

# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Wood v. Bevan*,  
2024 BCSC 1401

Date: 20240722  
Docket: S222849  
Registry: Vancouver

Between:

**Wade Wood**

Plaintiff

And:

**Gerald Bevan and Suzannah T. Hahrt**

Defendants

Before: Associate Judge Bilawich

## Oral Reasons for Judgment

In Chambers

Counsel for the Plaintiff:

T.M. Fox  
M.J. LaFleche (July 22, 2024)

Counsel for Gerald Bevan:

C. Reedman (July 3, 2024)  
G. Lindsey (A/S) (July 3, 2024)  
R. Lai (July 22, 2024)

Counsel for Suzannah Hahrt:

H.M.E. Sevenoaks

Place and Date of Hearing:

Vancouver, B.C.  
July 3, 2024

Place and Date of Judgment:

Vancouver, B.C.  
July 22, 2024

## **Introduction**

[1] **THE COURT:** The plaintiff Mr. Wood is a judgment creditor of the defendant Mr. Bevan. On December 10, 2021, the Alberta Court of Queen's Bench granted him judgment against Mr. Bevan for \$3,723,635.11: see *Wood v. Bevan*, 2021 ABQB 981. Collection proceedings taken in Alberta have not been successful.

[2] In this action, Mr. Wood focuses his collection efforts on a property located at 11396 Chalet Road, North Saanich, BC (the "Property"). He alleges Mr. Bevan purchased the property using the proceeds of loans he received from Mr. Wood for business purposes. The property was originally registered in the name of Mr. Bevan and Ms. Hahrt as joint tenants; they were in a common law relationship at the time. He says that while the Alberta action was pending, Mr. Bevan and Ms. Hahrt entered into a Separation Agreement which resulted in Mr. Bevan's interest in the Property being transferred to Ms. Hahrt.

[3] In this action, Mr. Wood advances a variety of claims against Mr. Bevan and Ms. Hahrt, including the separation agreement was a sham, the transfer of Mr. Bevan's interest in it to Ms. Hahrt was a fraudulent conveyance, or alternatively a fraudulent preference. He also alleges fraudulent conspiracy, knowing assistance in a breach of trust and knowing receipt of trust funds.

[4] Ms. Hahrt says Mr. Wood's claims against her are not adequately pleaded and seeks an order that he amend his pleading to set out material facts for the various causes of action and provide further and better particulars of others. Mr. Wood opposes the relief sought. Mr. Bevan supports Ms. Hahrt's application.

[5] I have made minor edits to these reasons to enhance readability. The reasoning and outcome have not changed.

## **Background**

[6] Mr. Wood and Mr. Bevan were formerly brothers-in-law. Between December 17, 2007, and December 16, 2012, Mr. Wood loaned Mr. Bevan \$1.8 million. He also

made RRSP loans for which Mr. Bevan was found liable, totaling a further \$589,000. Those loans were intended for Mr. Bevan's businesses. They were not repaid.

[7] Mr. Bevan and Ms. Hahrt were common-law spouses. On June 28, 2013, they became co-owners as joint tenants of the Property. The Form A Transfer indicates they paid consideration of \$709,000. Mr. Wood alleges Mr. Bevan used proceeds from the aforementioned loans to purchase the Property. He expressly alleges Ms. Hahrt does not carry on any occupation and had no independent source of income.

### **Alberta Action - History of Proceedings**

[8] On October 30, 2015, Mr. Wood filed a Statement of Claim in Alberta Court of Queen's Bench, Edmonton action 1503 16803, *Wood v. Bevan, Spherical Capital Inc. and Spherical Bond Ltd.* (the "Alberta Action"). The litigation progressed slowly.

[9] On February 5, 2020, Mr. Wood filed an application to set a litigation plan directing the Alberta Action to trial.

[10] On February 12, 2020, Mr. Bevan and Ms. Hahrt entered into a Separation Agreement, purportedly based on them having separated in or about 2019. They had continued residing under the same roof in the Property post-separation.

[11] On March 5, 2020, Mr. Wood requested a trial date in the Alberta Action.

[12] On March 20, 2020, Mr. Bevan's interest in the Property was transferred to Ms. Hahrt pursuant to their Separation Agreement. She became sole registered owner. Mr. Bevan retained certain private shareholdings under the terms of the Separation Agreement.

[13] On December 10, 2021, Alberta Court granted Mr. Wood judgment against Mr. Bevan for the \$3,723,635.11, plus an amount for special costs.

[14] Mr. Wood took enforcement proceedings against Mr. Bevan under the Alberta Action. Mr. Bevan is alleged to have tendered evidence asserting he was impecunious and that his shareholdings were worthless.

[15] Mr. Wood applied for appointment of a receiver over Mr. Bevan's business, called "Lionhart". The receiver realized just \$18,108, which was less than the cost of the receivership. Mr. Bevan also tendered evidence indicating his other company, "Spherical", was insolvent.

### **BC Action - History of Proceedings**

[16] On April 4, 2022, Mr. Wood filed his notice of civil claim in this action. On April 5, 2022, Mr. Wood filed a certificate of pending litigation on title to the Property.

[17] On April 4, 2023, Mr. Wood obtained an order renewing his notice of civil claim for 12 months.

[18] In October 2023, Mr. Wood obtained an order allowing alternative service of the notice of civil claim on Ms. Hahrt.

[19] On January 4, 2024, Ms. Hahrt filed her response to civil claim.

[20] On January 5, 2024, Ms. Hahrt issued a Demand for Particulars to Mr. Wood, pursuant to Rule 3-7(18), (20), and (23) of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009 ("SCCR"), seeking particulars of the claims in conspiracy, fraudulent conveyance and fraudulent preference.

[21] On January 8, 2024, Mr. Bevan filed his response to civil claim.

[22] On February 2, 2024, Mr. Wood responded to the Demand for Particulars. With respect to the demands relevant to this application, he took the position that he had provided material facts within his knowledge at the time, that the further particulars demanded are well known to one or more of the defendants or would become available through discovery, in due course.

[23] On June 19, 2024, Ms. Hahrt filed this application.

### **Applicable Law**

[24] Ms. Hahrt relies on Rule 3-7. Some relevant sub-rules include the following:

**Pleading must not contain evidence**

(1) A pleading must not contain the evidence by which the facts alleged in it are to be proved.

...

**Pleading conclusions of law**

(9) Conclusions of law must not be pleaded unless the material facts supporting them are pleaded.

[25] Particulars are necessary for claims based in misrepresentation, fraud, or breach of trust:

**When particulars necessary**

(18) If the party pleading relies on misrepresentation, fraud, breach of trust, wilful default or undue influence, or if particulars may be necessary, full particulars, with dates and items if applicable, must be stated in the pleading.

[26] Sub-rule (20) provides:

**Further particulars**

(20) Particulars need only be pleaded to the extent that they are known at the date of pleading, but further particulars

(a) may be served after they become known, and

(b) must be served within 10 days after a demand is made in writing.

[27] Sub-rule (22) is as follows:

**Order for particulars**

(22) The court may order a party to serve further and better particulars of a matter stated in a pleading.

[28] The purpose of particulars is summarized in *Cansulex Ltd. v. Perry*, [1982] B.C.J. No. 369 (C.A.) [*"Cansulex"*], at para. 15:

(1) to inform the other side of the nature of the case they have to meet as distinguished from the mode in which that case is to be proved;

(2) to prevent the other side from being taken by surprise at trial;

(3) to enable the other side to know what evidence they ought to be prepared with and to prepare for trial;

(4) to limit the generality of the pleadings;

(5) to limit and decide the issues to be tried, and as to which discovery is required, and

(6) to tie the hands of the party so that he cannot, without leave, go into any matters not included.

[29] At para. 11 of *Cansulex*, the distinction between particulars and discovery was described as follows:

[11] Those decisions delineate the difference between what is properly the subject matter of a Demand for Particulars and what is more properly the subject matter of a Demand for Discovery or material that should be obtained on an Examination for Discovery. At the heart of the distinction between the two lies the question whether the material demanded is intended to, and does, delineate the issues between the parties, or whether it requests material relating to the way in which the issues will be proved.

[30] A determination of what particulars are appropriate is discretionary and depends on the facts of each case: *Steelhead LNG Limited Partnership v. Arc Resources Ltd.*, 2022 BCCA 128 [*“Steelhead”*] at para. 25. Particulars serve multiple purposes. At early stages, the focus is on pleadings. The later focus can shift to determining what evidence may be obtained and must be marshalled for discovery and preventing parties from being surprised at trial. Different considerations apply at different stages. See *Steelhead* at paras. 40-42.

[31] Where particulars requested relate to matters which are uniquely in another party's knowledge, it may be appropriate to defer production until after examination for discovery takes place. See, for example, *Forgotten Treasures International Inc. v. Lloyds Underwriters*, 2019 BCSC 485 at paras. 23 and 25:

23 The *Cansulex* considerations must be balanced against the reasonably wide latitude accorded a plaintiff to explore its claim, particularly where some of the necessary substantiating information is in the possession of a defendant. A plaintiff should not be ordered to provide further particulars at an early stage if it would unfairly hamper the ability to conduct this exploration: *Central Power Products v. 238022 B.C. Ltd. et al.*, 2003 BCSC 1088 at para. 20.

...

25 As for the allegations in para. 51 of the NOCC, these touch upon issues that are uniquely within the knowledge of the Insurers and their servants or agents. These allegations are not frivolous, vexatious, or embarrassing, but merely fall within an admissible realm of aspirational pleadings that may

ultimately be difficult or impossible to prove. The plaintiff must nevertheless be accorded the scope to explore such lines of inquiry, and should not be stopped or hampered in doing so by an early tactical demand for particulars.

### **Analysis**

#### **Amend Notice of Civil Claim to Plead Material Facts Supporting Conspiracy, Fraudulent Conveyance, Fraudulent Preference, Knowing Assistance and Knowing Receipt Claims**

[32] Part of the difficulty in coming to grips with what is alleged in the notice of civil claim is that Mr. Wood appears to “blend” two distinct time periods and several different types of claims together. He mixes the time period when the Property was initially acquired in 2013 and the March 2020 transfer of Mr. Bevan's undivided 50% interest in the property to Ms. Hahrt. He also employs language which includes claims in fraudulent conveyance, fraudulent preference, conspiracy, resulting trust, constructive trust, knowing assistance in a breach of trust and knowing receipt of trust funds.

[33] At part 1, para. 6, Mr. Wood alleges that from 2007 onwards, Mr. Bevan solicited funds from him to finance his business, in the sum of \$1.8 million. This is defined as the "Cash Loans." At para. 7, he alleges Mr. Bevan established a new company which was used to facilitate loans from Mr. Wood's RRSP funds. Between 2012 and 2014, Mr. Wood purchased a series of bond offerings orchestrated by Mr. Bevan in the additional sum of \$589,000, which is defined as the "Bond Loans".

[34] He then goes on to allege Mr. Bevan improperly used proceeds from the Cash Loans and/or Bond Loans to purchase the Property, and says that since 2013, it has been the two defendants' principal residence. He appears to imply that Ms. Hahrt may not have contributed financially to the purchase of the Property. At part 1, paras. 25 and 26 he states:

25. The Property was acquired by Mr. Bevan and Ms. Hahrt on or about July 4, 2013.

26. While Mr. Bevan had solicited funds from Mr. Wood to use in his business he, instead, improperly, used proceeds from the Cash Loans and/or the Bond Loans to purchase the Property or his and Ms. Hahrt's use. Ms.

Hahrt does not carry on any occupation and has no independent source of income.

[35] If Mr. Wood is alleging Ms. Hahrt did not contribute to the initial purchase of the Property in 2013 and had no beneficial interest as a result, this should be stated clearly.

[36] Mr. Wood then shifts focus to the March 2020 transfer (the “Transfer”) of Mr. Bevan's interest in the Property to Ms. Hahrt. At part 1, para. 27, he states:

27. In March of 2020, when the trial of the Alberta Action was scheduled, Mr. Bevan transferred his interest in the Property to Ms. Hahrt for nominal or no consideration (the “Transfer”).

[37] Note that “Transfer” is a defined term in the Notice of Civil Claim which refers to the March 2020 transfer, which is when Mr. Bevan transferred his undivided 50% interest in the Property to Ms. Hahrt.

[38] I also note that in Mr. Wood's application response to this application, he asserts at part 4, para. 4, that the Separation Agreement between Mr. Bevan and Ms. Hahrt was a “sham” to try to justify the fraudulent conveyance:

4. The conveyance was ostensibly made pursuant to a separation agreement entered into between Mr. Bevan and Ms. Hahrt (the “Separation Agreement”). The NOCC alleges that the Separation Agreement was a sham to try to justify the fraudulent conveyance.

[39] The notice of civil claim does not expressly allege that the Separation Agreement was a sham, and it does not seek any declaratory or other relief in that regard. It simply asserts at para. 27 that the Transfer was for nominal or no consideration. If Mr. Wood is alleging the Separation Agreement was a sham and is seeking relief on this basis, he should indicate this clearly in the notice of civil claim.

[40] Mr. Wood's claim is initially framed in fraudulent conveyance. At part 1, paras. 29-31 he states:

29. Mr. Bevan made the Transfer to Ms. Hahrt with the sole intent to delay, hinder, or defraud Mr. Wood from his just and lawful remedies, and specifically to shield the Property from execution by Mr. Wood following the conclusion of the Alberta Action.



30. At the time of the Transfer, Mr. Bevan knew or ought to have known that he was insolvent.

31. As a result of the Transfer, Mr. Wood's rights have been disturbed, hindered, delayed or defrauded in that Mr. Bevan's principal asset has been transferred out of his name and is no longer available to satisfy the Alberta Judgment.

[41] The references to the Transfer delaying, hindering or defrauding Mr. Wood from his just and lawful remedies tracks language used in the *Fraudulent Conveyance Act*, R.S.B.C. 1996, c. 163.

[42] At part 1, para. 33, Mr. Wood alleges, further or alternatively, that Ms. Hahrt holds the Property in her name pursuant to a fraudulent conveyance of Mr. Bevan's interest in the Property to her, done in fraudulent conspiracy with Mr. Bevan, in an effort to delay, hinder, avoid or frustrate his existing creditors, specifically Mr. Wood, at a time when she knew Mr. Bevan was insolvent and unable to meet the claims of Mr. Wood.

[43] At para. 34, he alleges:

34. Ms. Hahrt:

(a) knowingly assisted Mr. Bevan in the fraudulent conveyance and/or fraudulent preference by receiving, directly or indirectly, Mr. Bevan's interest in the Property;

(b) did so with actual knowledge of, or in the alternative was reckless or willfully blind to, Mr. Bevan's fraudulent conveyance and/or fraudulent preference; and

(c) knowingly received Mr. Bevan's interest in the Property with full knowledge of, or was reckless or willfully blind to, Mr. Bevan's fraudulent conveyance and/or fraudulent preference.

[44] Paras. 33 and 34 appear to add claims in fraudulent conspiracy, "knowing assistance", which appears to refer to knowing assistance in a breach of trust and "knowing receipt", which appears to refer to knowing receipt of trust property.

[45] At part 1, para. 36, Mr. Wood pleads, in the alternative, that the Transfer was a fraudulent preference, using language in the *Fraudulent Preference Act*, R.S.B.C. 1996, c 164.

[46] Part 1, para. 37, Mr. Wood says:

37. Further or in the alternative, at [sic] the Property was acquired through the improper use of the proceeds of the Cash Loans and/or Bond Loans, at the time of Transfer, Mr. Bevan held his interest in the Property pursuant to a resulting or constructive trust in favour Mr. Wood. In breach of that trust, Mr. Bevan conveyed the property to Ms. Hahrt, who now holds the Property pursuant to a resulting or constructive trust in favour of Mr. Wood.

[47] It is not clear from this whether Mr. Wood is only alleging that Mr. Bevan's undivided 50% interest in the Property which was transferred to Ms. Hahrt in March 2020 is held in trust for Mr. Wood, or whether he is alleging she holds 100% of the Property in trust for him. The focus on the March 2020 Transfer implies that only the 50% transferred to her at that time is in issue. The reference to Cash Loan or Bond Loan proceeds being improperly used in the initial acquisition of the Property and to Ms. Hahrt holding the Property (generally) in trust for Mr. Wood, suggests Mr. Wood is alleging the trust extends to Ms. Hahrt's original 50% interest in the Property as well. She became a 50% owner when the Property was purchased in 2013, not as a result of the March 2020 Transfer.

[48] Part 2 of the notice of civil claim relief sought also causes some confusion. Relief which Mr. Wood claims includes:

- a) A declaration pursuant to the *Fraudulent Conveyance Act* that the Transfer is void and of no force and effect as against him;
- b) Alternatively, a declaration the Transfer was fraudulent within the meaning of the *Fraudulent Preference Act* and is void and of no force and effect as against him;
- c) A declaration that Mr. Bevan is beneficial owner of the Property [I note that this suggests Mr. Bevan is alleged to be beneficial owner of the entire Property, not just the 50% interest he transferred in March 2020];
- d) An order that Mr. Wood is entitled to pursue his just and lawful remedies against Mr. Bevan and the Property as if Mr. Bevan is the legal and beneficial owner of the Property to the same extent he was before the Transfer;
- e) As necessary, orders tracing the proceeds of the Cash Loans, and/or the Bond Loans through the Property.

[49] Each of the forgoing categories of claim have different elements.

### Fraudulent Conveyance

[50] For fraudulent conveyance, see the *Fraudulent Conveyance Act*. The Court of Appeal summarized the elements in *0848052 BC Ltd. v. 0782484 BC Ltd.*, 2023 BCCA 95, at para. 57:

[57] The second broad contention of the appellants is that the ANOCC does not advance the material facts required to properly plead a fraudulent conveyance. The elements of a fraudulent conveyance are that i) "a disposition of property" be ii) made with the "intent to delay, hinder or defraud creditors and others" and iii) that the transaction has that effect. In relation to the second element, this Court has held "[t]he only intent now necessary to avoid a transaction under the modern version of the [*Fraudulent Conveyance Act*] is the intent to "put one's assets out of the reach of one's creditors" (per *RBC v. Clarke*). No further dishonest or moral blameworthy intent is required": *Abakhan* at para. 73; *Mawdsley v. Meshen*, 2012 BCCA 91 (leave to appeal to SCC ref'd, 34798 (27 April 2012) at paras. 69–70.

### Conspiracy

[51] The elements of the tort of conspiracy were summarized in *Can-Dive Services Ltd. v. Pacific Coast Energy Corp.*, 1983 B.C.J. No. 2958, (1993), 96 B.C.L.R. (2d) 156, 1993 CanLII 6870 (C.A.) at paras. 4-5:

[4] According to *Canada Cement LaFarge v. British Columbia Lightweight Aggregate Ltd.*, 1983 CanLII 23 (SCC), [1983] 1 S.C.R. 452 [[1983] 6 W.W.R. 385], at pp. 471-72, the tort of conspiracy exists if:

- (1) whether the means used by the defendants are lawful or unlawful, the predominant purpose of the defendants' conduct is to cause injury to the plaintiff; or,
- (2) where the conduct of the defendants is unlawful, the conduct is directed towards the plaintiff (alone or together with others), and the defendants should know in the circumstances that injury to the plaintiff is likely to and does result.

[5] Accordingly, the following elements must be proved:

1. An agreement between two or more persons;
2. Concerted action taken pursuant to the agreement;
3. (i) if the action is lawful, there must be evidence that the conspirators intended to cause damage to the plaintiff; (ii) if the action is unlawful, there must at least be evidence that the conspirators knew or ought to have known that their action would injure the plaintiff (i.e., constructive intent);

4. Actual damage suffered by the plaintiff.

### **Knowing Assistance in a Breach of Trust**

[52] The elements of knowing assistance in a breach of trust are summarized in *Gold v. Rosenberg*, [1997] 3 S.C.R. 767, 1997 CanLII 333 (SCC) at para. 34. A stranger to a trust can be found liable for a breach of trust if:

- a) A trust the found to exist;
- b) The trustee perpetrated a dishonest or fraudulent breach of trust; and
- c) The stranger participated in and had knowledge of the dishonest and fraudulent breach of trust.

[53] The knowledge requirement also includes recklessness or willful blindness: see *Air Canada v. M & L Travel Ltd.*, [1993] 3 S.C.R. 787, 1993 CanLII 33 (SCC) at paras 39-41.

### **Knowing Receipt of Trust Property**

[54] Knowing receipt arises where a stranger to a trust has received trust monies or property for his or her personal benefit: see *Citadel General Assurance Co. v. Lloyds Bank Canada*, [1997] 3 SCR 805, 1997 CanLII 334 (SCC). The elements include:

- a) Property the defendant has received was subject to a trust in favour of the plaintiff;
- b) The property was taken from the plaintiff in a breach of trust;
- c) The defendant had knowledge of the facts sufficient to put a reasonable person on notice or inquiry regarding the breach of trust (constructive knowledge); and
- d) The defendant received the trust property and applied it for their own use and benefit.

[55] See the summary in *Kherani v. Bank of Montreal*, 2012 ONSC 2230 at para. 128.

### Fraudulent Preference

[56] The elements necessary to make out a claim in fraudulent preference are set out in ss. 3 and 5 of the *Fraudulent Preference Act*:

#### Transfers which prejudice creditors

3 Subject to section 6, a disposition of property by a person at a time when the person is in insolvent circumstances, is unable to pay the person's debts in full, or knows that the person is on the eve of insolvency, is void as against an injured creditor, if made

(a) with intent to defeat, hinder, delay or prejudice creditors or some of them, and

(b) to or for a creditor with intent to give the creditor preference over other creditors or some of them.

...

#### What transactions to be deemed preferential

5 (1) A disposition is deemed to give a creditor a preference over the other creditors under section 4, if the creditor is given, recovers or is placed in a position to recover payment, satisfaction or security for all or part of the debtor's indebtedness, greater proportionately than could be recovered by unsecured creditors generally, or on the unsecured portion of the liabilities, out of assets of the debtor left available to judgment.

(2) For the purposes of subsection (1)

(a) a preference is not dependent on the intent or motive of the debtor or on the disposition being entered into voluntarily or under pressure, and

(b) no pressure by a creditor, or want of notice to the creditor alleged to have been preferred of the debtor's circumstances, or of the effect of the disposition, protects it except as provided by section 6.

[57] In my view, there are critical structural flaws in the notice of civil claim as it presently stands. The failure to draw a clear distinction between the rights of the parties as of the initial acquisition of the Property in 2013 and then later at the time of the march 2020 Transfer creates inappropriate confusion.

[58] If Mr. Wood is alleging that Mr. Bevan misused the loan proceeds to purchase the Property in 2013 and this somehow resulted in Mr. Wood being entitled to a resulting trust or a constructive trust interest in the Property, he should say so clearly. If he is alleging Ms. Hahrt did not have a beneficial interest in the Property

when it was acquired and was holding her interest in trust for either Mr. Bevan or Mr. Wood, he should plead that in the basis for it.

[59] The March 2020 Transfer is a separate transaction, involving Mr. Bevan's then 50% interest being transferred to Ms. Hahrt, purportedly pursuant to their Separation Agreement. If Mr. Wood is alleging the Separation Agreement was a "sham", he should plead that clearly. If he is seeking a declaration to that effect, it should be set out in the Relief Sought section. If he is alleging the Transfer of Mr. Bevan's 50% interest to Ms. Hahrt was a fraudulent conveyance or alternatively a fraudulent preference, he should say so. If he is alleging that more than just Mr. Bevan's undivided 50% interest was somehow transferred to Ms. Hahrt in the March 2020 Transfer, he should clearly plead that and indicate on what basis.

[60] In his response to this application, Mr. Wood identified factors which he says supported his assertion that the Separation Agreement was fictitious and the Transfer of the property was fraudulent, including:

- a) Timing of the transfer;
- b) The value of property each party received under the Separation Agreement being grossly disproportionate in favour of Ms. Hahrt;
- c) Mr. Bevan and Ms. Hahrt continuing to reside together in the Property following the separation and following the Transfer;
- d) A mortgage on the property continuing to be in joint names of Mr. Bevan and Ms. Hahrt; and
- e) The Receiver having found tax records indicating that about \$146,300 was paid out from Lionhart to Ms. Hahrt after the Separation Agreement was executed, and the absence of an employment agreement for Ms. Hahrt amongst Lionhart's records.

[61] If these and other factors are "badges of fraud" on which Mr. Wood intends to rely, he should ensure they are pleaded as such in the notice of civil claim.

[62] For each of the claims in fraudulent conveyance, conspiracy, knowing assistance in a breach of trust, knowing receipt of trust property, resulting trust and constructive trust, Mr. Wood should ensure he has pled material facts necessary to

support each type of claim. Without limiting the generality of the forgoing, he should be clear about when the material events occurred (2013, 2020 or some other date), how the trust arose and what the relevant trust property was, (i.e., 100% or 50% in the Property, or some other interest).

[63] I order Mr. Wood to amend his notice of civil claim to clearly plead the material facts and legal basis necessary to support each of his claims in conspiracy, fraudulent conveyance, fraudulent preference, knowing assistance in a breach of trust, knowing receipt of trust property, resulting trust and constructive trust. The amended notice of civil claim is to be filed and served within 28 days.

**Particulars of Part 1, Para. 33 of the Notice of Civil Claim**

[64] Ms. Hahrt seeks particulars of part 1, para. 33 of the notice of civil claim. It is as follows:

33. Further or alternatively, Ms. Hahrt holds the Property in her name pursuant to a fraudulent conveyance of Mr. Bevan's interest in the Property to her, done in fraudulent conspiracy with Mr. Bevan, in an effort to delay, hinder avoid or frustrate his existing and anticipated creditors, specifically Mr. Wood, at a time when she knew Mr. Bevan was insolvent and unable to meet the claims of Mr. Wood.

[65] The particulars demanded include:

- a) What was the conspiracy between Hahrt and Bevan?
- b) How was it organized and structured?
- c) What was the purpose(s) of the conspiracy between Hahrt and Bevan?
- d) When was the conspiracy formed between Hahrt and Bevan, on what specific date(s)?
- e) In what capacity and on what terms did Hahrt agree to participate in the conspiracy?
- f) Under what agreement did Hahrt enter into the conspiracy and when was such agreement formed?
- g) What was Hahrt's alleged involvement in the conspiracy, including the dates she was involved, the amount of her involvement, and the actions she took.

[66] My order in the previous section encompasses amending Mr. Wood's claim in conspiracy. Without limiting the generality of the forgoing, the amendments should make it clear whether the conspiracy solely relates to the 2020 Separation Agreement and Transfer, or whether it is also involved in the 2013 acquisition of the Property. With regard to the forgoing particulars of the claim in conspiracy sought, hopefully the amended claims will be adequately particularized. If not, Ms. Hahrt is at liberty to demand particulars based on the amended version of these claims and reapply for particulars.

**Particulars of Part 1, Para. 34 of the Notice of Civil Claim**

[67] Ms. Hahrt seeks particulars of part 1, para. 34 of the notice of civil claim, which is as follows:

34. Ms. Hahrt:

- (a) knowingly assisted Mr. Bevan in the fraudulent conveyance and/or fraudulent preference by receiving, directly or indirectly, Mr. Bevan's interest in the Property;
- (b) did so with actual knowledge of, or in the alternative was reckless or wilfully blind to, Mr. Bevan's fraudulent conveyance and/or fraudulent preference; and
- (c) knowingly received Mr. Bevan's interest in the Property with full knowledge of, or was reckless and wilfully blind to, Mr. Bevan's fraudulent conveyance and/or fraudulent preference.

[68] The particulars demanded include:

- a) What actual knowledge did Hahrt have in allegedly knowingly assisting Bevan in the alleged fraudulent conveyance and/or fraudulent preference by receiving Bevan's interest in the property?
- b) When specifically, and how did Hahrt acquire this alleged knowledge?
- c) What actions and/or omissions did Hahrt carry out that constitute her being reckless or wilfully blind to Bevan's alleged fraudulent conveyance and/or fraudulent preference, with specific dates and specific details of facts?

[69] My order in the previous section encompasses amending Mr. Wood's claim in knowing assistance in a breach of trust, fraudulent conveyance and fraudulent



preference. Without limiting the generality of the forgoing, the amendments should make it clear whether any alleged knowing assistance on Mr. Hahrt's part solely relates to the 2020 Separation Agreement and Transfer, or whether it also involved the 2013 acquisition of the Property. With regard to the particulars sought, hopefully the amended claims will be adequately particularized. If not, Ms. Hahrt is at liberty to demand particulars based on the amended version of these claims and reapply for particulars.

**Part 1, Para. 36 of the Notice of Civil Claim**

[70] Ms. Hahrt seeks particulars of part 1, para. 36 of the notice of civil claim, which is as follows:

36. Alternatively, the effect of the Transfer was to fraudulently prefer Ms. Hahrt over Mr. Wood and other creditors of Mr. Bevan. Mr. Wood seeks to have such fraudulent conveyance or preference declared void and set aside and claims against Mr. Bevan's interest in the Property.

[71] The particulars demanded include the following:

- a) When did Hahrt become a creditor of Bevan?
- b) How much was Hahrt owed as a creditor of Bevan at the time of the Transfer (as defined)?
- c) How much was Wood owed as a creditor of Bevan at the time of the Transfer (as defined)?
- d) What type of creditor was Hahrt to Bevan at the time of the Transfer (as defined), i.e. secured creditor, unsecured creditor?
- e) What was the amount owed to Hahrt for (i.e. repayment of a loan)?
- f) Who were the other creditors of Bevan at the time of the Transfer (other than the Plaintiff and Hahrt)?

[72] With respect to (a), (b), (c), and (e), it appears clear that for purposes of any claim in fraudulent preference, Ms. Hahrt is relying on her rights under the Separation Agreement as the basis to justify the Transfer of Mr. Bevan's 50% interest in the Property to her in March 2020. I do not consider that further particulars are needed on those points.

[73] With respect to (c), the amount Mr. Bevan owed Mr. Wood at the time of the Transfer is clear, based on the notice of civil claim and the Alberta Judgment. The judgment was not issued until later, but it was based on debts which were owing at the time of the Transfer. No further particulars are needed on that issue.

[74] With respect to (f), while there is a reference to Mr. Bevan having other creditors apart from Mr. Wood, I do not agree that particulars of them are necessary in the circumstances.

[75] Accordingly, I dismiss all of these items.

### **Costs**

[76] Ms. Hahrt has been largely successful. She is entitled to costs of this application against Mr. Wood, in the cause.

“Associate Judge Bilawich”