. So you've got five different bank
7 accounts listed on your financial statement of
8 debtor: a chequing, a savings, a borderless, a
9 retirement, and a retirement savings account?

10 **A.** Correct.

11 **Q.** Do you have any other accounts aside from those
12 with TD Bank?

13 **A.** I'd have to look, but I don't think so. These are
14 all -- I'd have to check. I don't recall.

15 MR. LAFLECHE: So I'm going to ask, by way of
16 undertaking, that we be provided with copies going
17 back to 2015, or as early as they are available,
18 for these accounts, statements for those?

19 MR. CZECHOWSKYJ: Yeah, if they're still available,
20 we'll produce them.

21 UNDERTAKING NO. 18:

22 To be provided with copies going back to
23 2015, or as early as they are available,
24 for these accounts, statements for those,
25 if they're still available.

1 BY MR. LAFLECHE:

2 Q. Now, you've listed in your financial statement of
3 debtor a variety of household assets that you've
4 got at your Puerto Vallarta location. You've got a
5 HP computer and a printer, and then you've got a
6 variety of items that are in Sidney. I take it the
7 Sidney items, those are all at the Chalet Road
8 property?

9 A. Yes.

10 Q. You don't have some other residence or storage unit
11 or something like that in Victoria, correct?

12 A. I do have other storage units, but they wouldn't be
13 carrying any of this stuff. It would all be at
14 Chalet.

15 Q. So which other storage units do you have?

16 A. There's a storage unit on the property, but it's
17 carrying business stuff, which is the paperwork of
18 Spherical, Lionhart.

19 Q. So is that located on the Chalet Road property?
20 There's a storage unit there?

21 A. Correct -- correct.

22 Q. And aside from that storage unit, do you have any
23 storage units -- or do you rent any other storage
24 units anywhere else?

25 A. No.

1 Q. Do you have any safety deposit boxes in any
2 location?

3 A. No, I don't.

4 Q. Are you able to tell me what prompted the marital
5 breakdown?

6 MR. CZECHOWSKYJ: I'm not sure that that's relevant, so
7 we'll object to that.

8 OBJECTION TO QUESTION:

9 Are you able to tell me what prompted the
10 marital breakdown?

11 BY MR. LAFLECHE:

12 Q. You note on your financial statement of debtor that
13 you have an amount outstanding to the Government of
14 Canada for a CEBA loan in the amount of \$80,000; do
15 you see that?

16 A. I do.

17 Q. What are the circumstances of that loan?

18 A. We applied for government assistance for the
19 company.

20 Q. And are you the debtor to that loan, or is the
21 company the debtor?

22 A. That's a grey area from what I've heard from the
23 accountants. We're going to see what our Prime
24 Minister decides on, which way he wants to go with
25 it. At the present time, we were receiving -- or

1 have been receiving support payments from the
2 government to keep the company alive.

3 **Q.** Well, you say here that you've got monthly payments
4 of, I think, \$100. Is that you making those
5 monthly payments, or is that one of the companies?

6 **A.** No. That kicks in -- I put it down there because
7 that's what I estimated that to be for what we were
8 receiving, and it's going to start in June of this
9 year. The government is going to start to collect
10 on their CEBA, which is the Canadian Emergency
11 Business Account.

12 **Q.** Yeah, business account, which is why I'm asking
13 that it's listed on your personal financial
14 statement debtor. And so, as far as you're sitting
15 here today, you've not made any personal payments
16 on that outstanding balance, correct?

17 **A.** That's correct.

18 **Q.** These other lines of credit, you've got one with
19 MBNA, CIBC, visa, TD Bank, RBC.

20 **A.** That's correct.

21 **Q.** The lines of credit with TD Bank and RBC, can you
22 tell me when you opened those lines of credit?

23 **A.** No, I don't know exactly the dates.

24 **Q.** And the monthly payments of \$1,000, how are you
25 affording to make those?

1 **A.** The company's making the payments on those
2 accounts, virtually through the credit lines that
3 they're borrowing on.

4 **Q.** So the monthly payments that you've listed here on
5 those lines of credit, those are not payments that
6 you're making personally?

7 **A.** Well, that's an interesting question because these
8 are personal loans and the company's making the
9 payments on it, but I'm, ultimately, the person
10 putting the money in and guaranteeing those
11 payments. So MBNA is a personal, CIBC is personal,
12 Visa's personal, TD's personal.

13 **Q.** And the companies are paying those outstanding
14 balances; is that correct?

15 **A.** The company is paying the outstanding balances, but
16 I'm also borrowing the money to put into the
17 company. There's been months of where Lionhart has
18 produced zero income; so we've been using, in terms
19 of lines of credit, to make payments on credit. As
20 well as, like I said, borrowing money from the
21 government, as well as the government sending
22 support payments and -- because we qualify for
23 support payments from the government, so that's
24 been coming through. But as of this last month,
25 from what they've said, that, from the month

1 before, I'm not positive on that either, Matt.

2 That's been turned off by the government.

3 MR. LAFLECHE: Okay. Well, I'm going to ask, by way of
4 undertaking, that we be provided with account
5 statements for the expense accounts that are listed
6 in your financial statement of debtor, as well as
7 the documents showing the amount outstanding to the
8 Government of Canada under the CEBA account, as
9 well as who is the debtor for that amount?

10 MR. CZECHOWSKYJ: Okay.

11 UNDERTAKING NO. 19:

12 To be provided with account statements
13 for the expense accounts that are listed
14 in your financial statement of debtor, as
15 well as the documents showing the amount
16 outstanding to the Government of Canada
17 under the CEBA account, as well as who is
18 the debtor for that amount.

19 BY MR. LAFLECHE:

20 Q. Have you used any of these accounts, these monthly
21 expense accounts here, for your own personal use
22 for things that you're buying day-to-day down in
23 Mexico, for example?

24 A. No.

25 Q. Do you have a credit card that you do use for those

1 kinds of expenses?

2 **A.** I do have a credit card. That's correct.

3 **Q.** Who's that credit card with?

4 **A.** That credit card would be, I'm pretty sure, it was
5 the TD Bank credit card.

6 **Q.** Well, I mean, if you open your wallet right now,
7 what credit card would you pull out if you were
8 going to buy a beer today?

9 **A.** The TD one. But the problem is, is it's expired.
10 I didn't realize that the date's gone past on it.
11 It expired while I was down here.

12 **Q.** So if you were going to go out for dinner tonight,
13 what source of funds would you use to pay for that?

14 **A.** Cash is big down here. Like, even the rent is paid
15 in cash.

16 **Q.** And so are these the --

17 **A.** Most places will -- will charge you -- down here,
18 they'll charge you an extra fee if you used a
19 credit card on top of that. So if you use cash in
20 Mexico, that's the -- virtually, the currency
21 everybody uses. In fact, I'm paying the rent in
22 cash. It's just mind-boggling, but... Cabs you
23 pay cash, everything, cash, cash, cash.

24 **Q.** Yes. And so I think you told me that the cash you
25 have been taking out, you've been taking out of

1 your TD account on a periodic basis. So is that
2 what you're using to fund all of your living
3 expenses?

4 **A.** Right.

5 **Q.** And your expired credit card, is there any
6 outstanding balance on it?

7 **A.** I'd have to check. I don't think so, but I'd --
8 I'd have to check it. I'm not positive.

9 **Q.** Just give me a second here. Does Ms. Hahrt have an
10 occupation?

11 **A.** You'd have to ask her.

12 **Q.** Well, at the time you concluded the matrimonial
13 property settlement, was she employed at that point
14 in time?

15 **MR. CZECHOWSKYJ:** Again, I'm going to object. I don't
16 think that third-party information is relevant to
17 an examination in aid.

18 OBJECTION TO QUESTION:

19 Well, at the time you concluded the
20 matrimonial property settlement, was she
21 employed at that point in time?

22 **MR. LAFLECHE:** Okay. I know we've been going here for
23 an hour. Do you want to take a 10-minute break
24 here, Terry?

25 **MR. CZECHOWSKYJ:** Sure. Yeah. That sounds good.

1 (ADJOURNMENT)

2 BY MR. LAFLECHE:

3 Q. Do you acknowledge you're still under oath,
4 Mr. Bevan?

5 A. I do.

6 Q. Are you familiar with an individual named Mereck
7 (phonetic)?

8 A. Mereck, yeah.

9 Q. And he has an IT company of sorts, correct?

10 A. I don't think so anymore.

11 Q. Did he at one point in time, to your knowledge?

12 A. Correct.

13 Q. And did you have any interest in that company?

14 A. Yes, I did way back.

15 Q. What was the nature of your interest?

16 A. We tried to form a partnership, but it didn't work
17 out. So he ended up separating and starting his
18 own firm.

19 Q. And when you were in a partnership with him, did
20 you own any assets associated with his business,
21 either partially or wholly?

22 A. No.

23 Q. Did you ever provide him with equipment?

24 A. No.

25 Q. Did any of the businesses that you were the owner

1 of provide him with any equipment?

2 **A.** No.

3 **Q.** So why did that relationship not work out?

4 **A.** From my point of view, he decided to go on his own.

5 He was our IT guy years ago. And he decided to

6 branch out on his own, so he left and started his

7 own firm.

8 **Q.** Before that happened, were you guys carrying on a
9 partnership? Did you set up a company?

10 **A.** No, we didn't.

11 **Q.** So I thought you said that you had an interest in
12 the business with Mereck. What was the nature of
13 your interest?

14 **A.** He was providing IT work for a discount.

15 **Q.** But how was that you having an interest in the
16 business?

17 **A.** That -- that was as far as it ever got. We never
18 actually consummated anything in the sense of an
19 active business with him. He was an employee with
20 another firm, then he went out on his own, and then
21 I hired him to do work for me, and we developed
22 more of a -- I guess, an -- an amicable agreement,
23 and we were going to turn around to move into a
24 partnership agreement with him, he -- he and I in
25 the partnership, but that didn't work out. He

1 decided to start his own firm, and he started his
2 own company up. That explains it a little bit
3 better. So it really didn't mature into an active
4 business.

5 **Q.** And when did this all take place?

6 **A.** Oh, my God. You know, Matt, I don't know. I would
7 say probably 2013, maybe even before that. Mereck
8 and I had been working together for a long, long
9 time. I'm -- I'm not positive on the date, but
10 it's a long time ago.

11 **Q.** And when you say you hired him, was that in your
12 personal capacity or was that through one of your
13 businesses.

14 **A.** No, the business. He would invoice us for the work
15 being done as a contractor, and we would pay him
16 his invoice for the work being done.

17 **Q.** Have you ever owned a Mustang convertible?

18 **A.** Yeah. It's listed on our separation agreement.

19 **Q.** And so that was one of the assets that what? Was
20 transferred to Ms. Hahrt?

21 **A.** That, I'd have to check.

22 **Q.** Well, what is the current location and status of
23 that vehicle?

24 **A.** The current status of that vehicle is it's at my
25 son's place. The current status of it, I don't

1 know.

2 Q. Well, do you own it?

3 A. No.

4 Q. How did your ownership interest get transferred?

5 A. Gifted.

6 Q. When did that happen?

7 A. I'd have to check on the date on when that was
8 gifted, but...

9 Q. So you gifted your Mustang convertible to your son;
10 is that what you're saying?

11 A. Correct.

12 Q. And I take it that that happened, since you
13 referenced the matrimonial property settlement
14 agreement, that that happened sometime after 2000,
15 then?

16 A. Yeah, it's listed in the matrimonial -- you'll see
17 that in there as long -- well, the yacht's in
18 there. All of it's in the matrimonial separation
19 agreement.

20 Q. So when I asked you before in this examination,
21 whether you had disposed of any property, you
22 didn't tell me about the convertible, correct?

23 A. I thought you said "property," meaning real estate.

24 Q. I said real estate and I said any other property,
25 and we talked about the yacht, and you said nothing

1 else.

2 A. Not that I recall.

3 Q. So you don't recall gifting your son the Mustang
4 convertible?

5 A. You know, Matt, I'd have to go back and take a look
6 at it. It wasn't a large item to me; so I'd have
7 to take a peek at how that was handled, whether I
8 gifted it or Ms. Hahrt had given it to him. I'm
9 not positive.

10 Q. How did you compile the list of assets that were
11 described in your matrimonial property agreement?

12 A. How was it compiled?

13 Q. Yeah.

14 A. The lawyers requested all the assets that were
15 owned by either one of us to be listed in the
16 matrimonial separation agreement.

17 Q. So did they take an inventory?

18 A. I take it they did.

19 Q. Did you ever own a gun collection?

20 A. No.

21 Q. Did you ever own any gold bars?

22 A. No.

23 Q. Have you ever owned any other precious metals?

24 A. No.

25 Q. So what would -- I mean, I suppose we'll see it,

1 but what, to your recollection, was described in
2 the list of assets on the matrimonial property
3 agreement? What assets were listed there?

4 **A.** The yacht was on there, I recall that. The Journey
5 was on there, the Escalade was on there, the motor
6 home was on there. I don't recall all of what the
7 list had.

8 **Q.** So you gifted the Mustang to your son, any other
9 gifts that you made of property since 2015?

10 **A.** Matt, I'd have to take a look at the documents to
11 tell you what was even on there.

12 **Q.** Well, what --

13 **A.** I don't recall. Like -- no, we're not talking --
14 you said under \$5,000; so it wouldn't show up if it
15 was less than \$5,000.

16 **Q.** Okay. Well, is it --

17 **A.** I recall you saying that, so these items would be
18 less than \$5,000 if they were.

19 **Q.** So your view would be that the value of the Mustang
20 was less than \$5,000. That's why you didn't
21 mention it before when we were talking about the
22 property?

23 **A.** That would be correct.

24 **Q.** Okay. So aside from the Mustang and the yacht,
25 have you disposed of any other motor vehicles of

1 any kind or of any value since 2015, whether by
2 gift or by sale?

3 **A.** Not that I recall, no.

4 **Q.** Do you own any rings or jewellery of any kind?

5 **A.** No. I don't even wear a ring.

6 **Q.** Whether you wear it or not, do you own any?

7 **A.** No. That type of stuff is no interest to me.

8 **Q.** Do you own any art or other collectibles?

9 **A.** No.

10 **Q.** The painting behind you, does that come with the
11 apartment?

12 **A.** Yeah. Yeah, do you want to take a peek at it? I
13 looks like some guy on a horse -- I don't know if
14 it's a horse or a donkey.

15 **Q.** So what do you use your money for, Mr. Bevan? Do
16 you acquire any assets of any kind? Do you collect
17 anything at all?

18 **A.** No. I'm not interested in that stuff. I'm pretty
19 much a minimalist these days.

20 **Q.** So we talked about the TD credit card that you've
21 got that's expired. Do you have any other personal
22 credit cards, aside from the ones that are
23 identified in your financial statement of debtor?

24 **A.** Yes, I do.

25 **Q.** Which ones do you have?

1 **A.** I'd have to pull them up, Matt. I don't know which
2 ones I -- I don't have them here with me, that's
3 for sure.

4 **Q.** I take it you understood that it was important to
5 provide a full and accurate list of your assets and
6 liabilities in that financial statement of debtor
7 and that it was a sworn document, right?

8 **A.** Correct.

9 **Q.** So why didn't you list the credit card accounts
10 that you just mentioned?

11 **A.** Zero balance.

12 **Q.** So there's no balances on any of them?

13 **A.** That's correct.

14 **Q.** And when did --

15 **A.** Well, the ones I listed for you have balances on
16 them.

17 **Q.** And so the other credit cards --

18 **A.** But it's -- there's no credit cards with any
19 balances on them, so they're just -- what's the use
20 of listing them?

21 **Q.** But you have access to those as credit facilities
22 for your own personal use?

23 **A.** No, I don't because I'm down here in Mexico.

24 **Q.** Why would that prevent you from using those credit
25 cards?

1 **A.** Well, how are you -- you can't use them unless you
2 have them to give to the merchant.

3 **Q.** Oh, so you didn't physically take the credit cards
4 with you?

5 **A.** That's correct.

6 **Q.** Where would these credit cards be located?

7 **A.** I'd have to check where I've got them, Matt.

8 **Q.** Well, what --

9 **A.** There's not that many --

10 **Q.** -- types of places --

11 **A.** There's not that many more. I'd be in a wallet, I
12 take it, it would have some credit cards in there,
13 expired ones or even active ones, but zero balances
14 on them. I could provide statements, I'm sure if
15 you look up -- I get back showing what the balances
16 are on them.

17 MR. LAFLECHE: Well, yeah, I will ask that you, by way
18 of undertaking, provide statements of any personal
19 credit cards that you have, whether they have zero
20 balances or otherwise?

21 MR. CZECHOWSKYJ: Okay. We'll give that undertaking.

22 UNDERTAKING NO. 20:

23 To provide statements of any personal
24 credit cards that you have, whether they
25 have zero balances or otherwise.

1 BY MR. LAFLECHE:

2 Q. Well, where would you go look for these, Mr. Bevan?
3 Like, you said that they'd be in a wallet. Is that
4 wallet back in Sidney?

5 A. I don't know, Matt. I would say it's in Sidney,
6 Matt.

7 Q. Well, could it be anywhere else? Like, do you have
8 any other residence that it would be located at?

9 A. No, I don't have any other residence. And they
10 could be in my motor home, they could be in my
11 Escalade. I'm not positive where you're -- what
12 you're meaning of where the physical places -- that
13 they have it.

14 Q. Well, I'm just --

15 A. If that's what you're meaning?

16 Q. I just want to know what your living arrangements
17 are like, Mr. Bevan. Like, if you say --

18 A. Oh.

19 Q. -- This is in my wallet. I'd have to go look. I
20 didn't bring it with me. Well, if you've got a
21 chain of places that you've stayed over the years,
22 that would be helpful for me to know. Or if you're
23 saying it would be somewhere on the -- Sidney,
24 like, the Chalet Road property, that's the answer
25 to the question. I'm just wanting to know what

1 your situation is?

2 **A.** Well, since the judgment, I don't have income
3 coming in, and so using other credit cards to pay
4 other credit cards is virtually what's happening.
5 So expanding my credit limit to keep borrowing and
6 borrowing, eventually, will throw me into
7 bankruptcy. So that's all that we're doing right
8 now is living on credit. So if -- and that's the
9 point, then, yeah, we'd probably pull out another
10 card and start borrowing against it to pay the
11 bills on whatever you've got.

12 **Q.** So since the judgment -- when you say "the
13 judgment," you're referring to Mr. Woods's
14 judgment, granted by --

15 **A.** Correct.

16 **Q.** -- Justice Mah?

17 **A.** Yeah. That's the only judgment.

18 **Q.** And so if I've understood what you've just said,
19 since the judgment's been issued, you're not
20 earning any income, and you're just kiting payments
21 from one credit card to another to pay for your
22 daily living expenses?

23 **A.** That's correct. That's exactly it. I thought I
24 explained that fairly black-and-white earlier on
25 when you were running through the credit cards.

1 That's exactly the situation right now.

2 Q. And so how has the judgment affected your ability
3 to carry on business?

4 A. How has the judgment affected that? You mean in
5 the sense of borrowing more, going out to apply for
6 more credit?

7 Q. I mean, you've told me that Lionhart Capital is
8 still carrying on business through -- I think you
9 said Lisa Kingma is carrying on business, and your
10 daughter is a sales representative, so is it the
11 case that Lionhart is still carrying on business?

12 A. Correct.

13 Q. And I take it the judgment has not interfered with
14 Lionhart's ability to do so?

15 A. No. The -- the judgment is not against Lionhart,
16 it's against me, personally, correct?

17 Q. It is not against Lionhart. It is against you
18 personally among the Spherical corporate entities.

19 A. M-hm.

20 Q. So how does that --

21 A. My borrowing ability -- my borrowing ability to put
22 more money into the companies is being inhibited.

23 I can't go out and apply at a bank to borrow money
24 with a judgment against me.

25 Q. And so you still own Lionhart Capital. You've

1 already told me that this morning, correct?

2 **A.** That's correct, yeah.

3 **Q.** And Lionhart is being used to pay some of your
4 personal lines of credit, correct?

5 **A.** Correct. Through the credit facility that's in
6 there. Lionhart, as stated earlier, has had
7 zero-income months and has borrowed money from the
8 government as well as the emergency act, which you
9 can get money from the government, which we've had
10 our bookkeepers apply for, has been covering off a
11 lot of the bills. So you have the \$80,000 borrowed
12 through CEBA and the government, which is Canadian
13 Emergency Borrowing, as well as CHEWS (phonetic),
14 which is another one. But it will show on the
15 statements that that's where the substantial amount
16 of the money that's been coming in has been
17 supported by the government.

18 **Q.** And so I take it you don't have any plan to try to
19 generate any personal income moving forward?

20 **A.** I'm 71 now, Matt. So the answer is, I'm not
21 looking at going back to work, if that's what
22 you're meaning. I'm trying to survive on what I
23 have left.

24 **Q.** Well, what was your retirement plan --

25 **A.** What I've done is I --

1 Q. -- absent the judgment? I mean, you know, you
2 obviously contested the judgment right through to
3 trial, so what was your retirement plan had the
4 judgment not been granted?

5 A. I've applied for old age security now, and so I'm
6 waiting for that to kick in as well as my CPP. And
7 I'm kind of living it day by day these days.

8 MR. LAFLECHE: All right. Well, I expect, Mr. Bevan,
9 that I will have some questions arising from the
10 undertakings that have been given in the course of
11 this examination in aid. But as of this moment, I
12 do not have any further questions to ask you, so I
13 think we probably can adjourn for the day. Thank
14 you for attending and thank you, Terry, for making
15 arrangements for this to happen.

17 PROCEEDINGS ADJOURNED SUBJECT TO UNDERTAKINGS 10:00 A.M.

18
19
20
21
22
23
24
25

1 CERTIFICATE OF TRANSCRIPT

2
3 I, the undersigned, hereby certify that the
4 foregoing pages are a complete and accurate transcript
5 of the proceedings taken down by me in shorthand and
6 transcribed from my shorthand notes to the best of my
7 skill and ability.

8 I further certify that this questioning was
9 conducted in accordance with the Alberta Protocol for
10 Remote Questioning, Revised 05/05/2020.

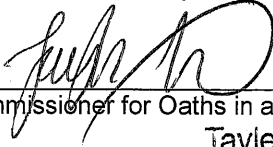
11 Dated at the City of Edmonton, Province of Alberta,
12 this 3rd day of June, 2022.

13
14 

15
16 _____
17 Leanne Harcourt, CSR(A)

18 Court Reporter
19
20
21
22
23
24
25

This is **Exhibit "7"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022

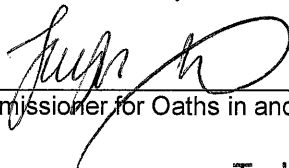


A Commissioner for Oaths in and for Alberta
Tayler Meagher
Barrister & Solicitor

UNDERTAKING REPLIES OF GERRY BEVAN from Examination in Aid of Execution of 5/3/2022

1. Mexico lease agreement attached
2. There is no court filed documents
3. Separation agreement attached
4. Bank records from 2015 attached that are available so far. Request made to TD Bank for records relating to Plan 60 cheque account and 2 savings accounts but no response yet. 2 other retirement accounts have been closed and records are not available.
5. Counsel was Robert Klassen
6. Cannot locate bill of sale. Proceeds were used to for cash flow and to pay bills.
7. Cannot locate physical share certificate
8. Cannot locate minute book
9. Cannot locate physical share certificate
10. Cannot locate minute book
11. Cannot locate physical share certificate
12. Cannot locate minute book
13. Tax returns are attached
14. Karnalyte statements to be sent by dropbox due to size of file
15. Statements available attached with UT #4
16. Canada Life renewal form attached. Beneficiary is Barret Bevan
17. This was part of the line of credit which is over 20 years old so records no longer available
18. Same as UT 4. Wating for TD Bank to respond.
19. The account statements for the expense account are the credit card statements attached with UT # 20
20. Credit card statements attached

This is **Exhibit "8"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022



A Commissioner for Oaths in and for Alberta

Tayler Meagher
Barrister & Solicitor

Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2022/11/17
 Time of Search: 09:20 AM
 Search provided by: BENNETT JONES LLP (EDMONTON)
 Service Request Number: 38647895
 Customer Reference Number: 74124.1/TM/NS

Corporate Access Number: 2010289565
Business Number: 860876358
Legal Entity Name: SPHERICAL CAPITAL INC.

Legal Entity Status: Active
Alberta Corporation Type: Named Alberta Corporation
Registration Date: 2003/01/29 YYYY/MM/DD
Date of Last Status Change: 2010/07/12 YYYY/MM/DD

Revival/Restoration Date: 2010/07/12 YYYY/MM/DD

Registered Office:

Street: SUITE 1022, 240 - 70 SHAWVILLE BLVD
City: CALGARY
Province: ALBERTA
Postal Code: T2Y2Z3

Records Address:

Street: SUITE 1022, 240 - 70 SHAWVILLE BLVD
City: CALGARY
Province: ALBERTA
Postal Code: T2Y2Z3

Email Address: CREDIT@SPHERICALCAPITAL.COM

Primary Agent for Service:

Last Name	First Name	Middle Name	Firm Name	Street	City	Province	Postal Code	Email
BEVAN	GERRY			1022, 240 - 70 SHAWVILLE BLVD SE	CALGARY	ALBERTA	T2Y2Z3	CREDIT@SPHERICALCAPITAL.COM

Directors:

Last Name: BEVAN
First Name: GERRY
Street/Box Number: SUITE 1022, 240-70 SHAWVILLE BLVD
City: CALGARY
Province: ALBERTA

Postal Code: T2Y2Z3

Voting Shareholders:

Last Name: BEVAN
First Name: GERALD
Middle Name: RICHARD
Street: SUITE 1022, 240-70 SHAWVILLE BLVD
City: CALGARY
Province: ALBERTA
Postal Code: T3E5J6
Percent Of Voting Shares: 100

Details From Current Articles:

The information in this legal entity table supersedes equivalent electronic attachments

Share Structure: SEE SCHEDULE "A" ATTACHED HERETO.
Share Transfers Restrictions: SEE SCHEDULE "B" ATTACHED HERETO.
Min Number Of Directors: 1
Max Number Of Directors: 15
Business Restricted To: NO RESTRICTIONS
Business Restricted From: NO RESTRICTIONS
Other Provisions: SEE SCHEDULE "C" ATTACHED HERETO.

Other Information:

Last Annual Return Filed:

File Year	Date Filed (YYYY/MM/DD)
2022	2022/01/12

Filing History:

List Date (YYYY/MM/DD)	Type of Filing
2003/01/29	Incorporate Alberta Corporation
2010/03/02	Status Changed to Start for Failure to File Annual Returns
2010/07/02	Status Changed to Struck for Failure to File Annual Returns
2010/07/12	Initiate Revival of Alberta Corporation
2010/07/12	Complete Revival of Alberta Corporation
2012/05/07	Change Address
2014/01/13	Change Director / Shareholder
2020/02/18	Update BN
2022/01/12	Enter Annual Returns for Alberta and Extra-Provincial Corp.

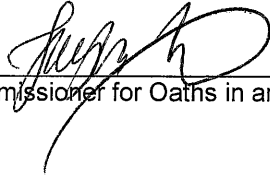
Attachments:

Attachment Type	Microfilm Bar Code	Date Recorded (YYYY/MM/DD)
Share Structure	ELECTRONIC	2003/01/29
Restrictions on Share Transfers	ELECTRONIC	2003/01/29
Other Rules or Provisions	ELECTRONIC	2003/01/29
Letter - For Legal Name Change	10000507117955356	2014/01/13

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



This is **Exhibit "9"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022



A Commissioner for Oaths in and for Alberta

Taylor Meagher
Barrister & Solicitor

Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2022/11/17
Time of Search: 09:23 AM
Search provided by: BENNETT JONES LLP (EDMONTON)
Service Request Number: 38647956
Customer Reference Number: 74124

Corporate Access Number: 2018892485
Business Number: 706137528
Legal Entity Name: SPHERICAL BOND LTD.

Legal Entity Status: Struck
Struck Off Date: 2021/10/02
Alberta Corporation Type: Named Alberta Corporation
Registration Date: 2015/04/09 YYYY/MM/DD

Registered Office:

Street: 1022, 240 - 70 SHAWVILLE BLVD SE
City: CALGARY
Province: ALBERTA
Postal Code: T2Y2Z3

Records Address:

Street: 1022, 240 - 70 SHAWVILLE BLVD SE
City: CALGARY
Province: ALBERTA
Postal Code: T2Y2Z3

Directors:

Last Name: BEVAN
First Name: GERALD
Street/Box Number: 11396 CHALET ROAD
City: N. SAANICH
Province: BRITISH COLUMBIA
Postal Code: V8L5L9

Details From Current Articles:**The information in this legal entity table supersedes equivalent electronic attachments**

Share Structure: SEE SCHEDULE "A" ATTACHED HERETO.
Share Transfers Restrictions: NONE
Min Number Of Directors: 1
Max Number Of Directors: 11
Business Restricted To: NONE
Business Restricted From: NONE
Other Provisions: SEE SCHEDULE "B" ATTACHED HERETO.

Other Information:**Last Annual Return Filed:**

File Year	Date Filed (YYYY/MM/DD)
2019	2019/07/24

Outstanding Returns:

Annual returns are outstanding for the 2022, 2021, 2020 file year(s).

The corporation representative has confirmed that there are no shareholders.

Filing History:

List Date (YYYY/MM/DD)	Type of Filing
2015/04/09	Incorporate Alberta Corporation
2015/04/09	Service Provider Correct Legal Entity
2019/07/24	Enter Annual Returns for Alberta and Extra-Provincial Corp.
2020/02/22	Update BN
2021/06/02	Status Changed to Start for Failure to File Annual Returns
2021/10/02	Status Changed to Struck for Failure to File Annual Returns

Attachments:

Attachment Type	Microfilm Bar Code	Date Recorded (YYYY/MM/DD)
Share Structure	ELECTRONIC	2015/04/09
Other Rules or Provisions	ELECTRONIC	2015/04/09

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



THIS SCHEDULE "A" IS INCORPORATED INTO AND FORMS PART OF THE ARTICLES OF INCORPORATION OF

SPHERICAL BOND LTD.
(the "Corporation")

(1) The Corporation is authorized to issue an unlimited number of Class A Preferred shares (the "Class A Shares") having attached thereto, as a class, the following rights, privileges, restrictions and conditions:

Voting Rights The holders of the Class A Shares (the "Class A Shareholders") shall be entitled to receive notice of, to attend and to vote at all meetings of the shareholders of the Corporation. Each Class A Share shall confer on the holder thereof the right to one vote in person or by proxy at all meetings of shareholders of the Corporation.

Dividend Entitlement The Class "A" Shareholders are not entitled to participate in the profits of the Corporation and are not entitled to receive any dividends.

Entitlement on Dissolution or Winding-Up In the event of a reduction of capital or the liquidation, dissolution or winding-up of the Corporation or other distribution of property or assets of the Corporation among its shareholders for the purpose of winding-up its affairs (a "Winding-Up Event"):

(i) Prior to the Class A Shareholders receiving any consideration in the occurrence of a Winding-Up Event, any bondholders of the Corporation at the time of such Event shall be entitled to receive from the Corporation an amount equal to the face value of their bond together with any accrued interest thereon up to the date of payment (the "Redemption Amount") in priority to any distribution of any of the Corporation's assets or property to the Class A Shareholders. If the Corporation does not have sufficient property or assets to pay the aggregate of the Redemption Amount then each bondholder will be entitled to their pro rata share of the Corporation's property or assets in priority to the Class A Shareholders; and

(ii) The Class A Shareholders shall be entitled to receive an amount equal to the aggregate amount paid up capital on the Class A Shares held by them respectively after repayment of the aggregate Redemption Amount and in the event that there is not sufficient property or assets to return the entire amount of paid up capital thereon to all shareholders, the amount available for distribution shall be distributed to the shareholders on a pro rata basis according to the number of Class A Shares owned by each shareholder.

(2) The Corporation is authorized to issue an unlimited number of Class B Common shares (the "Class B Shares") having attached thereto, as a class, the following rights, privileges, restrictions and conditions:

Voting Rights The holders of the Class B Shares shall not be entitled to receive notice of, to attend or vote at any meetings of the shareholders of the Corporation.

Dividend Entitlement The right, subject to any preferential rights attaching to any other class or series of shares of the Corporation, to receive dividends as, when and if declared on the Class B Shares by the Corporation. No dividend may be declared or paid on the Class B Shares if payment of the dividend would cause the realizable value of the Corporation's assets to be less than the aggregate of its liabilities and the amount required to redeem any bonds issued by the Corporation then outstanding having attached thereto a right of redemption or retraction.

Entitlement on Dissolution or Winding-Up - The right, subject to any preferential rights attaching to any bonds issued by the Corporation, to share in the remaining property of the Corporation upon dissolution after all the Class A Shareholders have received payment of the aggregate amount of paid up capital held by each Class A Shareholder.

THIS SCHEDULE "B" IS INCORPORATED INTO AND FORMS
PART OF THE ARTICLES OF INCORPORATION OF

SPHERICAL BOND LTD.
(the "Corporation")

(1) The directors of the Corporation may, between annual meetings of the Corporation, appoint one or more additional directors of the Corporation to hold office until the next annual meeting, but the number of additional directors shall not at any time exceed one-third of the number of directors who held office at the close of the last annual meeting of the Corporation.

This is **Exhibit "10"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022



A Commissioner for Oaths in and for Alberta

Taylor Meagher
Barrister & Solicitor

Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2022/10/05
Time of Search: 01:39 PM
Search provided by: BENNETT JONES LLP (EDMONTON)
Service Request Number: 38409849
Customer Reference Number: 74124-1/TM/mw

Corporate Access Number: 204250229
Business Number: 122235872
Legal Entity Name: LIONHART CAPITAL LTD.

Legal Entity Status: Start
Alberta Corporation Type: Named Alberta Corporation
Registration Date: 1990/07/13 YYYY/MM/DD
Date of Last Status Change: 2022/09/02 YYYY/MM/DD

Registered Office:

Street: 1022-240 70 SHAWVILLE BLVD SE
City: CALGARY
Province: ALBERTA
Postal Code: T2Y2Z3

Records Address:

Street: 1022-240 70 SHAWVILLE BLVD SE
City: CALGARY
Province: ALBERTA
Postal Code: T2Y2Z3

Email Address: BREANNE@LIONHARTCAPITAL.COM

Directors:

Last Name: BEVAN
First Name: GERALD
Middle Name: RICHARD
Street/Box Number: 1022-240 70 SHAWVILLE BLVD SE
City: CALGARY
Province: ALBERTA
Postal Code: T2Y2Z3

Last Name: YOUNG

First Name: BREANNE
Middle Name: MARY
Street/Box Number: 1022-240 70 SHAWVILLE BLVD SE
City: CALGARY
Province: ALBERTA
Postal Code: T2Y2Z3
Letter - For Legal Name Change: Y

Voting Shareholders:

Last Name: BEVAN
First Name: GERALD
Middle Name: RICHARD
Street: 1022-240 70 SHAWVILLE BLVD SE
City: CALGARY
Province: ALBERTA
Postal Code: T2Y2Z3
Percent Of Voting Shares: 100

Other Information:

Last Annual Return Filed:

File Year	Date Filed (YYYY/MM/DD)
2020	2021/05/12

Outstanding Returns:

Annual returns are outstanding for the 2022, 2021 file year(s).

Filing History:

List Date (YYYY/MM/DD)	Type of Filing
2003/03/06	Change Address
2013/11/13	Change Director / Shareholder
2020/02/17	Update BN
2021/05/12	Enter Annual Returns for Alberta and Extra-Provincial Corp.
2022/09/02	Status Changed to Start for Failure to File Annual Returns

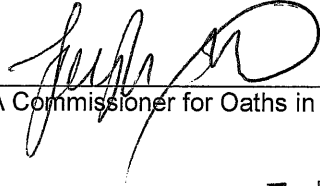
Attachments:

Attachment Type	Microfilm Bar Code	Date Recorded (YYYY/MM/DD)
Letter - For Legal Name Change	10000507116533485	2013/11/13

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



This is **Exhibit "11"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022



A Commissioner for Oaths in and for Alberta

Taylor Meagher
Barrister & Solicitor

THIS IS A SEPARATION AGREEMENT DATED February 12th, 2020

Between

Gerald Richard Bevan

("Gerald")

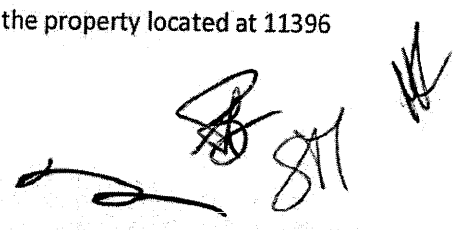
AND

Suzannah T. Hahrt

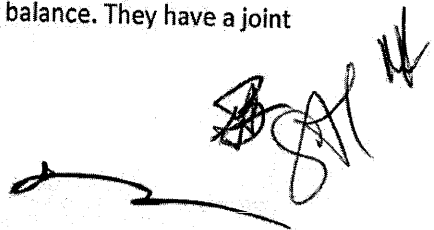
("Suzannah")

1. Background/Recitals

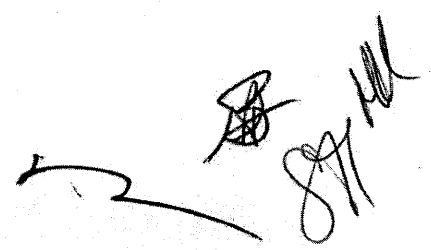
- 1.1 Gerald and Suzannah began cohabitating on or about January 2000. They are not married.
- 1.2 They separated on or about January 1, 2019. The parties will continue living separate and apart, although they have remained living in the same house after separation.
- 1.3 They have no children of the relationship. Suzannah has adult children from a previous relationship.
- 1.4 Gerald is self-employed and has the following businesses and his income fluctuates:
 - (a) Lionhart Capital Incorporated ("Lionhart");
 - (b) Spherical;
("Gerald's Businesses")
- 1.5 Suzannah is employed at the business, Lionhart, and the parties intend for her to continue that employment. She earns an approximate annual income of \$35,000.
- 1.6 All of Gerald and Suzannah's significant family property and family debts are set out in these recitals to this Agreement.
 - (a) Gerald's Businesses, which includes any assets, property, accounts, debts or liabilities, value unknown;
 - (i) Gerald owned Lionhart Capital prior to the relationship and is his excluded property pursuant to the Family Law Act
 - (b) The Residence:
 - (i) The parties are jointly registered as the owners of the property located at 11396 Chalet Road (the "Residence").



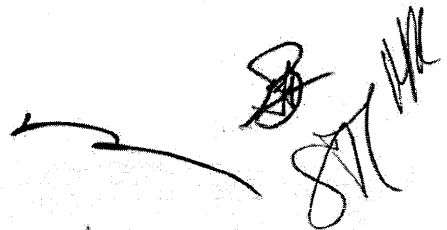
- (ii) The parties purchased the Residence in or around July 2007 for \$705,000, with a mortgage of approximately \$300,000 and a TD line of credit of approximately \$260,000 ("Residence Mortgage and LOC"). The parties acknowledge that the value and the equity in the Residence have increased since purchase.
- (c) The Condo:
 - (i) The parties are jointly registered as the owners of the property located at #85-2815 Palliser Drive Calgary, (the "Condo"), with an estimated value of \$255,000.
 - (ii) The condo is encumbered with a mortgage of approximately \$164,000.
 - (iii) Suzannah owned the Condo prior to the relationship and it is her excluded property pursuant to the Family Law Act.
 - (iv) The Condo is rented out and the rental income covers the expenses.
- (d) The parties have the following other property (other than the parties' personal property):
 - (i) Household furniture and items and tools and garage items;
 - (ii) 2014 Dodge Journey
 - (iii) Cadillac;
 - (iv) Motorhome;
 - (v) Tollycraft Boat;
 - (vi) Utility Trailer;
 - (vii) 2 Quads;
 - (viii) 1987 Mustang Convertible.
- (e) Accounts:
 - (i) The parties have a joint bank account at TD bank, which is being closed;
 - (ii) The parties have maintained their own separate bank accounts during their relationship. Gerald also has business bank accounts and other investments.
 - (iii) Suzannah has a Spousal RRSP, which accrued prior to the relationship and is her excluded property with a value of approximately \$17,000.
- (f) The parties each have their own credit cards with a rotating balance. They have a joint credit card that is being closed.



- (g) The parties have each accrued benefits under the Canada Pension Plan (CPP).
- 1.7 The parties agree to be bound by this Agreement which settles all issues between them.
- 1.8 This Agreement replaces all oral or written agreements.
- 1.9 The parties each intend this Agreement to be a final settlement of
- (i) spousal support;
 - (ii) their respective rights in or to the property of the other and the property held by them jointly;
 - (iii) their respective rights in the estate of the other;
 - (iv) adjustments respecting disabilities or advantages and disadvantages arising out of the marriage or otherwise between them and the needs of each of them to become and remain economically independent and self-sufficient; and
 - (v) all issues otherwise arising out of their marriage.
- 1.10
- (a) The parties are aware of their right to secure additional financial disclosure or information, such as a valuation of the Businesses, confirmation of the market value of the Residence or Condo, confirmation of either parties' incomes, or other documentation or confirmation regarding accounts or other property and debts. They wish to proceed with this Agreement absent that additional disclosure and based on the disclosure provided to date and based on what they know of each other's financial affairs. The parties have come to the terms of this Agreement between themselves and in a manner that accords with their values and that they each feel is fair and reasonable taking into account the property they each brought into the relationship, the property and debts that accrued during the relationship, and the parties' future support needs and ability to be or become self-sufficient. The parties are aware that the division of property and debt may diverge from that which they would be entitled to under the *Family Law Act*; nevertheless, they agree that the terms herein are a fair outcome for both parties.
- (b) The parties are aware that the law provides for judicial intervention if this Agreement is found to be unfair.
- (c) The parties wish to confirm that

Handwritten signatures and initials in black ink, located at the bottom right of the page. There are several distinct marks, including what appears to be a large signature and some initials.

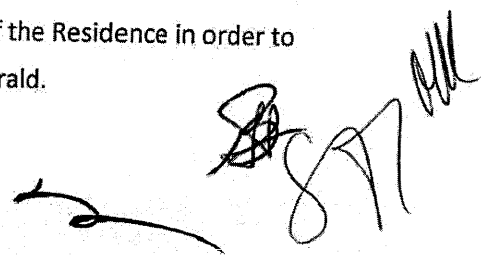
- (i) each of them relies on this Agreement to be enforced according to its terms, and
 - (ii) neither of them would have entered into this Agreement had it been anticipated that the other would ever apply to vary the Agreement.
 - (d) The parties acknowledge that each of them is prepared to abide by the terms of this Agreement because each recognizes that the importance to each of them of being able to rely on the Agreement far outweighs the risk that the Agreement may operate unfairly at some future date.
- 1.11 Each of the parties warrants that the statements of fact contained in the recitals to this Agreement are true and acknowledge that the other is relying on them.
- 1.12 Unless otherwise specifically provided herein, the words used in this Agreement have the same meaning as such words have in the *Family Law Act*, S.B.C. 2012, c. 25.
- 1.13 This Agreement is to be interpreted in accordance with the laws of the Province of British Columbia.
- 1.14 While negotiating the terms of this Agreement, a variety of ideas and tentative arrangements were explored and all of these arrangements and agreements are replaced by this Agreement, which is the entire agreement between the parties.
- 2. Separate and Apart**
- 2.1 The parties will continue to live separate and apart and be free from the control of each other.
- 3. Dispute Resolution**
- 1.1 If Gerald and Suzannah disagree about a term of this Agreement, they will first try to resolve the dispute either between themselves or with their respective counsel, or mediation prior to applying to court.
- 4. Property and Debts**
- 4.1 Unless otherwise specified in this Agreement, each party will retain as their sole property all personal accounts, Businesses including business or corporate accounts and assets, investments and RRSPs, vehicles, personal property, and other property held in their name or in their possession, whether such property is family property or excluded property under the Family Law Act.

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- 4.2 Unless otherwise specified in this Agreement, the parties are each solely responsible for payment of each one's own personal, business or tax debts and liabilities, and specifically:
- (a) Gerald is solely responsible for any and all liabilities, related to his Businesses, including 2019 and 2020 corporate and personal income taxes or any year prior;
 - (b) Suzannah is solely responsible for any personal taxes owed on behalf of herself for 2019 2020, or any year prior; and
 - (c) any and all credit cards or lines of credit held in that party's name.
- 4.3 If Gerald or Suzannah becomes liable for a debt or liability of the other, or for a debt or liability the other has assumed pursuant to this Agreement, that party will fully indemnify the other from any expense or liability incurred.
- 4.4 A party who is under an obligation in this Agreement to reimburse or indemnify the other will:
- (a) pay the other's expenses, damages or loss, including costs arising from the party's obligation to reimburse or indemnify; and
 - (b) indemnify the other from:
 - (i) any amounts paid by the other with respect to the liability; and
 - (ii) actual legal fees and disbursements incurred by the other.
- 4.5 Neither party will pledge the credit of the other or bind the other for any debts either may incur after the signing of this Agreement.

Property and Debt Division

- 4.6 The parties will divide any joint bank accounts and will close those.
- 4.7 Gerald will retain the Businesses, including Lionhart Capital as his sole and separate property and Suzannah releases any and all claims she has in this regard under the Family Law Act.
- 4.8 The parties hereby sever the joint tenancy in the Residence and the Condo and hold the as tenants in common.
- 4.9 Residence:
- (a) On signing this Agreement, Gerald will transfer his interest in the Residence to Suzannah, and he will vacate the Residence.
 - (b) The parties agree that Suzannah will retain the full value of the Residence in order to equalize the Businesses and other property retained by Gerald.

Handwritten signatures and initials at the bottom right of the page, including a large signature that appears to be 'Suzannah' and another signature that appears to be 'Gerald'.

- (c) Suzannah will discharge the existing Mortgage to remove Gerald's name from the Mortgage. Suzannah will remain solely responsible for the Mortgage to the Residence.
- (d) Gerald will use his best efforts to immediately obtain a release of Suzannah's obligations on the existing LOC on the Residence. If he cannot obtain Suzannah's release from the existing and LOC, he must discharge the existing LOC in another manner. Gerald will remain solely responsible for the LOC related to the Residence.
- (e) Gerald will pay the cost of the preparation and registration of the transfer. Gerald will pay any penalties or costs resulting from the refinancing or remortgaging of the Residence.
- (f) Upon transfer of the Residence to Suzannah, Suzannah will be solely responsible for all expenses related to the Residence, including utilities, property taxes and property insurance commencing the date of the transfer, repairs and maintenance. Any expenses owed or payable prior to the transfer will be paid jointly as per the status quo.

4.10 Condo

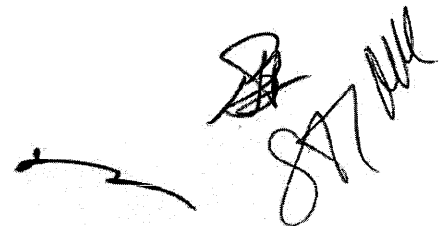
- (a) On signing this Agreement, Gerald will transfer his interest in the Condo to Suzannah.
- (b) Suzannah will use her best efforts to immediately obtain a release of Gerald's mortgage obligations on the existing mortgage on the Condo. If she cannot obtain Gerald's release from the existing mortgage on the Condo, she will refinance the home and discharge the existing mortgage Condo. Suzannah will remain solely responsible for the debt related to the Condo (the Condo Mortgage) and all expenses .
- (c) Suzannah will pay the cost of the preparation and registration of the transfer of the Condo and she will pay any penalties or costs resulting from the refinancing or remortgaging of the Condo.
- (d) If there are any Capital Gains taxes payable due to the transfer, the parties will share that expense equally.

Pensions

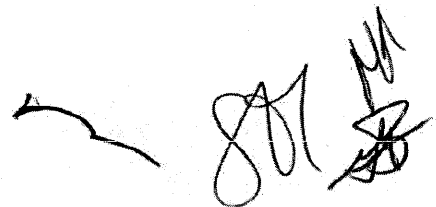
- 4.11 The parties each waive any equalization of the unadjusted pensionable earnings under the Canada Pension Plan and confirm that they will each retain their own credits as their sole and separate property without division.

Household Items, Vehicles and Other Property

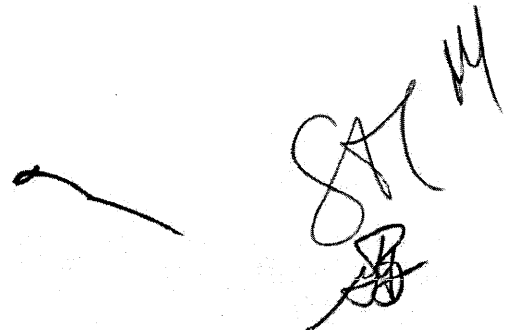
- 4.12 Suzannah will retain the following as her sole property:

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- 5.5 The parties acknowledge that the provisions of this Agreement include full and final settlement of all entitlement of either party to receive spousal support from the other whether based on contractual, need or compensatory grounds.
- 5.6 The property and spousal support provisions in this agreement are intertwined and upon carrying out the property division and spousal support terms of this Agreement, support terminates absolutely.
- 6. Releases**
- 6.1 This Agreement is a full and final settlement of all issues between Gerald and Suzannah and all rights and obligations arising out of their relationship.
- 6.2 In consideration of and on completion of the parties' mutual obligations in this Agreement, and except as otherwise provided in this Agreement, Gerald and Suzannah release each other from all claims either may have against the other now or in the future under the terms of any statute, in equity or the common law, including all claims under the *Family Law Act*, and the *Wills, Estates and Succession Act*, for:
- (a) any entitlement under the *Family Law Act*;
 - (b) a share in the other's estate, including any entitlement either may have in the other's will made before the date of this Agreement or to share in the estate of the other upon the other dying intestate;
 - (c) a payment as a dependant from the other's estate under the *Wills, Estates and Succession Act*;
 - (d) an appointment as an attorney or guardian of the other's personal care or property under the *Representation Agreement Act*; and
 - (e) participation in decisions about the other's medical care or treatment under the *Health Care (Consent) and Care Facility (Admission) Act*.
- 7. General Terms**
- 7.1 There are no representations, collateral agreements, warranties or conditions affecting this Agreement. There are no implied agreements arising from this Agreement and this Agreement between the parties constitutes the complete agreement between them.
- 7.2 Except as otherwise provided in this Agreement, the invalidity or unenforceability of any term of this Agreement does not affect the validity or enforceability of any other term. Any invalid term will be treated as severed from the remaining terms.



- 7.3 The section headings contained in this Agreement are for convenience only and do not affect the meaning or interpretation of any term of this Agreement.
- 7.4 Except as otherwise provided for in this Agreement, this Agreement survives the death of Gerald and Suzannah and enures to the benefit of and binds Gerald and Suzannah's heirs, executors, administrators, estate trustees, personal representatives and assigns.
- 7.5 Gerald and Suzannah will each inform the executors, estate trustees, personal representatives named in each one's will that this Agreement exists, and where a copy is located.
- 7.6 Any amendments to this Agreement must be in writing, signed by the parties, dated and witnessed.
- 7.7 Gerald and Suzannah will sign any documents necessary to give effect to this Agreement.
- 7.8 Gerald or Suzannah's failure to insist on the strict performance of any terms in this Agreement will not be a waiver of any term.
- 7.9 The parties will pay their own costs for the negotiation and preparation of this Agreement.
- 7.10 Gerald and Suzannah have both had independent legal advice. Each are aware of their right to seek independent legal advice specific to this Agreement before signing and have had the opportunity to seek advice and have either done so or waive their right to do so.
- 7.11 Gerald and Suzannah:
- (a) understand their respective rights and obligations under this Agreement and its nature and consequences,
 - (b) acknowledge that this Agreement is fair and reasonable;
 - (c) acknowledge that they are not under any undue influence or duress; and
 - (d) acknowledge that both are signing this Agreement voluntarily.
- 7.12 Where consent is required under this Agreement, it will not be unreasonably withheld.

Handwritten signature and initials, possibly "SAT" and "SB", with a checkmark-like mark to the left.

7.13 The effective date of this Agreement is the date on which the latter party signs it.

TO EVIDENCE THEIR AGREEMENT GERALD AND SUZANNAH HAVE SIGNED THIS AGREEMENT BEFORE A WITNESS.

DATE: Feb 11 / 2020



Witness Signature
ROBERT J. KLASSEN
BARRISTER & SOLICITOR
1508 Despard Avenue
Victoria, BC V8S 1T3
Witness Name

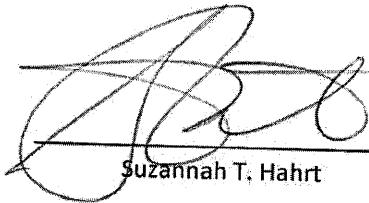


Gerald Richard Bevan

DATE: Feb 11 2020



Witness Signature
MICHELLE KINNEY
Lawyer
610-1207 Douglas Street
Victoria BC V8W 2E7
Witness Name



Suzannah T. Hahrt

CERTIFICATE OF INDEPENDENT LEGAL ADVICE

THIS IS TO CERTIFY that I, Michelle Kinney, have been retained by Suzannah T. Hahrt, of Victoria, British Columbia, to advise and have advised her in regard to her signing the within Separation Agreement.

I fully read over and explained to her the contents of the said Separation Agreement and advised her of the nature and effect thereof, including her rights as distinguished from those of Gerald Richard Bevan and that she expressed himself to me as understanding and appeared to me as fully understanding the nature and the extent of this Separation Agreement and that she stated to me and it appeared to me that she entered into the said Separation Agreement not under any duress exercised by or on behalf of Gerald Richard Bevan and without any pressure or undue influence or compulsion on the part of the said Gerald Richard Bevan or anyone on his behalf.

I believe that upon entering into the Separation Agreement, Suzannah T. Hahrt was fully advised and informed with regard to all the foregoing matters mentioned, and may fairly be said to have acted independently therein.

DATED at Victoria, British Columbia the 11 day of February, 2020.



Michelle Kinney


ACKNOWLEDGEMENT

I, Suzannah T. Hahrt, of Victoria, British Columbia, HEREBY ACKNOWLEDGE THAT:

1. I am executing this Agreement separate and apart from my spouse, and consider the Agreement fair and reasonable.
2. I am aware of the nature and effect of this Agreement.
3. I am aware of the possible claims to property and maintenance that I may have under the Family Law Act of British Columbia, and that I intend to give up the claims I have under those Acts to the extent necessary to give effect to this Agreement.
4. I am executing this Agreement freely and voluntarily without any compulsion on the part of my spouse.

SWORN BEFORE ME at Victoria, British Columbia, on this 11 day of February, 2020.


Name: Michelle Kinney


Suzannah T. Hahrt

A Commissioner for Taking Affidavits in British Columbia

MICHELLE KINNEY
Lawyer
610-1207 Douglas Street
Victoria BC V8W 2E7

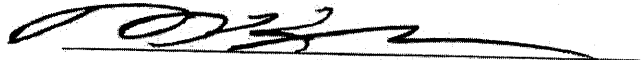
CERTIFICATE OF INDEPENDENT LEGAL ADVICE

THIS IS TO CERTIFY that I, Robert Klassen, have been retained by Gerald Richard Bevan, of Victoria, British Columbia, to advise and have advised him in regard to him signing the within Separation Agreement.

I fully read over and explained to him the contents of the said Separation Agreement and advised him of the nature and effect thereof, including his rights as distinguished from those of Suzannah T. Hahrt and that he expressed himself to me as understanding and appeared to me as fully understanding the nature and the extent of this Separation Agreement and that he stated to me and it appeared to me that he entered into the said Separation Agreement not under any duress exercised by or on behalf of Suzannah T. Hahrt and without any pressure or undue influence or compulsion on the part of the said Suzannah T. Hahrt or anyone on her behalf.

I believe that upon entering into the Separation Agreement, Gerald Richard Bevan was fully advised and informed with regard to all the foregoing matters mentioned, and may fairly be said to have acted independently therein.

DATED at Victoria, British Columbia the 12th day of February, 2020.



Robert Klassen

ACKNOWLEDGEMENT


I, Gerald Richard Bevan of Victoria, British Columbia, HEREBY ACKNOWLEDGE THAT:

1. I am executing this Agreement separate and apart from my spouse, and consider the Agreement fair and reasonable.
2. I am aware of the nature and effect of this Agreement.
3. I am aware of the possible claims to property and maintenance that I may have under the Family Law Act of British Columbia, and that I intend to give up the claims I have under those Acts to the extent necessary to give effect to this Agreement.
4. I am executing this Agreement freely and voluntarily without any compulsion on the part of my spouse.

SWORN BEFORE ME at Victoria, British Columbia, on this 12th day of February, 2020.



Name: Robert Klassen



Gerald Richard Bevan

A Commissioner for Taking Affidavits in British Columbia
ROBERT J. KLASSEN
BARRISTER & SOLICITOR
1508 Despard Avenue
Victoria, BC V8S 1T3

Between:

Gerald Richard Bevan

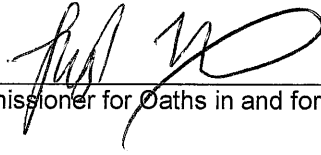
and

Suzannah T. Hahrt

SEPARATION AGREEMENT

Michelle Kinney
Cassels Murray Family and Estates Law
610-1207 Douglas Street, Victoria BC
Tel: (250) 888-7992
Fax: (778) 265-0739

This is **Exhibit "12"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022



A Commissioner for Oaths in and for Alberta

Taylor Meagher
Barrister & Solicitor

Transmitting Party

WEST-END REGISTRATIONS LICENSING & SEARCHES
LTD. (P158)

10011 170 STREET
EDMONTON, AB T5P 4R5

Party Code: 50076967
Phone #: 780 483 8211
Reference #: 04161830-74124.1

Writ of Enforcement

Control #: F07486248

Registration Date: 2022-Oct-07

Registration #: 22100729100

Status Report - Financing Change Statement

Use this section to Renew, Discharge or Change Amount(s). Note before returning, make a photocopy for your file.

Place an (X) in the appropriate box

Change Amounts: Please Complete the following

- a. Post Judgment Interest
- b. Costs
- c. Current Amount Owing

Renew:

Total Discharge: Discharge permanently removes **ALL** record of the registration(s)

Name of Person Authorized to Complete this section	Authorized Signature	Area Code & Telephone #:	Reference #:



Writ of Enforcement

Control #: F07486248

Registration Date: 2022-Oct-07

Registration #: 22100729100

The Registration Term is 2 Years

This Registration Expires at 11:59 PM on 2024-Oct-07

Issued in Edmonton Judicial Centre

Court File Number is 1503 16803

Judgment Date is 2021-Dec-10

This Writ was issued on 2022-Feb-04

Type of Judgment is Other

Original Judgment Amount: \$3,666,294.79

Costs Are: \$76,201.47

Post Judgment Interest: \$1,138.84

Current Amount Owing: \$3,723,635.11

Solicitor / Agent

Block

1 BENNETT JONES LLP, ATTN: MATHIEU LEFLECHE
3200 TELUS HOUSE, SOUTH TOWER, 10020-100
EDMONTON, AB T5J 0N3

Phone #: 780 917 5249

Fax #: 780 421 7951

Reference #: 74124.1

Email: LAFLECHEM@BENNETTJONES.COM

Debtor(s)

Block

1 BEVAN, GERALD, RICHARD
11396 CHALET ROAD
NORTH SAANICH, BC V8L 5L9

Occupation:
CEO

Gender:
Male

Creditor(s)

Block

1 WOOD, WADE
BOX 5, SITE 3, RR2
THORSBY, AB T0C 2P0
Email: WIZARDLAKE@HOTMAIL.COM

Particulars

Block **Additional Information**

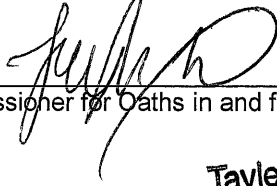
1 THIS WRIT OF ENFORCEMENT IS ISSUED PURSUANT TO THE JUDGMENT OF JUSTICE
D.R. MAH DATED DECEMBER 10, 2021 AS AGAINST GERALD RICHARD BEVAN ONLY.

Block **Additional Information**

2 THE COMPLETE ADDRESS OF SOLICITOR BLOCK 1 IS: 3200 TELUS HOUSE, SOUTH
TOWER, 10020-100TH STREET, EDMONTON, AB, T5J 0N3.

End of Verification Statement

This is **Exhibit "13"** referred to in the
Affidavit of **WADE WOOD**
Affirmed before me this 14 day of
February, 2022



A Commissioner for Oaths in and for Alberta

Tayler Meagher
Barrister & Solicitor

Bailiff's Report

Creditor: **Wade Wood**
Debtor: **Gerald Richard Bevan**

I, Andrew Thompson, of Calgary, Alberta report that on 14 Oct 2022 I:

- effected seizure
- attempted seizure
- removed seized goods
- attempted removal
- enforced court order
- enforced Order for Possession
- attempted to enforce an order

at 1022 240 70 Shawville Blvd SW Calgary

That in doing so I made 1 attempts and performed further investigations and work described in the addendum.

I served the following documents:

- | | |
|-----------------------------------------------------------------|------------------------------------------------------------------------------|
| <input type="checkbox"/> Warrant | <input type="checkbox"/> Notice – Appointment as Bailee |
| <input type="checkbox"/> Information for Debtor Form | <input type="checkbox"/> Notice of Objection to Seizure of Personal Property |
| <input type="checkbox"/> Notice of Seizure of Personal Property | <input type="checkbox"/> Sale Notice |
| <input type="checkbox"/> Notice of Surrender | <input type="checkbox"/> Demand Notice Bailee |

- | | |
|-------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> on the debtor(s) | <input type="checkbox"/> by attaching the documents to the seized personal property / posting in a conspicuous place. |
|-------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|

The debtor provided the following email or fax number for service of future documents related to this file:

The seized property was: _____ Name, location, and phone number

Surrendered to: _____

Removed to: _____

Left on a Bailee's Undertaking at: _____

Pictures were taken

I have attached an Addendum of 1 pages, each page forming part of this Report.

I hereby certify that the information contained in this Report is true and complete. I understand that any false information may lead to charges under the Criminal Code and could result in the suspension or cancellation of my appointment as a bailiff.

Dated at Calgary, Alberta on 17 Oct 2022

Andrew Thompson
Bailiff Signature: Andrew Thompson

INSTRUCTING PARTY	CONTACT INFORMATION	CIVIL ENFORCEMENT AGENCY
Bennett Jones LLP (Edmonton) 3200 Telus House, South Tower 10020 100th Street Edmonton Alberta T5J 0N3	Cathy Shergar Direct Line: 403 668-8803 Ext: 8803 Email: cathys@ccebailiff.ca Office: Calgary Toll Free: 1 888 262-2626 Fax: 1 888 262-8803 Email: calgary@ccebailiff.ca	Consolidated Civil Enforcement Inc 300 801 Manning Road NE Calgary AB T2E 7M8

Andrew Thompson,

Bailiff Report,

Bevan 170229-WE-2C

14th oct 2022

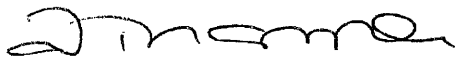
I received the file and attended the location of 240 70 Shawville Blvd Sw Calgary on the 14th Oct 2022 @ 11.40am.

On arrival at the location I viewed it as a Calgary Pack and Ship store and unit 1022 was a mail box there. I was not able to get any information on the address of the debtors billing address for the mail box.

In do not have any other information or leads in my area to attend on.

Andrew Thompson,

Bailiff #396

A handwritten signature in black ink, appearing to read "Andrew Thompson".