

This is the 2nd affidavit of Azadeh Samimi
in this case and was made on August 7, 2024



NO. S-238586
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

1038573 B.C. LTD.

PLAINTIFF

AND:

THE OWNERS, STRATA PLAN NW289, JENNY DONNA DICKISON, FERNANDO MARCELINO DUTRA DE SOUSA, 1276331 B.C. LTD., CARMELIA MARIA DA SILVA, HONCHING RUDOLPH CHENG, 1161359 B.C. LTD., RICKY HEE MENG LAI, PIA FACCIO, 1184416 B.C. LTD., MARK WILLIAM LOUTTIT and SARAH KINUKO LOUTTIT, BARRY DOUGLAS WATSON, AS ADMINISTRATOR OF THE ESTATE OF KENNETH JOHN WATSON, LI PING DUAN, NORMAN VICTOR LEECH, ROLANDO VINAS DIZON and NARCISA DIZON, NICHOLAS GEORGE KARAMOUZOS and MARIA KARAMOUZOS, CUI MING CHEN, YANKUI WANG and XIN TIAN, MARIA DA NATIVIDADE ALMEIDA, 1237765 B.C. LTD., JU-SHAN CHIANG and FLORA FU, 1184414 B.C. LTD., AMARSINGH BHATIA and NARANJAN KAUR BHATIA, PHUNG KIM VUONG and TUONG LAM, MONICA PAOLA ALIAGA, MARCELINO LOPES DE SOUSA and OLGA MARIA DUTRA DE SOUSA, 1184413 B.C. LTD., LUALHATI ONGKEKO CRISOSTOMO, RICHARD RAYMOND RAVENSBERGEN and DAWN MARIE RAVENSBERGEN, YUK FAR CHEUNG and YIN ON CHEUNG, GARY LUCIEN DREES, THOMAS PATRICK FLEMING, 1352962 B.C. LTD., WAN CHEN and HONG YANG, SU JUAN SITU, VAN DAO NGUYEN and THI BICH HANG NGUYEN, JULIAN BOZSIK, CHRISTIAN HERBERT JOSON-LIM and IRIS JUNE CALIBUGAN ADIONG, ANGELA JOY EYKELBOSH, NGUYEN THANH VUONG and TUYET NGOC DU, OM PARKASH LOOMBA and MERRAN LOOMBA, SUZANNE JUANITA KUDELSKI, YAN QIONG LU, PING HE, EDWARD LAWRENCE THUE, RICHARD CHARLES PATRICK SPENCER and DIANE MARIE SPENCER, ARTHUR SUMMERS WILLIAMSON, GARY DALE CHARTER and CRISTINA RIMANDO GAPAL, JU TAI ZHOU and YU QING LI, ZHI HAO YANG, DAISY CUETO EVANGELISTA and MARIA CHERRY EVANGELISTA, MEGAN MARY BURGHALL, NASIM BHALOO, HUI LIN DONG and LI WANG, MANSOUR MESHKI, HSIANG CHIAO HUANG, GORDON WILLIAM PATERSON, YVONNE JO-ANNE ENGLAND, GRACE JOANNA LEVSEN, PING CHOR CHAN, SO FAN LEE and TAK TAI LUI

DEFENDANTS

AND:

1038573 B.C. LTD.

DEFENDANT BY WAY OF COUNTERCLAIM

AFFIDAVIT

I, Azadeh Samimi, legal assistant, of 1600 – 925 West Georgia Street, in the City of Vancouver, in the Province of British Columbia, SWEAR THAT:

1. I am a legal assistant employed with the law firm of Lawson Lundell LLP, counsel for the defendants, The Owners, Strata Plan NW289 as represented by the Liquidator, Crowe MacKay & Company Ltd., herein, and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated to be made upon information and belief, and, as to such facts, I verily believe the same to be true.

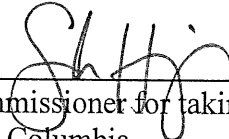
2. On May 22, 2024, Peter J. Roberts, K.C. of Lawson Lundell LLP conducted an examination for discovery of Kush Bhatia, as representative of the plaintiff 1038573 B.C. Ltd. Attached hereto and marked as **Exhibit “A”** to this affidavit are true copies of excerpts from the transcript of the examination for discovery, as prepared by Charest Legal Solutions Inc.

3. Attached hereto and marked as exhibits to this affidavit are true copies of the following documents that were put to Mr. Bhatia in the course of his examination for discovery:

<u>Exhibit</u>	<u>Document</u>
“B”	Purchase and Sale Agreement, dated December 7, 2022;
“C”	Order of Justice Milman, made June 17, 2022; and
“D”	Plaintiff’s document PLA00191 (marked as Exhibit 2 at the examination for discovery).


4. Attached hereto and marked as **Exhibit “E”** to this affidavit is a true copy of a letter from Craig Dennis, K.C., counsel for the plaintiff 1038573 B.C. Ltd., to Mr. Roberts dated August 1, 2024, enclosing Mr. Bhatia’s responses to the outstanding requests arising from his examination for discovery.

SWORN BEFORE ME at the City)
of Vancouver, in the Province of British)
Columbia, this 7th day of August, 2024.)
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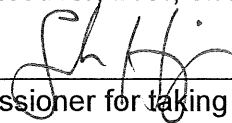
A Commissioner for taking Affidavits for
British Columbia.

SARAH B. HANNIGAN
Barrister & Solicitor
1600 - 925 WEST GEORGIA ST.
VANCOUVER, B.C. V6C 3L2
(604) 685-3456



AZADEH SAMIMI

This is Exhibit "A" referred to in the affidavit of Azadeh Samimi made before me at Vancouver, B.C., on August 7, 2024.



A Commissioner for taking Affidavits within
British Columbia.

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May 22, 2024

Vancouver, BC

(PROCEEDINGS COMMENCED AT 1:50 P.M.)

KUSH BHATIA, duly affirmed.

EXAMINATION BY CNSL R. POWER: .

1 Q Mr. Bhatia, could you say and spell your name for
the record.

A Kush, K-u-s-h; Kumar, K-u-m-a-r; last name Bhatia,
B-h-a-t-i-a.

2 Q And you've affirmed to tell the truth today on
this examination?

A Yes, I have.



1

2 7 Q Okay. And you are the director and sole officer
3 of a company known as 1038573, is that correct,
4 B.C. Ltd.?

5 A That's correct.

6 8 Q Okay. And I'm going to show you -- we had marked
7 as Exhibit 1 in the discovery of Mr. Lai conducted
8 this morning a binder of documents, so if you
9 could look at tab 1 of that.

10 A Yes.

11 9 Q You'll see that that's an amended notice of civil
12 claim that was filed last Friday, I think it was?

13 A That's correct.

14 10 Q And you would have reviewed this amended claim
15 before it is filed?

16 A That's correct.

17 11 Q Okay. And you'll see that the plaintiff is
18 1038573 B.C. Ltd.?

19 A Yes, I do.

20 12 Q And during the course of this discovery, I'm going
21 to try to refer it as 103; okay?

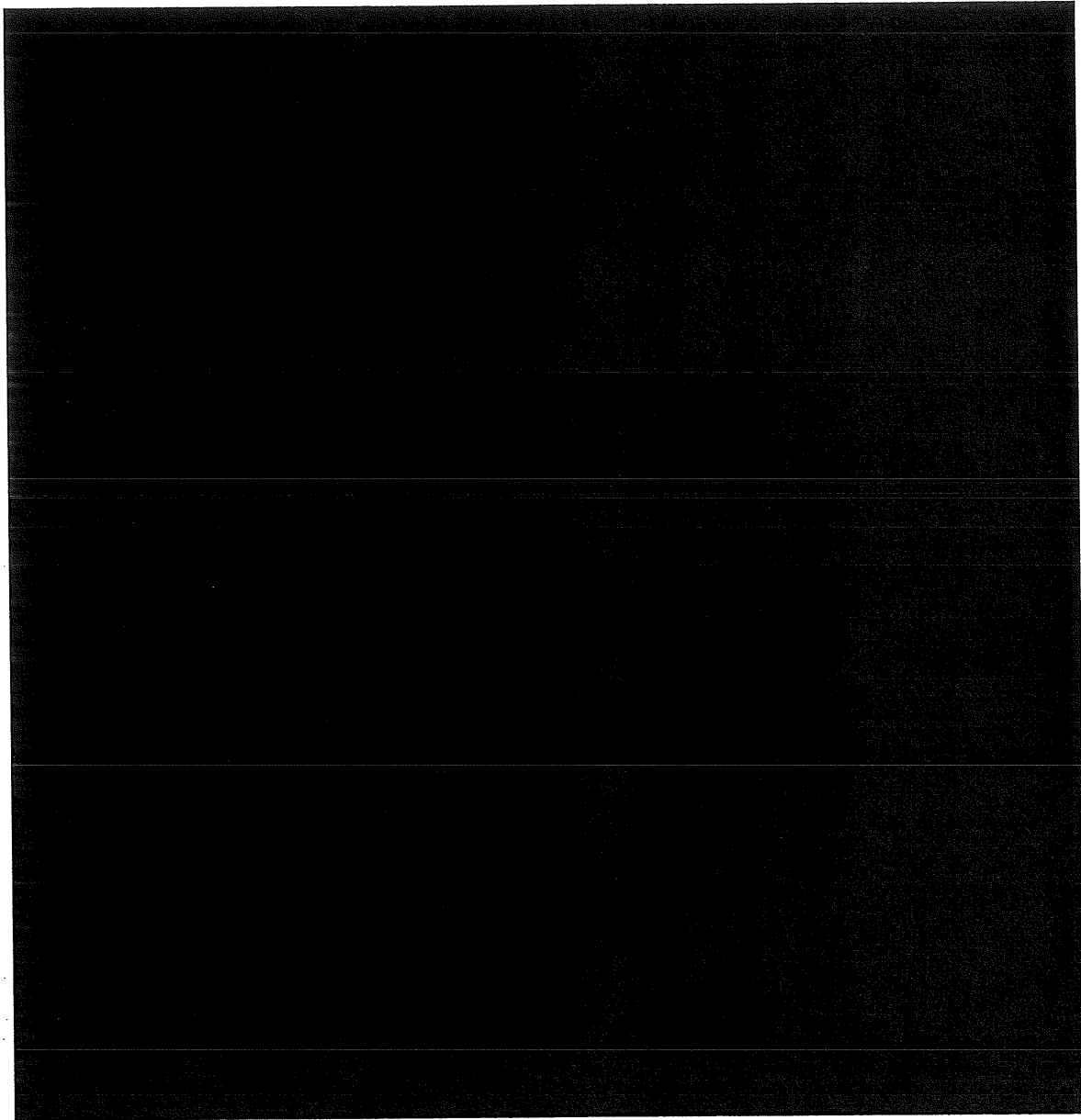
22 A Sure.

23 13 Q Do you understand what I mean?

24 A Yes.

25 14 Q In addition, during the course of my discovery, if

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20 Q And you also understand that 103 is a party to a
21 purchase and sale agreement. So if you turn to
22 tab 16A on the binder in front of you.
23 A Yes.
24 21 Q You recognize this document? It's a purchase and
25 sale agreement dated December 7th, 2022?

1 A That's correct, I do recognize.

2 22 Q And, in fact, I think you've initialled every page
3 through to page -- at least page 27, where your
4 signature appears; is that correct?

5 A Yes, I have.

6 23 Q Do you want to turn to page 27 and just confirm
7 that.

8 A Yes, I have seen that.

9 24 Q Okay. Are there any other directors of 103?

10 A No.

11 25 Q And have you always been the -- what we call the
12 operating mind of 103 since its incorporation?

13 A I have, yes.

14 26 Q Okay. And are you the sole shareholder?

15 A Yes, I am.

16 27 Q Okay. And what business was 103 in prior to
17 signing this purchase and sale agreement on
18 September 7th, 2022?

19 A It is mostly into land development.

20 28 Q Okay. Can you give me a description.

21 A Buying land, developing it, selling it, and
22 building if necessary.

23 29 Q So can you describe for me some of the projects
24 that 103 took part in prior to signing this
25 purchase and sale agreement.

1 A I've done a land assembly in Pitt Meadows, and it
2 was a six-parcel land assembly in around 2015,
3 '16, I can recollect.

4 30 Q Okay. Is that the only --

5 A Yes. It was the only project under this company.

6 31 Q Okay. Have you been involved in the development,
7 purchase, or redevelopment of any strata
8 properties prior to December 7th?

9 A Not a strata windup. Just houses, mostly
10 single-family houses. Not a strata property, no.

11 32 Q Other than by way of a windup, have you been
12 involved -- you personally or 103 been involved in
13 the purchase, redevelopment of a strata?

14 A No.

15 33 Q Was the strata that is the subject of this
16 purchase and sale agreement your first involvement
17 in purchasing or developing or potentially
18 developing a strata?

19 A Condo project, yes, condo project.

20 34 Q Okay. Have you personally or any of your
21 companies ever owned a strata lot in any strata
22 corporation before?

23 A No, not owned. But I've built one; I've built a
24 few, actually.

25 35 Q Through a different entity than 103?

1 A That's correct.

2 36 Q Okay. And how many of those have you built?

3 A Three.

4 37 Q Okay. And do you remember the names or addresses
5 of them?

6 A One is in Pitt Meadows, 19108 McMyn Road; one was
7 called Aviva on Rowland Street in Port Coquitlam;
8 and then one was 768 Cambie Street in Vancouver.

9 38 Q And had you --

10 A And there was another one. 2488, I think, Welcher
11 Avenue in Port Coquitlam. I might be wrong with
12 the numbers, but it was Welcher Avenue.

13 CNSL P. ROBERTS: Perhaps I'll leave it as a request that you
14 confirm the strata name and municipal address for
15 each of the stratas that you say you've built.

16 **REQUEST 1: Provide the strata name and municipal**
17 **addresses of the stratas Mr. Bhatia has built**

18 CNSL P. ROBERTS:

19 39 Q And I think you've now told me there were at least
20 four; is that correct?

21 A M'mm-hmm.

22 40 Q Yes?

23 A Yes, correct.

24 41 Q Okay. And were those all done before you signed
25 this purchase and sale agreement in December of

1 2022?

2 A That's correct.

3 42 Q Okay. And were you also involved in the ownership
4 of any individual lots, or did you sell them to
5 third parties?

6 A I've been the owner of lots, but I usually develop
7 it and sell them.

8 43 Q Okay. Have you ever leased out strata lots
9 through any of your companies, including 103 or
10 personally?

11 A No, I have not.

12 ■ ■ [REDACTED]

13 ■ ■ [REDACTED]

14 ■ ■ [REDACTED]

15 [REDACTED]

16 ■ [REDACTED]

17 ■ ■ [REDACTED]

18 [REDACTED]

19 ■ [REDACTED]

20 [REDACTED]

21 ■ ■ [REDACTED]

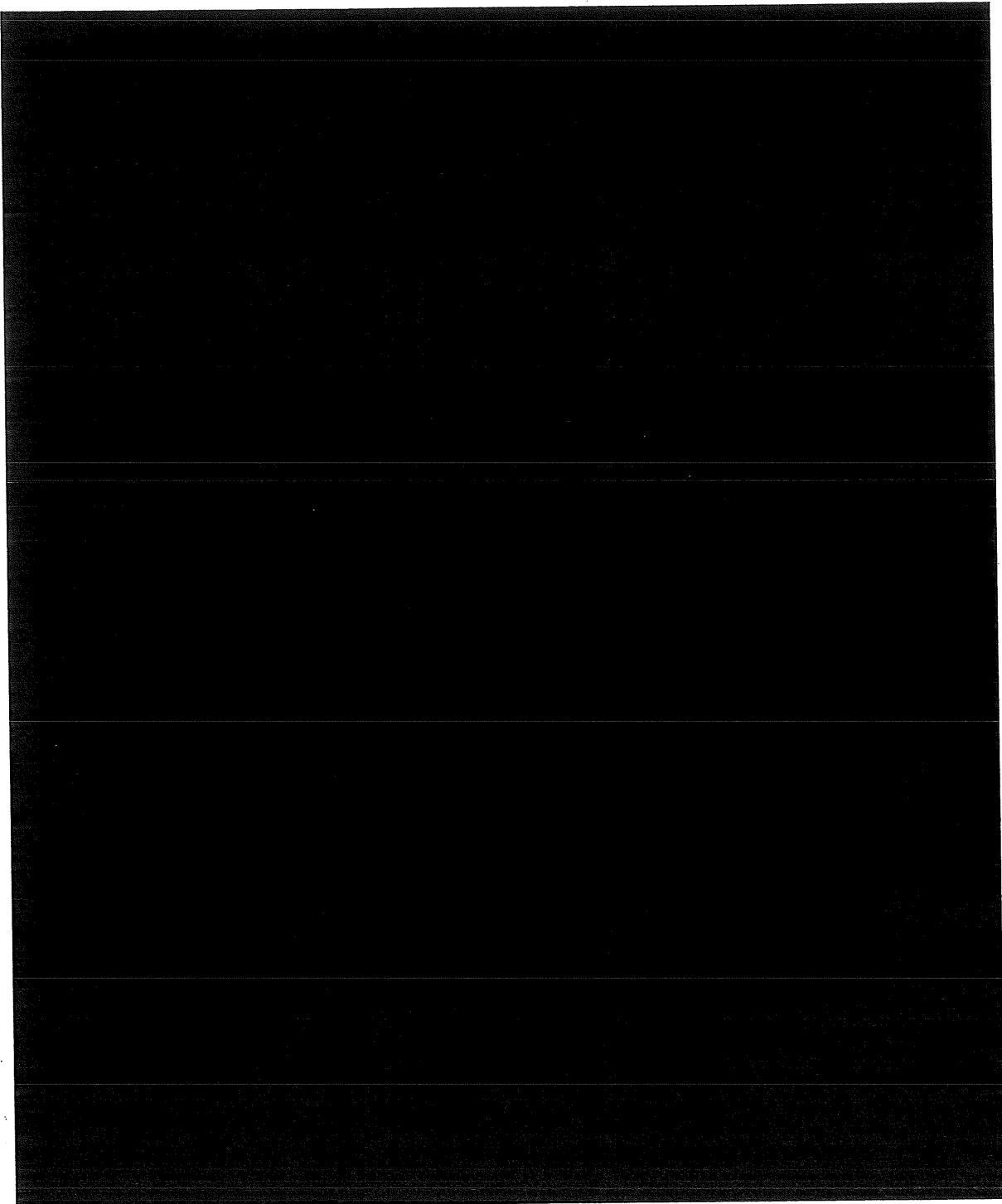
22 [REDACTED]

23 ■ [REDACTED]

24 [REDACTED]

25 [REDACTED]

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23 52 Q You understand that a company by the name of Crowe
24 Mackay was appointed and confirmed as the
25 liquidator of the strata corporation with whom you

1 signed a -- the contract of purchase and sale
2 agreement we were looking at?

3 A Yes.

4 53 Q And you understood that the gentleman primarily
5 responsible at Crowe MacKay was named Derek Lai?

6 A Correct.

7 54 Q Okay. Am I right that you never had any
8 conversations with Derek Lai yourself personally?

9 A No, absolutely zero.

10 55 Q Okay. And did anyone else as an agent or employee
11 of 103 have any conversations with Mr. Lai, to
12 your knowledge?

13 A Not to my knowledge, no.

14 56 Q Okay. Do you know whether you or any of -- any
15 agent of 103 at any time had conversations with
16 other employees of Crowe MacKay?

17 A No.

18 57 Q You have no knowledge of those?

19 A No.

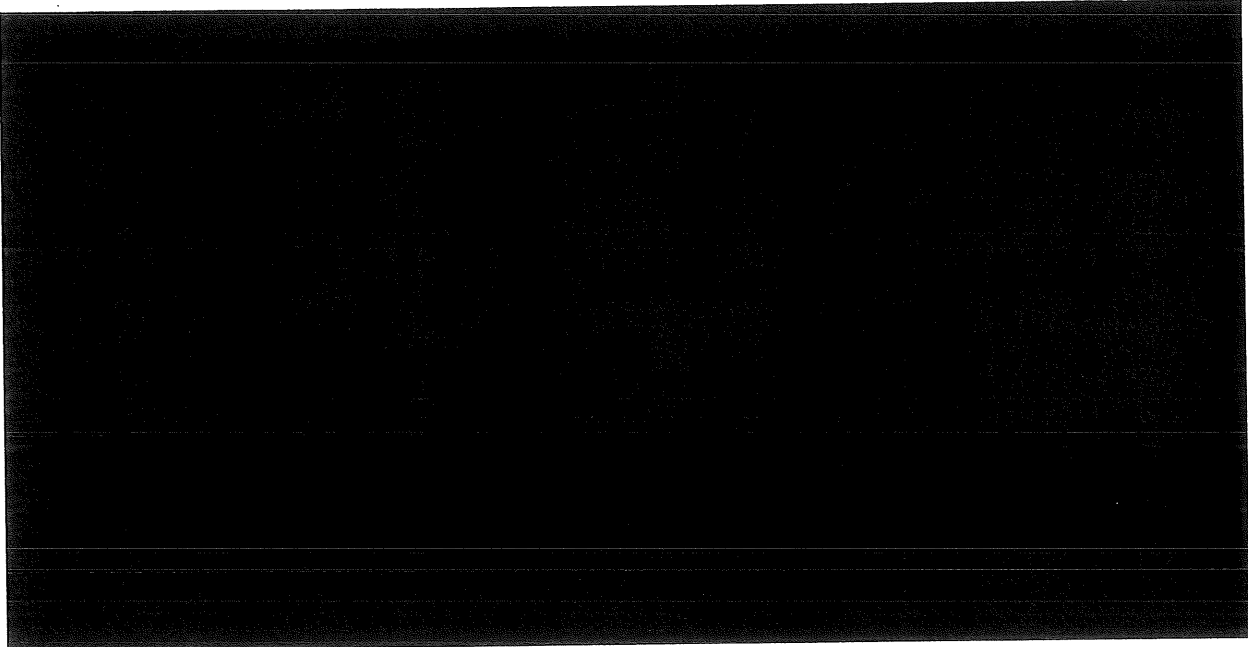
20 58 Q Okay. Is it the case that you had -- you -- and I
21 mean you personally and 103 had no direct dealings
22 with Mr. Lai and his company?

23 A That's correct.

24 ■ ■ [REDACTED]

25 [REDACTED]

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11 64 Q Okay. Okay. I'm going to go back to the purchase
12 and sale agreement, which is at tab 16A. And you
13 identified this document for me as something that
14 you had signed; correct?

15 A That's correct.

16 65 Q And if you turn to what is labelled page 35 in the
17 upper right-hand corner, that's an addendum?

18 A Yes.

19 66 Q That you signed?

20 A That's correct.

21 67 Q And then if you flip the page to page 36, this is
22 another addendum, this one dated January 27th of
23 2023, that you also signed?

24 A Yes.

25 68 Q And then if you look at the next page, page 37,

1 this is an addendum dated February the 24th, 2023,
2 that you signed?

3 A That's correct.

4 69 Q Okay. And if you turn to page 39, you'll see
5 another -- a mutual notice of second condition
6 satisfaction and/or waiver dated May the 24th of
7 2023?

8 A That's correct.

9 70 Q Am I correct that you signed this as well on this
10 page?

11 A That's correct.

12 71 Q Okay. And am I correct that on the day you signed
13 this mutual notice, you understood the purchase
14 and sale contract to be unconditional and binding
15 on the parties?

16 A Yes, I do.

17 72 Q And am I right that you sought and obtained legal
18 advice with respect to this purchase and sale
19 agreement before you signed it?

20 A Yes, I did.

21 73 Q Okay. And am I also right that in February of
22 2023, pursuant to the terms of this purchase and
23 sale agreement, you arranged on behalf of 103 to
24 have the \$3 million deposit paid to the trust
25 account of your counsel?

