

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

**CHIEF EXECUTIVE OFFICER OF THE FINANCIAL SERVICES
REGULATORY AUTHORITY OF ONTARIO**

Applicant

- and -

**SUSSMAN MORTGAGE FUNDING INC., 2486976 ONTARIO INC.
and 1981361 ONTARIO INC.**

Respondents

APPLICATION UNDER SUBSECTION 37 OF THE *MORTGAGE BROKERAGES, LENDERS
AND ADMINISTRATORS ACT, 2006*, S.O. 2006, c. 29, AS AMENDED, AND SECTION 101
OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c.C.43, AS AMENDED

**AFFIDAVIT OF AMY CASELLA
(Sworn April 25, 2025)**

I, Amy Casella, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND
SAY AS FOLLOWS:**

1. I am a legal assistant in the offices of Chaitons LLP (“**Chaitons**”), lawyers for the Applicant, and as such have knowledges of the matters hereinafter deposed to. The facts set forth herein are within my personal knowledge or determined from the face of the documents attached hereto as exhibits. Where matters to which I depose are stated to be based on information, I have identified the source of the information and verily believe same to be true.

2. Attached hereto and marked as exhibits are the following documents:

Exhibit “A” – Copy of a Statement of Claim issued April 8, 2025, in Court File No. CV-25-00001068-0000, commenced by Teresa Vincent et al. against Sussman Mortgage Funding Inc. (“**SMFI**”), Sanford Lawrence Sussman (also known as Sanford Lawrence Sussman and Sandy Sussman) and 2114568 Ontario Limited.

Exhibit “B” – True copy of an email sent by Chaitons to the Respondents’ investors and other stakeholders on April 16, 2025, advising that B. Riley Farber Inc. (“**BRF**”) would be attending SMFI’s premises to image its network, including accounting and mortgage software, emails and saved files, and to secure the paper records by relocating them to a separate, padlocked storage unit.

Exhibit “C” – Copy of a letter from BRF dated April 23, 2025 setting out certain steps taken to preserve the physical and electronic books and records of SMFI relating to the syndicated mortgage loan business carried on by SMFI.

Exhibit “D” – Copy of the Consent to Form of Order executed by each of the Respondents on April 15, 2025

SWORN remotely by Amy Casella, of the
City of Toronto, Province of Ontario, before
me at the City of Toronto, in the Province of
Ontario, this 25th day of April, 2025, in
accordance with O. Reg. 431/20,
Administering Oaths or Declaration Remotely

}

A stylized, handwritten signature in black ink, appearing to read 'David Im'.

David Im

Commissioner for Taking Affidavits
(or as may be)

A handwritten signature in blue ink, appearing to read 'Amy Casella'.

AMY CASELLA

**THIS IS EXHIBIT "A" REFERRED TO IN THE AFFIDAVIT
OF AMY CASELLA SWORN BEFORE ME THIS
25th DAY OF APRIL, 2025.**

A handwritten signature in dark ink, appearing to be "D. J.", is positioned above a horizontal line.

A Commissioner, etc.



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N

TERESA VINCENT, LAURA VINCENT, 2578709 ONTARIO LTD. and
UCA BRANDING INC.

Plaintiffs

-and-

SUSSMAN MORTGAGE FUNDING INC., SANDFORD LAWRENCE SUSSMAN (also
known as SANFORD LAWRENCE SUSSMAN and SANDY SUSSMAN), and 2114568
ONTARIO LIMITED

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

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

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

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

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

If you fail to defend this proceeding, judgment may be given against you in your absence and without further notice to you.

If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local legal aid office.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$7,500.00 for costs, within the time for serving and filing your Statement of Defence, you may move to have this proceeding dismissed by the Court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff's claim and \$1000.00 for costs and have the costs assessed by the Court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Dated: _____ Issued by: _____
Local Registrar

Address of
court office:

75 Mulcaster St.
Barrie, Ontario L4M 3P2

TO: **SUSSMAN MORTGAGE FUNDING INC.**
129 Dunlop Street East
Barrie, ON L4M 1A6

Defendant

AND TO: **SANDFORD LAWRENCE SUSSMAN (also known as SANFORD
LAWRENCE SUSSMAN and SANDY SUSSMAN)**
400 North Rivermede Road
Unit 102
Concord, ON L4K 3R5

Defendant

AND TO: **2114568 ONTARIO LIMITED**
6048 Highway No. 9
Unit 7
Schomberg, ON L0G 1T0

Defendant

CLAIM

1. The plaintiff, Laura Vincent, claims against the defendants, Sussman Mortgage Funding Inc. and Sandford Sussman, (“the Sussman Defendants”):
 - a. Damages in the sum of \$95,669.80;
2. The plaintiff, Teresa Vincent, claims against the Sussman Defendants:
 - a. Damages in the sum of \$95,669.80;
3. The plaintiff, 2578709 Ontario Ltd. claims against the Sussman Defendants:
 - a. Damages in the sum of \$563,949.00
 - b. Damages in the sum of \$250,000.00 or in a sum to be particularized at trial for taxes and penalties payable for capital gains, as detailed herein and a continuing indemnity in respect of the same for such losses as may arise after quantification and judgment;
4. The plaintiff, UCA Branding Inc. claims against the Sussman Defendants:
 - a. Damages in the sum of \$30,705.00;
5. The plaintiffs collectively claim against the Sussman Defendants:
 - a. A declaration that the said defendants hold the sums claimed above (and any pre and post judgment interest) in trust for the plaintiffs;
 - b. Punitive, exemplary or aggravated damages in the amount of \$500,000.00;
 - c. A declaration that any judgment against the said defendants shall survive bankruptcy pursuant to section 178 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;

- d. An order and declaration that any assets purchased or otherwise acquired for the benefit of the said defendants, or either of them, using funds belonging to the plaintiffs are held by them subject to a constructive trust in favour of the plaintiffs;
- e. An interim and final order directing and compelling the said defendants to provide a detailed accounting and tracing of all amounts advanced to and/or deposited with them or their affiliated entities by the plaintiffs;
- f. An interim and final order directing and compelling the said defendants to provide a detailed list of all assets owned or controlled, either directly or indirectly, through a company, partnership, or in their own personal capacity, that could be used to satisfy a damages award obtained in this proceeding;
- g. An interim and permanent mandatory order requiring any person, bank, financial institution, accounting firm, brokerage, investment house, credit union or trust company having knowledge of the order to forthwith provide to the plaintiffs; counsel the particulars of any and all bank accounts and/or other accounts held by the said defendants, whether jointly or solely;
- h. An interim and permanent order in the nature of a *Norwich* order requiring any person, bank, financial institution, accounting firm, brokerage, investment house, credit union or trust company having knowledge of the order to forthwith provide to the plaintiffs' counsel with copies of bank statements, cheques, deposit slips, or bank records, as the plaintiffs' counsel may require, in respect of any bank accounts and/or other accounts held by the said defendants, whether jointly or solely;
- i. An interim and interlocutory order prohibiting the said defendants or any other employee, agent or third party acting on their behalf from removing or destroying

any financial, electronic or other records which are relevant to the issues raised by this action;

- j. An order disgorging any profits made by the Sussman Defendants arising out of the use of the plaintiffs' funds;
 - k. An order requiring the Sussman Defendants to pay the plaintiffs' costs of this action on a full indemnity basis;
 - l. Pre-judgment and post-judgment interest on all amounts awarded in accordance with the terms of various Mortgage Investor Agreements between the parties as detailed herein, or, in the alternative, in accordance with the *Courts of Justice Act*;
6. The plaintiffs claim as against all defendants:
- a. Damages in the sum of \$780,000.00 for unjust enrichment and/or conversion;
 - b. An order disgorging any profits made by the defendants arising out of the use of the plaintiffs' funds;
 - c. A declaration that the lands situate at known as set out in Schedule "A" hereto (collectively, the "Property") are held in trust for the plaintiffs as security for the amounts owing to them by the Sussman Defendants;
 - d. An Order granting leave to issue a Certificate of Pending Litigation in respect of the Property;
 - e. A declaration that the plaintiffs have equitable mortgages on the Property;
 - f. Alternatively and without prejudice to the foregoing, a declaration that the plaintiffs have interests in registered charge SC543816 which is registered against the Property in priority to the Sussman Defendants;

- g. Further and in the alternative, a declaration that the Sussman Defendants hold their interest in registered charge SC543816 for the plaintiffs to the extent of all moneys owed by them to the plaintiffs as claimed herein, inclusive of all damages, costs and interest;
- h. Further and in the alternative, a declaration that the plaintiffs' interest in the Property ranks in priority over, or in the alternative, equally to registered charge SC543816 or any legal or equitable interest therein held by or on behalf of the Sussman Defendants or their associated entities that is registered against the Property;
- i. An interim and final order directing and compelling the defendants to provide a detailed accounting and tracing of all amounts paid to 2114568 Ontario Limited by, or on behalf of, the Sussman Defendants, or their affiliated entities, in respect of the Property;
- j. An interim and permanent injunction compelling 2114568 Ontario Limited to pay directly to the plaintiffs a prorated amount of its monthly payment obligations towards the Sussman Defendants under registered charge SC543816, which prorated amount shall be equal to the percentage that \$780,000.00 represents as against the total outstanding obligation thereunder;
- k. In the alternative to the preceding paragraph, an interim and permanent injunction compelling 2114568 Ontario Limited to pay into court those amounts until final disposition of this action;
- l. An interim and permanent order compelling 2114568 Ontario Limited to disclose and provide evidence of:

- i. The identity of all of its offices, directors and controlling minds;
- ii. The extent of all shareholders' or other loans or monies owed by it to the Susman Defendants or either of them or parties related, closely connected with or associated with them;
- iii. The extent of any financial interest in 2114568 Ontario Limited by the Susman Defendants or parties related, closely connected with or associated with them;
- iv. The extent of all shareholders' or other loans or monies owed to it to the Susman Defendants or either of them.
- m. In addition and/or subject to paragraph 5(k) above, an order that any defendants opposing the relief set out in paragraphs 1 to 6 above pay the plaintiffs' costs of this action on a full indemnity basis or such basis as deemed fit by this honourable court;
- n. Such further and other relief as may result from an examination of the books and records to be produced for inspection to the plaintiffs; and
- o. Such further and other relief as counsel may advise and this court deems just.

The Parties

- 7. The plaintiff, Laura Vincent ("Laura"), is an individual residing in Ontario.
- 8. The plaintiff, Teresa Vincent ("Teresa"), is an individual residing in Ontario.
- 9. Laura and Teresa are spouses.
- 10. The plaintiff, 2578709 Ontario Ltd. is a corporation incorporated pursuant to the laws of Ontario. Laura and Teresa are the sole directors, officers, and shareholders of 2578709 Ontario Ltd.

11. The plaintiff, UCA Branding Inc., is a corporation incorporated pursuant to the laws of Ontario. Laura and Teresa are the sole directors, officers, and shareholders of UCA Branding Inc.
12. The defendant, Sussman Mortgage Funding Inc., is a corporation incorporated pursuant to the laws of Ontario with a registered head office of 129 Dunlop Street East, Barrie, Ontario. Sussman Mortgage Funding Inc. carries on business as a mortgage funding corporation.
13. The defendant, Sandford Lawrence Sussman, also known as Sanford Sussman and Sandy Sussman, is an individual residing in Ontario and is the sole director and officer of Sussman Mortgage Funding Inc. This defendant holds himself out and/or is licensed mortgage agent. At all material times, Mr. Sussman was the primary point of contact between the plaintiffs and Sussman Mortgage Funding Inc.
14. The defendant, 2114568 Ontario Limited is the registered owner of the Property. At all material times, the directors and officers of 2114568 Ontario Limited were, and remain, Mr. Sussman and the non-party, Alex Troop. It is believed that the defendant, Sandford Lawrence Sussman, also known as Sanford Sussman and Sandy Sussman, holds shares in and/or has a financial interest in and/or owes money to the defendant, 2114568 Ontario Limited.

Overview

15. In or about 2016, the plaintiffs initially enquired with Sussman Mortgage Funding Inc. about investing funds into syndicated mortgages offered by Sussman Mortgage Funding Inc. At that time, the plaintiffs did not have sufficient capital to invest.
16. At all material times, the Sussman Defendants represented and held themselves out to be knowledgeable, professional, and that they guarantee their clients' best interests as being

their priority. Further, at all material times, the Sussman Defendants held themselves out to have and represented that they had access to over twenty mortgage companies for the best interest rates as well as alternative sources of funding, and that mortgage funding assures their clients of the best interest rates at all times while keeping them under a regulated limit to ensure that their investments are protected. All of the aforesaid representations were intended to induce clients/potential clients (including the plaintiffs) to use their services, which representations the plaintiffs' relied upon. The plaintiffs relied upon the said representations.

17. The Sussman Defendants appeared to be and held themselves out as being accredited and/or governed by the Registered Deposit Brokers Association, the Canadian Deposit Insurance Corporation and the Deposit Insurance Corporation of Ontario, which provided them with a level of comfort to the plaintiffs in choosing to invest their monies with the Sussman Defendants. The plaintiffs relied upon the said representations.
18. At all materials times, the plaintiffs fully trusted the Sussman Defendants.
19. In or about October/November 2023, 2578709 Ontario Ltd. was to sell a commercial property with a closing date set for January 9, 2024. The proceeds of sale of that building would form the majority, if not all, of Teresa and Laura's retirement savings.
20. Between October/November 2023 and January 2024, the plaintiffs returned to Sussman Mortgage Funding Inc. to discuss investing the proceeds of the above noted sale. The plaintiffs clearly expressed to Mr. Sussman that they wished to invest in safe, short term, first mortgage(s). Mr. Sussman acknowledging the foregoing requirement either personally and/or on behalf of Sussman Mortgage Funding Inc. provided the plaintiffs with information relating to available investment opportunities, specific to their investment

criteria and the rates of return, intending the plaintiffs to rely upon the same, which they did.

21. The plaintiffs advised Mr. Sussman that they had the following funds available for investment:

- | | |
|-------------------------|---------------|
| a. Teresa | \$95,000.00; |
| b. Laura | \$95,000.00; |
| c. 2578709 Ontario Ltd. | \$560,000.00. |

22. With respect to the \$560,000.00 from 2578709 Ontario Ltd., the plaintiffs expressly advised Mr. Sussman that \$250,000.00 of those funds was required to pay the plaintiffs' anticipated capital gains liability coming due in March 2025 and that it was imperative that these funds be returned and available to them by March 2025. Accordingly, the plaintiffs' expressed to Mr. Sussman the fundamental importance that any mortgage which that \$250,000.00 would be invested into must be returned prior to March 2025. Mr. Sussman expressly acknowledged and advised the plaintiffs that the said sum would be returned to them before the said date. The plaintiffs relied on the said representation which also formed an express contractual provision as between the parties.

23. In January 2024, Mr. Sussman represented to the plaintiffs that he had three (3) "very safe mortgages" to invest in that met the plaintiffs' investment criteria. The plaintiffs solely relied upon these representations in choosing to invest their monies.

24. At all material times the plaintiffs dealt with the defendant, Mr. Sussman. For the avoidance of doubt the plaintiffs hold the Sussman Defendants jointly and severally liable for their acts and omissions as pleaded herein.

25. At all material times the Sussman Defendants acted as fiduciaries of the plaintiffs.

Mortgage Investor Agreements

26. As detailed below, the plaintiffs invested, jointly and severally, into mortgages B73, H26, and B92.

27. All funds advanced by the plaintiffs to the Sussman Defendants were paid to Sussman Mortgage Funding Inc. and were at all material times trust funds held by the Sussman Defendants for the plaintiffs and solely to be used at the direction of the plaintiffs and for the plaintiffs' sole benefit.

Mortgage B73

28. On or about January 10, 2024, Laura, Teresa and 2578709 Ontario Ltd. each executed separate, but identical, Mortgage Investor Agreements in respect of the B73 mortgage. The terms of the B73 Mortgage Investor Agreements include, *inter alia*:

- a. This mortgage would be registered on the property known as Lot 1, Plan 51M-609, Township of Tiny, County of Simcoe, Vacant land;
 - b. This mortgage was to be a first mortgage;
 - c. The borrowers were Lyle Blair and Blairhampton Properties Inc.;
 - d. This mortgage would bear interest at the rate of 9.00% per annum;
 - e. The monthly repayments under this mortgage would be interest only payments in the amount of \$3,800.00 per month to the plaintiffs which amount was net of the Sussman Defendants' commission, as detailed below;
 - f. The term of this mortgage was for a period of one (1) year commencing June 2023 and maturing May 2024 with the principal being repaid to the plaintiffs at maturity.
29. Pursuant to the B73 Mortgage Investor Agreements, the plaintiffs were to fund the B73 mortgage as follows:

- a. Teresa: \$95,000.00;
- b. Laura: \$95,000.00;
- c. 2578709 Ontario Ltd.: \$250,000.00.

30. Pursuant to the B73 Mortgage Investor Agreements, the plaintiffs were to receive net monthly payments from Sussman Mortgage Funding Inc. as follows:

- a. Teresa: \$669.75;
- b. Laura: \$669.75;
- c. 2578709 Ontario Ltd.: \$1762.50.

31. Concerning the monthly interest payments, the mortgagor was to make the payments to Sussman Mortgage Funding Inc., which in turn was to pay such sums to the plaintiffs after having deducted 6% of the interest payable as commission giving rise to the amounts pleaded above.

32. On January 16, 2024, 2578709 Ontario Ltd. delivered a bank draft to the Sussman Defendants payable to Sussman Mortgage Funding Inc. in the sum of \$250,000.00 for the purpose of funding the B73 mortgage.

33. On February 16, 2024, Laura and Teresa delivered bank drafts to the Sussman Defendants, payable to Sussman Mortgage Funding Inc. each in the sum of \$95,000.00 for the purpose of funding the B73 mortgage.

34. The said sums advanced by the plaintiffs were to be solely and exclusively used to fund the above-mentioned mortgage for the benefit of the plaintiffs.

35. For the avoidance of doubt, subject to the Sussman Defendants' commission entitlement on the monthly interest as pleaded above, all funds were to be repaid to the plaintiffs on or before May 2024

H26 Mortgage

36. On or about February 13, 2024, 2578709 Ontario Ltd. executed a Mortgage Investor Agreement in respect of the H26 mortgage. The terms of the H26 Mortgage Investor Agreement include, *inter alia*:

- a. This mortgage would be registered on the property known as 37 Coldwater Road, Severn Township, Ontario.
- b. This mortgage was a first mortgage;
- c. The borrower was Allan Howarth;
- d. This mortgage would bear interest at the rate of 9.50%;
- e. The monthly payments under this mortgage would be interest only payments in the amount of \$3,325.00 per month;
- f. The term of this mortgage was for a period of one (1) year commencing September 2023 and maturing August 2024.

37. Pursuant to the H26 Mortgage Investor Agreement, 2578709 Ontario Ltd was to fund this mortgage in the amount of \$310,000.00.

38. Pursuant to the H26 Mortgage Investor Agreement, 2578709 Ontario Ltd. was to receive net monthly payments from Sussman Mortgage Funding Inc. in the amount of \$2185.50.

39. Concerning the monthly interest payments, the mortgagor was to make the payments to Sussman Mortgage Funding Inc., which in turn was to pay such sums to the plaintiffs after having deducted 6% of the interest payable giving rise to the amounts pleaded above.

40. On February 16, 2024, 2578709 Ontario Ltd. delivered a bank draft to the defendants, in the sum of \$310,000.00 for the purpose of funding the H26 mortgage.

41. The said sums advanced by the plaintiff was to be solely and exclusively used to fund the above-mentioned mortgage for the benefit of the plaintiff.

42. For the avoidance of doubt, subject to the Sussman Defendants' commission entitlement on the monthly interest as pleaded above, all funds were to be repaid to the plaintiffs on or before August 2024.

B92 Mortgage

43. In or about July 2024, Mr. Sussman advised the plaintiffs that if they had any additional funds, they should invest them with Sussman Mortgage Funding Inc. Mr. Sussman emphasized that investments as low as \$10,000.00 could be fruitful to the plaintiffs and enticed the plaintiffs into investing further funds by providing promising per-diem interest rates.

44. On or about July 17, 2024, as a result of the aforementioned enticement, UCA Branding Inc. executed a Mortgage Investor Agreement in respect of the B92 mortgage. The terms of the B92 Mortgage Investor Agreement include, *inter alia*:

- a. This mortgage would be registered on the property known as 48 Redfern Avenue, Barrie, Ontario;
- b. This mortgage was to be a second mortgage;
- c. The borrowers were Gregory Bowen and Krystyna Bowen;
- d. This mortgage would bear interest at the rate of 10.00%;
- e. The monthly payments under this mortgage would interest only payments in the amount of \$1,041.67 per month;
- f. The term of this mortgage was for a period of one (1) year maturing in March 2025.

45. Pursuant to the B92 Mortgage Investor Agreement, UCA Branding Inc. funded this mortgage in the amount of \$30,000.00.
46. Pursuant to the B92 Mortgage Investor Agreement, UCA Branding Inc. was to receive net monthly payments from Sussman Mortgage Funding Inc. in the amount of \$235.00.
47. Concerning the monthly interest payments, the mortgagor was to make the payments to Sussman Mortgage Funding Inc., which in turn was to pay such sums to the plaintiff after having deducted 6% of the interest payable giving rise to the amounts pleaded above.
48. On or about July 11, 2024, UCA Branding Inc. delivered a bank draft to the Sussman Defendants payable to Sussman Mortgage Funding Inc. in the sum of \$30,000.00 for the purpose of funding the B92 mortgage.
49. The said sums advanced by the plaintiff were to be solely and exclusively used to fund the above mentioned mortgage for the benefit of the plaintiff.
50. For the avoidance of doubt, subject to the Sussman Defendants' commission entitlement on the monthly interest as pleaded above, all funds were to be repaid to the plaintiff on or before March 2025.

Common Terms of Mortgage Investor Agreements

51. All of the Mortgage Investor Agreements detailed in paragraphs 26 to 50 above, which were drafted by the Sussman Defendants, were executed by Mary Chmiel, broker, on behalf of Sussman Mortgage Funding Inc., and contained, *inter alia*, the following terms:
- a. The mortgage shall be registered in the name of Sussman Mortgage Funding Inc.,
in trust;

- b. Sussman Mortgage Funding Inc. hereby acknowledges that the mortgage which they hold as mortgagees is held for and solely on behalf of the investor who gives Sussman Mortgage Funding Inc. the funds;
 - c. Sussman Mortgage Funding Inc. shall pay the investor their portion of the monthly mortgage payment including any bonuses and penalties that may be paid;
 - d. Sussman Mortgage Funding Inc. shall inform the investor in writing in the event that the mortgage broker becomes aware of any subsequent encumbrance on title or any other significant change in circumstances affecting the mortgage.
52. The plaintiffs plead and rely upon the terms of the said Mortgage Investor Agreements which formed the contract(s) between the plaintiffs and Sussman Defendants.
53. In the event that any of the terms of the Mortgage Investor Agreements are vague and/or ambiguous, the plaintiffs plead and rely on the doctrine of *contra preforentum*.
54. Further, and without prejudice to the foregoing, the Sussman Defendants owed the plaintiffs an express contractual, or implied contractual or general and/or fiduciary duty of care to hold and treat the plaintiffs' monies in the same manner as specified in the Mortgage Investor Agreements, and/or as otherwise required by the *Mortgage Brokers, Lenders and Administrators Act*. Specifically, the Sussman Defendants owed the plaintiffs a duty of care to, among other things:
- a. To conduct themselves as a reasonable, prudent, competent mortgage advisor;
 - b. To maintain proper and accurate accounts;
 - c. To maintain separate trust accounts;
 - d. Not to comingle funds;
 - e. Not make a secret profit;

- f. Not to use the plaintiffs' funds in any unauthorized manner;
 - g. To advise them immediately of changes in the status of their investments.
55. At all material times, the reasonable expectations and entitlements of the plaintiffs, based on the assurances and/or Mortgage Investor Agreements and/or the Sussman Defendants' duties, were that:
- a. The mortgages would be managed in accordance with the terms of the Mortgage Investor Agreements;
 - b. The mortgages would be managed in a manner that was in the best interests of the plaintiffs;
 - c. The funds advanced by the plaintiffs:
 - i. Would be fully secured at all material times;
 - ii. Repaid in full by, one or immediately after the respective maturity dates, absent the express written authority of the plaintiffs;
 - iii. Would not be reinvested with any other mortgages or used for any other purposes without their express prior written approval;
 - iv. Would only be used expressly as permitted by the plaintiffs.

Payments Received Under Mortgages

56. By virtue of the foregoing, by July 2024, the plaintiffs had collectively invested the aggregate sum of \$780,000.00 into mortgages B73, H26 and B92.
57. The plaintiffs first received payments under the B73 and H26 mortgages commencing April 2024. Payments were made, for the most part, until December 2024 as follows:

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	U
1	Hold co	Stub Date	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec	
2		B-73		1763		1763	1763	1763	1763	1763	1763	?	1763	1763	15862.5
3				19-Feb		05-Apr	13-May	07-Jun	18-Jul	27-Aug	27-Sep		12-Dec	19-Dec	
4		H-26			2186		2186	2186	2186	2186	2186	?	2186	2186	17484
5					19-Mar		03-May	27-May	03-Jul	09-Aug	27-Sep		12-Dec	19-Dec	
6	UCA														
7		B-92							?	?	235	?	235	235	705
8											27-Sep		12-Dec	12-Dec	
9	Teresa														
10		B-73			?	669.8	669.8	669.8	669.8	?				2679	5358
11						05-Apr	10-May	07-Jun	18-Jul					12-Dec	
12	Laura														
13		B-73			?	669.8	669.8	669.8	?	669.8	669.8	669.8	669.8	669.8	5358
14						05-Apr	17-May	07-Jun		09-Aug	12-Sep	18-Dec	18-Dec	19-Dec	
15															44767.5
16															

58. Notwithstanding that the B73 and H26 mortgages purported to mature in May 2024 and August 2024, respectively, the Sussman Defendants failed to re-pay to the plaintiffs the principal sums and instead continued (as pleaded) to pay certain monthly interest payments as detailed above.

59. After the maturity dates of the said mortgages, the Sussman Defendants represented and assured the plaintiffs that the said mortgages were “in good standing” and “were registered”. Mr. Sussman went so far as show the plaintiffs, on multiple occasions, commencing on or about December 2024, his computer screen, purporting to show documents evidencing the said mortgages being in good standing. The plaintiffs were unfamiliar with what these documents, but trusted that Mr. Sussman was being truthful and relied on his representations and assurances.

60. On November 23, 2024, the plaintiffs e-mailed Mr. Sussman to advise that Teresa had not received certain monthly payments under the B73 mortgage. Mr. Sussman did not respond to this e-mail.

61. On December 4, 2024, the plaintiffs delivered a text message to Mr. Sussman to advise, again, that certain monthly payments under the mortgages were outstanding. Mr. Sussman replied with an assurance that “all would be cleared up today”. No payments were received.

62. On December 12, 2024, the plaintiffs delivered a text message to Mr. Sussman to advise, again, that no payments had been received. Mr. Sussman replied and advised the plaintiffs to “check their bank accounts at 9:30am .” By 9:30am, no payments had been received.

63. By December 12, 2024, the following monthly payments were outstanding to the plaintiffs:

- a. Teresa, with respect to the B73 mortgage, payment of \$669.80 for each of March, August, September, October, November and December, 2024;
- b. Laura, with respect to the B73 mortgage, payment of \$669.80 for July 2024;
- c. 2578709 Ontario Ltd, with respect to the B73 mortgage, payment of \$1763.00 for October 2024;
- d. 2578709 Ontario Ltd, with respect to the H26 mortgage, payment of \$2186.00 for October 2024;
- e. UCA Branding Inc., with respect to the B92 mortgage, payment of \$235.00 for each of July, August, and October 2024.

64. The Sussman Defendants caused partial “catch up” payments to be made as follows:

- a. To Teresa, with respect to the B73 mortgage, one payment of \$2679.00 on December 12, 2024, representing approximately four months catch up;
- b. To Laura, with respect to the B73 mortgage, two payments of \$669.80 on December 18, 2024, and one payment of \$669.80 on December 19, 2024;
- c. To 2578709 Ontario Ltd. with respect to the B73 mortgage, one payment of \$1763.00 on December 12, 2024, and one payment of \$1763.00 on December 19, 2024;

- d. To 2578709 Ontario Ltd with respect to the H26 mortgage, one payment of \$2186.00 on December 12, 2024, and one payment of \$2186.00 on December 19, 2024;
 - e. To UCA Branding Inc., with respect to the B92 mortgage, two payments of \$235.00 on December 12, 2024, representing two months catch up.
65. No payments have subsequently been received.
66. Between January 2025 and March 2025, the plaintiffs repeatedly enquired with Mr. Sussman via e-mail, text message, phone call, or in person meetings, as to the status of outstanding payments under the mortgages. The plaintiffs received a combination of no response, or a series of promises and assurances that were designed to and did indeed mislead the plaintiffs to the effect that the payments owing to the plaintiffs would be “caught up”.
67. Additionally, the plaintiffs specifically enquired with Mr. Sussman as to why no repayments of the principal funds advanced under the mortgages had been received as the mortgages had matured.
68. The plaintiffs were assured and misled on multiple occasions by Mr. Sussman that the various mortgages existed and were in good standing. As detailed below, the plaintiffs state as fact that Mr. Sussman knew, or ought to have known, that Sussman Mortgage Funding Inc. was in financial difficulties and ought to have been aware that his promises and assurances to the plaintiffs were false and failed to advise them of the truth.
69. Based on the aforementioned representations, which the plaintiffs relied on, the plaintiffs understood that their investments remained in good standing and secured as set out in the Mortgage Investor Agreements, the plaintiffs accordingly deferred taking any steps to

assert their rights in the belief that their funds were secured and would be repaid in full “soon”, as promised.

70. As detailed below, the said assurances were false. Mr. Sussman knew and made the same to deflect and/or deter the plaintiffs from asserting their entitlements. Alternatively, the said assurances were negligently made and/or false and/or designed to mislead the plaintiffs. Further, the acts and/or omissions of the Sussman Defendants were a breach of the express and/or alternatively implied terms of the of Mortgage Investor Agreements and/or a breaches of the said defendants’ duties of care towards the plaintiffs.

Discovery of Mortgages Discharged/Never Existing

71. On March 21, 2025, the plaintiffs retained counsel, at which time they learned, *inter alia*, that:

- a. With respect to the B73 Mortgage, notwithstanding the B73 Mortgage Investor Agreement having been executed in January 2024 and/or the representations and assurances made by the Sussman Defendants:
 - i. No mortgage in favour of Sussman Mortgage Funding Inc. has existed on this property since 2009;
 - ii. The named “borrowers” under the B73 mortgage had not owned that property since 2018.
- b. With respect to the H26 Mortgage:
 - i. Sussman Mortgage Funding Inc. caused the H26 mortgage to be discharged from title to the subject property on August 22, 2024 and received the plaintiffs’ funds and failed to account to the plaintiffs in respect of the same.
- c. With respect to the B92 Mortgage:

- i. Sussman Mortgage Funding Inc. caused the B92 mortgage to be discharged from title to the subject property on February 28, 2025 and received the plaintiffs' funds and failed to account to the plaintiffs in respect of the same..

72. On or about March 21, 2025, the plaintiffs confronted Mr. Sussman about these discoveries and formally demanded repayment under the mortgages. Mr. Sussman, by way of e-mail on the same day, advised the plaintiffs that their \$780,000.00 (which Mr. Sussman incorrectly noted as \$750,000.00) had been invested into mortgage A18 and that the funds were located in a Sussman Mortgage Funding Inc. portfolio. The Sussman Defendants confirmed to the plaintiffs that the A18 mortgage is secured by way of Instrument No. SC543816, as detailed below.

73. The plaintiffs plead and aver that:

- a. They have no knowledge of the location of the funds invested into the B73 mortgage, which mortgage never existed;
- b. No funds have been paid to 2578709 Ontario Ltd. despite the H26 mortgage having been discharged on August 22, 2024;
- c. No funds have been paid to UCA Branding Inc. despite the B92 mortgage having been discharged on February 28, 2025;
- d. At no time were they advised that their funds had been invested into any mortgage(s) save for those contemplated in the individual Mortgage Investor Agreements;

- e. At no time did they, or any of them, provide their consent or approval for their funds to be re-invested or otherwise diverted for a purpose not contemplated in the various Mortgage Investor Agreements;
- f. The Sussman Defendants have made and are making a secret profit from the use of plaintiffs' funds.

The “A18” Mortgage

74. As detailed above, Mr. Sussman advised the plaintiffs that their monies were re-invested or otherwise reallocated, without their knowledge, consent nor approval, to mortgage “A18”. The plaintiffs plead and aver as follows:

- a. 2114568 Ontario Limited is the registered owner of the Property described in Schedule “A”;
- b. Mr. Sussman is one of two directors and officers of 2114568 Ontario Limited;
- c. Mr Sussman is believed to be a shareholder or otherwise have a direct or indirect financial interest in 2114568 Ontario Limited and is otherwise owed money by it;
- d. 2114568 Ontario Limited is in some stage of developing the Property as part of what is believed to be the Lakepoint Village development in Ramara, Ontario, or in any event, a development for which 2114568 Ontario Limited stands to benefit from;
- e. The Property is encumbered by way of a mortgage, pursuant to Instrument No. SC543816;
- f. Instrument No. SC543816 is a charge registered against the Property which was registered on or about May 15, 2007. At the time of registration, Instrument No. SC543816 purported to secure the Property in favour of Sussman Mortgage

Funding Inc. as to an undivided 81.4% interest therein, with the remaining 18.6% being held in favour of B2B Trust for various RRSP accounts, in trust;

- g. Since May 15, 2015, Sussman Mortgage Funding Inc. has transferred a portion of its interest in Instrument No. SC543816 at least 10 times to various additional RRSP accounts, held in trust by B2B Trust. It is unknown at this stage to the plaintiffs what percentage of Instrument No. SC543816 Sussman Mortgage Funding Inc. holds an undivided interest in.

75. The plaintiffs plead and aver, in addition to their not having provided consent nor approval for their monies to be invested in the A18 mortgage, that:

- a. The Sussman Defendants have comingled the plaintiffs' funds into the A18 mortgage secured against the Property;
- b. The percentage of charge SC543816 secured in favour of Sussman Mortgage Funding Inc. is unknown; and
- c. Mr. Sussman, either personally or via his related entities, has and continues to benefit from the plaintiffs' funds as it relates to the Property and A18 mortgage;
- d. The Sussman Defendants have made and are making a secret profit from the use of plaintiffs' funds.

Breach of Contract

76. By virtue of the facts hereinbefore pleaded, and in breach of contract, the Sussman Defendants have failed to discharge their obligations pursuant to the Mortgage Investment Agreements by, *inter alia*:

- a. Failing to deliver monthly payments to the plaintiffs;

- b. Failing to deliver payments to the plaintiffs upon discharging of the H26 and B92 mortgages;
- c. Failing to notify the plaintiffs of any material changes in respect of the mortgages;
- d. Failing to account to the plaintiffs;
- e. Retaining the plaintiffs' funds;
- f. Failing to place funds in mortgage B73;
- g. Failing to maintain proper books of account and records;
- h. Failing to maintain a trust account for the deposit and retention of the plaintiffs' funds;
- i. Comingling the plaintiffs' funds with funds belonging to other of the Sussman Defendants' clients;
- j. Using the plaintiffs' funds for purposes not contemplated nor authorized and/or advancing the plaintiffs' funds to 2114568 Ontario Limited;
- k. Making secret undisclosed profits from the use of the plaintiffs' funds.

Negligence

77. By virtue of the facts hereinbefore pleaded, the Sussman Defendants, in breach of their duty of care:

- a. Failed to deliver monthly payments to the plaintiffs;
- b. Failed to deliver payments to the plaintiffs upon discharging of the H26 and B92 mortgages;
- c. Failed to notify the plaintiffs of any material changes in respect of the mortgages;
- d. Failed to account to the plaintiffs;
- e. Retained the plaintiffs' funds;

- f. Failed to place funds in mortgage B73;
- g. Failed to maintain proper books of account and records;
- h. Failed to maintain a trust account for the deposit and retention of the plaintiffs' funds;
- i. Comingled the plaintiffs' funds with funds belonging to other of the Sussman Defendants' clients;
- j. Used the plaintiffs' funds for purposes not contemplated nor authorized and/or advancing the plaintiffs' funds to 2114568 Ontario Limited;
- k. Making secret undisclosed profits from the use of the plaintiffs' funds.

Breach of Fiduciary Duty

78. By virtue of the Mortgage Investor Agreements and the facts pleaded herein, the Sussman Defendants assumed responsibility for the management of the plaintiffs' funds and the Sussman Defendants agreed to forsake their own interests for those of the plaintiffs in managing those funds and therefore assumed fiduciary duties to manage the plaintiff funds for the benefit of the plaintiffs. In effecting unauthorized transfers and/or discharging of encumbrances, the Sussman Defendants breached their fiduciary duties to the plaintiffs, deliberately, intentionally and/or recklessly mismanaged the plaintiffs' funds and disregarded the interests of the plaintiffs by failing to repay to them, failing to notify them of material changes in respect of the mortgages, or show any care for the same, nor return the distributions thereon.

Breach of Trust

79. The Sussman Defendants have, at all material times, held the plaintiffs' funds referred to herein, and all profits, equities, and interests in real property acquired thereby, in trust for the plaintiffs in performance of the Mortgage Investment Agreements detailed herein.
80. The Sussman Defendants are in breach of trust by virtue of their failure to remit the aforesaid funds to the plaintiffs and by their failure to adequately and appropriately care for the plaintiffs' funds in the manner contemplated by the Mortgage Investment Agreements.
81. Accordingly, the plaintiffs plead and aver that they are entitled to an actual, resulting and/or constructive trust in respect of any funds received and/or held by the Sussman Defendants.

Fraud

82. The Sussman Defendants are jointly and severally liable for fraud in connection with the mortgages described herein, and the subsequent transactions involving the proceeds of the same that belonged to the plaintiffs, in which they were directly or indirectly involved or which resulted therefrom, as detailed below.
83. Mr. Sussman has a direct ownership interest, via 2114568 Ontario Limited, in the Property, which is encumbered by the A18 mortgage, which mortgage is, in part, held for the benefit of Sussman Mortgage Funding Inc. The foregoing amounts to self-dealing by Mr. Sussman.
84. The Sussman Defendants are liable to account to the plaintiffs for all funds obtained from the plaintiffs in connection with the mortgages described herein in which they were directly or indirectly involved or which resulted therefrom.
85. The Sussman Defendants caused the plaintiffs to advance mortgage funds totalling \$780,000.00 in fraudulent circumstances. At all times the funds advanced by the plaintiffs

were supposed to be secured by way of mortgages over the properties with sufficient equity in excess of the advanced funds.

86. The Sussman Defendants' fraud includes, but is not limited to, misappropriating and/or defalcating the plaintiffs funds for purposes not authorized, as well as use of the funds to loan to 2114568 Ontario Limited, without authority of, or any advice to, the plaintiffs.

87. The fraudulent scheme was arranged and orchestrated principally or subsequently conducted for the benefit of the Sussman Defendants, Mr. Sussman personally and/or his related entities, the identities of which are unknown at this stage, or otherwise for the benefit of Mr. Sussman, and his related entities, as they relate to his/their interest in the Property subject to mortgage A18.

88. The plaintiffs plead and rely on the acts of misrepresentation, fraudulent misrepresentation and acts and/or omissions of the Sussman Defendants as pleaded herein.

89. Full particulars of the fraudulent conduct of the defendants is not known to the plaintiffs but is known to the Sussman Defendants.

Fraudulent Misrepresentation

90. The plaintiffs plead and aver that the representations of the Sussman Defendants were at all material times false, fraudulent and intended to and did indeed induce the plaintiffs to advance funds to the Sussman Defendants or alternatively were made at a time when Mr. Sussman knew or ought to have known that corporation had financial issues, and/or made to delay or deter or deflect the plaintiffs from taking steps to recover and/or receive their funds.

91. The particulars of the fraudulent misrepresentations by the Sussman Defendants, include, *inter alia* that:

- a. They represented that they were granting security interests in certain property, which Sussman Mortgage Funding Inc. and its directing mind knew it had no interest nor ability to grant such security;
 - b. They discharged the H26 and B92 mortgages without returning the plaintiffs investments to them;
 - c. They failed to advise the plaintiffs that the said mortgages had been discharged;
 - d. They failed to account to the plaintiffs and instead made purported monthly interest payments to the plaintiffs so as to obscure and hid the fact that they had received the plaintiffs' funds from the discharge of the mortgages;
 - e. The steps taken to maintain the security for the Mortgage Investment Agreements that the plaintiffs had with Sussman Mortgage Funding Inc.;
 - f. Sussman Mortgage Funding Inc.'s interest in Lot 1, Plan 51M-609, Township of Tiny, County of Simcoe (i.e. the existence of B73 mortgage);
 - g. The mortgages were in good standing when, in fact, one mortgage never existed and the remaining two mortgages had been discharged;
 - h. The timelines for repayment of money invested by the plaintiffs;
 - i. The general status of the funds invested by the plaintiffs; and
 - j. Such further and other instances of misrepresentation as are currently only known to the defendants but which will be particularized at trial.
92. The representations by the Sussman Defendants, or either of them, were untrue and Mr. Sussman had knowledge of the falsity of such representations and intended to deceive the plaintiffs in order to induce them to invest money with Sussman Mortgage Funding Inc. and were otherwise made recklessly.

93. The plaintiffs reasonably relied on such representations and invested money with Sussman Mortgage Funding Inc. to their detriment and have suffered damages in the measure of their investments and promised returns.

94. The plaintiffs plead and rely on all acts and omissions pleaded above in respect of all of the causes of action set out herein, *mutatis mutandis*.

Personal Liability of the defendant, Mr. Sussman – Piercing the Corporate Veil

95. The plaintiffs plead and aver that, at all material times, as the sole director and officer of Sussman Mortgage Funding Inc., Mr. Sussman completely dominated and was in total control thereof and Mr. Sussman expressly directed wrongful acts to be done by or through Sussman Mortgage Funding Inc.

96. The plaintiffs plead and aver that Mr. Sussman was engaged in flagrantly unjust conduct, including, *inter alia*:

- a. Breaching his fiduciary duties;
- b. Failing to manage Sussman Mortgage Funding Inc. in a reasonable, diligent manner;
- c. Directing and authorizing Sussman Mortgage Funding Inc. to misuse the plaintiffs' funds;
- d. Directing and authorizing Sussman Mortgage Funding Inc. to otherwise retain the plaintiffs' funds;
- e. Directing and authorizing Sussman Mortgage Funding Inc. to make purported interest payments to the plaintiffs so as to misdirect from the plaintiffs the fact that the (applicable) mortgages had been discharged and the principal advanced by the

plaintiffs had been received by or on behalf of Sussman Mortgage Funding Inc.
from the borrowers;

- f. Directing and authorizing Sussman Mortgage Funding Inc. to invest the plaintiffs' funds in mortgage A18 without authorization, in respect of which Sussman has a direct or indirect financial gain/interest;
- g. Committing fraudulent acts as pleaded herein including the misrepresentations as pleaded;
- h. Acting dishonestly as pleaded herein including the misrepresentations as pleaded;
- i. Making misrepresentations to the plaintiffs before and after funds were advanced;
- j. Making fraudulent misrepresentations to the plaintiffs before and after funds were advanced;
- k. Received and made use of the plaintiffs' funds personally and/or directed or permitted Sussman Mortgage Funding Inc. or third parties to use the funds for purposes that were not authorized by the plaintiffs;
- l. Making a secret profit from the use of the plaintiffs' funds;
- m. Misled the plaintiffs as to ownership of and placing of the B73 mortgage;
- n. Retained and/or made use of the funds advanced for all of the mortgages; and
- o. Acted in a conflict of interest, which Mr. Sussman failed to disclose, by misusing the plaintiffs' funds for mortgage A18 in which Mr. Sussman has a direct or indirect financial interest in.

97. As a result of the foregoing, the plaintiffs plead and aver that Mr. Sussman ought not be permitted to hide behind the corporate veil of Sussman Mortgage Funding Inc. and that Mr. Sussman is jointly and severally liable for the corporation's acts and/or omissions.

Interference with Economic Relations

98. By virtue of the facts hereinbefore pleaded, the Sussman Defendants are liable for damages based on the intentional wrongful interferences with the plaintiffs' economic relations by misappropriating the plaintiffs' funds for the benefit of the Sussman Defendants. The Sussman Defendants' actions have constitute a significant interference with the plaintiffs' economic interests by unlawful means. As a consequence, the plaintiffs', among other things, have lost the opportunity to invest their monies elsewhere. These injuries are a clear and natural consequence of the Sussman Defendants' deliberate course of conduct, and was therefore intended by the Sussman Defendants.

Conversion – As Against All Defendants

99. By virtue of the facts hereinbefore pleaded, specifically as they relate to the A18 mortgage, the defendants, as described, received and wrongfully interfered with the plaintiffs' funds by using such funds as well as the interest/profits earned thereon for the purposes inconsistent with the investment purpose for which they were advanced. Such inconsistent uses of such funds included the wrongful appropriation by the defendants.

Unjust Enrichment – As Against All Defendants

100. By virtue of the facts hereinbefore pleaded, specifically as they relate to the A18 mortgage, the defendants have been enriched in the amount of at least \$780,000.00 of monies belonging to the plaintiffs, which monies the plaintiffs have been deprived of, for which there is no juristic reason. The plaintiffs plead and aver that the defendants have been unjustly enriched and are liable, jointly and severally, to repay these sums to the plaintiffs.

Damages Owing under the Mortgages

101. By virtue of the facts hereinbefore pleaded, the plaintiffs plead and aver that they have suffered loss and damage in respect of monies outstanding under the mortgages in the following amounts:

a. Teresa:

Principal and unpaid interest (B73):	\$95,669.80
--------------------------------------	-------------

b. Laura:

Principal and unpaid interest (B73):	\$95,669.80
--------------------------------------	-------------

c. 2578709 Ontario Ltd.:

Principal and unpaid interest (B73):	\$251,763.00
--------------------------------------	--------------

Principal and unpaid interest (H26):	\$312,186.00
--------------------------------------	--------------

Capital gains:	\$To be particularized
----------------	------------------------

d. UCA Branding Inc.:

Principal and unpaid interest (B92):	\$30,705.00
--------------------------------------	-------------

102. In addition, as hereinbefore pleaded, 2578709 Ontario Ltd.'s investment of \$250,000.00 was promised by Mr. Sussman to be repaid in full by March 2025 so as to allow the plaintiffs' to satisfy their capital gains obligations coming due in March 2025. As of the date of issuing this statement of claim, the plaintiffs are not aware of any penalties/interest which may be owing on those obligations, which in any event will be particularized prior to trial and ought to be repaid to the 2578709 Ontario Ltd. by the defendants, or either of them. The plaintiffs' best and current estimate of such liability is \$45,000.00 plus any ongoing penalties.

103. By virtue of the foregoing, the plaintiffs have suffered, or will suffer, loss and damage for which the Sussman Defendants and/or the defendants are liable as alleged herein.

104. The plaintiffs not have the ability to mitigated such losses due to the acts and omission and accordingly the Sussman Defendants and/or the defendants ought to remain liable to indemnify the plaintiffs in respect of any penalties and interest that the plaintiffs may owe to Canada Revenue Agency and any associated costs and fees for dealing therewith.

Punitive and/or Exemplary and/or Aggravated Damages

105. In engaging in the practices set forth above, the plaintiffs plead that the Sussman Defendants have engaged in conduct that was high handed, outrageous, reckless, wanton, entirely without care, deliberate, cowardly, disgraceful and willful and without regard for the plaintiffs' care, lives and financial wellbeing, which deserves the censure of this court and an award of punitive, exemplary and/or aggravated damages.

106. The Sussman Defendants' conduct was particularly reckless in light of knowing about the plaintiff, 2578709 Ontario Ltd.'s, capital gains liability coming due in March 2025, and the potential for penalties and/or interest payable thereon if not satisfied on time.

107. The plaintiffs plead and rely upon the following:

- a. The *Mortgage Brokerages, Lenders and Administrators Act*, 2006, S.O. 2006, c. 29, sections: 43-50;
- b. The *Mortgage Brokerages, Lenders and Administrators Act*, 2006, S.O. 2006, c. 29, regulations O. Reg 189/08, 188/08, 187/08, 410/07;
- c. The *Negligence Act*, R.S.O. 1990, c. N.1, section 1, 2, 4;

- d. The *Courts of Justice Act*, R.S.O. 1990, c. C. 43, sections 66, 101, 103, 104;
 - e. The Canadian Mortgage Brokers Association's Code of Professional Conduct.
108. The plaintiffs request that this matter be tried in Barrie.

April 8, 2025

HGR GRAHAM PARTNERS LLP
107- 190 Cundles Road East
Barrie, ON L4M 4S5

Riley C. Brooks [LSO #: 81371O]
Email: Rbrooks@hgrgp.ca
Tel: 705.737.1811
Fax: 705.737.5390

Lawyer for the Plaintiffs

SCHEDULE “A”

Property 1

PIN: 5877-0031 (LT)

DESCRIPTION: PT S 1/2 LT 24 CON 10 MARA PT 1 51R21650; RAMARA

Property 2

PIN: 58707-0018 (LT)

DESCRIPTION: PT LT 25 CON 10 MARA PT 1 & 2; 51R23571; S/T MINTERAL
RIGHTS RESERVATION IN RO1372883; RAMARA

VINCENT et al. Plaintiffs	Court File No.
-and- SUSSMAN MORTGAGE FUNDING INC. et al Defendant	
ONTARIO SUPERIOR COURT OF JUSTICE PROCEEDING COMMENCED AT BARRIE	
STATEMENT OF CLAIM	
HGR GRAHAM PARTNERS LLP 107- 190 Cundles Road East Barrie, ON L4M 4S5 Riley C. Brooks [LSO #: 813710] Email: Rbrooks@hgrgp.ca Tel: 705.737.1811 Fax: 705.737.5390 Lawyer for the Plaintiffs	

**THIS IS EXHIBIT "B" REFERRED TO IN THE AFFIDAVIT
OF AMY CASELLA SWORN BEFORE ME THIS
25th DAY OF APRIL, 2025.**

A handwritten signature in black ink, appearing to be "DA" followed by a stylized flourish.

A Commissioner, etc.

From: [George Benchetrit](#)
To: mdavis@foglers.com; [Obradovic, Teodora](#); hilary@be-law.ca; malen@gsnh.com; smosonyi@robapp.com; mark.mandelker@clydeco.ca; [Gary Luftspring](#); daltshuller@rickettsharris.com; [Steven L. Graff](#); mlici@airdberlis.com; धारलंद@tgf.ca; [D. J. Miller](#); jh@friedmans.ca
Cc: [David Im](#); [Allan Nackan](#); rwilliams@brileyfin.com; [Paul Daffern](#)
Subject: SMFI - Preservation of Records
Date: Wednesday, April 16, 2025 12:15:04 PM

All,

Please note that Mr. Daffern has confirmed that Mr. Sussman will cooperate for B. Riley Farber to attend at the SMFI premises tomorrow to (1) image the network at SMFI to capture the accounting and mortgage software as well as emails and saved files, and (2) secure the paper records by moving all files down to a separate padlocked storage unit in the basement (locks to be changed by BRF). On behalf of FSRA, we have asked that BRF and Mr. Sussman liaise to attend to this tomorrow.

George Benchetrit | Partner*

*Denotes Professional Corporation

Chaitons LLP | T: 416.218.1141

**THIS IS EXHIBIT "C" REFERRED TO IN THE AFFIDAVIT
OF AMY CASELLA SWORN BEFORE ME THIS
25th DAY OF APRIL, 2025.**

A handwritten signature in dark ink, appearing to be "D. J.", is positioned above a horizontal line.

A Commissioner, etc.

April 23, 2025

Via email: George@chaitons.com

Chaitons LLP
5000 Yonge Street
North York, ON M2N 0A7

Attn: George Benchetrit

Re: Sussman Mortgage Funding Inc. – Data Preservation

Mr. Benchetrit,

Further to email and telephone correspondence with the Financial Services Regulatory Authority (“FSRA”) and Chaitons LLP (“Chaitons”), counsel to FSRA, on or about April 16, 2025, and at the request of FSRA, B. Riley Farber Inc. (“BRF”) has taken certain steps to preserve the physical and electronic books and records of Sussman Mortgage Funding Inc. (“SMFI”) relating to the syndicated mortgage loan business (the “SML Business”) carried on by SMFI. This letter describes the steps taken by BRF.

1. BRF attended at SMFI’s premises at 129 Dunlop Street East, Barrie, Ontario (the “Premises”) on April 17, 2025. BRF inventoried and boxed all physical records located on the Premises that related to the SML Business (the “Physical Records”). The Physical Records include, but are not limited to:
 - a. Agreements between SMFI and investors governing investments in syndicated mortgage loans (“SMLs”);
 - b. Disclosure documents setting out information relevant to the SMLs;
 - c. Copies of mortgage instruments and other registrations against title in respect of the real property securing the SMLs;
 - d. Financial records;
 - e. Business records; and
 - f. Bank reconciliations.
2. BRF stored the Physical Records in a storage room in the basement of the Premises and secured the storage room with a padlock. B. Riley will retain one key to the padlock and the other will be provided to SMFI’s counsel.
3. BRF corresponded with SMFI employees and JKR Computer Services Inc. (“JKR”), SMFI’s outsourced information technology provider, to understand SMFI’s information technology infrastructure.
4. BRF directed JKR to suspend all applications that would allow users to remotely access SMFI’s electronic records.
5. BRF engaged MT3 Forensics (“MT3”) to prepare forensic images of the electronic records maintained by SMFI in relation to the SML Business. BRF attended at the Premises on April 21, 2025 with MT3 and supervised the imaging of electronic records held on various devices, including:
 - a. Three (3) desktop personal computers and associated hard drives; and
 - b. Two (2) laptop computers.

6. Additionally, MT3 downloaded and preserved electronic mail records from the following email address:

- a. info@mortgagefunding.on.ca
- b. mortgagefunding@rogers.com
- c. lbier@rogers.com
- d. lstyles@rogers.com
- e. ssussman@rogers.com

If you have any questions or concerns please contact the undersigned at 905-904-7400 or via email at rwilliams@brileyfin.com.

Regards,

B. RILEY FARBER INC.

A handwritten signature in black ink, appearing to read 'RW', with a horizontal line extending from the end.

Per: Richard Williams CPA CIRP LIT
Managing Director

Cc Allan Nackan, B. Riley Farber Inc. anackan@brileyfin.com

**THIS IS EXHIBIT "D" REFERRED TO IN THE AFFIDAVIT
OF AMY CASELLA SWORN BEFORE ME THIS
25th DAY OF APRIL, 2025.**

A handwritten signature in black ink, appearing to be "D. J.", is written over a horizontal line.

A Commissioner, etc.

Court File No.: CV-25-00741044-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

**CHIEF EXECUTIVE OFFICER OF THE FINANCIAL SERVICES
REGULATORY AUTHORITY OF ONTARIO**

Applicant

- and -

**SUSSMAN MORTGAGE FUNDING INC., 2486976 ONTARIO INC.,
and 1981361 ONTARIO INC.**

Respondents

CONSENT TO FORM OF ORDER

THE RESPONDENTS consent to the Order in the form attached as Schedule "A" hereto and certify that no party affected by the order is under disability.

DATED at Toronto, this 15th day of April, 2025.

**SUSSMAN MORTGAGE FUNDING
INC.**


Per: Sanford Sussman

I have the authority to bind the Corporation

2

DATED at Toronto, this 15th day of April, 2025.

2486976 ONTARIO INC.



Per: Sanford Sussman

I have the authority to bind the Corporation.

DATED at Toronto, this 15th day of April, 2025.

1981361 ONTARIO INC.



Per: Sanford Sussman

I have the authority to bind the Corporation.

**CHIEF EXECUTIVE OFFICER OF THE FINANCIAL
SERVICES REGULATORY AUTHORITY**

-and-

**SUSSMAN MORTGAGE FUNDING INC.,
2486976 ONTARIO INC. and 1981361 ONTARIO INC.**

Applicant

Respondents

Court File No.

***ONTARIO*
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

CONSENT TO FORM OF ORDER

CHAITONS LLP

5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

George Benchetrit (LSO No. 34163H)

Tel: (416) 218-1141

E-mail: george@chaitons.com

David Im (LSO No. 89765G)

Tel: (416) 218-1124

E-mail: dim@chaitons.com

Lawyers for the Applicant

CHIEF EXECUTIVE OFFICER OF THE FINANCIAL SERVICES -and-
REGULATORY AUTHORITY

SUSSMAN MORTGAGE FUNDING INC.,
2486976 ONTARIO INC. and 1981361 ONTARIO INC.

Applicant

Respondents

Court File No. CV-25-00741044-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF AMY CASELLA
(Sworn April 25, 2025)

CHAITONS LLP

5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

George Benchetrit (LSO No. 34163H)

Tel: (416) 218-1141

E-mail: george@chaitons.com

David Im (LSO No. 89765G)

Tel: (416) 218-1124

E-mail: dim@chaitons.com

Lawyers for the Applicant