

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

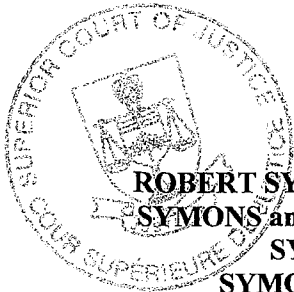
THE HONOURABLE ) MONDAY, THE 27<sup>th</sup> DAY  
 )  
JUSTICE MORGAN ) OF JUNE, 2016

BETWEEN:

**CONTINENTAL CASUALTY COMPANY**

Plaintiff

- and -



**ROBERT SYMONS in his capacity as executor of the Estate of GERALD GORDON SYMONS and as Trustee of the Estate of GERALD GORDON SYMONS, ALAN G. SYMONS, THE ESTATE OF GERALD GORDON SYMONS, SYMONS INTERNATIONAL GROUP, INC., IGF HOLDINGS, INC., GRANITE REINSURANCE COMPANY, LTD. and GORAN CAPITAL INC.**

Defendants

**ORDER**

**THIS MOTION** made by the plaintiff, Continental Casualty Company (“**Continental**”), for an Order vacating the interim stay of enforcement ordered pursuant to paragraph 5 of the Judgment of the Honourable Justice Glustein dated October 13, 2015 (the “**Judgment**”), and for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990 c. C. 43, as amended (the “**CJA**”) appointing Albert Gelman Inc. (“**AGI**”) as investigative receiver and inspector (in such capacities, the “**Receiver**”) over the defendant, the Estate of Gerald Gordon

Symons, without security, on the terms set out below, heard this day at 393 University Avenue, Toronto, Ontario.

**ON READING** the Amended Notice of Motion of Continental dated May 15, 2015, the Affidavits of James Hardgrove sworn May 14, 2015, and September 1, 2015, and exhibits thereto, the Affidavit of Janis Balvers sworn September 23, 2015, and exhibits thereto, the Affidavits of Robert Symons sworn August 11, 2015, and October 13, 2015, and exhibits thereto, and the Affidavit of Patrick Baker sworn September 28, 2015, and exhibits thereto, the Amended Notice of Motion of Continental dated May 6, 2016, the Affidavit of Samuel J. Thomas sworn March 3, 2016, and exhibits thereto, the Supplementary Affidavit of Samuel J. Thomas sworn May 6, 2016, and exhibits thereto, the Second Supplementary Affidavit of Samuel J. Thomas sworn May 27, 2016, and exhibits thereto, the Third Supplementary Affidavit of Samuel J. Thomas sworn June 13, 2016, and exhibits thereto, the Affidavit of Robert Symons sworn June 16 2016, and exhibits thereto, the Affidavit of Andrew Burns sworn June 15, 2016 and exhibits thereto, and on reading the Consent of AGI to act as the Receiver, on hearing the submissions of counsel for the parties, and further to the Endorsement of the Honourable Justice Morgan dated June 11, 2016,

1. **THIS COURT ORDERS** that the interim interim stay of enforcement ordered pursuant to paragraph 5 of the Judgment be, and the same is, hereby vacated and is at an end.

#### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 101 of the CJA, AGI is hereby appointed Investigative Receiver, without security, and with only the powers granted below of

the Estate of Gerald Gordon Symons (the “**Estate**”), for a period of 12 months from the date of this Order (the “**Receivership Period**”).

**RECEIVER NOT IN POSSESSION OF ASSETS**

3. **THIS COURT ORDERS** that the Estate shall remain in possession of its current and future assets, undertakings and properties of every nature and kind whatsoever (collectively the “**Property**”) and wherever situated including proceeds thereof.

4. **THIS COURT ORDERS** that the Receiver shall not take possession of the Property or assets of the Estate without further Order of the Court.

5. **THIS COURT ORDERS** that subject to further Order of this Court, the Estate shall continue to carry on its business and affairs consistent with its obligations to estate creditors and beneficiaries, including Continental.

**RECEIVER’S POWERS**

6. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once, without in any way limiting the generality of the foregoing, to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take all steps necessary to obtain all information whether in paper format or in digital format, both foreign and domestic (for further clarity, both within and outside of Canada and in all other jurisdictions, including but not limited to the United States), relating to the business, affairs, records, and all assets and Property of the Estate and of Gerald Gordon Symons (the “**Information**”) both

before and after the date of his passing on November 22, 2012, without limitation, from (i) the defendants and all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, banks and financial institutions, brokerages, all officers or employees of such banks, financial institutions or brokerages who have access to the Information, and all other persons acting on their instructions or behalf, and (ii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order, save and except for Continental (all of the foregoing each being a “**Person**”, save and except for Continental);

- (b) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver’s powers and duties, including without limitation those conferred by this Order;
- (c) to report to, meet with and discuss with any and all Persons, including counsel for Continental and/or Continental, as the Receiver deems appropriate on all matters relating to the Estate and the receivership, and to share the Information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (d) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- (e) to conduct examinations under oath of all of the defendants and their financial advisors, provided proper notice as stipulated under the *Rules of Civil Procedure*, is provided to the proposed party to be examined.

and in each case where the Receiver takes any such actions or steps, it shall be authorized and empowered to do so without interference from any other person including the co-defendants in the within action.

**DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

7. **THIS COURT ORDERS** that all Persons (as that term is defined at sub-paragraph 6(a), above), including banks and financial institutions, shall forthwith advise the Receiver of the existence of any Information in such Person's possession or control and shall grant immediate and continued access to the Information to the Receiver.

8. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, trusts, contracts, orders, accounting records, and any other papers, records and information of any kind related to the business or affairs of the Estate and of Gerald Gordon Symons both before and after the date of his passing on November 22, 2012, without limitation, any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, including without limiting the generality of the foregoing, the delivery by such persons of all passwords required to access the Information and Records and the devices or services where the Information and Information are located, provided however that nothing in this paragraph 9 or in paragraph 10 of this Order shall require the delivery of Records or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communications or due to statutory provisions prohibiting such disclosure.

9. **THIS COURT ORDERS** that if any Information and Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Information and Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the Information and Records contained therein whether by way of printing the Information and Records onto paper or making copies of computer disks or a bitmap image or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Information and Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the Information and Records as the Receiver may in its discretion require including providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the Information and Records.

10. **THIS COURT ORDERS** that the Receiver shall have access to those premises wherever the Information and Records of the Estate (and previously, of Gerald Gordon Symons, both before and after the date of his passing on November 22, 2012, without limitation) are kept, retained, stored or used, including, but not limited to, the residence of Robert Symons, the executor of the Estate, being 9130 Castlederg Sideroad, Caledon, Ontario, L7E 0S2 and the office of Robert Symons, being 14 Abacus Road, Brampton, Ontario, L6T 5B7, upon reasonable advance notice to Robert Symons' legal counsel, and the offices or residential premises of all Persons (as defined at sub-paragraph 6(a), above, relating to the business and affairs of the Estate, and Robert Symons and all Persons shall take all reasonable steps to ensure that the Receiver will have such access.

**EXAMINATION OF RECEIVERSHIP PARTIES**

11. **THIS COURT ORDERS** that within sixty (60) calendar days of the date of this Order, Robert Symons shall provide the Receiver with a statement under oath describing each of the Estate and Gerald Gordon Symons' assets and liabilities and all transactions in excess of \$10,000.00 from January 1, 2000 to present, including particulars as to with whom the transaction was performed, and by what means, and for what purpose.

12. **THIS COURT ORDERS** that on or before the last day of the Receivership Period, the Receiver shall provide the Court with a comprehensive report on the business and affairs of the Estate (the "**Report**"). The Report shall include information regarding the affairs of the Estate including information with respect to:

- (a) funds received by the Estate and by Gerald Gordon Symons before and after the date of his passing on November 22, 2012, without limitation, from all sources, whether beneficially or otherwise, and the basis on which those funds were received; and
- (b) disbursements of funds and any disposition of assets by the Estate and by Gerald Gordon Symons before and after the date of his passing on November 22, 2012, without limitation, whether by way of investment, expenditure, or otherwise, and the basis on which those funds were disbursed.

**NO PROCEEDINGS AGAINST THE RECEIVER**

13. **THIS COURT ORDERS** that no proceeding or enforcement process in any Court or tribunal shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

**LIMITATION ON THE RECEIVER'S LIABILITY**

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

**RECEIVER'S ACCOUNTS**

15. **THIS COURT ORDERS** that the Receiver and its counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its counsel are hereby referred to a judge of the Ontario Superior Court of Justice. The fees and disbursements so assessed by the Court shall constitute a first charge in favour of the Receiver and its counsel on the Property of the Estate.

**GENERAL**

16. **THIS COURT ORDERS** that the applicants counsel, Lou Brzezinski and Varoujan Arman of Blaney McMurtry LLP, are hereby granted leave to act as counsel for the Receiver.

17. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.



18. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All Courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this order or to assist the Receiver and its agents in carrying out the terms of this Order.

19. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any Court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

20. **THIS COURT ORDERS** that any interested party, including Continental, may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver, if any, as this Court may order.

**COSTS**

21. **THIS COURT ORDERS** that the defendants pay to Continental, \$60,000.00 all-inclusive for costs of the within motion and Continental's motion for summary judgment heard October 13, 2015.

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

JUL 25 2016

PER / PAR:



Morgan J.

**CONTINENTAL CASUALTY COMPANY**  
Plaintiff

and **ROBERT SYMONS, as successor in interest to G. GORDON SYMONS *et al.***  
Defendant

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at **Toronto**

**ORDER**

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