



Court File No.

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

FINANCEIT CANADA INC.

Plaintiff

- and -

**2587998 ONTARIO INC., also known as AS PROVINCIAL SMART HOME
SERVICES and KHALID ELMI**

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

DATE _____

Issued by _____
Registrar

Address of court office:
245 Windsor Avenue
Windsor ON, N9A 1J2

TO: 2587998 ONTARIO INC., also known as Provincial Smart Home Services
65 Westmount Rd N, 806,
Waterloo, ON N2L 5G6

AND TO: Khalid Elmi
1243 Islington Ave #200
Etobicoke, ON M8X 1Y9

CLAIM

1. The Plaintiffs claims against the Defendants jointly and severally:
 - a. General, consequential, aggravated and punitive damages in the amount of \$4,000,000.00;
 - b. Damages in the amount of all accrued and unpaid interest and fees in connection with any and all Loan Agreements;
 - c. Damages in the amount of \$200,000.00 for breach of the Financing Program Agreement;
 - d. Pre-judgment and post-judgment interest pursuant to the provisions of the Courts of Justice Act, RSO 1990, c. C-43, as amended;
 - e. Costs of this claim on a full indemnity basis plus applicable HST and any disbursements, pursuant to the Financing Program Agreement; and
 - f. Such further and other relief as this Honourable Court may deem just and as counsel advises.

2. Financelt Canada Inc. ("**Financelt**") is a federally registered corporation. It is a digital lender that provides small—to midsize loans to customers, primarily for their home

improvement projects. Financelt operates from its headquarters at 8 Spadina Avenue, Suite #2400, Toronto, Ontario.

3. 2587998 Ontario Inc., also known as Provincial Smart Homes Services (“Provincial”), is a duly registered Ontario Corporation with a business address at 65 Westmount Rd N, 806, Waterloo, Ontario, Canada, N2L, and an address for service at 1243 Islington Avenue, Etobicoke, ON, M8X1Y9.

4. Khalid Elmi is the President and Director of Provincial and acted as a Dealer pursuant to the Financing Program Agreement. He is an ordinary resident of Ontario with an address for service at 65 Westmount Road North, 806, Waterloo, Ontario, Canada.

5. Financelt enters into Financing Program Agreements (“FPA”) with Dealers of home improvement services and goods (the “Dealers”). The purpose of the FPA is to permit Dealers to provide financing arrangements through Financelt to borrowers for work done by the Dealers.

6. Decisions regarding the extension of credit facilities through Financelt are wholly and completely at its discretion. Financelt pleads that Dealers are not employees, agents, servants, or assigns of Financelt and, as such, do not have the discretion to extend credit to customers on behalf of Financelt, nor the authority to bind Financelt.

7. The FPA further obligates Dealers to conduct themselves professionally, refrain from misrepresentations, and comply with all applicable laws.

8. Financelt, from time to time, reviews feedback from customers to determine whether to continue its relationship with Dealers.

9. Financelt does not review any standard forms relied on by the Dealers.

10. Financelt contracted directly with the borrower to extend credit for their purchases from Dealers. Before contracting with a borrower, Financelt may conduct pre-funding calls to confirm identities, confirm the terms of financing, and ensure that the borrower has received its bargain from Dealers.

11. All borrower credit facilities offered by Financelt are between Financelt and its borrowers and subject to adjudication and credit approval by Financelt.

12. Pursuant to the Financing Program Agreement, Provincial provided representations and warranties to Financelt Canada Inc. in their operation and performance under the FPA.

13. Provincial has engaged numerous different individual borrowers with individual contracts for services.

14. Provincial's conduct during those contracts for services and subsequent loan agreements with the respective borrower and Financelt has interfered with Financelt's ability to enforce their loan agreements.

15. Provincial has breached those representations and warranties as agreed to in the FPA with Financelt and engaged in deceitful, unlawful and fraudulent activity, including but not limited to the following:

- a. *Failed to sell the products in the ordinary course of its business free and clear of all liens, claims, taxes, charges and encumbrances other than those imposed through the program, and the customer has not obtained a good and valid title to the products;*
- b. *Failed to sell the products in the ordinary course of its business free and clear of all liens, claims, taxes, charges and encumbrances other than those imposed through the program, and the customer has not obtained a good and valid title to the products;*
- c. *Offered agreements, commitments or understandings between you and the customer that impacted our loan agreement with each customer;*
- d. *Failed to deliver and or install the products in good working order;*
- e. *Acted in violation of the Consumer Protection Act;*
- f. *Have committed fraud and or induced customers with fraud;*
- g. *Have induced customers who lacked mental capacity into agreements which, if found to be true, are unenforceable.*
- h. *Made representations of government rebates which were not real or valid;*
- i. *Made representations of purchasing another product to induce them into a contract with you;*
- j. *Forged or signed on behalf of a customer without their consent or knowledge;*
- k. *Installation caused damages to the customer's property;*

- l. Products were returned to you or not received by the customer;*
 - m. The products were defective and not of the merchantable quality to fit the customer's intended use;*
 - n. Failed to honour or refused the terms of any warranty you provided to the customers,*
 - o. The customer has rescinded the transaction with you;*
 - p. The transaction was obtained or induced by fraud or misrepresentation, unfair, unconscionable or deceptive trade practices;*
16. Provincial has engaged in deceptive, illegal consumer transactions wherein as a result is to completely indemnify and reimbursement the Plaintiff for any and all damages, legal fees, costs, expenses and consequential damages as a result of their conduct, and any loan agreement that is found to be invalid and or a breach of consumer protection legislation.
17. Any and all damages suffered by Financelt as a result of acts and or omissions or conduct done by Provincial shall be jointly and severally liable as against the sole shareholder and sole director Khalid Elmi. Khalid Elmi was, and still is, in complete control and domination of Provincial, and it does not function independently of Khalid Elmi. Provincial is being used by Khalid Elmi as a means to shield himself from responsibility for fraudulent and or/illegal conduct, as plead.
18. Khalid Elmi, through the operation of Provincial, knowingly acted in unfair practices that are illegal pursuant to the *Consumer Protection Act*. Provincial is to be held jointly

and severally liable for their conduct pursuant to Section 12(12) of the *Consumer Protection Act*, and Financelt Seeks any and all contribution and indemnity from any and all claims that may be brought as a result and conduct of Khalid Elmi and Provincial.

19. Provincial's conduct jointly and severally shall survive any potential bankruptcy proceeding and or discharge from bankruptcy as a result of the false pretences and or fraudulent misrepresentation and pursuant to section 178(1) of the *Bankruptcy and Insolvency Act* (R.S.C., 1985, c. B-3).

20. Conduct committed by Provincial was deliberate, deceitful, unconscionable and deserving of sanctions by this honourable court. Punitive and or aggravated damages are warranted to admonish and punish Provincial jointly and severally for their egregious behaviour.

21. The Plaintiffs rely on the *Courts of Justice Act*, R.S.O. 1990, c. C.43, *Consumer Protection Act*, 2002, SO, 2002, c.30 and *Bankruptcy and Insolvency Act* (R.S.C., 1985, c. B-3).

22. The Plaintiffs propose that this action be tried at the City of Windsor.

LEGAL FOCUS LLP
1357 Ottawa Street
Windsor, ON N8X 2E9

ERIC FLORJANCIC
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Court File No.: CV-

FINANCEIT CANADA INC.

and

**2587998 ONTARIO INC., also known as PROVINCIAL
SMART HOME SERVICES and KHALID ELMI**

Plaintiff

Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**
(Proceeding commenced Windsor)

STATEMENT OF CLAIM

LEGAL FOCUS LLP

1357 Ottawa St.

Windsor, Ontario

N8X 2E9

Tel: (226) 674-1120

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Lawyers for the Plaintiff