



NO. VLC-S-S-240082
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

JOCELYN LOVITOS and
MARTRADE HOLDINGS LTD.

PLAINTIFFS

AND:

FRANCISCO CORTES, aka JUN CORTES
ZEALA CORTES
PINTECH SOLUTION INC.
AUBITX HOLDINGS INC.

DEFENDANTS

NOTICE OF APPLICATION

Name of Applicant: The Plaintiffs

To: Without Notice

TAKE NOTICE that an *ex parte* application will be made by the Applicants to the presiding associate judge at the Courthouse at 800 Smithe Street, in the City of Vancouver, in the Province of British Columbia on Thursday, the 18th day of July, 2024 at 9:45 a.m. for the orders set out in Part 1 below.

The Applicant estimates that the application will take 15 minutes.

- This matter is within the jurisdiction of an Associate Judge.
- This matter is not within the jurisdiction of an Associate Judge.

Part 1: ORDERS SOUGHT

1. An order substantially in the form attached as **Schedule "A"** requiring the Defendants to produce documents in advance of being examined pursuant to the Order of June 7, 2024 and in aid of execution and an order requiring them to attend such examinations.
2. Such further and other relief as the Court deems just.

Part 2: FACTUAL BASIS

1. The judgment granted herein on June 7, 2024 ordered that there be an accounting to enable the Plaintiff to trace or follow the money it paid to the Defendants. The Plaintiffs now apply for an order for document production in advance of those examinations to facilitate that accounting and tracing exercise and ensure that it can proceed efficiently.
2. In addition, the judgment provided that, to the extent the Plaintiffs are unable to recover their property, they would have an *in personam* judgment in respect of those amounts. The Plaintiffs also seek document production orders to enable the proposed examinations in aid of execution process to proceed with more efficiency and utility.
3. The Defendants, to date, have not participated in these proceedings and it is anticipated that orders will be required to ensure they comply.

Part 3 LEGAL BASIS

1. The Court has inherent jurisdiction to order a defendant to produce documents to enable the plaintiff judgment creditor to trace and follow its property as ordered by the Court: *Waxman v. Waxman*, 2002 CarswellOnt 3047 (SCJ).
2. As it pertains to document production connected with the examination in aid of execution, the Court has jurisdiction to make such orders pursuant to Rule 13-4(11), 13-4(7) and Rule 7-1(17) of the *Supreme Court Civil Rules*. The Court has held that a judgment debtor or person being examined must produce and deliver

relevant records or documents in their possession *prior* to the examination: *The Resolution and Collection Corporation v. Nishiyama*, 2017 BCSC 2085 at ¶37. A similar type of order was recently made by this Court in *Lang v. Lapp*, 2023 BCSC 1901 at ¶7 and ¶30.

3. The applicant seeks an order for costs at scale “B” of this Application from the judgment debtors, which it asks be summarily fixed in the amount of \$750 [roughly 5.5 units @ \$110/unit plus the filing fee] pursuant to Rule 14-1(12)(a) and 14-1(15)(b) of the *Supreme Court Civil Rules*.

Part 4: MATERIAL TO BE RELIED ON

1. Notice of Civil Claim filed herein;
2. Order Made After Application pronounced June 7, 2024; and
3. Such further and other material as counsel may advise and this Honourable Court may consider.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application.

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed Application Response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated at Kelowna, British Columbia, this 11th day of July, 2024.



Lawson Lundell LLP
Solicitors for the Applicant

This Notice of Application is filed by Scott R. Andersen, of the law firm of Lawson Lundell LLP, whose place of business and address for delivery is Suite 403 - 460 Doyle Avenue, Kelowna, B.C. V1Y 0C2, Telephone No. (604) 631-9220; Email: scott.andersen@lawsonlundell.com.

To be completed by the court only:

Order made

in the terms requested in paragraphs _____
of Part 1 of this Notice of Application

with the following variations and additional terms:

Date:

Signature of Judge Associate Judge

APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts
- none of the above

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ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE
JUSTICE _____

THURSDAY, THE 18TH
DAY OF JULY, 2024.

ON THE WITHOUT NOTICE APPLICATION of the Plaintiffs, coming on for hearing at the courthouse at 800 Smithe Street, Vancouver, B.C., on the 18th day of July, 2024, and on hearing Scott Andersen, counsel for the Plaintiffs, THIS COURT ORDERS THAT:

1. Within 14 days of being served with this Order, Pintech Solutions Inc. ("**Pintech**") will provide to counsel for the Plaintiffs, copies of any document that would show the deposit and subsequent use or disbursement of the \$40,000 received from Jocelyn Lovitos ("**Lovitos**") on March 31, 2022 together with such further and other documents and records that would enable the Plaintiffs to follow and trace that deposit into any other account and/or asset.
2. Within 14 days of being served with this Order, Pintech will provide to counsel for the Plaintiffs, copies of any document that would show the deposit and subsequent use or disbursement of the \$35,000 received from Lovitos on May 25, 2022 together with such further and other documents and records that

would enable the Plaintiffs to follow and trace that deposit into any other account and/or asset.

3. Within 14 days of being served with this Order, Aubitx Holdings Inc. ("**Aubitx**") will provide to counsel for the Plaintiffs, copies of any document that would show the deposit and subsequent use or disbursement of the \$200,000 received from Lovitos on May 30, 2022 together with such further and other documents and records that would enable the Plaintiffs to follow and trace that deposit into any other account and/or asset.
4. Within 14 days of being served with this Order, Aubitx will provide to counsel for the Plaintiffs, copies of any document that would show the deposit and subsequent use or disbursement of the \$25,000 received from Lovitos on May 30, 2022 together with such further and other documents and records that would enable the Plaintiffs to follow and trace that deposit into any other account and/or asset.
5. Within 14 days of being served with this Order, Pintech will provide to counsel for the Plaintiffs, copies of any document that would show the deposit and subsequent use or disbursement of the \$50,000 received from Lovitos on December 9, 2022 together with such further and other documents and records that would enable the Plaintiffs to follow and trace that deposit into any other account and/or asset.
6. Within 14 days of being served with this Order, Pintech will provide to counsel for the Plaintiffs, copies of any document that would show the deposit and subsequent use or disbursement of the \$20,000 received from Martrade Holdings Ltd. ("**Martrade**") on February 6, 2023 together with such further and other documents and records that would enable the Plaintiffs to follow and trace that deposit into any other account and/or asset.
7. Within 14 days of being served with this Order, Pintech will provide to counsel for the Plaintiffs, copies of any document that would show the deposit and subsequent use or disbursement of the \$20,000 received from Martrade on

February 22, 2023 together with such further and other documents and records that would enable the Plaintiffs to follow and trace that deposit into any other account and/or asset.

8. Within 14 days of being served with this Order, Pintech will provide to counsel for the Plaintiffs, copies of any document that would show the deposit and subsequent use or disbursement of the \$50,000 received from Martrade on March 20, 2023 together with such further and other documents and records that would enable the Plaintiffs to follow and trace that deposit into any other account and/or asset.
9. Within 14 days of being served with this Order, Francisco Cortes aka Jun Cortes, will provide to counsel for the Plaintiffs all documents in his possession or control, not privileged, relating to his income and property, debts owed to and by him, and the means he has or may have to satisfy the Order made herein on June 7, 2024 (the “**Judgment**”), including but not limited to:
 - (a) Copies of his last three years’ income tax returns and T4s;
 - (b) If he is not employed, recent proof of the source and amount of any income;
 - (c) Copies of his monthly statements for all bank accounts in his name (whether held jointly with someone else or not) from March 1, 2022 to present;
 - (d) Copies of statements from March 1 2022 to present issued to him in respect of any investment accounts (including registered retirement savings plans or tax free savings accounts);
 - (e) The most recent BC Assessment of any real property in which he holds a legal or beneficial interest, as well as documents relating to any current mortgage granted in respect of any such interest;

- (f) Copies of any documents that grant him a legal or beneficial interest in a corporation, including share certificates and shareholder loan agreements;
 - (g) Copies of credit card statements for all credit cards in his name and for all credit cards that he authorized to use from March 1, 2022 to the present;
 - (h) Copies of all motor vehicle registration documents with respect to vehicles registered in his name;
 - (i) Copies of all documents pertaining to the establishment by him of any trusts or of any trusts in respect of which he is the trustee;
 - (j) Copies of all documents pertaining to any disposition, gift, sale or transfer of any asset (or part interest therein) by him on or after March 1, 2022; and
 - (k) Any other records evidencing his assets, income, debts and liabilities.
10. Within 14 days of being served with this Order, Zeala Cortes, will provide to counsel for the Plaintiffs all documents in her possession or control, not privileged, relating to her income and property, debts owed to and by her, and the means she has or may have to satisfy the Judgment, including but not limited to:
- (a) Copies of her last three years' income tax returns and T4s;
 - (b) If she is not employed, recent proof of the source and amount of any income;
 - (c) Copies of her monthly statements for all bank accounts in her name (whether held jointly with someone else or not) from March 1, 2022 to present;
 - (d) Copies of statements from March 1 2022 to present issued to her in respect of any investment accounts (including registered retirement savings plans or tax free savings accounts);

- (e) The most recent BC Assessment of any real property in which she holds a legal or beneficial interest, as well as documents relating to any current mortgage granted in respect of any such interest;
 - (f) Copies of any documents that grant her a legal or beneficial interest in a corporation, including share certificates and shareholder loan agreements;
 - (g) Copies of credit card statements for all credit cards in her name and for all credit cards that she authorized to use from March 1, 2022 to the present;
 - (h) Copies of all motor vehicle registration documents with respect to vehicles registered in her name;
 - (i) Copies of all documents pertaining to the establishment by her of any trusts or of any trusts in respect of which she is the trustee;
 - (j) Copies of all documents pertaining to any disposition, gift, sale or transfer of any asset (or part interest therein) by her on or after March 1, 2022; and
 - (k) Any other records evidencing her assets, income, debts and liabilities.
11. Within 14 days of being served with this Order, Pintech will provide to counsel for the Plaintiffs all documents in its possession or control, not privileged, relating to its income and property, debts owed to and by it, and the means it has or may have to satisfy the Judgment, including but not limited to:
- (a) Copies of its last three years' income tax returns and T4s;
 - (b) Copies of its financial statements for fiscal years 2022, 2023, and 2024 (if any available);
 - (c) Copies of its monthly statements for all bank accounts or investments accounts in its name from March 1, 2022 to present;

- (d) The most recent BC Assessment of any real property in which it holds a legal or beneficial interest, as well as documents relating to any current mortgage granted in respect of any such interest;
 - (e) Copies of any documents that grant it a legal or beneficial interest in a corporation, including share certificates and shareholder loan agreements;
 - (f) Copies of all motor vehicle registration documents with respect to vehicles registered in its name;
 - (g) Copies of all documents pertaining to the establishment by it of any trusts or of any trusts in respect of which it is the trustee;
 - (h) Copies of all documents pertaining to any disposition, gift, sale or transfer of any asset (or part interest therein) by It on or after March 1, 2022; and
 - (i) Any other records evidencing its assets, income, debts and liabilities.
12. Within 14 days of being served with this Order, Aubitx will provide to counsel for the Plaintiffs all documents in its possession or control, not privileged, relating to its income and property, debts owed to and by it, and the means it has or may have to satisfy the Judgment, including but not limited to:
- (a) Copies of its last three years' income tax returns and T4s;
 - (b) Copies of its financial statements for fiscal years 2022, 2023, and 2024 (if any available);
 - (c) Copies of its monthly statements for all bank accounts or investments accounts in its name from March 1, 2022 to present;
 - (d) The most recent BC Assessment of any real property in which it holds a legal or beneficial interest, as well as documents relating to any current mortgage granted in respect of any such interest;

- (e) Copies of any documents that grant it a legal or beneficial interest in a corporation, including share certificates and shareholder loan agreements;
 - (f) Copies of all motor vehicle registration documents with respect to vehicles registered in its name;
 - (g) Copies of all documents pertaining to the establishment by it of any trusts or of any trusts in respect of which it is the trustee;
 - (h) Copies of all documents pertaining to any disposition, gift, sale or transfer of any asset (or part interest therein) by It on or after March 1, 2022; and
 - (i) Any other records evidencing its assets, income, debts and liabilities.
13. The Defendant Francisco Cortes, also known as Jun Cortes, both in his personal capacity and as Director of the Defendant Pintech, attend the examination in person in the City of Vancouver at a time and place chosen by the Plaintiffs and set out in the Appointment.
14. The Defendant Zeala Cortes, both in her personal capacity and as Director of the Defendant Aubitx, attend the examination in person in the City of Vancouver at a time and place chosen by the Plaintiffs and set out in the Appointment.
15. The Defendants be jointly and severally liable to pay the Plaintiffs' costs of this Application summarily fixed at \$750 inclusive of taxes and disbursements.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Scott Andersen
COUNSEL FOR THE PLAINTIFFS

BY THE COURT

REGISTRAR

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