Vancouver
09-Nov-26
REGISTRY

This is the 1st affidavit of Darren Ovington in this case and it was made on November 9th, 2026

Court File No. S-267975
Vancouver Registry

In the Supreme Court of British Columbia

BETWEEN:

THE TORONTO-DOMINION BANK

PETITIONER

AND:

KAM-MIC INVESTMENT CORP. and STEWART MORTGAGE CORP.

RESPONDENTS

AFFIDAVIT

I, Darren Michael Ovington, Chartered Professional Accountant, of 175 Mahood Place, in the City of Kamloops, in the Province of British Columbia, AFFIRM THAT:

1. I am a director of the respondent, Kam-Mic Investment Corp. ("**Kam-MIC**"), and as such I have personal knowledge of the matters deposed to in this affidavit, except where stated to be based on information and belief, and where so stated, I believe them to be true.

2. I make this affidavit in support of Kam-MIC's response to petition made by The Toronto-Dominion Bank ("**TD**").

Background

3. The respondent, Kam-MIC, is a mortgage investment corporation. It lends money on the security of mortgages of real property in British Columbia.

4. The respondent, Stewart Mortgage Corp. ("**SMC**"), has been the manager and administrator of Kam-MIC's mortgages since 1983.

5. Jamie John Paton Stewart ("**Mr. Stewart**") is SMC's sole director, its president and its directing mind. At all material times Mr. Stewart conducted all of SMC's dealings with Kam-MIC and controlled SMC's bank accounts, including a trust account. Mr. Stewart was also a director of Kam-MIC. Mr. Stewart is not a party to this petition.

The Action

6. On September 23, 2026, Kam-MIC commenced an action in this Court, Kelowna Registry, Action No. KEL-S-S-148504, against Mr. Stewart and SMC (the "**Action**"). Attached and marked as **Exhibit "A"** to this affidavit is a copy of the notice of civil claim filed in the Action (the "**NOCC**").

7. In the NOCC, Kam-MIC alleges the following:

   (a) against SMC: breach of trust, breach of fiduciary duty, deceit, fraudulent misrepresentation, conversion, breach of contract, negligence, unjust enrichment, tracing, constructive trust; and

   (b) against Mr. Stewart: breach of fiduciary duty, deceit, fraudulent misrepresentation, conversion, unjust enrichment, tracing, constructive trust, and knowing assistance and knowing receipt.

8. In particular, Kam-MIC alleges, among other things, that:

   (a) SMC agreed to hold the money it collected on behalf of Kam-MIC in trust for Kam-MIC.

   (b) SMC and Mr. Stewart misappropriated Kam-MIC's money by:

      (i) not remitting to Kam-MIC proceeds of loans that borrowers had repaid to SMC;

      (ii) not remitting to Kam-MIC interest SMC had collected on the loans; and

      (iii) drawing on Kam-MIC's line of credit at TD.

   (c) Mr. Stewart wilfully concealed the misappropriation by:

      (i) remitting to Kam-MIC smaller sums that resembled payments from borrowers;

      (ii) providing portfolio reports to Kam-MIC with loans that did not exist;

      (iii) supplying false information to Kam-MIC's accountant who then produced inaccurate annual financial statements; and

      (iv) forging a signature on Kam-MIC's bank documents.

   (d) Mr. Stewart applied the misappropriated money to his own purposes, including the purchase of his residence at 1238 Rockcress Drive, Kamloops, British Columbia (the "**Residence**").

9. Kam-MIC estimates its total loss at approximately $13,000,000.

10. Kam-MIC claims, among other relief, tracing, a constructive trust over the Residence and an accounting.

11. On September 24, 2026, the Court granted Kam-MIC a *Mareva-Norwich* Injunction Order in the Action, restraining Mr. Stewart and SMC from dealing with their assets, requiring them to disclose assets and to account for Kam-MIC's loans, and requiring related financial institutions to produce records. The Order remains in effect.

12. On September 29, 2026, Kam-MIC obtained a certificate of pending litigation in the Action against title to the Residence. Attached and marked as **Exhibits "B" and "C"** to this affidavit is a copy of the title (registration no. CB41214) and the certificate of pending litigation (registration no. CB3111738).

Admissions in SMC and Mr. Stewart's response to civil claim

13. On October 14, 2026, SMC and Mr. Stewart filed a response to civil claim in the Action (the "**Response**"). Attached and marked as **Exhibit "D"** to this affidavit is a copy of the Response.

14. In Part 1, Division 1 of the Response, Mr. Stewart and SMC admit the facts alleged in, among others, the following paragraphs of Part 1 of the NOCC:

    (a) SMC agreed to hold the money it collected on behalf of Kam-MIC in trust for Kam-MIC (NOCC, paras. 10).

    (b) SMC and Mr. Stewart misappropriated Kam-MIC's money by:

        (i) not remitting to Kam-MIC proceeds of loans that borrowers had repaid to SMC (NOCC, para. 40);

        (ii) not remitting interest SMC had collected on the loans (NOCC, para. 44); and

        (iii) drawing on Kam-MIC's line of credit at TD (NOCC, paras. 28–29).

    (c) Mr. Stewart wilfully concealed the misappropriation by:

        (i) remitting to Kam-MIC smaller sums that resembled payments from borrowers (NOCC, para. 51);

        (ii) providing portfolio reports to Kam-MIC with loans that did not exist (NOCC, paras. 20–24 and 51);

(iii) supplying false information to Kam-MIC's accountants who then produced inaccurate annual financial statements (NOCC, paras. 20–24 and 51); and

(iv) forging a signature on TD loan agreement (NOCC, paras. 31–32).

15. In the Response, the defendants did not admit paragraphs 54 and 57 of Part 1 of the NOCC, where Kam-MIC alleges that the misappropriated money can be traced into the defendants' assets, and that Mr. Stewart applied the misappropriated money to his purchase of the Residence; however, the defendants said "some of what is alleged in these paragraphs may be accurate" (Response, Part 1, Division 2, para. 7).

16. In the Response, Mr. Stewart and SMC also:

(a) "generally admit liability and the basic thrust of the allegations in the notice of civil claim", which they define as the "Misappropriation" (Response, Part 1, Division 2, para. 1);

(b) "admit to the Misappropriation, essentially as alleged by the plaintiff" (Response, Part 3, para. 1);

(c) agree generally with the allegations about the Missing Interest and say that the amounts "are probably correct or close to correct" (Response, Part 1, Division 2, para. 8; NOCC, Part 1, paras. 41–43);

(d) consent to judgment against them in an amount to be determined at trial, and to the injunctive relief claimed in the Action (Response, Part 2, para. 1; NOCC, Part 2, paras. 1 and 11);

(e) say that investors other than Kam-MIC have also sustained a loss (Response, Part 1, Division 3, para. 9).

17. In the Response, the defendants did not admit Kam-MIC's pleaded amount of loss and damage, saying "the precise number is not yet known to them" (Response, Part 1, Division 2, para. 6); however, they acknowledge that "a multimillion-dollar loss has occurred" (Response, Part 1, Division 2, para. 6), and that "the losses exceed the defendants' realistic ability to pay", and that the amount of a judgment "is likely to far exceed the recoverable assets available to pay" (Response, Part 3, paras. 3–4).

Further admissions made at the meeting on October 14, 2026

18. On October 14, 2026, I attended a meeting with Mr. Stewart at the offices of his counsel, Jensen Law Group, in Kamloops, British Columbia. Also present were Mr. Stewart's counsel, Daniel McNamee, Brett Mirtle, another director of Kam-MIC, and

Kam-MIC's counsel. At the meeting, Mr. Stewart answered the questions put to him by Kam-MIC's counsel and me.

19. At the meeting, Mr. Stewart further admitted the misappropriation of Kam-MIC's money and the concealment from Kam-MIC. He said that:

(a) in about 2018, the shortfall began when he concealed losses on certain loans by showing in Kam-MIC's portfolio reports loans that were false;

(b) in 2019, he took from Kam-MIC's funds down payments for purchasing two properties at Sun Peaks, British Columbia, approximately $600,000 for one and $400,000 or $500,000 for the other, saying "I borrowed money that I shouldn't have";

(c) from around early 2020, he started "using some of it for myself", meaning using Kam-MIC's money to pay his personal expenses;

(d) over the past few years, he concealed the shortfall from Kam-MIC's directors by:

(i) recording fictitious advances to borrowers;

(ii) not recording the payout of loans, so that the loans continued to appear in Kam-MIC's reports as outstanding and current; and

(iii) before Kam-MIC's fiscal year-end, transferring large sums from SMC's trust account to his personal account, and then sending some back to the trust account in smaller amounts made to look like borrowers' payments, and he "probably kept some" of the money.

20. At the meeting, Mr. Stewart admitted that he paid for the equity component of the purchase price of the Residence, being the portion not financed by the mortgages, approximately $400,000, out of money he took from Kam-MIC. Mr. Stewart estimated the equity in the Residence at approximately $500,000.

21. At the meeting, Mr. Stewart said he used Kam-MIC's money to make multiple investments in cryptocurrency and leveraged foreign exchange trading. He said the money was lost.

22. At the meeting, Mr. Stewart also admitted that since 2023, he has paid Shannon Beatty, his partner, approximately $218,000; that in the spring of 2026, he transferred a vehicle to Ms. Beatty; and that in September 2023, he paid $86,548 in cash for an Audi vehicle that was registered in the name of Ms. Beatty's mother.

Conclusion

23. Based on the admissions in the Response and at the October 14, 2026 meeting, a substantial part of the money that SMC and Mr. Stewart misappropriated from Kam-MIC was applied to Mr. Stewart's personal purposes, including purchasing the Residence and other real properties, cryptocurrency and foreign exchange trading, living expenses, and payments to persons connected to Mr. Stewart.

24. It is reasonable to conclude that what remains of that misappropriated money, or of the property acquired with it, is now held in Mr. Stewart's personal name or by persons connected to him, rather than by SMC.

25. In the NOCC, Kam-MIC pleads that SMC has no assets of value known to it other than the remaining funds in SMC's accounts and business (NOCC, Part 1, para. 60). I believe this to be true.

26. If the Court appoints a receiver over Kam-MIC and SMC, then Kam-MIC supports the receiver being given the powers necessary to investigate, trace and recover money and property derived from the money of Kam-MIC or SMC, including where it is now held by Mr. Stewart personally or by persons connected to him.

27. If the receiver does not receive such tracing powers, then much of the value that may be recoverable for Kam-MIC's creditors, including the petitioner, will remain outside the receivership.

Affirming this affidavit

28. I acknowledge the solemnity of making an affirmed statement/solemn declaration and acknowledge the consequences of making an untrue statement.

29. I was not physically present before the person before whom this affidavit was affirmed but was in that person's presence using video conferencing.

AFFIRMED BEFORE ME at the City of Kelowna, in the Province of British Columbia on this 9th day of November, 2026.

A commissioner for taking affidavits for the Province of British Columbia

Sachelle Julia Wotherspoon
A Commissioner for Taking Affidavits for British Columbia
c/o Rush Ihas Hardwick LLP
#200 - 591 Bernard Avenue, Kelowna, B.C. V1Y 6N9
Expiry date of appointment: August 31, 2028

DARREN OVINGTON

This is **Exhibit "A"** referred to in the Affidavit of **DARREN OVINGTON** affirmed before me at Kelowna in the Province of British Columbia this 9th day of November, 2026.

A Commissioner for Taking Affidavits in British Columbia.



Court File No. KEL-S-S-148504
Kelowna Registry

In the Supreme Court of British Columbia

BETWEEN:

KAM-MIC INVESTMENT CORP.

PLAINTIFF

AND:

JAMIE JOHN PATON STEWART and
STEWART MORTGAGE CORP.

DEFENDANTS

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, Kam-Mic Investment Corp. ("**Kam-MIC**"), is a company incorporated under the laws of British Columbia (Incorporation No. BC0265834) with an address for service in this proceeding at 200 – 591 Bernard Avenue, Kelowna, British Columbia.

2. Kam-MIC is a mortgage investment corporation within the meaning of s. 130.1 of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.). It lends money on the security of mortgages of real property in British Columbia, mainly in the Thompson, Shuswap, and Okanagan regions.

3. Kam-MIC's directors are Gary Mirtle, Brett Mirtle, Edward Ovington, and Darren Ovington (the "**Directors**"), and the defendant Jamie John Paton Stewart.

4. The defendant Stewart Mortgage Corp. ("**SMC**") is a company incorporated under the laws of British Columbia (Incorporation No. BC0252967) with a registered office at 300 – 272 Victoria Street, Kamloops, British Columbia. SMC carries on business as a mortgage manager and administrator.

5. The defendant Jamie John Paton Stewart is a businessperson residing at 1238 Rockcress Drive, Kamloops, British Columbia. Mr. Stewart has run SMC since the death of its founder, his father John Stewart, in December 2013. He is SMC's sole director, its president, and its directing mind. At all material times he conducted all of SMC's dealings with Kam-MIC and controlled SMC's bank accounts.

6. Mr. Stewart is also a director of Kam-MIC, has acted as its managing director, and holds 70,914 of its preferred shares.

The Service Agreement

7. Kam-MIC and SMC are parties to a written service agreement made as of November 17, 1983, revised on September 22, 2003 and March 19, 2014, and executed in its current form on March 21, 2014 (the "**Service Agreement**"). By a resolution of Kam-MIC's directors dated August 31, 2019, the term of the Service Agreement was extended to September 30, 2024.

8. Mr. Stewart signed the Service Agreement on behalf of both SMC and Kam-MIC, and signed the 2019 extending resolution as a director of Kam-MIC. He did not disclose the nature and extent of his interest in the Service Agreement in the manner required by Division 3 of Part 5 of the *Business Corporations Act*, S.B.C. 2002, c. 57, and he participated and voted in Kam-MIC's decisions to enter into and to extend it.

9. The Service Agreement was not renewed in writing after September 30, 2024. SMC continued to act as Kam-MIC's agent, and both parties continued to perform the Service Agreement, on the same terms. Kam-MIC pleads that the Service Agreement continued in force on its terms after September 30, 2024 by the conduct of the parties. Alternatively, SMC held Kam-MIC's money, mortgages, and records after that date as its agent and trustee, on the same terms, at common law and in equity.

10. The Service Agreement provides, among other things, that:

    (a) SMC is Kam-MIC's sole and exclusive agent for the origination, administration, and collection of its mortgage loans, and SMC agrees "to hold all money received hereunder, the Mortgages and all other security in respect to the Mortgage Loans, in trust for the MIC in separate accounts" (s. 3.01);

(b) SMC may originate, review, recommend, and decline mortgage loans in Kam-MIC's name, but Kam-MIC reserves the right to approve each mortgage loan in advance, and "the sole responsibility for approval of Mortgage Loans or any other investment" rests with Kam-MIC's directors (ss. 3.02, 3.04, and 5.01(2));

(c) SMC manages Kam-MIC's day-to-day affairs, including its financial reporting, the arranging and administering of its bank credit lines, the maintenance of all of its records, the distribution of dividends and annual financial statements, the collection of mortgages when due, and its tax reporting (s. 3.03);

(d) SMC collects funds in trust on behalf of Kam-MIC, holds them in trust until the payment has cleared, then deposits them into Kam-MIC's bank account, and gives Kam-MIC a detailed report of every deposit (s. 5.01(3));

(e) if a payment on a mortgage falls 30 days past due, SMC must immediately notify the Directors and begin action to recover Kam-MIC's funds (s. 5.01(7));

(f) SMC must deliver to Kam-MIC quarterly financial statements, monthly reports of all loans in arrears, and such further reports as Kam-MIC reasonably requests, and must report annually to each shareholder (ss. 6.01, 6.02, 6.04, and 6.05);

(g) SMC must at all times act on a basis that is fair and reasonable to Kam-MIC, must exercise its powers and discharge its duties honestly, in good faith, and in the best interest of Kam-MIC, and must exercise the degree of care, diligence, and skill that a reasonable, prudent person would exercise in comparable circumstances (s. 7.01);

(h) SMC is liable to Kam-MIC for any loss resulting from the negligence or wilful misconduct of SMC or any of its officers, agents, or employees (s. 8.01);

(i) SMC's fee is a quarterly fee of 0.375% of the average monthly total of Kam-MIC's assets, payable by cheque within 14 days after each quarterly payment date (ss. 9.01 and 9.02);

(j) Kam-MIC may terminate the Service Agreement if SMC commits a default, and no notice to remedy is required where the default relates to the payment of money by SMC to Kam-MIC (s. 10.01(F));

(k) on termination, SMC must turn over and deliver to Kam-MIC all trust money of Kam-MIC, all other funds it holds in respect of the mortgages, and all documents, records, files, and other papers in its possession pertaining to Kam-MIC's loans (s. 10.03(C)); and

(l) no forbearance or failure by Kam-MIC to insist on prompt performance is a waiver (s. 11.07).

The defendants' duties

11. SMC, as Kam-MIC's exclusive agent and manager, entrusted with its money, its mortgage security, its records, its bank accounts, and its financial reporting, and as the express trustee of the money and security it received, owed Kam-MIC fiduciary duties of loyalty, honesty, good faith, candour, and full disclosure, a duty to avoid conflicts between its interests and Kam-MIC's, and a duty to account.

12. Mr. Stewart, as a director and the managing director of Kam-MIC, owed it the duties imposed by s. 142(1) of the *Business Corporations Act* and by equity: to act honestly and in good faith with a view to Kam-MIC's best interests; to exercise the care, diligence, and skill of a reasonably prudent individual in comparable circumstances; to avoid conflicts of interest; to disclose to Kam-MIC every material fact about its affairs known to him; and to account. Mr. Stewart owed Kam-MIC the same fiduciary duties as the person through whom SMC acted and who personally controlled Kam-MIC's money, mortgages, records, and reporting.

How the business operated

13. Kam-MIC's mortgage loans are, for the most part, one-year interest-only loans at interest rates of 10% to 16% a year.

14. SMC found the borrowers. When Kam-MIC approved a loan, Kam-MIC funded it by cheque drawn on its operating account at The Toronto-Dominion Bank ("TD") (the

"**Kam-MIC Account**"), payable to conveyancing solicitors in trust, who registered the mortgage in Kam-MIC's name in the Land Title Office. Every mortgage securing a loan of Kam-MIC's money was to be registered in Kam-MIC's name.

15. Borrowers paid their interest, and paid out their loans, to SMC. SMC received those payments into a trust account at TD in Kamloops styled "Stewart Mortgage Corp. Trust Account" (the "**SMC Trust Account**"). SMC remitted interest from the SMC Trust Account to the Kam-MIC Account, net of amounts it deducted as its fees. Mr. Stewart alone directed where the proceeds of every loan payout were paid.

16. Mr. Stewart alone held access to the Kam-MIC Account, including online access issued in his name and in the name of John Stewart. He dealt with TD on Kam-MIC's behalf, including about Kam-MIC's line of credit. He supplied to Kam-MIC's accountants, MNP LLP, the information from which Kam-MIC's annual review-engagement financial statements were prepared, and he approved those statements on Kam-MIC's behalf.

17. The Directors had no access to SMC's loan-servicing records, to the SMC Trust Account, or to the Kam-MIC Account. Everything Kam-MIC and the Directors knew about the mortgage portfolio, the collection of interest and principal, and the state of Kam-MIC's bank accounts came from Mr. Stewart. Kam-MIC entrusted its business to SMC and Mr. Stewart and relied on them.

Mr. Stewart's reports and the Representations

18. Before the COVID-19 pandemic, Mr. Stewart met the Directors regularly and gave them regular mortgage portfolio summaries. From 2020, his meetings and reports became sporadic. SMC did not deliver the quarterly financial statements or the monthly arrears reports that the Service Agreement requires.

19. The Directors raised the deficient reporting with Mr. Stewart repeatedly. He promised to improve and did not. In or about September 2025, Darren Ovington told Mr. Stewart that his reporting was deficient and could not continue.

20. In each fiscal year, Kam-MIC's annual financial statements were prepared by MNP LLP from information Mr. Stewart supplied, approved by Mr. Stewart on Kam-MIC's

behalf, and delivered to the Directors and to Kam-MIC's shareholders. In January 2026, Mr. Stewart delivered to the Directors Kam-MIC's financial statements for the fiscal year ended August 31, 2025 (the "**2025 Financial Statements**"), which he had signed electronically on January 9, 2026. The 2025 Financial Statements report mortgages receivable of $13,896,466, interest revenue of $1,363,702, and net earnings of $1,053,489, which Kam-MIC declared and paid as a dividend to its preferred shareholders.

21. On May 15, 2026, after repeated requests, Mr. Stewart delivered to the Directors a mortgage portfolio summary as at April 30, 2026 (the "**April 2026 Portfolio**"). It lists 39 loans, each identified by borrower, property, balance, interest rate, and maturity date. It shows every loan as current. The balances total $14,030,090.01.

22. On the morning of September 10, 2026, Mr. Stewart delivered to the Directors a portfolio summary as at August 31, 2026 (the "**August 2026 Portfolio**" and, with the April 2026 Portfolio, the "**Portfolio Reports**"). It lists the same 39 loans, each shown as current, with balances totalling $14,028,378.30.

23. By Kam-MIC's annual financial statements, including the 2025 Financial Statements, by the Portfolio Reports, and by Mr. Stewart's other reports to the Directors of Kam-MIC's earnings and portfolio, the defendants represented to Kam-MIC, as facts, that:

    (a) each of the loans listed was an existing loan of Kam-MIC in the amount stated;

    (b) each of the loans was secured by a mortgage registered in Kam-MIC's name against the property described;

    (c) each of the loans was current, and SMC was collecting the interest on it for Kam-MIC;

    (d) SMC was holding all money it collected on Kam-MIC's loans in trust for Kam-MIC and remitting it to Kam-MIC as the Service Agreement requires;

    (e) no loan of Kam-MIC had been repaid, and no mortgage of Kam-MIC had been discharged, except as reported; and

(f) Kam-MIC's mortgages receivable and interest revenue were as stated in the financial statements

(collectively, the "**Representations**").

24. Each of the Representations was false, as pleaded below. The defendants knew the Representations were false when they made them, or made them recklessly, without caring whether they were true or false. They made the Representations intending that Kam-MIC and the Directors would act on them by leaving Kam-MIC's business, money, and security in the defendants' hands.

25. The loans described in the Portfolio Reports would produce, at the lowest stated rate of 10% a year, more than $116,900 a month in interest for Kam-MIC.

26. Kam-MIC relied on the Representations. In reliance on them, Kam-MIC continued SMC's agency and left its money, mortgages, bank accounts, and records in the defendants' control; paid, or allowed SMC to deduct, SMC's fees; approved its annual financial statements; declared and paid dividends, including the dividend of $1,053,489 for the fiscal year ended August 31, 2025; borrowed on its line of credit; and did not investigate the portfolio, demand an accounting, or take steps to recover its money and security.

27. The August 2026 Portfolio repeated the Representations after the Directors had begun to discover the truth. Kam-MIC pleads it as evidence of the defendants' knowledge and of their continuing concealment.

The line of credit and the forged TD LOC Agreement

28. Kam-MIC has a $2,000,000 operating line of credit with TD (the "**LOC**"), repayable on demand and secured by a general security agreement over Kam-MIC's personal property. Mr. Stewart arranged and administered the LOC on Kam-MIC's behalf under s. 3.03(2) of the Service Agreement.

29. The balance owing on the LOC rose from $575,000 in August 2024 to approximately $2,000,000 in December 2025. From January 2026, the balance never fell below $1,990,000 and exceeded the $2,000,000 limit several times. As at August 31, 2026,

Kam-MIC owed $1,905,000 on the LOC. Kam-MIC pleads that the LOC was drawn to that level, and was not paid down, because the money that SMC should have been remitting from Kam-MIC's mortgages was not being remitted, and that the LOC was used to fund dividends, advances, and expenses that the mortgage income the defendants reported should have funded.

30. On May 28, 2026, TD asked Mr. Stewart to have Kam-MIC sign a new letter agreement governing the LOC, which requires monthly reporting of Kam-MIC's mortgage portfolio with a compliance certificate confirming that every listed mortgage is a valid charge. Mr. Stewart did not respond to TD for months. TD warned him that it would cancel the LOC. Mr. Stewart told none of the Directors about the state of the LOC, TD's request, or TD's warning.

31. On August 24, 2026, Mr. Stewart delivered to TD an executed copy of the letter agreement (the "**TD LOC Agreement**") and a listing of Kam-MIC's mortgage portfolio (the "**TD List**").

32. The acceptance page of the TD LOC Agreement bears Mr. Stewart's signature, dated August 17, 2026, and a second signature, dated August 24, 2026, above the printed name and title "Gary Mirtle – Director". Mr. Mirtle did not sign the TD LOC Agreement, was never asked to sign it, and had never seen it. Mr. Stewart, or a person acting at his direction, placed the purported signature of Mr. Mirtle on the document, and Mr. Stewart delivered it to TD as the executed agreement of Kam-MIC in order to keep the LOC in place and to keep TD and the Directors from discovering the true state of Kam-MIC's affairs.

33. The TD List is false, and it does not match the April 2026 Portfolio. Among other things, it assigns the same mortgage registration numbers (CA6882345 and CA6882346) to two different loans on two different properties, and it describes the $400,000 loan secured by 2713 Beachmount, Kamloops as a loan to "Kamloops Heating & Air", whereas the April 2026 Portfolio describes the $400,000 loan on the same property as a loan to "Kampan Developments Ltd." By delivering the TD List, Mr. Stewart caused Kam-MIC to make false statements to its lender about the security for its indebtedness and exposed Kam-MIC to default under the LOC.

Discovery

34. On August 21, 2026, TD contacted Darren Ovington. On August 25, 2026, TD told him about the state of the LOC, Mr. Stewart's failure to respond, the TD LOC Agreement, and the TD List. That was the first the Directors had heard of any of it. TD then provided the Directors with the TD List and the TD LOC Agreement.

35. On August 31, 2026, Kam-MIC's solicitors obtained a search of all land title districts of British Columbia for charges registered in the name of Kam-MIC. In early September 2026, the Directors obtained access to the Kam-MIC Account and its monthly statements from January 2020, and reviewed them.

The Missing Mortgages

36. The land title search returned 26 charges in Kam-MIC's name: 10 assignments of rents and 16 mortgages (the "**Existing Mortgages**").

37. Three of the Existing Mortgages do not appear in any report Mr. Stewart gave to Kam-MIC or to TD. Kam-MIC pleads that those three loans were either live loans that the defendants concealed from Kam-MIC or loans that were repaid without the proceeds being remitted to Kam-MIC. In either case the defendants have not accounted for them.

38. No more than 13 of the Existing Mortgages correspond to a loan listed in the Portfolio Reports or the TD List. At least 26 of the 39 loans listed in the Portfolio Reports have no mortgage registered in Kam-MIC's name (the "**Missing Mortgages**"). Approximately half of the Missing Mortgages were once registered in Kam-MIC's name and have since been discharged. The other 11 were never registered in Kam-MIC's name and, Kam-MIC pleads, never existed.

39. Kam-MIC never authorized the discharge of any of the Missing Mortgages, was never told that any of them had been repaid, and never received the proceeds of any of them. No mortgage payout has been deposited to the Kam-MIC Account since August 2023. Each of the Missing Mortgages is nevertheless shown in the Portfolio Reports as a current, interest-paying loan of Kam-MIC.

40. Kam-MIC pleads that, as to each of the Missing Mortgages, either (a) the loan was repaid and the mortgage discharged, and SMC received the proceeds in trust for Kam-MIC and did not remit them, or (b) the loan never existed, and the defendants reported it to conceal that Kam-MIC's money was not there. Kam-MIC will deliver further particulars of each of the Missing Mortgages when it obtains SMC's records and the historical land title records.

The Missing Interest

41. In the three fiscal years ended August 31, 2023, the deposits to the Kam-MIC Account from SMC totalled $5,148,451, an average of approximately $143,000 a month. Those deposits were broadly consistent with the interest that the portfolio Mr. Stewart was reporting should have produced.

42. From September 2023, the deposits from SMC dropped sharply and became sporadic. In the three fiscal years ended August 31, 2026, they totalled $1,970,603, an average of approximately $54,700 a month. In the fiscal year ended August 31, 2025, when the 2025 Financial Statements reported interest revenue of $1,363,702, the Kam-MIC Account received only $107,251.33 from all sources other than advances on the LOC.

43. The difference between the interest that the loans described in the Representations should have produced and the money SMC actually remitted to Kam-MIC is the "**Missing Interest**". Kam-MIC estimates the Missing Interest for the three fiscal years ended August 31, 2026 at not less than $3,000,000, and pleads that further interest is unaccounted for in earlier years.

44. Kam-MIC pleads that SMC collected interest on Kam-MIC's loans and did not remit it, or that the loans did not exist as reported and no interest was being collected on them, or both, and that in every case the defendants concealed the truth from Kam-MIC.

The meeting of September 10, 2026 and the events that followed

45. On September 10, 2026, at Kam-MIC's annual directors' meeting in Kamloops, the Directors confronted Mr. Stewart with the Missing Mortgages, the Missing Interest, and the purported signature of Mr. Mirtle on the TD LOC Agreement. Mr. Stewart appeared surprised that TD had contacted the Directors. He neither admitted nor denied

anything, and said words to the effect of "Yah, yah, I know, I know." He said the Missing Interest had been "loaned out". He offered no explanation for the Missing Mortgages or the Missing Interest, said that he needed to talk to a lawyer, and left the meeting.

46. Mr. Stewart has not spoken to any Director since, and has offered no explanation.

47. On September 10 and 11, 2026, the Directors removed Mr. Stewart's signing authority and access on Kam-MIC's accounts at TD. Between the afternoon of September 11 and the morning of September 12, 2026, SMC's website went offline.

48. On September 14, 2026, Kam-MIC's solicitors wrote to SMC, Mr. Stewart, and their solicitors demanding that the defendants preserve all records and funds relating to Kam-MIC, deliver a written statement of all money of Kam-MIC they held and remit that money to Kam-MIC, direct every borrower to pay Kam-MIC directly, deliver Kam-MIC's minute book and corporate records, and produce all of Kam-MIC's records. On September 15, 2026, the defendants' solicitors advised that Mr. Stewart consented to the release of Kam-MIC's corporate records. The defendants have delivered no records, no statement of funds held, and no money.

Unauthorized loans, pleaded in the alternative

49. If, as Mr. Stewart asserted on September 10, 2026, the defendants re-advanced Kam-MIC's interest or the proceeds of the Missing Mortgages as new loans, they did so without submitting the loans to the Directors for approval, contrary to ss. 3.02, 3.04, and 5.01(2) of the Service Agreement; without reporting the loans to Kam-MIC; and without registering security in Kam-MIC's name. Kam-MIC pleads that any such loan, and any security taken for it in the name of SMC, Mr. Stewart, or any other person, was made with Kam-MIC's money and is held in trust for Kam-MIC; that the defendants must account for every such loan and deliver up its security; and that the defendants are liable for every loss on it.

Fees

50. Instead of receiving its fees by cheque as s. 9.02 of the Service Agreement requires, SMC deducted the fees it chose from the trust money it collected, without accounting to Kam-MIC. Kam-MIC pleads that SMC calculated its fees on the asset totals stated

in the Representations, which were inflated, and that SMC earned no fee during the period of its breaches.

Concealment

51. The defendants concealed the Missing Mortgages and the Missing Interest from Kam-MIC by the Portfolio Reports and the annual financial statements, which continued to describe the Missing Mortgages as current loans and to report interest as being earned and received on them; by the information Mr. Stewart supplied to MNP LLP; by remitting to Kam-MIC, from time to time, sums sufficient to service the LOC and to sustain the appearance that the portfolio was performing; by drawing on the LOC to fund dividends and other outlays; by withholding the quarterly and monthly reports the Service Agreement requires; by concealing the state of the LOC and TD's demands from the Directors; and by the forged TD LOC Agreement and the false TD List.

52. Kam-MIC did not know, and could not reasonably have known, of the Missing Mortgages, the Missing Interest, or the defendants' breaches until August 25, 2026 at the earliest. The defendants wilfully concealed from Kam-MIC that it had suffered loss, that the loss was caused by their acts and omissions, and that the acts and omissions were theirs, within the meaning of s. 21(3) of the *Limitation Act*, S.B.C. 2012, c. 13.

Termination of the Service Agreement

53. SMC's breaches, pleaded above, go to the root of the Service Agreement and amount to a repudiation of it. They include defaults relating to the payment of money by SMC to Kam-MIC, for which s. 10.01(F) requires no notice to remedy. Kam-MIC accepts SMC's repudiation and, by this notice of civil claim, terminates the Service Agreement and the agency it created, without prejudice to Kam-MIC's claims for the defendants' prior breaches. Kam-MIC demands that the defendants turn over and deliver to it, under s. 10.03(C) and at common law and in equity, all trust money, all other funds held in respect of Kam-MIC's loans, and all of Kam-MIC's documents, records, and files.

Where the money went, and the defendants' assets

54. Kam-MIC pleads that the defendants applied the Missing Interest, the proceeds of the Missing Mortgages, and other money of Kam-MIC (together, the "**Misappropriated Funds**") to their own purposes, including to the acquisition, improvement, maintenance, preservation, and encumbrance of their assets, and that the Misappropriated Funds and their proceeds can be traced into those assets.

55. In or about July 2022, Mr. Stewart acquired, for a declared value of $1,400,000, the land and premises at 1238 Rockcress Drive, Kamloops, British Columbia, legally described as:

> PID 028-532-554
> LOT 16 SECTION 2 TOWNSHIP 20 RANGE 18 WEST OF THE 6TH MERIDIAN KAMLOOPS
> DIVISION YALE DISTRICT PLAN KAP91909
> (the "**Residence**").

56. Mr. Stewart financed the acquisition of the Residence in part by two mortgages registered on the same day: mortgage CB41215, in the principal amount of $697,300, now held by Canadian Western Trust Company and Olympia Trust Company, and mortgage CB41216, in the principal amount of $302,700, held by 0752063 B.C. Ltd. Mr. Stewart lives at, and operates SMC from, the Residence.

57. Kam-MIC pleads that the defendants had begun to divert Kam-MIC's money before July 2022, and that Mr. Stewart applied Misappropriated Funds to the purchase price of the Residence, to the payments on the mortgages registered against it, and to its improvement, maintenance, and preservation. Kam-MIC claims a beneficial interest in the Residence, by way of constructive trust, to the extent of the Misappropriated Funds so applied and their proceeds, or alternatively an equitable charge or lien on the Residence in that amount.

58. While the Missing Interest and the Missing Mortgages were accumulating, Mr. Stewart sold two other properties: a strata lot at Sun Peaks, British Columbia (PID 030-462-401), sold on July 8, 2025 for a declared value of $1,190,476, and a second property (PID 028-117-573), sold on August 17, 2026, the date beside Mr. Stewart's signature

on the TD LOC Agreement, for a declared value of $480,000. Kam-MIC pleads that Misappropriated Funds were applied to those properties and can be traced into the proceeds of their sale.

59. The defendants' other known assets are the SMC Trust Account and SMC's other accounts at TD; Mr. Stewart's accounts at TD and at Valley First, a division of Tru Cooperative Bank; SMC's business, which SMC advertised as managing $40,000,000 to $45,000,000 of mortgages; and Mr. Stewart's 70,914 preferred shares of Kam-MIC.

60. A monetary judgment against the defendants will not adequately compensate Kam-MIC. SMC has no assets of value known to Kam-MIC other than the money in its accounts and its business. The Residence is Mr. Stewart's principal known asset, and it is encumbered by mortgages. The defendants obtained Kam-MIC's money by a sustained fraud and breach of trust that they concealed until the day the Directors confronted Mr. Stewart; Mr. Stewart sold two properties while the losses were mounting; SMC's website went offline within a day of the confrontation; and the defendants' money can be moved in hours. There is a real risk that, unless restrained, the defendants will dispose of or encumber their assets and dissipate the proceeds.

Loss and damage

61. As a result of the defendants' conduct, Kam-MIC has suffered loss and damage, including:

    (a) the Missing Mortgages, in an amount to be determined at trial and estimated at not less than $10,000,000;

    (b) the Missing Interest, in an amount to be determined at trial and estimated at not less than $3,000,000;

    (c) the return Kam-MIC would have earned on that money had SMC remitted it and Kam-MIC lent it in the ordinary course of its business;

    (d) the fees SMC deducted or was paid while in breach of its duties;

(e) the interest, fees, and charges Kam-MIC has paid and will pay to TD on the LOC, which Kam-MIC needed to draw on only because SMC did not remit Kam-MIC's money;

(f) dividends Kam-MIC declared and paid on earnings that the defendants reported and that Kam-MIC never received;

(g) the cost of investigating and reconstructing its affairs, of recovering its money and security, and of replacing SMC as its mortgage manager; and

(h) its exposure to claims by TD, its shareholders, and others.

Part 2: RELIEF SOUGHT

1. Against the defendants, jointly and severally, judgment in an amount to be determined at trial, as equitable compensation for breach of trust and breach of fiduciary duty or, alternatively, as damages for deceit, conversion, breach of contract, and negligence, or as restitution for unjust enrichment.

2. An order that the defendants account to Kam-MIC for all money and property received by either of them for or on account of Kam-MIC, or on or in respect of Kam-MIC's mortgages and loans, since January 1, 2014, including the proceeds of every repayment, payout, or discharge of a Kam-MIC mortgage, every loan made with Kam-MIC's money, and every fee or other amount SMC deducted or retained, and judgment for the amount found due on the accounting.

3. A declaration that SMC held and holds all money received on Kam-MIC's mortgages and loans, including the money in the SMC Trust Account, in trust for Kam-MIC, and an order that the defendants pay that money to Kam-MIC forthwith.

4. A declaration that every loan made with Kam-MIC's money, and every mortgage, promissory note, and other security taken for any such loan in the name of SMC, Mr. Stewart, or any other person, is held in trust for Kam-MIC, and an order that the defendants assign and deliver them to Kam-MIC.

5. A declaration that the defendants hold the Misappropriated Funds, in whatever form they now exist, in trust for Kam-MIC; an order that Kam-MIC is entitled to trace the

Misappropriated Funds into any asset acquired, improved, maintained, preserved, or encumbered with them, including the Residence and the proceeds of sale of the properties described in paragraph 58 of Part 1; a declaration that Mr. Stewart holds his interest in the Residence in trust for Kam-MIC or, alternatively, that Kam-MIC has an equitable charge or lien on the Residence, to the extent of the Misappropriated Funds traced into it; and an accounting and disgorgement of all proceeds.

6. Against Mr. Stewart, judgment for equitable compensation or damages for breach of his fiduciary and statutory duties as a director of Kam-MIC, and for knowing assistance in, and knowing receipt of the proceeds of, SMC's breaches of trust; and an order under ss. 148 and 150 of the *Business Corporations Act* that he account to Kam-MIC for every profit that accrued to him under or as a result of the Service Agreement and its extension.

7. Against SMC, damages for breach of the Service Agreement; a declaration that SMC repudiated the Service Agreement and that Kam-MIC has validly terminated it; and an order that the defendants deliver up to Kam-MIC all trust money and all books, records, files, loan-servicing data, and other documents relating to Kam-MIC and its mortgages and loans.

8. An order that the defendants disgorge and repay all fees and other benefits received from or at the expense of Kam-MIC during the period of their breaches, in an amount to be determined at trial.

9. A declaration that the debts and liabilities of the defendants to Kam-MIC arise out of fraud, embezzlement, misappropriation, or defalcation while acting in a fiduciary capacity, and out of obtaining property by false pretences or fraudulent misrepresentation, within the meaning of s. 178(1)(d) and (e) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, and that the money and property the defendants hold in trust for Kam-MIC is not property divisible among their creditors.

10. A declaration that Kam-MIC is entitled to set off the amounts found due to it in this action against any amount claimed by either defendant, including any dividend, redemption proceeds, or other amount in respect of Mr. Stewart's preferred shares and any fees or other amounts claimed by SMC.

11. Interim and interlocutory injunctions restraining the defendants from disposing of, encumbering, removing from British Columbia, or otherwise dealing with their assets, including the Residence, the SMC Trust Account, and the proceeds of sale of the properties described in paragraph 58 of Part 1, pending judgment; orders requiring the defendants to disclose their assets and to account for Kam-MIC's mortgages and loans; orders for the preservation of the money collected on Kam-MIC's mortgages and loans and of the defendants' records; and orders requiring the defendants and third parties, including their financial institutions, to preserve and produce records that will permit Kam-MIC to trace its money.

12. A certificate of pending litigation against the Residence.

13. Punitive damages.

14. Interest under the *Court Order Interest Act*, R.S.B.C. 1996, c. 79.

15. Special costs or, alternatively, costs.

16. Such further and other relief as this Court considers just.

Part 3: LEGAL BASIS

Breach of trust

1. SMC received the money paid on Kam-MIC's mortgages and loans, and held Kam-MIC's mortgages and security, as Kam-MIC's agent, on the express terms of ss. 3.01 and 5.01(3) of the Service Agreement that it hold them in trust for Kam-MIC in separate accounts and pay the money to Kam-MIC. SMC was a trustee of that money and security. By failing to remit the Missing Interest and the proceeds of the Missing Mortgages, by applying them to its own purposes and to those of Mr. Stewart, by discharging or permitting the discharge of Kam-MIC's mortgages without authority, by deducting fees from trust money, and by failing to account, SMC breached its trust. SMC is liable to restore the trust property or to pay equitable compensation for its full value, assessed with the benefit of hindsight and without regard to foreseeability or remoteness.

2. A trustee that cannot account for trust property is liable for its value. The burden of accounting for the money and security entrusted to SMC lies on the defendants.

Breach of fiduciary duty

3. SMC owed Kam-MIC the fiduciary duties pleaded in paragraph 11 of Part 1. Mr. Stewart owed Kam-MIC the duties pleaded in paragraph 12 of Part 1, under s. 142(1) of the *Business Corporations Act* and in equity, as a director and the managing director of Kam-MIC and as the directing mind of its agent.

4. The defendants breached those duties by failing to remit and account for Kam-MIC's money; by discharging, or permitting the discharge of, Kam-MIC's mortgages without its knowledge or authority and without remitting the proceeds; by making, or failing to secure and report, loans of Kam-MIC's money without the Directors' approval; by delivering the false Representations; by withholding the reports the Service Agreement requires; by concealing the state of the LOC from the Directors; by causing Kam-MIC to deliver the false TD List and the forged TD LOC Agreement to its lender; by preferring their own interests to Kam-MIC's; and by concealing what they had done. Kam-MIC is entitled to equitable compensation for its loss, assessed with the full benefit of hindsight and without regard to foreseeability or remoteness, and to the disgorgement of all fees and other benefits the defendants received while in breach.

5. Mr. Stewart held a disclosable interest in the Service Agreement and its 2019 extension within the meaning of s. 147 of the *Business Corporations Act*. The Service Agreement was not approved in accordance with ss. 148(2) and 149 after disclosure of the nature and extent of that interest, and Mr. Stewart participated and voted in the decisions approving it. Under s. 148(1), Mr. Stewart is liable to account to Kam-MIC for every profit that accrued to him under or as a result of the Service Agreement. Alternatively, the Service Agreement, as Mr. Stewart caused SMC to perform it, was not fair and reasonable to Kam-MIC, and the Court should order under s. 150(2) that Mr. Stewart account for those profits.

Deceit and fraudulent misrepresentation

6. The defendants are liable in deceit. They made the Representations to Kam-MIC; the Representations were false; the defendants knew they were false or were reckless as to their truth; they intended Kam-MIC to act on them; Kam-MIC acted on them as pleaded in paragraph 26 of Part 1; and Kam-MIC suffered loss as a result. The particulars of the Representations, of their falsity, and of the defendants' knowledge are pleaded in Part 1.

7. Mr. Stewart is personally liable for his deceit even though he committed it as the director and officer of SMC and for its benefit. His knowledge, intent, and fraud, committed within the scope of his authority as SMC's directing mind, are attributable to SMC.

8. The measure of damages for deceit is the loss directly flowing from Kam-MIC's reliance on the Representations, including consequential loss, without regard to foreseeability.

Knowing assistance and knowing receipt

9. Mr. Stewart, with actual knowledge of, or recklessness or wilful blindness to, SMC's fraudulent and dishonest breaches of trust, participated in and assisted them, and is personally liable as a constructive trustee for the whole of Kam-MIC's loss.

10. To the extent Mr. Stewart received Kam-MIC's money or its proceeds, or it was applied to his benefit, with actual or constructive knowledge of the breaches of trust, he is liable as a constructive trustee for knowing receipt.

Conversion

11. The defendants converted Kam-MIC's money and its mortgage security to their own use.

Breach of contract

12. SMC breached the Service Agreement, including ss. 3.01, 3.02, 3.03, 3.04, 5.01(2), 5.01(3), 5.01(7), 6.01, 6.02, 6.04, 6.05, 7.01, 9.01, and 9.02. Its breaches went to the

root of the contract and amounted to its repudiation, which Kam-MIC has accepted. Kam-MIC is entitled to damages for breach of contract, to payment of all trust money, and to delivery up of its money, security, and records under s. 10.03(C). Under s. 11.07, no forbearance by Kam-MIC waived any breach.

Negligence

13. In the alternative, SMC owed Kam-MIC a duty of care, under s. 7.01 of the Service Agreement and at common law, to exercise the care, diligence, and skill of a reasonable, prudent mortgage manager in originating, securing, administering, collecting, and reporting on Kam-MIC's loans and in managing its bank accounts. SMC breached that duty by, among other things, failing to register or maintain security in Kam-MIC's name, failing to remit collections and payout proceeds, failing to report, failing to notify the Directors of arrears, and failing to keep and produce proper records. SMC is liable to Kam-MIC for the resulting loss under s. 8.01 of the Service Agreement and at common law. Mr. Stewart, who personally performed SMC's functions and personally directed the acts and omissions complained of, is liable with SMC.

Unjust enrichment, tracing, and constructive trust

14. The defendants have been enriched by the Misappropriated Funds, Kam-MIC has suffered a corresponding deprivation, and there is no juristic reason for the enrichment. Kam-MIC is entitled to restitution.

15. Kam-MIC is entitled to trace the Misappropriated Funds and their proceeds into the hands of the defendants and into any asset acquired, improved, maintained, preserved, or encumbered with them, and to a constructive trust over, or an equitable charge on, the traced assets, on the basis of the defendants' breaches of trust and fiduciary duty, their deceit, and their unjust enrichment. A constructive trust is the appropriate remedy because the Misappropriated Funds are substantially and directly linked to the Residence and to the other assets pleaded in Part 1, and because a monetary award against the defendants would be inadequate for the reasons pleaded in paragraph 60 of Part 1.

16. Kam-MIC claims an estate or interest in the Residence and is entitled to register a certificate of pending litigation against it under s. 215 of the *Land Title Act*, R.S.B.C. 1996, c. 250.

Limitation periods

17. Kam-MIC discovered its claims, within the meaning of s. 8 of the *Limitation Act*, no earlier than August 25, 2026. The defendants wilfully concealed the facts giving rise to the claims, and under s. 21(3) of the *Limitation Act* the acts and omissions on which the claims are based are deemed to have taken place on the day the claims were discovered. This action is brought within the limitation periods established by ss. 6 and 21 of the *Limitation Act*.

Fraud while acting in a fiduciary capacity

18. The defendants' liabilities to Kam-MIC arise out of fraud, embezzlement, misappropriation, or defalcation while acting in a fiduciary capacity, and out of obtaining property by false pretences and fraudulent misrepresentation. They are debts and liabilities that an order of discharge in bankruptcy does not release, under s. 178(1)(d) and (e) of the *Bankruptcy and Insolvency Act*, and the money and property the defendants hold in trust for Kam-MIC is not divisible among their creditors, under s. 67(1)(a) of that Act.

Set-off

19. Kam-MIC is entitled, at law and in equity, to set off the amounts due to it against any amount claimed by either defendant, including any dividend, redemption proceeds, or other amount in respect of Mr. Stewart's preferred shares and any fees or other amounts claimed by SMC.

Injunctions and ancillary relief

20. Kam-MIC is entitled to a *Mareva* injunction; to orders for the disclosure and preservation of the defendants' assets and records; to an order preserving the money collected on its mortgages and loans, in which it claims a proprietary interest; and to *Norwich Pharmacal* relief against the defendants' financial institutions, under s. 39 of

the *Law and Equity Act*, R.S.B.C. 1996, c. 253, Rules 8-5, 10-1, and 10-4 of the *Supreme Court Civil Rules*, and the inherent jurisdiction of the Court.

Punitive damages and special costs

21. The defendants' conduct was deliberate, sustained over years, concealed by false reports and a forged signature, and profitable to them. A fiduciary and a director committed it against a company whose capital belongs to private investors, many of them investing through their retirement plans. It is a marked departure from ordinary standards of decent behaviour and warrants an award of punitive damages.

22. The defendants' fraud and breach of trust are reprehensible conduct deserving of rebuke and warrant an award of special costs.

Statutes

23. Kam-MIC relies on the *Business Corporations Act*, S.B.C. 2002, c. 57, ss. 142 and 147 to 150; the *Limitation Act*, S.B.C. 2012, c. 13; the *Law and Equity Act*, R.S.B.C. 1996, c. 253; the *Land Title Act*, R.S.B.C. 1996, c. 250; the *Court Order Interest Act*, R.S.B.C. 1996, c. 79; the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3; and the *Supreme Court Civil Rules*, B.C. Reg. 168/2009.

Date: September 23, 2026

Signature of Yarden D. Gershony
Lawyer for the plaintiff

Plaintiff's address for service:	Rush Ihas Hardwick LLP, Suite 200 – 591 Bernard Avenue, Kelowna, British Columbia, V1Y 6N9
Fax number address for service:	N/A
E-mail address for service (if any):	ygershony@rihlaw.com with a copy to llevinski@rihlaw.com
Place of trial:	Kelowna, British Columbia
The address of the registry is:	1355 Water Street, Kelowna, British Columbia, V1Y 9R3

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.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

The plaintiff, a mortgage investment corporation, claims against its mortgage manager and the manager's principal, who is also one of the plaintiff's directors, for breach of trust, breach of fiduciary duty, deceit, conversion, breach of contract, negligence, and unjust enrichment, in respect of loans reported to the plaintiff as current mortgages but not registered in its name, and interest collected on its mortgage portfolio and not remitted to it, estimated together at approximately $13,000,000, concealed by false portfolio reports and financial statements and by a forged signature on the plaintiff's bank documents. The plaintiff also claims an accounting, tracing and constructive trust remedies, a certificate of pending litigation, injunctive relief, disgorgement of fees, and punitive damages.

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

[X] real property (real estate)

[ ] personal property

[X] the provision of goods or services or other general commercial matters

[ ] investment losses

[ ] the lending of money

[ ] an employment 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 law

[ ] conflict of laws

[X] none of the above

[ ] do not know

Part 4:

Court Order Interest Act, R.S.B.C. 1996, c. 79

Law and Equity Act, R.S.B.C. 1996, c. 253, s. 39

Land Title Act, R.S.B.C. 1996, c. 250, s. 215

Business Corporations Act, S.B.C. 2002, c. 57, ss. 142 and 147 to 150

Limitation Act, S.B.C. 2012, c. 13, ss. 6, 8, and 21

Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, ss. 67 and 178

Supreme Court Civil Rules, B.C. Reg. 168/2009, Rules 8-5, 10-1, and 10-4

This is **Exhibit "B"** referred to in the Affidavit of **DARREN OVINGTON** affirmed before me at Kelowna in the Province of British Columbia this 9th day of November, 2026.

A Commissioner for Taking Affidavits in British Columbia.

TITLE SEARCH PRINT
File Reference: 35666
Declared Value $1400000

2026-11-09, 09:02:41
Requestor: Marija Maleki

CURRENT INFORMATION ONLY - NO CANCELLED INFORMATION SHOWN

Land Title District	KAMLOOPS
Land Title Office	KAMLOOPS
Title Number	CB41214
From Title Number	CA4001475
Application Received	2022-06-29
Application Entered	2022-07-11

Registered Owner in Fee Simple
Registered Owner/Mailing Address: JAMIE JOHN PATON STEWART, SELF-EMPLOYED
1238 ROCKCRESS DRIVE
KAMLOOPS, BC
V2E 0B4

Taxation Authority Kamloops, City of

Description of Land
Parcel Identifier: 028-532-554
Legal Description:
LOT 16 SECTION 2 TOWNSHIP 20 RANGE 18 WEST OF THE 6TH MERIDIAN KAMLOOPS DIVISION YALE DISTRICT PLAN KAP91909

Legal Notations
RE PARAGRAPHS (E) AND (F) SEC 23 (1) LTA SEE DF X54471, 24/9/85

Charges, Liens and Interests

Nature:	COVENANT
Registration Number:	LB455655
Registration Date and Time:	2011-03-16 10:36
Registered Owner:	CITY OF KAMLOOPS
Remarks:	INTER ALIA

Nature:	COVENANT
Registration Number:	LB455656
Registration Date and Time:	2011-03-16 10:36
Registered Owner:	CITY OF KAMLOOPS
Remarks:	INTER ALIA

TITLE SEARCH PRINT
File Reference: 35666
Declared Value $1400000

2026-11-09, 09:02:41
Requestor: Marija Maleki

Nature:	STATUTORY BUILDING SCHEME
Registration Number:	LB461110
Registration Date and Time:	2011-04-11 14:10
Remarks:	INTER ALIA

Nature:	MORTGAGE
Registration Number:	CB41215
Registration Date and Time:	2022-06-29 12:13
Registered Owner:	OLYMPIA TRUST COMPANY INCORPORATION NO. A50545
Transfer Number:	CB2725191

Nature:	MORTGAGE
Registration Number:	CB41216
Registration Date and Time:	2022-06-29 12:13
Registered Owner:	0752063 B.C. LTD. INCORPORATION NO. BC0752063

Nature:	CROWN LIEN
Registration Number:	CB3022677
Registration Date and Time:	2026-08-25 09:49
Registered Owner:	THE CROWN IN RIGHT OF BRITISH COLUMBIA
Remarks:	SPECULATION AND VACANCY TAX ACT

Nature:	CERTIFICATE OF PENDING LITIGATION
Registration Number:	CB3111738
Registration Date and Time:	2026-10-01 09:24
Registered Owner:	KAM-MIC INVESTMENT CORP. INCORPORATION NO. BC0265834

Duplicate Indefeasible Title NONE OUTSTANDING

Transfers NONE

Pending Applications NONE

This is **Exhibit "C"** referred to in the Affidavit of **DARREN OVINGTON** affirmed before me at Kelowna in the Province of British Columbia this 9th day of November, 2026.

A Commissioner for Taking Affidavits in British Columbia.

Land Title Act
Form 31
(Section 215(1))

NATURE OF INTEREST: CHARGE: CERTIFICATE OF PENDING LITIGATION

HEREWITH FEE OF: $

LEGAL DESCRIPTION AND PARCEL IDENTIFIER NO:

PID: 028-532-554
LOT 16 SECTION 2 TOWNSHIP 20 RANGE 18 WEST OF THE 6TH MERIDIAN
KAMLOOPS DIVISION YALE DISTRICT PLAN KAP91909

Address of person entitled to register this certificate of pending litigation:

c/o 200 – 591 Bernard Avenue, Kelowna, BC V1Y 6N9

Full name, address, telephone number of person presenting application:
Rush Ihas Hardwick LLP
200 – 591 Bernard Avenue
Kelowna, BC V1Y 6N9
Tel: 250.868.2313 (File #35666)

Signature of Applicant, or
Solicitor or Authorized Agent

SUPREME COURT OF BRITISH COLUMBIA SEAL 29-Sep-26 Kelowna REGISTRY

Court File No. KEL-S-S-148504
Kelowna Registry

In the Supreme Court of British Columbia

BETWEEN:

KAM-MIC INVESTMENT CORP.

PLAINTIFF

AND:

JAMIE JOHN PATON STEWART and
STEWART MORTGAGE CORP.

DEFENDANTS

CERTIFICATE OF PENDING LITIGATION

I CERTIFY that in a proceeding commenced in this court a claim is made for an estate or interest in land or a right of action in respect of land is given by an enactment other than the *Land Title Act*. The particulars are set out in the attached copy of the document by which the claim is made.

Given under my hand and the seal of the court at Kelowna, British Columbia, this 29th day of September, 2026.

Digitally signed by
Holtskog, Brenda

Registrar

This is **Exhibit "D"** referred to in the Affidavit of **DARREN OVINGTON** affirmed before me at Kelowna in the Province of British Columbia this 9th day of November, 2026.

A Commissioner for Taking Affidavits in British Columbia.

Kelowna
14-Oct-26
REGISTRY

No. KEL-S-S-148504
Kelowna Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

KAM-MIC INVESTMENT CORP.

PLAINTIFF

AND:

JAMIE JOHN PATON STEWART and

STEWART MORTGAGE CORP.

DEFENDANTS

Filed by: Jamie John Paton Stewart and Stewart Mortgage Corp., the defendants.

Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

Division 1 – Defendants' Response to Facts

1. The facts in paragraphs 1, 2, 3, 4, 5, 6, 7, 9, 10, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 40, 44, 45, 46, 47, 48, 51, 52, 53, 55, and 56 of Part 1 of the notice of civil claim are admitted.

2. The facts alleged in paragraphs 18, 58, 59, 60 and 61 of Part 1 of the Notice of Civil Claim are denied.

3. The facts alleged in paragraphs 8, 11, 12, 36, 37, 38, 39, 41, 42, 43, 49, 50, 54, and 57 of Part 1 of the Notice of Civil Claim are outside the knowledge of the defendants.

Division 2 – Defendants' Version of Facts

1. The defendants, Jamie John Paton Stewart and Stewart Mortgage Corp. generally admit liability and the basic thrust of the allegations in the notice of civil claim (the "Misappropriation"), though some of the specifics alleged and the legal implications of the facts are disputed or outside the defendants knowledge.

2. In response to the facts alleged in paragraph 18 of Part 1 of the notice of civil claim, the defendants deny the regularity of formal reporting changed in any significant way since 2020, but the defendants acknowledge informal reporting to the Ovington Directors did change as there were previously regular informal meetings.

3. In response to the facts alleged in paragraph 58 of Part 1 of the notice of civil claim, the defendants admit that the Sun Peaks property was purchased at a time when Missing Interest and Missing Mortgages were accumulating, but denies that the second property was purchased at a time when the Misappropriation was occurring.

4. In response to the facts alleged in paragraph 59 of Part 1 of the notice of civil claim the defendants say they have provided a specific affidavit of assets.

5. In response to the facts alleged in paragraph 60 of Part 1 of the notice of civil claim, the defendants deny that there is any ongoing risk of that they will purposefully unlawfully dissipate proceeds and instead say that they are fully willing to cooperating in unwinding the Misappropriation that has occurred to the best of their ability.

6. In response to the facts alleged in paragraph 61 of Part 1 of the notice of civil claim, the defendants acknowledge a multimillion-dollar loss has occurred but deny the specific amount as the precise number is not yet known to them.

7. In response to the facts alleged in paragraphs 8, 11, 12, 36, 37, 38, 39, 49, 50, 54, and 57 of Part 1 of the notice of civil claim, the defendants acknowledge that some of what is alleged in these paragraphs may be accurate, but these paragraphs plead mixed legal and factual conclusions and the defendants do not know the exact legal implications which a court will find to arise from the admitted circumstances of this case.

8. In response to the facts alleged in paragraphs 41, 42, and 43 of Part 1 of the notice of civil claim, the defendants agree generally with the allegations but do not know the exact amounts being alleged. The amounts alleged are probably correct or close to correct.

Division 3 – Additional Facts

9. Some other investors, aside from Kam-Mic Investment Corp. have also sustained a loss.

Part 2: RESPONSE TO RELIEF SOUGHT

1. The defendants consent to the relief sough in paragraphs 1, 11, 14, and 16 of Part 2 of the notice of civil claim.

2. The defendants oppose the granting of the relief sought in paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13 and 15 of Part 2 of the notice of civil claim.

Part 3: LEGAL BASIS

1. The defendants admit to the Misappropriation, essentially as alleged by the plaintiff.

2. The defendants have denied some of the legal conclusions which the plaintiff says arise from the defendants' admitted actions, but such denials may well be re-visited.

3. The defendants wish to assist, to the extent possible in unwinding what has occurred. The defendants acknowledge that the losses exceed the defendants' realistic ability to pay.

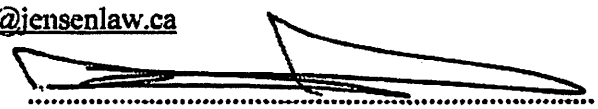
4. The defendants say that the amount of a judgment in this case is likely to far exceed the recoverable assets available to pay such judgment and that punitive damages and special costs should not be awarded.

Defendant's address for service: 620 Battle Street, Kamloops, British Columbia

Fax number address for service (if any): 250-374-7777

E-mail address for service (if any): Daniel@jensenlaw.ca

Date: October 14, 2026



Signature of Daniel McNamee,
Counsel for the defendants,
Jamie John Paton Stewart and
Stewart Mortgage Corp.

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.