

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

BETWEEN:

MALIK ASHRAF, SYED BADIUDDIN SOHARWARDY and AL-MADINAH CALGARY
ISLAMIC ASSEMBLY

Plaintiffs

-and-

AHMED IFTIKHAR, GULAM MISTAFA, NAEEM BUTT, NAJEEB BUTT, HAJI RAFIQ,
HARRON CHUGHTAI, ROBINA BUTT, SHAGUFTA IFTIKHAR, QASIRA SHAHEEN and
the CONTINENTAL COMMERCE GROUP INC. carrying on business as the PAKISTAN
POST

Defendants

STATEMENT OF DEFENCE FOR AHMED IFTIKHAR

1. Except where specifically admitted the Defendant denies each and every statement of fact in the Statement of Claim and puts the Plaintiffs to the strict proof thereof.
2. The Defendant admits paragraph 1 of the Statement of Claim and agrees with the proposal set out in paragraph 30 of the Statement of Claim.
3. The Defendant admits that he resides in Calgary, AB.
4. The Defendant accepts the shortened version of names as set out in the Statement of Claim.
5. The Defendant admits that Ashraf resides in Calgary, AB.
6. The Defendant denies that there is the Islamic Supreme Council of Canada (hereinafter referred to as the "ISCC") and states that the ISCC was struck as an Alberta Society on October 2, 2006, for failure to file any society annual returns.
7. The Defendant admits that the Assembly owns a facility located at 5700 Flasbridge Drive NE, Calgary, AB.
8. The Defendant denies that the Defendants formed the Action Committee.
9. The Defendant denies that he, through the Action Committee or otherwise, conspired in any fashion, maliciously or otherwise to damage the reputation of the Plaintiffs, to shut down the lawful activities of the Assembly, and harm the personal and business interests of the

Plaintiffs in the Muslim Community in Calgary and elsewhere in any manner whatsoever.

10. The Defendant attended at the Centre, worshiped there, volunteered there, raised money for the Centre, and donated money to the Centre and the Assembly.
11. The Defendant says that some members of the Assembly wanted an accounting of the money they had donated and raised for the Assembly, but those who were running the Assembly, which included the Plaintiffs, refused to provide an accounting and an audit of the funds which had been paid to or donated to the Assembly.
12. The Defendant says that the Plaintiffs, Ashraf and Soharwardy, received funds from the Assembly which they were not entitled, and which they knew they were not entitled to.
13. The Defendant says that at all times material hereto, the Plaintiffs, Ashraf and Soharwardy, knew that they were not entitled to the funds which they received, as set out in the immediately preceding paragraph.
14. The Defendant says that there was suspicion in the Pakistan Muslim Community as to the activities of the Plaintiffs, Ashraf and Soharwardy, and their failure and refusal to provide audited financial records for the Assembly, the financial statements required under the *Charitable Fund Raising Act*, R.S.A. 2000, c-9, and that any loss to the reputation of the Plaintiffs, Ashraf and Soharwardy, if they suffered any loss, which is not admitted but specifically denied, the said loss was due entirely to the actions of the Plaintiffs, Ashraf and Soharwardy.
15. The Defendant says and the fact is that the members of the Assembly asked that a general meeting be held where the members could elect the representatives that they wanted, but the Plaintiffs, Ashraf and Soharwardy, refused to do so.
16. The Defendant says that some members asked the Plaintiffs for charitable receipts for donations made to the Assembly, and they Plaintiffs refused to provide the charitable receipts.
17. The Defendant denies that he was involved in the publication of the statements referred to in Paragraph 12 of the Statement of Claim herein, however, if the Defendant was involved in the publication of the said statements which is not admitted but denied, the said statements are true, and/or are fair comment as to what is depicted therein, and were made in the honest belief of the truth of the statements.
18. The Defendant denies that he was involved in the publication of the statements set out in Paragraph 13 of the Statement of Claim, however if the Defendant was involved, which is not admitted but specifically denied, the said statements are true, and/or are a fair comment as to what is depicted therein, and were made in the honest belief of the truth of the statements.

19. The Defendant specifically denies paragraph 17 of the Statement of Claim herein, and states that if he published any slanderous and libelous comments or statements which is not admitted but specifically denied, the Defendant says that the Plaintiffs did not suffer any irreparable harm to their personal and business reputations, or cause distress or embarrassment. The Defendant further states that the Plaintiffs' personal and business reputations did not change as a result of the actions of the Defendant.
20. The Defendant specifically denies paragraph 21 of the Statement of Claim.
21. The Defendant states and the fact is that if the Plaintiffs, Ashraf and Soharwardy, were managing or otherwise in control of the Assembly, their actions are public in nature and they are answerable to the members of the Assembly, all persons who worship at the Centre, and all persons who made donations.
22. In the alternative, if the Defendant sent, published, broadcasted, or otherwise circulated any false or defamatory statements in respect of the Plaintiffs or any of them, which is not admitted but specifically denied, then such statements were made in the honest belief of the truth of such statements, and further, or in the alternative, that such statements were made in the furtherance of obtaining information that was necessary to be provided to the members of the Assembly.
23. Further, or in the alternative, if the Defendant sent, published, broadcasted, or otherwise circulated false statements in respect to the Plaintiffs or any of them, which is not admitted, but specifically denied, then such statements were not made with malice and/or were not made with the intention to cause the Plaintiffs, or any one of them harm, loss, damage or expense.
24. Further, or in the alternative, if the Defendant sent, published, broadcasted, or otherwise circulated false statements in respect of the Plaintiffs or any of them, which is not admitted but specifically denied, then such statements were sent, published, broadcasted, or otherwise circulated to a limited number of parties, each having, or in good faith, belief by the Defendant to have a genuine interest of the subject matter of the statements and that the Defendant was under a moral, legal or other duty to communicate such statements to the recipients thereof.
25. Further, or in the alternative, if the Defendant sent, published, broadcasted, or otherwise circulated false statements in respect to the Plaintiffs or any of them, which is not admitted but specifically denied, then such statements were not defamatory.
26. Further, or in the alternative, if the Defendant denies that any action or conduct of the Defendant taken in respect to the Plaintiffs or any of them, was wrongful, illegal, or unlawful.
27. Further, or in the alternative, if the Defendant's actions or conduct, in respect to the Plaintiffs or any of them, was wrongful, illegal, or unlawful, which is not admitted but specifically

denied, then such action or conduct did not interfere, harm, or affect in any manner any contract, business relationship, economic interest, or legitimate business expectation of the Plaintiffs or any of them.

28. Further, in an answer to the whole of the Statement of Claim, the Defendant denies that the Plaintiffs, or any of them, suffered, or sustained the harm, loss, damage, or expense as set out in the Statement of Claim or at all, and puts the Plaintiffs to the strict proof thereof.
29. Further, or in the alternative, if the Plaintiffs or any of them, have suffered harm, loss, damage, or expense as alleged, or at all, which is not admitted, but is specifically denied, such harm, loss, damage, or expense was in no way was attributable to any intentional act negligence or to any act or omission on the part of the Defendant, but rather was caused in whole or in part by other prior or subsequent unrelated event and/or conduct involving the Plaintiffs, or any of them.
30. To the best of the Defendant's knowledge, the Plaintiffs, jointly or severally, arranged an open house at the Centre for November 11, 2007, to clear up any doubt and to answer all questions in regards to the management of the Centre and its financial affairs. As it was an open house, the Defendant asked questions, and the Plaintiffs refused to answer the Defendant's questions as well as the questions posed by other members of the Assembly.
31. The Plaintiffs and each of them invited all Muslim brothers and sisters to an open house to be held at the Centre on November 11, 2007, and at that time, the members of the Assembly formed an ad hoc Committee, Financial and Audit Committee (hereinafter referred to as the "Audit Committee"), which consisted of Malik Saleem, Burhan Khan, Athar Zaidi, and Nabeed Shaw.
32. The Audit Committee demanded of the Chairman and the Executive Committee of the Centre that they provide all the financial information in order to conduct the work they were mandated to do on November 11, 2007, by a duly constituted meeting of the Assembly.
33. On November 18, 2007, the Audit Committee requested information from the Plaintiffs.
34. On November 17, 2007, the Plaintiffs refused to provide the information to the ad hoc Committee, and attempted to disband the same, notwithstanding the fact that the Audit Committee had been properly constituted.
35. The Plaintiffs, and each of them, received donations made to the Assembly and have not accounted for the donations.
36. The Defendant says, and the fact is, that the Plaintiffs and each of them, made false and misleading statements which were relied on by the Defendant in respect to all the representations and requests that he made of the Plaintiffs, which false and misleading statements include, inter alia, that:

- a. There was a separate legal entity called the Al-Madinah Calgary Islamic Centre and that had charitable status with the charitable registration number of 5411593485;
 - b. The Mosque was purchased for \$644,000.00 and that no interest was paid on the loan to purchase the Mosque;
 - c. The value of the school in Mosley was \$500,000.00;
 - d. There is the Islamic Supreme Council of Canada Society;
 - e. The Centre was granted non-profitable, charitable status in 2006;
 - f. The loan to purchase the Mosque was paid off;
 - g. The value of the five bays and shops located at 5700 Falsridge Drive NE is \$2.2 million dollars; and
 - h. The Centre was properly registered to solicit and receive charitable donations.
37. On August 17, 2007, and September 7, 2007, when the Defendant attended at the Mosque, the Plaintiffs Ashraf and Soharwardy, threatened and struck him which resulted in the Defendant suffering pain, and fearing for his life and safety.
38. The Defendant specifically pleads the provisions of the *Income Tax Act*, the *Religious Societies Land Act*, R.S.A. 2000 c. R-15, as amended from time to time, the *Charitable Fund Raising Act*, as amended from time to time.
39. The Defendant says, and the fact is, that on August 2, 2007, he and Chughtai entered into Residential Real Estate Purchase Contract No. 6673435, with Sang Jun Kim and Sinja Kang, for the purchase of those lands and premises described in the South Alberta Land Registration District as:
- PLAN 9010345
LOT 4
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 1.49 HECTARES (3.68 ACRES) MORE OR LESS
- (hereinafter referred to at the "Property").
40. The Defendant provided two cheques in the amount of \$5,000.00 and \$10,000.00 respectively, to secure the transaction, which cheques and agreement were given to Ashraf the Realtor.
41. The Plaintiff, Ashraf, was at all times material hereto an agent of the Defendant Iftikar , and Chughtai, and as such owed a fiduciary duty to the said Defendants.

42. It was the intention of the Defendant and Chughtai that they would purchase the Property, arrange for financing and donate it to the Muslim community for the purposes of it being used as a Mosque in NW Calgary.
43. The Plaintiff, Ashraf, in breach of his duties as the agent for the Defendant and Chughthai and without the expressed or implied authority of the Defendant and Chunghai falsified the Real Estate Purchase Contract No. 6673435, and put in the names of Syed Badiuddin and Barry Bonham as the purchasers of the Property for their own purposes.
44. The Defendant relies on and pleads the provisions of the *Defamation Act*.
45. If the Defendant made any statements or comments as against the Defendants or any of them, which is not admitted, but is specifically denied, then the Defendant says that the statements were true.
46. The Defendant donated \$31,650.00 to the Assembly and the Plaintiffs refused to provide charitable receipts for the donation, failed to account for the money it received, and refused to provide the Centre or the Assembly's audited financial statements as required by the *Charitable Fund Raising Act*.

WHEREFORE THE DEFENDANT PRAYS THAT THE STATEMENT OF CLAIM BE DISMISSED WITH COSTS ON A SOLICITOR AND OWN CLIENT BASIS, OR IN THE ALTERNATIVE, COSTS ON A PARTY PARTY BASIS.

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

BETWEEN:

AHMED IFTIKHAR

Plaintiff by Counterclaim/
Defendant

- and -

MALIK ASHRAF, SYED BADIUDDIN SOHARWARDY and
AL-MADINAH CALGARY ISLAMIC ASSEMBLY

Defendants by Counterclaim/
Plaintiffs

COUNTERCLAIM

47. The Plaintiff by Counterclaim repeats the allegations of facts set out in Paragraphs 1 - 49 Statement of Defence herein.
48. The Plaintiff by Counterclaim states and the fact is that he was looking forward to participating in the purchase of the property for a mosque and donating the mosque to the Islamic community and that the Defendant by Counterclaim was fully aware of this.
49. The Defendants by Counterclaim and each of them, have acted in a manner in which allows for the award of costs on a solicitor and own client basis, and for the award of punitive and exemplary damages.

WHEREFORE THE PLAINTIFF BY COUNTERCLAIM CLAIMS AS AGAINST MALIK ASHRAF:

- a. Damages for breach of fiduciary duty in the amount of \$100,000.00;
- b. Costs on a solicitor and own client basis, or in the alternative, costs on a party party basis; and
- c. Such further and other relief as this honourable Court may deem meet and just.

WHEREFORE THE PLAINTIFF BY COUNTERCLAIM CLAIMS AS AGAINST THE DEFENDANTS BY COUNTERCLAIM AND EACH OF THEM:

- a. An accounting of all monies donated by the Plaintiff by Counterclaim;

- b. General Damages for Assault and Battery in the amount of \$100,000.00;
- c. Punitive and exemplary damages in the amount of \$100,000.00;
- d. Costs on a solicitor and own client basis, or in the alternative, costs; and
- e. Such further and other relief as this Honourable Court may deem meet and just

DATED at the City of Calgary, in the Province of Alberta, this 12th day of February, 2008,
AND DELIVERED by Lacourcière Associates, Barristers and Solicitors, 390, 800-6th Avenue SW,
Calgary, Alberta, T2P 3G3, solicitors for the within Defendant whose address for service is in care
of his solicitors.

**NOTICE TO THE DEFENDANTS BY
COUNTERCLAIM**

TO: MALIK ASHRAF, SYED
BADIUDDIN SOHARWARDY and
AL-MADINAH CALGARY ISLAMIC
ASSEMBLY

You have been sued. You are the Defendants by Counterclaim. You have only 15 days to file and serve a Statement of Defence or a Demand of Notice to the Counterclaim. You or your lawyer must file your Statement of Defence or Demand of Notice in the office the Clerk of the Court of Queen's Bench in Calgary, Alberta. You or your lawyer must also leave a copy of your Statement of Defence or Demand of Notice at the address for service for the Plaintiff named in this Counterclaim.

WARNING: If you do not do both things within 15 days, you may automatically lose the law suit. The Plaintiff by Counterclaim may get a Court judgment against you if you do not file, or do not give a copy to the Plaintiff by Counterclaim, or do either thing late.

This Statement of Defence and Counterclaim is filed by:

LACOURCIÈRE ASSOCIATES

Barristers and Solicitors
Suite 390,800 6th Ave. SW
Calgary, AB T2P 3G3
Phone: 403-237-0127
Attention: Guy Lacourcière

solicitor for the Plaintiff by Counterclaim who resides at Calgary, Alberta.

And whose address for service is c/o the said Solicitor and is address to the Defendants by Counterclaim whose residence so far as known to the Plaintiff by Counterclaim is Calgary, Alberta.

Action No. 0701-11905

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ISLAMIC ASSEMBLY

Plaintiffs

-and-

AHMED IFTIKHAR, GULAM MISTAFA, NAEEM
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CONTINENTAL COMMERCE GROUP INC.
carrying on business as the PAKISTAN POST

Defendants

AND BETWEEN:

AHMED IFTIKHAR

Plaintiff by Counterclaim
(Defendant)

-and-

MALIK ASHRAF, SYED BADIUDDIN
SOHARWARDY and AL-MADINAH CALGARY
ISLAMIC ASSEMBLY

Defendants by Counterclaim
(Plaintiffs)

**STATEMENT OF DEFENCE FOR AHMED
IFTIKHAR AND COUNTERCLAIM**

LACOURCIÈRE ASSOCIATES

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Attention: Guy Lacourcière

Solicitor's File No. 10450