

Action No. 0901-11048
Affidavit of Darcy Sandhu
Sworn February 22nd, 2010

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGMENT ACT*,
R.S.C. 1985, c. C-36 AS AMENDED, SECTION 13(2) OF THE *JUDICATURE ACT*,
R.S.A. 200, C. J-2, AS AMENDED AND SECTION 99(a) OF THE *BUSINESS
CORPORATIONS ACT*, R.S.A. 2000, c.B-9, AS AMENDED**

**AND IN THE MATTER OF CONCRETE EQUITIES INC., WEALTHCRETE
INVESTMENT CORPORATION, CONCRETE ASSOCIATES INVESTMENT
CORPORATION, CONCRETE ASSOCIATES II INVESTMENT CORPORATION,
CONCRETE ASSOCIATES III INVESTMENT CORPORATION, CONCRETE
ASSOCIATES IV INVESTMENT CORPORATION, CONCRETE ASSOCIATES V
INVESTMENT CORPORATION, EL GOLFO INVESTMENT CORPORATION,
COSTA KORAAL INVESTMENT CORPORATION, LUNA MORADA INVESTMENT
CORPORATION, CONCRETE EQUITIES EXECUTIVE CLUB INC., 1456775
ALBERTA LTD., CONCRETE PLACE PROPERTIES LTD.,
and CONCRETE ASSOCIATES VIII CORP.**

**NOTICE OF MOTION OF DARCY SANDHU,
934608 ALBERTA LTD, and 587901 ALBERTA LTD.**

TAKE NOTICE that an application will be brought on behalf of the Applicants, Darcy Sandhu, 934608 Alberta Ltd. ("934") and 587901 Alberta Ltd. ("587"), before the presiding Justice in Chambers, at the Court House, 611 - 4th Street S.W., in the City of Calgary, in the Province of Alberta, on Wednesday the 24th day of February, 2010, at 10:00 AM, or so soon thereafter as counsel may be heard, for an Order:

- (a) Abridging, if necessary, the time for service of the within Motion and supporting materials;
- (b) Setting aside the Notices of Disallowance pertaining to the Proofs of Claim of Darcy Sandhu, 934, and 587 as filed in the within *CCAA* proceedings (the Proofs of Claim");

- (c) Directing that the disallowed Proofs of Claim be accepted as submitted in these proceedings; and
- (d) Such further and other relief as may be directed by this Honourable Court.

AND FURTHER TAKE NOTICE that the grounds upon which the application is brought are as follows:

1. The Applicants, Darcy Sandhu, 934, and 587 provided loans (the “Loans”) to the Respondent Companies (the “Concrete Companies”), and all such loan amounts were used by and for the benefit of one or more of the Concrete Companies by way of payment to creditors of the Concrete Companies.
2. The Concrete Companies are directly liable on the Loans by virtue of their common law partnership with one another, or alternatively their common law partnership with one or more of their directors and officers, Varun (Vinny) Aurora, Vincenzo De Palma and Dave Humeniuk.
3. The Concrete Companies are directly liable on the Loans by virtue of the fact that they are mere agents or sham arrangements for one or more of their directors and officers, Varun (Vinny) Aurora, Vincenzo De Palma and Dave Humeniuk, and at all material times no attention was paid to the formal separate legal existences of the Concrete Companies, with their directors and officers referring to them as “The Concrete Group” and signing contractual documents using that name.
4. One or more of the Concrete Companies are vicariously liable for the torts of one or more of their directors and officers, Varun (Vinny) Aurora, Vincenzo De Palma and Dave Humeniuk, who acted wrongfully in obtaining the Loans.
5. In the alternative, should the Concrete Companies not be directly or vicariously liable for the Loans, one or more of the Concrete Companies have been unjustly enriched by and benefited from the Loans, without juristic reason, and are thus indirectly liable for the Loans.
6. In the further alternative, it is inequitable for the directors and officers of the Concrete Companies, Varun (Vinny) Aurora, Vincenzo De Palma and Dave Humeniuk, to argue in the

context of Bankruptcy proceedings that the Concrete Companies and not themselves are liable on the Loans, while in the context of these proceedings, the Concrete Companies argue the reverse.

AND FURTHER TAKE NOTICE that in support of this application the Applicant(s) shall rely upon:

- (a) The pleadings in the within Action and in particular:
 - (i) The Initial Order in the within Action, dated July 29, 2009; and
 - (ii) The Claims Process Order in the within Action, dated December 14, 2009.
- (b) The materials filed in the bankruptcy proceedings respecting Vinny Aurora, Vincenzo DePalma and David Humeniuk and the Affidavit of Darcy Sandhu, sworn in these proceedings; and
- (c) Such other and further materials that counsel may advise and this Honourable Court may permit.

DATED at the City of Calgary, in the Province of Alberta, this 22nd day of February, 2010.

BORDEN LADNER GERVAIS LLP

Per: _____

Travis P. Lysak
Counsel for the Applicants

TO: The Clerk of the Court

AND TO: **McCarthy Tetrault**
Attn: Sean Collins
Suite 3300, 421-7th Avenue SW
Calgary, Alberta T2P 4K9
Counsel to the Monitor, Ernst & Young Inc.

Action No.: 0901-11048

IN THE COURT OF QUEEN'S BENCH OF
ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

**IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGMENT ACT,
R.S.C. 1985, c. C-36 AS AMENDED, SECTION
13(2) OF THE JUDICATURE ACT,
R.S.A. 200, C. J-2, AS AMENDED AND SECTION
99(a) OF THE BUSINESS CORPORATIONS ACT,
R.S.A. 2000, c.B-9, AS AMENDED**

**AND IN THE MATTER OF CONCRETE
EQUITIES INC., WEALTHCRETE
INVESTMENT CORPORATION, CONCRETE
ASSOCIATES INVESTMENT CORPORATION,
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INVESTMENT CORPORATION, EL GOLFO
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EXECUTIVE CLUB INC., 1456775 ALBERTA
LTD., CONCRETE PLACE PROPERTIES LTD.,
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NOTICE OF MOTION

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File No. 438140-000001