



This is the 1<sup>st</sup> Affidavit of Marshall MacLeod  
in this case and was made on January 30, 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, HON-CHING RUDOLPH CHENG, 1161359 B.C. LTD., RICKY HEE MENG LAI, PIA FACCIIO, 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, Marshall MacLeod, real estate agent, of 1560 Eaglecliff Road, Bowen Island, in the Province of British Columbia, SWEAR THAT:

1. I am a licensed commercial real estate agent engaged by the The Owners, Strata Plan NW289 (“**Cameray Gardens**”), as represented by the liquidator, Crowe MacKay & Company Ltd. (the “**Liquidator**”) herein. As such, I have personal knowledge of the facts hereinafter deposed to save and except where such facts are stated to be made upon information and belief and where so stated I verily believe them to be true.

2. I am the Associate Vice President of NAI Commercial, and have been working in the commercial real estate industry since 1995. By way of a listing agreement with the Liquidator, NAI Commercial was appointed as a listing broker of Cameray Gardens to negotiate a sale of Cameray Gardens, and I was appointed as a designated agent (through my personal real estate corporation).

3. In or around August 2022, Bellmont Pacific Group Ltd. (“**Bellmont**”), through its representative Kush Bhatia, made an offer to purchase Cameray Gardens. That offer was initially accepted, but ultimately collapsed. Subsequently, in or around December 2022, Mr. Bhatia presented a new offer on behalf of the plaintiff/defendant by counterclaim 1038573 B.C. Ltd. (the “**Purchaser**”). Based on my various discussions with Mr. Bhatia, I understand the Purchaser to be affiliated with or related to Bellmont. These negotiations culminated in a conditional purchase and sale agreement dated December 7, 2022 (the “**PSA**”) between the Purchaser and the Liquidator.

4. I communicated with Mr. Bhatia in the months and weeks leading up to the PSA’s completion date (December 15, 2023), including by text message. Attached hereto and marked as **Exhibit “A”** is a true copy of screenshots of my text messages with Mr. Bhatia between October 5 and December 19, 2023.



5. On November 10, 2023, I texted Mr. Bhatia to check in on the status of the closing documents, and he advised me that he would be meeting with the Purchaser's counsel the following week.

6. On November 22, 2023, I participated in a telephone call with Mr. Bhatia. In the course of our discussion, Mr. Bhatia relayed to me financing concerns in relation to the Purchaser's acquisition of Cameray Gardens. I asked Mr. Bhatia if he would like me to introduce him to a lender (Kulwant Chauhan) who may be able to assist him, and Mr. Bhatia said he would appreciate that introduction. Incidentally, Mr. Chauhan owns several strata lots at Cameray Gardens.

7. On November 29, 2023, I met Mr. Bhatia and Mr. Chauhan at a White Spot restaurant in Kerrisdale to discuss the potential financing of the Purchaser's acquisition of Cameray Gardens. Among other things, we discussed how much funding Mr. Bhatia would require to fund the purchase and what security he would be able to provide. Mr. Bhatia mentioned that he had significant equity in some development projects in Vancouver's Cambie area and in Surrey, which he could use as security to obtain financing for the Purchaser. Mr. Chauhan suggested that KingSett Capital might be interested in this opportunity, and agreed to reach out to them.

8. On December 5, 2022, Mr. Bhatia confirmed to me (via text message) that Mr. Chauhan had put him in touch with Sam Perera, a mortgage broker at Abacus North who could assist in facilitating a financing opportunity with KingSett Capital.

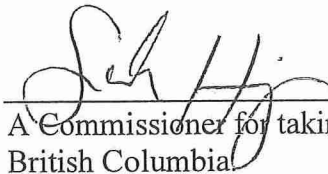
9. I texted Mr. Bhatia on December 7 and 8, 2023 to hear how his meeting with Mr. Perera went. Mr. Bhatia told me that the "meeting went well" and that he would be sending more information that day.

10. I participated in a call with Mr. Bhatia on December 14, 2023. In the course of our discussion, Mr. Bhatia told me that the Purchaser would require an extension to March 15, 2024 in order to complete the PSA. I informed Mr. Bhatia that Cameray Gardens was not willing to accommodate an extension until mid-March, but might be able to provide a shorter extension (such as to the end of February). Mr. Bhatia specifically advised me that KingSett

Capital would not be able provide financing until the end of February 2024, and he needed an extension to March 15, 2024.

11. Attached hereto and marked as **Exhibit "B"** is a true copy of a term sheet prepared by Abacus North for Mr. Bhatia, dated December 14, 2023. Mr. Bhatia told me about the term sheet during our call on December 14, 2023, and I received a copy of it from Mr. Chauhan on January 23, 2024.

AFFIRMED BEFORE ME at the City  
of Vancouver, in the Province of British  
Columbia, this 30<sup>th</sup> day of January 2024.



A Commissioner for taking Affidavits for  
British Columbia

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MARSHALL MACLEOD

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

This is Exhibit "A" referred to in the affidavit of Marshall MacLeod made before me at Vancouver, B.C. on January 30, 2024.

A handwritten signature in black ink, appearing to be 'S. H.', written over a horizontal line.

A Commissioner for taking Affidavits  
within British Columbia.

2:24

5G



Kush



yes

Thu, Nov 9 at 7:14 AM

Good morning Marshall  
Could u please email me the due  
deligence materials on jersey site  
Like the rent roll and  
environmental reports .  
The zip file Steven Dong had  
sent me expired.

Ok

Fri, Nov 10 at 9:19 AM

Good morning Kush. How is  
Jennifer making out with the  
Closing Documents for Cameray  
Gardens? Let me know if you  
need anything.  
  
Also, are you still interested in  
selling your Guildford site?  
  
Please let me know.  
  
Marshall

Fri, Nov 10 at 1:58 PM





2:24

3 5G 64



Kush



Wed, Nov 20 at 11:00 AM

Hello Marshall  
I'm meeting lawyer next week for  
Cameray  
Guildford still for sale

Can you send me the information  
on Guildford and Price. Thanks

I'm out of town , I'll send you on  
Tuesday on my return

Ok thanks. Have a good long  
weekend!

Wed, Nov 20 at 8:48 PM

Kush call me when you have a  
minute. Marshall

Thu, Nov 22 at 10:12 AM

Kush please call me regarding  
meeting a Lender next week

Thu, Nov 24 at 11:41 AM

Hi Kush. We are confirmed for  
meeting next Wednesday



Message





Kush



Thu, Nov 23, 10:42 PM

Hi Kush. We are confirmed for our meeting next Wednesday at 10:30 at the White Spot restaurant in Kerrisdale. ( 5367 Arbutus). Please confirm you received this.

Meet you there.

Marshall

Received Confirm

Sorry the address is 5367 West Boulevard off of Arbutus.

Great. See you then.

Fri, Dec 1, 10:24 AM

In a meeting DT  
Call u in 30 mins

Ok

Thu, Dec 3, 11:53 AM

Message input field with microphone icon on the right.

Bottom navigation bar with icons for: Camera, App Store, Messages, App Store, App Store, App Store, App Store, App Store.





Kush



Tue Dec 5 at 8:33 AM

Hi Kush. I trust you received the email from Kulwant to call Sam at Abacus. Please confirm you received it.  
Marshall

Tue Dec 5 at 9:44 AM

Good morning marshal  
Email received, I'll connect with him today

Tue Dec 5 at 11:01 AM



Fri Dec 8 at 11:46 AM

Hi Kush. Please give me a call when you get a minute. Thanks

Fri Dec 8 at 11:50 AM

Hi Kush. How did your meeting go with Sam?





Kush



Meeting went well .  
Sending them most of the info  
today

Great. Have a good weekend.  
Chat on Monday

Tue Dec 10 11:41 AM

Kush please call me ASAP.  
Marshall

I need to talk to you about  
Guildford

Tue Dec 10 11:42 AM

Hi Kush. Please call me. As you know I got the Vendor to agree to your March date however they wanted some consideration. Do you still want to buy the Property? I got Kingsett set up for you to do that.

Please call to discuss as I am somewhat concerned as why you aren't communicating.



iMessage





Kush



Great. Have a good weekend.  
Chat on Monday

Thu, Dec 14 11:43 AM

Kush please call me ASAP.

Marshall

I need to talk to you about  
Guildford

Tue, Dec 19 11:12 AM

Hi Kush. Please call me. As you know I got the Vendor to agree to your March date however they wanted some consideration. Do you still want to buy the Property? I got Kingsett set up for you to do that.

Please call to discuss as I am somewhat concerned as why you aren't communicating.

Marshall

Read 12/19/24 11:12 AM







Abacus North Capital Ltd.  
5<sup>th</sup> Floor, 410 W. Georgia St.  
Vancouver BC  
V6B 1Z3

December 14, 2023

To: Belmont Pacific Development Group  
Attn: Kush Bhatia

Dear Mr. Kush Bhatia,

This is Exhibit "B" referred to in the affidavit of Marshall MacLeod made before me at Vancouver, B.C. on January 30, 2024.

A Commissioner for taking Affidavits  
within British Columbia.

**Re: Financing to assist in the Purchasing of 3925 Kingsway and 5715 Jersey Avenue, Burnaby, BC**

Based on the information provided to us, we are pleased to provide this non-binding term sheet for the above captioned project. This is not to be construed as a commitment on the part of Abacus North Capital Ltd. (ANC), but an outline of the terms and conditions under which we are willing to proceed, in assisting with your financing on a best-efforts basis. An overview of the terms and conditions of the financing are detailed below:

<b>Lenders:</b>	Special Purposes Entity to lead, with syndicate financing partners (together as the "Lenders")
<b>Borrower:</b>	1038573 B.C. Ltd. 1064762 B.C. Ltd. (“Borrower”)
<b>Guarantors:</b>	Belmont Pacific Development Group; Raichu Cambie Development Ltd.; Kush Bhatia; and Any other guarantors as determined during due diligence.
<b>Properties:</b>	3925 Kingsway, Burnaby, BC V5H 3Y7; 5715 Jersey Avenue, Burnaby, BC V5H 2L3; 15110 and 15140 101 Avenue, Surrey, BC (together as the “Properties”)
<b>Loan Amount:</b>	\$67,200,000 inclusive of borrowing costs budgeted in account of this loan.
<b>Interest Rate:</b>	Interest rate for the twelve (12) months of the loan will be based on Prime + Pricing Rate (5.20%), compounded monthly.
<b>Loan Term:</b>	Twelve months (12) from first day of the month following the initial advance.
<b>Proposed Funding:</b>	First advance is expected to be on February 28, 2024, on a best-efforts basis.
<b>Fees:</b>	A lender fee of 2.76% and a broker fee of 0.75% of the Loan Amount is to be taken from the first loan advance upon funding. A good faith deposit of \$50,000 is required, upon acceptance of these terms and conditions.
<b>Debt Service:</b>	The debt will be serviced by the interest reserve, see Sources & Uses table below.
<b>Repayment:</b>	The full amount of the loan plus any interest is to be repaid immediately upon the expiry of the term of the loan. The loan is open for repayment subject to the Lender earning a minimum interest of 6 months interest.



**Sources & Uses:****\$66,000,000 Loan (Rate: 12.40% & Lender's Fee: 2.76%)**

Total Project Sources & Uses				
Sources		Uses		
Land Loan	88%	\$ 67,200,000	Land Cost	\$ 65,500,000
Existing Cash	4%	\$ 3,000,000	Interest Reserve (12 Months)	\$ 8,334,400
Additional Cash Req.	8%	\$ 5,996,400	Lender's Fee (2.76%)	\$ 1,858,000
			Broker's Fee (0.75%)	\$ 504,000
<b>Total</b>	<b>100%</b>	<b>\$ 76,196,400</b>	<b>Total</b>	<b>\$ 76,196,400</b>

**Conditions Precedent:**

1. Review of the personal net worth statements of the guarantors and the borrowers (to be supported by corporate security registries.) This condition is to determine credit worthiness. The borrower and shareholders of the companies will provide any guarantees required by the Lender;
2. Satisfactory review of the organizational chart for the borrowers;
3. Confirmation of the borrower and corporate structure, include disclosure of all trust agreements for any/all corporations that may be deemed necessary;
4. Last 2 years notice of assessment for the guarantors;
5. Confirmation that all outstanding corporate, property and personal taxes have been paid by the borrower and guarantors;
6. Borrower to confirm equity;
7. Site visits by Lender to the Properties;
8. Satisfactory review of the current and proposed zoning of the properties;
9. Receipt and satisfactory review of the As Is and As If Complete Appraisal reports based on both Residential Strata and Rental Income basis for the Properties, including the 22 inventory units located at 7638 Cambie St., Vancouver, BC, and transmittal letter;
10. Receipt and satisfactory review of all Environmental reporters pertaining to the Property and an oil scan along with letters of transmittals;
11. Receipt and satisfactory review of all Geotechnical reports pertaining to the Property along with letters of transmittals;
12. Receipt and satisfactory review of all original purchase contracts, amendments and any other agreements relating to the Properties;
13. Receipt and satisfactory review of Commitment Letters and Term Sheets from Lenders pertaining to the financing of the development;
14. Receipt and satisfactory review of reports and plans, including mechanical, electrical, structural, and architectural;
15. Receipt and satisfactory review of the proforma and budget for the project;
16. Receipt and satisfactory review budget review from Cost Consultants and can be engaged within 30 days of funding;
17. Receipt and satisfactory review of the list of all professionals currently engaged;
18. Receipt and satisfactory review of key contracts with all professionals engaged in the project, including correspondence with potential General Contractors;
19. Receipt and satisfactory review of updated sales list;
20. Receipt and satisfactory review of all insurance declaration forms or policy documents to verify any outstanding insurance claims in the last 12 months. Lender reserves the right to engage in services of an insurance consultant at the Borrowers expense;
21. Receipt and satisfactory review of the existing pre-sale agreements along with confirmation of deposits held;
22. Receipt and satisfactory review of the Disclosure Statement pertaining to the development.

**Security:**

- A. Demand Collateral 1<sup>st</sup> mortgage on the Properties;
- B. Demand Inter-Alia 2<sup>nd</sup> mortgage) on the 22 available inventory units at 7638 Cambie St., Vancouver, BC

- C. Relevant corporate guarantees supported by a general security agreement satisfactory to the Lenders solicitor;
- D. Guarantees and postponement of claim from the Guarantors;
- E. General Security Agreement with a 1<sup>st</sup> charge on the Borrowers and related parties as determined during due diligence;
- F. Corporate Guarantee and Debt Service Agreement from any/all corporations that may deem necessary;
- G. Environmental indemnity to be executed by the Borrower;
- H. Standstill and subordination agreement between the lender and shareholders;
- I. Completion agreement including undertaking by Borrower and Guarantor to promptly complete Development in accordance with an approved plans and specifications;
- J. Promissory Note;
- K. Other security as deemed necessary or requested by the Lenders Solicitor;

**Discharge:** Discharge of the Loan security will be available upon receipt of 100% of the net sale or refinance sale proceeds sufficient to repay the loan in full together with any accrued interest, charges, or fees. The Lender will require a \$800 administrative discharge fee for each title release.

**Extra Costs:** The Borrower shall be responsible for all costs related to this loan facility including but not limited to site visits and any professional fees (for Lender or Borrower) for legal work, Project Engineer/Inspector reports, consultants and others. Any such costs shall be paid directly by the Borrower(s) or from loan proceeds at the time of loan advance, at the Lender's option.

**Confidentiality:** The undersigned acknowledges and agrees that the terms and conditions of this letter are confidential between the Borrower and Abacus North Capital Ltd. The undersigned agrees not to disclose the information contained herein to a third party without the consent of Abacus North Capital Ltd.

The undersigned also acknowledges that the Lender may, in its sole discretion, syndicate this loan, may disclose to co-lenders, investors and their share or unit holders, as applicable, any or all information provided to Abacus North Capital Ltd. by the undersigned or in respect of the Borrower or the undersigned, including but not limited to corporate and personal information.

**The above is only an expression of interest and is not to be construed in any way as a commitment to advance funds. Commitments are subject to the final approval and underwriting.**


*{Signature Page to Follow}*

If you are in agreement with the general terms and conditions outlined herein, please sign and return this letter with the good faith deposit or before 5:00PM PST on December 20, 2023.

The undersigned will seek to finalize a commitment letter, within 15 working days of receipt of a signed copy of this letter and the information requested. We look forward to working with you. Please don't hesitate to contact the undersigned with any questions or concerns.

Sincerely,

Abacus North Capital Ltd.

  
\_\_\_\_\_

We hereby accept the terms outlined herein this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**Borrower:**

Per: \_\_\_\_\_  
1038573 B.C. Ltd.

**Borrower:**

Per: \_\_\_\_\_  
1064762 B.C. Ltd.

**Guarantors:**

Per: \_\_\_\_\_  
Belmont Pacific Development Group

Per: \_\_\_\_\_  
Kush Bhatia

Per: \_\_\_\_\_  
Raichu Cambie Development Ltd.