

**Maryland Circuit Court for Anne Arundel County**

CHRISTOPHER DAVID MCKEON,	)	
	)	
Plaintiff,	)	
v.	)	
Charing Cross Townhouse Condominium, Inc.,	)	Case No. 02-C-08-132379 I J
Joseph R. DeSantis,	)	
Carol Frankhouser,	)	
Kathleen Marek,	)	
Michael J. Helpa,	)	
COMANCO, INC.,	)	
Ruth Angell,	)	
Defendants.	)	
	)	

**PLAINTIFF’S EMERGENCY MOTION FOR A TEMPORARY RESTRAINING  
ORDER AND PRELIMINARY AND INTERLOCUTORY INJUNCTIVE RELIEF  
FOR THE APPOINTMENT OF A RECEIVER OR SPECIAL FIDUCIARY  
AGENT**

COMES NOW the Plaintiff, Christopher D. McKeon (“Plaintiff”), *Pro Se*, and pursuant to Md. Rule § 15-501, *et seq.*, and requests this Court order an emergency Temporary Restraining Order and Preliminary Injunction and Interlocutory Injunction for the appointment of a receiver, or, in the alternative, a Special Fiduciary Agent of Defendant Charing Cross Townhouse Association, Inc. (“Association”). In support of his Motion, Plaintiff incorporates by reference his Amended Complaint and respectfully refers this Court to his Verified Memorandum of Points and Authorities, attached.

WHEREFORE, for the reasons stated in his Verified Memorandum of Points and Authorities, Plaintiff moves this Court to:

1. Issue an emergency temporary restraining order, a preliminary injunction and interlocutory injunction enjoining Defendants from managing the Association’s assets or activities or spending Association monies, appointing a receiver to take charge of and

manage the Association's assets and activities, and authorizing and empowering the receiver to act in accordance with the terms of the proposed Order, attached hereto as Exhibit A; and

2. Plaintiff requests that the receiver, selected by and under the supervision of this Court, be authorized to effectuate a certified forensic audit of the Association's financial records as per the proposed order and take whatever actions the receiver deems necessary upon completion of said audit; and

3. Grant such other and further relief as is just and proper.

Respectfully submitted,

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Christopher McKeon  
1120 Soho Court, Crofton, MD 21114  
Plaintiff, *Pro Se*, 410-271-7907

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Defendants.	)	
	)	

**PLAINTIFF’S VERIFIED MEMORANDUM OF POINTS AND AUTHORITIES  
IN SUPPORT OF HIS EMERGENCY MOTION FOR A TEMPORARY  
RESTRAINING ORDER AND PRELIMINARY AND INTERLOCUTORY  
INJUNCTIVE RELIEF FOR THE APPOINTMENT OF A RECEIVER OR  
SPECIAL FIDUCIARY AGENT**

COMES NOW the Plaintiff, Christopher D. McKeon (“Plaintiff”), *Pro Se*, and submits this Verified Memorandum of Points and Authorities in Support of his Emergency Motion for a Temporary Restraining Order and Preliminary and Interlocutory Injunctive Relief for the Appointment of a Receiver, or, in the alternative, a Special Fiduciary Agent, for the purposes enumerated in the proposed order (Exhibit A).

**STATEMENT OF FACTS**

1. Plaintiff incorporates by reference the entire record of the above-captioned action as though fully set forth herein, and specifically refers this Court to his Amended Complaint.
2. Plaintiff was a director and vice president of the Association from 9/25/07 until 5/28/08 when Defendants secretly established and operated an independent 4-

member Board in violation of the governing laws until—using this secret Board—they orchestrated Plaintiff’s removal at an unlawful meeting of the Members 9/4/08. (*infra*, at 17)

3. Defendants DeSantis, Marek, Helpa and Frankhouser (“Defendant Board Members”) are directors and officers of the Association (two with terms expired), owe Plaintiff, the Association and its Members a fiduciary duty, and individually or severally participate in the acts and practices enumerated in the Amended Complaint and herein. Jim Morrow, of 1006 Broderick Court, Crofton, MD 21114, was elected at the unlawful 9/4/08 meeting to replace Plaintiff; he is not at this time a party to the instant action.

4. Defendants Ruth Angell and Comanco, individually and collectively the agent for the Association (“Agent”), owe a fiduciary duty to Plaintiff, Association and its Members, and actively conspire and collude with Defendant Board Members in the acts and practices enumerated in the Amended Complaint and herein.

5. Plaintiff’s Amended Complaint essentially asks the Court to compel Defendants to routinely comply with the Association’s governing laws. In establishing their non-compliance, it alleges 21 counts against Defendants involving exceeding scope of officers’ powers, elections, open meetings and voting violations, director vacancy and removal violations, failure to keep and maintain true and accurate records, failure to keep and enforce covenants without being arbitrary and capricious, unauthorized expenditures of association monies, breach of fiduciary duty, holding unlawful meetings, suppression of Members’ petitions, acting in bad faith, fraud in the concealment/omission, constructive fraud, civil conspiracy, aiding and abetting, theft by unauthorized control

over property by deception, embezzlement (fraudulent misappropriation by fiduciaries), fraudulent misrepresentation by corporate officer or agent, and defamation.

**Defendant Board Members are not Disinterested**

6. The facts enumerated in the Amended Complaint demonstrate Defendant Board Members are not disinterested directors regarding any of the allegations in the Amended Complaint and herein. As a result, they are unable to manage the Association and fulfill their duties and responsibilities disinterestedly, objectively, and in the Association's best interests, particularly during summer, 2008 when Defendants unlawfully removed Plaintiff as a director and closed all meetings, cancelled elections and made no corrections in their illegal acts and practices. Proximately because of their lack of disinterest, they have injured, and are injuring, Plaintiff and Members by their willful and intentional fraud, embezzlement and oppressive conduct regarding their management of the Association.

**Fraud, Embezzlement, Theft of Association Property**

7. The facts enumerated in the Amended Complaint indicate Defendants spent or committed to be spent approximately \$20,000 in Association monies in violation of their fiduciary responsibilities between fall, 2007 and 9/23/08. The documented records of the Association indicate these acts and practices are routine and continuing. Defendants failed and refused to respond in any way to Plaintiff's repeated requests during summer, 2008 for such material facts and information while he served as a director and officer, or to his later Discovery requests in the instant action. Defendants' failure and refusal along with their documented actions create a reasonable belief that, once disclosed, the

Association's records may reveal evidence of additional financial improprieties and wrongdoing. Without a receiver said records could be "lost" or destroyed.

8. The facts enumerated in the Amended Complaint demonstrate Defendant Board Members stated at the 9/23/08 Board meeting that (outside of lawful meetings) they overspent the Association's cash position approximately \$3600 into "the red as of end of August, 2008," although the proposed budget shows the Association actually overspent by \$4861.26 as of June, 2008. (Exhibit C) The legal expenses that appear to have caused the overspending were secretly made by Defendants in an effort to have the Attorney provide "cover of law" to their personal agendas, fees and expenses for unauthorized meetings, as well as their initial defense against the instant action. Not being disinterested directors, they have failed and refused to disclose and inform Members of the nature and content of the instant action, or to establish a "special litigation committee" to objectively assess the instant action for the purpose of objectively investigating Plaintiff's claims in his complaint, or to authorize Association monies for their defense at noticed, open meetings of the Board. Indeed, Defendant Marek stated at the 9/23/08 Board meeting that Defendants' intention to defend against the instant action was open ended such that no monetary limit could be imposed; therefore, a special assessment against Members would be forthcoming. (Cuevas affidavit at 4.nn, Exhibit B) Defendants ignore, stonewall or refuse information to Members attempting to get informed of the lawsuit and financial records.

9. Further, Association savings are at risk by Defendants' illegal actions. For example, upon information and belief, *Fiscina v. Devonshire East Condominium*, heard before the Montgomery County Commission for Common Ownership Communities, was

substantially similar to the instant action. (Mont. Co. CCOC case #71-06, ruling 5/21/08)

In that case, and without any real defense, the Devonshire board defended against the lawsuit to the bitter losing end at an approximate cost of more than \$120,000. But, unlike Defendant Association (*infra*, at 10), they were insured. At risk here are the Association's 1 savings account, 3 CDs and 1 money market account containing approximately \$125,646 as of May, 2008. Without insurance—and with Defendants' stubborn opposition to complying with the governing laws, their failure and refusal to fully disclose the lawsuit to Members, their demonstrable history of secretly meeting and spending Association money outside of noticed, open meetings in violation of their fiduciary responsibility, and their clear lack of objectivity and disinterestedness—all this money is at risk of being squandered by Defendant Board Members not to protect the Association in litigation, but in personal defense of their illegal actions.

10. The facts enumerated in the Amended Complaint demonstrate Defendants failed and refused to insure the Association with the coverages required in By Laws Article XII Sections 1 and 2. While the 2008 budget shows \$595 for fidelity insurance, at the 9/4/08 and 9/23/08 meetings Defendant Board Members stated they did not have fidelity insurance, nor would their Directors & Officers insurance cover a non-monetary litigation, hence the need to defend against the lawsuit out of pocket. Defendants have failed and refused to explain on what the \$595 was spent. Defendants thereby misrepresented the Association's financial statements and affairs to Plaintiff and Members in violation of Md. Code Criminal Law § 8-402.

11. The facts enumerated in the Amended Complaint demonstrate that at the 9/23/08 Board meeting, Defendant Board Members ratified the secret June, 2008

spending of \$5,000 for their attorney. Defendants withheld this expenditure from Plaintiff while he was a director and officer, and from Members during the 9/4/08 meeting while they were seeking Members' votes to remove Plaintiff as a director. Additionally, Defendant DeSantis disclosed at the 9/23/08 meeting his unilateral, non-voted commitment of the Association to pay an undisclosed sum for Defendants Angell and Comanco's attorney without a Board vote or any basis for doing so, only vaguely citing "By laws." This was news even to Treasurer Marek (Cuevas affidavit at 4.w, Exhibit B), but Defendants simply accepted this pronouncement without comment. The 9/23/08 meeting was unlawful pursuant to Md. Condominium Act § 11-109(c)(4) because only 3-4 days notice was provided Members.

### **Fraud Regarding Elections and Quorum**

12. The facts enumerated in the Amended Complaint demonstrate Defendants had from January through September 2008 to remediate the election improprieties raised by Plaintiff (indeed, Defendant DeSantis has been aware of these issues since 9/24/01 and Defendant Comanco at least since 8/24/93). However, Defendants used every means at their disposal to discredit and defame Plaintiff, obfuscate the facts, falsify terms, cancel elections and frustrate Plaintiff's reasonable expectation that the Association, its board of directors and Agent comply with the governing laws regarding elections, terms of office and board membership.

13. The facts enumerated in the Amended Complaint demonstrate Defendants unlawfully removed Plaintiff as a director of the Association from 5/28/08 by failing and refusing to disclose and inform him of meetings, votes, expenditures, actions and material facts and information regarding the Association's business, while at the same time



Defendant Board Members constituted themselves as a secret 4-member board and, outside of noticed, open meetings met, voted, expended monies and took official actions with the Agent's full knowledge, cooperation and enforcement.

14. The facts enumerated in the Amended Complaint demonstrate Defendants used this period of time during summer, 2008 to act as an unlawful and unelected board and to orchestrate Plaintiff's unlawful removal as a director at the 9/4/08 special meeting of the Members for, in effect, whistleblowing on their unlawful acts and practices, demanding full disclosure to himself and Members, and to correct said acts and practices. Said meeting itself violated numerous governing laws. (*infra*, at 17)

15. The governing laws mandate a 3-year term of office for directors. The facts enumerated in the Amended Complaint demonstrate that the last legitimate election in which Defendant DeSantis participated was in 2005, when he was, pursuant to the governing laws, elected to a 3-yr term. His election in 2006, while still actively serving his 3-yr term, must be and is illegitimate and of no effect. Hence, his term of office expired July/August, 2008. Having unlawfully cancelled the 2008 annual elections, he is presently serving on the Board past his term and in violation of the governing laws. Ignoring these documented facts, Defendant Board Members at the 9/23/08 Board meeting voted to extend his term to 2009 in violation of the governing laws.

16. The facts enumerated in the Amended Complaint demonstrate Defendant Frankhouser was appointed by the Board 10/23/06 to fill the Linda Williams' vacancy. She was elected in the 2007 annual elections to continue to fill the unexpired portion of that vacancy. Linda Williams was elected in the 2005 annual elections; therefore, her term expired July/August, 2008. Having unlawfully cancelled the 2008 annual elections,

Defendant Frankhouser is presently serving on the Board past her term and in violation of the governing laws. Ignoring these documented facts, Defendant Board Members at the 9/23/08 Board meeting voted to extend her term to 3 years expiring in 2010 in violation of the governing laws.

17. The facts enumerated in the Amended Complaint demonstrate Jim Morrow was nominated by Defendant DeSantis to fill Plaintiff's vacancy after his unlawful removal at the 9/4/08 special meeting of the Members. That meeting was called and conducted in violation of numerous governing laws (including By Laws Art. III Sect. 1, Art. IV Sects. 1,6, Art V Sections 7, 13, 14; Md. Corp. Law § 2-502(c)(3), § 2-507(c)(2); Md. Condo. Act § 11-109(c)(6), 11-109(c)(7)(ii), 11-109(c)(8)(ii)(1) and 11-109(c)(13)). Because the meeting itself was not lawfully called or conducted, Plaintiff was not lawfully removed as a director and Jim Morrow was not lawfully elected thereby. Therefore, Jim Morrow is not a legitimate director of the Association. But even if, in the most favorable light to Defendants, Jim Morrow was legitimately elected after Plaintiff's removal, he could only be elected to fill the remainder of Plaintiff's term. Yet, Defendant Board Members with Agent's knowledge, cooperation and enforcement extended his term to 3 years expiring in 2011, as though he was elected on an open ballot at the annual meeting of the Members, which he was not. This act violates the governing laws.

18. The facts enumerated in the Amended Complaint demonstrate Tom Knighten was elected in 2006, unlawfully removed from the Board in April, 2007 and is entitled to continue serving his full term. Charlene Julien was elected in 2006 but Defendants DeSantis, Angell and Comanco denied her the statutory term, placed her on the 2007 ballot where she was not re-elected; she is entitled to continue serving her full term.

Laura Goldblatt was elected in 2005 but, upon information and belief, Defendants DeSantis, Angell and Comanco denied her the statutory term; she is entitled to continue serving her full term. Plaintiff was unlawfully removed from the Board from time-to-time by exclusion between mid-October 2007 and 5/27/08; full time 5/28/08 to 9/4/08, then by vote at the unlawful 9/4/08 meeting; he is entitled to continue serving his full term.

19. The facts indicate three of the five current directors are not now lawfully sitting on the Board, while four directors who of a right should be on the board are unlawfully excluded. Therefore, the Association does not have a lawful board or even a quorum of lawfully-elected directors to conduct its business. The facts demonstrate that Defendants arbitrarily and illegally extend terms of office for particular seats when that seat is occupied by someone they support; they arbitrarily and illegally exclude or shorten terms when a seat is occupied by someone they do not support, such as Plaintiff, Charlene Julien and others. Without this Court's intervention with a receiver, Defendants will not hold lawful elections nor restore the aforementioned directors.

20. The facts enumerated in the Amended Complaint demonstrate Defendant Angell is an employee of Defendant Comanco, the Association's property management agent. They are contracted to comply with the Association's governing laws. The above acts and practices that violate the governing laws by Defendant Board Members cannot be carried out except with Agent's knowledge, cooperation and, ultimately, enforcement. Additionally, Agent exerts control and enforcement over the Association in its own right. For example, Agent oversaw, empowered and enforced a shadow board of four directors. Agent facilitated, advocated and enforced Plaintiff's unlawful removal. Agent failed and refused to provide Plaintiff and Members material facts and information to which they

are entitled. Agent was aware of or facilitated and then enforced Tom Knighten's unlawful removal. Agent repeatedly misinformed other directors such as Plaintiff and Charlene Julien of their proper term of office and enforced same. Agent arbitrarily extended and enforced other Defendants' unlawful terms. Agent cooperated in and enforced the suppression of the 2008 elections and Plaintiff's petitions. Agent facilitated the unlawful expenditures of Association monies. As the insurance trustee, Agent failed and refused to disclose material facts and information to directors and Members on the 1150/1152 Jeffrey Drive fire-damaged homes and insurance monies as though it is Agent's proprietary information and not the Association's. Agent appears to have failed and refused to purchase fidelity insurance as directed in the annual budget. As necessary, Agent compels directors through intimidation or dissembling to acquiesce to its actions taken without Board vote and compels the Board to accept no-bid work using Agent's preferred contractors. All these acts and practices are accomplished through collusion and conspiracy between Agent and primarily Defendant DeSantis, and includes other Defendants as needed. In light of other acts by Agent—it begs the question: Who controls the Association?

21. These fraudulent, illegal and oppressive acts and practices foreclose any oversight or solution within the Association's mechanisms; hence, the need for a receiver.

#### **Establishing a Shadow Board of Directors**

22. The facts enumerated in the Amended Complaint demonstrate that from time-to-time since at least mid-October, 2007, and full-time between May 28, 2008 and September 4, 2008, Defendants established an independent 4-member shadow board of directors, different from that elected by the Members at their 2007 annual meeting and

elections, in order to further their own interests, and to secretly act and expend Association monies in violation of the Association's governing laws and Md. Code Criminal Law § 7-104, § 7-113 and § 8-402. Defendants unlawfully exercised full and total control over the Association's finances and affairs in frank violation of their fiduciary responsibility and the governing laws and blocked Plaintiff from fulfilling his fiduciary duty and exercising his right to co-manage the Association. Thus, Defendant Board Members excluded Plaintiff, a director and vice president, from participation in the Association, while acting in a manner that is illegal, oppressive and fraudulent.

23. The facts enumerated in the Amended Complaint demonstrate that in a flyer dated July 3, 2008 and distributed July 6, 2008 door-to-door in the community, Defendants, without authority, cancelled numerous meetings, including the annual meeting of the Members, and failed and refused to disclose and inform of these material facts and information to Plaintiff. The governing laws mandate annual elections.

24. Further, the facts enumerated in the Amended Complaint demonstrate Defendant Board Members, working hand-in-glove with Defendants Angell and Comanco, have and will misapply and waste the Association's assets and violate its governing laws. Already, Defendants admitted at the improperly-noticed 9/23/08 Board meeting to spending the Association into the red during summer, 2008 (*supra*, at 8) while claiming they did nothing during that same period. (Cuevas affidavit, at 4.t, Exhibit B)

25. The facts enumerated in the Amended Complaint demonstrate that to further their personal schemes, Defendants routinely and repeatedly failed and refused to disclose and inform of material facts and information to Plaintiff during the aforementioned period 5/28/08-9/4/08, while Plaintiff was a serving director and vice

president of the Association. This directly injured Plaintiff and placed him at odds with his fiduciary duty to be knowledgeable of and to co-manage the Association's business.

### **Acting Wrongfully Under "Color of Law"**

26. The facts enumerated in the Amended Complaint demonstrate Defendants use the imprimatur of the Association's attorney, Michael S. Neall ("Attorney"), as a bludgeon to obfuscate, dissemble and frustrate Plaintiff's efforts to ensure compliance with the governing laws. For example, the Attorney guided Defendants as to how they could remove the balcony extension on Plaintiff's unit in violation of the governing laws. For example, the Attorney guided Defendants as to how they could limit Plaintiff's term of office and extend their own in violation of the governing laws. For example, the Attorney guided Defendants as to how they could remove Plaintiff in violation of the governing laws as a director during summer, 2008. For example, the Attorney was present at the 9/4/08 meeting where he stated emphatically, "as a licensed attorney," that said meeting was called, conducted and votes taken in full compliance with Md. laws when, in fact, it was not (*supra*, at 17). In secretly paying the Attorney the Association's money to confer his legal authority in pursuit of their private objectives, Defendants have been able to obfuscate, dissemble and halt Plaintiff's and Members' legitimate and reasonable inquiry into their acts and practices and efforts to compel Defendants to comply with the governing laws.

27. The facts enumerated in the Amended Complaint demonstrate Defendant Board Members collude and conspire with Agent as an additional bludgeon to obfuscate, dissemble and frustrate Plaintiff's efforts to ensure compliance with the governing laws. For example, Agent chooses which Member petitions to present to the Board. Upon

information and belief Agent took it upon itself to solicit the removal of signatories from Plaintiff's 5/28/08 petition, to suppress said petition, and has failed and refused to acknowledge receipt of Plaintiff's second petition to audit, submitted 9/24/08. Agent took a central part in removing Plaintiff as a director. This work is not a part of the Association's contract with Agent, nor was it authorized by the duly-elected Board. For example, Agent routinely and repeatedly failed and refused to disclose and inform of material facts and information properly belonging to the Association to Plaintiff, a director and vice president. For example, Agent routinely and repeatedly colluded and conspired in a civil conspiracy to effect Defendant Board Members' unlawful expenditures of Association monies, the exclusion of Plaintiff from Association business, the operation of a secret 4-member board, and other unlawful acts and practices enumerated in the Amended Complaint and herein.

### **Insurance Fraud**

28. Recently, Plaintiff has learned upon information and belief that the Association's master insurance policy, provided by Eric Olson of Millers Mutual (882 Annapolis Road, Gambrills, MD 21054, 410-923-7100), executed one or more checks on or about October, 2007 in an aggregate amount of approximately \$130,000 to \$150,000 to unnamed party(s) for property damages sustained in a fire on or about 9/8/07 at 1150 and 1152 Jeffrey Drive, Crofton, MD, 21114, located within the Association's community. The Agent is the Association's insurance trustee pursuant to its Contract, which states in Section 3: "In the event of a loss, the Manager agrees to function as Insurance Trustee, coordinating losses as affects the Association and to distribute insurance funds to contractors for restoration work performed." (Exhibit D of Plaintiff's

Motion for an Emergency Ex Parte Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should not Issue) Yet Agent never disclosed this payment nor the reasons why the homes have yet to be repaired to the Board, including Plaintiff. When asked by the 1152 homeowners on or about August/September, 2008 Defendants failed and refused to disclose to whom this money was given or to account for how it was spent. Thirteen months after the fire, both damaged units remain unrepaired, infested with mold and uninhabitable. Upon information and belief, Agent recently told the 1152 Jeffrey homeowners to repair their unit themselves, but the insurance money is missing and Agent refuses to account for it, leaving homeowners without the means to effect repairs. Plaintiff is seeking Discovery on these issues.

29. At the 9/23/08 Board meeting Defendant Board Members stated the Board has no duty to ensure the 1150/1152 Jeffrey properties are rebuilt/repared from the fire damage (Cuevas affidavit at 4.r, Exhibit B), or that the insurance monies are properly accounted for and paid out to the appropriate parties, because, they claim, it's in the hands of the insurance companies. However, the By Laws do impose such a duty and the buck stops with the Board (Article V Section 3(h), Article XIII Section 1, *et seq.*).

30. Moreover, if the insurance funds are lost, misspent or unaccounted for, the Association—in reality, all its Members through special assessment—must pay whatever funds are required for repair to the mortgagee of the affected units (Article XIII, Section 2). Defendants' apparent mismanagement of the insurance funds, their lack of knowledge and awareness of said funds' disposition, their failure and refusal to “promptly” repair or reconstruct the affected units after more than one year, materially and substantially injures Plaintiff and Members. Further, while Plaintiff was a director, Defendants



withheld from Plaintiff most, if not all, of the material facts and information pertinent to this insurance debacle. Among other harm, this act exposes Plaintiff to litigation from the affected homeowners. And, because Defendants have failed and refused to maintain fidelity insurance required in the governing laws, Plaintiff, as a Member of the Association, could be forced to pay for any such litigation out of pocket.

31. The scope of the fraud, mismanagement, waste and misuse of Association and/or insurance funds and oppressive acts by Defendants begs this Court to intervene with the appointment of a receiver.

32. Given the above facts, Plaintiff—whether a director or Member—is unable to prevent the continued oppression, mismanagement, fraud, waste, illegal and self-dealing acts and practices by Defendants.

33. Pursuant to Md. Rules § 15-505(a) Plaintiff notified Defendants in his Amended Complaint of his intent to seek the appointment of a receiver (filed 10/10/08), and then on an emergency TRO and preliminary and interlocutory basis (including a proposed receivership order) in the instant motion via first-class mail on 10/31/08. (see Certificate of Service, attached)

### **ARGUMENT**

34. Plaintiff incorporates as reference the paragraphs above as though fully set forth hereinunder.

35. Maryland courts are not constrained by statutory predicate to appoint a receiver. “A court of equity, however, by virtue of its chancery jurisdiction, possesses ample authority to create receiverships, independent of statute, provided that the proper

grounds and conditions exist for the appointment of a receiver.” (65 AM. JUR. 2D Receivers § 15 (1972)) Maryland Courts and Judicial Proceedings § 1-501 establishes unequivocally that Maryland circuit courts exercise full equity jurisdiction. (See also *Wentzel v. Montgomery General Hospital, Inc.*, 293 Md. 685, 701, 447 A.2d 1244 (1982)).

36. However, a court should not appoint a receiver on anticipated grounds. (65 AM. JUR. 2D, *supra*, § 27) In the instant case, the facts enumerated in the Amended Complaint and hereinabove establish the grounds are factual and substantive, rather than anticipatory. Plaintiff has been harmed by Defendants’ actions. Defendants have continued their actions and further harmed Plaintiff even after he filed the instant complaint seeking relief. Plaintiff remains in imminent danger of further harm.

37. “If it does not clearly appear that there is fraud, spoliation, or imminent danger of the loss of the property unless immediate possession is taken by the court, a receivership should not be ordered.” (*Brown v. Brown*, 204 Md. 197, 211, 103 A.2d 856 (1954)). There must be an “imminent danger of the property being lost, injured, diminished in value, destroyed, squandered, wasted, or removed from the jurisdiction.” (65 AM. JUR. 2D, *supra*, § 27) (see also, *Williams v. Salisbury Ice Co.*, 176 Md. 13, 23 (1939); *Davis v. United States Electric Power & Light Co.*, 77 Md. 35, 40-41, stating that the court may exercise its power to appoint a receiver only where there is fraud or spoliation, or imminent danger of loss of property and these facts must be clearly proved). The facts enumerated in the Amended Complaint and hereinabove clearly demonstrate acts and practices by Defendants that meet the above tests.

38. Moreover, “mere internal dissensions among stockholders, or mere differences or disputes as to corporate management, so long as the officers do no act that is fraudulent, illegal or *ultra vires*, will not warrant intervention of a court of chancery...” *Du Puy v. Terminal Company*, 82 Md. 408, 426 (1896); *James F. Power Foundry Co. v. Miller*, 166 Md. 590, 595 (1934) The facts enumerated in the Amended Complaint and hereinabove clearly demonstrate acts and practices by Defendants that are fraudulent, illegal or *ultra vires*.

39. Therefore, the facts enumerated in the Amended Complaint and hereinabove demonstrate these aforementioned legal tests are likely to be met in the instant matter. Moreover, the Association cannot properly or effectively operate under the conditions created by Defendants’ unlawful acts and practices.

**A. Emergency Injunctive Relief is Appropriate in this Case**

40. This Court should grant emergency injunctive relief in the nature of a temporary restraining order, a preliminary injunction and interlocutory injunction because “immediate, substantial, and irreparable harm will result” before “a full adversary hearing can be held on the propriety of a preliminary or interlocutory injunction.” As stated above, Defendants exercise sole control over the Association’s bank accounts, property and affairs, after unlawfully establishing a false Board in secret, then illegally removing Plaintiff as a director and officer, then using that opportunity to create another false Board with three illegitimate directors with a veneer of apparent legitimacy. Defendants have acted fraudulently and wasted and misused the Association’s assets for personal gain and other reasons. Each day the Association continues to be under Defendants’ sole

control—with the civil conspiracy between Defendants undisclosed and unchecked—Plaintiff (as well as Members) suffers additional substantial and irreparable harm.

41. Further, this Court should grant a temporary restraining order, a preliminary and an interlocutory injunction under Md. Rules § 15-501, *et seq.*, and the accompanying case law. When making a determination as to whether the issuance of a TRO, preliminary injunction or interlocutory injunction is proper, the court considers four factors: 1) the likelihood that Plaintiff will succeed on the merits; 2) whether greater harm would be done to Defendants from granting the injunction than would result from its denial; 3) whether Plaintiff will suffer irreparable harm unless the injunction is granted; and 4) the public interest. See, for example, *Teferi v. Dupont Plaza Assoc.*, 77 Md. App. 566, 551 A.2d 477 (1989); *Fogel v. H&G Restaurant, Inc.*, 337 Md. 441, 654 A.2d 449, 455-56 (md. 1995).

42. An injunction should not be denied merely because of the existence of an adequate remedy of law. Md. Rule § 15-502(c); *SEIC v. Chafitz, Inc.*, 63 Md. App. 719, 493 A.2d 1100, 1103 (1985). In the instant case, all of the above factors weigh in favor of granting a TRO, preliminary injunction and an interlocutory injunction.

### **1. Plaintiff Will Likely Prevail on the Merits**

43. The facts enumerated in the Amended Complaint and hereinabove clearly demonstrate Defendants are acting oppressively, fraudulently and illegally and that Plaintiff, Members and Association have already suffered and are in “imminent danger” of “immediate, substantial, and irreparable harm.” As such, the Association is unable to properly and lawfully function in compliance with its governing laws, directly harming Plaintiff and Members. Further, because 122 homeowners depend upon the Association

to lawfully and competently manage the property and 2 families depend on it to properly and promptly repair their fire-damaged units—which Defendants clearly cannot and/or will not do after more than 1 year—this Court must appoint a receiver to, among other things, effectuate a lawful annual election, establish the proper membership of the Board, disclose and inform of all financial and other material facts and information presently cloaked by Defendants in secrecy and find and distribute the insurance monies belonging to 1150/1152 Jeffrey Drive and effect timely repairs. Thus, Plaintiff will likely prevail on the merits of his request to appoint a receiver.

**2. The “Balance of Convenience” Weighs in Favor of Appointing a Receiver**

44. Given the current state of affairs in the Association and the lack of disinterest among its directors, the Association requires a neutral third party to intervene to, *inter alia*, establish an authoritative compliance with the governing laws, to conduct the Association’s required annual meeting and elections, to determine the lawful membership of the Board. Defendants made clear their complete contempt for the rule of law when Defendant DeSantis stated at the 9/23/08 Board meeting that Defendants would simply stand on their disputed ground: “We’re legal until a judge says otherwise,” (Cuevas affidavit at 4.o, Exhibit B) while at the same time filing two motions to dismiss so that a judge would never have such an opportunity and they can continue business as usual. Appointing a receiver can only help the Association, as it is at a literal deadlock between those, like Plaintiff, who are attempting to enforce compliance with the governing laws, and Defendants who are trying to maintain their non-compliant status quo ante using the full authority, power and money of the Association, Agent and its attorneys. Further, the inconvenience to the individual homeowner Members of the Association would be

minimal, if not transparent. There should be no disruption to essential services, to the Association's cash-flow, or to any other aspect of the Association's operations and Agent's general maintenance of the property and its accounts. The potential harm to the Association if a receiver is not immediately appointed greatly outweighs any inconvenience to the Members or Defendants. As such, the balance of convenience weighs in favor of the appointment of a receiver.

**3. Plaintiff will be Irreparably Harmed if the Receiver is not Appointed**

45. As stated above, Defendants have engaged in acts and practices that are illegal, fraudulent and oppressive. Defendants compromised Plaintiff's ability to fulfill his fiduciary duty, unlawfully removed Plaintiff as a director by denying him material facts and information while a director while they operated a secret 4-member board, orchestrated an unlawful meeting whereby they removed him as director, and operated and are now operating illegal boards. These facts, combined with Defendants' unlawful use of Association monies for their own personal gain and to otherwise misuse and waste the Association's assets, clearly demonstrate Plaintiff, as well as Members, will be irreparably harmed if a receiver is not appointed.

**4. The Public Interest is Best Served by the Appointment of a Receiver**

46. The appointment of a receiver is in the public interest, given the facts of this case. Defendants' ability to use the Attorney, the Agent, and general dissembling and obfuscation to frustrate and defeat Plaintiff's efforts to ensure the Board's compliance with its governing laws is a proximate cause of the instant action. Yet because of Defendants' gross negligence, incompetence or willful obstruction, the Association is not properly insured for such litigation and Defendants appear willfully obtuse to the

financial and other damage being wrought by their objectively uninvestigated defense of their non-compliant status quo at the expense of Members. Nor are the 1150/1152 Jeffrey Drive fire repairs being competently or lawfully managed. It is, therefore, in the public interest to encourage the Association to comply with its governing laws by establishing a lawful board of directors. Further, it is in the public interest for the Association to operate lawfully, efficiently, competently, honestly and openly so that homeowner Members, creditors, vendors and employees are not adversely affected. As such, a receiver is a necessary step to protect Plaintiff and his interests in the Association's monies, property and affairs until the full facts of the case can be disclosed to this Court so as to obtain final, effective relief.

**B. Whether a Receiver or Special Fiduciary Agent is Appropriate**

47. Plaintiff requests this Court to appoint a receiver, or, in the alternative, a Special Fiduciary Agent. "It is settled law in Maryland that the appointment of a receiver is an 'extraordinary remedy, which should be granted with great care.'" (*Hamzavi v. Bowen*, 126 Md. App. 492, 497 (1999), cited in Memorandum Opinion, *Costa Brava Partnership III v. Telos Corporation*, Md. Circ. Ct. case #24-C-05-009296) Plaintiff believes that only a receiver taking full control under the authority of this Court can fully and completely sever and separate the Association and its Members from the collusion and conspiracy wherein Defendants' unlawful acts and practices in the management of the Association flourish. Recognizing Md. courts' deference to the internal affairs of its corporations, Plaintiff understands the extraordinary remedy it is for this Court to remove a corporation's management from its board. However, Plaintiff believes the facts of this

case fully justify this extraordinary remedy and that Md. courts are fully authorized to take such action. (*supra*, at 35)

48. Additionally, however, Md. courts are empowered to appoint a less drastic remedy, such as a Special Fiduciary Agent, who would be tasked with a specified scope of authority that does not include fully placing the Association's assets and activities into the hands of this Court, but to remove oppression or other elements impeding the proper function of the corporation in a specific way. (*Edenbaum v. Schwarcz-Osztreicherne*, 165 Md. App. 233 (2005)) Under Maryland law, "oppression should be deemed to arise only when the majority conduct substantially defeats expectations that, objectively viewed, were both reasonable under the circumstances and were central to the petitioner's decision to join the venture." (*Edenbaum*, 165 Md. App. 258) While *Edenbaum* was decided in the context of a closely held corporation where a minority shareholder is held "hostage" by the controlling interest, (*Id.* at 257-258) the facts of this case are similar in that the "shares" owned by a homeowner Member is their property, their home. Hence, unlike a public corporation but like a closely held corporation, there is no ready market for a disgruntled homeowner to sell their home, which is a time-consuming and sometimes expensive undertaking in which a substantial loss can occur, such as in today's depressed real estate market (*See Warshaw v. Calhoun*, 43 Del. Ch. 148, 155 (Del. 1966))...nor should they be compelled to since such "shares" constitute their home. Hence, a Member in this corporate context has little recourse when faced with fraud, illegality or oppression at the hands of a condominium board or agent that, in its salient aspect of nearly unassailable power and authority to act against a homeowner's interest or with disregard to opposition—especially and particularly when it manipulates or ignores



the governing laws to exclude others from power or to do its will—meets the criteria of a minority “freeze-out” by the “majority,” as in *Edenbaum*. While *Edenbaum* noted that such a “freeze-out” in and of itself does not constitute sufficient evidence of oppression or fraud (*Edenbaum*, 165 Md. App. at 258-259), the facts of the instant case do.

49. Plainly, in a condominium association, individuals purchase houses and automatically become member shareholders of the Association, subject to its governing laws. A core expectation of any such homeowner is that the Association—through its Board and agent(s)—complies with its own governing laws such that no unjust detriment is visited upon the homeowner or the value of his “shares” (his home). In the instant case, the facts demonstrate Defendants (the “majority”) substantially defeated many of the reasonable expectations of homeowners when they chose to purchase their property. For example, Plaintiff chose to purchase his property partly on the basis that the Condominium Resale Certificate pursuant to Md. Condominium Act § 11-135 contained true and accurate information, and that it was a legal document the Association was bound to honor. However, Defendants and Attorney repeatedly argued throughout October 2007 to present that Condominium Resale Certificates are not binding documents and that the Board would not honor or abide by Plaintiff’s. Thus, they could and did pursue and harass Plaintiff for alleged violations committed by the previous homeowner but not documented in the Condominium Resale Certificate. They then arbitrarily rewrote the condominium’s master policy in a manner unique to Plaintiff’s property by denying insurance coverage to Plaintiff’s deck to which he has an unequivocal right. (see 5/9/08 Attorney letter, Exhibit G, Plaintiff’s Motion for an

Emergency Ex Parte Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should not Issue)

50. Other reasonable expectations defeated by this “majority” include, but are not limited to, the expectation of noticed, open meetings, the expenditure of Association monies in open meetings, lawful votes by directors, lawful elections and terms, creating and maintaining records and making them available to Members, the prompt repair of 1150/1152 Jeffrey Drive, compliance with insurance terms and laws, the maintenance of proper insurance such that Plaintiff and Members are not subject to surprise special assessments, and full and complete disclosure of material facts and information. The above are clear examples, objectively viewed, of reasonable expectations which led Plaintiff to “join the venture” being defeated by the “majority.” Such harm, without immediate intervention by this Court, is continuing and irreparable.

51. Hence, Defendants are oppressive, and a Special Fiduciary Agent is within this Court’s ability to appoint and fits in some ways the circumstances of the instant case. For example, a Special Fiduciary Agent would be empowered to, inter alia, establish the proper ballot and hold the 2008 election, place all Association records into protective custody, execute a certified forensic audit of the Association’s financial records, establish all the facts regarding the 1150/1152 Jeffrey Drive insurance issue and effect repairs, ensure all meetings and votes by the Board are lawful, ensure all Association expenditures comply with the governing laws, and ensure the Association is properly insured pursuant to its governing laws. However, a Special Fiduciary Agent would not have the legal control over the Association to enforce full compliance with the governing laws, to exercise full fiduciary control over the Association’s finances, or to act as an

mandatory buffer so as to sever and separate the collusion and conspiracy between Defendants. In such an atmosphere Defendants could and demonstrably would continue to act secretly, obfuscate and refuse to disclose and inform of material facts and information so as to render a Special Fiduciary Agent's efforts ineffective.

52. Therefore, while Plaintiff asks this Court for a Special Fiduciary Agent as an alternative so that Plaintiff would receive *some* protection and relief if this Court believes a receiver is too drastic for the circumstances of this case, Plaintiff believes a receiver is the *optimum* alternative to provide *complete* protection and relief from Defendants' fraudulent, illegal and oppressive acts and practices.

**C. This Court Should Waive the Bond Requirements Under Rule 15-503**

53. This Court should waive the bond requirements for the issuance of a TRO and preliminary injunctive relief under Md. Rule § 15-503(c). Plaintiff, a *pro se* litigant, is unable to personally pay such a bond as contemplated by the statute, and substantial injustice has resulted and will continue to result if the injunctive relief is not granted. As such, the requirement for a bond should be waived.

**CONCLUSION**

54. For the foregoing reasons, Plaintiff respectfully requests the Court appoint a receiver or, in the alternative, a Special Fiduciary Agent for the Association, pursuant to the attached proposed order, without delay.

**REQUEST FOR HEARING**

Pursuant to Md. Rules § 2-311(f), Plaintiff respectfully requests an emergency hearing.

Respectfully Submitted,

---

Christopher McKeon, Plaintiff, *Pro Se*  
1120 Soho Court, Crofton, MD 21114, 410-271-7907

I DO SOLEMNLY SWEAR AND AFFIRM, under penalty of perjury, that the foregoing Plaintiff's Verified Memorandum of Points and Authorities in Support of His Emergency Motion for a Temporary Restraining Order and Preliminary and Interlocutory Injunctive Relief for the Appointment of a Receiver or Special Fiduciary Agent is true and correct to the best of my knowledge, information and belief.

---

Christopher D. McKeon  
1120 Soho Court, Crofton, MD 21114

**CERTIFICATE OF SERVICE**

I, Christopher McKeon, Plaintiff, *Pro Se*, do hereby certify that a copy of the foregoing Motion has been served by First Class U.S. Mail, postage paid, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, upon the following:

Comanco, Inc., and  
Ruth Angell  
c/o Thomas R. Callahan  
Callahan & Callahan, P.C.  
2133 Defense Hwy  
Crofton, MD 21114

Charing Cross Townhouse Association,  
Inc. and Carol Frankhouser  
c/o Owen J. Curley  
Niles, Barton & Wilmer, LLP  
111 S. Calvert Street, Suite 1400  
Baltimore, MD 21202

Joseph R. DeSantis  
1001 Shire Court  
Crofton, MD 21114

Kathleen Marek  
1008 Broderick Court  
Crofton, MD 21114

Michael J. Helpa  
1007 Broderick Court  
Crofton, MD 21114

Respectfully Submitted,

---

Christopher McKeon  
Plaintiff, *Pro Se*  
410-271-7907

**Maryland Circuit Court for Anne Arundel County**

CHRISTOPHER DAVID MCKEON,	)	
	)	
Plaintiff,	)	
v.	)	
Charing Cross Townhouse Condominium, Inc.,	)	Case No. 02-C-08-132379 I J
Joseph R. DeSantis,	)	
Carol Frankhouser,	)	
Kathleen Marek,	)	
Michael J. Helpa,	)	
COMANCO, INC.,	)	
Ruth Angell,	)	
Defendants.	)	

**TEMPORARY RESTRAINING ORDER**

UPON CONSIDERATION of Plaintiff’s Emergency Motion for a Temporary Restraining Order and Preliminary and Interlocutory Injunctive Relief for the Appointment of a Receiver or Special Fiduciary Agent (“Motion for Receiver”), and the Memorandum of Points and Authorities in support thereof, and the Amended Complaint filed in this matter, it is this \_\_\_\_\_ day of \_\_\_\_\_, 2008, at \_\_\_\_\_ o’clock am/pm. by the Circuit Court for Anne Arundel County, Maryland,

The Court having made the following findings:

1. If the Court does not enter this Temporary Restraining Order,
  - a. That Defendants will continue the acts and practices enumerated in the Amended Complaint and in the Motion for Receiver;
  - b. That Plaintiff’s substantial rights will continue to be harmed;
  - c. That the issues surrounding the expenditure of Association monies and insurance monies will continue and remain unresolved;
  - d. That the Association will continue to act in violation of its governing laws;

e. That given the above, the Association cannot continue to properly operate.

2. This harm will be irreparable because the Association cannot continue to operate under these conditions, which will result in the Association being unable to meet its responsibilities to comply with its governing laws. Further, given Defendants' historically demonstrable acts and practices, Plaintiff reasonably expects to suffer further harm.

**IT IS HEREBY ORDERED**, that \_\_\_\_\_

\_\_\_\_\_

be appointed as receiver of Charing Cross Townhouse Association, Inc.; and it is further

**ORDERED** that \_\_\_\_\_ shall take charge of the Association's assets and affairs and be authorized and empowered as the receiver to act in accordance with the terms of the Order Appointing Receiver or, in the Alternative, a Special Fiduciary Agent, attached hereto as Exhibit A; and it is further

**ORDERED** that a party or any person affected by the order may apply for a modification or dissolution of the order on \_\_\_\_\_ days' notice, or such shorter notice as the Court may prescribe, to the party who obtained the order; and it is further

**ORDERED** that this Preliminary and Interlocutory Injunction shall expire on the \_ \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
JUDGE, Circuit Court for  
Anne Arundel County, Maryland

# Exhibit A

**Maryland Circuit Court for Anne Arundel County**

CHRISTOPHER DAVID MCKEON,	)	
	)	
Plaintiff,	)	
v.	)	
Charing Cross Townhouse Condominium, Inc.,	)	Case No. 02-C-08-132379 I J
Joseph R. DeSantis,	)	
Carol Frankhouser,	)	
Kathleen Marek,	)	
Michael J. Helpa,	)	
COMANCO, INC.,	)	
Ruth Angell,	)	
Defendants.	)	
	)	

**ORDER APPOINTING RECEIVER OR, IN THE ALTERNATIVE, A SPECIAL FIDUCIARY AGENT**

UPON CONSIDERATION of Plaintiff’s Emergency Motion for a Temporary Restraining Order and Preliminary and Interlocutory Injunctive Relief for the Appointment of a Receiver or Special Fiduciary Agent, and the Memorandum of Points and Authorities in support thereof, and the Amended Complaint filed in this matter, and the Court having made the following findings that:

1. Circumstances presently exist to warrant the appointment of a receiver for Charing Cross Townhouse Association, Inc. (“Association”) for the purpose of protecting its assets and property, to ensure its operation in compliance with its governing laws, to ensure the safety and preservation of all evidence of any sort under the possession or control of Defendants, to ensure Defendant Comanco performs in compliance with the contract between the Association and Comanco and the Association’s governing laws, and in so doing, administering all of its real property, personal property, business operations, general intangible assets, including contracts and agreements and associated



business records relating in any way to the affairs and business and management of the Association and its assets and property (collectively, the “Receivership Estate”).

2. The appointment of a receiver in this case is also necessary to control, manage, disclose and inform of material facts and information, to appoint a “special litigation committee,” and to effect the 2008 annual meeting and elections of the Receivership Estate to protect it from waste, mismanagement, dissipation or other acts and practices that cause the Receivership Estate to violate or be in violation of its governing laws.

3. Plaintiff is a 0.82% shareholder, owning one of the Association’s 122 shares.

**ACCORDINGLY, IT IS HEREBY**

**ORDERED**, that Plaintiff’s request for the appointment of a receiver is hereby **GRANTED**; and it is further

**ORDERED**, that this Court appoints \_\_\_\_\_

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as Receiver (the “Receiver”), with all the powers and obligations arising under applicable law and Rule 13-101, *et seq.*, of the Maryland Rules; and it is further,

**ORDERED**, that the Receiver’s power and obligations, as above, shall be as follows: 1) the Association and its affiliates, directors, officers, employees and Comanco, as the Association’s agent, shall provide to the Receiver immediate, full, complete and unfettered access, supervision, management and control over the Association’s account with Comanco and/or any other agent or possessee of Association records and/or monies (including, without limitation, all financial statements, accounts receivable records,

accounts payable records, bank records, leases, occupancy agreements and service agreements in the possession or control of any said party, and all funds relating to property of the Receivership Estate including, without limitation, all cash, financial accounts, security deposits, trust funds, escrow accounts, and insurance monies such as, but not limited to, the 1150/1152 Jeffrey Drive properties in the possession or control of any said party); 2) the Association and its affiliates, directors, officers, employees and its agent Comanco shall take no act and spend no money unless and until the Receiver shall so authorize; 3) to effect a certified forensic audit of the Association's financial records from 2000 to present; 4) to appoint a "special litigation committee" for the purpose of objectively investigating Plaintiff's complaint; 5) to hold meetings and generally conduct all Association business usually conducted by the Board; 6) any such other powers and duties as this Court may deem appropriate; and it is further

**ORDERED**, that in conducting the forensic audit, the Receiver shall use a reputable auditor experienced in such matters to establish any and all details of the Association's finances to ascertain and detect (if any) corruption, fraud, improper or unlawful income or expenditures, illegal, unauthorized or unprocedural use of monies, unauthorized operations, waste, inefficiency or lack of probity, with a written report timely presented to this Court and parties; and it is further

**ORDERED**, that the Association and its affiliates, directors, officers, employees and agents are hereby enjoined from entering upon or affecting the above-enumerated property of the Receivership Estate at any time during the pendency of the receivership without the prior express permission of the Receiver, and from interfering with, obstructing or preventing in any manner the actions of the Receiver; and it is further

**ORDERED**, that Defendant Comanco shall remain and function as the Association's contracted agent during the pendency of the receivership; and it is further

**ORDERED**, that the Receiver shall be compensated from the revenues, assets and proceeds of the property of the Receivership Estate at the Receiver's customary hourly rate, plus reimbursement of all reasonable and necessary out-of-pocket expenses and that the Receiver be and is hereby authorized to set aside in its escrow account such funds as necessary to secure the payment of the compensation and reimbursement of expenses authorized hereby, final payment subject to the Court's approval under Maryland Rule 13-301, *et seq.*; and it is further

**ORDERED**, that the Receiver is hereby authorized to employ counsel to advise the Receiver on such legal matters which may arise during the pendency of the receivership and to represent the Receiver in any litigation which may arise so long as said counsel is not presently nor recently employed for any work by the Association and its affiliates, directors, officers, employees or agent, and, further, to compensate counsel without order of this Court, at customary hourly rates for attorneys and legal assistants who render services on behalf of the Receiver, plus reimbursement of all reasonable and necessary out-of-pocket expenses, subject to Md. Rule 13-301, *et seq.*; and it is further

**ORDERED**, that this Court shall retain exclusive jurisdiction over any matter or dispute arising from or relating to the interpretation or implementation of this Order; and it is further

**ORDERED**, that the Receiver is hereby authorized to take custody and control of the property of the Receivership Estate and to manage the same pending further order of this Court; and it is further

**ORDERED**, that the Receiver is hereby authorized to investigate the nature and location of all property of the Receivership Estate including property not located at the premises identified above and to take custody and control of such property pending further order of this Court; and it is further

**ORDERED**, that the Association and its affiliates, servants, directors, officers, representatives and/or employees and agents shall transfer and pay over to the Receiver, if in the opinion of the Receiver it is deemed a necessary procedure pursuant to his primary duty to protect the assets and property of the Association, all funds in hand in cash and all funds held in deposit accounts arising from the management or operation of the property of the Receivership Estate, and all keys relating to property of the Receivership Estate and all books, financial records, operating statements, files and all other documentation or data storage, electronic or otherwise, relating in any way to property of the Receivership Estate; and it is further

**ORDERED**, that the Receiver is hereby directed to manage the assets of the Receivership Estate, including the collection of proceeds from operations of property of the Receivership Estate, by and through its agent Comanco or any other agent; and it is further

**ORDERED**, that the Receiver is hereby authorized and empowered to take all such action as shall be proper, including without limitation, the following:

(a) To take and retain immediate possession and charge of all the right, title and interest in and to all tangible and intangible property of the Receivership Estate, including but not limited to inventory, equipment, supplies, accounts, bank accounts, accounts receivable, cash collections, work in progress, checks, promissory

notes, commercial paper, vehicles, licenses, permits, and certificates, wherever located, and to manage, operate, maintain, secure control and/or liquidate same so as to protect and preserve them until further order of this Court;

(b) To take and retain immediate possession of all original books, records, bank accounts, ledgers, computerized data files, leases, security deposits, deposits and all other materials and all monies, cash and checks relating to the operation of property of the Receivership Estate, and for related entities, managers and related parties, and the Receiver shall also have the authority and power to perform all financial transactions necessary or desirable for the operation or protection of the property of the Receivership Estate so as to protect and preserve them until further order of this Court;

(c) To conduct activities as Receiver and retain and pay such managing agents and consultants in accordance with this Order, to retain present employees and management as applicable, to discharge such employees and management for any violation of this Order or for good cause shown, and to fix the compensation and conditions of employment or engagement for such consultants, managers, agents, contractors and employees as are necessary to assist it in operating, managing, improving, maintaining and performing its duties as Receiver;

(d) To enter into such contracts as are necessary for the operation, management, improvement, repair, maintenance, security, insurance, and the preservation of property of the Receivership Estate so as to protect and preserve them until further order of this Court;

(e) To defend all actions at law or in equity that may be brought against the property of the Receivership Estate;

*(f)* To carry out all of its duties under the powers granted hereunder and pursuant to such other orders as may be sought from this Court;

*(g)* To pay any taxes assessed against it as Receiver or against the Assets, in his discretion, and to pay all other bills and charges, all in the exercise of its duties during the receivership from the property of the Receivership Estate and/or income derived from them;

*(h)* To collect and receive all income, deposits, profits, issues and proceeds accruing from property of the Receivership Estate or generated from the operation thereof, and to apply any income to the payment of expenses of the property of the Receivership Estate in the ordinary course of business, including professional fees and expenses of the Receivership Estate, operating expenses, franchise obligations and debt services. The Receiver will also propose claim resolution procedures for any allowed general unsecured claims found to exist against the property of the Receivership Estate;

*(i)* To request and obtain financial information from third parties, banks, investors and/or financial institutions all records, bank statements, and other financial information related to any of the property of the Receivership Estate;

*(j)* To effect a forensic audit of the Association's financial books and records pursuant to this Order; and it is further

*(k)* To effect the appointment and operation of a "special litigation committee" to objectively investigate Plaintiff's claims in his complaint; and it is further

**ORDERED**, that the property of the Receivership Estate, wherever located and in whatever form they may be found, is frozen, subject to the administration of the Receiver, until further order of this Court; and it is further

**ORDERED**, that the Association and its affiliates, officers, directors, members, partners, agents, representatives, successors, assigns, employees or any other person acting for it are hereby restrained and prohibited from transferring, concealing, destroying, moving, depleting or otherwise affecting the assets belonging to Receivership Estate, including all tangible and intangible property of the Receivership Estate and assets of any kind and nature, wherever located, and shall not remove such assets from the jurisdiction of this Court; and it is further

**ORDERED**, that the Association and its affiliates, officers, directors, members, partners, agents, representatives, successors, assigns, employees or any other person acting for it are hereby directed to cooperate with the Receiver appointed herein and to provide any knowledge or information it possesses in connection with the operation, management, accounting and preservation of the property of the Receivership Estate; and it is further

**ORDERED**, that the Association and its affiliates, officers, directors, members, partners, agents, representatives, successors, assigns, employees or any other person acting for it are hereby directed to provide the Receiver with accountings and detailed listings of assets owned by the Association and liabilities owed by the Association; and it is further

**ORDERED**, that any violation of this Order or failure to abide by any of its terms may be penalized as a criminal or civil contempt; and it is further

**ORDERED**, that eight true test copies of this Order shall be related to counsel for each of the parties; and it is further

**ORDERED**, that this Court shall retain jurisdiction for the purpose of rendering a final judgment on the Complaint, and for the purpose of enabling any party or the Receiver to apply for such orders and/or directions as may be necessary and appropriate for the construction and enforcement of this Order; and it is further

**ORDERED**, that a further status hearing on this matter is set for \_\_\_\_\_, 200\_\_\_\_\_, at \_\_\_\_\_ am/pm.

**SO ORDERED:**

DATE: \_\_\_\_\_, 200\_\_

\_\_\_\_\_  
JUDGE, Circuit Court for  
Anne Arundel County