

07-CL-6843

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

BETWEEN:

MICHAEL J. QUILLING, RECEIVER FOR
COURTNEY WALLIS SIMPSON

Plaintiff

and

ZAPFE HOLDINGS INC. AND MICHAEL SOURLIS

Defendants

STATEMENT OF DEFENCE

1. The Defendants Zapfe Holdings Inc. and Michael Sourlis (collectively referred to as the "Defendants") admit the allegations set out in paragraphs 2, 3, 4, 5, 6, 10 (only as to the first sentence), 11, 12 and 14 of the Statement of Claim.
2. The Defendants deny the allegations set out in paragraphs 1 (a), 1 (g), 7, 10 (only as to the second sentence), 13, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the Statement of Claim.
3. The Defendants have no knowledge in respect of the allegations contained in paragraphs 8 and 9 of the Statement of Claim.
4. The Defendants state that Courtney Wallis Simpson ("Simpson") was at no time a holder of 301,923 commons shares of Dianor Resources Inc. ("Dianor") as represented by Share Certificate No. 0-01476.
5. The Defendants state that although Simpson did pay approximately \$30,000.00 for the Dianor Share Certificates as represented under Share Certificate No. 01-01476, said

shares were pledged as security to the Defendant Zapfe Holdings Inc. ("Zapfe") for mortgage investments made with Simpson.

6. The Defendants state that on April 10, 2005, Simpson signed over the Dianor shares as represented under Share Certificate No. 0-01476 to Zapfe.

7. The Defendants state that on April 11, 2005, Simpson provided a Promissory Note to Zapfe pledging the Dianor shares as represented under Share Certificate No. 0-01476 as security.

8. The Defendants state that Simpson was at no time a holder of 217,391 common shares of Dianor as represented by Share Certificate No. 0-01630.

9. The Defendants state that the Dianor shares as represented under Share Certificate No. 0-01630 were wrongly issued by Dianor to Simpson.

10. The Defendants state that Simpson never paid for the Dianor shares as represented under Share Certificate No. 0-01630.

11. The Defendants state that the Dianor shares as represented under Share Certificate No. 0-01630 were actually purchased and paid for by the Defendants.

12. The Defendants state that on November 17, 2005, Zapfe paid the sum of \$50,000.00 to Dianor in order to purchase the 217,302 common shares in Dianor as represented under Share Certificate No. 0-01630 for the Defendants.

13. The Defendants state that, in any event, the Dianor shares as represented under Share Certificate No. 0-01630 were pledged as security to the Defendant Michael Sourlis ("Sourlis") for various mortgage investments made with Simpson.

14. The Defendants state that on April 11, 2005, Simpson provided a Promissory Note to Sourlis pledging the Dianor shares as represented under Share Certificate No. 0-01630 as security.

15. The Defendants state that on April 11, 2005, Simpson also signed over the Dianor shares as represented under Share Certificate No. 0-01630 to Sourlis.

16. The Defendants state that at no time did Simpson own the Dianor shares represented under Share Certificate Nos. 0-01476 and 0-01630 for the Plaintiff to seize.

17. The Defendants state and the fact is that Dianor Share Certificate Nos. 0-0146 and 0-01630 were never in the control or possession of Simpson, but always with Sourlis.

18. In any event, the Defendants challenge the right of the Plaintiff to act in the capacity as an equitable receiver for Simpson.

19. The Defendants state that if Simpson did have an ownership interest at some point in the Dianor shares as represented by Share Certificates Nos. 0-01476 and 0-06130, which is not admitted but specifically denied, then any such transfer was not an unjust preference and they put the Plaintiff to the strict proof thereof.

20. The Defendants plead and rely upon the provisions of the *Assignments and Preferences Act*, R.S.O. 1990, Ch. A.33.

21. The Defendants therefore submit that this action be dismissed with costs payable on a substantial indemnity basis.

DATED: April 9, 2007

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PLAINTIFF(S)

DEFENDANT(S)

Court File No.: 07-CL-6843

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SUPERIOR COURT OF JUSTICE
(Commercial List)
Proceeding commenced at TORONTO

STATEMENT OF DEFENCE

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