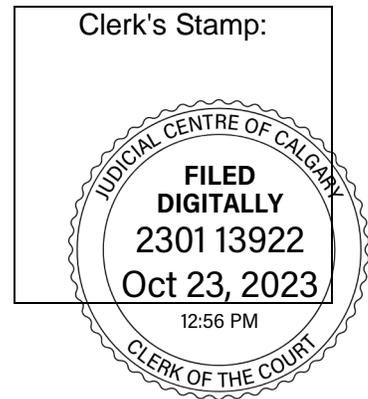


| | |
|-------------------|--|
| COURT FILE NUMBER | 2301- |
| COURT | COURT OF KING'S BENCH OF ALBERTA |
| JUDICIAL CENTRE | CALGARY |
| PLAINTIFF | CONNECT FIRST CREDIT UNION LTD. |
| DEFENDANTS | OGEN HOLDINGS LTD., OGEN LTD., EDWARDS CONCRETE INC. and MORRISON HOMES CALGARY LTD. |
| DOCUMENT | STATEMENT OF CLAIM |



| | |
|---|--|
| ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT | <p>Burnet, Duckworth & Palmer LLP 2400, 525 – 8 Avenue SW Calgary, Alberta T2P 1G1 Lawyer: David LeGeyt / Ryan Algar Phone Number: (403) 260-0120 / (403) 260-0126 Fax Number: (403) 260-0332 Email Address: dlegeyt@bdplaw.com / ralgar@bdplaw.com File No. 43621-128</p> |
|---|--|

NOTICE TO DEFENDANT

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

Note: State below only facts and not evidence (Rule 13.6)

The Parties

1. The Plaintiff, Connect First Credit Union Ltd. ("**CFCU**", or the "**Lender**"), is a credit union incorporated pursuant to the laws of Alberta.
2. The Defendant OGEN Holdings Ltd. ("**OHL**") is a corporation incorporated under the laws of Alberta and carries on business in the cannabis sector with a focus on cultivating,

processing, and selling cannabis flower products under the OGEN brand in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, and New Brunswick.

3. The Defendant OGEN Ltd. ("**OL**" and together with OHL, the "**Borrowers**" and each a "**Borrower**") is a corporation incorporated under the laws of Alberta, previously named Bloom Cultivation Ltd. OL has two directors, Gary Edwards ("**Gary**") and Allan Morrison ("**Allan**"). OL is a wholly-owned subsidiary of OHL.
4. The Defendant Edwards Concrete Inc. ("**Edwards**") is corporation incorporated under the laws of Alberta and its sole director is Gary Edwards. Each of Gary and 2059813 Alberta Ltd. hold 50% of the outstanding voting shares in Edwards.
5. The Defendant Morrison Homes Calgary Ltd ("**Morrison**") is a validly existing Alberta Corporation since June 21, 1983 and its sole director is Allan. Morrison is a wholly-owned subsidiary of Morrison Residential Ltd.
6. Each of OL, Edwards and Morrison provided Guarantees and Postponements of Claim in favour of the Lender (the "**OHL Guarantees**") in respect of the amounts owing by OHL to the Lender (OL, Edwards and Morrison in such capacity, the "**OHL Guarantors**").
7. Additionally, each of OHL, Edwards and Morrison provided Guarantees and Postponements of Claim in favour of the Lender (the "**OL Guarantees**" and together with the OHL Guarantees, the "**Guarantees**" and each a "**Guarantee**") in respect of the amounts owing by OL to the Lender (OHL, Edwards and Morrison such capacity, the "**OL Guarantors**" and together with the OHL Guarantors, the "**Guarantors**" and each a "**Guarantor**").

The Loans and Indebtedness

8. The Lender extended credit facilities and related services to OHL (collectively, the "**OHL Loans**") pursuant to, among others:
 - (a) a Commitment Letter dated December 18, 2020 among the Lender and OHL;
 - (b) a Promissory Note dated April 27, 2021 granted by OHL in favour of the Lender in the amount of \$12,300,000.00;

- (c) a Promissory Note dated January 4, 2021 granted by OHL in favour of the Lender in the amount of \$15,139,433.39; and
 - (d) a Cross-Default Agreement among the Lender, the Borrowers and the Guarantors, (collectively, and as amended, the "**OHL Loan Agreements**").
9. The Lender also extended credit facilities and related services to OL (collectively, the "**OL Loans**" and together with the OHL Loans, the "**Loans**") pursuant to, among others:
- (a) a Commitment Letter dated August 13, 2021; and
 - (b) an Overdraft Protection Agreement dated August 17, 2021 in the amount of \$1,500,000;
- (collectively, and as amended, the "**OL Loan Agreements**" and together with the OHL Loan Agreements, the "**Loan Agreements**").
10. As at October 20, 2023, the Borrowers indebted to the Lender in the amount of approximately \$21,994,759.60 under the Loan Agreements plus interest and costs, which, which continue to accrue (the "**Indebtedness**").

The Borrower Security

11. OHL granted, among others, the following security to the Lender in respect of its obligations, indebtedness, and liabilities under the OHL Loans:
- (a) a Mortgage dated July 16, 2019 granted by OHL in the principal amount of \$20,000,000 (the "**OHL Mortgage**") against the property legally and municipally described as:
 - PLAN 2007JK BLOCK 2
 - Lot 1
 - EXCEPTING THEREOUT ALL MINES AND MINERALS
 - Municipal address: 5430-30th Street SE, Calgary, AB
 - (the "**Lands**");

- (b) a Mortgage Amending Agreement dated April 14, 2020 increasing the principal amount of the OHL Mortgage to \$22,000,000;
 - (c) a Mortgage Amending Agreement dated January 14, 2021 increasing the principal amount of the OHL Mortgage to \$23,511,235;
 - (d) an Assignment of Rents and Leases with respect to the Lands granted by OHL in favour of CFCU dated January 14, 2021;
 - (e) General Security Agreements charging all of OHL's present and after acquired personal property (each a "**GSA**") dated May 29, 2017 and January 24, 2021; and
 - (f) an assignment of insurance proceeds,
- (collectively, the "**OHL Security**").
12. OL granted, among others, the following security to the Lender in respect of its obligations, indebtedness, and liabilities under the OL Loans:
- (a) GSAs dated June 10, 2017 and January 14, 2021;
 - (b) an Assignment of Receivables Agreement dated January 14, 2021; and
 - (c) an assignment of insurance proceeds;
- (collectively, the OL Security and together with the OHL Security, the "**Borrower Security**").

The Guarantees and the Guarantor Security

13. The OHL Guarantors granted the following OHL Guarantees:
- (a) from OL, an unlimited Guarantee;
 - (b) from Edwards, a Guarantee in the principal amount of \$7,000,000; and
 - (c) from Morrison, a Guarantee in the principal amount of \$7,000,000.

14. The OL Guarantors granted the following OL Guarantees:
 - (a) from OHL, an unlimited Guarantee and Postponement of Claim;
 - (b) from Edwards, a Guarantee in the principal amount of \$500,000; and
 - (c) from Morrison, a Guarantee in the principal amount of \$500,000.
15. In support of their obligations under the Guarantees, and in addition to any direct security granted in their capacity as a borrower, each of the Guarantors granted a GSA in support of its obligations under the respective Guarantee (collectively, the "**Guarantor Security**" and together with the Borrower Security, the "**Security**").

Defaults & Demand

16. The Borrowers have committed certain defaults under the Loan Agreements, including, but not limited to:
 - (a) the failure to make payments against the Loans as required by the Loan Agreements and the Borrower Security;
 - (b) the failure to remit amounts owing to Canada Revenue Agency when due; and
 - (c) commencing proceedings under the *Bankruptcy and Insolvency Act* (the "**BIA**"),(collectively, the "**Defaults**").
17. As a result of the Defaults, on or about October 23, 2023, the Lender issued a notice of default and demand for payment to the Borrowers (the "**Borrower Demands**"), and concurrently delivered notices of its intention to enforce the Security pursuant to section 244 of the BIA (each, a "**244 Notice**").
18. Additionally, on or about October 23, 2023, the Lender issued notices of default and demands for payment and 244 Notices to each of the Guarantors (the "**Guarantor Demands**" and together with the Borrower Demands, the "**Demands**").

19. Despite the Lender's demands for repayment of the Indebtedness, the Borrower and the Guarantors have failed, refused or neglected, and continue to fail, refuse or neglect to repay the Indebtedness, and they are default of their obligations under the Loan Agreements, the Guarantees and the Security.

Interest and Costs

20. It is a term of the Loan Agreements and the Security that the obligations owed or secured thereby shall continue to accrue interest on all amounts outstanding at the rates set forth therein. In the alternative, the Lender pleads and rely on the provisions of the *Judgment Interest Act*, RSA 2000, c J-1, as amended.
21. It is also a term of the Loan Agreements and the Security that the Borrowers and the Guarantors, as applicable, are responsible for all costs, including solicitor and client full indemnity costs, incurred by the Lender in enforcing the Loans and the Security.

Receiver and Manager

22. It is a term of the Security that if the Borrowers or the Guarantors are in default of their obligations to the Lender, the Lender may apply to this Honourable Court for the appointment of a receiver and manger.
23. The Borrowers and the Guarantors are in default of their obligations to the Lender and the Lender is entitled to apply to this Honourable Court to appoint a receiver and manager.

Remedy Sought

24. As against the Borrowers and the Guarantors, the Lender seeks:
- (a) an Order validating the service of this Statement of Claim;
 - (b) a declaration that the Borrowers are in default of its obligations to the Lender under the Loan Agreements and the Borrower Security;
 - (c) a declaration that the Guarantors are in default under the Guarantees and the Guarantor Security;

- (d) a declaration of the amount owing by the Borrowers and the Guarantors to the Lender under the Loan Agreements and the Guarantees, as applicable, with interest according to the terms thereof, and judgment in that amount;
- (e) a declaration that the Security held by the Lender is valid and enforceable as against the Borrowers and the Guarantors;
- (f) interest on all amounts outstanding in accordance with the Loan Agreement, or in the alternative, interest as set forth in the *Judgment Interest Act* (Alberta);
- (g) costs of this action on a solicitor and client, full indemnity basis; and
- (h) such further and other relief as this Honourable Court may consider appropriate.

25. As against the Borrowers and the Guarantors, the Lender seeks:

- (a) an Order for the appointment of a Receiver or Receiver and Manager over the assets, undertakings and properties of the Borrowers and/or the Guarantors (as the case may be) pursuant to the *Bankruptcy and Insolvency Act* (Canada), the *Judicature Act* (Alberta), the *Business Corporations Act* (Alberta) and the *Personal Property Security Act* (Alberta), each as amended and as applicable; and
- (b) such further and other relief as the nature of the case may require and to this Honourable Court may seem just.

NOTICE TO THE DEFENDANT:

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a Statement of Defence or Demand for Notice in the office of the Clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your Statement of Defence or Demand for Notice on the Plaintiff's address for service.

WARNING

If you do not file and serve a Statement of Defence or a Demand for Notice within your time period, you risk losing the lawsuit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the Plaintiff against you.