

Court File Number: CV-17-5880SI-00CL

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

First Ontario Credit Union
Plaintiff(s)

AND

Ferwin Ventner
Defendant(s)

Case Management Yes No by Judge: _____

Counsel	Telephone No:	Facsimile No:
(see attached counsel list)		

- Order Direction for Registrar (No formal order need be taken out)
 Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
 Adjourned to: _____
 Time Table approved (as follows):

This motion involves a dispute between Italo Ferrari / Wilsdale Asset Management Inc against Leo and Charlie Aguzzine as to whether the property located at 785 Goyeau Avenue Windsor (Goyeau) is a joint venture property. For the reasons below I find that Goyeau is a joint venture property.

12 June 18
Date

[Signature]
Judge's Signature

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Judges Endorsment Continued

① Pursuant to the Joint Venture Agreement ("JVA") the Agozzinos own 50% of each class of the issued and o/s shares of each J.V. Nominee:

② Ferwin is a J.V. Nominee;

③ Ferwin owns Goyeau while it is true the JVA list does not list Goyeau, there is ^{no written} evidence the list was meant to be exhaustive;

④ Goyeau is particularly referenced, or referred to, in Ferwin's financial statements;

⑤ The Core Life offering document notes Goyeau to be an asset of Ferwin;

⑥ perhaps most significantly are the emails that were authored by Ferwin himself. They, in my view, clearly establish the Agozzinos' position that ~~the~~ ⁱⁿ Goyeau is a joint

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venture property. ^{In one,} Ferrari emails the other
to Leo Agazzino and specifically
asks for Leo's "instruction regarding
the offer received!"

Why on earth would Ferrari do
this if the Agazzino's did not have
the interest in the property they allege?"

(7) There is no written evidence to
support Ferrari's allegation that Goyeau
was owned by Ferdi as a bare
trustee for Ferrari and for Wilsendale;
thus not in compliance with ss 9 and
11 of the Statute of Frauds.

Based on the above there is
clear and compelling evidence which
I accept, to establish that
Goyeau is a joint venture property.

I ought to note that some
credibility issues were addressed at
the motion. While it is always

1. On cross-examination Mr Ferrari had no explanation.

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difficult to deal with such issues on a written record there were extensive cross-examination. Overall the Agazzino's testimony and position on this motion is much more credible. Mr Ferrari misstated his ownership of Ferrwin in the Core Life Documents. He also as noted, had no explanation for the emails he crafted. Nor is there as noted ^{in support} ~~support~~ ⁱⁿ ~~documentary~~ support of any kind for the "bare trustee" submission.

I acknowledge Ferrari's argument that the financial statements do contain some errors but overall they clearly support the Agazzino's position.

Ferrari/Wilsandab also take issue with Leo's assertion that he provided funds to purchase Goyeau citing a ^{paper} ~~paper~~ trail that they say.

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demonstrates the funds went elsewhere. In my view, little time on this. Ferrari, once funds were received could have allocated them anywhere. Further it also bears noting that the \$189,000.00 cheque seems to be dated the same day as the Goyeau closing.

It also makes sense that Goyeau (a parking lot) would be a joint venture property when it appears linked to the building at 720 Ouellette Avenue² - both of which were bought by the same purchaser in the Receivership.

Based on the above the Aguzzinos are entitled to the order sought declaring Goyeau to be a joint venture property. As agreed by counsel, the successful party Uth is to receive costs of

2. A joint venture property =

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\$25,000.00 inclusive. The Agazzinos
are entitled to their costs
from Ferrari/Windsdale.

McE...