

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

BETWEEN:

UDAYAN PANDYA

Plaintiff

-and-

COURTNEY WALLIS SIMPSON, YORK REGION  
REALTY INC., WALLIS SIMPSON & ASSOCIATES,  
COURTNEY WALLIS SIMPSON c.o.b. as YORK MANAGEMENT GROUP  
and as CAMCO DEVELOPMENTS and as YORK GROUP

Defendants

In the Matter of the *Class Proceedings Act, 1992*

**MOTION RECORD  
(Returnable April 6, 2006)**

**BENNETT JONES LLP**  
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Suite 3400, P.O. Box 130  
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Solicitors for the plaintiff/receiver

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**ONTARIO  
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BETWEEN:

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**TAB 1**

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

B E T W E E N:

UDAYAN PANDYA

Plaintiff

-and-

COURTNEY WALLIS SIMPSON, YORK REGION  
REALTY INC., WALLIS SIMPSON & ASSOCIATES,  
COURTNEY WALLIS SIMPSON c.o.b. as YORK MANAGEMENT GROUP  
and as CAMCO DEVELOPMENTS and as YORK GROUP

Defendants

In the Matter of the *Class Proceedings Act, 1992*

**NOTICE OF MOTION  
(Motion Returnable April 6, 2006)**

The court appointed receiver will make a motion on April 6, 2006 at 10:00 a.m. to a judge presiding over the Commercial List at 393 University Avenue in Toronto or as soon after that time as a motion can be heard.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

1. An order in the form of the draft order attached hereto as **Schedule "A"**, which order shall provide, among other things:

- (a) that, upon closing of the sale of Lot 14 Stouffer Street, Stouffville (the "Stouffer Street Property") on April 17, 2006, title is vested in the names of Joseph Caputo and Angela Caputo (the "Stouffer Street Lot Purchasers");
  - (b) that time for service of the notice of motion and the motion record be abridged to the date and time of actual service and that such service is valid service of the materials filed in support of this motion;
  - (c) leave of the court to bring this motion, if necessary; and
  - (d) such further and other Order as this Honourable Court may deem just.
2. An order in the form of the draft order attached hereto as **Schedule "B"**, which order shall provide, among other things:
- (a) that, upon closing of the sale of 6072 Main Street, Stouffville (the "6072 Property") on May 31, 2006, title is vested in the names of Maria Januszewska and Michael Januszewski (the "6072 Main Street Purchasers");
  - (b) that time for service of the notice of motion and the motion record be abridged to the date and time of actual service and that such service is valid service of the materials filed in support of this motion;
  - (c) leave of the court to bring this motion, if necessary; and
  - (d) such further and other Order as this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

**Background**

1. The defendant, Simpson, is a member of the Real Estate Council of Ontario ("RECO"), a broker under the *Real Estate and Business Brokers Act* and is the principal broker and controlling mind of the defendant, York Region Realty Inc. ("York Realty") and also of the defendant entities known as Wallis Simpson & Associates ("Simpson & Associates") and York Management Group ("York Management").

2. This proceeding has been commenced as a class action against the defendants for fraud, unjust enrichment, breach of fiduciary duty, fraud, and/or misrepresentation with respect to a large number of victims or class members.

3. By Order of the Honourable Mr. Justice Ground dated November 17, 2005 (the "Initial Order"), Michael J. Quilling (the "Receiver") was appointed receiver, pursuant to section 101 of the *Courts of Justice Act* and rule 41.02 of the *Rules of Civil Procedure*, over Simpson's assets and the assets of York Region Realty Inc. ("York Realty").

### **Stouffer Street Lot Property**

4. The Stouffer Street Lot Purchasers and the Receiver, entered into an agreement of purchase and sale dated February 2, 2006.

5. Pursuant to paragraph 41 of the Fourth Amended and Restated Initial Order of Justice Mesbur dated March 9, 2006 ("Fourth Amended Order"), the sale of the Property was approved by the court and scheduled to close on April 3, 2006.

### **6072 Main Street Property**

6. The 6072 Main Street Purchasers and the Receiver, entered into an agreement of purchase and sale dated January 10, 2006, as amended.

7. Pursuant to paragraph 38 of the Third Amended and Restated Initial Order of Justice Cumming dated January 20, 2006 ("Third Amended Order") and paragraphs 39 and 40 of the Fourth Amended Order, the sale of the 6072 Property was approved by the court and scheduled to close on May 31, 2006.

### **Land Registry Office**

8. On March 31, 2006, the Land Registry Office of York Region advised the Receiver's counsel that by virtue of paragraph 10 of the Initial Order (and of the Third and Fourth Amended Order), it was precluded from registering documents or transferring title on the Stouffer Street Property. Specifically, the Land Registry Office requires an override of paragraph 10 and the consent of the Receiver to "deal with the property."

9. In response, counsel for the Receiver obtained a two-week extension in the closing of the Stouffer Street Property transaction to April 17, 2006.

10. Notwithstanding the terms set out in paragraph 10 of the Fourth Amended Order, and giving effect to paragraph 41 of the Fourth Amended Order, upon closing of the Stouffer Street Property, title must vest in the names of the Joseph Caputo and Angela Caputo.

11. Likewise, notwithstanding the terms set out in paragraph 10 of the Fourth Amended Order, and giving effect to paragraph 38 of the Third Amended Order and sections 39 and 40 of the Fourth Amended Order, upon closing of the 6072 Main Street Property, title must vest in the names of the Maria Januszewska and Michael Januszewski.

### **Further Grounds**

12. Rules 2 and 3 of the *Rules of Civil Procedure*.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1. Notice of Motion dated April 4, 2006;
2. The affidavit of M. Joanne MacMillan (sworn April 5, 2006); and
3. Such other material as counsel may advise and this Honourable Court may permit.

DATE: April 5, 2006

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Emily R. Atkinson (LSUC #50682L)  
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Fax: 416.863.1716  
Solicitors for the plaintiff/receiver

TO: Courtney Wallis Simpson,  
Wallis Simpson & Associates,  
and Courtney Wallis Simpson  
c.o.b. as York Management Group,  
Camco Developments and  
York Group  
[Address removed at Ms Simpson's request]

AND TO: York Region Realty Inc.  
[Address removed at Ms Simpson's request]

AND TO: Beard Winter LLP  
Barristers and Solicitors  
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Schedule "A"

Court File No. 05-CL-6159

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE ) THURSDAY, THE 6<sup>th</sup> DAY OF  
JUSTICE ) APRIL, 2006

BETWEEN:

UDAYAN PANDYA

Plaintiff

- and -

COURTNEY WALLIS SIMPSON, YORK REGION  
REALTY INC., WALLIS SIMPSON & ASSOCIATES,  
COURTNEY WALLIS SIMPSON c.o.b. as YORK MANAGEMENT GROUP  
and as CAMCO DEVELOPMENTS and as YORK GROUP

Defendants

In the Matter of the *Class Proceedings Act, 1992*

ORDER

**THIS MOTION**, heard this day, was made by Michael J. Quilling, in his capacity as court-appointed receiver (the "Receiver") of the property and assets of the defendants in the within action, pursuant to the Order of this court dated November 17, 2005 (the "Initial Order") seeking a vesting order in respect of Lot 14 Stouffer Street, Stouffville (described below) in the form of the agreement of purchase and sale dated as of the 2<sup>nd</sup> day of February 2006 (the "Stouffer Street Agreement") between the Receiver as vendor and:

- (a) Joseph Caputo (d.o.b. June 24, 1962); and
- (b) Angela Caputo (d.o.b. February 16, 1959)

as purchasers ("Purchasers") a true copy of which is appended as Exhibit "B" to the affidavit of M. Joanne MacMillan sworn April 5, 2006 was heard this day at 393 University Avenue, Toronto, Ontario.

**ON READING** the materials filed, and on hearing the submissions of counsel for the Receiver,

### **Service**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record, herein, be and it is hereby abridged to the date and time of actual service and that such service is valid service of the materials filed in support of this motion;

### **Sale and Vesting of the Real Property**

2. **THIS COURT ORDERS** that upon the purchase price having been paid and all conditions to closing having been satisfied or waived, the receiver shall deliver to the Purchasers a certificate, substantially in the form of the draft Receiver's Certificate appended as Schedule "1" hereto, confirming the same ("Receiver's Certificate") and the Receiver shall forthwith:

- (a) file a copy of the Receiver's Certificate with this Court; and
- (b) provide a copy of the Receiver's Certificate to the Land Registry Office of York Region;

after such delivery.

3. **THIS COURT ORDERS** that upon the delivery of the Receiver's Certificate to the Purchasers pursuant to paragraph 2 hereof, all right, title and interest in and to Lot 14 Stouffer Street, Stouffville shall vest and is hereby vested in the Purchasers absolutely and forever as joint tenants:

- (a) free and clear of and from any and all estate, title, right, benefit, interest and claims of the defendants in the above-noted action and the Receiver; and
- (b) free and clear of and from any and all right, title, interest, security interests, mortgages, charges, hypothecs, indentures, loan agreements, instruments, leases, estates, licenses, pledges, trusts or deemed trusts (whether contractual statutory or otherwise), benefits, assignments, rights of distress, executions, options, adverse claims, levies, set-off claims (whether legal, equitable, or contractual), judgments, executions, agreements (including title retention agreements), taxes, claims, charges, encumbrances or any other rights, rights of use, claims, disputes and debts of all persons or entities of any kind whatsoever and howsoever arising, whether contractual, statutory, by operation of law, legal or equitable, whether secured, unsecured or otherwise, and whether created by any orders made in these proceedings ("Encumbrances").

4. **THIS COURT ORDERS** that, upon being provided with a copy of the Receiver's Certificate, the Land Registrar at the Land Registry Office of York Region is hereby directed to:

- (a) effect registration of this Order on the register of title for the property having the following legal description:

PIN: 03710-0193 (LT) and 03710-0194 (LT);

PT LTS 49 & 50, PL 70 Stouffville, PT 2, 65R25634; Whitchurch-Stouffville;

PT LTS 49 & 50, PL 70 Stouffville, PT 3, 65R25634; Whitchurch-Stouffville

- (b) delete the transfer to Courtney Samantha Wallis-Simpson registered as registration number YR375271; and
  - (c) delete the Ontario Superior Court of Justice Order presently registered on title as registration number YR733817.
-

Schedule "1"

Court File No. 05-CL-6159

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE ) THURSDAY, THE 6<sup>th</sup> DAY OF  
JUSTICE ) APRIL, 2006

BETWEEN:

UDAYAN PANDYA

Plaintiff

- and -

COURTNEY WALLIS SIMPSON, YORK REGION  
REALTY INC., WALLIS SIMPSON & ASSOCIATES,  
COURTNEY WALLIS SIMPSON c.o.b. as YORK MANAGEMENT GROUP  
and as CAMCO DEVELOPMENTS and as YORK GROUP

Defendants

In the Matter of the *Class Proceedings Act, 1992*

RECEIVER'S CERTIFICATE

WHEREAS, pursuant to the Order of the Honourable Mr. Justice Cumming of the Ontario Superior Court of Justice, Commercial List, made on the 17<sup>th</sup> day of November, 2005, Michael J. Quilling was appointed receiver (the "Receiver") of the property and assets of the defendants in the within action, including all of the proceeds realized from the Property.

**AND WHEREAS**, the Receiver entered into an agreement of purchase and sale dated as of the 2<sup>nd</sup> day of February, 2006 (the "Agreement") with Joseph Caputo and Angela Caputo (the "Purchaser") in respect of the property located at Lot 14 Stouffer Street, Stouffville, Ontario (the "Property").

**AND WHEREAS**, pursuant to the order herein of the Honourable \_\_\_\_ Justice \_\_\_\_\_ dated April 6, 2006, this court issued a Vesting Order, which Vesting Order is to be effective with respect to the Property upon the filing of a receiver's certificate confirming the payment by the Purchaser to the Receiver of the purchase price, all the conditions to closing of the Agreement having been satisfied or waived;

**THE UNDERSIGNED HEREBY CERTIFIES** as follows:

1. The Purchaser has paid and the undersigned has received the full purchase price payable pursuant to the Agreement for the Property; and
2. All the conditions to closing of the Agreement have been satisfied or waived.

**MADE** at Toronto, this        day of        , 2006.

**MICHAEL J. QUILLING**  
in his capacity as the court appointed  
Receiver of the assets of the  
defendants and not in his personal  
capacity.

---



**Udayan Pandya**  
Plaintiff

v.

**Courtney Wallis Simpson et al.**  
Defendants

Court File No.: 05-CL-6159

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
(Commercial List)

In the matter of the *Class Proceedings*  
*Act, 1992*

Proceeding commenced at Toronto

**ORDER**

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Solicitors for the plaintiff/receiver

Schedule "B"

Court File No. 05-CL-6159

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE ) THURSDAY, THE 6<sup>th</sup> DAY OF  
JUSTICE ) APRIL, 2006

BETWEEN:

UDAYAN PANDYA

Plaintiff

- and -

COURTNEY WALLIS SIMPSON, YORK REGION  
REALTY INC., WALLIS SIMPSON & ASSOCIATES,  
COURTNEY WALLIS SIMPSON c.o.b. as YORK MANAGEMENT GROUP  
and as CAMCO DEVELOPMENTS and as YORK GROUP

Defendants

In the Matter of the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, heard this day, was made by Michael J. Quilling, in his capacity as court-appointed receiver (the "Receiver") of the property and assets of the defendants in the within action, pursuant to the Order of this court dated November 17, 2005 (the "Initial Order") seeking a vesting order in respect of 6072 Main Street, Stouffville (described below) in the form of the agreement of purchase and sale dated as of January 10, 2006 as amended (the "Main Street Agreement") between the Receiver as vendor and:

- (a) Maria Patricia Januszewska (d.o.b. June 14, 1960); and
- (b) Michael John Januszewski (d.o.b. September 9, 1960)

as purchasers ("Purchasers") a true copy of which is appended as Exhibits "E" and "G" to the affidavit of M. Joanne MacMillan sworn April 5, 2006 was heard this day at 393 University Avenue, Toronto, Ontario.

**ON READING** the materials filed, and on hearing the submissions of counsel for the Receiver,

### **Service**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record, herein, be and it is hereby abridged to the date and time of actual service and that such service is valid service of the materials filed in support of this motion;

### **Sale and Vesting of the Real Property**

2. **THIS COURT ORDERS** that upon the purchase price having been paid and all conditions to closing having been satisfied or waived, the receiver shall deliver to the Purchasers a certificate, substantially in the form of the draft Receiver's Certificate appended as Schedule "1" hereto, confirming the same ("Receiver's Certificate") and the Receiver shall forthwith:

- (a) file a copy of the Receiver's Certificate with this Court; and
- (b) provide a copy of the Receiver's Certificate to the Land Registry Office of York Region;

after such delivery.

3. **THIS COURT ORDERS** that upon the delivery of the Receiver's Certificate to the Purchaser pursuant to paragraph 2 hereof, all right, title and interest in and to 6072 Main Street, Stouffville shall vest and is hereby vested in the Purchasers absolutely and forever as joint tenants:

- (a) free and clear of and from any and all estate, title, right, benefit, interest and claims of the defendants in the above-noted action and the Receiver; and
- (b) free and clear of and from any and all right, title, interest, security interests, mortgages, charges, hypothecs, indentures, loan agreements, instruments, leases, estates, licenses, pledges, trusts or deemed trusts (whether contractual statutory or otherwise), benefits, assignments, rights of distress, executions, options, adverse claims, levies, set-off claims (whether legal, equitable, or contractual), judgments, executions, agreements (including title retention agreements), taxes, claims, charges, encumbrances or any other rights, rights of use, claims, disputes and debts of all persons or entities of any kind whatsoever and howsoever arising, whether contractual, statutory, by operation of law, legal or equitable, whether secured, unsecured or otherwise, and whether created by any orders made in these proceedings ("Encumbrances").

4. **THIS COURT ORDERS** that, upon being provided with a copy of the Receiver's Certificate, the Land Registrar at the Land Registry Office of York Region is hereby directed to

- (a) effect registration of this Order on the register of title for the property having the following legal description:  
  
PIN: 03715-0004 (LT);  
LT 30 PL 54 Stouffville; Lot 31 PL 54 Stouffville; PT LT 40 PL 54 Stouffville;  
PT LT 41 PL 54 Stouffville PTS 1, 7, 65R2555; Whitchurch-Stouffville
- (b) delete the transfer to Courtney Samantha Wallis Simpson registered as registration number YR608264; and

- (c) delete the Ontario Superior Court of Justice Order presently registered on title as registration number YR733817.
-

Schedule "1"

Court File No. 05-CL-6159

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

|                |   |                                      |
|----------------|---|--------------------------------------|
| THE HONOURABLE | ) | THURSDAY, THE 6 <sup>th</sup> DAY OF |
|                | ) |                                      |
| JUSTICE        | ) | APRIL, 2006                          |

**B E T W E E N:**

UDAYAN PANDYA

Plaintiff

- and -

COURTNEY WALLIS SIMPSON, YORK REGION  
REALTY INC., WALLIS SIMPSON & ASSOCIATES,  
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Defendants

In the Matter of the *Class Proceedings Act, 1992*

**RECEIVER'S CERTIFICATE**

**WHEREAS**, pursuant to the Order of the Honourable Mr. Justice Cumming of the Ontario Superior Court of Justice, Commercial List, made on the 17<sup>th</sup> day of November, 2005, Michael J. Quilling was appointed receiver (the "Receiver") of the property and assets of the defendants in the within action, including all of the proceeds realized from the Property.

**AND WHEREAS**, the Receiver entered into an agreement of purchase and sale dated as of the 10<sup>th</sup> day of January, 2006 later amended (the "Agreement") with Maria Patricia Januszewska and Michael John Januszewski (the "Purchasers") in respect of the property located at 6072 Main Street, Stouffville, Ontario (the "Property").

**AND WHEREAS**, pursuant to the order herein of the Honourable \_\_\_ Justice \_\_\_\_\_ dated April 6, 2006, this court issued a Vesting Order, which Vesting Order is to be effective with respect to the Property upon the filing of a receiver's certificate confirming the payment by the Purchasers to the Receiver of the purchase price, all the conditions to closing of the Agreement having been satisfied or waived;

**THE UNDERSIGNED HEREBY CERTIFIES** as follows:

1. The Purchasers have paid and the undersigned has received the full purchase price payable pursuant to the Agreement for the Property; and
2. All the conditions to closing of the Agreement have been satisfied or waived.

**MADE** at Toronto, this        day of        , 2006.

**MICHAEL J. QUILLING**  
in his capacity as the court appointed  
Receiver of the assets of the  
defendants and not in his personal  
capacity.

---

**Udayan Pandya**  
Plaintiff

v.

**Courtney Wallis Simpson et al.**  
Defendants

Court File No.: 05-CL-6159

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
(Commercial List)

In the matter of the *Class Proceedings*  
*Act, 1992*

Proceeding commenced at Toronto

**ORDER**

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Solicitors for the plaintiff/receiver



**TAB 2**

Court File No. 05-CL-6159

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

BETWEEN:

UDAYAN PANDYA

Plaintiff

-and-

COURTNEY WALLIS SIMPSON, YORK REGION  
REALTY INC., WALLIS SIMPSON & ASSOCIATES,  
COURTNEY WALLIS SIMPSON c.o.b. as YORK MANAGEMENT GROUP  
and as CAMCO DEVELOPMENTS and as YORK GROUP

Defendants

**AFFIDAVIT OF M. JOANNE MacMILLAN  
(Sworn April 5, 2006)**

I, M. JOANNE MacMILLAN, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am an associate with the law firm of Bennett Jones LLP, solicitors for the court appointed receiver herein and as such have knowledge of the matters hereafter deposed to. Where I make statements in the context of this affidavit which are not within my personal knowledge, I have identified the source of that information and belief, all of which information I have deposed to I verily believe. Where I have not identified the source of my information and belief, that information is within my personal knowledge.

## **Background**

2. By order dated November 17, 2005 (the "Receiving Order"), Justice Ground appointed Michael J. Quilling ("Receiver") as the receiver of the defendants' assets. Attached hereto and marked as **Exhibit "A"** is a copy of the Receiving Order.

3. Pursuant to subparagraph 7(f) of the Receiving Order, the Receiver is empowered to market any or all of the defendants' properties and negotiate the terms and conditions of sale.

## **Lot 14 Stouffer Street, Stouffville**

4. Joseph Caputo and Angela Caputo (the "Purchasers") and the Receiver, entered into an agreement of purchase and sale in respect of Lot 14 Stouffer Street, Stouffville (the "Stouffer Street Property") dated February 2, 2006 (the "Stouffer Agreement"). Attached hereto and marked as **Exhibit "B"** is a copy of the Stouffer Agreement.

5. Counsel for the Receiver appeared before Justice Mesbur on March 9, 2006 and requested approval of the Stouffer Agreement. Pursuant to paragraph 41 of the Fourth Amended and Restated Initial Order of Justice Mesbur dated March 9, 2006 ("Fourth Amended Order"), the sale of the Stouffer Street Property was approved. Attached hereto and marked as **Exhibit "C"** is the Fourth Amended Order dated March 9, 2006.

6. The Stouffer Agreement was scheduled to close on April 3, 2006.

7. In the course of preparing for the closing of the Stouffer Street Property, as set out in paragraphs 15-17 below, it became apparent that a vesting order would be necessary in order for the sale of the Stouffer Street Property to close.

8. By letter dated March 31, 2006, in response to my request, counsel for the Purchasers advised of his clients' consent to a two-week extension of the closing date to April 17, 2006. Attached hereto and marked as **Exhibit "D"** is a copy of the letter consenting to the extension.

### **6072 Main Street, Stouffville**

9. The Januszewski Family Trust and the Receiver, entered into an agreement of purchase and sale in respect of the property located at 6072 Main Street, Stouffville ("Main Street Property") dated January 10, 2006 (the "Main Street Agreement"). Attached hereto and marked as **Exhibit "E"** is a copy of the Main Street Agreement.

10. Counsel for the Receiver appeared before Justice Cumming on January 20, 2006 and requested approval of the Main Street Agreement. Pursuant to paragraph 38 of the Third Amended and Restated Initial Order of Justice Cumming dated January 20, 2006 ("Third Amended Order"), the sale of the Main Street Property was approved. Attached hereto and marked as **Exhibit "F"** is the Third Amended Order dated January 20, 2006.

11. On January 25, 2006, the purchasers of the Main Street Property and the Receiver signed an Amendment to Agreement of Purchase and Sale ("Main Street Amended Agreement") naming Maria Januszewski and Michael Januszewski, rather than the Januszewski Family Trust, as the

purchasers. Attached hereto and marked as **Exhibit "G"** is a copy of the Main Street Amended Agreement.

12. Counsel for the Receiver appeared before Justice Mesbur on March 9, 2006 requesting approval of the Main Street Amended Agreement. Pursuant to paragraphs 39 and 40 of the Fourth Amended Order, the Main Street Amended Agreement was approved.

13. The Main Street Amended Agreement is scheduled to close on May 31, 2006.

14. As set out below at paragraphs 15-17, a vesting order will be necessary in order to close the sale of the Main Street Property.

#### **Land Registry Office**

15. On March 31, 2006, I was advised by Ms Francis McCartney, real estate clerk at Bennett Jones LLP of the following. The Land Registry Office of York Region, by virtue of paragraph 10 of the Fourth Amended Order, is unable to register documents or transfer title of the Stouffer Street Property. Further, despite the terms of paragraph 41 of the Fourth Amended Order no documents could be registered on title and no transfer of title could be made in respect of the Stouffer Street Property without a vesting order.

16. It is necessary, therefore, to rectify the conflict between paragraphs 10 and 41 of the Fourth Amended Order prior to the closing date of April 17, 2006. Notwithstanding the terms set out in paragraph 10 of the Fourth Amended Order, and giving effect to paragraph 41 of the

Fourth Amended Order, as of April 17, 2006 and upon closing, title must vest with Joseph Caputo and Angela Caputo in order for the sale of the Stouffer Street Property to close.

17. It is anticipated that the same issue will arise in the closing of the Main Street Property. As such, notwithstanding the terms set out in paragraph 10 of the Fourth Amended Order, and giving effect to paragraph 38 of the Third Amended Order and paragraphs 39 and 40 of the Fourth Amended Order, as of May 31, 2006, title must vest with Maria Januszewski and Michael Januszewski.

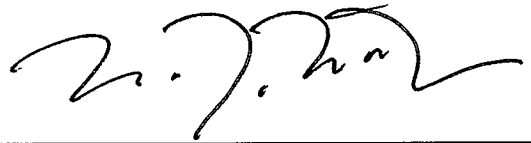
18. I make this affidavit in support of the Receiver's efforts to effect the timely sale of the Stouffer Street Property and the Main Street Property and for no improper purpose.

SWORN BEFORE ME at the City of )  
Toronto, in the Province of Ontario, this )  
5<sup>th</sup> day of April, 2006. )



\_\_\_\_\_)  
A COMMISSIONER FOR OATHS )  
in and for the Province of Ontario )

Emily Atkinson



\_\_\_\_\_)  
M. Joanne MacMillan

**Udayan Pandya**  
Plaintiff

v.

**Courtney Wallis Simpson et al.**  
Defendants

Court File No.: 05-CL-6159

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
(Commercial List)

In the matter of the *Class Proceedings*  
*Act, 1992*

Proceeding commenced at Toronto

**AFFIDAVIT OF**  
**M. JOANNE MacMILLAN**  
(Sworn April 5, 2006)

**BENNETT JONES LLP**  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, Ontario  
M5X 1A4

Lincoln Caylor / Emily Atkinson  
Tel: (416) 777-6121 / 5740  
Fax: (416) 863-1716  
LSUC Reg. No. 37030L/50682L

Solicitors for the plaintiff/receiver

**TAB A**



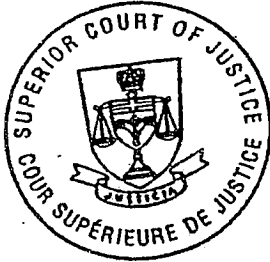
**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE )  
 )  
MR. JUSTICE GROUND )

THURSDAY, THE 17<sup>TH</sup> DAY OF  
NOVEMBER, 2005

THIS IS EXHIBIT A ATTACHED  
TO THE AFFIDAVIT OF  
M. Joanne MacMillan  
SWORN April 5, 2006

**BETWEEN:**



UDAYAN PANDYA

Emily Atkinson  
A COMMISSIONER  
Plaintiff

- and -

COURTNEY WALLIS SIMPSON, YORK REGION  
REALTY INC., WALLIS SIMPSON & ASSOCIATES  
AND CAMEO INVESTMENTS

Defendants

In the Matter of the *Class Proceedings Act, 1992*

**ORDER FOR AN APPOINTMENT OF AN INTERIM RECEIVER**

**THIS MOTION** made by the plaintiff for an order appointing a receiver of Courtney Wallis Simpson ("Simpson") personally and for York Region Realty Inc. ("York Reality") pursuant to s. 101 of the *Courts of Justice Act* with investigatory and preservation powers was heard by the court this day at 393 University Avenue, Toronto.

**UPON READING** the affidavits of Udayan Pandya and Richard Kwasniewicz and on hearing the submissions of counsel for the plaintiff, no one appearing for the defendants

despite short notice of this matter, and upon being advised that Ms. Simpson is aware of this proceeding and that the relief sought would likely be granted if she did not attend,

1. **THIS COURT ORDERS** that Michael J. Quilling be appointed a receiver (the "Receiver") over the assets of Simpson and York Realty pursuant to s. 101 of the *Courts of Justice Act* with the powers and duties hereinafter set out.

2. **THIS COURT ORDERS** that the defendants be given leave on three days notice to the plaintiff and the Receiver to bring any motion they might see fit to vary this order.

3. **THIS COURT ORDERS** that Bennett Jones LLP be appointed as counsel to the Receiver, that the Receiver shall, in its discretion be entitled to share information received by it with the plaintiff but that the information obtained under this order shall not, without further direction and order, of this Court, be used in any criminal proceedings.

4. **THIS COURT ORDERS** that the Receiver shall have the power to engage consultants, agents, employees, experts, auditors, accountants, managers, solicitors and counsel and such other assistants from time to time and on whatever basis, including on a temporary basis, as it may consider an the business of any of the defendants or generally exercising the powers and duties conferred by this Order.

5. **THIS COURT ORDERS** that the Receiver may apply to this Court for advice and directions relating to the proper exercise of its powers hereunder, or for any variations to this Order.

#### **Preservation of Assets**

6. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized for and on behalf of and in the name of any of the defendants to take possession and control of all of the present and future assets, undertaking and property of the defendants and any funds, proceeds or

other assets directly or indirectly related to the funds allegedly raised by the defendants as alleged in the statement of claim (the "Property") and any and all proceeds, receipts and disbursements arising out of or from the Property, until further order of this Court, and to act at once in respect of the Property. Without in any way limiting the generality of the foregoing and in furtherance thereof, the Receiver is hereby expressly empowered and authorized on the Receiver's behalf, but not obligated:

- (a) to take such steps as in the opinion of the Receiver are necessary or appropriate to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable, provided that the Receiver shall not evict or dispossess any occupant of any residential dwelling without further order of this Court made on notice to such occupant;
- (b) to take such steps as in the opinion of the Receiver are necessary or appropriate to maintain control over all receipts and disbursements arising out of or from the Property;
- (c) to receive and collect all monies, debts, claims, choses in action and accounts now owed or hereafter owing to any of the defendants in respect of the Property and to exercise all remedies of any of the defendants in collecting all such monies, including, without limitation, to enforce any security held by any of the defendants and to receive and recover all funds, monies, cash, cash equivalents, negotiable securities, accounts and any other assets on deposits to banks, brokerages and other financial or other institutions;
- (d) to join in and execute, assign, issue and endorse such transfers, conveyances, contracts, leases, deeds, bills of sale, cheques, bills of lading or exchange, or other documents of whatever nature in respect of any of the Property, in the name and on behalf of any of the defendants, which are necessary, desirable or convenient in, the opinion of the Receiver for any purpose pursuant to this Order;

- (e) to initiate, prosecute and continue the prosecution of any and all proceedings as may in its judgment be necessary or desirable to properly protect or realize upon the Property and to defend all proceedings now pending or hereafter instituted against any of the defendants or the Receiver, the prosecution of or defence of which will, in the judgment of the Receiver, be necessary to properly protect or realize on the Property or to protect the administration by the Receiver of the affairs of any of the defendants and the Property, and to settle or compromise any such proceedings which in the judgment of the Receiver should be settled;
- (f) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part thereof and negotiate such terms and conditions of sale as the Receiver in its discretion may deem appropriate, provided that any such sale or disposition of Property shall, if the defendants do not consent to the same, be subject to the Court's approval;
- (g) to report to, meet with and discuss with such creditors of the defendants and their advisors as the Receiver deems appropriate including holding town hall or other meetings on all matters relating to the Property and receivership; and
- (h) to register this order in any public registry against title to any of the Property. Without limiting the generality of the foregoing this court orders that this order be registered against the real property and other assets described at Schedules "B" and "C" hereto.

7. **THIS COURT ORDERS** that no person having notice of this order shall interfere with, obstruct or in any way hinder the Receiver in the fulfillment or pursuit of its duties hereunder and that all such persons are under an obligation to deliver up to the Receiver any Property or other thing to which the Receiver is entitled to under this order. In the event that any person contests that any asset, document or thing is Property under this order or is document or record properly producible to the Receiver then that person shall first deliver up the asset in question to the Receiver or to such third party as the Receiver in its discretion may agree for safekeeping and

the person contesting the Receiver's right may thereafter, if so advised, bring an application to this Court for directions.

8. **THIS COURT ORDERS** that the Receiver may receive information from persons as to the details of their deposit of trust funds investments with Simpson and the other defendant but that the Receiver shall not be under any obligation to call for claims, validate claims or make recommendations with respect the disbursement of funds to investors without further order of this Court.

9. **THIS COURT ORDERS** that no demands, actions, motions, steps, registrations, perfections, administrative proceedings, self-help remedies, or any other acts, proceedings or private remedies whatsoever in respect of the Property, including without limitation, the enforcement of security, liens or collection of any debt or liability, the exercise of any debt or liability, the exercise of any landlord's right to distrain or terminate any lease, the acceleration, amendment or termination of any contract, including any contract of insurance, the exercise of any right of set-off or combination of accounts, the exercise of any construction, mechanics' repair, storage or other lien, or the commencement or continuation of any proceedings under any Environmental Laws (as hereinafter defined) in any jurisdiction in which the Property may be located, shall be taken against the Receiver, with respect to the Property or any part thereof, without the prior written consent of the Receiver or leave of this Court first being obtained upon not less than seven days' notice to the Receiver.

10. **THIS COURT ORDERS** that the defendants and anyone having knowledge of this order be and they are hereby restrained, pending consent of all parties or further order of this Court:

- (a) from removing from Ontario or in any way disposing, dealing with or diminishing the value of any of the defendants' property, whether real or personal, present or future, held in Ontario or elsewhere, whether held in the defendants' names or not, pending the final determination of this action or further order of this Court;

- (b) from withdrawing or causing or permitting the withdrawal of or transferring of funds or issuing of cheques or other instruments from any of the defendants' bank accounts or investment accounts of any nature whatsoever, whether held individually or jointly with any other person, pending the final determination of this action or further order of this Honourable Court, provided that the defendants shall have leave to seek variation of this order in order to permit the withdrawal of a reasonable amount as ordinary living expenses provided that if any such order is sought the defendants must have fully complied with this order in all respects including the provision to the Receiver of the information required to be provided to the Receiver.

### **Documents and Investigations**

11. **THIS COURT ORDERS** that the Receiver shall forthwith be entitled to take possession of and examine the defendants' books and records and make such inquiries as it deems prudent and necessary of the defendants' bankers, accountants, auditors, advisors, managers, experts, solicitors, agents, officers, employees and others in order to determine the financial status of the defendants, and shall conduct a review and, if necessary, a detailed examination of the financial records of the defendants.

12. **THIS COURT ORDERS** that the Receiver shall report to this Court at such times and in such fashion as this Court may direct.

13. **THIS COURT ORDERS** that the defendants and their accountants, auditors, advisors, agents, managers, experts, solicitors, agents, officers and employees, including, without limitation, any accountants, bankers or financial, legal, advisors and the persons set out in Schedule "A", (the "Affected Persons") shall forthwith provide to the Receiver all of the books and records relating to the defendants' financial history and dealings, including, without limitation, all ledgers, bank statements and records, cheques, financial statements, receipts, vouchers, deposit slips, contracts, agreements, accounting records, computer records (including but not limited to tapes and/or discs) or other documents or records of any kind or nature,

howsoever stored or maintained, relating to the defendants (the "Documents"). Provision of the Documents to the Receiver shall not breach any confidentiality or other non-disclosure obligations the Affected Persons might otherwise have to the defendants and it shall be deemed that the defendants shall have consented to the release of the Documents. The Receiver shall allow the defendants and their advisors reasonable access to and the ability to make copies of any and all such books and records in the possession of the Receiver. The defendants shall allow the Receiver to make, retain and take away copies of any or all of the Documents and shall forthwith grant to the Receiver access to and use of accounting, computer, software and physical facilities relating thereto promptly at the request of the Receiver.

14. **THIS COURT ORDERS** that if any of the Documents is stored or otherwise contained on a computer or other electronic system of information storage, the defendants and all Affected Persons shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to obtain a full copy of the Documents, whether by way of printing same onto paper or making copies of computer discs or such other manner of retrieving and copying same as the Receiver in its discretion deems expedient. For the purposes of this paragraph, the defendants and the Affected Persons shall provide the Receiver with all such assistance in gaining access to the Documents as the Receiver may in its discretion require, including, without limiting the generality of the foregoing, forthwith providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, passwords or other codes as may be required to gain access to the Documents.

15. **THIS COURT ORDERS** that Internet service providers or persons, corporations or individuals who provide e-mail, World Wide Web, file transfer protocol or other Internet connection services to the defendants and/or its present and former directors, officers, employees and agents to access the Internet or World Wide Web e-mail or other similar services, deliver to the Receiver, documents, server files, archive files or any other information in any form in any way recording messages, emails or other information sent or received by the defendants and/or its present and former directors, officers, employees and agents in the course of their association and in conducting their duties related to the operations and affairs of the defendants.

16. **THIS COURT ORDERS** that the Receiver shall have ongoing access to the defendants' current and future bank account statements and other financial records, copies of which shall be provided to the Receiver as and when demanded by the Receiver. The defendants and the third parties shall co-operate and consent to the distribution of such records to the Receiver.

17. **THIS COURT ORDERS** that the Receiver is empowered to demand production from third parties (including but not limited to the defendants' advisors, banks, financial institutions and the persons set out in Schedule "A") of documents relating to:

- (a) the defendants' financial affairs;
- (b) the deposit of funds received in connection with the sale of commercial real estate;
- (c) the identities of the persons who have provided deposit funds to Simpson and the other defendants;
- (d) the bank accounts or other financial records referable to the accounts into which such funds were deposited including documents referable to any withdrawal, transfer or dissipation of funds in such accounts; and
- (e) commissions, fees, expenses or other amounts paid to any persons in connection with the sale of such securities and any agreements, arrangements or any other communication with respect to the payment of such amounts;
- (f) and further directs that all such third parties (including all Affected Persons) shall co-operate fully with the Receiver, subject to claims of legal privilege.

18. **THIS COURT ORDERS** that the Receiver is empowered to compel the attendance, on two clear days written notice by letter from the Receiver or its counsel, of persons believed by the Receiver to have knowledge of the defendants' affairs for the purpose of being examined under oath by the Receiver or by such person as to whom the Receiver has or may delegate this power. In particular, and without limiting the general nature of the power conveyed by this



paragraph, the Receiver is empowered for the purposes of performing its duties hereunder to examine under oath the persons named in Schedule "A" to this order and any persons who may have received transfers of assets or funds from the defendants, provided that nothing herein shall apply, without further order of this Court, to compel any person who has been actually charged with a criminal offence to so testify and that any persons who so testify shall have the right to invoke the protections of the *Canada Evidence Act* and the *Canadian Charter of Rights and Freedoms*. If the persons to be examined have a personal residence or regular place of business within 60 kilometres of an office of Bennett Jones LLP (Toronto, Edmonton or Calgary) such examination shall take place at such office failing which it shall take place at any place where an examination of discovery may take place under the *Rules of Civil Procedure* in the province where the examination is conducted.

19. **THIS COURT ORDERS** that Simpson shall provide to the Receiver within 7 days of service of this order an affidavit under oath specifying her knowledge on the following matters:

- (a) specifics of all corporations, partnerships, or other entities in which she has a direct or indirect interest with particulars of the nature of such interest;
- (b) specifics of all bank, brokerage or other accounts, wherever situate, in her name, the name of York Region Realty Inc., the name of any of the entities in (a) hereof or over which she has any signing authority or any other direct or indirect control;
- (c) specifics of all bank, brokerage or other accounts, where funds were deposited, all accounts to which such funds may have been transferred and the present whereabouts of such funds;
- (d) whether any assets were purchased or acquired in whole or in part with such funds and, if so, the particulars of such assets and their present location with particulars of the assets involved name of the person or entity who holds title to such assets, the date of acquisition, acquisition cost and a current estimate of value; and
- (e) specifics of any disposition of assets (including transfer of funds) in excess of \$10,000 in the last 2 years and that this affidavit shall be deemed to have been

provided by compulsion of law and its further use in any other court proceeding be subject to the protections of the *Canada Evidence Act* and the *Canadian Charter of Rights and Freedom*.

20. **THIS COURT ORDERS** that the Receiver is authorised to enter upon the business premises of the persons set out in Schedule "A" (collectively the "Premises") and to examine anything and take away any documents or record found at the premises that the Receiver is authorised hereunder to require to be produced to it.

21. **THIS COURT ORDERS** that the Receiver shall have full power to investigate any gift, transfer, conveyance, settlement or any other disposition (a "Conveyance") of any interest in any assets, funds or any other property by the defendants to third parties (the "Conveyed Property") and to compel the production of information from any person with respect to such Conveyed Property and the circumstances surrounding the Conveyance as if such Conveyed Property was Property under this order and that the Receiver shall be at liberty to apply to the Court for any appropriate order relating to the preservation of any such Conveyed Property.

#### **Other**

22. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the fulfillment of its duties in carrying out the provisions of this order, save and except for any gross negligence or willful misconduct on its part.

23. **THIS COURT ORDERS** that no proceedings shall be brought against the Receiver in any Court or other tribunal unless leave of this Honourable Court is first obtained on motion on at least seven days notice to the Receiver and the parties.

24. **THIS COURT ORDERS** that all the costs of this receivership including without limitation the Receiver's fees and disbursements (including the amounts which the Receiver is obliged to pay others) and the fees and disbursements incurred by Bennett Jones LLP in carrying

out its duties herein shall be a first charge on any assets recovered in the receivership herein, subject to approval of the quantum of costs by the Court. The Receiver shall have the right to apply to the Court for approval and payment of its fees and disbursements on an interim basis provided that 15 days notice shall be given to the defendants of any such application. The Receiver shall also have the power, if so advised, to move to have the receivership terminated and to be discharged as Receiver.

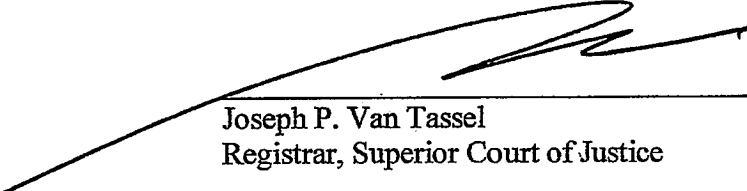
25. **THIS COURT ORDERS** that the plaintiff's costs of this motion shall be allowed in the same manner as the Receiver's fees and disbursements and shall be paid out by the Receiver as a second charge on any assets recovered in the receivership.

26. **THIS COURT ORDERS** that the Receiver be granted leave to apply to the Court for approval to borrow and to provide whatever security as may be appropriate, if so advised.

27. **THIS COURT ORDERS** that neither the making of this order nor anything in this order shall deem the Receiver to be an owner of any of the Property for any purpose and that neither the making of this order nor anything in this order shall vest in the Receiver the care, ownership, control, charge, occupation, possession or management or require or obligate the Receiver to occupy or to take control, care, charge, occupation, possession or management of any of the Property which may be environmentally contaminated, or a pollutant or a contaminant, or cause or contribute to spill, discharge, release or deposit of a substance contrary to any to occupy or to take control, care, charge, occupation, possession or management of any of the Property which may be environmentally contaminated, or a pollutant or a contaminant, or cause or contribute to spill, discharge, release or deposit of a substance contrary to any legislation enacted for the protection or preservation of the environment including, without limitation, the *Canadian Environmental Protection Act*, the *Transportation of Dangerous Goods Act* (Canada), the *Environmental Protection Act* (Ontario), the *Emergency Plans Act 1963* (Ontario), the *Ontario Water Resources Act*, the *Occupational Health and Safety Act* (Ontario) or the regulations hereunder, or any federal or provincial legislation, or rule of law or equity in any jurisdiction affecting the environment, the transportation of goods, or hazardous waste (collectively, "Environmental Laws"). The Receiver shall not be deemed as a result of this order to be in

control, charge, occupation, possession or management of any of the Property within the meaning of any Environmental Laws.

28. **THIS COURT SEEKS AND REQUESTS** the aid and recognition of any court or any judicial, regulatory, or administrative body in any province of Canada and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada and any court or any judicial, regulatory or administrative body of any other nations and states and the provinces, states or other subdivisions of such nations and states to act in aid of and to be complementary to this Court in carrying out the terms of this order.



Joseph P. Van Tassel  
Registrar, Superior Court of Justice

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

NOV 17 2005

PER/PAR:

MB

**Schedule "A"**

1. Wayne Simpson  
587 Cam Fella Boulevard  
Stouffville, Ontario  
L4A 7H3
2. York Management Group  
587 Cam Fella Boulevard  
Stouffville, Ontario  
L4A 7G9
3. Royal Bank of Canada  
Transit No. 02982  
47 Main Street  
Markham, Ontario
4. Royal Bank of Canada  
Davis and Highway 404 Branch  
Toronto, Ontario
5. Canadian Imperial Bank of Commerce  
Transit No. 01642  
4360 Highway 7  
Unionville, Ontario
6. Bank of Montreal  
Town Square Branch  
Richmond Hill, Ontario
7. TD Canada Trust  
Town Square Branch  
Richmond Hill, Ontario
8. TD Canada Trust  
Davis and Highway 404 Branch  
Toronto, Ontario
9. Bank of Nova Scotia  
Davis and Highway 404 Branch  
Toronto, Ontario
10. HSBC  
Richmond Hill
11. Laurentian Bank  
Newmarket, Ontario

**Schedule "B"**

1. 587 Cam Fella Boulevard  
Stouffville, Ontario  
L4A 7H3

## Legal Description:

PCL 19-1 SEC 65 M2296: LT 19 PL 65R2296: Whitchurch-Stouffville

2. PIN 03715-0004  
Whitechurch, Ontario

## Legal DescriptionL

PT LT 30 PL 54 Stouffville; PT LT 31 PL54 Stouffville, PT LT 40 PL 54 Stouffville; PT  
LT 41 PL 54 Stouffville PTS 1, 7 65R2555; S/T R221467, R221469

3. 1038 Kawagama Lake Road  
Dorset, Ontario

## Legal Description:

Con 13 PT LOT 1 RP19R3154, Parts 1, 6, 7  
Dorset, Algonquin Highlands Township

4. PIN 03710-0193/0194  
Stouffville, Ontario

## Legal Description:

PT LTS 49 & 50  
PL 70 Stouffville PT 2 65R256J4 Whitchurch-Stouffville

**Schedule "C"**

1. Royal Bank of Canada  
Transit No. 02982  
47 Main Street  
Markham, Ontario
2. Royal Bank of Canada  
Davis and Highway 404 Branch  
Toronto, Ontario
3. Canadian Imperial Bank of Commerce  
Transit No. 01642  
4360 Highway 7  
Unionville, Ontario
4. Bank of Montreal  
Town Square Branch  
Richmond Hill, Ontario
5. TD Canada Trust  
Town Square Branch  
Richmond Hill, Ontario
6. TD Canada Trust  
Davis and Highway 404 Branch  
Toronto, Ontario
7. Bank of Nova Scotia  
Davis and Highway 404 Branch  
Toronto, Ontario
8. HSBC  
Richmond Hill
9. Laurentian Bank  
Newmarket, Ontario

**Udayan Pandya**  
Plaintiff

v.

**Courtney Wallis Simpson et al.**  
Defendants

Court File No.: 05-CL-6159

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
(Commercial List)

In the matter of the *Class Proceedings*  
*Act, 1992*

Proceeding commenced at Toronto

**ORDER**

**BENNETT JONES LLP**  
Barristers and Solicitors  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, Ontario  
M5X 1A4

Lincoln Caylor / M. Joanne MacMillan  
Tel: (416) 777-6121 / 4629  
Fax: (416) 863-1716  
LSUC Reg. No. 37030L/43529J

Solicitors for the plaintiff



**TAB B**



# Agreement of Purchase and Sale



**BUYER,** Joseph Caputo and Angela Caputo (Full legal names of all Buyers), agrees to purchase from

**SELLER,** Michael J. Quilling, Receiver For Courtney Simpson (Full legal names of all Sellers), the following

**REAL PROPERTY:**  
Address: Lot 14 Stouffer Street fronting on the East side of Stouffer Street  
in the Town of Whitchurch Stouffville, Ontario  
and having a frontage of 70 Feet more or less by a depth of 150 Feet more or less and legally  
described as Pt. Lt. 3 & 4, Lt. 14, Plan 14, Plan 65M3314 (the "property").  
(Legal description of land including easements not described elsewhere)

**PURCHASE PRICE:** One Hundred Seventy-One Thousand Dollars (CDNs) 171,000.00

**DEPOSIT:**  
Buyer submits (Upon Acceptance) Four Thousand Dollars (CDNs) 4,000.00

by negotiable cheque payable to Sutton Group - Town and Country Realty Ltd. to be held in trust without interest pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. Buyer agrees to pay the balance as more particularly set out in Schedule A attached.

**SCHEDULE(S)** A attached hereto form(s) part of this Agreement.

1. **CHATELLETS INCLUDED:**

2. **FIXTURES EXCLUDED:**

3. **RENTAL ITEMS:** The following equipment is rented and not included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable:

4. **IRREVOCABILITY:** This Offer shall be irrevocable by Buyer until 8:00 p.m. on the 3rd day of February, 2006, after which time, if not accepted, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.

5. **COMPLETION DATE:** This Agreement shall be completed by no later than 6:00 p.m. on the 3rd day of April, 2006. Upon completion, vacant possession of the property shall be given to the Buyer unless otherwise provided for in this Agreement.

6. **NOTICES:** Seller hereby appoints the Listing Broker as Agent for the purpose of giving and receiving notices pursuant to this Agreement. Only if the Co-operating Broker represents the interests of the Buyer in this transaction, the Buyer hereby appoints the Co-operating Broker as Agent for the purpose of giving and receiving notices pursuant to this Agreement. Any notice relating hereto or provided for herein shall be in writing. This offer, any counter offer, notice of acceptance thereof, or any notice shall be deemed given and received, when hand delivered to the address for service provided in the Acknowledgment below, or where a facsimile number is provided herein, when transmitted electronically to that facsimile number. Fax No. (905) 640-0889 (For delivery of notices to Seller) Fax No. (905) 640-0889 (For delivery of notices to Buyer)

7. **GST:** If this transaction is subject to Goods and Services Tax (G.S.T.), then such tax shall be in addition to the Purchase Price. If this transaction is not subject to G.S.T., Seller agrees to certify on or before closing, that the transaction is not subject to G.S.T.

8. **TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the 16th day of March, 2006, (Requisition Date) to examine the title to the property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy himself that there are no outstanding work orders or deficiency notices affecting the property, that its present use (vacant lot zoned for single family home) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders affecting the property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.

9. **FUTURE USE:** Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.

INITIALS OF BUYER(S):

*JK*

INITIALS OF SELLER(S):

*[Signature]*

THIS IS EXHIBIT B ATTACHED

TO THE AFFIDAVIT OF

M. Joanne MacMillan

SWORN April 5, 2006

*[Signature]*

Emily Atkinson  
A COMMISSIONER



# Schedule A Agreement of Purchase and Sale



This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

**BUYER,** Joseph Caputo and Angela Caputo

**SELLER,** Michael J. Quilling, Receiver For Courtney Simpson

for the purchase and sale of Lot 14 Stouffer Street in the Town of Whitchurch-Stouffville, Ontario

The Buyer agrees to pay the balance of the purchase price, subject to adjustments, by bank draft or certified cheque, to the Seller on the completion of this transaction.

This offer is conditional upon the buyers doing their due diligence with the town of Whitchurch-Stouffville to ensure that they can obtain a permit for the property to build a raised bungalow approx. 2,300 square feet with a three car garage. Unless this condition is waived in writing and received by the seller or the seller's agent not later than 11:00p.m. on the 14th of February that this condition is fulfilled, this offer shall be null and void and the deposit shall be returned to the buyer in full and without deduction. This condition is included for the benefit of the buyer who has the right to waive the condition at anytime within the time period stated herein.

The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Broker or Salesperson, for any changes in property tax as a result of a re-assessment of the property.

The buyers are aware that the Listing Agent represents the seller and is providing customer service to the buyer.

This offer is conditional upon approval of the terms hereof by the Seller's Solicitor. Unless the Seller gives notice in writing delivered to the buyer or the buyer's address as hereinafter indicated within nine (9) banking days that this condition is fulfilled, this Offer shall be null and void and the deposit shall be returned to the buyer in full and without deduction. This offer is included for the benefit of the Seller and may be waived at the Seller's sole option by notice in writing to the Buyer within the time period stated herein.

The property will be left in a clean manner, free of debris and clutter by the Seller on Closing.

*Seller will provide original survey by within the time period indicated on the due diligence clause.*

This page must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

*[Handwritten initials]*

INITIALS OF SELLER(S):

*[Empty oval]*



- 10. **10. 8:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present use of the property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Broker and Co-operating Broker shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.
- 11. **CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.
- 12. **DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any sketch or survey of the property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust And Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on file within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.
- 13. **INSPECTION:** Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Buyer and Seller. **The Buyer acknowledges having the opportunity to include a requirement for a property inspection report in this Agreement and agrees that except as may be specifically provided for in this Agreement, the Buyer will not be obtaining a property inspection or property inspection report regarding the property.**
- 14. **INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.
- 15. **PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
- 16. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50(22) of the Planning Act, R.S.O. 1990.
- 17. **RESIDENCY:** Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.
- 18. **ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Buyer.
- 19. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
- 20. **TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Caisse Populaire.
- 21. **FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O. 1990 unless Seller's spouse has executed the consent hereinafter provided.
- 22. **UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the property, Seller has not caused any building on the property to be insulated with insulation containing ureaformaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.
- 23. **CONSUMER REPORTS:** **The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.**
- 24. **AGENCY:** It is understood that the brokers involved in the transaction represent the parties as set out in the Representation section below.
- 25. **AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purposes of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.

INITIALS OF BUYER(S):

*AS*

INITIALS OF SELLER(S):

*[Signature]*



26. **CESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

DATED at Whitchurch-Stouffville this 30th day of January, 2006

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

*[Handwritten signatures]*  
(Witness)

*[Handwritten signature]*  
(Buyer)

DATE Jan 30/06  
DATE Jan 30/06

I, the Undersigned Seller, agree to the above Offer. I hereby irrevocably instruct my lawyer to pay directly to the Listing Broker the unpaid balance of the commission together with applicable Goods and Services Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the Listing Broker to my lawyer.

DATED at Whitchurch-Stouffville this 30th day of January, 2006

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

(Witness) (Seller) (Seal) DATE  
(Witness) (Seller) (Seal) DATE

**SPOUSAL CONSENT:** The Undersigned Spouse of the Seller hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O. 1990, and hereby agrees with the Buyer that he/she will execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

(Witness) (Spouse) (Seal) DATE

**CONFIRMATION OF EXECUTION:** Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally executed by all parties at ..... a.m./p.m. this ..... day of ..... (Signature of Seller or Buyer)

**REPRESENTATION**

Listing Broker Sutton Group - Town and Country Realty Ltd.  
Phone (905) 640-0888 Fax (905) 640-0889 Represents Seller  
Co-operating/Buyer Broker  
Phone ..... Fax ..... Represents .....

**ACKNOWLEDGEMENT**

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Agent to forward a copy to my lawyer.

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Agent to forward a copy to my lawyer.

(Seller) DATE  
(Seller) DATE  
Address for Service: Lot 14 Stouffer Street  
Phone .....  
Seller's Lawyer: Bennett Jones LLP  
Address: Suite 3400 One First Canadian Place, P.O. Box 1  
(416) 777-4629 (416) 863-1716  
Phone Fax

(Buyer) DATE  
(Buyer) DATE  
Address for Service: 8 Decrridge Rd.  
Goodwood, Ontario, L0C1A Phone (905) 642-9128  
Buyer's Lawyer: Ron Hawkshaw  
Address: Ajax  
(905) 683-6880  
Phone Fax

**FOR OFFICE USE ONLY**  
**COMMISSION TRUST AGREEMENT**  
To: Co-operating Broker shown on the foregoing Agreement of Purchase and Sale;  
In consideration for the Co-operating Broker procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the transaction contemplated in the MLS Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS Rules and shall be subject to and governed by the MLS Rules pertaining to Commission Trust.  
DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale. Acknowledged by:  
*[Signatures]*  
Signature of Listing Broker or authorized representative Signature of Co-operating Broker or authorized representative



# Schedule A Agreement of Purchase and Sale



This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER, Joseph Caputo and Angela Caputo....., and

SELLER, Michael J. Quilling, Receiver For Courtney Simpson.....

for the purchase and sale of Lot 14 Stouffer Street in the Town of Whitchurch, Stouffville, Ontario.....

The Buyer agrees to pay the balance of the purchase price, subject to adjustments, by bank draft or certified cheque, to the Seller on the completion of this transaction.

This offer is conditional upon the buyers doing their due diligence with the town of Whitchurch-Stouffville to ensure that they can obtain a permit for the property to build a raised bungalow approx. 2,300 square feet with a three car garage. Unless this condition is waived in writing and received by the seller or the seller's agent not later than 11:00p.m. on the 14th of February that this condition is fulfilled, this offer shall be null and void and the deposit shall be returned to the buyer in full and without deduction. This condition is included for the benefit of the buyer who has the right to waive the condition at anytime within the time period stated herein.

The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Broker or Salesperson, for any changes in property tax as a result of a re-assessment of the property.

The buyers are aware that the Listing Agent represents the seller and is providing customer service to the buyer.

This offer is conditional upon approval of the terms hereof by the Seller's Solicitor. Unless the Seller gives notice in writing delivered to the buyer or the buyer's address as hereinafter indicated within nine (9) banking days that this condition is fulfilled, this Offer shall be null and void and the deposit shall be returned to the buyer in full and without deduction. This offer is included for the benefit of the Seller and may be waived at the Seller's sole option by notice in writing to the Buyer within the time period stated herein.

The property will be left in a clean manner, free of debris and clutter by the Seller on Closing.

*Seller will provide original survey by within the time period indicated on the due diligence clause.*

This page must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

*Handwritten initials of buyer(s)*

INITIALS OF SELLER(S):

*Handwritten initials of seller(s)*

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Sutton Group - Town and Country Realty Ltd.

Form 100A 01/2006  
OFFER by Reagency Systems Corp. 321120  
www.Reagency.ca

02/06/2006 10:42 FAX

Fax 02 06 05:39p

MAGGIE MACDONALD

905-640-6451

P. 2

002

02/02/2006 10:40 FAX

JAN-31-2006 15:31 FROM: SUTTON GROUP TOWN & COUNTRY 9056400889

TO: 4164671211, 4282

P: 2



# Agreement of Purchase and Sale

Township  
North York  
County  
Ontario

BUYER: Joseph Caputo and Angela Caputo

SELLER: Michael J. Quilling, Receiver For Courtney Simpson

Address: Lot 14, Stouffville Street, in the Township of Whitchurch-Stouffville, Ontario

and being in Township of 70 West

and being in Range of 10 West

and being in Plan of 100 West

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INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

Form 100 01/01/06 Page 1 of 2

Sutton Group - Town and Country Realty Ltd. Registry System Corp. 324-430

- 10. **TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephonic services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present use of the property. If within the specified time referred to in paragraph 8 any valid objection to title or to any outstanding work, order or deficiency notices, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire in favour of the Buyer and any mortgages, with all related costs of the expense of the Seller, and which Buyer will not waive, this Agreement not withstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Selling Broker and Co-operating Broker shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.
- 11. **CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1997, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same until in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.
- 12. **DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any sketch or survey of the property within Seller's control to Buyer as soon as possible and prior to the Registration Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust and Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Co-operative or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balances required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.
- 13. **INSPECTION:** Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Buyer and Seller. The Buyer acknowledges having the opportunity to include a requirement for a property inspection report in this Agreement and agrees that except as may be specifically provided for in this Agreement, this Buyer will not be obtaining a property inspection or property inspection report regarding the property.
- 14. **INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.
- 15. **PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
- 16. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 30(22) of the Planning Act, R.S.O. 1990.
- 17. **RESIDENCY:** Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.
- 18. **ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetred cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Buyer.
- 19. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
- 20. **TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Co-operative.
- 21. **FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O. 1990 unless Seller's spouse has executed the consent hereinafter provided.
- 22. **UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the property, Seller has not caused any building on the property to be insulated with insulation containing ureaformaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.
- 23. **CONSUMER REPORTS:** The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.
- 24. **AGENCY:** It is understood that the brokers involved in the transaction represent the parties as set out in the Representation section below.
- 25. **AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purpose of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.

INITIALS OF BUYER(S):

*[Handwritten initials]*

INITIALS OF SELLER(S):

*[Handwritten initials]*





02/07/2006 16:08 FAX

FEB 02 06 05:39P

MAGGIE MACDONALD

905-640-6451

P.3

02/02/2006 10:11 FAX

0005

JAN 31 2006 10:35 FROM: SUTTON GROUP TOWN & 9056400889

TO: 121-437121114282

P:5

0239

As SUCCESSORS AND ASSIGNS: The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

DATED at Whitby, Ontario, this 30th day of January, 2006.

SIGNER: SIGNED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

Handwritten signatures and dates: DATE Jan 30/06, DATE Jan 30/06

I, the Undersigned Seller, agree to the above Offer. I hereby irrevocably bind my lawyer to pay directly to the Living Broker the unpaid balance of the representation fee...

DATED at Whitby, Ontario, this 30th day of January, 2006.

SIGNER: SIGNED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

Handwritten signature and date: DATE 1/30/06

SPECIAL CONSENT: The Undersigned Spouse of the Seller hereby consents to the disposition contained herein pursuant to the provisions of the Family Law Act, R.S.O. 1990, and hereby agrees with the Buyer that he/she will execute all necessary or incidental documents to give full force and effect to the only registered herein.

CONFIRMATION OF EXECUTION: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all elements both typed and written were fully executed by all parties on this 30th day of January, 2006.

Listing Broker: Sutton Group - Town and Country Realty Ltd. (905) 640-0888. Fax: (905) 640-0888. Seller: Buyer. Co-operating/Dayne Broker.

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this completed Agreement of Purchase and Sale and I authorize the Agent to forward a copy to my lawyer. I acknowledge receipt of my signed copy of this completed Agreement of Purchase and Sale and I authorize the Agent to forward a copy to my lawyer.

For Buyer Use ONLY: You Co-operating Broker chosen on the foregoing Agreement of Purchase and Sale, I hereby declare that all monies received or receivable by me in connection with the completion of the foregoing Agreement of Purchase and Sale, I hereby declare that all monies received or receivable by me in connection with the completion of the foregoing Agreement of Purchase and Sale...

**TAB C**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE )  
JUSTICE )

THURSDAY, THE 9<sup>TH</sup> DAY OF )  
THIS IS EXHIBIT C ATTACHED )  
MARCH, 2006 TO THE AFFIDAVIT OF )

M. Joanne MacMillan  
SWORN April 5, 2006

BETWEEN:

UDAYAN PANDYA

Emily Atkinson  
A COMMISSIONER  
Plaintiff

-and-

COURTNEY WALLIS SIMPSON, YORK REGION  
REALTY INC., WALLIS SIMPSON & ASSOCIATES,  
COURTNEY WALLIS SIMPSON c.o.b. as YORK MANAGEMENT GROUP  
and as CAMCO DEVELOPMENTS and as YORK GROUP

Defendants

In the Matter of the *Class Proceedings Act*, 1992

**FOURTH AMENDED AND RESTATED INITIAL ORDER**

THIS MOTION made by the plaintiff for an order appointing a receiver of Courtney Wallis Simpson ("Simpson") personally and for York Region Realty Inc. ("York Reality") pursuant to s. 101 of the *Courts of Justice Act* with investigatory and preservation powers was heard by the court this day at 393 University Avenue, Toronto.

UPON READING the Fourth Report of the Receiver dated March 3, 2006 and on hearing the submissions of counsel for the Receiver, *for Mr Pahuwa, for Atlas Holdings, for the plaintiffs in 05-CL-6178, Ms. Simpson appearing in person; Ken*

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today and dispenses with further service thereof.
2. **THIS COURT ORDERS** that Michael J. Quilling be appointed a receiver (the "Receiver") over the assets of Simpson, York Realty, and Courtney Wallis Simpson c.o.b. as York Management Group, York Group and Camco Developments (the "Defendants") pursuant to s. 101 of the *Courts of Justice Act* with the powers and duties hereinafter set out.
3. **THIS COURT ORDERS** that the defendants be given leave on three days notice to the plaintiff and the Receiver to bring any motion they might see fit to vary this order.
4. **THIS COURT ORDERS** that Bennett Jones LLP be appointed as counsel to the Receiver, that the Receiver shall, in its discretion be entitled to share information received by it with the plaintiff but that the information obtained under this order shall not, without further direction and order, of this Court, be used in any criminal proceedings.
5. **THIS COURT ORDERS** that the Receiver shall have the power to engage consultants, agents, employees, experts, auditors, accountants, managers, solicitors and counsel and such other assistants from time to time and on whatever basis, including on a temporary basis, as it may consider an the business of any of the defendants or generally exercising the powers and duties conferred by this Order.
6. **THIS COURT ORDERS** that the Receiver may apply to this Court for advice and directions relating to the proper exercise of its powers hereunder, or for any variations to this Order.

#### **Preservation of Assets**

7. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized for and on behalf of and in the name of any of the Defendants to take possession and control of all of the present and future assets, undertaking and property of the Defendants and any funds, proceeds or other assets directly or indirectly related to the funds allegedly raised by the Defendants as alleged in the statement of claim (the "Property") and any and all proceeds, receipts and

disbursements arising out of or from the Property, until further order of this Court, and to act at once in respect of the Property. Without in any way limiting the generality of the foregoing and in furtherance thereof, the Receiver is hereby expressly empowered and authorized on the Receiver's behalf, but not obligated:

- (a) to take such steps as in the opinion of the Receiver are necessary or appropriate to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable, provided that the Receiver shall not evict or dispossess any occupant of any residential dwelling without further order of this Court made on notice to such occupant;
- (b) to take such steps as in the opinion of the Receiver are necessary or appropriate to maintain control over all receipts and disbursements arising out of or from the Property;
- (c) to receive and collect all monies, debts, claims, choses in action and accounts now owed or hereafter owing to any of the Defendants in respect of the Property and to exercise all remedies of any of the Defendants in collecting all such monies, including, without limitation, to enforce any security held by any of the defendants and to receive and recover all funds, monies, cash, cash equivalents, negotiable securities, accounts and any other assets on deposits to banks, brokerages and other financial or other institutions;
- (d) to join in and execute, assign, issue and endorse such transfers, conveyances, contracts, leases, deeds, bills of sale, cheques, bills of lading or exchange, or other documents of whatever nature in respect of any of the Property, in the name and on behalf of any of the Defendants, which are necessary, desirable or convenient in, the opinion of the Receiver for any purpose pursuant to this Order;

- (e) to initiate, prosecute and continue the prosecution of any and all proceedings as may in its judgment be necessary or desirable to properly protect or realize upon the Property and to defend all proceedings now pending or hereafter instituted against any of the Defendants or the Receiver, the prosecution of or defence of which will, in the judgment of the Receiver, be necessary to properly protect or realize on the Property or to protect the administration by the Receiver of the affairs of any of the defendants and the Property, and to settle or compromise any such proceedings which in the judgment of the Receiver should be settled;
- (f) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part thereof and negotiate such terms and conditions of sale as the Receiver in its discretion may deem appropriate, provided that any such sale or disposition of Property shall, if the Defendants do not consent to the same, be subject to the Court's approval;
- (g) to report to, meet with and discuss with such creditors of the Defendants and their advisors, including the Mortgage Fraud Scheme victims who are class members in court file no. 05-CL-6178, as the Receiver deems appropriate including holding town hall or other meetings on all matters relating to the Property and receivership; and
- (h) to register this order in any public registry against title to any of the Property. Without limiting the generality of the foregoing this court orders that this order be registered against the real property and other assets described at Schedules "B" and "C" hereto.

8. **THIS COURT ORDERS** that no person having notice of this order shall interfere with, obstruct or in any way hinder the Receiver in the fulfillment or pursuit of its duties hereunder and that all such persons are under an obligation to deliver up to the Receiver any Property or other thing to which the Receiver is entitled to under this order. In the event that any person contests that any asset, document or thing is Property under this order or is document or record properly producible to the Receiver then that person shall first deliver up the asset in question to the Receiver or to such third party as the Receiver in its discretion may agree for safekeeping and

the person contesting the Receiver's right may thereafter, if so advised, bring an application to this Court for directions.

9. **THIS COURT ORDERS** that the Receiver may receive information from persons as to the details of their deposit of trust funds investments with Simpson and the other Defendant but that the Receiver shall not be under any obligation to call for claims, validate claims or make recommendations with respect the disbursement of funds to investors without further order of this Court.

10. **THIS COURT ORDERS** that no demands, actions, motions, steps, registrations, perfections, administrative proceedings, self-help remedies, or any other acts, proceedings or private remedies whatsoever in respect of the Property, including without limitation, the enforcement of security, liens or collection of any debt or liability, the exercise of any debt or liability, the exercise of any landlord's right to distrain or terminate any lease, the acceleration, amendment or termination of any contract, including any contract of insurance, the exercise of any right of set-off or combination of accounts, the exercise of any construction, mechanics' repair, storage or other lien, or the commencement or continuation of any proceedings under any Environmental Laws (as hereinafter defined) in any jurisdiction in which the Property may be located, shall be taken against the Receiver, with respect to the Property or any part thereof, without the prior written consent of the Receiver or leave of this Court first being obtained upon not less than seven days' notice to the Receiver.

11. **THIS COURT ORDERS** that the Defendants and anyone having knowledge of this order be and they are hereby restrained, pending consent of all parties or further order of this Court:

- (i) from removing from Ontario or in any way disposing, dealing with or diminishing the value of any of the Defendants' property, whether real or personal, present or future, held in Ontario or elsewhere, whether held in the Defendants' names or not, pending the final determination of this action or further order of this Court;
- (j) from withdrawing or causing or permitting the withdrawal of or transferring of funds or issuing of cheques or other instruments from any of the defendants' bank

accounts or investment accounts of any nature whatsoever, whether held individually or jointly with any other person, pending the final determination of this action or further order of this Honourable Court, provided that the defendants shall have leave to seek variation of this order in order to permit the withdrawal of a reasonable amount as ordinary living expenses provided that if any such order is sought the Defendants must have fully complied with this order in all respects including the provision to the Receiver of the information required to be provided to the Receiver.

### **Documents and Investigations**

12. **THIS COURT ORDERS** that the Receiver shall forthwith be entitled to take possession of and examine the Defendants' books and records and make such inquiries as it deems prudent and necessary of the Defendants' bankers, accountants, auditors, advisors, managers, experts, solicitors, agents, officers, employees and others in order to determine the financial status of the Defendants, and shall conduct a review and, if necessary, a detailed examination of the financial records of the Defendants.

13. **THIS COURT ORDERS** that the Receiver shall report to this Court at such times and in such fashion as this Court may direct.

14. **THIS COURT ORDERS** that the Defendants and their accountants, auditors, advisors, agents, managers, experts, solicitors, agents, officers and employees, including, without limitation, any accountants, bankers or financial, legal, advisors and the persons set out in Schedule "A", (the "Affected Persons") shall forthwith provide to the Receiver all of the books and records relating to the Defendants' financial history and dealings, including, without limitation, all ledgers, bank statements and records, cheques, financial statements, receipts, vouchers, deposit slips, contracts, agreements, accounting records, computer records (including but not limited to tapes and/or discs) or other documents or records of any kind or nature, howsoever stored or maintained, relating to the Defendants (the "Documents"). Provision of the Documents to the Receiver shall not breach any confidentiality or other non-disclosure obligations the Affected Persons might otherwise have to the Defendants and it shall be deemed that the Defendants shall have consented to the release of the Documents. The Receiver shall



allow the Defendants and their advisors reasonable access to and the ability to make copies of any and all such books and records in the possession of the Receiver. The defendants shall allow the Receiver to make, retain and take away copies of any or all of the Documents and shall forthwith grant to the Receiver access to and use of accounting, computer, software and physical facilities relating thereto promptly at the request of the Receiver.

15. **THIS COURT ORDERS** that if any of the Documents is stored or otherwise contained on a computer or other electronic system of information storage, the Defendants and all Affected Persons shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to obtain a full copy of the Documents, whether by way of printing same onto paper or making copies of computer discs or such other manner of retrieving and copying same as the Receiver in its discretion deems expedient. For the purposes of this paragraph, the defendants and the Affected Persons shall provide the Receiver with all such assistance in gaining access to the Documents as the Receiver may in its discretion require, including, without limiting the generality of the foregoing, forthwith providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, passwords or other codes as may be required to gain access to the Documents.

16. **THIS COURT ORDERS** that Internet service providers or persons, corporations or individuals who provide e-mail, World Wide Web, file transfer protocol or other Internet connection services to the defendants and/or its present and former directors, officers, employees and agents to access the Internet or World Wide Web e-mail or other similar services, deliver to the Receiver, documents, server files, archive files or any other information in any form in any way recording messages, emails or other information sent or received by the Defendants and/or its present and former directors, officers, employees and agents in the course of their association and in conducting their duties related to the operations and affairs of the defendants.

17. **THIS COURT ORDERS** that the Receiver shall have ongoing access to the Defendants' current and future bank account statements and other financial records, copies of which shall be provided to the Receiver as and when demanded by the Receiver. The Defendants and the third parties shall co-operate and consent to the distribution of such records to the Receiver.

18. **THIS COURT ORDERS** that the Receiver is empowered to demand production from third parties (including but not limited to the Defendants' advisors, banks, financial institutions and the persons set out in Schedule "A") of documents relating to:

- (a) the Defendants' financial affairs;
- (b) the deposit of funds received in connection with the sale of commercial real estate;
- (c) the identities of the persons who have provided deposit funds to Simpson and the other defendants;
- (d) the bank accounts or other financial records referable to the accounts into which such funds were deposited including documents referable to any withdrawal, transfer or dissipation of funds in such accounts; and
- (e) commissions, fees, expenses or other amounts paid to any persons in connection with the sale of such securities and any agreements, arrangements or any other communication with respect to the payment of such amounts;
- (f) and further directs that all such third parties (including all Affected Persons) shall co-operate fully with the Receiver, subject to claims of legal privilege.

19. **THIS COURT ORDERS** that the Receiver is empowered to compel the attendance, on two clear days written notice by letter from the Receiver or its counsel, of persons believed by the Receiver to have knowledge of the Defendants' affairs for the purpose of being examined under oath by the Receiver or by such person as to whom the Receiver has or may delegate this power. In particular, and without limiting the general nature of the power conveyed by this paragraph, the Receiver is empowered for the purposes of performing its duties hereunder to examine under oath the persons named in Schedule "A" to this order and any persons who may have received transfers of assets or funds from the defendants, provided that nothing herein shall apply, without further order of this Court, to compel any person who has been actually charged with a criminal offence to so testify and that any persons who so testify shall have the right to invoke the protections of the *Canada Evidence Act* and the *Canadian Charter of Rights and*

*Freedoms*. If the persons to be examined have a personal residence or regular place of business within 60 kilometres of an office of Bennett Jones LLP (Toronto, Edmonton or Calgary) such examination shall take place at such office failing which it shall take place at any place where an examination of discovery may take place under the *Rules of Civil Procedure* in the province where the examination is conducted.

20. **THIS COURT ORDERS** that Simpson shall provide to the Receiver within 7 days of service of this order an affidavit under oath specifying her knowledge on the following matters:

- (a) specifics of all corporations, partnerships, or other entities in which she has a direct or indirect interest with particulars of the nature of such interest;
- (b) specifics of all bank, brokerage or other accounts, wherever situate, in her name, the name of York Region Realty Inc., the name of any of the entities in (a) hereof or over which she has any signing authority or any other direct or indirect control;
- (c) specifics of all bank, brokerage or other accounts, where funds were deposited, all accounts to which such funds may have been transferred and the present whereabouts of such funds;
- (d) whether any assets were purchased or acquired in whole or in part with such funds and, if so, the particulars of such assets and their present location with particulars of the assets involved name of the person or entity who holds title to such assets, the date of acquisition, acquisition cost and a current estimate of value; and
- (e) specifics of any disposition of assets (including transfer of funds) in excess of \$10,000 in the last 2 years and that this affidavit shall be deemed to have been provided by compulsion of law and its further use in any other court proceeding be subject to the protections of the *Canada Evidence Act* and the *Canadian Charter of Rights and Freedom*.

21. **THIS COURT ORDERS** that the Receiver is authorised to enter upon the business premises of the persons set out in Schedule "A" (collectively the "Premises") and to examine

anything and take away any documents or record found at the premises that the Receiver is authorised hereunder to require to be produced to it.

22. **THIS COURT ORDERS** that the Receiver shall have full power to investigate any gift, transfer, conveyance, settlement or any other disposition (a "Conveyance") of any interest in any assets, funds or any other property by the defendants to third parties (the "Conveyed Property") and to compel the production of information from any person with respect to such Conveyed Property and the circumstances surrounding the Conveyance as if such Conveyed Property was Property under this order and that the Receiver shall be at liberty to apply to the Court for any appropriate order relating to the preservation of any such Conveyed Property.

#### **Other**

23. **THIS COURT ORDERS** that no proceedings shall be brought against the Receiver in any Court or other tribunal unless leave of this Honourable Court is first obtained on motion on at least seven days notice to the Receiver and the parties.

#### **No Proceedings Against the Debtor or the Property**

24. **THIS COURT ORDERS** that no proceeding against or in respect of the Defendants or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all proceedings currently under way against or in respect of the Defendants or the Property are hereby stayed and suspended pending further Order of this Court, save and except action filed as Court File No. 05-CL-6178.

#### **No Exercise of Rights or Remedies**

25. **THIS COURT ORDERS** that all rights and remedies against the Defendants, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or the Defendants to carry on any business which the Defendants are not lawfully entitled to carry on, (ii) exempt the Receiver or the Defendants from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent

the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

26. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the fulfilment of its duties in carrying out the provisions of this order, save and except for any gross negligence or wilful misconduct on its part.

27. **THIS COURT ORDERS** that all the costs of this receivership including without limitation the Receiver's fees and disbursements (including the amounts which the Receiver is obliged to pay others) and the fees and disbursements incurred by Bennett Jones LLP in carrying out its duties herein shall be a first charge on any assets recovered in the receivership herein, subject to approval of the quantum of costs by the Court. The Receiver shall have the right to apply to the Court for approval and payment of its fees and disbursements on an interim basis provided that 15 days notice shall be given to the defendants of any such application. The Receiver shall also have the power, if so advised, to move to have the receivership terminated and to be discharged as Receiver.

28. **THIS COURT ORDERS** that the plaintiff's costs of this motion shall be allowed in the same manner as the Receiver's fees and disbursements and shall be paid out by the Receiver as a second charge on any assets recovered in the receivership.

29. **THIS COURT ORDERS** that the Receiver be granted leave to apply to the Court for approval to borrow and to provide whatever security as may be appropriate, if so advised.

30. **THIS COURT ORDERS** that, except as otherwise specified herein, the Receiver is at liberty to serve any notice, form or other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to the defendants or other appropriate parties at their respective addresses or other contact particulars as last indicated in the records of the defendants and that any such service shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three business days after mailing if by ordinary mail.

31. **THIS COURT ORDERS** that the Receiver may serve any court materials in these proceedings (including, without limitation, application records, motion records, facta and orders) on all represented parties electronically, by e-mailing a PDF or other electronic copy of such materials (other than any book of authorities) to counsels' e-mail addresses as recorded on the service list, and posting a copy of the materials to an internet website to be hosted by Quilling Selander Cummiskey Lownds (the "Website") as soon as practicable thereafter, provided that the Receiver shall deliver hard copies of such materials to any party requesting same as soon as practicable thereafter.

32. **THIS COURT ORDERS** that any party in these proceedings may serve any court materials (including, without limitation, application records, motion records, facta and orders) electronically, by emailing a PDF or other electronic copy of all materials (other than any book of authorities) to counsels' e-mail addresses as recorded on the service list; provided that such party shall deliver both PDF or other electronic copies and hard copies of full materials to counsel to the Receiver and to any other party requesting same and the Receiver shall cause a copy to be posted on the Website, all as soon as practicable thereafter.

33. **THIS COURT ORDERS** that the Receiver be permitted to (i) enter into a new listing agreement with John Walley of Sutton Group in Stouffville, (ii) sell Simpson and York Realty's real property assets and contents, and (iii) make it a condition of the new listing agreement that all sales are subject to court approval and to hold all proceeds from the sales in an interest bearing account;

34. **THIS COURT ORDERS** that the Receiver, if so advised, be permitted to bring a lawsuit as against Lia Hurst and seek a certificate of pending litigation in order to regain possession of the properties alleged to be rightfully owned by Simpson and if successful, to sell those properties, the proceeds of which will be deposited into an interest bearing account;

35. **THIS COURT ORDERS** that the Receiver may take all steps necessary to transfer title of the Hurst properties to the Receiver, that these properties be listed for sale by Sutton Group Realty and sold, subject to court approval, with the proceeds of sale being held in the Receiver's interest bearing bank account;

36. **THIS COURT ORDERS** that the Receiver deal directly with the Real Estate Council of Ontario on behalf of all of the victims for the benefit of the estate who have submitted claims;

37. **THIS COURT ORDERS** that the Receiver or Receiver's counsel may examine Adam Cox and compel production of documents relevant to the real estate deposit scheme;

38. **THIS COURT ORDERS** that leave is granted to the Receiver to assert challenges to the validity, quantum and priority of the mortgages held by Ajay Pahwa as described in Schedule "D" to this Order (the "Pahwa Mortgages"). The exercise of power of sale under Part III of the Mortgages Act or other enforcement upon the Pahwa Mortgages is hereby restrained, pending further order of the Court. The Receiver shall proceed forthwith by commercially reasonable steps to market the properties that are the subject of the Pahwa Mortgages and the Receiver shall seek court approval of any Agreement of Purchase and Sale upon five days' prior written notice to Ajay Pahwa, at which time directions may be given for discharge of the applicable Pahwa Mortgage on closing and vesting in the court approved purchaser, subject to payment of applicable real property taxes, utilities and prior encumbrances, with the amounts that are claimed by Ajay Pahwa pursuant to the Pahwa Mortgages or such amount as directed by the court to be held in a separate interest-bearing Receiver's bank account pending further order of the court. Pending sale of the properties that are the subject of the Pahwa Mortgages, the Receiver shall be responsible for ensuring that real estate taxes and fire insurance coverage are maintained in good standing. The Receiver's charge as described in paragraph 27 hereof upon the Simpson assets shall not rank in priority to the Pahwa Mortgages, but shall be subordinate to the amounts claimed by Ajay Pahwa pursuant to the Pahwa Mortgages or such amounts as directed by the court, pending final determination of the validity, quantum and priority of the Pahwa Mortgages;

39. **THIS COURT ORDERS** that 6072 Main Street, Stouffville may be sold pursuant to the terms of the Agreement of Purchase and Sale dated January 10, 2006 and that the amount of \$336,080 less the amount paid pursuant to paragraph 41 herein is to be held in a separate interest bearing bank account pending further order of the Court further to paragraph 37 of the Second Amended and Restated Order of Justice Farley dated December 23, 2005.

40. **THIS COURT ORDERS** that the terms of the Agreement of Purchase and Sale originally dated January 10, 2006 for the 6072 Main Street Property may be amended to show the purchasers as Maria Januszewski and Michael Januszewski, to reflect a new purchase price of \$695,000 and to reflect a new closing date of May 31, 2006;

41. **THIS COURT ORDERS** that Lot 14 Stouffer Street may be sold for \$176,000 pursuant to the terms of the Agreement of Purchase and Sale dated January 31, 2006 and the net proceeds from such sale, after real estate commission, closing adjustments and legal fees of sale shall be held in a separate interest bearing bank account, pending further order of the Court further to paragraphs 38, 39 and 40 hereof, so that the aggregate of money so held in respect of the Pahwa Mortgage shall be \$336,080 pending further order of the Court;

✓ until April 6/06 or further order  
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42. **THIS COURT ORDERS** that RBC Dominion Securities be ordered to freeze the Dianor A Resources share certificates that were transferred from Simpson to Vern Zapfi and Michael Sourlis and to produce to the Receiver immediately all documents and particulars relating to the

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transfer of shares;

*The Receiver will immediately produce all these documents to Zapfi + Sourlis. A motion is scheduled for April 6/06 (90 min) to determine if the freeze order should continue. The onus of showing it should be is on the Receiver.*

43. **THIS COURT ORDERS** that a bank account be opened in Toronto at a bank selected by the Receiver in Courtney Wallis Simpson's name, which account may accept deposits from Simpson but from which funds can be accessed only by the Receiver through Bennett Jones LLP;


44. **THIS COURT ORDERS** that all proceedings as against Simpson, York Realty, Wallis Simpson & Associates and York Management Group be stayed and that any and all consents to judgment endorsed by Simpson in her personal capacity or as director of York Realty or York Management Group, be deemed ineffective;

45. **THIS COURT ORDERS** that the bankruptcy proceedings commenced in the Ontario Superior Court of Justice as Bankruptcy Court File No. 31-OR-207325-T by Four Seasons Drywall Systems & Acoustics Limited and the bankruptcy proceeding commenced as Bankruptcy Court File No. 31-OR-207326-T, be stayed and that the related Receiving Orders naming Courtney Wallis Simpson and York Management Group dated December 30, 2005 be stayed;



46. **THIS COURT ORDERS** that the posting of information on the Receiver's website be approved;
47. **THIS COURT ORDERS** that the claim form as filed with the court be approved;
48. **THIS COURT ORDERS** that the Statutory Declaration form may be posted on website and distributed to potential claimants;
49. **THIS COURT ORDERS** that, unless otherwise provided herein or by this Court, no document, order or other material need be served on any person in respect of these proceedings unless such person has served a Notice of Appearance on the solicitors for the Receiver and has filed such notice with this Court.
50. **THIS COURT ORDERS** that neither the making of this order nor anything in this order shall deem the Receiver to be an owner of any of the Property for any purpose and that neither the making of this order nor anything in this order shall vest in the Receiver the care, ownership, control, charge, occupation, possession or management or require or obligate the Receiver to occupy or to take control, care, charge, occupation, possession or management of any of the Property which may be environmentally contaminated, or a pollutant or a contaminant, or cause or contribute to spill, discharge, release or deposit of a substance contrary to any to occupy or to take control, care, charge, occupation, possession or management of any of the Property which may be environmentally contaminated, or a pollutant or a contaminant, or cause or contribute to spill, discharge, release or deposit of a substance contrary to any legislation enacted for the protection or preservation of the environment including, without limitation, the *Canadian Environmental Protection Act*, the *Transportation of Dangerous Goods Act (Canada)*, the *Environmental Protection Act (Ontario)*, the *Emergency Plans Act 1963 (Ontario)*; the *Ontario Water Resources Act*, the *Occupational Health and Safety Act (Ontario)* or the regulations hereunder, or any federal or provincial legislation, or rule of law or equity in any jurisdiction affecting the environment, the transportation of goods, or hazardous waste (collectively, "Environmental Laws"). The Receiver shall not be deemed as a result of this order to be in control, charge, occupation, possession or management of any of the Property within the meaning of any Environmental Laws.

51. **THIS COURT SEEKS AND REQUESTS** the aid and recognition of any court or any judicial, regulatory, or administrative body in any province of Canada and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada and any court or any judicial, regulatory or administrative body of any other nations and states and the provinces, states or other subdivisions of such nations and states to act in aid of and to be complementary to this Court in carrying out the terms of this order.

  
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**Schedule "A"**

1. Wayne Simpson  
587 Cam Fella Boulevard  
Stouffville, Ontario  
L4A 7H3
2. York Management Group  
587 Cam Fella Boulevard  
Stouffville, Ontario  
L4A 7G9
3. Royal Bank of Canada  
Transit No. 02982  
47 Main Street  
Markham, Ontario
4. Royal Bank of Canada  
Davis and Highway 404 Branch  
Toronto, Ontario
5. Canadian Imperial Bank of Commerce  
Transit No. 01642  
4360 Highway 7  
Unionville, Ontario
6. Bank of Montreal  
Town Square Branch  
Richmond Hill, Ontario
7. TD Canada Trust  
Town Square Branch  
Richmond Hill, Ontario
8. TD Canada Trust  
Davis and Highway 404 Branch  
Toronto, Ontario
9. Bank of Nova Scotia  
Davis and Highway 404 Branch  
Toronto, Ontario
10. HSBC  
Richmond Hill
11. Laurentian Bank  
Newmarket, Ontario

**Schedule "B"**

1. 587 Cam Fella Boulevard  
Stouffville, Ontario  
L4A 7H3

Legal Description:

PCL 19-1 SEC 65 M2296: LT 19 PL 65R2296: Whitchurch-Stouffville

2. PIN 03715-0004  
Whitechurch, Ontario

Legal Description:

PT LT 30 PL 54 Stouffville; PT LT 31 PL54 Stouffville, PT LT 40 PL 54 Stouffville; PT  
LT 41 PL 54 Stouffville PTS 1, 7 65R2555; S/T R221467, R221469

3. 1038 Kawagama Lake Road  
Dorset, Ontario

Legal Description:

Con 13 PT LOT 1 RP19R3154, Parts 1, 6, 7  
Dorset, Algonquin Highlands Township

4. PIN 03710-0193/0194  
Stouffville, Ontario

Legal Description:

PT LTS 49 & 50  
PL 70 Stouffville PT 2 65R256J4 Whitchurch-Stouffville

**Schedule "C"**

1. Royal Bank of Canada  
Transit No. 02982  
47 Main Street  
Markham, Ontario
2. Royal Bank of Canada  
Davis and Highway 404 Branch  
Toronto, Ontario
3. Canadian Imperial Bank of Commerce  
Transit No. 01642  
4360 Highway 7  
Unionville, Ontario
4. Bank of Montreal  
Town Square Branch  
Richmond Hill, Ontario
5. TD Canada Trust  
Town Square Branch  
Richmond Hill, Ontario
6. TD Canada Trust  
Davis and Highway 404 Branch  
Toronto, Ontario
7. Bank of Nova Scotia  
Davis and Highway 404 Branch  
Toronto, Ontario
8. HSBC  
Richmond Hill
9. Laurentian Bank  
Newmarket, Ontario

**Schedule "D"****Mortgages Held By Mr. Ajay Pahwa**

1. \$210,000 mortgage registered on February 10, 2005 on:  
PIN 03710-0193/0194, PT LTS 49 & 50, PL 70 Stouffville PT 2  
65R256J4 (the Stouffer Street Property);
2. \$220,000 mortgage registered on March 9, 2005 on:  
1038 Kawagama Lake Road, Dorset, ON, Con 13, PT LT 1  
RP19R3154, Parts 1, 6, 7 (the Kawagama Property); and
3. \$220,000 mortgage registered on March 8, 2005 and a Notice of  
Agreement Amending the Charge registered on June 28, 2005 increasing  
the principal amount to \$440,000:  
  
PIN 03715-0004, PT LT 30 PL 54 Stouffville; PT LT 31 PL 54  
Stouffville; PT LT 40 PL 54 Stouffville; PT LT 41 PL 54  
Stouffville PTS 1, 7 65R2555; S/T/ R221467, R221469 (the  
6072 Main Street Property).

**Udayan Pandya**  
Plaintiff

v.

**Courtney Wallis Simpson et al.**  
Defendants

Court File No.: 05-CL-6159

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
(Commercial List)

In the matter of the *Class Proceedings*  
*Act, 1992*

Proceeding commenced at Toronto

**FOURTH AMENDED AND**  
**RESTATED INITIAL ORDER**

**BENNETT JONES LLP**  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, Ontario  
M5X 1A4

Lincoln Caylor / Emily Atkinson  
Tel: (416) 777-6121 / 5740  
Fax: (416) 863-1716  
LSUC Reg. No. 37030L/50682L

Solicitors for the plaintiff

**TAB D**



00 072

POLAK, MCKAY & HAWKSHAW

Barristers & Solicitors  
467 Westney Road South  
Unit 16  
Ajax, Ontario  
L1S 6V8

Tel: 905-683-6880  
Fax: 905-428-2063

THIS IS EXHIBIT   D   ATTAC

TO THE AFFIDAVIT OF  
M. Joanne MacMillan

SWORN April 9, 2006

*(Ed Jensen)*

Emily Atkinson  
A COMMISSIONER

**FAX TRANSMISSION**

**DESTINATION:** Bennett Jones LLP  
Barristers and Solicitors  
One First Canadian Place  
Suite 3400, P.O. Box 1  
Toronto, Ontario  
M5X 1A4

Attention: Scott Martin

**SUBJECT:** Caputo purchase from Quilling  
Lot 14, Stouffer Street, Stouffville  
Closing Date: April 3, 2006  
Our File No.: 06-R-098

**SENT BY:** Ronald J. Hawkshaw

**DATE:** March 31, 2006

**FAX NUMBER:** 416-863-1716

**NO. OF PAGES:** 1

**MATERIAL SENT:** Our client has agreed to a two week extension with all other terms and conditions to remain the same and time to remain of the essence.

IN CASE OF INCOMPLETE TRANSMISSION, PLEASE CONTACT OUR OFFICE

The documentation transmitted in this telecopy may contain confidential or privileged information. It is intended for the exclusive use of the person to whom it is addressed and may not otherwise be read, distributed, copied or disclosed. If you have received this telecopy in error, please notify our office immediately and return the original transmission to us. Thank you for your co-operation.

**TAB E**



# Agreement of Purchase and Sale



BUYER, The Januszewski Family Trust (Full legal names of all Buyers) agrees to purchase from

SELLER, Michael J. Quilling, Receiver For Courtney Simpson (Full legal names of all Sellers), the following

**REAL PROPERTY:**  
Address 6072 Main Street fronting on the North side of Main Street  
in the Town of Stouffville  
and having a frontage of 27.78 Feet more or less by a depth of 104.94 Feet more or less and legally  
described as P1 S4 1/4 31 Pt 30, 40, 41 Pts 1+7, 65R-2555 (the "property").

**PURCHASE PRICE:** Seven hundred & thirteen thousand Dollars (\$ 713,000)  
**DEPOSIT:** Buyer submits (Upon Acceptance) Fifty Thousand Dollars (CAD\$) 50,000.00

by negotiable cheque payable to Sutton Group Town & Country Realty to be held in trust without interest pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. Buyer agrees to pay the balance as more particularly set out in Schedule A attached.

**SCHEDULE(S)** A attached hereto form(s) part of this Agreement.

- CHATTELS INCLUDED:** ALL ELECTRIC LIGHT FIXTURES, WINDOW COVERINGS, WATER SOFTNER, WOODBURNING FIREPLACE, GARDEN SHED
- FIXTURES EXCLUDED:**
- RENTAL ITEMS:** The following equipment is rented and not included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable: Hot Water Tank (if rental); Security System to be assumed (rental)
- IRREVOCABILITY:** This Offer shall be irrevocable by Buyer until 8:00 p.m. on the 10th day of January, 2006, after which time, if not accepted, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.
- COMPLETION DATE:** This Agreement shall be completed by no later than 6:00 p.m. on the 31st day of March, 2006. Upon completion, vacant possession of the property shall be given to the Buyer unless otherwise provided for in this Agreement.
- NOTICES:** Seller hereby appoints the Listing Broker as Agent for the purpose of giving and receiving notices pursuant to this Agreement. Only if the Co-operating Broker represents the interests of the Buyer in this transaction, the Buyer hereby appoints the Co-operating Broker as Agent for the purpose of giving and receiving notices pursuant to this Agreement. Any notice relating hereto or provided for herein shall be in writing. This offer, any counter offer, notice of acceptance thereof, or any notice shall be deemed given and received, when hand delivered to the address for service provided in the Acknowledgment below, or where a facsimile number is provided herein, when transmitted electronically to that facsimile number. Fax No. (905) 640-0889 For delivery of notice to Seller Fax No. (905) 947-8070 For delivery of notice to Buyer
- GST:** If this transaction is subject to Goods and Services Tax (G.S.T.), then such tax shall be included in the Purchase Price. If this transaction is not subject to G.S.T., Seller agrees to certify on or before closing, that the transaction is not subject to G.S.T.
- TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the 15th day of March, 2006, (Requisition Date) to examine the title to the property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy himself that there are no outstanding work orders or deficiency notices affecting the property, that its present use (Single Family Residence) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders affecting the property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.
- FUTURE USE:** Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.

INITIALS OF BUYER(S): INITIALS OF SELLER(S):

This is Exhibit E referred to in the affidavit of M. Joanne MacMillan sworn before me, this 5th day of April, 2006

A COMMISSIONER FOR TAKING AFFIDAVITS  
Emily Atkinson



### Schedule A Agreement of Purchase and Sale

Toronto  
Real Estate  
Board

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

**BUYER,** The Januszewski Family Trust ..... , and  
**SELLER,** Michael J. Quilling, Receiver For Courtney Simpson.....  
for the purchase and sale of 6072 Main Street in the Town of Stouffville.....

The Buyer agrees to pay the balance of the purchase price, subject to adjustments, by bank draft or certified cheque, to the Seller on the completion of this transaction.

This Offer is conditional upon the approval of the terms hereof by the Seller's Solicitor. Unless the Seller gives notice in writing delivered to the Buyer or to the Buyer's address as hereinafter indicated within nine (9) banking days that this condition is fulfilled, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. This condition is included for the benefit of Seller and may be waived at the Seller's sole option by notice in writing to the Buyer within the time period stated herein.

This Offer is Conditional upon the Buyer arranging at his expense, satisfactory financing on or before 5 P.M. on Friday January 13, 2006, failing which this Offer shall be null and void and the deposit shall be returned to the Buyer in full without interest or deduction. The Seller agrees to cooperate in providing access to the structure for the purposes of appraisal. This condition is included for the benefit of the Buyer and may be waived at his sole option within the time period stated herein.

This Offer is conditional until 5:00pm on or before January 13, 2006 upon which the Buyer will obtain at his own expense, an inspection of the subject property by a Qualified Home Building Inspector. In the event such inspection reveals major structural, mechanical, electrical or plumbing deficiencies in the subject property which the Buyer is unwilling to accept or remedy and which the Seller is unable or unwilling to remedy, then this Offer shall become null and void and the deposit shall be returned to the Buyer in full without interest or deduction. The Seller agrees to cooperate in providing access to the structure for the purpose of the inspection. This condition is included for the benefit of the Buyer and may be waived at his sole option within the time period stated herein.

The Seller agrees to provide, at the Seller's own expense, an existing survey of said property within two (2) days of acceptance of this Offer.

The Seller represents and warrants that the chattels and fixtures as included in this Agreement of Purchase and Sale will be in good working order and free from all liens and encumbrances on completion. The Parties agree that this representation and warranty shall survive and not merge on completion of this transaction, but apply only to the state of the property at completion of this transaction.

The Buyer shall have the right to revisit the property two (2) further times prior to completion, at a mutually agreed upon time, provided that written notice is given to the Seller. The Seller agrees to provide access to the property for the purpose of this inspection.

The Purchaser shall have the right to change the name on title on or before closing date.

Continued on next page...

This page must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

Page 1

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Form 100A  
easyOFFER by Regency Systems Corp.  
www.Regency.ca 327068



### Schedule A Agreement of Purchase and Sale



This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

**BUYER**, The Januszewski Family Trust....., and

**SELLER**, Michael J. Quilling, Receiver For Courtney Simpson.....

for the purchase and sale of 6072 Main Street in the Town of Stouffville.....

Continued from previous page:

All furniture to be included in this agreement:

13 Chairs, 3 Desks, 1 Boardroom table, Projector Screen, Copy Machine, Telephone Systems and all telephones.

*All furniture, all E.F. & chattels as seen on property*

• This Agreement is subject to Court approval which Seller will promptly seek. *MJ*

• Buyer will be given a \$1,000.00 credit for the telephone system and two shelves (one cardboard shelf in the front office and one metal shelf in the back office which have previously been sold to third parties). *MJ*

This page must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

*[Handwritten initials]*

INITIALS OF SELLER(S):

Page 2  
*[Handwritten initials]*

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RE/MAX Classic Properties Inc.

Form 100A 01/2006  
easyOFFER by Reagency Systems Corp. 327068  
www.Reagency.ca

26. **SUCCESSORS AND ASSIGNS:** The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein.

DATED at Middle, this 9 day of January, 2006

SIGNED, SEALED AND DELIVERED in the presence of, IN WITNESS whereof I have hereunto set my hand and seal:

[Signature] (Witness) [Signature] (Buyer) DATE January 9th

I, the Undersigned Seller, agree to the above Offer. I hereby irrevocably instruct my lawyer to pay directly to the Listing Broker the unpaid balance of the commission together with applicable Goods and Services Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the Listing Broker to my lawyer.

DATED at Dallas TX, this 10th day of JANUARY

SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

[Signature] (Witness) [Signature] (Seller) DATE 1/10/06

**SPOUSAL CONSENT:** The Undersigned Spouse of the Seller hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O. 1990, and hereby agrees with the Buyer that he/she will execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

..... (Spouse) DATE .....

**CONFIRMATION OF EXECUTION:** Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally executed by all parties at ..... a.m./p.m. this ..... day of ..... (Signature of Seller or Buyer)

**REPRESENTATION**

Listing Broker, Sutton Group Town & Country Realty Phone (905) 640-0888 Fax (905) 640-0889 Represents Seller  
Co-operating/Buyer Broker, RE/MAX Classic Properties Inc. Phone (905) 947-9300 Fax (905) 947-8070 Represents Buyer

**ACKNOWLEDGEMENT**

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Agent to forward a copy to my lawyer. DATE ..... (Seller)  
I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Agent to forward a copy to my lawyer. DATE ..... (Buyer)  
Address for Service: Ajax, Ontario Phone .....  
Seller's Lawyer: .....  
Address .....  
Phone ..... Fax .....

**FOR OFFICE USE ONLY**  
**COMMISSION TRUST AGREEMENT**  
To: Co-operating Broker shown on the foregoing Agreement of Purchase and Sale.  
In consideration for the Co-operating Broker procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS Rules and shall be subject to and governed by the MLS Rules pertaining to Commission Trust.  
DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale. Acknowledged by [Signature]  
Signature of Co-operating Broker or authorized representative

10. **TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with; or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (d) any easements for any minor easements for the supply of domestic utility or telephone services to the property or adjacent properties; and (e) any easements for any minor easements for sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the present use of the property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency in notice, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire in favour of the Buyer and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire in favour of the Buyer and any mortgages, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement not withstanding or any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Broker and Co-operating Broker shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.
11. **CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the Property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust for the Buyer and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.
12. **DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any sketch or survey of the property within Seller's control to the Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust And Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on file within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.
13. **INSPECTION:** Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this Offer there shall be a binding agreement of purchase and sale between Buyer and Seller. The Buyer acknowledges having the opportunity to include a requirement for a property inspection report in this Agreement and agrees that except as may be specifically provided for in this Agreement, the Buyer will not be obtaining a property inspection or property inspection report regarding the property.
14. **INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.
15. **PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
16. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50(22) of the Planning Act, R.S.O. 1990.
17. **RESIDENCY:** Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.
18. **ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetred public or private utility charges and unmetred cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Buyer.
19. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
20. **TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money may be tendered by bank draft or cheque certified by a Chartered Bank, Trust Company, Province of Ontario Savings Office, Credit Union or Caisse Populaire.
21. **FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O. 1990 unless Seller's spouse has executed the consent hereinafter provided.
22. **UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the property, Seller has not caused any building on the property to be insulated with insulation containing ureaformaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.
23. **CONSUMER REPORTS:** The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.
24. **AGENCY:** It is understood that the brokers involved in the transaction represent the parties as set out in the Representation section below.
25. **AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement including any Schedules attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purposes of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):







**TAB F**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE MR.  
JUSTICE CUMMING

)  
)  
)

FRIDAY, THE 20<sup>th</sup> DAY OF

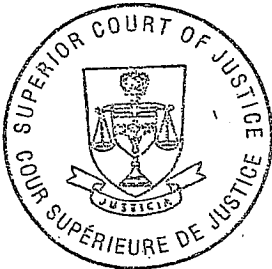
JANUARY, 2006

This is Exhibit P referred to in the  
affidavit of M. Joanne MacMillan  
sworn before me, this 5<sup>th</sup>  
day of April 2006.

BETWEEN:

UDAYAN PANDYA

*U. Atkinson*  
A COMMISSIONER FOR TAKING AFFIDAVITS  
Emily Atkinson



- and -

COURTNEY WALLIS SIMPSON, YORK REGION  
REALTY INC., WALLIS SIMPSON & ASSOCIATES,  
COURTNEY WALLIS SIMPSON c.o.b. as YORK MANAGEMENT GROUP  
AND CAMEO INVESTMENTS

Defendants

In the Matter of the *Class Proceedings Act, 1992*

**THIRD AMENDED AND RESTATED INITIAL ORDER**

**THIS MOTION** made by the plaintiff for an order appointing a receiver of Courtney Wallis Simpson ("Simpson") personally and for York Region Realty Inc. ("York Reality") pursuant to s. 101 of the *Courts of Justice Act* with investigatory and preservation powers was heard by the court this day at 393 University Avenue, Toronto.

**UPON READING** the Third Report of the Receiver dated January 13, 2006 and on hearing the submissions of counsel for the Receiver,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today and dispenses with further service thereof.
2. **THIS COURT ORDERS** that Michael J. Quilling be appointed a receiver (the "Receiver") over the assets of Simpson, York Realty, and Courtney Wallis Simpson c.o.b. as York Management Group, York Group and Camco Developments and ~~York Realty~~ (the "Defendants") pursuant to s. 101 of the *Courts of Justice Act* with the powers and duties hereinafter set out.
3. **THIS COURT ORDERS** that the defendants be given leave on three days notice to the plaintiff and the Receiver to bring any motion they might see fit to vary this order.
4. **THIS COURT ORDERS** that Bennett Jones LLP be appointed as counsel to the Receiver, that the Receiver shall, in its discretion be entitled to share information received by it with the plaintiff but that the information obtained under this order shall not, without further direction and order, of this Court, be used in any criminal proceedings.
5. **THIS COURT ORDERS** that the Receiver shall have the power to engage consultants, agents, employees, experts, auditors, accountants, managers, solicitors and counsel and such other assistants from time to time and on whatever basis, including on a temporary basis, as it may consider an the business of any of the defendants or generally exercising the powers and duties conferred by this Order.
6. **THIS COURT ORDERS** that the Receiver may apply to this Court for advice and directions relating to the proper exercise of its powers hereunder, or for any variations to this Order.

#### **Preservation of Assets**

7. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized for and on behalf of and in the name of any of the Defendants to take possession and control of all of the present and future assets, undertaking and property of the Defendants

and any funds, proceeds or other assets directly or indirectly related to the funds allegedly raised by the Defendants as alleged in the statement of claim (the "Property") and any and all proceeds, receipts and disbursements arising out of or from the Property, until further order of this Court, and to act at once in respect of the Property. Without in any way limiting the generality of the foregoing and in furtherance thereof, the Receiver is hereby expressly empowered and authorized on the Receiver's behalf, but not obligated:

- (a) to take such steps as in the opinion of the Receiver are necessary or appropriate to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable, provided that the Receiver shall not evict or dispossess any occupant of any residential dwelling without further order of this Court made on notice to such occupant;
- (b) to take such steps as in the opinion of the Receiver are necessary or appropriate to maintain control over all receipts and disbursements arising out of or from the Property;
- (c) to receive and collect all monies, debts, claims, choses in action and accounts now owed or hereafter owing to any of the Defendants in respect of the Property and to exercise all remedies of any of the Defendants in collecting all such monies, including, without limitation, to enforce any security held by any of the defendants and to receive and recover all funds, monies, cash, cash equivalents, negotiable securities, accounts and any other assets on deposits to banks, brokerages and other financial or other institutions;
- (d) to join in and execute, assign, issue and endorse such transfers, conveyances, contracts, leases, deeds, bills of sale, cheques, bills of lading or exchange, or other documents of whatever nature in respect of any of

the Property, in the name and on behalf of any of the Defendants, which are necessary, desirable or convenient in, the opinion of the Receiver for any purpose pursuant to this Order;

- (e) to initiate, prosecute and continue the prosecution of any and all proceedings as may in its judgment be necessary or desirable to properly protect or realize upon the Property and to defend all proceedings now pending or hereafter instituted against any of the Defendants or the Receiver, the prosecution of or defence of which will, in the judgment of the Receiver, be necessary to properly protect or realize on the Property or to protect the administration by the Receiver of the affairs of any of the defendants and the Property, and to settle or compromise any such proceedings which in the judgment of the Receiver should be settled;
- (f) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part thereof and negotiate such terms and conditions of sale as the Receiver in its discretion may deem appropriate, provided that any such sale or disposition of Property shall, if the Defendants do not consent to the same, be subject to the Court's approval;
- (g) to report to, meet with and discuss with such creditors of the Defendants and their advisors, including the Mortgage Fraud Scheme victims who are class members in court file no. 05-CL-6178, as the Receiver deems appropriate including holding town hall or other meetings on all matters relating to the Property and receivership; and
- (h) to register this order in any public registry against title to any of the Property. Without limiting the generality of the foregoing this court orders that this order be registered against the real property and other assets described at Schedules "B" and "C" hereto.

8. **THIS COURT ORDERS** that no person having notice of this order shall interfere with, obstruct or in any way hinder the Receiver in the fulfillment or pursuit of its duties hereunder and that all such persons are under an obligation to deliver up to the Receiver any Property or other thing to which the Receiver is entitled to under this order. In the event that any person contests that any asset, document or thing is Property under this order or is document or record properly producible to the Receiver then that person shall first deliver up the asset in question to the Receiver or to such third party as the Receiver in its discretion may agree for safekeeping and the person contesting the Receiver's right may thereafter, if so advised, bring an application to this Court for directions.

9. **THIS COURT ORDERS** that the Receiver may receive information from persons as to the details of their deposit of trust funds investments with Simpson and the other Defendant but that the Receiver shall not be under any obligation to call for claims, validate claims or make recommendations with respect the disbursement of funds to investors without further order of this Court.

10. **THIS COURT ORDERS** that no demands, actions, motions, steps, registrations, perfections, administrative proceedings, self-help remedies, or any other acts, proceedings or private remedies whatsoever in respect of the Property, including without limitation, the enforcement of security, liens or collection of any debt or liability, the exercise of any debt or liability, the exercise of any landlord's right to distrain or terminate any lease, the acceleration, amendment or termination of any contract, including any contract of insurance, the exercise of any right of set-off or combination of accounts, the exercise of any construction, mechanics' repair, storage or other lien, or the commencement or continuation of any proceedings under any Environmental Laws (as hereinafter defined) in any jurisdiction in which the Property may be located, shall be taken against the Receiver, with respect to the Property or any part thereof, without the prior written consent of the Receiver or leave of this Court first being obtained upon not less than seven days' notice to the Receiver.

11. **THIS COURT ORDERS** that the Defendants and anyone having knowledge of this order be and they are hereby restrained, pending consent of all parties or further order of this Court:

- (a) from removing from Ontario or in any way disposing, dealing with or diminishing the value of any of the Defendants' property, whether real or personal, present or future, held in Ontario or elsewhere, whether held in the Defendants' names or not, pending the final determination of this action or further order of this Court;
- (b) from withdrawing or causing or permitting the withdrawal of or transferring of funds or issuing of cheques or other instruments from any of the defendants' bank accounts or investment accounts of any nature whatsoever, whether held individually or jointly with any other person, pending the final determination of this action or further order of this Honourable Court, provided that the defendants shall have leave to seek variation of this order in order to permit the withdrawal of a reasonable amount as ordinary living expenses provided that if any such order is sought the Defendants must have fully complied with this order in all respects including the provision to the Receiver of the information required to be provided to the Receiver.

**Documents and Investigations**

12. **THIS COURT ORDERS** that the Receiver shall forthwith be entitled to take possession of and examine the Defendants' books and records and make such inquiries as it deems prudent and necessary of the Defendants' bankers, accountants, auditors, advisors, managers, experts, solicitors, agents, officers, employees and others in order to determine the financial status of the Defendants, and shall conduct a review and, if necessary, a detailed examination of the financial records of the Defendants.

13. **THIS COURT ORDERS** that the Receiver shall report to this Court at such times and in such fashion as this Court may direct.

14. **THIS COURT ORDERS** that the Defendants and their accountants, auditors, advisors, agents, managers, experts, solicitors, agents, officers and employees, including, without limitation, any accountants, bankers or financial, legal, advisors and the persons set out in Schedule "A", (the "Affected Persons") shall forthwith provide to the Receiver all of the books and records relating to the Defendants' financial history and dealings, including, without limitation, all ledgers, bank statements and records, cheques, financial statements, receipts, vouchers, deposit slips, contracts, agreements, accounting records, computer records (including but not limited to tapes and/or discs) or other documents or records of any kind or nature, howsoever stored or maintained, relating to the Defendants (the "Documents"). Provision of the Documents to the Receiver shall not breach any confidentiality or other non-disclosure obligations the Affected Persons might otherwise have to the Defendants and it shall be deemed that the Defendants shall have consented to the release of the Documents. The Receiver shall allow the Defendants and their advisors reasonable access to and the ability to make copies of any and all such books and records in the possession of the Receiver. The defendants shall allow the Receiver to make, retain and take away copies of any or all of the Documents and shall forthwith grant to the Receiver access to and use of accounting, computer, software and physical facilities relating thereto promptly at the request of the Receiver.

15. **THIS COURT ORDERS** that if any of the Documents is stored or otherwise contained on a computer or other electronic system of information storage, the Defendants and all Affected Persons shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to obtain a full copy of the Documents, whether by way of printing same onto paper or making copies of computer discs or such other manner of retrieving and copying same as the Receiver in its discretion deems expedient. For the purposes of this paragraph, the defendants and the Affected Persons shall provide the Receiver with all such assistance in gaining access to the Documents as the Receiver may in its discretion require, including, without limiting the generality of the foregoing, forthwith providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, passwords or other codes as may be required to gain access to the Documents.



16. **THIS COURT ORDERS** that Internet service providers or persons, corporations or individuals who provide e-mail, World Wide Web, file transfer protocol or other Internet connection services to the defendants and/or its present and former directors, officers, employees and agents to access the Internet or World Wide Web e-mail or other similar services, deliver to the Receiver, documents, server files, archive files or any other information in any form in any way recording messages, emails or other information sent or received by the Defendants and/or its present and former directors, officers, employees and agents in the course of their association and in conducting their duties related to the operations and affairs of the defendants.

17. **THIS COURT ORDERS** that the Receiver shall have ongoing access to the Defendants' current and future bank account statements and other financial records, copies of which shall be provided to the Receiver as and when demanded by the Receiver. The Defendants and the third parties shall co-operate and consent to the distribution of such records to the Receiver.

18. **THIS COURT ORDERS** that the Receiver is empowered to demand production from third parties (including but not limited to the Defendants' advisors, banks, financial institutions and the persons set out in Schedule "A") of documents relating to:

- (a) the Defendants' financial affairs;
- (b) the deposit of funds received in connection with the sale of commercial real estate;
- (c) the identities of the persons who have provided deposit funds to Simpson and the other defendants;
- (d) the bank accounts or other financial records referable to the accounts into which such funds were deposited including documents referable to any withdrawal, transfer or dissipation of funds in such accounts; and
- (e) commissions, fees, expenses or other amounts paid to any persons in connection with the sale of such securities and any agreements,

arrangements or any other communication with respect to the payment of such amounts;

- (f) and further directs that all such third parties (including all Affected Persons) shall co-operate fully with the Receiver, subject to claims of legal privilege.

19. **THIS COURT ORDERS** that the Receiver is empowered to compel the attendance, on two clear days written notice by letter from the Receiver or its counsel, of persons believed by the Receiver to have knowledge of the Defendants' affairs for the purpose of being examined under oath by the Receiver or by such person as to whom the Receiver has or may delegate this power. In particular, and without limiting the general nature of the power conveyed by this paragraph, the Receiver is empowered for the purposes of performing its duties hereunder to examine under oath the persons named in Schedule "A" to this order and any persons who may have received transfers of assets or funds from the defendants, provided that nothing herein shall apply, without further order of this Court, to compel any person who has been actually charged with a criminal offence to so testify and that any persons who so testify shall have the right to invoke the protections of the *Canada Evidence Act* and the *Canadian Charter of Rights and Freedoms*. If the persons to be examined have a personal residence or regular place of business within 60 kilometres of an office of Bennett Jones LLP (Toronto, Edmonton or Calgary) such examination shall take place at such office failing which it shall take place at any place where an examination of discovery may take place under the *Rules of Civil Procedure* in the province where the examination is conducted.

20. **THIS COURT ORDERS** that Simpson shall provide to the Receiver within 7 days of service of this order an affidavit under oath specifying her knowledge on the following matters:

- (a) specifics of all corporations, partnerships, or other entities in which she has a direct or indirect interest with particulars of the nature of such interest;

- (b) specifics of all bank, brokerage or other accounts, wherever situate, in her name, the name of York Region Realty Inc., the name of any of the entities in (a) hereof or over which she has any signing authority or any other direct or indirect control;
- (c) specifics of all bank, brokerage or other accounts, where funds were deposited, all accounts to which such funds may have been transferred and the present whereabouts of such funds;
- (d) whether any assets were purchased or acquired in whole or in part with such funds and, if so, the particulars of such assets and their present location with particulars of the assets involved name of the person or entity who holds title to such assets, the date of acquisition, acquisition cost and a current estimate of value; and
- (e) specifics of any disposition of assets (including transfer of funds) in excess of \$10,000 in the last 2 years and that this affidavit shall be deemed to have been provided by compulsion of law and its further use in any other court proceeding be subject to the protections of the *Canada Evidence Act* and the *Canadian Charter of Rights and Freedom*.

21. **THIS COURT ORDERS** that the Receiver is authorised to enter upon the business premises of the persons set out in Schedule "A" (collectively the "Premises") and to examine anything and take away any documents or record found at the premises that the Receiver is authorised hereunder to require to be produced to it.

22. **THIS COURT ORDERS** that the Receiver shall have full power to investigate any gift, transfer, conveyance, settlement or any other disposition (a "Conveyance") of any interest in any assets, funds or any other property by the defendants to third parties (the "Conveyed Property") and to compel the production of information from any person with respect to such Conveyed Property and the circumstances surrounding the Conveyance as if such Conveyed Property was Property under this order and that the

Receiver shall be at liberty to apply to the Court for any appropriate order relating to the preservation of any such Conveyed Property.

#### **Other**

23. **THIS COURT ORDERS** that no proceedings shall be brought against the Receiver in any Court or other tribunal unless leave of this Honourable Court is first obtained on motion on at least seven days notice to the Receiver and the parties.

#### **No Proceedings Against the Debtor or the Property**

24. **THIS COURT ORDERS** that no proceeding against or in respect of the Defendants or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all proceedings currently under way against or in respect of the Defendants or the Property are hereby stayed and suspended pending further Order of this Court, save and except action filed as Court File No. 05-CL-6178.

#### **No Exercise of Rights or Remedies**

25. **THIS COURT ORDERS** that all rights and remedies against the Defendants, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or the Defendants to carry on any business which the Defendants are not lawfully entitled to carry on, (ii) exempt the Receiver or the Defendants from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

26. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the fulfilment of its duties in carrying out the provisions of this order, save and except for any gross negligence or wilful misconduct on its part.

27. **THIS COURT ORDERS** that all the costs of this receivership including without limitation the Receiver's fees and disbursements (including the amounts which the

Receiver is obliged to pay others) and the fees and disbursements incurred by Bennett Jones LLP in carrying out its duties herein shall be a first charge on any assets recovered in the receivership herein, subject to approval of the quantum of costs by the Court. The Receiver shall have the right to apply to the Court for approval and payment of its fees and disbursements on an interim basis provided that 15 days notice shall be given to the defendants of any such application. The Receiver shall also have the power, if so advised, to move to have the receivership terminated and to be discharged as Receiver.

28. **THIS COURT ORDERS** that the plaintiff's costs of this motion shall be a allowed in the same manner as the Receiver's fees and disbursements and shall be paid out by the Receiver as a second charge on any assets recovered in the receivership.

29. **THIS COURT ORDERS** that the Receiver be granted leave to apply to the Court for approval to borrow and to provide whatever security as may be appropriate, if so advised.

30. **THIS COURT ORDERS** that, except as otherwise specified herein, the Receiver is at liberty to serve any notice, form or other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to the defendants or other appropriate parties at their respective addresses or other contact particulars as last indicated in the records of the defendants and that any such service shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three business days after mailing if by ordinary mail.

31. **THIS COURT ORDERS** that the Receiver may serve any court materials in these proceedings (including, without limitation, application records, motion records, facta and orders) on all represented parties electronically, by e-mailing a PDF or other electronic copy of such materials (other than any book of authorities) to counsels' e-mail addresses as recorded on the service list, and posting a copy of the materials to an internet website to be hosted by Quilling Selander Cummiskey Lownds (the "Website") as soon as practicable thereafter, provided that the Receiver shall deliver hard copies of such materials to any party requesting same as soon as practicable thereafter.

32. **THIS COURT ORDERS** that any party in these proceedings may serve any court materials (including, without limitation, application records, motion records, facts and orders) electronically, by emailing a PDF or other electronic copy of all materials (other than any book of authorities) to counsels' e-mail addresses as recorded on the service list; provided that such party shall deliver both PDF or other electronic copies and hard copies of full materials to counsel to the Receiver and to any other party requesting same and the Receiver shall cause a copy to be posted on the Website, all as soon as practicable thereafter.
33. **THIS COURT ORDERS** that the Receiver be permitted to (i) enter into a new listing agreement with John Walley of Sutton Group in Stouffville, (ii) sell Simpson and York Realty's real property assets and contents, and (iii) make it a condition of the new listing agreement that all sales are subject to court approval and to hold all proceeds from the sales in an interest bearing account;
34. **THIS COURT ORDERS** that the Receiver, if so advised, be permitted to bring a lawsuit as against Lia Hurst and seek a certificate of pending litigation in order to regain possession of the properties alleged to be rightfully owned by Simpson and if successful, to sell those properties, the proceeds of which will be deposited into an interest bearing account;
35. **THIS COURT ORDERS** that the Receiver deal directly with the Real Estate Council of Ontario on behalf of all of the victims for the benefit of the estate who have submitted claims;
36. **THIS COURT ORDERS** that the Receiver or Receiver's counsel may examine Adam Cox and compel production of documents relevant to the real estate deposit scheme;
37. **THIS COURT ORDERS** that leave is granted to the Receiver to assert challenges to the validity, quantum and priority of the mortgages held by Ajay Pahwa as described in Schedule "D" to this Order (the "Pahwa Mortgages"). The exercise of power of sale under Part III of the Mortgages Act or other enforcement upon the Pahwa

Mortgages is hereby restrained, pending further order of the Court. The Receiver shall proceed forthwith by commercially reasonable steps to market the properties that are the subject of the Pahwa Mortgages and the Receiver shall seek court approval of any Agreement of Purchase and Sale upon five days' prior written notice to Ajay Pahwa, at which time directions may be given for discharge of the applicable Pahwa Mortgage on closing and vesting in the court approved purchaser, subject to payment of applicable real property taxes, utilities and prior encumbrances, with the amounts that are claimed by Ajay Pahwa pursuant to the Pahwa Mortgages or such amount as directed by the court to be held in a separate interest-bearing Receiver's bank account pending further order of the court. Pending sale of the properties that are the subject of the Pahwa Mortgages, the Receiver shall be responsible for ensuring that real estate taxes and fire insurance coverage are maintained in good standing. The Receiver's charge as described in paragraph 27 hereof upon the Simpson assets shall not rank in priority to the Pahwa Mortgages, but shall be subordinate to the amounts claimed by Ajay Pahwa pursuant to the Pahwa Mortgages or such amounts as directed by the court, pending final determination of the validity, quantum and priority of the Pahwa Mortgages;

38. **THIS COURT ORDERS** that 6072 Main Street, Stouffville may be sold pursuant to the terms of the Agreement of Purchase and Sale dated January 10, 2006 and that the amount of \$336,080 is to be held in a separate interest bearing bank account pending further order of the Court further to paragraph 37 of the Second Amended and Restated Order of Justice Farley dated December 23, 2005.

39. **THIS COURT ORDERS** that a bank account be opened in Toronto at a bank selected by the Receiver in Courtney Wallis Simpson's name, which account may accept deposits from Simpson but from which funds can be accessed only by the Receiver through Bennett Jones LLP;

40. **THIS COURT ORDERS** that all proceedings as against Simpson, York Realty, Wallis Simpson & Associates and York Management Group be stayed and that any and all consents to judgment endorsed by Simpson in her personal capacity or as director of York Realty or York Management Group, be deemed ineffective;

41. **THIS COURT ORDERS** that the bankruptcy proceedings commenced in the Ontario Superior Court of Justice as Bankruptcy Court File No. 31-OR-207325-T by Four Seasons Drywall Systems & Acoustics Limited and the bankruptcy proceeding commenced as Bankruptcy Court File No. 31-OR-207326-T, be stayed and that the related Receiving Orders naming Courtney Wallis Simpson and York Management Group dated December 30, 2005 be stayed;

42. **THIS COURT ORDERS** that the posting of information on the Receiver's website be approved;

43. **THIS COURT ORDERS** that the claim form as filed with the court be approved;

44. **THIS COURT ORDERS** that the Statutory Declaration form may be posted on website and distributed to potential claimants;

45. **THIS COURT ORDERS** that, unless otherwise provided herein or by this Court, no document, order or other material need be served on any person in respect of these proceedings unless such person has served a Notice of Appearance on the solicitors for the Receiver and has filed such notice with this Court.

46. **THIS COURT ORDERS** that neither the making of this order nor anything in this order shall deem the Receiver to be an owner of any of the Property for any purpose and that neither the making of this order nor anything in this order shall vest in the Receiver the care, ownership, control, charge, occupation, possession or management or require or obligate the Receiver to occupy or to take control, care, charge, occupation, possession or management of any of the Property which may be environmentally contaminated, or a pollutant or a contaminant, or cause or contribute to spill, discharge, release or deposit of a substance contrary to any to occupy or to take control, care, charge, occupation, possession or management of any of the Property which may be environmentally contaminated, or a pollutant or a contaminant, or cause or contribute to spill, discharge, release or deposit of a substance contrary to any legislation enacted for the protection or preservation of the environment including, without limitation, the *Canadian Environmental Protection Act*, the *Transportation of Dangerous Goods Act*



(Canada), the *Environmental Protection Act* (Ontario), the *Emergency Plans Act 1963* (Ontario), the *Ontario Water Resources Act*, the *Occupational Health and Safety Act* (Ontario) or the regulations hereunder, or any federal or provincial legislation, or rule of law or equity in any jurisdiction affecting the environment, the transportation of goods, or hazardous waste (collectively, "Environmental Laws"). The Receiver shall not be deemed as a result of this order to be in control, charge, occupation, possession or management of any of the Property within the meaning of any Environmental Laws.

47. **THIS COURT SEEKS AND REQUESTS** the aid and recognition of any court or any judicial, regulatory, or administrative body in any province of Canada and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada and any court or any judicial, regulatory or administrative body of any other nations and states and the provinces, states or other subdivisions of such nations and states to act in aid of and to be complementary to this Court in carrying out the terms of this order.



JOSEPH P VAN TASSEL  
REGISTRAR

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

JAN 20 2006

PER/PAR: 

**Schedule "A"**

1. Wayne Simpson  
587 Cam Fella Boulevard  
Stouffville, Ontario  
L4A 7H3
2. York Management Group  
587 Cam Fella Boulevard  
Stouffville, Ontario  
L4A 7G9
3. Royal Bank of Canada  
Transit No. 02982  
47 Main Street  
Markham, Ontario
4. Royal Bank of Canada  
Davis and Highway 404 Branch  
Toronto, Ontario
5. Canadian Imperial Bank of Commerce  
Transit No. 01642  
4360 Highway 7  
Unionville, Ontario
6. Bank of Montreal  
Town Square Branch  
Richmond Hill, Ontario
7. TD Canada Trust  
Town Square Branch  
Richmond Hill, Ontario
8. TD Canada Trust  
Davis and Highway 404 Branch  
Toronto, Ontario
9. Bank of Nova Scotia  
Davis and Highway 404 Branch  
Toronto, Ontario
10. HSBC  
Richmond Hill
11. Laurentian Bank  
Newmarket, Ontario

**Schedule "B"**

1. 587 Cam Fella Boulevard  
Stouffville, Ontario  
L4A 7H3

## Legal Description:

PCL 19-1 SEC 65 M2296: LT 19 PL 65R2296: Whitchurch-Stouffville

2. PIN 03715-0004  
Whitechurch, Ontario

## Legal Description:

PT LT 30 PL 54 Stouffville; PT LT 31 PL 54 Stouffville, PT LT 40 PL 54 Stouffville; PT  
LT 41 PL 54 Stouffville PTS 1, 7 65R2555; S/T R221467, R221469

3. 1038 Kawagama Lake Road  
Dorset, Ontario

## Legal Description:

Con 13 PT LOT 1 RP19R3154, Parts 1, 6, 7  
Dorset, Algonquin Highlands Township

4. PIN 03710-0193/0194  
Stouffville, Ontario

## Legal Description:

PT LTS 49 & 50  
PL 70 Stouffville PT 2 65R256J4 Whitchurch-Stouffville

## Schedule "C"

1. Royal Bank of Canada  
Transit No. 02982  
47 Main Street  
Markham, Ontario
2. Royal Bank of Canada  
Davis and Highway 404 Branch  
Toronto, Ontario
3. Canadian Imperial Bank of Commerce  
Transit No. 01642  
4360 Highway 7  
Unionville, Ontario
4. Bank of Montreal  
Town Square Branch  
Richmond Hill, Ontario
5. TD Canada Trust  
Town Square Branch  
Richmond Hill, Ontario
6. TD Canada Trust  
Davis and Highway 404 Branch  
Toronto, Ontario
7. Bank of Nova Scotia  
Davis and Highway 404 Branch  
Toronto, Ontario
8. HSBC  
Richmond Hill
9. Laurentian Bank  
Newmarket, Ontario

**Schedule "D"****Mortgages Held By Mr. Ajay Pahwa**

1. \$210,000 mortgage registered on February 10, 2005 on:  
PIN 03715-0004, PT LT 30 PL 54 Stouffville; PT LT 31 PL 54 Stouffville; PT LT 40 PL 54 Stouffville; PT LT 41 PL 54 Stouffville PTS 1, 7 65R2555; S/T/ R221467, R221469 (the 6072 Main Street Property);
  
2. \$220,000 mortgage registered on March 9, 2005 on:  
PIN 03710-0193/0194, PT LTS 49 & 50, PL 70 Stouffville PT 2 65R256J4 (the Stouffer Street Property); and
  
3. \$220,000 mortgage registered on March 8, 2005 and a Notice of Agreement Amending the Charge registered on June 28, 2005 increasing the principal amount to \$440,000:  
1038 Kawagama Lake Road, Dorset, ON, Con 13, PT LT 1 RP19R3154, Parts 1, 6, 7 (the Kawagama Property)

**Udayan Pandya**  
Plaintiff

v.

**Courtney Wallis Simpson et al.**  
Defendants

Court File No.: 05-CL-6159

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
(Commercial List)

In the matter of the *Class Proceedings*  
*Act, 1992*

Proceeding commenced at Toronto

**THIRD AMENDED AND**  
**RESTATED INITIAL ORDER**

**BENNETT JONES LLP**  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, Ontario  
M5X 1A4

M. Joanne MacMillan / Emily Atkinson  
Tel: (416) 777-4629 / 5740  
Fax: (416) 863-1716  
LSUC Reg. No. 43529J/50682L

Solicitors for the plaintiff

**TAB G**

Feb 28 06 11:21a

Received: 02/28/2006 11:21AM \* Pg 2/2  
MAGGIE MACDONALD

905-640-6451

100  
9246

002

01/25/2006 12:54 FAX

JAN-25-2006 13:38 FROM:SUTTON GROUP TOWN & 9056400889

TO:121487121114282 P:2

01/25/2006 11:53 FAX 905 947 8070 RE:MAX CLASSIC  
Jan 25 2006 11:53AM HP LASERJET FAX  
01/26/2006 11:55 FAX 905 947 8070 RE:MAX CLASSIC

002

P: 1  
002/003

This is Exhibit 9 referred to in  
affidavit of M. Jeanne MacMillan

OREA

**Amendment to Agreement of Purchase and Sale**

sworn before me, this 5th

**BETWEEN** The Januszewski Family Trust  
**SOLD BY** Michael L. Quilling, Receiver For Courtney Nimmann

Re: Agreement of Purchase and Sale between the Seller and Buyer, dated the 10th day of January, 2006, day of April, 2006, day of April, 2006.

*[Handwritten Signature]*

A COMMISSIONER FOR TAKING AFFIDAVIT

*[Handwritten Signature]*  
Emily Atkinson

The Buyer and Seller hereby agree to the following amendments to the aforementioned Agreement:  
**DELETE:**

This Offer is Conditional upon the Buyer arranging at his expense, satisfactory financing a further 48 hours after court approval, failing which this Offer shall be null and void and the deposit shall be returned to the Buyer in full without interest or deduction. The Seller agrees to cooperate in providing access to the structure for the purpose of appraisal. This condition is included for the benefit of the Buyer and may be waived at his sole option within the time period stated herein.

This Offer is conditional a further 48 hours after court approval, upon which the Buyer will obtain at his own expense, an inspection of the subject property by a Qualified Home Building Inspector. In the event such inspection reveals major structural, mechanical, electrical or plumbing deficiencies in the subject property which the Buyer is unwilling to accept or remedy and which the Seller is unable or unwilling to remedy, then this Offer shall become null and void and the deposit shall be returned to the Buyer in full without interest or deduction. The Seller agrees to cooperate in providing access to the structure for the purpose of the inspection. This condition is included for the benefit of the Buyer and may be waived at his sole option within the time period stated herein.

**PURCHASE PRICE:** Seven Hundred and Thirteen Thousand Dollars (\$713,000.00).  
**COMPLETION DATE:** This Agreement shall be completed by no later than 6:00 p.m. on the 31st day of March, 2006.

**BUYER:** The Januszewski Family Trust  
**INSERT:**

**PURCHASE PRICE:** Six Hundred and Ninety-Five Thousand dollars (\$695,000.00).  
**COMPLETION DATE:** This Agreement shall be completed by no later than 6:00 p.m. on the 31st day of May, 2006.

**BUYER:** Maria Januszewski and Michael Januszewski

**IRREVOCABILITY:** This Offer to Amend the Agreement shall be irrevocable by Seller until 01/25/2006 upon the day of April, 2006, if not accepted, this Offer to Amend shall be null and void.

**INITIALS OF BUYER(S):** *[Handwritten Initials]* **INITIALS OF SELLER(S):** *[Handwritten Initials]*

RE/MAX Classic Properties Inc.

01/25/2006 WED 11:48 [TX/RX NO 8431] 002

JAN-25-2006 WED 12:50 TEL: 9056400889

NAME: SUTTON GROUP TOWN & COUNTRY P. 2

JAN-25-2006 WED 14:56 TEL: 9056400889

NAME: SUTTON GROUP TOWN & COUNTRY P. 2



**Udayan Pandya**  
Plaintiff

v.

**Courtney Wallis Simpson et al.**  
Defendants

Court File No.: 05-CL-6159

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
(Commercial List)

In the matter of the *Class Proceedings*  
*Act, 1992*

Proceeding commenced at Toronto

**MOTION RECORD**  
(Returnable April 6, 2006)

**BENNETT JONES LLP**  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, Ontario  
M5X 1A4

Lincoln Caylor / Emily Atkinson  
Tel: (416) 777-6121 / 5740  
Fax: (416) 863-1716  
LSUC Reg. No. 37030L/50682L

Solicitors for the plaintiff