Court File No.
CV09-391447

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

EMERSON WONG and WAI CHUN WONG

Plaintiff

and

BANK OF NOVA SCOTIA, DOMENIC CARCHIDI and OLIVER CHOY

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and $1,000.00 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and $400 for costs and have the costs assessed by the court.

Date NOV. 18/09 Issued by M. Godin Registrar

Local registrar

Address of court office:
Ontario Superior Court of Justice
Civil Filing Office
393 University Avenue, 10th floor
Toronto, ON M5G 1E6

TO Bank of Nova Scotia
Centerpoint Mall
6416 Yonge Street
Toronto, Ontario
M2M 3X4

Domenic Carchidi
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L3T 7W8

Oliver Choy
c/o AON Consulting
145 Wellington Street West
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THIS ACTION IS BROUGHT AGAINST YOU UNDER THE SIMPLIFIED PROCEDURE PROVIDED IN RULE 76 OF THE RULES OF CIVIL PROCEDURE.

CLAIM

1. The plaintiffs claim:

   (a) damages in the amount of $40,000.00 for fraud and breach of fiduciary duty;

   (b) punitive damages in the amount of $10,000.00;

   (c) pre-judgment interest in accordance with the *Courts of Justice Act,* R.S.O 1990, c. C.43, as amended;

   (d) post-judgment interest in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

   (e) costs of this action on a substantial indemnity basis; and

   (f) such further and other relief as this Honourable Court deems just.

2. The plaintiff is an individual residing in the City of Toronto, Province of Ontario.

3. The defendant, the Bank of Nova Scotia ("The Bank") is a bank operating throughout Canada in the branch involved with the dealings with the plaintiff being located at Centerpoint Mall, 6416 Yonge Street, Toronto, Ontario.

4. The defendant, Domenic Carchidi ("Carchidi") at all materials times was employed as a Mortgage Development Manager with the Bank of Nova Scotia.

5. The defendant, Oliver Choy ("Choy") at all material times was employed as a Senior Personal Banking Officer with the Bank of Nova Scotia located at Centerpoint Mall, 6416 Yonge Street, North York, Ontario.

6. On or about August 3rd, 2005 the plaintiff went to the Bank of Nova Scotia to meet with the defendant, Carchidi, a Mortgage Development Manager at the Bank for the purposes of obtaining a personal line of credit.

7. The defendant, Carchidi advised the plaintiff to take the money from the line of credit he had just approved and apply it to an investment to earn a high yield of return. The plaintiff trusted Carchidi and relied on him because he was a representative of the bank and because he had been of assistance to his uncle, Victor Wong in obtaining a mortgage for a property.

8. The defendant Carchidi then had the defendant, Oliver Choy, a Senior Personal Banking Officer at the Bank to process the plaintiff's application for a personal line of credit which had been approved for $10,000.00.

9. Then on the recommendation of the defendant Carchidi the plaintiff withdrew the sum of $10,000.00 for the investment and give it to Carchidi. The defendant Carchidi also suggested that the plaintiff provide him with a further $10,000.00 for a high yield investment which would provide a return of $1,000.00 in a month's time. The plaintiff consequently gave Carchidi $10,000.00 of his mother's savings. For this second sum the defendant Carchidi provided a Promissory Note undertaking to repay the amount of $10,000.00 on or before September 5th, 2005.

10. The plaintiff put his entire trust into the defendant Carchidi as a representative of a major reputable bank never thinking he intended to defraud him.

11. Subsequently, when the line of credit went into arrears, the plaintiff confronted the defendant Choy who said that the money had been used to repay him for a loan of funds that the defendant Carchidi owed him; and he was using the money to pursue a Master's Degree in university. When the plaintiff confronted the defendant Carchidi he told the plaintiff to wait and he would pay him back the money with interest. The defendant Carchidi did made some interest payments sporadically however the account was finally put into collections by the Bank of Nova Scotia.

12. Every time the plaintiff has contacted the defendant Carchidi, he would make excuses about why he had not repaid the full amount yet and resultantly the plaintiff has been contacted by collection agencies acting on behalf of the Bank of Nova Scotia on a daily basis. The plaintiff's credit rating has been seriously affected and the plaintiff and his mother have been caused significant emotional distress by losing all of their money to an employee of the Bank of Nova Scotia.

13. The plaintiff proposes that this action be tried at the City of Toronto.

Date of issue: Nov. 18/09

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ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN

EMERSON WONG and WAI CHUN WONG

Plaintiffs

- and -

BANK OF NOVA SCOTIA, DOMENIC CARCHIDI and OLIVER CHOY

Defendants

STATEMENT OF DEFENCE

1. The Defendant, Oliver Choy ("**Choy**"), admits the allegations contained in paragraphs 5 and 8 of the Statement of Claim (the "**Claim**").

2. Choy denies, and/or has no knowledge of the balance of allegations and/or statements contained in the Claim, unless expressly admitted to herein. Choy puts the Plaintiffs to the strict proof of the allegations contained in the Claim.

Limitations

3. Choy pleads and relies upon the *Limitations Act, 2002,* S.O. 2002, c. 24, Schedule B, as amended and state that the Plaintiffs are statute-barred from commencing any action in relation to the relief requested in paragraph 1 of the Claim, as the second anniversary on which the claims were discovered had already passed prior to the issuing of the Claim.

4. Additionally, Choy pleads and relies upon the *Limitations Act, 2002,* S.O. 2002, c. 24, Schedule B, as amended and, in particular, the transitional provisions as set out therein, and state that the Plaintiffs are statute-barred from commencing any action in relation to the relief requested in paragraph 1 of the Claim, as the applicable limitation period had already passed prior to the issuing of the Claim.

SUPERIOR COURT OF JUSTICE
COUR SUPÉRIEURE DE JUSTICE
FILED / DÉPOSÉ
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LOCAL REGISTRAR / GREFFIER LOCAL
TORONTO

Deficient Pleadings

5. Choy states that the Plaintiffs have failed to satisfy the requisite elements of each and every cause of action and/or remedy set out in paragraph one (1) of the Claim and, accordingly, requests that the Plaintiffs' action be dismissed.

6. Furthermore, Choy states that the Plaintiffs' action is frivolous, vexatious and an abuse of process and, accordingly, requests that the Plaintiffs' action be dismissed, with costs on a substantial indemnity scale.

Date: December 23, 2009

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