

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**GO-TO SPADINA ADELAIDE SQUARE INC. and GO-TO SPADINA  
ADELAIDE SQUARE LP, each by its Receiver,  
KSV RESTRUCTURING INC.**

Plaintiffs

and

**KATARZYNA PIKULA, ADELAIDE SQUARE DEVELOPMENTS INC.,  
ALFREDO ITALO MALANCA a.k.a ALFREDO PALMERI, OSCAR  
FURTADO, GOLDMOUNT FINANCIAL GROUP CORPORATION,  
CONCORDE LAW PROFESSIONAL CORPORATION, LOUIS  
RAFFAGHELLO, MONTANA MANAGEMENT INC., and AKM HOLDINGS  
CORP.**

Defendants

**PLAINTIFFS' REPLY AND DEFENCE TO COUNTERCLAIM OF ADELAIDE SQUARE  
DEVELOPMENTS INC., ALFREDO ITALO MALANCA and GOLDMOUNT FINANCIAL  
GROUP CORPORATION**

1. Unless otherwise admitted herein, the Plaintiffs<sup>1</sup> deny each and every allegation in the Statement of Defence, Counterclaim and Crossclaim of Adelaide Square Developments Inc. (“**ASD**”), Alfredo Malanca (“**Malanca**”) and Goldmount Financial Group Corporation (“**Goldmount**”, collectively the “**ASD Defendants**”) (the “**ASD Counterclaim**”). The Plaintiffs deny that the ASD Defendants are entitled to any of the relief sought at paragraph 133 of the ASD Counterclaim or otherwise.

2. The ASD Counterclaim seeks:

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<sup>1</sup> Capitalized terms not defined herein have the same meaning attributed to them in the Statement of Claim dated December 4, 2023 (the “**Claim**”).

- (a) Payment of \$13,850,000 as of March 1, 2024, pursuant to the Loan Agreement;
- (b) In the alternative, an order vesting in the ASD Defendants the Properties (as defined at paragraph 25 of the Claim), or payment to ASD equal to the value of the Properties; and
- (c) In the further alternative, damages for unjust enrichment for work performed on behalf of the Plaintiffs.

3. This Reply and Defence to Counterclaim primarily addresses the ASD Defendants' counterclaim at paragraphs 133-140. With respect to the ASD Defendants' general denial and defences regarding their involvement in the Scheme, the Plaintiffs repeat and rely on the allegations as set out in the Claim. The ASD Defendants are liable for the amounts set out in the Claim as a result of, among other things, their self-dealing and failure to disclose material information to investors and other interested parties.

**A. THE CLAIMS PROCEDURE AND ASD PROOF OF CLAIM**

4. As set out in the Claim, pursuant to the Court order of Justice Patillo, KSV was appointed as Receiver of the Plaintiffs on December 10, 2021.

5. On April 7, 2022, the Court approved a claims procedure for parties to submit claims with respect to the various Go-To entities, including the Plaintiffs.

6. On May 12, 2022, ASD submitted a proof of claim (the "**ASD Proof of Claim**"), which sought payment from the Plaintiffs of \$11,100,000, of which \$7,800,000 was submitted as a secured claim.

7. On March 20, 2023, the Receiver issued a Notice of Disallowance to ASD, with respect to the entire ASD Proof of Claim (the “**ASD Disallowance**”). The Plaintiffs repeat and rely on all grounds in the ASD Disallowance and the Claim, in particular:

- (a) The Loan Agreement underlying the ASD Proof of Claim was part of the Scheme, a series of non-arms’ length transactions by the ASD Defendants, Furtado and others designed to strip the Adelaide Project and its investors of their funds and pay themselves above-market, undisclosed fees, loan principal and interest and other consideration using investor and project funds. The Loan Agreement was part of a calculated series of transactions, designed to strip the Plaintiffs and the Properties of any benefit or profits from the Adelaide Project and instead divert those funds to the Defendants. The Scheme was orchestrated by, among others, the ASD Defendants, in particular Malanca;
- (b) The Loan Agreement and the ASD Defendants’ interest in it were not disclosed to investors, limited partners and creditors of the Plaintiffs, in breach of the ASD Defendants’ duties and obligations under the governing agreements, including sections 5.3(h) and/or 5.12 of the LP Agreement. To the extent that the ASD Defendants deny being parties to the LP Agreement, Furtado and Malanca were the *de facto* directing minds of the Plaintiffs at the relevant and material times, whether or not they were the registered directors or officers. Malanca specifically held the title of “business development manager” for the Go-To entities, including the Plaintiffs;
- (c) The ASD Defendants caused the Plaintiffs to pay amounts under the Loan Agreement to non-arms’ length parties, at a time when the Plaintiffs did not have

liquidity to do so, which ultimately caused the Plaintiffs to become insolvent, triggered a cascade of defaults under various lending agreements and led to the Receiver being appointed;

- (d) The actions of the ASD Defendants were oppressive and unfairly disregarded the interests of the Plaintiffs' other creditors; and
- (e) In the alternative, the Loan Agreement was made for a specific purpose, which the ASD Defendants knew would never be carried out. The loan amounts were not used to close the relevant transactions but were instead used to paper the Scheme and fraudulent flow of funds to create the Loan Receivable and basis for the ASD Defendants to claim that amounts were owing to them by the Plaintiffs.

8. As further set out in the ASD Disallowance, to the extent that any amounts are owing under the Loan Agreement, which is denied, the Plaintiffs set-off all such amounts against the improperly paid Assignment Fee (as defined at paragraph 35(c) of the Claim) and Loan Repayment (as defined as paragraph 67 of the Claim).

9. ASD filed a Notice of Dispute with respect to the disallowance of its claim. The Plaintiffs and the Receiver deny the allegation in paragraph 132 that this claim was brought in order to prevent the ASD Defendants from advancing a claim through the Claims Procedure. The Plaintiffs and Receiver are agreeable to the ASD Defendants' dispute of the disallowance of their claim being consolidated or heard together with this action.

**B. THE PROPERTIES WERE SOLD UNDER A COURT-APPROVED SALES PROCESS**

10. With respect to the allegations at paragraph 137 of the ASD Counterclaim, the Properties were sold pursuant to a Court-ordered and supervised sale process. The ASD Defendants had

the opportunity, but chose not to, object to the sales process. Any opposition they raise now regarding how the Receiver sold the Properties is of no moment and a collateral attack on the sale process already approved by the Court.

11. With respect to any claim by ASD for the return of the Properties or their monetary value, the Plaintiffs repeat and rely on the Claim; the assignment and transfer of the Properties was one step in the Defendants' unlawful scheme to solicit and exploit investors. They are not entitled to the return of the Properties or monies in lieu thereof because they were unable to complete the Scheme and achieve their payout.

12. With respect to any claim for unjust enrichment, the Plaintiffs again repeat and rely on the Claim. The Plaintiffs were not "enriched" by any of the ASD Defendants' purported work, nor did the ASD Defendants suffer a corresponding deprivation. To the extent there was an enrichment and corresponding deprivation, there is judicial reason for the deprivation, namely that the individuals who orchestrated a fraudulent scheme to siphon investor funds to themselves cannot demand compensation for their unlawful efforts.

13. The ASD Counterclaim should be dismissed, with costs.

August 2, 2024

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**GO-TO SPADINA ADELAIDE SQUARE INC., et al.**  
Plaintiffs

-and-

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Court File No. CV-23-00710745-00CL

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PROCEEDING COMMENCED AT  
TORONTO

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