

AMENDED this 30 day of  
October, 2020 Pursuant to  
Rule 3.65  
dated the 9 day of September, 2020

Form 10

COURT FILE NUMBER **1701-10806**  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE Calgary  
PLAINTIFF **ILAN HANDELSMAN**  
DEFENDANTS



**ALI GHANI, ALI GHANI AS LITIGATION REPRESENTATIVE FOR THE ESTATE OF ABDUL GHANI, BROADMOOR COMMERCIAL PLAZA DEVELOPMENT CORP., HORIZON COMMERCIAL DEVELOPMENT CORP., HERITAGE PLAZA DEVELOPMENTS INC., PRISM PLACE DEVELOPMENT LTD., PRISM REAL ESTATE INVESTMENT CORPORATION, SUMMERSIDE DEVELOPMENT TRUST, SUMMERSIDE COMMERCIAL TRUST, PRISM SUMMERSIDE LIMITED PARTNERSHIP, PRISM SUMMERSIDE DEVELOPMENT CORP., JANE DOE, JOHN DOE, and ABC CORP.**

DOCUMENT **SECOND AMENDED STATEMENT OF CLAIM**

*Brought under the Class Proceedings Act*

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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**I. DEFINED TERMS**

1. In this document, in addition to terms defined elsewhere, the following terms shall mean:

- a. “177” means 1775011 Alberta Inc., the holding company of **LaFleur** and Julie LaFleur;
- b. “199” means 1990963 Alberta Ltd.;
- c. “227” means 2052227 Alberta Ltd., a corporation formed for the purpose of carrying on litigation against the Defendants;
- d. “**ABCA**” means the *Business Corporations Act*, RSA 2000, c B-9, as amended;
- e. “**ASA**” means the *Securities Act*, RSA 2000, c S-4, as amended;
- f. “**Bowra**” means the Bowra Group Inc., a professional insolvency and restructuring firm;
- g. “**Broadmoor Commercial**” means the Defendant Broadmoor Commercial Plaza Development Corp.;
- h. “**Broadmoor Lands**” means the lands previously legally described as Plan 0425337, Block 3, Lot 7A excepting thereout all mines and minerals, and now subdivided into eight condominium titles;
- i. “**Broadmoor Offering Memorandum**” means the offering memorandum dated May 8, 2012, pursuant to which **Broadmoor Commercial** offered to sell certain **Securities**;
- j. “**Commercial Trust**” means the Defendant Summerside Commercial Trust;
- k. “**Court**” means the Alberta Court of Queen’s Bench;
- l. “**CPA**” means the *Class Proceedings Act*, SA 2003, c C-16.5, as amended;
- m. “**Defendants**” means, individually or collectively, ^ Ghani Jr., the Estate, the Prism Entities, ^ PREIC, and the Other Defendants;
- n. “**Deloitte**” means Deloitte LLP, a professional insolvency and restructuring firm;
- o. “**Estate**” means the Defendant estate of Abdul Ghani as represented by Ghani Jr. in his capacity as the court-appointed litigation representative;

- p. **“Estate Order”** means the Order re: Estate of Abdul Ghani of the Honourable Associate Chief Justice J.D. Rooke dated September 9, 2020;
- q. **“Excluded Persons”** means (i) the Defendants, and as applicable, their legal representatives, heirs, predecessors, successors, assigns, affiliates and any individual who is a family member of the Ghanis, and (ii) any investors in **Prism Place** that received proceeds from the sale of the **Prism Place Lands** in or around February 2017;
- r. **“Fateh”** means Fateh Developments Inc.;
- s. **“Funding Order”** means the Order re: Litigation Funding Approval of the Honourable Associate Chief Justice J.D. Rooke dated May 7, 2020, including any amendments thereto;
- t. **“Ghani Jr.”** means the Defendant Ali Ghani;
- u. **“Ghani Sr.”** means ^ Abdul Ghani;
- v. **“Ghanis”** means collectively, ^ **Ghani Jr.** and **Ghani Sr.**;
- w. **“Handelsman”** means the Plaintiff Ilan Handelsman;
- x. **“Heritage Developments”** means the Defendant Heritage Plaza Developments Inc.;
- y. **“Heritage Developments Offering Memoranda”** means the offering memoranda dated April 18, 2011, July 4, 2011 and September 15, 2011, pursuant to which **Heritage Developments** offered to sell certain **Securities**;
- z. **“Heritage Lands”** means the lands legally described as Plan 0710874, Block 7, Lot 59, excepting thereout all mines and minerals;
- aa. **“HOOPP”** means the HOOPP Realty Inc.;
- bb. **“Horizon Commercial”** means the Defendant Horizon Commercial Development Corp.;
- cc. **“Horizon Lands”** means the lands legally described as Plan 1320011, Block 11, Lot 121A, excepting thereout all mines and mineral;

- dd. “**Horizon Offering Memorandum**” means the offering memorandum dated May 8, 2012, pursuant to which **Horizon Commercial** offered to sell certain **Securities**;
- ee. “**Jeffrey Order**” means the Order of the Honourable Justice P.R. Jeffrey dated October 31, 2017;
- ff. “*Judicature Act*” means the *Judicature Act*, RSA 2000, c J-2, as amended;
- gg. “**LaFleur**” means Geoff LaFleur, a resident of Calgary, Alberta;
- hh. “**Mezzanine Funds**” means the approximately \$1,032,739.15 of the final sale proceeds for the **Prism Place Lands**, which were diverted from **Prism Place** to **Mezzanine Inc.** and/or its principals;
- ii. “**Mezzanine Inc.**” means Mezzanine Fund Inc., a commercial lender;
- jj. “**Mutual Fund Trust**” means the Defendant Summerside Development Trust;
- kk. “**Mutual Fund Trust Offering Memorandum**” means the offering memorandum dated January 5, 2013, pursuant to which the **Mutual Fund Trust** offered to sell certain **Securities**;
- ll. ^
- mm. “**Nixon Consent Order**” means the Consent Order of the Honourable Justice K. D. Nixon dated October 2, 2017;
- nn. “**Other Funds**” means the approximately \$1,067,260.85 of the final sale proceeds for the **Prism Place Lands**, which were diverted from **Prism Place** to various individuals or corporations for no *bona fide* business purpose;
- oo. “**Other Defendants**” means Jane Doe, John Doe and ABC Corp.;
- pp. “*Partnership Act*” means the *Partnership Act*, RSA 2000, c P-3, as amended;
- qq. “**PREIC**” means the Defendant Prism Real Estate Investment Corporation;
- rr. “**PREIC Funds**” means the approximately \$900,000.00 of the final sale proceeds for the **Prism Place Lands**, which were diverted from **Prism Place** to **PREIC**;

- ss. “**Prism Entities**” means, collectively or individually, the Defendants **Broadmoor Commercial, Heritage Developments, Horizon Commercial, Prism Place, the Commercial Trust, the Mutual Fund Trust, Summerside LP and Summerside Corp.**;
- tt. “**Prism Place**” means the Defendant Prism Place Development Ltd.;
- uu. “**Prism Place Lands**” means the lands legally described as Plan A, Block 68, Lots 25 to 32, excepting thereout all mines and minerals;
- vv. “**Prism Place Offering Memoranda**” means offering memoranda dated August 1, 2008, May 15, 2009, October 15, 2010 and June 1, 2011, pursuant to which **Prism Place** offered to sell certain **Securities**;
- ww. “**Proposed Class**” (or the “**Proposed Class Members**”) means all persons who purchased **Securities** of the Prism Entities, wherever they may reside or be domiciled, between January 1, 2008 and December 31, 2014, except **Excluded Persons**;
- xx. “**Raintree Financial**” means Raintree Financial Solutions Inc., a registered exempt market dealer;
- yy. “**Rules**” means the *Alberta Rules of Court*, AR 124/2010, as amended;
- zz. “**Securities**” means the shares or trust units of the **Prism Entities** offered for sale to the public;
- aaa. “**Securities Laws**” means any of the *ASA*, and the regulations, rules or instruments issued pursuant to the *ASA*, which were or are in force in the Province of Alberta;
- bbb. “**Summerside Corp.**” means the Defendant Prism Summerside Development Corp.;
- ccc. “**Summerside Deposit**” means the total deposit of \$6,850,000.00, which was released to **Summerside Corp.** for the sale of the **Summerside Lands**, between approximately October 2016 and December 2016;
- ddd. “**Summerside Entities**” means, collectively or individually, the Defendants the **Commercial Trust, the Mutual Fund Trust, Summerside LP and Summerside Corp.**;

eee. “**Summerside Lands**” means the lands legally described as Plan 1321104, Block 4, Lot 1A, excepting thereout all mines and minerals;

fff. “**Summerside LP**” means the Defendant Prism Summerside Limited Partnership by its general partner **Summerside Corp.**;

ggg. “*Trustee Act*” means the *Trustee Act*, RSA 2000, c T-8, as amended;

hhh. “**Trust Units**” means the trust units of the **Mutual Fund Trust**, and “**Trust Unitholders**” refers to the holders of the same.

2. All dollar amounts set out herein are stated in Canadian dollars.

## II. OVERVIEW

3. This claim is a proposed class action on behalf of persons who purchased shares or trust units (the “**Securities**”) of the Prism Entities, wherever they may reside or be domiciled, between January 1, 2008 and December 31, 2014, except the Excluded Persons (the “**Proposed Class**” or the “**Proposed Class Members**”). In this Statement of Claim, “Proposed Class” includes any sub-classes as may be approved by the Court.

4. The Defendants are the Prism Entities, the guiding minds of the Prism Entities (Mr. Ali Ghani and ^ the Estate of his late father Dr. Abdul Ghani), ^ Ali Ghani’s personal holding company (named, PREIC), and any others who conspired with the Ghanis. The Prism Entities were formed by the Ghanis to raise capital to fund real-estate projects in Alberta. ^

5. Fundamentally, this Statement of Claim alleges that the Ghanis wrongfully extracted all of the value from the Prism Entities, causing the Proposed Class Members to lose all or most of their investments. In particular, this Statement of Claim alleges that the Ghanis, the Prism Entities, and/or PREIC, breached applicable contractual, common law or statutory duties by:

a. making misrepresentations to the Proposed Class Members;

b. failing to keep corporate records or financial statements, and concealing any such information from the Proposed Class Members;

c. engaging in self-dealing, related-party and/or undervalue transactions, for no *bona fide* business purpose, solely for the Ghanis’ personal gain;

- d. dissipating or misappropriating proceeds from the sale of lands <sup>△</sup>;
  - e. intentionally or fraudulently comingling funds held in trust;
  - f. fraudulently falsifying corporate records; and
  - g. carrying on business in a manner that has oppressed the interests and reasonable expectations of the Proposed Class Members.
6. Apart from compensation for such wrongs, this Statement of Claim also seeks punitive damages against the Defendants due to their high-handed, malicious, arbitrary and/or highly reprehensible conduct, as described herein.
7. This Statement of Claim has been filed in the above noted Court File Number, pursuant to the Consent Order pronounced by the Honourable Justice K. D. Nixon dated October 2, 2017 (the “**Nixon Consent Order**”).

### III. THE PARTIES

#### A. THE PLAINTIFF

8. The Plaintiff, Ilan Handelsman (“**Handelsman**”), is an individual residing in Victoria, British Columbia. He is a dealing representative and employee of Raintree Financial.
9. Handelsman purchased (directly or indirectly) Securities in each of the Prism Entities, and is the proposed representative Plaintiff for the within class action.

#### B. THE DEFENDANTS

##### *The Ghanis*

10. The Defendant, Ali Ghani Jr. (“**Ghani Jr.**”), is an individual residing in Calgary, Alberta.
11. <sup>△</sup> Abdul Ghani Sr. (“**Ghani Sr.**”) <sup>△</sup> was, at relevant times, an individual residing in Calgary, Alberta. Ghani Sr. died in or around early 2020. As a result, the estate of Ghani Sr. is a necessary and proper Defendant to this action, as represented by Ghani Jr. in his capacity as the court-appointed litigation representative (the “Estate”) pursuant to the Order re: Estate of Abdul Ghani pronounced by the Honourable Associate Chief Justice J.D. Rooke on September 9, 2020 (the “Estate Order”).

*The Prism Entities*

12. The “**Prism Entities**” were formed ^ in or around 2006 and 2014, by one or more of the Ghanis, in order to solicit capital from the public to fund certain real-estate projects in Alberta. In this Statement of Claim, the Prism Entities means any of the Defendants Broadmoor Commercial, Heritage Developments, Horizon Commercial, Prism Place, the Commercial Trust, the Mutual Fund Trust, Summerside LP and Summerside Corp.
13. The Defendant Broadmoor Commercial is a corporation incorporated under the laws of Alberta, with its registered office in Calgary, Alberta. At all relevant times, Ghani Jr. and Ghani Sr. were officers and directors of Broadmoor Commercial.
14. Pursuant to an appointment instrument dated August 29, 2017 (as amended), Bowra was appointed receiver over certain leases and rents of Broadmoor Commercial. Subsequently, pursuant to the Receivership Order of the Honourable Justice W.N. Renke, dated January 10, 2018, Bowra was appointed receiver and manager over all of Broadmoor Commercial’s current and future assets, undertakings and properties of every nature and kind. As such, no relief is currently sought against Broadmoor Commercial in this Statement of Claim, although the manner in which its business has been carried on is relevant to the relief sought against other Defendants.
15. The Defendant Heritage Developments is a corporation incorporated under the laws of Alberta, with its registered office in Calgary, Alberta. At all relevant times, the Ghanis were Heritage Developments’ only directors. Ghani Jr. was also President of Heritage Developments.
16. Pursuant to the Receivership Order of Master J.L. Mason, dated December 14, 2016, Deloitte was appointed receiver and manager over all of Heritage Developments’ undertakings, property and assets situate on the Heritage Lands. As such, no relief is currently sought against Heritage Developments in this Statement of Claim, although the manner in which its business has been carried on is relevant to the relief sought against other Defendants.
17. The Defendant Horizon Commercial is a corporation incorporated under the laws of Alberta, with its registered office in Calgary, Alberta. At all relevant times, Ghani Jr. was the President and a director of Horizon Commercial.
18. Pursuant to the Receivership Order of Master R.P. Wacowich, dated August 23, 2016, Bowra was appointed receiver and manager over all of Horizon Commercial’s current and future



assets, undertakings and properties of every nature and kind. Thereafter, Horizon Commercial was assigned into bankruptcy on August 26, 2016. As such, no relief is currently sought against Horizon Commercial in this Statement of Claim, although the manner in which its business has been carried on is relevant to the relief sought against the other Defendants.

19. The Defendant Prism Place was a corporation incorporated under the laws of Alberta, with its registered office in Calgary, Alberta. However, Prism Place was dissolved in February 2017. At all relevant times, Ghani Jr. was the chief executive officer and a (*de jures* or *de facto*) director of Prism Place. Likewise, Ghani Sr. (indirectly) held 100% of the voting shares of Prism Place, from time to time, and thereby participated in the management and/or control of Prism Place.
20. Pursuant to the Nixon Consent Order of October 2, 2017, the Handelsman was declared an interested person in Prism Place within the meaning of Section 208 of the *ABCA*. <sup>^</sup>
21. The Defendant the Mutual Fund Trust is an unincorporated open-ended trust formed under the laws of Alberta. The Ghanis were the trustees of the Mutual Fund Trust at all relevant times. Ghani Sr. was also the initial trust unitholder in the Mutual Fund Trust
22. The Mutual Fund Trust, in turn, holds the trust units of the Defendant the Commercial Trust, which is also an unincorporated open-ended trust formed under the laws of Alberta. Ghani Sr. was the trustee of the Commercial Trust at all relevant times.
23. The Commercial Trust, in turn, holds limited partnership units in the Defendant Summerside LP, which is a limited partnership formed under the laws of Alberta.
24. Finally, the Defendant Summerside Corp. is a corporation incorporated under the laws of Alberta, with its registered office in Calgary, Alberta. It is the general partner of Summerside LP. At all relevant times, the Ghanis were the only directors and officers of Summerside Corp., and Ghani Jr. and Ghani Sr. also held the majority of the voting shares in Summerside Corp. (through the “Ghani Family Trust” and the “Ghani Sr. Family Trust”, respectively).
25. By virtue of his past or present offices, directorships, trusteeships or security holdings in each of the Prism Entities, Ghani Jr. exercised *de jures* or *de facto* control over the Prism Entities at all relevant times and was the guiding mind of each of the Prism Entities.

26. Ghani Sr., in concert with Ghani Jr., also exercised *de jures* or *de facto* control over the Prism Entities at all relevant times, by virtue of his past or present offices, directorships, trusteeships or security holdings in the Prism Entities.

***Prism Real Estate Investment Corp.***

27. The Defendant PREIC is a corporation incorporated under the laws of Alberta, with its registered office in Calgary Alberta. Ghani Jr. holds 100% of the voting shares in PREIC and is its sole director.
28. Ghani Jr. exercised *de jures* or *de facto* control over PREIC at all relevant times ^.
29. PREIC was also a promoter, selling agent or “seller and finder” of the various offerings made by the Prism Entities, and collected commissions or other profits ^ or fees from such offerings, the full particulars of which are known to Ghani Jr.

**Other Defendants**

30. The Defendants Jane Doe and John Doe are those individuals who acted collectively and conspired with one or more of the other Defendants to commit the wrongful acts set out herein, but whose identity and place of residence are not yet known to the Plaintiff. The Plaintiff, on behalf of the Proposed Class, reserves the right to amend this Statement of Claim to substitute the names and residences of Jane Doe and John Doe, once those individuals have been identified.
31. The Defendant ABC Corp. are those corporations or partnerships controlled by or related to one or more of the other Defendants, who have acted collectively and conspired with the other Defendants to commit the wrongful acts set out herein, but whose identity and jurisdiction of formation are not yet known to the Plaintiff. The Plaintiff, on behalf of the Proposed Class, reserves the right to amend this Statement of Claim to substitute the name and jurisdiction of formation of ABC Corp., once that entity or entities has been identified.

**C. NON-PARTIES**

***2052227 Alberta Ltd.***

32. 2052227 Alberta Ltd. (“227”) is a corporation incorporated under the laws of Alberta, with its registered office in Calgary, Alberta.

33. 227 was incorporated for the purpose of being a funding vehicle to advance certain litigation against the Defendants, including this Statement of Claim. Pursuant to the Order re: Litigation Funding Approval of the Honourable <sup>^</sup> Associate Chief Justice J.D. Rooke, pronounced on May 7, 2020 including any amendments thereto (the “Funding Order”), 227 was approved as a vehicle for this purpose.
34. Every shareholder in 227 is a member of the Proposed Class.

***1775011 Alberta Inc. and LaFleur***

35. 1775011 Alberta Inc. (“**177**”) is a corporation incorporated under the laws of Alberta, with its registered office in Calgary, Alberta.
36. Geoff LaFleur (“**LaFleur**”) is an individual residing in Calgary, Alberta, and is an investment consultant.
37. 177 is the holding company of LaFleur and his wife, Julie LaFleur; they hold 51% and 49% of the voting shares of 177, respectively. They are also the only directors of 177.
38. In or around 2013, 177 acquired 9% of the voting shares in Summerside Corp., as compensation for investment consulting services provided by LaFleur to Summerside Corp.

***Raintree Financial***

39. Raintree Financial Solutions Inc. (“**Raintree Financial**”) is a corporation incorporated under the laws of Alberta, with its registered office in Edmonton, Alberta. At all relevant times Raintree Financial (or its predecessors) was a registered exempt market dealer.
40. As an exempt market dealer, Raintree Financial sold securities in the Prism Entities to the Proposed Class Members. In so doing, Raintree Financial relied on the oral and written representations of the Ghanis.

**IV. FACTUAL ALLEGATIONS**

**A. THE PRISM ENTITIES FROM 2008 TO AUGUST 2017**

41. Between 2008 and 2014, the Prism Entities offered and sold Securities to the Proposed Class Members to <sup>^</sup> finance real-estate development projects in Alberta.

42. The Ghanis founded the Prism Entities, promoted the offerings of their Securities (individually or through their holding companies), and exercised *de jures* or *de facto* control over the Prism Entities throughout the relevant period.
43. In fact, ^ through negligent, reckless and/or fraudulent conduct the Ghanis extracted all or nearly all of value invested by the Proposed Class Members, as is more particularly outlined herein.

### ***1. Broadmoor Commercial***

44. By way of an offering memorandum dated May 8, 2012 (the “**Broadmoor Offering Memorandum**”), Broadmoor Commercial offered “units” for sale, which consisted of one Class “B” common non-voting share and one Class “D” non-voting preferred share in Broadmoor Commercial. Members of the Proposed Class purchased such units in or around this time, pursuant to subscription agreements with Broadmoor Commercial, and in reliance on the representations in the Broadmoor Offering Memorandum.
45. Both Ghani Jr. and Ghani Sr. signed and certified the Broadmoor Offering Memorandum, in their capacity as officers and directors of Broadmoor Commercial, warranting that it did not contain any misrepresentations. Ghani Jr.’s holding company, PREIC, is also identified as a “seller and finder” in the Broadmoor Offering Memorandum, and thus a recipient of commissions or fees from the offering.
46. As set out in the Broadmoor Offering Memorandum, the business of Broadmoor Commercial concerned the development and operation of certain lands in Sherwood Park, namely the Broadmoor Lands.
47. Following the offering, however, Broadmoor Commercial failed to develop and/or operate the Broadmoor Lands as represented. The full particulars of ^ such negligent, reckless and/or fraudulent management of Broadmoor Commercial are known to the Ghanis.
48. Similarly, Broadmoor Commercial repeatedly concealed its financial condition from the Proposed Class Members by, among other things, failing to (i) keep books and records or prepare financial statements, and (ii) provide financial statements to the Proposed Class Members. In particular, Broadmoor Commercial failed to provide any financial statements to the Proposed Class Members between at least October 2012 and October 2017, despite repeated

- requests for such information by the Proposed Class Members (or by Raintree Financial on their behalf).
49. Broadmoor Commercial also failed to call annual meetings of its shareholders at any time, notwithstanding the Proposed Class Members' repeated requests for financial information and updates as to the status of Broadmoor Commercial's developments.
50. Additionally, in February 2016, Broadmoor Commercial failed to redeem preferred shares held by the Proposed Class Members, in breach of applicable covenants. In particular, each of the Class "D" preferred shares purchased by the Proposed Class Members carried the obligation on Broadmoor Commercial to redeem such Class "D" shares for cash, on or about February 1, 2016, unless notice was given to extend the redemption date.
51. Broadmoor Commercial failed to extend the redemption period, failed to redeem the Class "D" preferred shares on February 1, 2016 or at all, and failed to provide any information or explanation as to why the redemption rights were not honoured.
52. Indeed, to the contrary, in phone conversations in or around this time, Ghani Jr. represented and assured the Plaintiff that investors should not worry, that they would be made whole and/or that Ghani Jr. or Broadmoor Commercial would buy back all of the shares. These assurances were never honoured.
53. In addition, Broadmoor Commercial repeatedly engaged in related-party and/or undervalue transactions, which (i) had no *bona fide* business purpose, (ii) were concealed from the Proposed Class Members at all relevant times, and (iii) were entered into for the sole purpose of benefitting the Ghanis and/or their family members. In particular, and without limitation:
- a. Broadmoor Commercial's financial statements (only lately provided to the Plaintiff in or around October 2017) indicate that hundreds of thousands of dollars were loaned to and from Ghani Jr. (or companies controlled by him) and that such loans had "*no specified terms of repayment*"; and
  - b. investigations undertaken by Bowra, in its capacity as receiver of certain leases and rents of Broadmoor Commercial, have revealed (without limitation) that certain tenants of Broadmoor Commercial had been granted hundreds of thousands of dollars in 'tenant improvement allowances' and/or 'rent free periods', without proper substantiation or documentation or justification.

54. These wrongful related-party and/or undervalue transactions have caused losses to the Proposed Class Members and the full particulars are known to the Ghanis.
55. Ultimately, in or around March 2017, Broadmoor Commercial secretly began to sell the Broadmoor Lands, its main or only business undertaking, without notice to or consultation with the Proposed Class Members. In particular, through fortuitous conversations with third parties, the Plaintiff learned, in or around mid-2017, that (i) the Broadmoor Lands were listed for sale and (ii) an offer to purchase had been made in respect of the lands and a sale was imminent. None of these details were communicated to the Proposed Class Members, nor did the Proposed Class Members (as shareholders in Broadmoor Commercial) sanction or approve any such sale.
56. Consequently, in or around August 2017, Handelsman (together with certain other members of the Proposed Class) applied to the Court for order(s), among other things, (i) directing Broadmoor Commercial to disclose its financial information, and (ii) enjoining Broadmoor Commercial from disposing of the Broadmoor Lands without the approval of the shareholders. As is more fully set out in Part IV.B below, Handelsman obtained such relief and the Court intervened to prevent further harm and prejudice to the Proposed Class Members.
57. Since then, in January 2018, Bowra was appointed receiver and manager over all of Broadmoor Commercial's undertakings and property. So far as the Plaintiff is aware, Bowra ^ (and/or Broadmoor Commercial's secured lender) has now sold the Broadmoor Lands. The Plaintiff does not anticipate ^ any recoveries for the Proposed Class Members.
58. In the result, the Proposed Class Members have effectively lost their entire investments in Broadmoor Commercial because of the high-handed, oppressive, unremitting and wrongful conduct of Broadmoor Commercial, acting through the Ghanis. This high-handed conduct includes, but is not limited to:
- a. Broadmoor Commercial concealing its financial information from the Proposed Class Members at all relevant times;
  - b. Broadmoor Commercial and/or the Ghanis making knowingly false assurances to the Proposed Class Members as to the health of their investments and/or their redemption rights;
  - c. Broadmoor Commercial and/or the Ghanis failing to redeem the preferred shares of the Proposed Class Members without cause;

- d. Broadmoor Commercial failing to develop and/or operate the Broadmoor Lands as represented;
- e. Broadmoor Commercial and/or the Ghanis secretly attempting to dispose of the Broadmoor Lands, without approval from the Proposed Class Members (and only failing to effect such secret disposition because of an injunction from the Court); and
- f. Broadmoor Commercial engaging in related-party or undervalue transactions with the Ghanis, without any business purpose and solely for the Ghanis' personal gain.

## ***2. Heritage Developments***

- 59. By way of offering memoranda dated April 18, 2011, July 4, 2011 and September 15, 2011 (the "**Heritage Developments Offering Memoranda**"), Heritage Developments offered for sale Class "B" non-voting preferred shares in Heritage Developments. Members of the Proposed Class purchased the preferred shares in or around the times of the Heritage Developments Offering Memoranda, pursuant to subscription agreements with Heritage Developments, and in reliance on the representations in the Heritage Developments Offering Memoranda.
- 60. So far as the Plaintiff is aware, Ghani Jr. signed and certified the Heritage Developments Offering Memoranda, in his capacity as President and director of Heritage Developments, warranting that they did not contain any misrepresentations. Ghani Jr.'s holding company, PREIC, is also identified as a "promoter" in the Heritage Developments Offering Memoranda, and thus a recipient of commissions or fees from the offerings.
- 61. As set out in the Heritage Developments Offering Memoranda, the business of Heritage Developments concerned the development and operation of certain lands in Cochrane, Alberta, namely the Heritage Lands.
- 62. Following the offerings, however, Heritage Developments failed to develop and/or operate the Heritage Lands as represented. The full particulars of such negligent, ^ reckless and/or fraudulent management of Heritage Developments are known to ^ the Ghanis.
- 63. Similarly, Heritage Developments repeatedly concealed its financial condition from the Proposed Class Members by, among other things, failing to (i) keep books and records or prepare financial statements, and (ii) provide financial statements to the Proposed Class

Members. In particular, Heritage Developments failed to provide any financial records to the Proposed Class Members between at least September 2012 and October 2017, despite repeated requests for such information by the Proposed Class Members (or by Raintree Financial on their behalf).

64. Heritage Developments also failed to call annual meetings of its shareholders at any time, notwithstanding the Proposed Class Members' repeated requests for financial information and updates as to the status of Heritage Developments' business.
65. In addition, Heritage Developments repeatedly engaged in related-party and/or undervalue transactions, which (i) had no *bona fide* business purpose, (ii) were concealed from the Proposed Class Members at all relevant times, and (iii) were entered into for the sole purpose of benefitting the Ghanis and/or their family members. In particular, and without limitation:

  - a. Heritage Developments' financial statements (only lately provided to the Plaintiff in or around October 2017) indicate that hundreds of thousands of dollars were loaned to and from Ghani Jr. and Ghani Sr. (or companies controlled by them), and that such loans had "*no specified terms of repayment*"; and
  - b. investigations undertaken by Deloitte, in its capacity as receiver and manager of Heritage Developments (as detailed below), have revealed that Heritage Developments granted several of its tenants "*significant rent-free periods of varying lengths*" and that such tenants "*may be related or non-arm's length*" parties to the Ghanis, including such persons as "Naheed Ghani" and/or other family members.
66. These wrongful related-party and undervalue transactions have caused losses to the Proposed Class Members and the full particulars are known to the Ghanis.
67. In December 2016, Heritage Developments was eventually placed into receivership and Deloitte was appointed by the Court as receiver and manager over all of Heritage Developments' undertakings, property and assets situate on the Heritage Lands. Subsequently, on May 9, 2017, a final foreclosure order was granted in the receivership proceedings, pursuant to which the Heritage Lands were transferred or sold to secured creditor(s).
68. The Proposed Class Members, as preferred shareholders, did not recover any amounts from the sale or transfer of the Heritage Lands.



69. Consequently, in or around August 2017, Handelsman (together with certain other members of the Proposed Class) applied to the Court for order(s), among other things, (i) directing Heritage Developments to disclose its financial information, and (ii) requiring that Heritage Developments explain the nature of its (undervalue) lease arrangements. As is more fully set out in Part IV.B below, Handelsman obtained this relief. <sup>^</sup>
70. In the result, the Proposed Class Members have effectively lost their entire investments in Heritage Developments, because of the high-handed, oppressive, unremitting and wrongful conduct of Heritage Developments, acting through Ghani Jr. and/or with Ghani Sr. This high-handed conduct includes, but is not limited to:
- a. Heritage Developments concealing its financial information from the Proposed Class Members at all relevant times;
  - b. Heritage Developments engaging in related-party transactions without any business purpose, solely for the personal gain of the Ghanis or their family members; and
  - c. Heritage Developments failing to develop and/or operate the Heritage Lands as represented.

### ***3. Horizon Commercial***

71. By way of an offering memorandum dated May 8, 2012 (the “**Horizon Offering Memorandum**”), Horizon Commercial offered “units” for sale, which consisted of one Class “B” common non-voting share, and one Class “D” non-voting preferred share in Horizon Commercial. Members of the Proposed Class purchased such units in or around this time, pursuant to subscription agreements with Horizon Commercial, and in reliance on the representations in the Horizon Offering Memorandum.
72. Ghani Jr. signed and certified the Horizon Offering Memorandum, in his capacity as President and director of Horizon Commercial, warranting that it did not contain any misrepresentations. Ghani Jr.’s holding company, PREIC, is also identified in the Horizon Offering Memorandum as a “selling agent”, and thus a recipient of commissions or fees from the offering.
73. As set out in the Horizon Offering Memorandum, the business of Horizon Commercial concerned the development and operation of certain lands in Edmonton, Alberta, namely the Horizon Lands.

74. Following the offerings, however, Horizon Commercial failed to develop and/or operate the Horizon Lands as represented. The full particulars of such negligent, reckless and/or fraudulent management of Horizon Commercial are known to Ghani Jr.
75. Similarly, Horizon Commercial repeatedly concealed its financial condition from the Proposed Class Members by, among other things, failing to (i) keep books and records or prepare financial statements, and (ii) provide financial statements to the Proposed Class Members. In particular, Horizon Commercial has failed to provide any financial records to the Proposed Class Members since at least mid-2012, despite repeated requests for such information by the Proposed Class Members (or by Raintree Financial on their behalf).
76. Horizon Commercial also failed to call annual meetings of its shareholders at any time, notwithstanding the Proposed Class Members' repeated requests for financial information and updates as to the status of Horizon Commercial's developments.
77. Additionally, in February 2016, Horizon Commercial failed to redeem preferred shares held by the Proposed Class Members, in breach of applicable covenants. In particular, each of the Class "D" preferred shares purchased by the Proposed Class Members carried the obligation on Horizon Commercial to redeem such Class "D" shares for cash, on or about February 1, 2016, unless prior notice was given to extend the redemption date.
78. Horizon Commercial failed to extend the redemption period, failed to redeem the Class "D" preferred shares on February 1, 2016 or at all, and failed to provide any information or explanation as to why the redemption rights were not honoured.
79. Rather, to the contrary, Ghani Jr. represented and assured the Plaintiff that his investments would be made whole, in the same or similar manner as is described above in respect of Broadmoor Commercial. Again, however, Ghani Jr. and/or Horizon Commercial never made good on such assurances.
80. Furthermore, Ghani Jr. misappropriated substantial sums of monies for his own purposes. In particular, so far as the Plaintiff is aware, Ghani Jr. caused over one and half million dollars of Horizon Commercial, which were authorized for payment to Horizon Commercial's contractors or sub-contractors, to be diverted or misappropriated to accounts under his control. Such transfers had no *bona fide* business purpose, and were undertaken solely for Ghani Jr.'s personal gain. The full particulars of such wrongful transfers are known to Ghani Jr.

81. Eventually, in or around August 2016, Horizon Commercial was placed into receivership and Bowra was appointed by the Court as receiver and manager over all of Horizon Commercial's current and future assets, undertakings and properties. In this capacity, Bowra undertook investigations and inquiries regarding Horizon Commercial's business and properties, and in so doing uncovered a variety of misconduct by Horizon Commercial and/or Ghani Jr.
82. In particular, investigations by Bowra revealed that Horizon Commercial, acting through Ghani Jr., wrongfully misappropriated and/or comingled security deposits of its tenants in the Horizon Lands. Thus, Bowra has reported that:
- a. security deposits were paid by tenants, in trust, to Horizon Commercial "*and/or related entities of [Horizon Commercial] as directed by [Horizon Commercial's] management*";
  - b. such deposits went "*missing*" from the relevant accounts without explanation; and
  - c. Bowra has recommended to the affected tenants that they file complaints with Service Alberta in respect of the missing, dissipated or misappropriated deposits, which ought to have been held by Horizon Commercial in trust.
83. Similarly, in conducting its investigations, Bowra requested that Ghani Jr. provide financial information regarding Horizon Commercial's business and properties<sup>^</sup>. However, Ghani Jr. and/or Horizon Commercial, once more, withheld such information and eventually Bowra filed an application declaring Ghani Jr. in contempt of the Receivership Order. <sup>^</sup>
84. Ultimately, in or around July 2017, the Horizon Lands were sold by Bowra, in satisfaction of secured indebtedness of Horizon Commercial and<sup>^</sup> Horizon Commercial is now in bankruptcy.
85. In the result, the Proposed Class Members have effectively lost their entire investments in Horizon Commercial, because of the high-handed, oppressive, unremitting and wrongful conduct of Horizon Commercial, acting through Ghani Jr. This high-handed conduct includes, but is not limited to:
- a. Horizon Commercial concealing its financial information from the Proposed Class Members at all relevant times;

- b. Horizon Commercial and/or Ghani Jr. making knowingly false assurances to the Proposed Class Members as to the health of their investments and/or their redemption rights;
- c. Horizon Commercial and/or Ghani Jr. failing to redeem the preferred shares of the Proposed Class Members, without cause;
- d. Horizon Commercial failing to develop and/or operate the Horizon Lands as represented;
- e. Horizon Commercial and/or Ghani Jr. concealing relevant financial information from Bowra, an officer of the Court, and in breach of orders of the Court; and
- f. Ghani Jr. causing Horizon Commercial to carry out wrongful schemes for his own personal benefit, to the prejudice of the Proposed Class Members and other stakeholders.

#### ***4. Prism Place***

- 86. By way of offering memoranda dated August 1, 2008, May 15, 2009, October 15, 2010 and June 1, 2011 (the “**Prism Place Offering Memoranda**”), Prism Place offered for sale Class “B” non-voting preferred shares and Class “C” non-voting preferred shares in Prism Place. Members of the Proposed Class purchased such preferred shares in or around the times of the Prism Place Offering Memoranda, pursuant to subscription agreements with Prism Place, and in reliance on the representations in the Prism Place Offering Memoranda.
- 87. So far as the Plaintiff is aware, Ghani Jr. signed and certified the Prism Place Offering Memoranda, in his capacity as President/ CEO and director of Prism Place, warranting that they did not contain any misrepresentations. Ghani Jr.’s holding company, PREIC, is also identified as a “promoter” in the Prism Place Offering Memoranda, and thus a recipient of commissions or fees from the offerings. Likewise, Ghani Sr. is referred to in certain of the Prism Place Offering Memoranda as the individual holding (indirectly) all of the Class “A” voting shares in Prism Place.
- 88. As set out in the Prism Place Offering Memoranda, the business of Prism Place concerned the development and operation of certain lands in Calgary, Alberta, namely the Prism Place Lands.

89. Following the offerings, however, Prism Place failed to develop and/or operate the Prism Place Lands as represented. The full particulars of such negligent, ^ reckless and/or fraudulent management of Prism Place are known to the Ghanis.
90. Similarly, Prism Place repeatedly concealed its financial condition from the Proposed Class Members by, among other things, failing to (i) keep books and records or prepare financial statements, and (ii) provide financial statements to the Proposed Class Members, despite repeated requests for such information by the Proposed Class Members. In particular, Prism Place has failed to provide any financial statements to the Proposed Class Members since at least 2012, despite repeated requests for such information by the Proposed Class Members (or by Raintree Financial on their behalf).
91. Prism Place also failed to call annual meetings of its shareholders, notwithstanding the Proposed Class Members' repeated requests for financial information and updates as to the status of Prism Place's developments.
92. Consequently, in or around February 2012, certain of the Proposed Class Members, in their capacity as preferred shareholders, voted to remove Ghani Jr. from his position as director of Prism Place. Notwithstanding the relevant resolution(s), Ghani Jr., and/or in concert with Ghani Sr., reversed, cancelled or otherwise disregarded or breached such resolutions and reinstated himself as director shortly thereafter. The full particulars of the circumstances leading to Ghani Jr. wrongfully continuing as a director of Prism Place are known to the Ghanis.
93. Thereafter, the Ghanis proceeded to cause Prism Place to sell the Prism Place Lands, in or around July 2012, ^ to HOOPP, a non-party.
94. However, Prism Place ^ failed to inform or consult with its shareholders concerning material aspects of the sale. In particular, and without limitation, Prism Place failed to:
- a. advise the Proposed Class Members of the final purchase price paid by HOOPP in February 2017, until at least September or October 2017; and
  - b. advise the Proposed Class Members of the use(s) of the final sale proceeds, until at least September or October 2017.
95. In fact, it is only through fortuitous conversations with third parties and/or his own investigations that the Plaintiff learned, in or around mid-2017, that (i) Prism Place received a

total purchase price of \$4,500,000 from HOOPP for the Prism Place Lands, and (ii) \$3,000,000 of such sale proceeds were finally received by Prism Place (or its agents) in February 2017.

96. In addition, Prism Place failed to distribute and/or misappropriated or dissipated the final sale proceeds received for the Prism Place Lands, which ought to have been distributed to the Proposed Class Members. In particular, and without limitation, Prism Place:
- a. distributed or caused to be distributed \$900,000.00 of the final sale proceeds (the “**PREIC Funds**”) to PREIC, Ghani Jr.’s holding company, for no *bona fide* business purpose;
  - b. distributed or caused to be distributed \$1,032,739.15 of the final sale proceeds (the “**Mezzanine Funds**”) to Mezzanine Fund Inc. (“**Mezzanine Inc.**”) and/or its principals, in apparent satisfaction of debts owing by a company controlled by Ghani Sr. to Mezzanine Inc.; and
  - c. distributed or caused to be distributed \$1,067,260.85 of the final sale proceeds (the “**Other Funds**”) to various individuals or corporations, for no *bona fide* business purpose.
97. By effecting such transfers, the Ghanis wrongfully appropriated or dissipated the final sale proceeds for the Prism Place Lands, despite the Proposed Class Members’ preferential rights to such proceeds.
98. After the final sale proceeds were received from HOOPP, and diverted to PREIC, Mezzanine Inc. and others, Ghani Jr. (in his capacity as director and officer) and/or Ghani Sr. then caused Prism Place to be dissolved on or around February 25, 2017. This too was concealed from the Proposed Class Members and effected without their approval.
99. Ultimately, in or around August 2017, Handelsman (together with certain other members of the Proposed Class) applied to the Court for order(s), among other things, (i) directing Prism Place to disclose its financial information, and (ii) requiring Prism Place to provide a full accounting of the sale proceeds for the Prism Place Lands. As is more fully set out at Part IV.B below, Handelsman obtained this relief ^.

100. In the result, the Proposed Class Members have lost all or most of their investments in Prism Place, because of the high-handed, oppressive, unremitting and wrongful conduct of Prism Place, acting through the Ghanis. This high-handed conduct includes, but is not limited to:
- a. Prism Place concealing its financial information from the Proposed Class Members at all relevant times;
  - b. Prism Place failing to develop and/or operate the Prism Place Lands as represented;
  - c. Prism Place disposing of its main or entire undertaking, the Prism Place Lands, and concealing the details of the final sale proceeds from such dispositions;
  - d. Prism Place and/or the Ghanis diverting, misappropriating and/or dissipating substantial portions of the sale proceeds for the Prism Place Lands for their own benefit;
  - e. Prism Place and/or the Ghanis diverting or transferring substantial portions of the sale proceeds for no *bona fide* business purpose;
  - f. one or both of the Ghanis causing Prism Place to be dissolved without notice to or approval from the Proposed Class Members, contrary to the *ABCA*; and
  - g. the Ghanis causing, through wrongful means, Ghani Jr. to be reinstated as a director of Prism Place, notwithstanding that the shareholders of Prism Place removed him from his directorship.

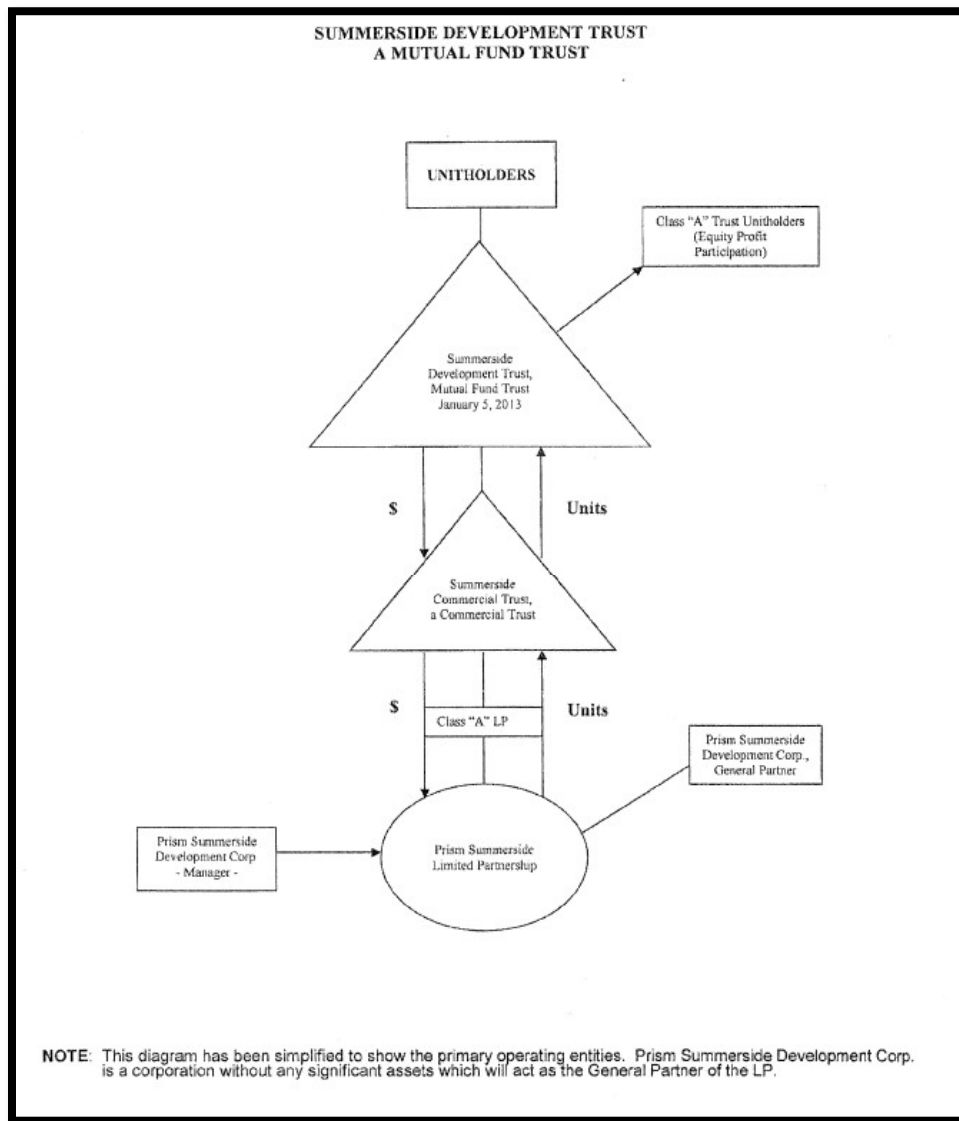
### ***5. The Summerside Entities***

101. By way of an offering memorandum dated January 5, 2013 (the “**Mutual Fund Trust Offering Memorandum**”), the Mutual Fund Trust offered for sale trust units (the “**Trust Units**”) in the Mutual Fund Trust. Among other things, the Mutual Fund Trust Offering Memorandum described that:
- a. the proceeds from the sale of the Trust Units would be used by the Mutual Fund Trust to acquire trust units in the Commercial Trust;
  - b. the proceeds in turn received by the Commercial Trust would be used by it to acquire Class “A” LP units in Summerside LP; and

c. Summerside LP would in turn use such proceeds, through its general partner Summerside Corp., to acquire and develop and operate the Summerside Lands located in Edmonton, Alberta;

(the Mutual Fund Trust, the Commercial Trust, Summerside LP and Summerside Corp., are collectively referred to as the “**Summerside Entities**”).

102. The Summerside Entities were depicted in the Mutual Fund Trust Offering Memorandum as follows:



103. The Mutual Fund Trust Offering Memorandum further described that:



- a. the Ghanis were the sole trustees of the Mutual Fund Trust;
  - b. Ghani Sr. was the initial trust unitholder of the Mutual Fund Trust;
  - c. Ghani Sr. was the sole trustee of the Commercial Trust; and
  - d. the Ghanis were the sole officers and directors of Summerside Corp., the general partner of Summerside LP.
104. Both Ghani Jr. and Ghani Sr. also signed and certified the Mutual Fund Trust Offering Memorandum, in their capacity as trustees of the Mutual Fund Trust, warranting that it did not contain any misrepresentations. Likewise, the Mutual Fund Trust Offering Memorandum identified Ghani Jr.'s holding company, PREIC, as a "selling agent", and thus a recipient of commissions or fees from the offering.
105. Members of the Proposed Class purchased the Trust Units in or around January 2013, pursuant to subscription agreements with the Mutual Fund Trust and/or with the Ghanis (as trustees), and in reliance on the representations in the Mutual Fund Trust Offering Memorandum. By so doing, they became the ultimate beneficiaries of the property of Summerside LP (as held by Summerside Corp. its general partner).
106. By virtue of the trusteeships, offices, directorships and/or management or control exercised by the Ghanis, at all relevant times:
- a. the Ghanis <sup>^</sup> owed the Proposed Class Members (as trust beneficiaries) fiduciary duties, duties of loyalty, duties of <sup>^</sup> good faith, duties of honesty and fair dealing, <sup>^</sup> other equitable, legal and/or trust duties.<sup>^</sup>
  - b. <sup>^</sup>
107. The Ghanis breached these duties by their high-handed and wrongful conduct, including as follows.
- (i) Failure to develop or operate the Summerside Lands**
108. Following the offering, Summerside Corp. (as general partner of Summerside LP) failed to develop and/or operate the Summerside Lands as represented in the Mutual Fund Trust Offering Memorandum.

109. The full particulars of such negligent, <sup>^</sup> reckless and/or fraudulent management of the Summerside Lands is known to the Ghanis.

**(ii) Concealment of financial information**

110. As with the other Prism Entities, the Ghanis caused each of the Summerside Entities to conceal their financial condition from the Proposed Class Members by, among other things, failing to (i) keep books and records or prepare financial statements; and (ii) provide financial statements to the Proposed Class Members. In particular, each of the Summerside Entities failed to provide any financial records to the Proposed Class Members between at least March 2014 and October 2017, despite repeated requests for such information by the Proposed Class Members (or by Raintree Financial on their behalf).

111. Indeed, Ghani Jr. has admitted under oath that he is “*unable ... to provide a reconciled, current state of accounts among the Summerside [Entities]*”.

112. The Mutual Fund Trust also failed to call annual meetings of the Trust Unitholders at any time, notwithstanding the Proposed Class Members’ repeated requests for financial information and updates regarding the status of the development of the Summerside Lands.

113. By <sup>^</sup> failing to disclose or keep proper records, the Ghanis breached their duties to the Proposed Class Members.

**(iii) Sale of the Summerside Lands**

114. Eventually, the Ghanis caused the Summerside Entities to secretly sell the Summerside Lands, without notice to or consultation with the Proposed Class Members. The particulars of this misconduct, so far as the Plaintiff is aware, include:

a. in or around September 2016, Summerside Corp. (as general partner for Summerside LP) entered an “offer to purchase and interim agreement” with 1990963 Alberta Ltd. (“**199**”), pursuant to which it agreed to sell the Summerside Lands to 199. 199 later assigned its interests under the interim agreement to Fateh Developments Inc. (“**Fateh**”);

b. then, between September and November 2016, Summerside Corp. entered several “amending agreements” with Fateh. Among other things, these amending agreements

provided that (i) Fateh would pay deposits to Summerside Corp. for the Summerside Lands, which in aggregate totaled to \$6,850,000.00 (the “**Summerside Deposit**”); and (ii) such deposits would be released to Summerside Corp. and could be used by Summerside Corp.;

- c. in or around December 2016, Summerside Corp. and Fateh also entered loan and/or security agreements, whereunder the Ghanis pledged their shares (held through family trusts) in Summerside Corp., as security for the release(s) of the Summerside Deposit;
- d. the Summerside Deposit was, in fact, released from Fateh to Summerside Corp., at various times between October and December 2016, and paid into bank accounts in the name of Summerside Corp.; and
- e. finally, Fateh and Summerside Corp. (as general partner to Summerside LP) entered a definitive “purchase agreement” on or around July 19, 2017. Among other things, the definitive agreement confirmed that Fateh had “*paid the sum of \$6,850,000*” to Summerside Corp. as a deposit for the Summerside Lands.

115. Throughout the foregoing transactions, the Ghanis (i) concealed from the Trust Unitholders that Summerside Corp. had or was contemplating the sale of the Summerside Lands; (ii) failed to call a meeting of the Trust Unitholders in respect of the sale; and (iii) concealed from the Trust Unitholders the arrangements regarding the Summerside Deposit, which was to be freely released to Summerside Corp., contrary to accepted industry practice.

116. Furthermore, after Summerside Corp. was in possession of the Summerside Deposit, the Ghanis then caused such monies (or portions thereof) to be diverted to various payees for no *bona fide* purpose.

117. For example, bank statements and other records lately disclosed by the Ghanis indicate that:

- a. dozens of payments were made from the Summerside Deposit to various credit cards in the amount of “\$9,999.99” or “\$9,999.98”; and
- b. at least \$2,285,000.00 of the Summerside Deposit was diverted from Summerside Corp.’s accounts, to accounts in the name of PREIC, Ghani Jr.’s holding company.

118. By way of further example, Ghani Jr. has admitted under oath that:

- a. the Summerside Deposit was “*commingled*” with Summerside Corp.’s other funds;
  - b. he or Ghani Sr. caused a “*number of payments*” to be made from the Summerside Deposit to credit cards in the name of Prism Place;
  - c. he or Ghani Sr. caused payments to be made from the Summerside Deposit to creditors of other companies associated or “*affiliated*” with the Ghanis, including (but not limited to) other Prism Entities;
  - d. over \$2,285,000.00 of the Summerside Deposit was diverted to PREIC’s bank accounts, in purported satisfaction of “*inter-entity*” indebtedness, despite the fact that (i) PREIC is Ghani Jr.’s personal holding company, and (ii) Ghani Jr. has “*not kept current in the preparation of proper financial records*” in respect of such indebtedness and he “*simply do[es] not know...the state of those accounts*”; and
  - e. various other payments out of the Summerside Deposits cannot be verified and are “*unknown*” or unaccounted for by the Ghanis.
119. The payments, transfers or diversions particularized in the paragraphs above lacked any *bona fide* business purpose, and were undertaken for the benefit of one or more of the Ghanis and contrary to the interests of the Proposed Class Members. The full extent of the wrongful schemes, transfers, misappropriation and/or dissipation of the Summerside Deposit remains known only to the Ghanis.
120. Further still, bank records indicate, and the Ghanis’ legal counsel has confirmed, that \$2,000,000 of the Summerside Deposit was repaid to Fateh in or around November 2016. This kick-back to Fateh was also concealed from the Proposed Class Members at all relevant times.
121. Ultimately, so far as the Plaintiff is aware, the sale of the Summerside Lands closed in or around late 2017. To date, the Proposed Class Members have not received any distribution from the sale, notwithstanding that PREIC, and/or the Ghanis personally, and Fateh have received millions of dollars from the sale.
122. Consequently, in or around August or September 2017, Handelsman (together with certain other members of the Proposed Class) applied to the Court for order(s), among other things, (i) directing the Summerside Entities to disclose their financial information, and (ii) enjoining the

Summerside Entities from completing the sale of the Summerside Lands. As is more fully set out at Part IV.B below, Handelsman obtained this relief<sup>^</sup>.

**(iv) Fraudulent falsification of corporate records**

123. In addition, Ghani Jr. fraudulently falsified corporate records of Summerside Corp., in furtherance of wrong schemes to obtain the release of the Summerside Deposit from Fateh and to conceal the proposed sale of the Summerside Lands. The particulars of this misconduct, so far as the Plaintiff is aware, include the following:

- a. in or around 2013, LaFleur was engaged by the Summerside Entities to provide investment consulting services to them;
- b. as compensation for such services, LaFleur (through his holding company 177) acquired 9% of the voting shares in Summerside Corp.;
- c. despite being an (indirect) shareholder in Summerside Corp., in or around 2016, LaFleur was never advised by the Ghanis that they were seeking to (i) cause Summerside Corp. to sell the Summerside Lands, or (ii) arrange for Fateh to release the Summerside Deposit to Summerside Corp. in connection with same;
- d. in or around late 2016 or early 2017, Ghani Jr. then proceeded to prepare false share transfer forms purporting to show the transfer of 177's shareholdings in Summerside Corp. to Ghani Jr.'s family trust. Ghani Jr. forged LaFleur's signature on such false share transfer forms in order to obtain the release(s) of the Summerside Deposit; and
- e. at no time did LaFleur authorise Ghani Jr. to sign the share transfer forms, nor did Ghani Jr. reasonably believe he had any such authority. Rather, Ghani Jr.'s falsification and forgery of the share transfer forms was done for the specific purpose of profiting personally from the sale of the Summerside Lands, to the detriment of the Proposed Class Members.

124. In the end, the Proposed Class Members have lost the entirety of their investments in the Summerside Entities because of the high-handed, oppressive, unremitting and wrongful conduct of the Defendants. This high-handed conduct includes, but is not limited to:

- a. the Summerside Entities concealing their financial information from the Proposed Class Members throughout the relevant time;
- b. Summerside Corp. (in its capacity as general partner) failing to develop and/or operate the Summerside Lands as represented;
- c. Summerside Corp. (in its capacity as general partner) attempting to dispose of its main or entire undertaking, the Summerside Lands, without approval from the Proposed Class Members (and only failing to effect such secret sale because of an injunction from the Court);
- d. Summerside Corp. and/or the Ghanis diverting, misappropriating and/or dissipating substantial portions of Summerside Deposit for their own personal benefit;
- e. Summerside Corp. and/or the Ghanis causing substantial portions of the Summerside Deposit to be kicked-back to, Fateh, the purchaser of the Summerside Lands;
- f. Summerside Corp. and/or the Ghanis causing the funds of Summerside Corp. to be comingled with those of other Prism Entities and/or other entities;
- g. the Summerside Entities engaging in related-party transactions without any business purpose, solely for the Ghanis' personal gain; and
- h. Ghani Jr. deliberately falsifying and forging corporate records of the Summerside Entities, for his own personal gain.

#### **B. PROCEEDINGS AND RELIEF SINCE AUGUST 2017**

125. Because of, among other things, (i) the repeated failure of the Prism Entities to disclose financial information to the Proposed Class Members; and (ii) the repeated attempts by the Prism Entities and the Ghanis to sell the property of the Prism Entities without notice or consent of the Proposed Class Members, the Plaintiff (and certain other Proposed Class Members, collectively the “**Original Applicants**”) commenced the within proceeding on August 15, 2017, by way of an originating application (the “**First Application**”).
126. The First Application sought various relief against certain of the Defendants, including the disclosure of information and injunctions enjoining the sale of the Broadmoor Lands and the Summerside Lands.

127. Subsequently, Handelsman fortuitously learned from third parties that the Summerside Deposit had been released from Fateh to Summerside Corp. Thus, Handelsman, and the other Original Applicants, filed a second application in September 2017 seeking additional interim and injunctive relief in respect of the Summerside Entities (the “**Second Application**”).
128. In the result, the Honourable Justice K. D. Nixon issued a Consent Order dated October 2, 2017, which ordered, among other things, that: (i) the Prism Entities (except Horizon Commercial) were each to disclose financial records; (ii) the sale of the Broadmoor Lands was enjoined; (iii) inspectors were authorized to be appointed in respect of several of the Prism Entities; and (iv) an independent trustee was to be named to each of the Mutual Fund Trust and the Commercial Trust. The Nixon Consent Order also ordered that the sale of the Summerside Lands was to be enjoined until October 27, 2017.
129. <sup>^</sup> Following the Nixon Consent Order, the Plaintiff then learned of additional misconduct by the Prism Entities and the Ghanis, including further particulars regarding the Summerside Deposit and Ghani Jr.’s forgery of Summerside Corp.’s records. Consequently, the Original Applicants filed a further application, on or around October 18, 2017, which sought, among other things, an order declaring the Ghanis in contempt of Court and further injunctive or declaratory relief in respect of the sale of the Summerside Lands and the Summerside Deposit (the “**Third Application**”).
130. Ultimately, on October 31, 2017, the Honourable Justice P.R. Jeffrey ordered, among other things, that: (i) the relevant Prism Entities provide all information required by the Nixon Consent Order (to the extent requested); and (ii) the Ghanis explain under oath, in writing, the facts and circumstances regarding the Summerside Deposit, the monies paid to Prism Place for the sale of the Prism Lands, and the forgery of the Summerside Corp. records. The Jeffrey Order did, however, permit the sale of the Summerside Lands to Fateh to close.
131. The facts and circumstances revealed through or in connection with the First Application, the Second Application and the Third Application, have, among other things, lead the Plaintiff to file this Statement of Claim on behalf of all Proposed Class Members.

## V. CAUSES OF ACTION & RELIEF SOUGHT

132. In view of the forgoing factual allegations, the Plaintiff claims against the Defendants as follows.

### Claims relating to Prism Place <sup>^</sup>

#### (i) Oppression

133. The Plaintiff, on behalf of the Proposed Class, seeks relief against Prism Place, and Ghani Jr. in his capacity as <sup>^</sup> director of Prism Place, pursuant to the oppression remedy provisions of Part 19 of the *ABCA*. The Plaintiff, as a representative of the Proposed Class, is a complainant within the meaning of Sections 239 and 242 of the *ABCA*.

134. At all relevant times, based on (without limitation) the Prism Place Offering Memoranda and general commercial practice, the reasonable expectations of the Proposed Class Members included that:

- a. Prism Place, acting through its officers and directors, including Ghani Jr., would develop and/or operate the Prism Place Lands as represented in the Prism Place Offering Memoranda;
- b. as preferred shareholders in Prism Place, that they would be notified prior to, and be required to consent to, any fundamental changes to the business of Prism Place such as the disposition of the Prism Place Lands or the dissolution of Prism Place;
- c. they would have a preferential entitlement to the proceeds from any sale of the Prism Place Lands;
- d. Prism Place's officers and directors, including Ghani Jr., would not act out of self-interest or put their own interests ahead of those of the preferred shareholders;
- e. Prism Place's officers and directors, including Ghani Jr., would not misappropriate, divert or dissipate assets of Prism Place, in breach of, among other things, their fiduciary duties to Prism Place;
- f. Prism Place's officers and directors, including Ghani Jr., would not engage in related-party transactions without appropriate disclosure and a proper business purpose;



- g. Prism Place would keep books and records, prepare and provide financial statements to its shareholders, and call annual meetings of the shareholders; ^
  - h. Prism Place would keep bank accounts separate from the other Prism Entities, and would not comingle funds with other Prism Entities or with Ghani Jr.'s holding company, PREIC; and
  - i. Ghani Jr., as a director of Prism Place, would respect resolutions passed by the shareholders and/or other corporate formalities.
135. Prism Place, and Ghani Jr. in his capacity as ^ director, acted contrary to these reasonable expectations by committing the acts and omissions particularized at paragraphs 86 to 100 above. These acts, both individually and collectively, had the effect of oppressing, unfairly prejudicing or unfairly disregarding the interests of the Proposed Class Members.
136. Therefore, the Plaintiff, on behalf of the Proposed Class, is entitled to and claims an order paying the Proposed Class Members the full value of their investments in Prism Place, in an amount not less than \$17,045,000.00, pursuant to Section 242 of the *ABCA*. The Defendants Prism Place and Ghani Jr. are jointly and severally liable for such amounts.
137. In the alternative, the Plaintiff, on behalf of the Proposed Class, is entitled to such other orders as the Court may think fit, pursuant to Section 242 of the *ABCA*.

**(ii) Conspiracy**

138. In addition, or alternatively, the Plaintiff, on behalf of the Proposed Class, claims against Prism Place (acting through Ghani Jr. as its CEO and director), PREIC (acting through Ghani Jr. as its sole director), Ghani Jr. and the Estate ^, for ^ conspiring to injure the Proposed Class Members by depriving them of some or all of the proceeds from the sale of the Prism Place Lands.
139. The particulars of the wrongful conspiracy include:
- a. Prism Place, PREIC, and the Ghanis, agreed (either expressly or impliedly through their conduct) to transfer proceeds from the sale of the Prism Place Lands to Ghani Jr.'s holding company PREIC for Ghani Jr.'s personal benefit, and to Mezzanine Inc. for Ghani Sr.'s personal benefit;

- b. Prism Place, in concert with PREIC and/or the Ghanis, did in fact transfer (or direct the transfer of) proceeds from the sale of the Prism Place Lands to PREIC (namely, the PREIC Funds) and to Mezzanine Inc. (namely, the Mezzanine Funds), in breach of, among other things, Ghani Jr.'s fiduciary duties to Prism Place;
- c. Prism Place and the Ghanis and/or PREIC also acted in concert to conceal the wrongful transfers from the Proposed Class Members by, among other things, failing to provide financial information to the Proposed Class Members, despite repeated requests for such information; and
- d. the Proposed Class Members have suffered damages and losses due to Prism Place's, PREIC's, Ghani Jr.'s and Ghani Sr.'s wrongful conspiracy, and they each knew or ought to have known that their wrongful conduct would result in such damages and losses.

140. Therefore, the Plaintiff, on behalf of the Proposed Class, is entitled to and claims damages for conspiracy, in an amount not less than \$1,932,739.15. The Defendants Prism Place, PREIC, Ghani Jr. and the Estate ^ are jointly and severally liable for such damages.

141. ^

142. ^

143. ^

144. ^

145. ^

**(iii) Breach of Contract**

146. In addition or alternatively, the Plaintiff, on behalf of the Proposed Class, claims against Prism Place for breach of contract. In particular, the Plaintiff states that (i) the Proposed Class Members purchased Securities in Prism Place pursuant to certain subscription agreements, which incorporated the Prism Place Offering Memoranda; (ii) Prism Place (acting through Ghani Jr.) breached the subscription agreements through the wrongful conduct set out at paragraphs 86 to 100 above; and (iii) such breaches have caused the Proposed Class Members

damages and losses. Therefore, the Plaintiff, on behalf of the Proposed Class Members, seeks damages for breach of contract in an amount to be proven at trial.

**Claims relating to the ^ Summerside Entities ^**

**(i) Breaches of Trust ^**

147. The Plaintiff, on behalf of the Proposed Class, seeks against Ghani Jr. and the Estate ^ relief for breaches of trust ^ arising from the ^ Ghani Jr.'s and Ghani Sr.'s control and management of the Summerside Entities.

148. In particular, the Ghanis owed fiduciary duties, duties of loyalty, duties of ^ good faith, duties of honesty and fair dealing, ^other equitable, legal and/or trust duties to the Proposed Class Members pursuant to (i) the Declaration of Trust of the Mutual Fund Trust dated January 4, 2013; (ii) the Declaration of Trust of the Commercial Trust dated January 4, 2013; (iii) the *Trustee Act*; and/or (iv) the common law (the “**Trust Duties**”).

149. The Ghanis breached the Trust Duties, dishonestly, fraudulently, and/or through gross negligence by ^ the misconduct set out at paragraphs 108 to 124 above, including by:

- a. failing to ensure that Summerside Corp. developed and/or operated the Summerside Lands as represented in the Mutual Fund Trust Offering Memorandum;
- b. failing to keep books and records, to prepare and provide financial statements to the Trust Unitholders, and by failing to call annual meetings of the Trust Unitholders;
- c. secretly attempting to cause Summerside Corp. to ^ sell the Summerside Lands, without notice to or the consent of the Trust Unitholders;
- d. comingling the funds of Summerside Corp. with those of other Prism Entities, with those of Ghani Jr.'s holding company, PREIC, and/or with other entities;
- e. engaging in self-dealing, contrary to the best interests of the Trust Unitholders;
- f. diverting or misappropriating portions of the Summerside Deposit to related parties, PREIC or themselves personally, without a proper business purpose;

- g. diverting or misappropriating portions of the Summerside Deposit to Fateh, as a kick-back in respect of the sale of the Summerside Lands;
- h. diverting or transferring portions of the Summerside Deposit to “*unknown*” payees, contrary to the best interests of the Trust Unitholders; and
- i. forging corporate records of Summerside Corp. in order to defraud the Trust Unitholders of the Summerside Deposit.

150. Because of the foregoing breaches, the Proposed Class Members have lost their entire investment in the Mutual Fund Trust. Accordingly, the Plaintiff, on behalf of the Proposed Class, is entitled to and claims equitable compensation (or, alternatively damages) from Ghani Jr. and the Estate arising from the breaches of the Trust Duties, in an amount not less than \$6,850,000.00. Ghani Jr. and the Estate are jointly and severally liable for such amounts.

151. ^

152. In addition, the Plaintiff, on behalf of the Proposed Class, seeks relief against the Defendant PREIC (acting through Ghani Jr. as its CEO and director) for:

- a. knowingly assisting the Ghanis’ breaches of ^ the Trust Duties^; and/or
- b. knowingly receiving trust property beneficially owned by the Proposed Class Members.

153. The particulars of PREIC’s wrongful knowing assistance and/or wrongful knowing receipt include that (i) PREIC was transferred millions of dollars from the Summerside Deposit for its own benefit; ^ (ii) PREIC knew (acting through Ghani Jr. as its CEO and director) that such monies were trust property beneficially owned by the Proposed Class Members^; and (iii) PREIC (acting through Ghani Jr. as its CEO and director) knew that it had no right or entitlement to receive the Summerside Deposit and that transfers to it were made dishonestly and in breach of the Ghanis’ Trust Duties to the Proposed Class Members. Accordingly, the Plaintiff, on behalf of the Proposed Class, is entitled to equitable compensation (or, alternatively damages) from PREIC in an amount not less than \$2,285,000.00.

**(ii) Oppression**

154. In addition, or alternatively, the Plaintiff, on behalf of the Proposed Class, seeks relief against Summerside Corp., ^ Ghani Jr. in his capacity as a current or former director^ of Summerside Corp. and the Estate as a result of Ghani Sr. having been a director of Summerside Corp., pursuant to the oppression remedy provisions of Part 19 of the *ABCA*. The Plaintiff, as a representative of the Proposed Class, is a complainant within the meaning of Sections 239 and 242 of the *ABCA*.
155. At all relevant times, based on (without limitation) the Mutual Fund Trust Offering Memorandum and general commercial practice, the reasonable expectations of the Proposed Class Members included that:
- a. Summerside Corp., acting through its officers and directors, namely the Ghanis, would develop and/or operate the Summerside Lands as represented in the Mutual Fund Trust Offering Memorandum;
  - b. Summerside Corp.'s officers and directors, namely the Ghanis, would not act out of self-interest or put their own interests ahead of those of the Proposed Class Members who are the ultimate beneficiaries of the Summerside LP units ^;
  - c. Summerside Corp. would not transfer or divert the proceeds from any sales of the Summerside Lands, except for a proper business purpose;
  - d. Summerside Corp.'s officers and directors, namely the Ghanis, would not misappropriate, divert or dissipate assets of Summerside LP, in breach of, among other things, their fiduciary duties<sup>^</sup>;
  - e. Summerside Corp. would keep books and records, and prepare and provide financial statements to the beneficial holders of the Summerside LP units, namely the Proposed Class Members;
  - f. the Ghanis, as officers and directors of Summerside Corp., would not falsify corporate records relating to Summerside Corp.<sup>^</sup>; and

g. Summerside Corp. would keep bank accounts separate from those of the other Prism Entities, and would not commingle funds with other Prism Entities or with Ghani Jr.'s holding company, PREIC.

156. Summerside Corp. and the Ghanis acted contrary to these reasonable expectations by committing the acts and omissions particularized at paragraphs 108 to 124 above. These acts, both individually and collectively, had the effect of oppressing, unfairly prejudicing or unfairly disregarding the interests of the Proposed Class Members, as beneficial holders of the Summerside LP units.

157. Therefore, the Plaintiff, on behalf of the Proposed Class, is entitled to and claims an order paying the Proposed Class Members the full value of their (indirect) investments in Summerside LP, in an amount not less than \$6,850,000.00, pursuant to Section 242 of the *ABCA*. The Defendants Summerside Corp., Ghani Jr. and the Estate, are jointly and severally liable for such payments.

158. In the alternative, the Plaintiff, on behalf of the Proposed Class, is entitled to such other orders as the Court may think fit, pursuant to Section 242 of the *ABCA*.

**(iii) Conspiracy**

159. In addition, or alternatively, the Plaintiff, on behalf of the Proposed Class, claims against Summerside Corp. (acting through the Ghanis as its officers and directors), PREIC (acting through Ghani Jr. as its sole director), Ghani Jr. and the Estate, for conspiring to injure the Proposed Class Members by depriving them of the proceeds from the sale of the Summerside Lands.

160. The particulars of the wrongful conspiracy include:

a. Summerside Corp., PREIC and the Ghanis agreed (either expressly or impliedly through their conduct) to transfer proceeds from the sale of the Summerside Lands to Ghani Jr. and/or his holding company, PREIC, for Ghani Jr.'s personal benefit;

b. Summerside Corp., in concert with PREIC and/or the Ghanis, did in fact transfer proceeds from the sale of Summerside Lands to Ghani Jr. and/or his holding company, PREIC, in breach of, among other things, the Ghanis' fiduciary duties;

- c. Summerside Corp., PREIC, and/or the Ghanis, also acted in concert to conceal the wrongful transfers from the Proposed Class Members by, among other things, failing to provide ^financial information to the Proposed Class Members, despite repeated requests by the Proposed Class Members for such information; and
- d. the Proposed Class Members have suffered damages and losses due to Summerside Corp.'s, PREIC's and the Ghanis' wrongful conspiracy, and they each knew or ought to have known that their wrongful conduct would result in such damages and losses.

161. Therefore, the Plaintiff, on behalf of the Proposed Class, is entitled to and claims damages for conspiracy, in an amount not less than \$2,285,000.00. The Defendants Summerside Corp., PREIC, Ghani Jr. and the Estate ^ are jointly and severally liable for such damages.

162. ^

163. ^

164. ^

165. ^

166. ^

**(iv) Breach of Contract**

167. In addition or alternatively, the Plaintiff, on behalf of the Proposed Class, claims against the Mutual Fund Trust, ^ and Ghani Jr. and the Estate (^ as a result of each of the Ghanis having been trustees of the Mutual Fund Trust) for breach of contract. In particular, the Plaintiff states that (i) the Proposed Class Members purchased Securities in the Mutual Fund Trust pursuant to certain subscription agreements, which incorporated the Mutual Fund Trust Offering Memorandum; (ii) the Mutual Fund Trust and/or the Ghanis (in their capacity as trustees of the Mutual Fund Trust) breached the subscription agreements through the wrongful conduct set out at paragraphs 108 to 124 above; and (iii) such breaches have caused the Proposed Class Members damages and losses. Therefore, the Plaintiff, on behalf of the Proposed Class Members, seeks damages for breach of contract in an amount to be proven at trial.

**Claims relating to Broadmoor Commercial**

168. The Plaintiff, on behalf of the Proposed Class, seeks relief against ^ Ghani Jr. in his capacity as a current or former director of Broadmoor Commercial, and the Estate as a result of Ghani Sr. having been a director of Broadmoor Commercial, pursuant to the oppression remedy provisions of Part 19 of the ABCA. The Plaintiff, as a representative of the Proposed Class, is a complainant within the meaning of Sections 239 and 242 of the ABCA.
169. At all relevant times, based on (without limitation) the Broadmoor Offering Memorandum and general commercial practice, the reasonable expectations of the Proposed Class Members included that:
- a. the Ghanis, as directors of Broadmoor Commercial, would ensure that Broadmoor Commercial developed and/or operated the Broadmoor Lands as represented in the Broadmoor Offering Memorandum;
  - b. the Ghanis, as directors of Broadmoor Commercial, would not cause Broadmoor Commercial to sell the Broadmoor Lands, without first notifying and obtaining the approval of the Proposed Class Members as preferred shareholders;
  - c. the Ghanis, as directors of Broadmoor Commercial, would not act out of self-interest, or put their own interests ahead of those of the preferred shareholders, or cause Broadmoor Commercial to engage in related-party or undervalue transactions without appropriate disclosure and a proper business purpose;
  - d. the Ghanis, as directors of Broadmoor Commercial, would ensure that Broadmoor Commercial kept books and records, and ensure that it made timely and accurate financial disclosure to the Proposed Class Members;
  - e. the Ghanis, as directors of Broadmoor Commercial, would ensure that Broadmoor Commercial honoured preferred share redemption rights;
  - f. the Ghanis, as directors of Broadmoor Commercial, would not mislead or provide false information or assurances to the Proposed Class Members in respect of Broadmoor Commercial; and
  - g. the Ghanis would duly perform their fiduciary duties owed to Broadmoor Commercial.



170. The Ghanis, in their capacity as directors of Broadmoor Commercial, acted contrary to these reasonable expectations by committing the acts and omissions particularized at paragraphs 44 to 58 above. These acts, both individually and collectively, had the effect of oppressing, unfairly prejudicing or unfairly disregarding the interests of the Proposed Class Members.
171. Therefore, the Plaintiff, on behalf of the Proposed Class, is entitled to and claims an order paying the Proposed Class Members the full value of their investments in Broadmoor Commercial, in an amount not less than \$7,272,000, pursuant to Section 242 of the ABCA. The Defendants the Estate ^ and Ghani Jr. are jointly and severally liable for such amounts.
172. In the alternative, the Plaintiff, on behalf of the Proposed Class, is entitled to such other orders as the Court may think fit, as against Ghani Jr. and the Estate ^, pursuant to Section 242 of the ABCA.

**Claims relating to Heritage Developments**

173. The Plaintiff, on behalf of the Proposed Class, seeks relief against ^ Ghani Jr. in his capacity as a current or former director of Heritage Developments, and the Estate as a result of Ghani Sr. having been a director of Heritage Developments, pursuant to the oppression remedy provisions of Part 19 of the ABCA. The Plaintiff, as a representative of the Proposed Class, is a complainant within the meaning of Sections 239 and 242 of the ABCA.
174. At all relevant times, based on (without limitation) the Heritage Developments Offering Memoranda and general commercial practice, the reasonable expectations of the Proposed Class Members included that:
- a. the Ghanis, as directors of Heritage Developments, would ensure that Heritage Developments developed and/or operated the Heritage Lands as represented in the Heritage Developments Offering Memoranda;
  - b. the Ghanis, as directors of Heritage Developments, would not act out of self-interest, or put their own interests ahead of those of the preferred shareholders, or cause Heritage Developments to engage in related-party or undervalue transactions without appropriate disclosure and a proper business purpose;

- c. the Ghanis, as directors of Heritage Developments, would ensure that Heritage Developments kept books and records, and ensure that it made timely and accurate financial disclosure to the Proposed Class Members; and
  - d. the Ghanis would duly perform their fiduciary duties owed to Heritage Developments.
175. The Ghanis, in their capacity as directors of Heritage Developments, acted contrary to these reasonable expectations by committing the acts and omissions particularized at paragraphs 59 to 70 above. These acts, both individually and collectively, had the effect of oppressing, unfairly prejudicing or unfairly disregarding the interests of the Proposed Class Members.
176. Therefore, the Plaintiff, on behalf of the Proposed Class, is entitled to and claims an order paying the Proposed Class Members the full value of their investments in Heritage Developments, in an amount not less than \$4,110,000, pursuant to Section 242 of the ABCA. The Defendants the Estate ^ and Ghani Jr. are jointly and severally liable for such amounts.
177. In the alternative, the Plaintiff, on behalf of the Proposed Class, is entitled to such other orders as the Court may think fit, as against Ghani Jr. and the Estate ^, pursuant to Section 242 of the ABCA.

**Claims relating to Horizon Commercial**

178. The Plaintiff, on behalf of the Proposed Class, seeks relief against Ghani Jr. in his capacity as a director of Horizon Commercial, pursuant to the oppression remedy provisions of Part 19 of the ABCA. The Plaintiff, as a representative of the Proposed Class, is a complainant within the meaning of Sections 239 and 242 of the ABCA.
179. At all relevant times, based on (without limitation) the Horizon Offering Memorandum and general commercial practice, the reasonable expectations of the Proposed Class Members included that:
- a. Ghani Jr., as a director of Horizon Commercial, would ensure that Horizon Commercial developed and/or operated the Horizon Lands as represented in the Horizon Offering Memorandum;
  - b. Ghani Jr., as a director of Horizon Commercial, would not act out of self-interest, or put his own interests ahead of those of the preferred shareholders, or cause Horizon

Commercial to engage in related-party or undervalue transactions without appropriate disclosure and a proper business purpose;

- c. Ghani Jr., as a director of Horizon Commercial, would ensure that Horizon Commercial kept bank accounts separate from those of other Prism Entities, and would not commingle funds with other Prism Entities or with Ghani Jr.'s holding company PREIC, or at all;
  - d. Ghani Jr., as a director of Horizon Commercial, would ensure that Horizon Commercial kept books and records, and ensure that it made timely and accurate financial disclosure to the Proposed Class Members;
  - e. Ghani Jr., as a director of Horizon Commercial, would ensure that Horizon Commercial honoured preferred share redemption rights;
  - f. Ghani Jr., as a director of Horizon Commercial, would not mislead or provide false information or assurances to the Proposed Class Members in respect of Horizon Commercial; and
  - g. Ghani Jr., as a director of Horizon Commercial, would duly perform his fiduciary duties owed to Horizon Commercial.
180. Ghani Jr., in his capacity as a director of Horizon Commercial, acted contrary to these reasonable expectations by committing the acts and omissions particularized at paragraphs 71 to 85 above. These acts, both individually and collectively, had the effect of oppressing, unfairly prejudicing or unfairly disregarding the interests of the Proposed Class Members.
181. Therefore, the Plaintiff, on behalf of the Proposed Class, is entitled to and claims an order paying the Proposed Class Members the full value of their investments in Horizon Commercial, in an amount not less than \$6,918,500, pursuant to Section 242 of the ABCA. The Defendant Ghani Jr. is liable for such amounts.
182. In the alternative, the Plaintiff, on behalf of the Proposed Class, is entitled to such other orders as the Court may think fit, as against Ghani Jr., pursuant to Section 242 of the ABCA.

Claims relating to all Prism Entities ^

(i) Piercing the Corporate Veil

183. In addition or alternatively to the relief sought above, the Plaintiff, on behalf of the Proposed Class, seeks relief against Ghani Jr. and the Estate ^ personally for all of the wrongful acts or omissions by the Prism Entities in relation to the Proposed Class Members, pursuant to the Court's equitable jurisdiction to disregard or set aside the corporate personality of the Prism Entities.

184. In particular, based on the factual allegations set out in Part IV.A above, ^ the Ghanis expressly caused wrongful or fraudulent things to be done by the Prism Entities, since, among other things:

- a. Ghani Jr. intentionally ^falsified corporate records of the Summerside Entities;
- b. the Ghanis comingled the funds of the Prism Entities^;
- c. the Ghanis transferred ^assets of the Prism Entities to themselves or their holding companies and/or others without any *bona fide* business purpose;
- d. the Ghanis ^concealed financial information of the Prism Entities;
- e. the Ghanis caused the Prism Entities to enter non-arm's length transactions, which were intended to confer secret benefits to one or more of the Ghanis, their family trusts or their family members;
- f. the Ghanis disregarded the redemption rights of the Proposed Class Members^;
- g. the Ghanis caused Prism Place to be dissolved without notice to or approval from the Proposed Class Members;
- h. the Ghanis ^ disregarded resolutions passed by the shareholders and/or other corporate formalities;
- i. the Ghanis sought to secretly sell lands held in the name of the Prism Entities for their own gain; and
- j. the Ghanis used each of the Prism Entities as instruments of fraud.

185. Therefore, it is just and equitable for the Court to disregard the corporate personality of the Prism Entities, and for the Court to hold Ghani Jr. and the Estate ^ liable for all losses caused to the Proposed Class Members, which have resulted from the wrongful acts and omissions perpetrated by Ghanis through the Prism Entities.

186. The Plaintiff, on behalf of the Proposed Class, claims against Ghani Jr. and the Estate ^, jointly and severally, ^ in an amount not less than \$42,000,000.00, reflecting the estimated aggregate investments made by the Proposed Class Members in the Prism Entities. The Proposed Class Members have lost their investments because of the Ghanis' fraudulent use of the Prism Entities.

187. ^

**(ii) Unjust Enrichment**

188. In addition or alternatively, the Plaintiff, on behalf of the Proposed Class, claims that the Ghanis and/or PREIC have been unjustly enriched, by virtue of the factual allegations set out in Part IV.A above. In particular, the Plaintiff states that:

- a. the Ghanis and/or PREIC have been enriched through (indirect or direct) transactions, payments or transfers to them concerning the assets of the Prism Entities;
- b. the Proposed Class Members have suffered a corresponding deprivation, namely their investments in the Prism Entities; and
- c. the Ghanis and/or PREIC have no juristic reason for their direct or indirect enrichment(s).

189. Therefore, the Plaintiff, on behalf of the Proposed Class Members, seeks compensation or restitution from Ghani Jr., the Estate ^ and/or PREIC, jointly and severally, in an amount to be proven at trial.

**(iii) Misrepresentation**

190. In addition or alternatively, the Plaintiff, on behalf of the Proposed Class, seeks relief against Ghani Jr., the Estate ^ and/or PREIC for misrepresentation, by virtue of the factual allegations set out in Part IV.A above. In particular, the Plaintiff states that:

- a. one or more of the Ghanis and/or PREIC made representations to the Proposed Class Members in the Prism Entities' offering memoranda by, among other things, signing and certifying the same;
- b. the representations by the Ghanis and/or PREIC included that, among other things, the Ghanis would cause the Prism Entities to develop and operate the lands for the benefit of the Proposed Class Members;
- c. the representations were entirely false, and the Ghanis and/or PREIC knew the representations were false, ought to have known they were false, or were reckless as to the falsity of the representations;
- d. the Ghanis and/or PREIC made the false representations to induce the Proposed Class Members to purchase the Securities; and
- e. the Proposed Class Members were induced by the false representations, purchased the Securities in reliance on the false representations, and the Proposed Class Members have suffered losses in the form of the investments in the Prism Entities.

191. Therefore, the Plaintiff seeks, on behalf of the Proposed Class Members, damages for negligent and/or fraudulent misrepresentation against Ghani Jr., the Estate ^ and/or PREIC, jointly and severally, in an amount to be proven at trial.

**Accounting, Disgorgement and Constructive Trust**

192. In addition or alternatively, the Plaintiff seeks any other orders or remedies that this Honourable Court may deem just and appropriate, including, without limitation, (i) orders directing an accounting, following and/or tracing of assets dissipated or misappropriated by the Ghanis and/or PREIC; (ii) orders directing that Ghani Jr., the Estate ^ and/or PREIC disgorge wrongful gains obtained by the Ghanis; and (iii) declarations that assets or monies dissipated or

misappropriated by the Ghanis and/or PREIC are held on constructive trust for the benefit of the Proposed Class.

**Punitive Damages**

193. The Plaintiff, on behalf of the Proposed Class, further seeks against Ghani Jr., the Estate ^, Prism Place, Summerside Corp., Summerside LP, the Mutual Fund Trust, the Commercial Trust and/or PREIC, jointly and severally, punitive damages in an amount to be determined by this Honourable Court, due to their high-handed, malicious, arbitrary and/or highly reprehensible conduct, which includes misrepresentation, concealment, conspiracy, fraud, breach of fiduciary duty, breach of trust, oppression, unjust enrichment, and abuse of corporate personality, as particularized above.

**VI. OTHER RELIEF SOUGHT**

194. In addition to the relief set out at paragraphs 132 to 193 above, the Plaintiff respectively requests, pursuant to the CPA ^:

- a. an order pursuant to Section 5 of the *CPA* certifying this action as a class proceeding and appointing Handelsman as the representative for the Proposed Class, including any sub-classes as applicable, at an application to be made by the Plaintiff;
- b. orders pursuant to Sections 30 and 31 of the *CPA* directing an aggregate monetary award, as may be requested by counsel;
- c. an order pursuant to Section 32 of the *CPA* allowing for the use of standard claim forms or procedures, as may be requested by counsel;
- d. an order pursuant to Section 33 of the *CPA* granting the costs of notice and of administering any plan of distribution in the action; and
- e. such other orders or directions as may be required to (i) determine the issues not determined at the trial of the common issues (if any), or (ii) coordinate or distribute a common fund of damages.

195. In further addition, the Plaintiff respectively requests the following directions or declaratory relief ^:

- a.     <sup>^</sup>
- b.     an order reviving, or directing the registrar to revive, Prism Place, pursuant to Section 208 of the *ABCA*, if required;
- c.     an order declaring service upon each of the Defendants to be good and sufficient, if required; and
- d.     such further and other relief as counsel may advise and this Honourable Court may deem just.

196. In further addition, the Plaintiff respectively requests:

- a.     pre-judgment and post-judgment interest on any or all amounts awarded by the Court; and
- b.     costs of this action on a full indemnity basis or such other basis as this Court deems just.

197. The Plaintiff proposes that this action be tried in the City of Calgary, in the Province of Alberta, as a proceeding under the *CPA*.

198. The Plaintiff pleads and relies on the:

- a.     *ABCA*;
- b.     *ASA* and applicable Securities Laws;
- c.     *CPA*;
- d.     *Judicature Act*;
- e.     *Partnership Act*;
- f.     *Trustee Act*;
- g.     Rules; and
- h.     such further Acts or regulations as counsel may advise<sup>^</sup>.



**NOTICE TO THE DEFENDANTS**

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

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

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

**WARNING**

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