CITATION: 9165-6462 Quebec Inc. v. DJB Mining Products & Services Ltd., 2026 ONSC 2375
COURT FILE NO.: CV-24-11939
DATE: 2026-04-28

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:	)	
	)	
9165-6462 Quebec Inc.	)	Marc Huneault, for the Applicant
	)	
Applicant	)	
– and –	)	
	)	
DJB Mining Products & Services Ltd., DJB Équipements Miniers Inc., and Daniel Brunet, also known as, Daniel Jean Brunet	)	Alex Robineau, for the Defendant
	)	
Respondents	)	
	)	**HEARD:** November 25, 2025

REASONS FOR JUDGMENT ON APPLICATION

P.J. BOUCHER, R.S.J.

[1] The applicant seeks orders:

a. For specific performance of a share transfer agreement;

b. Declaring the applicant the legal and beneficial owner of the transferred shares;

c. Vesting the transferred shares in the applicant;

d. Rectifying the registers or other records of the corporate respondents such that the transferred shares are in the name of the applicant;

e. In the alternative:

i. for a constructive trust over the transferred shares;

ii. for a declaration the respondent Brunet has engaged in conduct that is oppressive, unfairly prejudicial to, or that unfairly disregards, the

applicant`s interests contrary to section 241 of the *Canada Business Corporations Act*, RSC 1985, c C-144 (hereinafter the "CBA");

f. in the further alternative, an order requiring the respondent Daniel Brunet to obtain a full and final release of all guarantees provided by the applicant or its principal, Madeleine Paquin, and to compensate the applicant for the value of the consideration paid or contributed by the applicant in exchange for the transferred shares including the immediate repayment of all advances by the applicant or any associated corporation.

[2] The respondent Daniel Brunet (hereinafter "Daniel") opposes the requested relief.

Background

[3] Daniel founded DJB Mining Products & Services Ltd. (hereinafter "DJB ON") about 15 years ago. The principal business of DJB ON involves the production and repair of industrial mining buckets.

[4] Approximately ten years ago, Daniel became business partners with Martin Paquin (hereinafter "Martin") when Martin's corporation, 8750076 Canada Limited Inc. (hereinafter "875"), purchased 100 shares in DJB ON (representing half the shares in the company) in exchange for the investment of $200,000 in DJB ON.

[5] Daniel and Martin also founded DJB Équipements Miniers Inc. (hereinafter "DJB QC"). This corporation specializes in refurbishing John Deere tractors. The partners divided their work such that Daniel was primarily responsible for the operations of DJB ON and Martin was primarily responsible for the operations of DJB QC.

[6] Madeleine Paquin (hereinafter "Madeleine"), Martin's mother, is the president of the applicant.

[7] On February 20, 2020, Daniel, Martin and Madeleine signed a document titled "Transfer Agreement" which purported to transfer 25% of Daniel's shares in each of DJB ON and DJB QC to the applicant. The consideration for these transfers included: (1) a guarantee by the applicant necessary to facilitate the borrowing of funds to purchase real property, including an industrial building, located at 3820 Highway 101 West, Timmins, Ontario (hereinafter the "Hwy 101 property"); (2) a guarantee by the applicant on a line of credit; (3) the subordination of a debt owed to the applicant ($281,802) to a debt owed to a bank; and (4) a guarantee of $350,000 to the Business Development Bank of Canada (hereinafter "BDC").

[8] The transfer agreement further states: (1) that the share certificates will be signed and transferred; (2) that Daniel will have the first option to repurchase the shares at fair market value; and (3) that Martin agrees or consents to the transfer of the shares on behalf of 875.

[9] The share transfers were not completed, and the applicant commenced this application.

[10] As I will explain, the parties have differing views on the meaning and enforceability of the transfer agreement.

The law

[11] The leading decision on contractual interpretation is *Sattva Capital Corp v. Creston Moly Corp*, [2014] S.C.C. No. 33. The Supreme Court encouraged courts to take a commonsense approach and highlighted the importance of determining the parties' intent by considering the words of the contract in light of the factual matrix (at para. 50). The court held that the factual matrix "should consist only of objective evidence of the background facts at the time of the execution of the contract […], that is, knowledge that was or reasonably ought to have been within the knowledge of both parties at or before the date of contracting" (at para. 58).

[12] In *Weyerhaeuser Company Limited v. Ontario (Attorney General)*, 2017 ONCA 1007, at para. 65 the Ontario Court of Appeal summarized the principles applicable to interpretation of a commercial contract as follows:

> a. determine the intention of the parties in accordance with the language they have used in the written document, based upon the "cardinal presumption" that they have intended what they have said;
>
> b. read the text of the written agreement as a whole, giving the words used their ordinary and grammatical meaning, in a manner that gives meaning to all of its terms and avoids an interpretation that would render one or more of its terms ineffective;
>
> c. read the contract in the context of the surrounding circumstances known to the parties at the time of the formation of the contract. The surrounding circumstances, or factual matrix, include facts that were known or reasonably capable of being known by the parties when they entered into the written agreement, such as facts concerning the genesis of the agreement, its purpose, and the commercial context in which the agreement was made. However, the factual matrix cannot include evidence about the subjective intention of the parties; and
>
> d. read the text in a fashion that accords with sound commercial principles and good business sense, avoiding a commercially absurd result, objectively assessed.

[13] The summary judgment powers available to judges pursuant to r. 20 of the *Rules of Civil Procedure*, RRO 1990, Reg. 194, and clarified in *Hyrniak v. Mauldin* [2014] 1 SCR 87, are equally available to application judges: *Cavasinni v. Cavasinni*, 2024 ONSC 2212 at para. 14. Counsel agreed with this principle in oral argument. Pursuant to *Hyrniak*, judges must first determine whether there is a genuine issue requiring a trial on the basis of the evidence before the court, without using the enhanced fact-finding powers. These enhanced powers include: (1) weighing the

evidence; (2) evaluating credibility of deponents; and (3) drawing any reasonable inference from the evidence: *Rules of Civil Procedure*, r. 20.04 (2.1).

[14] If there appears to be a genuine issue requiring a trial, the judge may decide to use the advanced fact-finding powers provided their use will not be against the interest of justice. Their use will not be against the interest of justice where they "will lead to a fair and just result and will serve the goals of timeliness, affordability and proportionality in light of the litigation as a whole" (at para. 66).

Positions of the parties

[15] The applicant argues that the transfer agreement is a valid and enforceable contract because: (1) it reflects the intentions of the parties; and (2) valuable consideration was provided to the respondents by the applicant. In short, the applicant submits the respondents received their end of the bargain but have failed to live up to their obligations.

[16] Daniel argues the dispute between the parties ought to be resolved at a trial where credibility issues can properly be assessed by the court. The respondents further submit that granting the application would be akin to granting partial summary judgment because the parties are also parties to an oppression remedy action in Cochrane, which has been stayed pending the outcome of this application. Daniel is concerned about the risk of inconsistent findings between the proceedings.

[17] Daniel argues in the alternative that the transfer agreement is unenforceable because: (1) it lacks clarity as to its essential terms; (2) it is unconscionable; (3) Daniel was subject to duress; (4) estoppel by convention ought to prevent its enforcement; (5) the proceedings were commenced outside the time prescribed by the *Limitations Act, 2002;* and (6) specific performance is not available.

Is a trial required to resolve the issues in dispute?

[18] The diametrically opposed positions of the parties make it impossible for me to find there are no genuine issues that require a trial at the first stage of the *Hyrniak* test. I must therefore determine if the need for a trial can be avoided by using the powers under rr. 20.02(2.1) and (2.2), without offending the interest of justice.

[19] I have carefully reviewed the record and find that it is sufficient to permit me to weigh the evidence, to make credibility assessments and to draw reasonable inferences. Further, using the fact-finding powers does not offend the interest of justice. The record on this application is voluminous, and the parties have been cross-examined. Six years have passed since the transfer agreement was signed. A trial will necessarily delay the matter, likely for years, with added expense.

[20] There is an action in Cochrane involving these parties, with Daniel as the plaintiff and the applicant, Martin, and DJB ON and DJB QC as defendants. Daniel submits that deciding this application could effectively result in partial summary judgment, potentially giving rise to inconsistent findings between the proceedings. But Cullin J. stayed the Cochrane action pending

the outcome of this application: *Brunet v. Paquin*, 2025 ONSC 5967. In arriving at her decision, Cullin J. highlighted: (1) the importance of the need for consistency in judicial decision making and judicial economy; (2) the application was ready to be argued and would take only one juridical day, as opposed to a trial with *viva voce* evidence; and (3) the parties sought opposite results in the two proceedings regarding the validity of the transfer agreement (at paras. 37 and 39). In other words, while the applicant seeks to have the transfer agreement enforced in the application, Daniel seeks to have it declared unenforceable in the action.

[21] In my view, asking the court to decline to decide the application and to instead convert it to a trial for the reasons cited by Daniel would offend the interest of justice. It is akin to a collateral attack on Cullin J.'s order to stay the Cochrane action pending the outcome of this application.

The factual matrix

[22] In or about 2017 DJB ON entered into a rent-to-own arrangement with Leo Alarie & Sons (hereinafter "Alarie") with respect to the Hwy 101 property. The agreement permitted DJB ON to operate its business from a building on the Hwy 101 property while paying rent, with a view to completing the purchase later, for a purchase price of $1,950,000.

[23] To assist with the financing necessary for the purchase, DJB ON applied for funding through: (1) the Northern Ontario Heritage Fund Corporation (hereinafter "NOHFC"); (2) FedNor; (3) the BDC; and (4) Caisse Desjardins (hereinafter the "Caisse"). Daniel and Martin were also expected to personally invest funds for the purchase. Martin's evidence is that they agreed to each advance $200,000. Daniel's evidence is that the agreement was for $100,000 each. Regardless of the contribution amount, Daniel did not in fact make a personal contribution.

[24] The funding applications proceeded over several years, delaying the anticipated closing date for the Hwy 101 property. The FedNor funding of up to $606,827 and the NOHFC funding of $1,000,000 were ultimately conditional on closing the transaction for the Hwy 101 property by March 31, 2020.

[25] Alarie agreed to several extensions of the lease and the closing date, permitting DJB ON to continue its operations. But on November 18, 2019, Alarie delivered a completion notice to DJB ON, offering to extend the lease and closing date to January 10, 2020.

[26] There is disagreement about the financial viability of DJB ON around the time of the transfer agreement. I find that the financial situation was bleak and contributed to the inability of DJB ON to complete the transaction with Alarie.

[27] DJB ON was at the time indebted to the applicant in the amount of $281,802. It was also experiencing difficulties honouring its obligations to the Caisse. These difficulties were serious enough for the Caisse to require DJB ON as well as Daniel, Martin and Madeleine as guarantors to enter into an agreement (the "forbearance agreement") on November 29, 2019. DJB ON was required each month to provide to the Caisse various documents, including: (1) financial statements; (2) list of receivables; (3) list of obligations including statutory deductions; (4) inventory; (5) confirmation of payment of statutory deductions; and (6) cashflow showing necessary expenditures and cash receipts.

[28] A few months prior to the forbearance agreement, an accounting firm confirmed that DJB ON: (1) owed source deductions and HST in an amount close to $150,000; (2) had outstanding accounts payable of $315,504; and (3) had only $25,000 of credit remaining on its $425,000 line of credit. And financial statements demonstrate that in 2019 DJB ON operated at a loss of $715,000.

[29] It was in this context that Madeleine attended at the DJB ON office in Timmins, Ontario, on February 20, 2020. She met with Daniel and Martin and presented them with the transfer agreement, which Daniel was seeing for the first time. The parties agree the meeting was held because of Madeleine's willingness to financially assist DJB ON so that it could complete the purchase with Alarie. The terms of that assistance formed the subject matter of the transfer agreement she had prepared. Daniel reviewed the agreement and refused to sign it. Voices were raised and Madeleine left the office. Daniel and Martin spoke some more and at Daniel's request a right of first refusal was added to the transfer agreement, and it was signed by the three of them.

The transfer agreement

[30] The transfer agreement is dated February 20, 2020. It is brief, being one page in length, including room for signatures. At the top in capital letters are written the words "TRANSFER AGREEMENT." There are seven paragraphs, three of which constitute the preamble.

[31] The agreement is between the applicant and Daniel and 875 as an "intervening party" (represented by Martin). The preamble sets out that Daniel owns 50% of the issued and outstanding shares in DJB ON and DJB QC, and he agrees to transfer to the applicant 25% of the shares in each of DJB ON and DJB QC "upon the terms and subject to the conditions" set out in the transfer agreement.

[32] The agreement further states that Daniel "shall convey, transfer, and deliver" to the applicant the certificates representing the shares:

> …in consideration of the guarantee to be given by [the applicant] to obtain necessary funds for the purchase of [the Hwy 101 property], and guarantee on the line of credit necessary for the operations of the Corporation for a total of seven hundred thousand ($700,000.00) in such guarantees and the acceptance by [the applicant] to subordinate the debt due from [DJB ON] in favour of the bank which debt has a remaining balance of two hundred eighty one eight hundred two dollars and seventy-seven cents ($281,802.77) as of January 30th, 2020, and a guarantee to be given to BDC to the amount of three hundred and fifty thousand dollars ($350,000).
>
> The certificates representing the Corporation's share shall be duly endorsed for transfer with signatures guaranteed in the customary fashion.
>
> It is agreed that the seller, Daniel Brunet, will have first option to repurchase the shares herein transferred at a fair market value.

> In respect of the shareholder's agreement intervening to this agreement is [875] represented by its president [Martin], who declares having read and understood above agreement, and, accepting transfer of such shares.

[33] The rest of the agreement contains Daniel's signature, Madeleine's signature on behalf of the applicant and Martin's signature on behalf of 875, all of which are witnessed.

Does the transfer agreement lack clarity regarding its essential terms?

[34] In my view, considered within the factual matrix I have outlined, the transfer agreement is clear with respect to its essential terms, and it is enforceable.

[35] The purpose of the agreement is to assist DJB ON to "obtain necessary funds for the purchase" of the Hwy 101 property. This is the location where DJB ON had been operating for several years. The closing of the transaction had been extended several times by Alarie but would not be extended forever.

[36] Financing arrangements with FedNor and the NOHFC expected the transaction to be completed by March 31, 2020. The parties had entered into the forbearance agreement with the Caisse three months prior. Evidently cleaning up the financing was required to complete the purchase of the Hwy 101 property. Daniel's evidence is that he was in discussions with a private lender at the time. Assuming that was an option, it does not take away from the clear purpose of the transfer agreement.

[37] In this context, the shares being transferred did not need to be described in terms of their number, class or nominal value. It is sufficient that half of Daniel's outstanding shares in DJB ON and DJB QC were to be transferred. The absence of a date for their transfer is of no moment because the agreement clearly sets out that they will be transferred "subject to the terms of the agreement" which includes the applicant's fulfillment of its obligations, or consideration.

[38] I remind myself that the subjective intention of the parties is not to play a part in my analysis. But Daniel's evidence is that he believed he was giving the shares as a guarantee, rather than transferring them, or that it was somehow conditional. Considering the matter objectively, this is not supported by the wording, which uses the terms "convey" and "transfer" throughout. At no point is "guarantee" used to describe what will happen with the shares. Importantly, the right of first refusal inserted at Daniel's request grants him the option to "repurchase the shares herein transferred" at fair market value. Objectively, that necessarily implies a transfer of the shares. And the only condition attaching to the transfer is the applicant's fulfillment of its obligations.

[39] Nor is the absence of DJB ON as a contracting party problematic. It is true, strictly speaking, that DJB ON received the consideration but recall that Daniel as the keyperson earned his livelihood from the business that he had started and that he worked hard to maintain.

[40] The consideration to be given by the applicant is sufficiently set out. One of the terms of consideration was the subordination by the applicant of a debt. It was not necessary to name the bank because the purpose was clear: the applicant would take a backseat to a debt owed to it by DJB ON to further the purpose of the agreement.

Is the transfer agreement unenforceable due to unconscionability?

[41] Daniel bears the onus of establishing unconscionability on the basis that there was: (1) an inequality of bargaining power that; (2) resulted in an improvident bargain: *McKenzie-Barnswell v. Expert Credit Control Solutions Inc*., 2025 ONCA 253, at para. 31, citing *Uber v. Heller*, 2020 SCC 16 at paras. 62-66, 80-82. If this is met, the court may set aside the agreement.

[42] Daniel submits that Madeleine created a situation that prevented him from protecting his own interests. He argues Madeleine organized all the financing, keeping him in the dark. He alleges, for example, that she did not provide him with proof that the Caisse required a guarantee from her. He also points to Madeleine's lengthy experience in business affairs. He argues that Madeleine artificially caused him to think that DJB ON was in such a state of financial desperation that he needed to rely on Madeleine to resolve all its problems, and that DJB ON would close its doors immediately if the transfer agreement was not signed.

[43] Daniel submits that this power imbalance resulted in an improvident transaction, because the applicant was unduly enriched at his expense. Daniel argues he effectively gave control of DJB ON and DJB QC to Martin and the applicant (controlled by Madeleine) who together would own 75% of the shares of the corporations, in exchange for no consideration. His position is that after the transfer agreement was signed, the applicant did not provide any new guarantees in furtherance of the transfer agreement.

[44] In my view, the record establishes the contrary. On February 28, 2020, Madeleine (in addition to Daniel and Martin) guaranteed the loan to purchase the Hwy 101 property (the "purchase loan") in the amount of $1,256,000 made by the Caisse to DJB ON. A condition of this loan included that Madeleine would subordinate to the loan the debt of $281,802 owed to her by DJB ON. Considered objectively, the inclusion of this condition satisfies one of the applicant's obligations under the transfer agreement. The purchase loan was advanced, and it was renewed a year later, and Madeleine again signed as a guarantor.

[45] In addition, on February 28, 2020, Madeleine (in addition to Daniel and Martin) signed a General Suretyship in the amount of $500,000 in favour of the Caisse with respect to debts owed to it (or which could become due) by DJB ON. Finally, on March 03, 2020, Madeleine guaranteed the $350,000 BDC loan.

[46] Considered within the factual matrix, the fact Madeleine, rather than the applicant, guaranteed over $2,000,000 of debt for DJB ON is immaterial. It reflects the commercial reality that Madeleine, Daniel and Martin were the key people behind their corporations. Madeleine's personal guarantee of this significant debt was directly related to and advanced the transfer agreement's purpose.

[47] I am accordingly not persuaded the transfer agreement was unconscionable.

Should the transfer agreement be set aside because of duress?

[48] Daniel bears the onus of establishing duress. He must establish: (1) that he was subjected to pressure to such an extent that he had no choice but to submit; and (2) that the pressure was illegitimate.

[49] In determining the first part of the test, the court considers: (1) whether the party protested at the time the contract was entered into; (2) whether there was an effective alternative course open to the party alleging coercion; (3) whether the party received independent legal advice; and (4) whether after entering into the contract the party took steps to avoid it: *Kawartha Capital Corp. v. 1723766 Ontario Limited*, 2020 ONCA 763 at para. 11.

[50] Daniel's evidence is that the February 20, 2020, meeting was a surprise to him. He did not see the transfer agreement before it was presented to him by Madeleine during the meeting. He states he did not read the agreement and that Madeleine yelled at him. He says he was told if he did not sign the agreement the company would close its doors the next day, and he worried for his staff. In cross-examination Daniel agreed he was not physically threatened, stating rather that the threats were psychological.

[51] But Daniel must have read the agreement because he refused to sign it, and then he asked for a right of first refusal, to which Madeleine acquiesced. The transfer agreement was modified to include Daniel's requested term, and he signed it.

[52] Daniel's own evidence betrays his duress argument. He states: (1) that he worked actively with Alarie and fully expected they would be granted further extensions; (2) that he was working with a private lender to secure the financing to purchase the Hwy 101 property; (3) that he had no intention of following through with the transfer agreement; and (4) that Madeleine and Martin improperly tried to take control of the companies from him through the transfer agreement. The latter acknowledges they did not have that control at the time of the meeting and could not have closed the company's doors the next day.

[53] Daniel took no steps to avoid the transfer agreement for almost four years after it was signed. And this is despite meeting with corporate counsel in the weeks after signing the transfer agreement. He had plenty of opportunity to raise duress. Instead, his actions support ratification of the transfer agreement, including signing the financing documents, reviewing a draft shareholders agreement, and suggesting the corporate records needed to be updated to reflect the applicant's shares. The latter is evidenced by an April 2022 text message Daniel sent to Martin.

[54] The absence of independent legal advice is of no consequence. Daniel fully understood the purpose of the transfer agreement. They had been working for years to arrange the funding to purchase the Hwy 101 property. While the doors would not close the next day, as he alleges, time was running out. The applicant's obligations under the transfer agreement were directly related to the purpose of the agreement. The consideration to be given by Daniel was clear. Indeed, the only term he asked to be added to the agreement was a right of first refusal so he could repurchase the

shares. In these circumstances, the absence of independent legal advice does not tip the scales in favour of duress.

[55] Even if the first prong of the test had been made out, I could not conclude the pressure was illegitimate. As I have already explained, the purpose of the agreement was to permit the purchase of the land and buildings upon which DJB ON was operating its business. Alarie would not grant extensions forever. Despite three years of efforts, they had not secured adequate purchase financing. Substantial consideration was given by the applicant through Madeleine in the form of significant personal guarantees.

[56] I am therefore not persuaded duress has been made out.

Estoppel by convention

[57] Estoppel prevents someone from denying the truth of something where their declarations or conduct has intentionally caused or permitted another person to believe the thing to be true and to have acted upon such belief: *R. v. Chelsey*, (1899) 16 SCR 306. Estoppel by convention arises where: (1) parties' dealings were based on shared assumptions of fact or law; (2) a party changed its legal position in reliance on the shared assumption; and (3) it would be detrimental to that party to depart from the shared assumption: *Ryan v. Moore*, 2005 SCC 38 at para 59. Daniel bears the onus of establishing these elements on a balance of probabilities.

[58] Daniel argues that the applicant was silent for years regarding the transfer of the shares. This silence led him to assume the applicant no longer expected the shares to be transferred. In reliance on this shared assumption, he argues, he worked tirelessly to ensure the success of DJB ON and to increase its value. He submits that the applicant resiled from the shared assumption when it realized the value of DJB ON had increased.

[59] I am not persuaded estoppel by convention has been established. Nothing about the parties' dealings suggests the applicant did not want to formally receive its consideration under the transfer agreement. As I have described, the applicant fulfilled its obligations in furtherance of the agreement's purpose. The parties worked on a shareholder agreement that was ultimately not completed. Madeleine's often reminded Daniel of the need to complete the transfer, in particular to satisfy the auditors. Importantly, nothing about Daniel's conduct suggests he changed his legal position. He continued to work hard at the business he established. This accords with his evidence that he was working hard at the time the transfer agreement was signed. In other words, his work ethic has always reflected his desire to see the business succeed.

The Limitations Act, 2002

[60] Daniel submits the limitation period within which the applicant could enforce its rights under the transfer agreement has expired, arguing that events in relation to this transaction made the claim discoverable by July 2022. This application was only commenced May 16, 2024. In my view, this argument cannot succeed.

[61] In communications with Martin in 2022 Daniel confirmed the applicant was the owner of the shares and that he was working with the lawyer to make things "official." It is obvious from

Daniel's message that he was content to note the changes (to comply with the NOHFC requirements) and to limit his liability to 25% from 50%. This is further evidence of the parties' understanding that Daniel had transferred the shares to the applicant pursuant to the transfer agreement. And Daniel, Martin and Madeleine operated throughout these years as though the applicant had an interest in DJB ON and DJB QC.

[62] I find that the claim was only discoverable in October 2023 when Daniel, through counsel, told the applicant he would not transfer the shares. This application was started well within the limitation period.

The appropriate remedy

[63] Having confirmed the transfer agreement's validity, I turn now to the appropriate relief to be granted in the circumstances.

[64] The applicant asks for an order for specific performance requiring that the shares be transferred. The respondents oppose this relief, arguing damages can adequately compensate the applicant.

[65] Specific performance of a contract is an equitable remedy. It may be granted where a party claiming it establishes that the property is so unique that its loss cannot be adequately substituted by damages: *Semelhago v. Paramadevan,* [1996] 2 SCR 415 at para 22.

[66] Where, as here, the subject matter of the bargain involves shares in privately held corporations, the availability of the shares on the market and difficulties with their valuation may make specific performance the appropriate remedy: *UBS Securities Canada, Inc. v. Sands Brothers Canada, Ltd.,* 2009 ONCA 328 at para. 99. Courts assess the uniqueness of the property as of the time of the anticipatory breach, not judgment or trial*: UBS Securities Canada*, at para 100. Formal notice that Daniel would not transfer the shares was provided through Daniel's then counsel in October 2023.

[67] In my view, damages are inadequate to compensate the applicant for its loss. Specific performance is required to put the applicant in the position it would have been in had the transfer agreement been completed. The transfer agreement permitted DJB ON to complete the purchase of the Hwy 101 property and to continue conducting its business. It provided for the applicant and Daniel to have equal shares in the corporations. This consideration reflects the risks involved for the applicant: guaranteeing over two million dollars of debt through its principal, Madeleine, in addition to her previous loans to the corporations.

[68] The shares accordingly have a unique value to the applicant. DJB ON and DJB QC are privately held corporations managed by key people, including Madeleine. The expectation was that the applicant would become a part owner of these corporations. The record reflects Madeleine's involvement from the time of the transfer agreement, revealing she was more than a passive investor, though understandably not as involved as Daniel and Martin. Assuming the value of the shares could be readily determined as of 2023, damages would be insufficient because they would not result in an ownership interest in the corporations.

Conclusion

[69] For these reasons:

a. The court declares that: (1) the transfer agreement dated February 20, 2020 between Daniel and the applicant is valid; that (2) Daniel has failed to transfer to the applicant 25% of his shares in each of DJB ON and DJB QC (the "transferred shares") pursuant to that agreement; and that (3) the applicant is the sole legal and beneficial owner of the transferred shares;

b. The applicant is granted an order for specific performance. The court accordingly orders that Daniel shall forthwith transfer the transferred shares to the applicant and that the registers and other records of DJB ON and DJB QC shall be rectified to reflect these transfers; and

c. The balance of the application is dismissed.

[70] If the parties cannot agree on costs, the applicant may file written submissions on costs of no more than 2 pages, double-spaced, not including any offers to settle and bill of costs within 15 days of the date of this judgment. The respondents may file written submissions with the same restrictions within 30 days of the date of this judgment. There will be no reply. Late submission will not be considered.

Regional Senior Justice P.J. Boucher

Released: April 28, 2026

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Applicant

– and –

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Respondents

REASONS FOR DECISION ON APPLICATION

P.J. Boucher, R.S.J.

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