

COURT FILE NUMBER 1601-04493

COURT COURT OF QUEEN'S BENCH OF ALBERTA
 JUDICIAL CENTRE CALGARY

PLAINTIFF PILLAR CAPITAL CORP.

DEFENDANTS ACTION RESTORATION LTD.,
 ACTION RESTORATION RD LTD.,
 ACTION ASSET CORPORATION
 and STEP ABOVE EXTERIORS LTD.

DOCUMENT **ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
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I hereby certify this to be a true copy of the original order

Dated this 20 day of July 2016

 for Clerk of the Court

DATE ON WHICH ORDER WAS PRONOUNCED: July 7, 2016

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: Madam Justice B.E.C. Romaine

ORDER

UPON THE APPLICATION by Hardie & Kelly Inc., in its capacity as the Court-appointed receiver and manager (the “Receiver”) of the undertakings, property, and assets of Action Restoration Ltd. (“Action Restoration”), Action Restoration RD Ltd. (“Action Restoration Red Deer”) Step Above Exteriors Ltd. (“Step Above”) and Action Asset Corporation (“Action Asset” Action Asset, Step Above, Action Restoration Red Deer, and Action Restoration, are collectively referred to as, the “Debtors”) for an order approving the sale transaction (the “Transaction”) contemplated by the Residential Purchase Contract, dated June 22, 2016 (the “Templemont Contract”), between Action Asset, by and through the Receiver, as seller, and Mr. Shaun Purslow (the “Purchaser”), as buyer, attached a Confidential Appendix “B” to the Confidential Supplement

to the First Report of the Receiver, dated June 29, 2016 (the "**Confidential Supplement**"), and vesting in the Purchaser (or its nominee) all of Action Asset's right, title, and interest in and to the assets, buildings, lands, property, and goods described in the Templemont Contract (collectively, the "**Templemont Property**");

AND UPON HAVING READ the Receivership Order, dated April 15, 2016 (the "**Receivership Order**"), **AND UPON** reading the First Report of the Receiver, dated June 29, 2016 (the "**First Receiver's Report**"), filed; **AND UPON** having read the Confidential Supplement; **AND UPON** reading the Affidavit of Service of Joyce Nowak, sworn July 4, 2016 (the "**Affidavit of Service**"), filed; **AND UPON HEARING** the submissions of counsel for the Receiver, and for any other parties who may be present;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. The application filed by the Receiver on June 29, 2016 (the "**Application**") is properly returnable today, service of the Application and the First Receiver's Report on the service list, in the manner described in the Affidavit of Service, is validated and no persons other than those on the service list are entitled to service of the First Receiver's Report or the Application.
2. The Templemont Contract between Action Asset, by and through the Receiver, and the Purchaser and the sale of the Templemont Property by Action Asset, by and through the Receiver, to the Purchaser be and is hereby approved. The Receiver is hereby directed and authorized, *nunc pro tunc*, to execute and deliver the Templemont Contract to the Purchaser and to take any and all such steps as the Receiver determines necessary or advisable to close the Transaction of purchase and sale of the Templemont Property as contemplated in the Templemont Contract.
3. Effective immediately upon the Receiver filing a certificate with this Honourable Court confirming that all terms and conditions under the Templemont Contract and all modifications thereto have been either satisfied or waived and that the transaction contemplated by the Templemont Contract has otherwise been completed, to the satisfaction of the Receiver, such certificate being substantially in the form attached as Schedule "**A**" hereto (the "**Receiver's Certificate**"), but subject to the permitted encumbrances, as identified in Schedule "**B**" hereto (collectively, the "**Permitted Encumbrances**"), all legal and beneficial ownership of and title to the Templemont Property shall vest and is hereby vested in the Purchaser (or its designated assignee

or nominee to the extent permitted by the Templemont Contract), free and clear of any and all security interests (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have been attached, registered, perfected, or filed and whether secured, unsecured, liquidated, contingent, or absolute (collectively, the "**Claims**"). For greater certainty and without limiting the generality of the foregoing, the Claims shall not include the Permitted Encumbrances but shall include:

- (a) all claims held by or in favour of the entities served with the Application relating to this Order (other than the Purchaser or its authorized nominee or assignee); and
- (b) the beneficiary of any claims created or provided for pursuant to any previous Order of this Court in these proceedings.

4. Upon being presented with an original letter from counsel to the Receiver (the "**Letter**"), directed to the Registrar confirming that all conditions required to permit registration of a transfer of the lands identified in Schedule "**B**" to this Order (the "**Lands**") have been met, the Registrar be and is hereby authorized and directed to cancel the existing certificate of title to the Lands and to issue a new certificate of title in the name of the Purchaser as specifically set out in the Letter, free and clear of all encumbrances other than the Permitted Encumbrances.

5. The Registrar shall perform all actions pursuant to this Order notwithstanding the requirements of Section 191(1) of the *Land Titles Act*.

6. Any person has leave to apply to this Honourable Court to allocate the Claims or the Net Proceeds against or between the Templemont Property.

7. The Debtors and all persons claiming through or under the Debtors and any other persons in possession of any of the Templemont Property shall deliver up possession of the Templemont Property to the Purchaser or its assignee or nominee as at the Closing Date and, in default of possession being delivered up as aforesaid, a Writ of Possession is hereby issued.

8. Notwithstanding the pendency of these proceedings or the provisions of any federal or provincial statute, the vesting provisions contained herein:

- (a) will not be void or voidable at the instance of creditors and claimants;

- (b) do not constitute and shall not be deemed to be fraudulent preferences, fraudulent conveyances, transfers at undervalue, or otherwise subject to challenge under the BIA, the FPA or any other applicable federal or provincial legislation; and
- (c) do not constitute and shall not be deemed to constitute conduct meriting an oppression remedy.

9. For the purposes of determining the nature and priority of any Claims associated with the Templemont Property, the net proceeds from the sale of the Templemont Property shall stand in the place and stead of the Templemont Property and from and after the delivery of the Receiver's Certificate, any and all Claims and other encumbrances shall attach to the net proceeds from the sale of the Templemont Property with the same priority as they had with respect to the Templemont Property immediately prior to the sale, as if the Templemont Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to completion of the Transaction and the Templemont Contract.

10. Nothing in this Order shall prejudice any person's *in personam* claim against the Debtors.

DISTRIBUTION

11. The Receiver is hereby authorized and empowered to distribute the net proceeds from the sale of the Templemont Property in the following manner:

- (a) by paying any and all amounts owing, if any, to the municipality in which the Templemont Property is located in and with respect to and in connection with any municipal property taxes, assessments, penalties, and interest and any other overdue charges and obligations owing to such municipality in connection with or otherwise secured by the Templemont Property, in accordance with the municipality's priority thereto;
- (b) by paying any outstanding condominium fees owing with respect to the Templeton Property, if any;
- (c) by paying to the Canada Revenue Agency, any and all Goods and Services Tax ("GST") payable as a result of the Transaction, if any;

- (d) by paying any applicable real estate commissions, fees, and expenses in connection with the Transaction, if any; and,
- (e) by paying, upon the Receiver obtaining an opinion that the Mortgage registered against title to the Templeton Property, bearing registration number 101224199 (the "**TD Mortgage**"), in favour of The Toronto Dominion Bank (the "**TD**") is valid and enforceable in accordance with the terms therein, any and all amount owing to TD under and pursuant to the TD Mortgage.

12. Should the Receiver determine that the TD Mortgage or any part thereof is invalid or unenforceable, in accordance with the terms therein, the Receiver shall promptly notify TD of same and, furthermore, both the Receiver and TD are hereby authorized and empowered to, on notice to all interested parties, apply for and seek advice and directions in respect thereof and in connection with any potential distribution contemplated by paragraph 11(e) of this Order.

SEALING

13. Division 4 of Part 6 of the Rules does not apply to the Application, and the Clerk of the Court be and is hereby directed to seal the Confidential Supplement on the Court file until 15 days after the filing of the Receiver's Certificate in an envelope containing the following:

THIS ENVELOPE CONTAINS THE CONFIDENTIAL SUPPLEMENT TO THE FIRST RECEIVER'S REPORT. THE CONFIDENTIAL SUPPLEMENT IS SEALED PURSUANT TO AN ORDER ISSUED BY THE HONOURABLE MADAM JUSTICE B.E.C. ROMAINE, DATED JULY 7, 2016, AND IS NOT TO BE PLACED ON THE PUBLIC RECORD UNTIL 15 DAYS AFTER THE CORRESPONDING RECEIVER'S CERTIFICATE HAS BEEN FILED.

- 14. Any person may apply, on reasonable notice to the Receiver and any other persons likely to be affected, to vary or amend the terms of paragraph 13 of this Order.
- 15. TD's appearance, at the Application, was for the purposes of defending the TD Mortgage.

16. Service of this Order on the persons listed in the service list by email, facsimile, courier, registered mail, regular mail or personal delivery shall constitute good and sufficient service of this Order, and no persons other than the persons listed on the service list are entitled to be served with a copy of this Order.

A handwritten signature in black ink, consisting of stylized, cursive letters, positioned above a horizontal line.

J.C.Q.B.A.

SCHEDULE "A"

Clerk's Stamp

COURT FILE NUMBER	1601-04493
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	PILLAR CAPITAL CORP.
DEFENDANTS	ACTION RESTORATION LTD., ACTION RESTORATION RD LTD., ACTION ASSET CORPORATION and STEP ABOVE EXTERIORS LTD.
DOCUMENT	RECEIVER'S CERTIFICATE
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	McCARTHY TÉTRAULT LLP Barristers & Solicitors Sean F. Collins/Walker W. MacLeod Suite 3300, 421-7th Avenue S.W. Calgary AB T2P 4K9 Phone: 403-260-3531/403-260-3710 Fax: 403-260-3501 Email: scollins@mccarthy.ca wmacleod@mccarthy.ca

RECEIVER'S CERTIFICATE

1. All capitalized terms used in this Receiver's Certificate and not otherwise defined shall have the meaning ascribed to them in the Order issued by the Honourable Madam Justice B.E.C. Romaine of the Court of Queen's Bench of Alberta, in the within proceedings, on July 7, 2016 (the "**Vesting Order**").
2. Pursuant to the Vesting Order, the Court:
 - (a) Approved the Templemont Contract; and

- (b) Provided for the vesting of Action Asset's right, title, and interest in and to the Templemont Property, upon the filing of this certificate by the Receiver confirming that:
- (i) All terms and conditions under the Templemont Contract and all modifications thereto have been either satisfied or waived; and,
 - (ii) The transaction contemplated by the Templemont Contract has otherwise been completed to the satisfaction of the Receiver.

THE RECEIVER HEREBY CONFIRMS AND CERTIFIES THE FOLLOWING:

1. All terms and conditions under the Templemont Contract and all modifications thereto have been either satisfied or waived; and,
2. The transaction contemplated by the Templemont Contract has otherwise been completed to the satisfaction of the Receiver.

DATED THIS ____ DAY OF _____, 2016.

HARDIE & KELLY INC., in its capacity as Receiver of the current and future assets, properties and undertakings of Action Asset Corp.

Per: _____
Name:
Title:

SCHEDULE "B"

LANDS AND PERMITTED ENCUMBRANCES

LEGAL DESCRIPTION OF LANDS	PERMITTED ENCUMBRANCES		
	Registration Number	Date	Particulars
PLAN TEMPLE PROPERTIES CALGARY 7910737 BLOCK FORTY FOUR (44) THE SOUTHWEST SEVEN AND SIX HUNDRED AND TWENTY THOUSANDTHS (7.620) METRES OF LOT EIGHTY THREE (83) IN PERPENDICULAR WIDTH THROUGHOUT EXCEPTING THEREOUT ALL MINES AND MINERALS	791 092 493	13/06/1979	CAVEAT RE : DEVELOPMENT AGREEMENT CAVEATOR - THE CITY OF CALGARY.
	811 053 229	26/03/1981	PARTY WALL AGREEMENT