

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

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

**FOURTH REPORT OF THE RECEIVER  
(Dated March 3, 2006)**

**Background**

1. This within class action is a claim proceeding in fraud, among other things, and a receivership of the estate of the defendants, Courtney Wallis Simpson, York Region Realty Inc., Wallis Simpson & Associates and Courtney Wallis Simpson carrying on business as York Management Group, Camco Developments and York Group. The plaintiff alleges that Ms. Simpson (a real estate agent) and her companies defrauded him and the class members by obtaining deposits for the purported purchase of commercial properties. Simpson improperly retained the deposits and the real estate transactions were a sham. She purported to "sell" the same two commercial properties in excess of 100 times each. A separate class proceeding alleges

that Ms. Simpson and others defrauded victims through the operation of a ponzi scheme convincing people to "invest" in interim occupancy mortgages that never existed.

2. Since his court appointment as receiver on November 17, 2005, Michael J. Quilling (the "Receiver") with counsel, Bennett Jones LLP, has been engaged in an extensive investigation of the Defendants' assets and the allegations of misconduct with a view to maximizing the recoveries for the members of both classes.

3. To date, the Receiver has sent 41 claim forms to potential claimants and received 20 back. According to the Receiver's records, the actual claims made to date for both classes amount to approximately \$3,737,257. Broken down by class, the real estate deposit victims have claimed approximately \$2,360,578 to date and the mortgage investment victims have claimed approximately \$1,376,678 to date. The Receiver has not assessed the validity of these claims yet. Attached hereto and marked as **Exhibit "A"** is a chart outlining the status of the claims administration process and the total claims made.

4. The Receiver's current estimate of the value of the assets in the estate is between \$1.4 and \$1.8 million. Attached hereto and marked as **Exhibit "B"** is a chart outlining the Defendants' Assets and potential recovery through the receivership.

### **The Receivership**

5. By Order of the Honourable Mr. Justice Ground dated November 17, 2005 (the "Initial Order"), the Receiver was appointed pursuant to section 101 of the *Courts of Justice Act* and rule

41.02 of the *Rules of Civil Procedure*, over the assets of Courtney Wallis Simpson ("Simpson") and York Region Realty Inc. ("York Realty"). A copy of the Initial Order is attached hereto and marked as **Exhibit "C"**.

6. By order of the Honourable Mr. Justice Farley dated December 15, 2005 (the "Procedural Order"), the Receiver's authority was extended over the assets of Courtney Wallis Simpson c.o.b. as York Management Group ("York Management"), the action as against Cameo Investments was dismissed, and subject to the confirmation by the appointed judge in the class proceedings, the action commenced as court file number 05-CL-6178 (the "Mortgage Fraud Class Action") is to be tried together or immediately after this class action. A copy of the Procedural Order is attached hereto and marked as **Exhibit "D"**.

7. Also by order of the Honourable Mr. Justice Farley dated December 15, 2005 (the "First Amended and Restated Initial Order"), all proceedings, rights and remedies in respect of the remaining defendants, the Receiver or the remaining defendants' property were stayed. Further, it was ordered that the Receiver may enter into a new real estate listing agreement, that the Receiver may deal directly with the Real Estate Council of Ontario ("RECO") on behalf of the class members who have submitted claims, that Adam Cox (Simpson's former employee) be examined and that an interest bearing bank account be opened to receive deposits. A copy of the First Amended and Restated Initial Order is attached hereto and marked as **Exhibit "E"**.

8. By order of the Honourable Mr. Justice Farley dated December 23, 2005, (the "Second Amended and Restated Initial Order"), the Receiver was granted the power to challenge the validity, quantum and priority of the mortgages held by Ajay Pahwa (the "Pahwa Mortgages").

The exercise of power of sale or other enforcement upon the Pahwa Mortgages was restrained, pending further order of the Court. It was further ordered that upon court approved sale of the properties, the amounts claimed by Ajay Pahwa ("Pahwa") or such amount as directed by the court are to be held in a separate bank account pending further order of the court. A copy of the Second Amended and Restated Initial Order is attached hereto and marked as **Exhibit "F"**.

9. By order of the Honourable Mr. Justice Cumming dated January 20, 2006 (the "Third Amended and Restated Initial Order"), the Receiver's authority was extended over the assets of Courtney Wallis Simpson c.o.b. as York Group and as Camco Developments. Justice Cumming approved the sale of the property located at 6072 Main Street, Stouffville with an amount of \$336,080, as claimed by Ajay Pahwa, to be held in a separate interest bearing bank account pending further order of the court. It was further ordered that the bankruptcy proceedings commenced in the Ontario Superior Court of Justice as Bankruptcy Court File No. 31-OR-207325-T and No. 31-OR-207326-T by Four Seasons Drywall Systems & Acoustics Limited were stayed as were the related receiving orders naming Courtney Wallis Simpson and York Management Group. A copy of the Third Amended and Restated Initial Order is attached hereto and marked as **Exhibit "G"**.

10. Also by order of the Honourable Mr. Justice Cumming dated January 20, 2006 (the "Procedural Order dated January 20, 2006"), the plaintiff was granted leave to further amend the amended statement of claim issued November 15, 2005 to add Courtney Wallis Simpson c.o.b. as York Group and as Camco Developments as defendants and to delete all references to Cameo Investments. Attached hereto and marked as **Exhibit "H"** is a copy of the Procedural Order dated January 20, 2006.

11. The purpose of this Fourth Report of the Receiver (the "Fourth Report") is to provide the Court with a status update with respect to the Receiver's activities since January 20, 2006, the progress of the receivership generally and to provide a factual basis upon which the Court may provide direction and grant certain relief recommended by the Receiver.

#### **The Receiver's Activities**

12. Since the Third Amended and Restated Initial Order, issued on January 20, 2006, the Receiver has:

- (a) Followed up with bank representatives to ensure that accounts have been frozen and to collect, review and analyze all relevant account statements and transit numbers;
- (b) Followed up with Gary Tamura, legal counsel for Royal Bank of Canada ("RBC") regarding the transfer of the Dianor A Resources Inc. shares from Simpson to two individuals possibly in contravention of the orders of this court;
- (c) Communicated with John Walley and Maggie MacDonald of Sutton Group – Town & Country Realty Ltd. regarding the listing and sale of Simpson's properties;
- (d) Communicated with Stephen Leonard, a real estate agent with Chestnut Park in Lake of Bays regarding the Lake Kawagama cottage property;
- (e) Communicated with Sandy MacKenzie of State Farm Insurance regarding insurance on the property located at 6072 Main Street, Stouffville;

- (f) Commenced an action: Michael J. Quilling, Receiver for Courtney Wallis Simpson v. Lia Hurst, Court File No. 06-CV-303587 PD3 regarding 6817 and 6541 Main Street, Stouffville;
- (g) Contacted counsel for Lia Hurst ("Hurst") and confirmed their agreement or Hurst's consent to transfer title to the Hurst Properties back to Simpson;
- (h) Responded to the requests of Consky & Associates to have a claim issued as against the named defendants;
- (i) Contacted RECO and the insurance adjustor, Leonard French & Co. Ltd. regarding requested disclosure;
- (j) Wrote to the enforcement branch of the Financial Services Commission of Ontario ("FSCO") to advise them of the existence of the action;
- (k) Examined Simpson's former employee, Adam Cox, under oath;
- (l) Distributed the Statutory Declaration to be utilized as a claim form for the victims of the fraud;
- (m) Received and responded to numerous inquiries from victims of the fraud and provided information to victims regarding the status of the claim.

(a) **Securing Financial Accounts**

(i) *Claims Verification*

13. The Receiver is currently in the process of using the documents recovered by the police, the account records from the banks, photocopies of cheques, the claim forms and the accompanying documentation from the prospective class members to create a flowchart identifying the origin of funds and tracing the transfer of funds between individuals.

14. This exercise is being conducted in order to determine to whom and in what amounts money has been transferred so as to:

- (a) verify and validate the claims of the potential class members who have submitted claim forms; and
- (b) to ascertain whether there are any outstanding funds that are unaccounted for.

15. The Receiver is specifically interested in the transfer of funds to and from those individuals who participated as "investors" in the mortgage investment scheme. The Receiver is working to determine whether each individual investor received less or more than their principal investment back. This involves analyzing all of the deposits and withdrawals in each account by inputting the information into a matrix to show how much each individual invested and how much each individual got paid back.

16. Simpson and her companies initiated multiple transfers and deposits on a daily basis. Her bank records show months in which millions of dollars were deposited and withdrawn almost always leaving a near zero balance.

17. Given the various bank accounts that Simpson had at any given time, the lack of an organized record-keeping system, the commingling of the funds from the mortgage investment scheme and the real estate deposit scheme, as well as the scores of transfers occurring each day and the large number of individuals from and to whom money was being accepted and transferred, this is a complicated task.

18. The Receiver will continue to work through the information and report his findings to the court.

**(ii) *RBC Dominion Securities***

19. On November 17, 2005, the Initial Order was served on three RBC branches located at 47 Main Street, Markham, 1181 Davis Drive East, Newmarket and 260 East Beaver Creek Road, Richmond Hill.

20. On December 20, 2005, the same three RBC branch locations were served with the First Amended and Restated Initial Order.

21. On January 3, 2006, counsel for the Receiver received from the RBC National Third Party Demands department copies of bank statements in regards to Courtney Wallis Simpson, York Region Realty and the York Group from the branches located at 47 Main Street, Markham, 1181 Davis Drive East, Newmarket.



22. On January 10, 2006 the Receiver was advised by Detective Brian Morrison of the York Regional Police Fraud Unit that certain shares owned by Simpson had been transferred into two individuals' RBC accounts in what was suspected to be a breach of the Initial Order. When one of the individuals to whom the shares were transferred attempted to withdraw all of the funds, it raised red flags and the investigative services department at RBC was alerted. RBC, in turn, alerted Detective Morrison.

23. On January 10, 2006, counsel for the Receiver spoke with Rob Northrope of the investigative services department at RBC who directed all inquiries to Greg Nawakowski ("Nawakowski") at RBC Dominion Securities.

24. On January 10, 2006, counsel for the Receiver spoke with Nawakowski who confirmed that the original share certificates at issue were in fact in Simpson's name and had been transferred into two separate accounts in early December 2005.

25. Counsel for the Receiver wrote to Nawakowski on January 10, 2005 providing further copies of the Initial Order and the First Amended and Restated Initial Order and notifying him that as of November 17, 2005, Simpson did not have authority to transfer the shares as all of her assets were frozen. Counsel requested that the transfer be reversed and the funds held by the Receiver for the estate. Attached hereto and marked as **Exhibit "I"** is a copy of the letter sent to Nawakowski regarding the transfer of shares.

26. On January 11, 2006, counsel for the Receiver followed up by telephone with Nawakowski who confirmed that there were approximately 500,000 Dianor A Resources Inc. shares valued at approximately \$0.82 per share. Nawakowski indicated that the RBC legal team was meeting that afternoon and would provide all relevant documents shortly. Following the

telephone conversation with Nawakowski, counsel for the Receiver wrote to him requesting copies of all RBC bank account statements, including investment statements with respect to Simpson, York Region Realty and York Management Group. Attached hereto and marked as **Exhibit "J"** is a copy of the letter sent to Nawakowski on January 11, 2006.

27. On January 18, 2006, counsel for the Receiver spoke with Simpson who reported that in December 2004 or January 2005, she bought a number of shares directly from the treasury of Dianor A Resources Inc. She reported paying \$80,000 in total for the shares. Simpson stated that it was in the first week of April 2005 that she signed the share certificates over to Vern Zapfi and Michael Sourlis. Simpson could not recall how many shares she signed over to each.

28. On February 20, 2006 counsel for the Receiver sent a follow-up letter to senior counsel in RBC's Law Group, Gary Tamura ("Tamura") attaching copies of all of the correspondence sent to RBC to date and informing him of the upcoming motion. Attached hereto and marked as **Exhibit "K"** is a copy of the letter sent to Tamura.

29. RBC Law Group has advised that the shares are frozen. To date, RBC has not provided the Receiver with the requested documents and has not confirmed that the transfer has been reversed. RBC, not unreasonably, requires a court order before complying with the Receiver's requests.

30. The Receiver recommends that the court order the immediate production of all documents from RBC relating to the transfer and an order that the shares remain frozen.

31. After reviewing the documents produced disclosing the particulars of the transaction the Receiver will consider seeking an order that the transaction be reversed and the shares returned to the estate.

**(b) Real Property**

32. Mr. John Walley ("Walley") of Sutton Group – Town & Country Realty Ltd. in Stouffville has listed for sale all of Simpson's properties with the exception of the property located on Kawagama Lake Road (the "Kawagama Property"). In an effort to maximize the sale price, the Kawagama Property will be listed for sale in the spring.

**(i) *Stouffer Street Property***

33. On January 31, 2006, Maggie MacDonald ("MacDonald") of Sutton Group informed the Receiver and counsel that she had received an offer for the property located at Lot 14, Stouffer Street (the "Stouffer Street Property") for \$171,000. Attached hereto and marked as **Exhibit "L"** is a copy of the offer dated January 31, 2006.

34. On February 2, 2006, the Receiver signed back the offer at \$176,000 making it conditional upon court approval. Attached hereto and marked as **Exhibit "M"** is a copy of the signed back offer.

35. The Receiver recommends that the Stouffer Street Property be sold for \$176,000 and that the proceeds from the sale held in the Receiver's interest bearing bank account for the benefit of the estate. This property is scheduled to close on April 3, 2006.

(ii) *6072 Main Street, Stouffville*

36. On January 10, 2006, the Receiver signed back an offer on the 6072 Main Street Property for \$713,000.

37. This sale was approved by the order of Justice Cumming on January 20, 2006 and it was scheduled to close on March 31, 2006 at which time, the amount of \$336,080 as claimed by Ajay Pahwa was to be taken from the proceeds of the sale and held in a separate interest bearing bank account, the disposition of which, may be dealt with by further order of the court. The remainder of the proceeds are to be deposited into the Receiver's interest bearing account for the benefit of the class members.

38. It is a term of the Agreement of Purchase and Sale that the seller must maintain insurance on the property. As such, the Receiver was required to pay \$438.75 in order to keep the property insured. The agent who placed the insurance is Sandy MacKenzie at State Farm Insurance in Stouffville. Attached hereto and marked as **Exhibit "N"** are copies of two letters to State Farm enclosing the binder for insurance and a cheque in the amount of \$438.75.

39. On January 25, 2006, after a property inspection, the purchaser of 6072 Main Street requested certain amendments be made to the Agreement of Purchase and Sale. The Receiver, subject to court approval, agreed to the following amendments:

- (a) reducing the purchase price to \$695,000;

- (b) changing the name of the purchaser to individual buyers - Maria Januszewski and Michael Januszewski; and
- (c) moving the closing date to May 31, 2006.

Attached hereto and marked as **Exhibit "O"** is a copy of the Amendment to Agreement of Purchase and Sale dated January 25, 2006.

40. The property inspection disclosed substantial issues with the property. The Agreement of Purchase and Sale was conditional on a satisfactory property inspection. The Receiver recommends that the reduced price be accepted.

41. On February 28, 2006, counsel for the Receiver spoke with counsel for the purchasers, Laura Bigioni ("Bigioni"). Bigioni requested a further amendment to the Agreement of Purchase and sale. She wanted to change the closing date to May 15, 2006.

42. Counsel for the Receiver contacted Ms Bigioni on March 1, 2006 indicating that the Receiver would not oppose the closing date of May 15, 2006 and would be seeking the court's approval of the amended terms of the Agreement of Purchase and Sale.

**(iii) *Ajay Pahwa Mortgages***

43. The Receiver has obtained and reviewed copies of all of the mortgages in favour of Pahwa registered on title to the Defendants' properties.

44. On December 20, 2005, Simpson advised the Receiver that Pahwa was an investor in the mortgage investment scheme and that he secured his investments by way of promissory notes.

45. Pahwa claims to have advanced between \$800,000 and \$1,165,000 to Simpson. Simpson alleges that Pahwa demanded illegal interest rates to be paid on the loans.

46. Simpson has advised Receiver's counsel that she was paying Pahwa \$50,000 per week every week for approximately six months for a total of \$1,200,000. This information has not yet been confirmed through bank records.

47. In furtherance of certain loans advanced, Pahwa obtained mortgages against three of the properties owned by Simpson in the amount of \$870,000. Specifically, Pahwa registered the following mortgages:

(a) 6072 Main Street Property

\$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;

(b) Lot 14 Stouffer Street Property

\$210,000 mortgage registered on February 10, 2005; and

(c) Kawagama Property

\$220,000 mortgage registered on March 9, 2005

Attached hereto and marked as **Exhibit "P"** are copies of title documents and instruments showing the mortgages registered in favour of Pahwa.

48. The underlying debt provided as consideration for the mortgages is not identified on the mortgage documents. Simpson advised that she did not put the promissory notes on title because she did not have time.

49. Pahwa acknowledged in his affidavit sworn December 22, 2005 that the mortgages were placed on the properties as security for certain funds advanced. Attached hereto and marked as **Exhibit "Q"** is a copy of Pahwa's affidavit.

50. Pahwa further stated in his affidavit that Simpson has repaid the sum of \$850,000 leaving, according to his calculations, an outstanding balance of \$315,000. Pahwa, however, has not substantiated the basis for his calculation.

51. By order of the Honourable Mr. Justice Farley dated December 23, 2005, (the "Second Amended and Restated Initial Order"), the Receiver was granted the power to challenge the validity, quantum and priority of the mortgages held by Pahwa (the "Pahwa Mortgages"). The exercise of power of sale or other enforcement upon the Pahwa Mortgages was restrained, pending further order of the Court. It was further ordered that upon court approved sale of the properties, the amounts claimed by Pahwa or such amounts as directed by the court are to be held in a separate bank account pending further order of the court.

52. By order of the Honourable Mr. Justice Cumming dated January 20, 2006, (the "Third Amended and Restated Initial Order"), the sale of 6072 Main Street was approved and upon closing, \$336,080, being the amount claimed by Pahwa, is to be held in a separate interest bearing account pending further order of the court.

53. Counsel for the Receiver has received a number of letters from Pahwa's counsel suggesting that there are no grounds for challenging the validity, quantum and priority of any of the Pahwa mortgages. Pahwa's counsel has proposed that as consideration for direct payment to Pahwa of \$336,080 (inclusive of legal fees) upon the closing of 6072 Main Street, Pahwa will assign the Pahwa Mortgages upon the properties other than 6072 Main Street to the Receiver.

54. On February 9, 2006, counsel for the Receiver wrote to counsel for Pahwa stating that it was seeking instructions and would be in contact with the Receiver's position. Attached hereto and marked as **Exhibit "R"** is a copy of the letter sent to counsel for Pahwa.

55. Pahwa's counsel has since reiterated his client's request that the Receiver acknowledge that there are no grounds upon which to challenge the mortgages. Attached hereto and marked as **Exhibits "S"** are copies of the letters sent by Pahwa's counsel.

56. The Receiver has considered Pahwa's proposal and pursuant to the authority granted under paragraph 37 of the Third Amended and Restated Order will commence proceedings forthwith for a determination of the validity of the Pahwa mortgages. The Receiver's letter to Pahwa's counsel dated March 3, 2006 is attached as **Exhibit "T"** to this Report.

(iv) *Kawagama Property*

57. Counsel for the Receiver has been communicating with Stephen Leonard ("Leonard") of Chestnut Park Realty in Lake of Bays regarding the Kawagama Property.



58. The Receiver has received Leonard's opinion of the value of the property. His report indicates that the interior and exterior of the Kawagama Property are in disrepair and that the location is poor as it is proximate to a county road and provincial highway. Leonard valued the property at approximately \$375,000 and suggested listing it for \$395,000. Attached hereto and marked as **Exhibit "U"** to this report is a copy of Leonard's Opinion of Value dated January 20, 2006.

59. The Receiver recommends listing the property for sale in the spring in order to maximize the sale price.

**(iv) 587 Cam Fella**

60. The house located at 587 Cam Fella Boulevard in Stouffville was originally listed for \$699,000.

61. As of March 1, 2006, the property had been on the market for 103 days with three offers for far lower than the Receiver was willing to accept. In an effort to attract purchasers, the purchase price has been reduced to \$625,000.

62. The Receiver, with Walley of Sutton Group Realty, has considered further reducing the purchase price and may do so.

63. Simpson maintains that the property is worth well over \$600,000 and should not be sold for less. On February 24, 2006, Simpson wrote to the Receiver expressing her view of the value

of the property and indicating that she had a prospective purchaser. Attached hereto and marked as **Exhibit "V"** is a copy of the email from Simpson to the Receiver.

(v) *Hurst Properties*

64. On January 23, 2006, counsel for Hurst served counsel for the Receiver with a statement of defence indicating that Hurst was prepared to permit the properties to be conveyed to any party or parties having a legal interest in those properties. Attached hereto and marked as **Exhibit "W"** is a copy of the statement of defence.

65. The statement of claim in the Hurst action was filed on February 6, 2006. Attached hereto and marked as **Exhibit "X"** is a copy of the statement of claim.

66. On February 13, 2006, counsel for the Receiver spoke with Hurst's counsel and confirmed that, pursuant to Hurst's statement of defence and subject to an appropriate court order, Hurst would be willing to sign an acknowledgment and direction transferring title in the properties back to Simpson. Counsel for the Receiver is making the necessary arrangements for the conveyance of the properties.

67. The Receiver has ensured that the locks on the Hurst properties have been changed, the water has been turned off, the pipes have been drained and the heat is off.

68. The Receiver recommends that, upon conveyance of the properties to the Receiver, these properties be listed 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 for the benefit of the estate.

(c) **Real Estate Council of Ontario ("RECO")**

69. By order of Justice Farley dated December 15, 2005, the Receiver was granted the authority to deal directly with RECO on behalf of all of the victims who have submitted claims.

70. Based on the evidence available to date, it is estimated that approximately twenty victims of the Real Estate Deposit Scheme have made claims to RECO. Their claims total \$3,215,000. Attached hereto and marked as **Exhibit "Y"** is a copy of RECO's list of claimants.

71. On January 19, 2006, counsel for the Receiver had a telephone conversation with Elizabeth Silcox ("Silcox") at which time she stated that she had no knowledge of how many claim forms had been submitted or whether RECO kept copies of the claim forms for their own records. Silcox suggested that the Receiver contact Mr. Denis Rivard ("Rivard"), the claims adjuster at Leonard French & Co. Ltd. directly with the requests for disclosure.

72. On January 19, 2006, counsel for the Receiver left a voice message for Rivard requesting the information set out in the letters to RECO.

73. On February 7, 2006, after receiving no response from Rivard, counsel for the Receiver wrote to him and provided him with a copy of the order of Justice Farley dated December 15, 2005. Attached hereto and marked as **Exhibit "Z"** is a copy of the letter dated February 7, 2006 that was sent to Rivard.

74. On February 15, 2006, counsel for the Receiver wrote a second letter to Rivard requiring his compliance with the order by February 20, 2006. Attached hereto and marked as **Exhibit "AA"** is a copy of the letter dated February 15, 2006 that was sent to Rivard.

75. On February 15, 2006, Rivard emailed counsel for the Receiver stating that Leonard French & Co. Ltd. had referred this matter to legal counsel. He noted that they would endeavor to respond as quickly as possible. Attached hereto and marked as **Exhibit "BB"** is a copy of the email dated February 15, 2006 from Rivard.

76. On February 22, 2006, RECO's insurer's counsel wrote to Bennett Jones LLP indicating that Rivard would provide us with certain of the documents requested and disclosing RECO's position that Simpson's actions constitute one "occurrence" and therefore no more than \$500,000 will be available to all claimants under RECO's Consumer Deposit Insurance coverage with respect to the Defendants. Attached hereto and marked as **Exhibit "CC"** is a copy of the letter from the insurer's counsel.

77. To date, the Receiver has not received any documents from Rivard.

78. The Receiver is considering RECO's response and after reviewing the documents provided by Rivard, will seek directions from the court regarding commencing an action against RECO's insurer.

(d) **Financial Services Commission of Ontario**

79. On February 13, 2006, counsel for the Receiver wrote to the Financial Services Commission of Ontario ("FSCO") to make it aware of the proceedings as against Simpson and the other named defendants. Counsel for the Receiver directed FSCO's attention to the Receiver's website. Attached hereto and marked as **Exhibit "DD"** is a copy of the letter sent to FSCO.

80. On February 20, 2006 a representative of FSCO spoke by telephone with counsel for the Receiver. The FSCO representative stated that FSCO had been made aware of the proceedings against Simpson and the other named defendants by Detective Fred Kerr of the York Regional Police in mid-November of 2005 and that it would not be following up as this matter was within RECO's sphere.

(e) **Adam Cox**

81. During the Receiver's examination of Simpson on November 29, 2005, Simpson told the Receiver that Adam Cox ("Cox") was an independent contractor whom she formerly employed.

82. Pursuant to the First Amended and Restated Order counsel served a Notice of Examination on Cox and obtained his sworn evidence on January 31, 2006. Attached hereto and marked as **Exhibit "EE"** is the transcript of Adam Cox.

(i) *Cox's Involvement in Real Estate Deposit Scheme*

83. Counsel for the Receiver, questioned Cox about his business relationship with Simpson, his involvement in advertising and finding prospective purchasers for the commercial real estate and his involvement in obtaining and returning deposits to prospective purchasers.

84. Cox stated under oath that he started working for Simpson at York Region Realty Inc. in November 2003 on a part-time basis. He stated that he worked part-time until March 2004 then took time off to operate his fencing and decking business. In February of 2005, Cox returned to work for Simpson full-time until the end of March 2005 at which time he claims to have quit. In September 2005, Cox says that he started working for ReMax All-Stars in Stouffville.

85. Cox admitted to advertising the McDonald's plaza in the Toronto Star and stated that he brought a number of prospective purchasers to Simpson and obtained deposits from these individuals. Cox noted that the deposit cheques were always made out to York Region Realty Inc.

86. When the transactions did not close, Cox stated that Simpson was responsible for returning the deposit funds to the would-be purchasers.

(ii) *Cox's involvement in Mortgage Investment Scheme*

87. Cox admitted that he invested \$20,000 in Simpson's mortgage investments one time only thinking that it was a legitimate investment. He stated that Simpson initiated discussions with him asking if he would be interested in investing.

88. According to Cox, Simpson asked him to invest \$20,000 and promised to pay him \$26,000 within 30 days.

89. Although the pay back came sporadically and much later than Simpson had originally predicted, Cox was eventually paid back his principal and interest, receiving approximately \$26,000 in total.

(f) **Draft Claim by Class Member**

90. On January 30, 2006, counsel for Peter Nicholson Holdings Limited and George P. Nicholson (class members) informed counsel for the Receiver by letter that she would be having a statement of claim issued naming Courtney Wallis Simpson, York Region Realty Inc., Wallis, Simpson & Associates and Courtney Wallis Simpson c.o.b. as York Management Group as defendants. Attached hereto and marked as **Exhibit "FF"** is a copy of the letter from terHaar.

91. On January 31, 2006, counsel for the Receiver emailed Nicholson's counsel to advise that all proceedings are stayed pursuant to the Third Amended and Restated Order of Justice Cumming. Attached hereto and marked as **Exhibit "GG"** is a copy of the email.

92. On February 6, 2006, Nicholson's counsel provided counsel for the Receiver with a draft statement of claim requesting the Receiver's consent to issuance of the claim. Attached hereto and marked as **Exhibit "HH"** is a copy of the letter from terHaar attaching the draft statement of claim.

93. On February 20, 2006, counsel for the Receiver wrote to Nicholson's counsel advising that the Receiver did not consent to the issuance of her client's statement of claim and would oppose any motion that might be brought seeking leave to commence such an action. Attached hereto and marked as **Exhibit "II"** is a copy of the letter to Nicholson's counsel.

94. At this time, based on the evidence available, the Receiver does not recommend adding Adam Cox and or Kenneth Wayne Simpson as defendants to the within action, however, this assessment is ongoing.

**(g) Obtaining Bank Records**

95. On November 17, 2005, the Initial Order was served on ten bank branches, which were known to have been used by the defendants. On December 20, 2005, the same ten branches were served with the First Amended and Restated Initial Order. On January 11, 2006, an eleventh branch was served with the First Amended and Restated Order. Attached hereto and marked as **Exhibit "JJ"** is the complete list of banks served with the Initial Order and the First Amended and Restated Order and their responses to date.

96. The Receiver's counsel has continued to follow up with bank representatives to ensure that accounts have been frozen and to collect all relevant account statements and transit numbers.



97. On February 10, 2006, counsel for the Receiver contacted the following banks requesting the outstanding information:

- (i) Bank of Montreal in Richmond Hill ("BMO");
- (ii) Canadian Imperial Bank of Commerce in Unionville ("CIBC");
- (iii) HSBC in Richmond Hill;
- (iv) Bank of Nova Scotia in Newmarket ("BNS"); and
- (v) Royal Bank of Canada in Richmond Hill ("RBC").

98. On February 14 and 15, 2006, counsel for the Receiver sent follow-up letters to these banks demanding compliance with the court orders by February 20, 2006. Attached hereto and marked as **Exhibit "KK"** are copies of the letters sent to the above-noted banks.

99. On February 16, 2006, counsel for the Receiver spoke with a representative of HSBC who indicated that there were no accounts located for any of the defendants' within the past six years. He re-sent the letter that was originally sent on December 22, 2005 stating this. Attached hereto and marked as **Exhibit "LL"** is a copy of the letter from HSBC.

100. On February 17, 2006, CIBC provided the outstanding account information to counsel for the Receiver.

101. On February 21, 2006, BMO provided the outstanding account information to counsel for the Receiver.

102. On February 22, 2006, BNS provided the outstanding account information to counsel for the Receiver.

103. On February 23, 2006, RBC National Third Party Demands wrote to counsel for the Receiver indicating that there were no bank accounts held at the Richmond Hill branch.

104. The Receiver finally has a complete and comprehensive compilation of the bank account records for the past six years. He is confident that he will now be able to discern some patterns from the movement of funds. The Receiver will continue to review the financial accounts and account statements with a view to identifying such trends as well as attempting to find any other accounts of relevance.

**(h) Public Communications**

105. The Receiver has an established website, [www.secreceiver.com](http://www.secreceiver.com), where he regularly posts information regarding cases which he handles so as to provide a readily accessible information source.

106. The Receiver has posted all relevant court filings and reports in this matter.

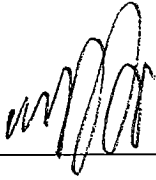
107. The Receiver has been in contact with the majority of the victims known to date and has distributed the claim form to those individuals.

**Receiver's Requests and Recommendations**

108. The Receiver requests the approval of the court in respect of all steps taken to date.
109. The Receiver recommends approval of the court to take the following steps:
- (a) that RBC Dominion Securities be ordered to produce to the Receiver immediately all documents relating to the Dianor A Resources Inc. share certificates that were transferred from Simpson to Vern Zapfi and Michael Sourlis;
  - (b) that the Stouffer Street Property may be sold for \$176,000 and the proceeds from such sale be held in the Receiver's interest bearing bank account;
  - (c) that the amendments to the Agreement of Purchase and Sale for 6072 Main Street be approved and the closing date re-scheduled for May 15, 2006;
  - (d) that the Receiver may take all necessary steps to convey title to the Hurst properties back to Simpson, that these properties be listed 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.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED BY:**

Michael J. Quilling in his capacity as  
Court Appointed Receiver with no  
personal or corporate liability.



Michael J. Quilling

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