

In the District Court of New Zealand, Auckland Registry

IN THE MATTER OF THE Contractual Remedies Act 1979, Property Law Act 2007,
Criminal Procedure Act 2011



Tomachi Corporation versus First CBD Ltd

Tomachi Corporation versus Barfoot & Thompson Ltd

BETWEEN

Thomas Bieder Atkinson, of Auckland, Professional
Drummer, Website Consultant, Law Enthusiast
Complainant Prosecutor

AND

Paul Chen, First CBD, **Defendant**
Breach of Contractual Remedies Act 1979

AND

Steve Sampson, of Auckland, Head of Asset Management,
Barfoot & Thompson, **Defendant**
Application for relief against cancellation, Section 253
Property Law Act 2007

Proposed Charges

Paul Chen

**Misrepresentation of facts in a contract, and seeking damages for
misrepresentation of the bond required**

(Section 6 Contractual Remedies Act 2007)

Proposed Damages or Remedy

**Relief against cancellation of lease when lacking basis of for breach
of covenant or condition**

(Section 253 Property Law Act 2007)

Disclosure of Evidence of the Prosecution

Disclosure of Evidence of the Prosecution

List of Documents Relied On

1. **Email** full headers – written by Steve Sampson
2. Audio-Recording-of-Rachel-Beer-r.beer@barfoot.co.nz-6-December-2016.m4a
(**m4a** Audio recording supplied on USB key)
3. MOV Tom Atkinson shows the space on 6-12-16 at 5.43 PM.mov
(**mov** Video Recording supplied on USB key)
4. MOV no crash setup CPO Fri 9.mov
(**mov** Video Recording supplied on USB key)
5. Gallery of images of S5 space after occupation.
(**JPEG** Images supplied on USB key)
 - a. IMG rotototom.png
 - b. IMG_1791 3 rack interface.JPG
 - c. IMG_1796 mic breifcase.JPG
 - d. IMG_1877 studio wideshot thursday 1 dec 12.12pm.JPG
 - e. IMG_1947 fresh bruises.JPG
 - f. IMG_1964 bruise arrest.JPG
 - g. IMG_1966 ripped shirt.JPG
6. Agreement to Lease - suite 5 - 26 Wyndham st.**pdf** – written by Paul Chen
7. An offer of resolution.**pdf** – written by Tom Atkinson
8. 38-9018-0186297-00_06Dec Raven Arts Bank Ac.xlsx.**pdf** – written by Kiwibank
9. charging-document-20161212-Paul-Chen.**doc**
10. charging-document-20161212-Steve-Sampson.**doc**
11. RavenArtsStockOptionsContract.**docx**

Email from Steve, 5 December

Delivered-To: tomachinz@gmail.com
 Received: by 10.129.121.195 with SMTP id u186csp1298738ywc;
 Sun, 4 Dec 2016 11:20:31 -0800 (PST)
 X-Received: by 10.99.106.200 with SMTP id fl91mr96170536pgc.143.1480879231640;
 Sun, 04 Dec 2016 11:20:31 -0800 (PST)
 Return-Path: <s.sampson@barfoot.co.nz>
 Received: from homiemail-mx24.g.dreamhost.com (mx2.sub5.homie.mail.dreamhost.com. [208.113.200.128])
 by mx.google.com with ESMTFS id f17si12071874plj.110.2016.12.04.11.20.31
 for <tomachinz@gmail.com>
 (version=TLS1_1 cipher=ECDHE-RSA-AES128-SHA bits=128/128);
 Sun, 04 Dec 2016 11:20:31 -0800 (PST)
 Received-SPF: softfail (google.com: domain of transitioning s.sampson@barfoot.co.nz does not designate 208.113.200.128 as
 permitted sender) client-ip=208.113.200.128;
 Authentication-Results: mx.google.com;
 dkim=pass header.i=@barfoot.co.nz;
 spf=softfail (google.com: domain of transitioning s.sampson@barfoot.co.nz does not designate 208.113.200.128 as
 permitted sender) smtp.mailfrom=s.sampson@barfoot.co.nz
 Received: from mail-ua0-f170.google.com (mail-ua0-f170.google.com [209.85.217.170]) (using TLSv1.2 with cipher ECDHE-RSA-
 AES128-GCM-SHA256 (128/128 bits)) (No client certificate requested) by homiemail-mx24.g.dreamhost.com (Postfix) with
 ESMTFS id D14011C17 for <tom@funk.co.nz>; Sun,
 4 Dec 2016 11:20:30 -0800 (PST)
 Received: by mail-ua0-f170.google.com with SMTP id b35so329184856uaa.3
 for <tom@funk.co.nz>; Sun, 04 Dec 2016 11:20:30 -0800 (PST)
 DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;
 d=barfoot.co.nz; s=google;
 h=mime-version:in-reply-to:references:from:date:message-id:subject:to;
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 b=NRKq34emyKPxiggyIyaIKQkHpaFwmBDAK7dZz30ezSp2ICXlg3dFN+EtIpQYLETK1
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 a8Nx6BH2+zyV6ErtneocvBlg445yNGdRzXE=
 X-Google-DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;
 d=le100.net; s=20130820;
 h=x-gm-message-state:mime-version:in-reply-to:references:from:date
 :message-id:subject:to;
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 mlVY9mzXQu4ZGi6Cd6urXKoNHPioKnr2gBqmZrfgArS6dU4rZ3euaAf7N12sPPT4uP9
 KTSjFDY/JFDnmcvGq9Y3rWVC3mQEs7pVkuWnnH/9xvJOLZrWfYn7d0Jd305+xpqgFG+
 MIEg==
 X-Gm-Message-State:
 AKaTC02PeLsz+w2WbZGHiaP3nCu5bUGVOHAQ/DOY864AVN+OZcnbyZfzKPoI2Gz/wNga97QgDK/3J/O/BG+TJddwSbR33SPNcJh8jcthigsj2x7bYbWKFZfzfa
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 X-Received: by 10.176.82.200 with SMTP id w8mr4040960luaw.62.1480879229927; Sun, 04 Dec 2016 11:20:29 -0800 (PST)
 MIME-Version: 1.0
 Received: by 10.159.33.210 with HTTP; Sun, 4 Dec 2016 11:20:09 -0800 (PST)
 In-Reply-To: <CANtCGkfvJ5QKgyZETi=zZVYy7T1LA=D9jpwdStChxcKmtG9Mw@mail.gmail.com>
 References: <CAK7fK0KmbQTeDew0JqL62i2=sHFO-ifC5b-K0G2Ga5ehaLbg@mail.gmail.com>
 <CAK7fK0L8ZbjfyMp5VmbVhi25FZQSnuxT5v4ZdH1Hx50VMYoiQ@mail.gmail.com> <CAAg7=VtWFGphqgzVwtFWgs-
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 From: Steve Sampson <s.sampson@barfoot.co.nz>
 Date: Mon, 5 Dec 2016 08:20:09 +1300
 Message-ID: <CAHQJWyRzszZ_NLTMV6B6s7eQGF49WJQ4bVhM7irJCzOyNXpIg@mail.gmail.com>
 Subject: Fwd: PROPOSAL: convert bond into ~70 day lease
 To: mcfulltime@gmail.com, tom@funk.co.nz, Paul Christian <p.christian@barfoot.co.nz>
 Content-Type: multipart/related; boundary=94eb2c18ff0075663f0542dal0b7
 X-Barfoot-Archived: Yes
 --94eb2c18ff0075663f0542dal0b7
 Content-Type: multipart/alternative; boundary=94eb2c18ff0075663b0542dal0b6
 --94eb2c18ff0075663b0542dal0b6
 Content-Type: text/plain; charset=UTF-8
 Content-Transfer-Encoding: quoted-printable

Good morning Darryl and Tom . Let me introduce myself . I head of asset management for Barfoot and Thompsons Commercial property management division , and we are the property managers for First CBD LTD the owners of 26 Wyndham street . I have checked our files on this matter and have spoken to the landlord . The reason the original lease did not proceed was the uncertainty of whom the landlord was dealing with , in that there was no legal entity to take the lease and a lot of uncertainty as to who were the actual lessee,s . . The deposit monies have refunded in full . As for Tom , sorry but we have not dealt with Tom , as there is no leasing arrangements in place we cannot give access or keys . Tom we understand you may have taken some of your personal belongings to the building , you are free to remove them during business hours today . As for any commercial lease the landlord does require to have a formal lease in place with their tenants, the lease can be to a individual and or a company or partnership with all parties to the agreement clearly identified and full contractual details documented . For this property the landlord does have a policy of requiring a rental bond and or bank guarantees , so Tom any proposal for a 70 day lease is not acceptable to the landlord . I trust this clarifies these matters for you both , thank you and regards

----- Forwarded message -----
 From: Paul Christian <p.christian@barfoot.co.nz>
 Date: 5 December 2016 at 06:33
 Subject: Fwd: PROPOSAL: convert bond into ~70 day lease
 To: Rachel Beer <r.beer@barfoot.co.nz>, Steve Sampson <s.sampson@barfoot.co.nz>

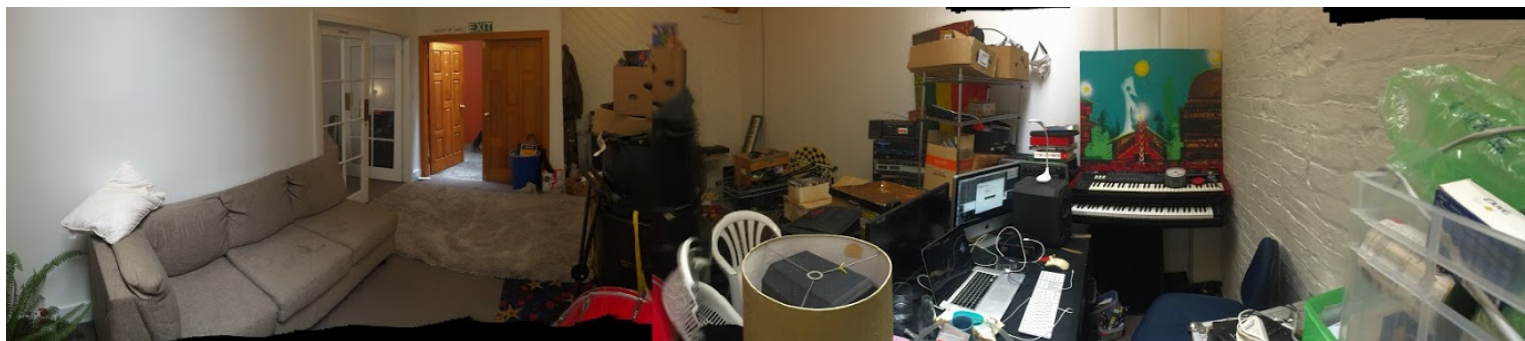
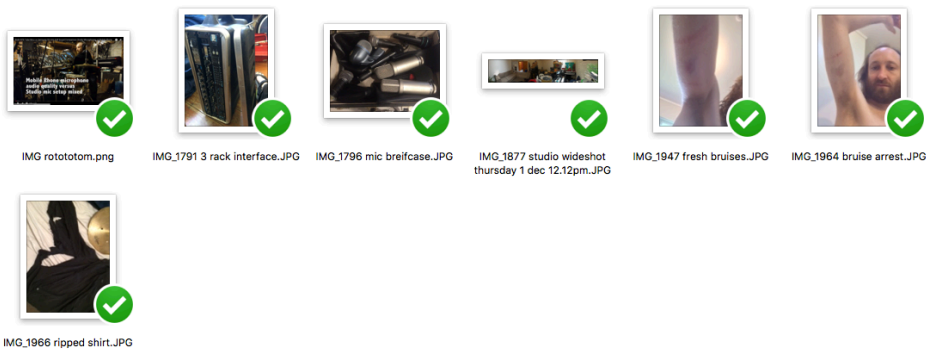
FYI

----- Forwarded message -----
 From: Darryl Jones <mcfulltime@gmail.com>
 Date: Mon, 5 Dec 2016 at 3:27 AM
 Subject: Re: PROPOSAL: convert bond into ~70 day lease
 To: Tom Atkinson <tom@funk.co.nz>
 Cc: <team@ravenarts.nz>, <p.christian@barfoot.co.nz>, < paul@parnellrealestate.co.nz>

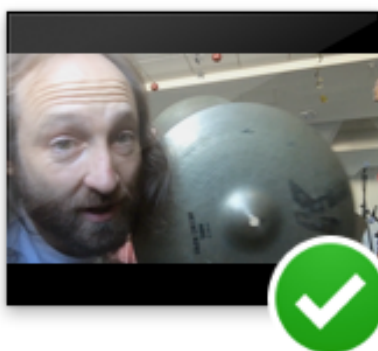
Audio, Video, Images

Audio: http://www.funk.co.nz/auckland-music-update/wp-content/uploads/2016/12/Audio-Recording-of-Rachel-Beer-r.beer@barfoot.co_.nz-6-December-2016.m4a

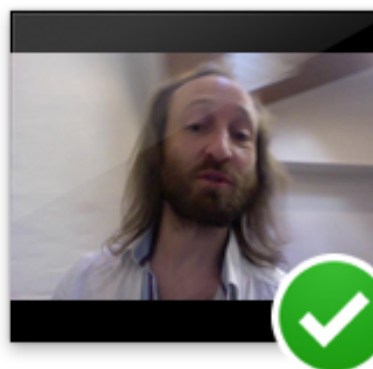
Images:



Movies:



MOV no crash setup CPO Fri 9.mov



MOV Tom Atkinson shows the space on 6-12-16 at 5.43 PM.mov