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**EXHIBIT "23"**

**To the Receiver's Seventh Report to Court  
Dated January 14, 2019**

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COURT OF APPEAL OF ALBERTA

Form AP-1  
[Rules 14.8 and 14.12]

COURT OF APPEAL FILE NUMBER: 1801-0388 AC

TRIAL COURT FILE NUMBER: 1501-11817

REGISTRY OFFICE: Calgary

PLAINTIFF/APPLICANT: Easy Loan Corporation and Michael Terrigno

STATUS ON APPEAL: Respondents

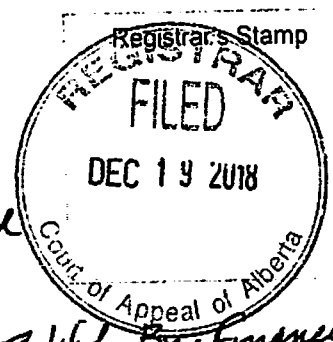
DEFENDANT/RESPONDENT: Base Mortgage & Investments Ltd., Business Ltd., Arnold Breitkreutz, Susan Breitkreutz, Susan Way and CP Energy

STATUS ON APPEAL: Applicants

DOCUMENT: CIVIL NOTICE OF APPEAL

APPELLANT'S ADDRESS FOR SERVICE AND CONTACT INFORMATION:

Arnold Breitkreutz, 912A-69TH Ave SW  
Calgary, Alberta, T2V 0P4  
Telephone 403-650-6604  
E-mail: arnoldbase@shaw.ca



**WARNING**  
To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

1. Particulars of Judgment, Order or Decision Appealed From:

Date pronounced: *December 2, 2016 and November 30, 2018*

Date entered:

Date served:

Official neutral citation of reasons for decision, if any: *2016 ABQD 682*  
(do not attach copy)

(Attach a copy of order or judgment: Rule 14.12(3). If a copy is not attached, indicate under item 14 and file a copy as soon as possible: Rule 14.18(2).)

2. Indicate where the matter originated:

**Court of Queen's Bench**

Judicial Centre: *Calgary*

Justice: *B. E. Dornan*

On appeal from a Queen's Bench Master or Provincial Court Judge?:

Yes  No

Official neutral citation of reasons for decision, if any, of the Master or Provincial Court Judge: (do not attach copy)

(If originating from an order of a Queen's Bench Master or Provincial Court Judge, a copy of that order is also required: Rule 14.18(1)(c).)

**Board, Tribunal or Professional Discipline Body**

Specify Body:

3. Details of Permission to Appeal, if required (Rules 14.5 and 14.12(3)(a)).

Permission not required, or  Granted:

Date:

Justice:

(Attach a copy of order, but not reasons for decision.)

4. Portion being appealed (Rule 14.12(2)(c)):

Whole, or

Only specific parts (if specific part, indicate which part):

(Where parts only of a family law order are appealed, describe the issues being appealed, e.g. property, child support, parenting, etc.)

5. Provide a brief description of the issues:

*Please see schedule A, attached.*

6. Provide a brief description of the relief claimed:

*Please see Schedule B attached.*

7. Is this appeal required to be dealt with as a fast track appeal? (Rule 14.14)

Yes  No

8. Does this appeal involve the custody, access, parenting or support of a child?  
(Rule 14.14(2)(b))

Yes  No

9. Will an application be made to expedite this appeal?

Yes  No

10. Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate? (Rule 14.60)

Yes  No

11. Could this matter be decided without oral argument? (Rule 14.32(2))

Yes  No

12. Are there any restricted access orders or statutory provisions that affect the privacy of this file? (Rules 6.29, 14.12(2)(e), 14.83)

Yes  No

If yes, provide details:  
(Attach a copy of any order.)

13. List respondent(s) or counsel for the respondent(s), with contact information:

*Please see Schedule C attached.*

*If specified constitutional issues are raised, service on the Attorney General is required under s. 24 of the Judicature Act: Rule 14.18(1)(c)(viii).*

14. Attachments (check as applicable)

Order or judgment under appeal if available (not reasons for decision) (Rule 14.12(3))

Earlier order of Master, etc. (Rule 14.18(1)(c))

Order granting permission to appeal (Rule 14.12(3)(a))

Copy of any restricted access order (Rule 14.12(2)(e))

*If any document is not available, it should be appended to the factum, or included elsewhere in the appeal record.*

SCHEDULE A

5 Provide a brief description of the issues:

The learned trial judge erred on the following issues.

a) The Court below erred in both law and fact in finding the personal properties owned by the Appellants were properties belonging to the received companies, and by reversing the burden of proof from the Receiver to the Appellant in proving the properties were not traceable from the individual Defendants to the Defendant corporations.

b) by referring to and incorporating the reasons for judgment of Yamauchi, J in Easy Loan Corporation v. Base Mortgage & Investments Ltd, 2016 ABQB 77, into her decision.

c) in relying on the obiter dictum of Yamauchi, J, as aforesaid, where he found at page 52 of his reasons, that investors "... were defrauded by Base Finance though Mr. Breitkreutz's various fraudulent misrepresentations", creating a reasonable apprehension of bias in her decision.

d) in paragraph 8 of her decision, by wrongfully referencing affidavits filed in the receivership proceedings before Yamauchi, J. and affidavits filed with the Alberta Securities Commission to conclude the investors "believed they were investing money...to participate in the assignment of first mortgages held on Alberta properties at attractive interest rates".

e) in paragraph 11 of her decision, by relying on hearsay evidence of the investigator of the Alberta Securities Commission that Mr. Breitkreutz had communicated to the Bank that Base "had approximately 100 mortgages that were secured on title" instead of the direct evidence of Mr. Breitkreutz on cross examination of his affidavit.

f) in paragraph 21 of her decision, where she said the appraisal was "problematic in that it does not identify the oil and gas properties being appraised."

g) in paragraph 27 of her decision where she concluded "In fact, no investments were made and no interest was earned."

h) in paragraph 28 of her decision, by referring to the affidavit of Brian Fox, in a different action (1501-12147).

i) in paragraph 31 of her decision, where she concludes the "original order was never appealed, nor did the applicants take advantage of the come-back provision of the order."

j) by ignoring the Defendants' submissions that a viva voce hearing was required to assess the credibility of the deponents' evidence on the issue of the alleged fraudulent representation that the investors were secured through Alberta based mortgages.

k) by failing to address the issue of the credibility of Mike Terrigno and Robert Comtois and effectively deciding the issue of fraud on the basis of affidavit evidence.

l) in paragraph 31 (a) of her decision, by finding the Receiver has not been able to determine the authenticity and validity of the Deed of Trust when the Receiver's first report concluded all leases were "fully secured".

m) in paragraph 31 of her decision, where she concluded that the November 6, 2015 ex parte hearing did not prejudice the defendants.

n) in paragraph 33 of her decision, where she refused the defendants' application to discharge the the plaintiff's certificates of lis pendens as well as the

**SCHEDULE B**

**6 Provide a brief description of the relief claimed:**

- a) The decision be overturned, and the Receiver be directed to return the entirety of the proceeds of the sale of the Properties to the Appellants.
- b) An order directing a trial of the issues between the parties on the allegations of fraud and misrepresentation.
- c) An order staying enforcement of the decision herein of Justice Romaine pending the hearing of this appeal.
- d) An order granting the defendants further access to their records, particularly the Breitzkreutz mortgage investment file.

**SCHEDULE C**

13 List respondent(s) or counsel for the respondent(s) with contact information.

Plaintiff's (Respondent's) Counsel: Mr. Christopher Souster, Riverside Law Office, 4108 Montgomery View NW, Calgary, Alberta, T3B 0L9, Telephone 403-585-4224, Fax 403-685-4225

Receiver's (Respondent's) Counsel: Mr. Randal Van Mosselaer, Suite 2500, Trans Canada Tower, 450-1st Street SW, Calgary, Alberta, T2P 5H1, Telephone: 403 260-7060.