

From the Globe and Mail: Legal woes mount amid property empire collapse - [https://www.theglobeandmail.com/real-estate/article-legal-woes-mount-amid-property-empire-collapse/?utm\\_source=Shared+Article+Sent+to+User&utm\\_medium=E-mail:+Newsletters+/+E-Blasts+/+etc.&utm\\_campaign=Shared+Web+Article+Links](https://www.theglobeandmail.com/real-estate/article-legal-woes-mount-amid-property-empire-collapse/?utm_source=Shared+Article+Sent+to+User&utm_medium=E-mail:+Newsletters+/+E-Blasts+/+etc.&utm_campaign=Shared+Web+Article+Links)

Legal challenges continue to mount for associates of a child actor who bought hundreds of homes across Ontario using more than \$144-million in private mortgage debt and risky promissory notes before crashing into insolvency one year ago.

In addition to mounting claims in civil court, The Globe and Mail has learned a team of investigators of the Ontario Provincial Police Anti-Rackets Branch has for weeks now been interviewing lenders and investors who lent money to companies controlled by Robby Clark and his primary mortgage broker and promissory note vendor Claire Drage. Several lenders who spoke to The Globe said the OPP probe is seeking documents and information related to allegations of potential criminal fraud raised in civil court filings. None of the allegations have been proven in court.

On Jan. 23, 2024, a collection of companies connected to Mr. Clark filed for insolvency protection to reorganize a rental property portfolio of more than 400 homes spread mainly across the Northern Ontario cities of Sudbury, Sault Ste. Marie and Timmins. After a year of legal wrangling, as of December, 2024, the majority of those properties have been transferred out of Clark's companies to the private mortgage lenders who were allowed to convert the money owed to them to purchases in a credit bid process approved by Ontario Superior Court.

"The OPP Anti-Rackets Branch has an ongoing and active investigation," said Gosia Puzio, with the OPP corporate communications bureau. "Further information cannot be provided at this time to protect the integrity of the investigation and any possible future court proceedings."

On Dec. 20, a court-ordered stay of proceedings that had shielded Mr. Clark and several colleagues – including his wife Aruba Butt, business partner Dylan Suitor and long-time friend Ryan Maloney – from further civil claims was lifted by the court.

Ms. Drage, who had not been covered by the stay of proceedings but whose companies filed for a separate bankruptcy in April, 2024, is also facing more than \$250-million in civil damages claims from two separate lawsuits, one of which accuses her of running "a fraudulent Ponzi scheme" and the mortgage brokerage company that formerly employed her – Mortgage Alliance Company of Canada Inc. – of negligence, breach of contract, fraudulent misrepresentation and unjust enrichment.

"It's a multiplaintiff claim, we represent at last count 436 individuals," said David Milosevic, of Milosevic & Associates, who is representing many of the lenders who were stung by the collapse of Mr. Clark and Ms. Drage's businesses. "We do a lot of multiparty

investment loss cases. ... We put out the word we were interested in the file and hundreds of people dove in.”

Mortgage Alliance is both provincially and federally regulated financial services company and the largest arm of Montreal-based privately held M3 Financial Group. M3 claims to have \$65-billion in funded loans and more than 8,500 mortgage brokers across Canada.

“Mortgage Alliance failed to supervise brokers, including Claire Drage, authorized to deal or trade in mortgages on its behalf, allowed the brokers to engage in fraudulent and dishonest conduct, and profited from such conduct,” the claim states.

“Generally mortgage investment scams – and we’ve worked on a number of them – always involve an intermediary between the lender and the borrower who failed to administer the mortgages the way the paper says,” said Paul Bates, a lawyer working with Mr. Milosevic, who stressed he wasn’t drawing conclusions about what happened in this case. “They mingle funds, they are always spinning the plates and trying to keep the balls in the air. To the investor, it looks like a safe and sound investment, but the monies aren’t being used the way the paper says.”

An unusual court-ordered investigation into the conduct of Mr. Clark’s companies carried out by the insolvency experts at KSV Consulting Inc. found examples of millions of dollars borrowed from lenders that were transferred from the insolvent companies with little or no accounting, lavish spending on corporate travel, entertaining or gifts and in some cases allegations that funds borrowed by Ms. Drage were used not for real estate investing but simply to pay overdue interest to other lenders.

Mr. Milosevic’s claim describes how for each of the hundreds of private mortgages Ms. Drage arranged for Mr. Clark’s development companies “fees were sent directly to Mortgage Alliance” which then “transferred the fees to Drage (or her companies), less 5 per cent, which Mortgage Alliance withheld as its own profit.” According to the claim, Ms. Drage’s company Windrose was so closely tied to Mortgage Alliance that it didn’t have its own corporate bank account until 2022 – more than three years after the lending spree with Mr. Clark began – and “relied solely on Mortgage Alliance to handle its funds.”

Natalie Leon, partner with Forbes, Chochla and Leon LLP, is defending Mortgage Alliance against the Milosevic action said in an e-mailed statement that “Mortgage Alliance denies any responsibility for the investors’ losses and is now defending those claims in court.”

Ms. Leon did offer further context for claims relating to promissory note loans that Ms. Drage arranged, which are not regulated under Ontario’s Mortgage Brokerages, Lenders and Administrators Act, but rather under Canadian securities laws which falls to the Ontario Securities Commission in this case.

“Mortgage Alliance is aware of certain claims being made by some investors associated with Claire Drage and her independent business known as Lion’s Share,” Ms. Leon’s statement reads. “The investors were apparently attracted to potential profits through high-interest, high-risk lending schemes not related to Mortgage Alliance that ultimately were unsuccessful. Some of those investors are now looking to others not involved in those affairs to shift their losses.”

A separate civil case brought against Mortgage Alliance by Simon Bieber of Adair Goldblatt Bieber LLP alleges many of the same facts and represents approximately 150 plaintiffs seeking more than \$100-million in damages.

According to Mr. Milosevic, evidence turned up in a securities or criminal fraud investigation or trial could add to the case for his clients, but he isn’t waiting for the police to finish their work.

“Unfortunately, the OSC is overwhelmed; our criminal prosecution system is overwhelmed,” he said. “I do fraud cases for a living. I have on average 40 people who call me a week; they are losing their homes. It’s an absolute epidemic and the police can’t do anything about it. I’m not pointing fingers or laying blame, it is just rampant victimization of Canadians and it’s terrible.”