

REGINA VERBUS A. PELLIZZARI
BANK MANAGER, AND SHARPE AND AIMOLA,
SHAREHOLDERS OF HIGHLENE BUILDING CORPORATION LIMITED

SYNOPSIS

In early 1976, Highlene was in the midst of the construction of an apartment building and was experiencing financial difficulties. Their need for refinancing was resolved by Pellizzari, the bank manager, in June 1976. Subsequently, Highlene made payments to a company identified as Krisdom Investments Limited. In turn, Krisdom made payments to Pamic Investments Limited, a company owned by the wife of the bank manager.

HIGHLENE'S ATTEMPTS TO REFINANCE CONSTRUCTION PROJECT

Between January 1976 and June 11, 1976, Highlene tried very hard to obtain financing. The company approached six different sources, but their requests for funds were consistently turned down.

In contrast with these rejections, Hamilton Trust & Savings Corporation agreed to provide take-out-financing for Highlene's condominium project as evidenced by a letter sent to Central Mortgage and Housing Corporation by Mr. Morris Wright of Hamilton Trust. The letter was dated June 11, 1976. (Take-out financing is money provided once the building has been constructed.)

CANADIAN IMPERIAL BANK OF COMMERCE OFFER

On June 8, 1976, three days before the date of Wright's letter, the Manager of the Canadian Imperial Bank of Commerce (CIBC), Mr. A. Pellizzari, wrote to Hamilton Trust and Savings Corporation about the 48-suite condominium project on behalf of Highlene, stating:

"We understand that your firm is arranging take-out financing for the above noted-project in the amount of \$2,354,512. We further understand that this is a C.M.H.C. insured loan and draw-down arrangements are accordingly.

We wish to confirm that we are ready to assist the subject firm with bridge-financing to the physical completion of the above noted project and under the terms and conditions of C.M.H.C. subject to your funding being assignable to us."

In this letter, then, Pellizzari said that the CIBC was ready to help with bridge financing provided that Hamilton Trust would assign its take-out financing to CIBC. (Bridge financing is the provision of funds for the actual construction.)

A. Pellizzari subsequently wrote to Hamilton Trust & Savings Corporation on June 17, 1976, about the same project, stating:

"... we appreciate and understand that you cannot assign the takeout financing as we had specified as one of our conditions. We now confirm that we will continue to support the above project as indicated in our prior letter and will request that the principals involved give instructions to your lawyers to redirect and assign to this office the proceeds of the takeout commitment that is being provided by your organization."

This letter shows that Pellizzari continued to be willing to commit CIBC to bridge financing even though Hamilton Trust refused to assign the take-out financing directly to CIBC. (Instead, Hamilton Trust would assign the funds to the principals of Highlene. The CIBC would ask the principals to instruct Hamilton Trust to redirect the funds to the CIBC.)

A letter from Brandzen Consultants to Morguard Trust Company states:

"Construction started on June 23, 1976...."

On November 9, 1976 Gerald Kirsh issued unaudited financial statements of Highlene as at June 30, 1976 which disclosed a deficit of \$238,593.

GIBC Advances

From June 9, 1976 (the date account opened) to November 5, 1976, the Receipts Journal of Highlene discloses total deposits to its bank account of \$1,647,004.05. The entire amount, except \$4.05, was advanced by the Canadian Imperial Bank of Commerce as loans for deposit to:

Highlene: Highlene Building	\$ 607,000
Carole Aimola	140,000
Ted Boksa	400,000
Irving & Harry Teperman	500,000
	<u>\$1,647,000</u>

For the same period, these outstanding loans were reduced by only \$15,000. Therefore as of November 5, 1976, the outstanding loans totalled \$1,632,000.

KRISDOM INVESTMENTS LIMITED

Krisdom Investments Limited was incorporated on August 29, 1975, and was owned equally by M. Fazzari and D. Rossi. The company's books of account recorded payments that were significant.

1. Payments by Highlene to Krisdom.

An agreement dated November 17, 1975, between Krisdom and Highlene called for payment of \$15,000 at \$750 per week to be paid "when the proposed highrise building site has been excavated and construction commenced."

The payment is attributable to "... services for Highlene Building Corporation Limited dating back from same two years previous with Mr. Dominic Rossi."

This appears to conflict with statements made in Rossi's letter to the Ministry of Labour.

Krisdom Invoice to Highlene:

July	30, 1976	#1	\$750.00
August	6	2	750.00
August	13	3	750.00

Payment to Krisdom:

July	30, 1976	\$750.00
August	6	750.00
August	13	750.00

2. **Payments by Krisdom to Pamic Investments Limited**

Pamic Investments Limited was owned by Theresa Pellizzari, the wife of the bank manager with whom M. Fazzari and Highlene had been dealing at the Canadian Imperial Bank of Commerce at both the Leslie Street and the Dixie and Matheson branches.

Pamic Invoice to Krisdom

May	31, 1976	\$1,200.00
June	28, 1976	1,200.00
August	1, 1976	2,138.54
August	31, 1976	1,472.85
September	30, 1976	2,273.85
	30, 1976	<u>1,684.94</u>
		<u>\$9,970.18</u>

Krisdom Payment to Pamic

June	22, 1976	\$ 1,200.00
July	8, 1976	1,200.00
July	9, 1976	100.00
August	24, 1976	2,138.54
October	6, 1976	3,746.70
November	15, 1976	<u>1,684.94</u>
		<u>\$10,070.18</u>

The last invoice submitted by Pamic to Krisdom was dated October 30, 1976, and covered the period October 4, 1976 to October 29, 1976. The invoices submitted by Pamic to Krisdom and the payments made by Krisdom to Pamic from May to October 1976 inclusive show that an amount of \$10,070.18 was paid to Pamic. These payments were recorded in the disbursements journal of Krisdom as "consulting fees". Pamic recorded the receipt of these funds as "sales".

The financial statements of Pamic Investments Limited for the year ended December 30, 1976, disclose a loss of \$66 on fees earned of \$29,170. Management salaries amounted to \$20,019.

Of further significance is Pamic's declining business:

	<u>Deposits</u>
October 1976	\$5,897.00
November 1976	2,984.94
December 1976	-
	<u>Sales</u>
October 1976	\$3,484.94
November 1976	800.00
December 1976	300.00

An agreement dated November 17, 1975 suggests that Krisdom has earned these fees based on services rendered by D. Rossi for Highline for the past two years. This agreement conflicts with a letter by D. Rossi dated April 6, 1976 when he states his employment with Menkes until February 10, 1976. It was alleged that the agreement was back dated in an attempt to account for the payment to Krisdom.

LISTING OF CHEQUES APPARENTLY ISSUED BY
 HIGHLAND BUILDING CORPORATION LIMITED
 TO KRISDOM INVESTMENTS LIMITED

<u>DATE OF CHEQUE</u>	<u>CHEQUE NO.</u>	<u>PAYEE</u>	<u>AMOUNT</u>
July 30, 1976	124	Krisdon Investments Limited	\$ 750.00
August 6, 1976	125	Krisdon Investments Limited	750.00
August 13, 1976	126	Krisdom Investments Limited	750.00
August 20, 1976	127	Krisdom Investments Limited	750.00
August 27, 1976		Krisdon Investments Ltd.	750.00
September 3, 1976	189	Krisdom Investments Ltd.	750.00
September 10, 1976	209	Krisdom Investments Ltd.	750.00
September 17, 1967	225	Krisdom Investments Limited	750.00
September 24, 1976		Krisdom Investments Ltd.	750.00
October 1, 1976	271	Krisdom Investments Ltd.	750.00
October 8, 1976	299	Krisdom Investments Limited	750.00
October 15, 1976	326	Krisdom Investments Limited	750.00
October 2 1976		Krisdom Investments Limited	750.00
October 29, 1976	358	Krisdom Investments Limited	750.00
November 5, 1976	380	Krisdom Investments Ltd.	750.00
			<hr/>
			\$11,250.00
			<hr/>