

CANADA

TRADE-MARKS ACT

TO: The Registrar of Trade-marks
Canadian Intellectual Property Office
Place du Portage I, Room C-114
50 Victoria Street
Gatineau, Québec K1A 0C9

Attention: Opposition Board

IN THE MATTER OF an Opposition by Fortress Properties Inc. to Application No. 1,514,906 filed on February 11, 2011, by Fortress Real Developments Inc.'s predecessor in title, Fortress Real Capital Inc. (hereinafter referred to as "the Applicant") for registration of the trade-mark FORTRESS REAL CAPITAL & Castle Design

AFFIDAVIT OF JAWAD RATHORE

I, JAWAD RATHORE, of the Town of Richmond Hill, make an oath and say as follows:

1. I am the President & C.E.O. of Fortress Real Developments Inc. (hereinafter referred to as "FRDI" or the "Company") the current owner of Canadian Trade-mark Application No. 1,514,906 for the registration of the trade-mark FORTRESS REAL CAPITAL & Castle Design filed on February 11, 2011. I am familiar with the facts set forth in this Affidavit, either from my own personal knowledge or from information obtained from the Company's records.
2. Canadian Trade-mark Application Serial No. 1,514,906 was assigned from Fortress Real Capital Inc. ("FRC") to FRDI on July 5, 2013. The Assignment was filed with the Canadian Trade-marks Office on July 10, 2013.
3. I have been employed at FRDI since its incorporation on July 9, 2012, and have held the title President and C.E.O. since that time. Prior to July 9, 2012, I was President and C.E.O. at FRC and continue to act in this capacity. I am also an officer and director of both of these companies.
4. In my capacity as President and C.E.O. of FRDI and FRC, and as an officer and director of both these companies, I have knowledge of all aspects of the business, including how the FRDI trade-marks are used in the sales and marketing of the FORTRESS REAL CAPITAL & Castle Design

syndicated mortgage products and I am aware of the matters to which I refer in this affidavit. Where such information is based on information and belief, I have stated the source of the information and belief.

5. FRDI is a company engaged in the business of identifying and developing real estate projects either alone or with other companies. FRDI identifies real estate development opportunities in various Canadian markets and assists with various aspects of the development of a project. The company is currently active in nine markets across Canada and is focused on residential low-rise, high-rise, commercial and industrial projects.
6. The team at FRDI have a combined 50 years of experience in the real estate development sector. The main focus of FRDI is to work with established developers and builders on large scale development projects.
7. FRDI provides ongoing expertise and stewardship from the inception of a real estate development project to completion. FRDI gets involved in identifying and, in some cases purchasing, sites for development, building the sales centre and retaining the planners who obtain building permits and approvals from municipalities.
8. Centro Mortgage Inc. ("CMI") is the lead mortgage brokerage that offers the FORTRESS REAL CAPITAL syndicated mortgage products and is an authorized licensee of FRDI.
9. CMI offers syndicated mortgage products to Ontario residents with respect to real estate development projects for which FRDI is the real estate developer.

Use of the Applicant's Trade-mark

10. FRDI develops RSP eligible syndicated mortgage products that are available for sale to clients through licensed mortgage agents and brokers. FRDI uses its FORTRESS REAL CAPITAL & Castle Design mark in association with the syndicated mortgage products.
11. The syndicated mortgage products sold in association with the FORTRESS REAL CAPITAL & Castle Design mark are offered across Canada.

Advertising the Applicant's Trade-mark

12. The licensed mortgage agents and brokers that offer and sell the syndicated mortgage products advertise these products using the FORTRESS REAL CAPITAL & Castle design mark. As FRDI creates the syndicated mortgage products, it has direct control over the character and quality.
13. FRDI's real estate development work includes assisting in the preparation of marketing material and other documentation bearing the FORTRESS REAL CAPITAL & Design mark, which is then used by licensed mortgage agents and brokers in the selling of the syndicated mortgage products.
14. The FORTRESS REAL CAPITAL & Castle Design syndicated mortgage products are advertised through various electronic and printed publications.
15. Advertisements of the FORTRESS REAL CAPITAL & Castle Design syndicated mortgage products are generally directed to mortgage agents and brokers. I have been advised by Vince Petrozza, a licensed mortgage broker with CMI, that the advertisements are also directed to prospective investors by CMI.
16. Attached as Exhibit "A" to my affidavit is a copy of a pamphlet that was provided to mortgage agents and brokers in January 2010. I have been advised by Mr. Petrozza that this pamphlet was also provided to prospective investors by CMI in January 2010.
17. Attached as Exhibit "B" to my affidavit is a copy of a pamphlet entitled "The Development Process – An Investor's Guide" that was provided to mortgage agents and brokers in April 2011. I have been advised by Mr. Petrozza that this pamphlet was also provided to prospective investors by CMI in April 2011.
18. Attached as Exhibit "C" to my affidavit are three hand-outs that provide information on the FORTRESS REAL CAPITAL & Castle Design syndicated mortgage products. I have been advised by Mr. Petrozza that these brochures are available at all seminars and presentations given by CMI.
19. Attached as Exhibit "D" to my affidavit is a copy of an information folder that bears the FORTRESS REAL CAPITAL & Castle Design trade-mark and was first used in November 2011.

20. I have been advised by Mr. Petrozza that CMI conducts lunch and evening seminars on a bi-weekly basis to discuss FORTRESS REAL CAPITAL & Castle Design syndicated mortgage products. FRDI representatives sometimes attend these seminars to discuss issues pertaining to the development of the real estate projects. Attached as Exhibit "E" to my affidavit are representative samples of invitations that were sent to various mortgage agents and brokers and prospective investors (communications to prospective investors were sent by CMI).
21. Attached as Exhibit "F" to my affidavit is copy of a brochure entitled Investing Directly in Canadian Real Estate that was distributed at a presentation given by CMI on May 29, 2012 in London, Ontario. FRDI representatives also attended this seminar to discuss the development of the **London Advanced Medical Centre** real estate project. Approximately fifty (50) people attended this seminar.
22. Attached as Exhibit "G" to my affidavit is copy of a brochure entitled Investing Directly in Canadian Real Estate that was created and distributed to mortgage agents and brokers in November 2011 and was distributed at a presentation given by CMI on September 27, 2012 in Calgary, Alberta. FRDI representatives also attended this seminar to discuss the development of the **6th & Tenth** real estate project. Approximately fifty (50) people attended this seminar.
23. Attached as Exhibit "H" to my affidavit is copy of a brochure entitled Investing Directly in Canadian Real Estate that was created and distributed to mortgage agents and brokers in October 2011 and was distributed at a presentation given by CMI on November 1, 2011 in Toronto, Ontario. FRDI representatives also attended this seminar to discuss the development of the **Harmony Village (Sheppard Avenue)** real estate project. Approximately sixty (60) people attended this seminar.
24. Attached as Exhibit "I" to my affidavit is copy of a brochure entitled Investing Directly in Canadian Real Estate that was distributed at a presentation given by CMI on March 5, 2012 in St. Catharines, Ontario. FRDI representatives also attended this seminar to discuss the development of the **Port Place** real estate project. Approximately fifty (50) people attended this seminar.

25. Attached as Exhibit "J" to my affidavit is a copy of a booklet for **Port Place** that provides additional information and details about this real estate project.
26. Attached as Exhibit "K" to my affidavit is copy of a brochure entitled Investing Directly in Canadian Real Estate that was created and distributed to mortgage agents and brokers in February 2012 and was distributed at a presentation given by CMI on March 7, 2012 in Barrie, Ontario. FRDI representatives also attended this seminar to discuss the development of the **Harmony Village Lake Simcoe** real estate project. Approximately fifty (50) people attended this seminar.
27. Attached as Exhibit "L" to my affidavit is copy of a brochure that was distributed at a presentation given by CMI on May 2, 2012 in London, Ontario. FRDI representatives also attended this seminar to discuss the development of the **London Advanced Medical Centre** real estate project. Approximately fifty (50) people attended this seminar.
28. Attached as Exhibit "M" to my affidavit is a copy of a brochure about the development of the **Wellington Street Lofts** real estate project that was created and distributed to mortgage agents and brokers in May 2011.
29. Attached as Exhibit "N" to my affidavit is copy of a brochure about the development of the **Helen Avenue** real estate project that was created and distributed to mortgage agents and brokers in August 2011.
30. Attached as Exhibit "O" to my affidavit are copies of two brochures about the development of the **King Charlotte** real estate project that was created and distributed to mortgage agents and brokers in April 2011.
31. Attached as Exhibit "P" to my affidavit is copy of a brochure about the development of the **Brant Park** real estate project that was created and distributed to mortgage agents and brokers in April 2011.
32. Attached as Exhibit "Q" to my affidavit is copy of a brochure about the development of the **Langston Hall 2** real estate project that was created and distributed to mortgage agents and brokers in April 2011.

33. Attached as Exhibit "R" to my affidavit is copy of a brochure about the development of the **Crates Landing** real estate project that was created and distributed to mortgage agents and brokers in December 2011.
34. Attached as Exhibit "S" to my affidavit is copy of a brochure about the development of the **Capitol Pointe** real estate project that was created and distributed to mortgage agents and brokers in July 2011.
35. Attached as Exhibit "T" to my affidavit is copy of a brochure about the development of the **George Richmond** real estate project that was created and distributed to mortgage agents and brokers in April 2011.
36. I have been advised by Mr. Petrozza that some of the brochures that were created and distributed for the various development projects listed above were also distributed at presentations and events given by CMI. FRDI representatives would have attended these presentations and events to discuss the development of the various real estate projects.
37. I have been advised by Mr. Petrozza that since 2011, CMI has conducted, and continues to conduct, the Investing Directly in Canadian Real Estate seminars in the Toronto area on a bi-weekly basis. FRDI representatives also attend these seminars to discuss the development of its various real estate projects. Typically, 45 to 60 people attend each seminar.
38. Attached as Exhibit "U" to my affidavit is copy of a brochure entitled Investing Directly in Canadian Real Estate regarding the development of the **King City** real estate project which was distributed to mortgage agents and brokers in January 2012.
39. Attached as Exhibit "V" to my affidavit is copy of a brochure entitled Investing Directly in Canadian Real Estate regarding the **Lloyd Avenue** real estate project which was distributed to mortgage agents and brokers.

40. Attached as Exhibit "W" to my affidavit is copy is a FORTRESS REAL CAPITAL Product Summary package for the **Burlington Project**. This package was distributed to mortgage agents and brokers in October 2012. I have been advised by Mr. Petrozza that the FORTRESS REAL CAPITAL Product Summary package was also distributed to prospective investors by CMI in October 2012.
41. Attached as Exhibit "X" to my affidavit are copies of Fact Sheets for some of the real estate development projects that FRDI has developed RSP eligible syndicated mortgage products. Fact Sheets are given to licensed mortgage agents and brokers that offer and sell the FORTRESS REAL CAPITAL & Castle Design syndicated mortgage products. These Fact Sheets were distributed between 2010 and 2012.
42. Attached as Exhibit "Y" to my affidavit is a copy of an advertisement that appeared in the summer 2013 issue of BrokerBiz. BrokerBiz magazine is distributed quarterly to more than 2,500 mortgage brokers and agents who are located and conduct their business throughout Ontario.
43. The FORTRESS REAL CAPITAL & Castle Design syndicated mortgage products were featured in CMP magazine for three consecutive months, namely, September 2012, October 2012 and November 2012. Attached as Exhibit "Z" to my affidavit are excerpts from the October and November 2012 magazines.
44. The FORTRESS REAL CAPITAL & Castle Design syndicated mortgage products were also featured in CMP magazine in May 2013. Attached as Exhibit "AA" to my affidavit is an excerpt from the May 2013 magazine.
45. Attached as Exhibit "BB" to my affidavit are copies of two CMP pamphlets dated January and April 2013 which featured the FORTRESS REAL CAPITAL & Castle Design syndicated mortgage products.
46. Attached as Exhibit "CC" to my affidavit is a copy of an advertisement that appeared in the Canadian Real Estate Wealth Magazine on May 14, 2013.
47. Attached as Exhibit "DD" to my affidavit is a copy of an advertisement that appeared in the Canadian Italian Business Professional Association ("CIBPA") magazine on June 15, 2012. CIBPA promotes recreational, cultural, social, artistic, charitable, business and professional

activities of Italian Canadians in Quebec and also encourages the participation of Italian Canadians in the economic and public affairs of this region and Canada.

48. The FORTRESS REAL CAPITAL syndicated mortgage products were also advertised at various trade shows listed below.

Date	Trade Show	Location
February 4-5, 2012	Real Estate Developers Expo	Toronto, Ontario
March 8, 2012	CAAMP	Brampton, Ontario
March 8-9, 2012	CGA Controllers Congress	Mississauga, Ontario
March 24-25, 2012	Women's Lifestyle Show	London, Ontario
April 20, 2012	IMBA Annual Conference	Vaughan, Ontario
April 28-29, 2012	The Business, Franchise and Investor Expo	Toronto, Ontario
May 15-16, 2012	IFBC Spring Summit	Toronto, Ontario
September 20-22, 2012	CGA Practitioners Convention	Niagara-on-the-Lake, Ontario
September 29-30, 2012	The Business, Franchise and Investor Expo	Toronto, Ontario
November 6-7, 2012	IFBC Fall Summit	Toronto, Ontario
November 8-9, 2012	CGA Annual Conference	Toronto, Ontario
November 25-27, 2012	CAAMP	Vancouver, B.C.
April 8, 2013	CAAMP	Calgary, Alberta
May 2013	CAAMP	Halifax, Nova Scotia

March 2013	Mortgage Alliance	Toronto, Ontario
April 17-18 2013	IMBA Annual Conference	Vaughan, Ontario
May 2013	BC Spring	Vancouver, B.C.

49. The syndicated mortgage products offered by CMI and identified as FORTRESS REAL CAPITAL products also appear on the website fortressrealdevelopments.com, on the website www.centromortgage.ca and on the website fortressrealcapital.com, which are all administered by CMI.
50. The fortressrealcapital.com website was launched in January 2010 and has, at all times since then, displayed the FORTRESS REAL CAPITAL & Castle Design mark. Attached as Exhibit "EE" to my affidavit are representative printouts from the fortressrealcapital.com website.
51. The fortressrealdevelopments.com website was launched in December 2012 and has, at all times since then, displayed the FORTRESS REAL CAPITAL & Castle Design mark. Attached as Exhibit "FF" to my affidavit are representative printouts from the fortressrealdevelopments.com website.
52. I have been advised by Mr. Petrozza that the www.centromortgage.ca website was launched in January 2010 and has, at all times since then, displayed the FORTRESS REAL CAPITAL & Castle Design mark. Attached as Exhibit "GG" to my affidavit is a representative printout from the www.centromortgage.ca website.
53. I have been advised by Mr. Petrozza that licensed mortgage agents and brokers also promote the FORTRESS REAL CAPITAL & Castle Design syndicated mortgage products through the distribution of various promotional items. Attached as Exhibit "HH" to my affidavit is a printout of a digital photograph of a laser pointer that was given to prospective investors by CMI representatives in June 2010.

54. I have been advised by Mr. Petrozza that licensed mortgage agents and brokers have also distributed dress shirts bearing the FORTRESS REAL CAPITAL & Castle Design as promotional items. Attached as Exhibit "II" to my affidavit is a printout of a digital photograph of a dress shirt that was given to prospective investors by CMI representatives in January 2011.
55. I have been advised by Mr. Petrozza that licensed mortgage agents and brokers have also distributed leather look portfolios as promotional items. Attached as Exhibit "JJ" to my affidavit are two printouts of a digital photograph of a leather look 8 1/2" x 11" Portfolio that was given to prospective investors by CMI representatives in July 2011.
56. I have been advised by Mr. Petrozza that licensed mortgage agents and brokers have also distributed chocolate bars, pens, canvass bags and packaged sticky notes as promotional items. Attached as Exhibit "KK" to my affidavit are printouts of various digital photographs of promotional items that were given to prospective investors by CMI representatives in July and August of 2012, including, chocolate bars, pens, canvass bags and packaged sticky notes.
57. During the period 2010 to 2013 when FRC owned the FORTRESS REAL CAPITAL & Castle Design mark, FRC spent in excess of \$200,000 per year in advertising expenditures.
58. FRC was a sponsor of CIBPA in 2013. Attached as Exhibit "LL" to my affidavit is a copy of an advertisement for the 61st Annual President's Ball that evidences such sponsorship.
59. FRC also sponsored the Toronto International Film Festival (TIFF) in 2010. Attached as Exhibit "MM" to my affidavit is a copy of a photograph in which the FORTRESS & Castle Design appears.
60. FRC also sponsored an exclusive birthday celebration for Christopher Wesson Bosh. Attached as Exhibit "NN" to my affidavit is a printer's proof sheet for the invitation that was sent out.
61. FRC supported several charities in 2011 and 2012. Attached as Exhibit "OO" to my affidavit are copies of two photographs taken during the presentation of these donations.

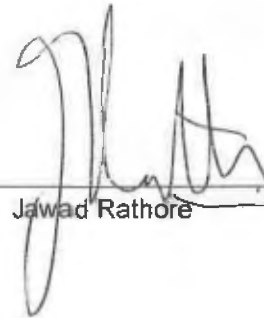
62. Attached as Exhibit "PP" to my affidavit is a copy of two business cards bearing the FORTRESS REAL CAPITAL & Castle Design which have been in use since March 2012.

SWORN BEFORE ME at the City of Toronto,
in the Province of Ontario, on July 29, 2013.



Commissioner for Taking Affidavits, etc.

*Catherine Wing-Yee Ma, a Commissioner, etc.,
Province of Ontario, for Norton Rose Fulbright Canada LLP /
S.E.N.C.R.L., s.r.l., Barristers and Solicitors.
Expires June 1, 2016.*



Jawad Rathore