

*ONTARIO*  
**SUPERIOR COURT OF JUSTICE**

BETWEEN

BDO Canada Limited in its Capacity as Trustee  
of 2283942 Ontario Inc., a Bankrupt

Applicant/Plaintiff

and

Shiu Kwan Lo and Sons Ltd., 2433591 Ontario Inc.,  
2435982 Ontario Inc. and Herman Kuang

Respondent/Defendant

**STATEMENT OF DEFENCE**

1. The defendant, 2435982 Ontario Inc. (hereinafter referred as "Defendant 982") admits the statements contained in paragraphs 5-6 inclusive, and 28 of the Amended Statement of Claim.
2. The Defendant 982 denies the allegations contained in paragraphs 1 and 7, 26-27, 29-36 inclusive of the Amended Statement of Claim.
3. The Defendant 982, to its current knowledge, has no sufficient knowledge to deny the statements contained in paragraphs 4, 8-12 inclusive, 25 of the Amended Statement of Claim.
4. The Defendant 982, currently, has no sufficient knowledge to admit or deny the statements contained in paragraphs 2-3 inclusive, and 13-24 inclusive of the Amended Statement of Claim.
5. The Defendant 982 has sufficient knowledge about the property 3320+3330 Midland Avenue, Toronto (the "Property") before it made an offer to purchase the Property on September 16, 2014.
6. On September 18, 2014, the Defendant 982 reached an Agreement of Purchase and Sale (the "APS") under power of sale with the defendant 2433591 Ontario Inc. (hereinafter referred as "Defendant 591"), the mortgagee of the Plaintiff's default mortgage. The APS has a closing date of

September 25, 2014, at the purchase price of \$5.25 Million.

7. Due to the limited time for the Defendant 982 to arrange its own mortgage before closing, the Defendant 591 granted the Defendant 982 a Vendor Take Mortgage of \$4 Million for three months with open term, for bridging purpose only to allow the Defendant 982 to arrange its own mortgage.

8. Due to the high interest rate of the Vendor Take Mortgage, the Defendant 982 planned to have the Vendor Take Mortgage paid in full immediately upon its own mortgage was arranged, probably within one month.

9. The Defendant 982 came to the knowledge, without knowing its truthfulness, that the Plaintiff made its request to Defendant 591 for discharge statement to pay off its mortgage then in default, on September 22, 2014.

10. The Defendant 591 on or after September 22, 2014, contacted the Defendant 982 to cancel the APS reached.

11. The request from the Defendant 591 for cancellation of APS was refused by Defendant 982.

12. The Defendant 591 then requested the postponement of closing for extra time to figure out its legal responsibilities then to the Plaintiff and to the Defendant 982.

13. The closing date for APS was postponed on September 25, 2014 to October 1, 2014, then to October 2, 2014.

14. Defendant 982 consulted professional opinions to clarify each parties' rights and obligations, with the conclusion that the Defendant 982 has its priority right over the Plaintiff's right to redeem, therefore the Defendant 591 has to close the transaction under the APS.

15. To the Defendant 982's knowledge, the Defendant 591 also consulted professional opinions

to clarify each parties' rights and obligations, with the conclusion that the Defendant 982 has the priority right over the Plaintiff's right to redeem, therefore the Defendant 591 agreed to close the transaction under the APS.

16. The transaction under the APS was closed on October 2, 2014, the transfer AT3705439 was registered over the Property, the Defendant 982 becomes the owner of the Property.

17. The Defendant 982, asks that this action be dismissed with costs on a substantial indemnity basis.

DATED: April 7, 2017

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Solicitor for the Defendant 2435982 Ontario Inc.

*(Name and address of plaintiff's lawyer or plaintiff)*

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Lawyers for the Defendant, Herman Kuang also known as Hugh Kuang

**BDO Canada Limited in its Capacity as Trustee  
of 2283942 Ontario Inc., a Bankrupt  
Plaintiff**

**-and-**

**Shiu Kwan Lo and Sons Ltd. et al.**

Defendants

**Court File No. CV-14-513935**

(Short title of proceeding)

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

Proceedings Commenced at **Toronto**

**STATEMENT OF DEFENCE**

*(Form 4C under the Rules)*

*Name, address and telephone number of solicitor or party*

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