

SEP 29 2017

S-179117



No. \_\_\_\_\_  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

JASTRAM PROPERTIES LTD.

PLAINTIFF

AND:

HSBC BANK CANADA

DEFENDANT

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

### NOTICE OF CIVIL CLAIM

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

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

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

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

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

**JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.**

**Time for response to civil claim**

A response to civil claim must be filed and served on the Plaintiff,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service;
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

## CLAIM OF THE PLAINTIFF

### Part 1: STATEMENT OF FACTS

#### The Parties

1. The Plaintiff, Jastram Properties Ltd. (“JPL”), is a corporation incorporated under the laws of the province of British Columbia, having a registered and recorded office at 135 Riverside Drive, North Vancouver, BC.
2. The Defendant, HSBC Bank Canada (“HSBC”) is a federally chartered bank, listed on Schedule II of the *Bank Act*, S.C. 1991 c. 46, and has its head office at 885 West Georgia Street, Vancouver, BC.
3. JPL brings this action on its own behalf and on behalf of all other persons, other than the Defendant, who invested funds with Virginia Tan, or with companies controlled by her, and who received payments from their investments which are lesser in total amount than the total principal amount they invested.

#### The Virginia Tan Investment Scheme

4. From at least 2011, Virginia Tan (“Tan”), a business woman resident in West Vancouver, BC, operated a fraudulent investment scheme in which she obtained funds from investors on the basis of representations that the funds she received would be used by her in a factoring or bridge loan business that she had successfully operated for years (the “Tan Investment Scheme”).
5. Under the standard operating terms of the Tan Investment Scheme, investors provided funds to Tan for investment in exchange for a promissory note from Tan. The promissory notes were for a term of either six months or one year, and provided that interest would be paid monthly on the amount invested at a rate which varied between 12% to 24% per annum.

6. In addition, Tan would deliver to investors with their promissory note a series of post-dated cheques for the amount of the interest payable under the promissory note.
7. Once the promissory notes were due, Tan would encourage investors to renew, or “roll-over”, their investment on the same terms. For investors who elected to do so, and most did elect to do so, Tan would issue a replacement promissory note on the same terms as the original note, and deliver a series of post-dated cheques for the interest payable under the new note. This process would repeat itself as the new note matured.
8. In reality, Tan was not operating a factoring or bridge loan business. The Tan Investment Scheme was a Ponzi scheme, in that the funds obtained by Tan from investors were converted by Tan for her own use and benefit, and were used by Tan, in part, to pay interest payments to investors under the promissory notes Tan had provided to them.
9. From 2011 through to late 2015, more than \$30 million was obtained by Tan from investors for investment in the Tan Investment Scheme.
10. In late 2015 and early 2016, many of the interest cheques that Tan provided to investors were not honored, and the Tan Investment Scheme was ultimately exposed as a fraud in early 2016.

#### The HSBC Tan Accounts

11. From 2011 to early 2013, Tan operated the Tan Investment Scheme primarily through two accounts at HSBC. One was Account No. 320-318176-150 in the name Tan and her husband Patrick Tan; the other was Account No. 320-319180-001 in the name 405454 BC Ltd. dba Latan Investments, a company controlled by Tan (collectively, the “HSBC Tan Accounts”).

12. By 2011, Tan was making cumulative deposits to the HSBC Tan Accounts of approximately \$1 million per month, and was making cumulative withdrawals from the HSBC Tan Accounts of approximately \$1 million per month. Most of the deposits in the HSBC Tan Accounts were large amount in round numbers, and most of the withdrawals were cheques written to individuals for smaller round number amounts. These kinds of transactions are hallmarks of a Ponzi scheme.
13. By early 2013, HSBC became concerned about the nature of the activity in the HSBC Tan Accounts. As a result of HSBC's review of the HSBC Tan Accounts and/or inquiries made by HSBC of Tan, the particulars of which review and inquiry are best known to HSBC, HSBC knew, or concluded that it was reasonably likely, that Tan was using the HSBC Tan Accounts for fraudulent purposes.
14. In March 2013, either as a result of notice given by HSBC to Tan that Tan could no longer use the HSBC accounts, or because of concerns raised by HSBC with Tan about the activity in the HSBC Tan Accounts, Tan ceased using the HSBC Tan Accounts to operate the Tan Investment Scheme. The particulars of the circumstances surrounding the termination of activity in the HSBC Tan Accounts in March 2013 are best known to HSBC.
15. At no time did HSBC take any steps to notify the proper authorities, or to warn other financial institutions, whose customers' funds had been deposited into the HSBC Tan Accounts and whose customers were receiving payments from the HSBC Tan Accounts, about the circumstances relating to the cessation of activity in the HSBC Tan Accounts and the concerns HSBC had about the Tan's use of the HSBC Tan Accounts.
16. From April 2013 on, Tan carried out the Tan Investment Scheme through accounts in three different financial institutions, until the Tan Investment Scheme was exposed as a fraud in early 2016.

The JPL Investments in the Tan Investment Scheme

17. JPL was introduced to the Tan Investment Scheme in May 2012 by Rina Teo, a contract employee of JPL and a friend of the principals of JPL, Peter and Lale Doetsch. Rina Teo had invested in the Tan Investment Scheme for many years, and advised JPL that Tan was engaged in bridge financing and that the investments were safe because her customers were repeat and referred customers. These representations were subsequently repeated and confirmed directly to JPL by Tan.
18. Between May 2012 and March 2013, JPL invested \$2,962,600 in the Tan Investment Scheme. Some of these investments were deposited in the HSBC Tan accounts, and all the interest payment received by JPL during this period were paid from the HSBC Tan Accounts.
19. Between April 2013 and March 2015, after Tan had ceased using the HSBC Tan Accounts to operate the Tan Investment Scheme, JPL invested another \$3,450,000 in the Tan Investment Scheme.
20. JPL investments received a total of \$1,798,566 in interest payments from the Tan Investment Scheme.

**Part 2: RELIEF SOUGHT**

1. Damages for negligence in failing to investigate and warn about the use by Tan of the HSBC Tan Accounts for fraudulent purposes.
2. Interest pursuant to the *Court Order Interest Act*, RSBC 1996, c. 79.
3. Such further and other relief as this Honourable Court may allow.

**Part 3: LEGAL BASIS**

1. HSBC's knowledge that the HSBC Tan Accounts were being use by Tan for fraudulent purposes, or HSBC's knowledge that it was reasonably likely that the accounts were being used for such purposes, imposed a duty on HSBC, to persons whose funds had been the subject of the transactions in the HSBC Tan Accounts, to take further steps to investigate the fraud, to advise the appropriate authorities of the fraudulent activity in the HSBC Tan Accounts, and to warn the financial institutions whose customers' funds were the subject of the fraudulent activity in the HSBC Tan Accounts.
2. HSBC breached its duty to investigate and warn, as set out in paragraph 1 above.
3. Had HSBC properly discharged its duty to investigate and warn, JPL, and all other class members who invested in the Tan Investment Scheme after March 2013, would not have suffered any loss in respect of investments made in the Tan Investment Scheme after March 2013.

Plaintiff address for service:

Bennett Mounteer LLP  
Barristers and Solicitors  
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Vancouver, BC V6B 2W5

Fax number address for service: (604) 639-3681

E-mail address for service: pb@hbmlaw.com

Place of trial: Vancouver, British Columbia

The address of the registry is: 800 Smithe Street  
Vancouver, BC

Date: 29/SEP/2017

BENNETT MOUNTEER LLP

Per:



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Signature of Lawyer for the Plaintiff  
Paul R. Bennett

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

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
  - (a) prepare a list of documents in Form 22 that lists
    - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
    - (ii) all other documents to which the party intends to refer at trial, and
  - (b) serve the list on all parties of record.

THIS NOTICE OF CIVIL CLAIM was prepared by the law firm of Bennett Mounteer LLP, whose place of business and address for service is #400 – 856 Homer Street, Vancouver, British Columbia, V6B 2W5. Telephone: (604) 639-3680. Fax: (604) 639-3681. Counsel Reference: Paul R. Bennett and Mark W. Mounteer



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**APPENDIX**

**Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:**

The Plaintiff seeks recovery for losses caused by the Defendant's breach of trust and negligence in connection with a misleading investment scheme.

**Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an unemployment relationship
- a will or other issues concerning the probate of an estate

a matter not listed here

**Part 3: THIS CLAIM INVOLVES:**

a class action

maritime law

aboriginal law

constitutional laws

none of the above

do not know

**Part 4:**

*Class Proceedings Act, R.S.B.C. 1996, c. 50*