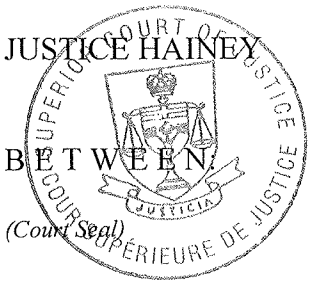


CV-19-00628293-0001
Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)
JUSTICE HAINES)
MONDAY, THE 30TH
DAY OF SEPTEMBER, 2019



CANADIAN IMPERIAL BANK OF COMMERCE

Plaintiff

and

SIMRANJIT DHILLON, MANDHIR DHILLON, SARBJIT DHILLON,
MANDEEP DHILLON, 908593 ONTARIO LIMITED, operating as Eagle Travel
Plaza, 1393382 ONTARIO LIMITED, 2145744 ONTARIO LIMITED, 2145754
ONTARIO LIMITED, 1552838 ONTARIO INC., 2189788 ONTARIO INC.,
2123618 ONTARIO LIMITED, 1849722 ONTARIO LTD., 2469244 ONTARIO
LIMITED, 2364507 ONTARIO LIMITED, 1254044 ONTARIO LIMITED and
2612550 ONTARIO LIMITED

Defendants

ORDER

**ORDER TO ALLOW ENTRY
AND SEARCH OF PREMISES**

IMPORTANT NOTICE TO THE DEFENDANTS:

This Order orders you to allow the persons mentioned below to enter the home, the garage and other buildings and any cars or other vehicles at 39 Rose Avenue, 60 Rose Avenue and 21 Laurentia Drive, Tillbury Ontario (the "Premises") to search for, examine and remove or copy the

items described in the Order.

This part of the Order is subject to restrictions. This Order also requires you to provide certain information regarding the items described to the Plaintiff's lawyers and to hand over those items which are under your control for examination and removal or copying, and prohibits you from doing certain acts. You should read the terms of the Order very carefully.

Before you or the person appearing to be in control of the Premises allow anybody onto the Premises to carry out this Order you are entitled to have the Independent Supervising Solicitor who serves you with this Order explain to you what it means in everyday language.

While the Independent Supervising Solicitor, as an officer of this Court, will explain the effect of this Order to you he or she is not providing legal advice to you and no solicitor-client relationship exists or is created between the Independent Supervising Solicitor and you or the person appearing to be in control of the Premises.

You are entitled to refuse to permit initial entry to the Premises before 9:00 a.m. or after 8:00 p.m. or at all on any day that is not a weekday.

You are entitled to seek legal advice regarding the nature and effect of this Order and of the rights you may have to assert including solicitor-client privilege and the privilege against self-incrimination. You may refuse to permit the search to begin for a short time while you consult your lawyer (not to exceed two hours, unless the Independent Supervising Solicitor agrees to a longer period).

You are at liberty to apply to this Court to set aside or vary this Order upon giving 24 hours' notice to the Plaintiff's solicitor of your intention to do so.

If you disobey this Order you may be guilty of contempt of court and may be sent to prison or fined or your assets seized.

THIS MOTION, made without notice by the Plaintiff for an order requiring the Simranjit Dhillon, Mandhir Dhillon, Sarbjit Dhillon and Mandeep Dhillon (the “**Individual Defendants**”) to permit representatives of the Plaintiff, its solicitors, and other necessary persons, to enter and remain in the premises of the Individual Defendants for the purposes of identifying, inspecting, removing and preserving certain evidence set out in Schedule “A” hereto was heard this day at 361 University Avenue.

ON READING the Motion Record dated September 20, 2019 and upon hearing the submissions of counsel for the Plaintiff, and on noting the undertaking of the Plaintiff to abide by any Order this Court may make concerning damages arising from the enforcement of this Order,

ENTRY AND SEARCH OF PREMISES

1. **THIS COURT ORDERS** that the Individual Defendants agents, employees, and anyone else acting on their behalf, and any other persons appearing to be in charge of the premises known municipally as 39 Rose Avenue, 60 Rose Avenue and 21 Laurentia Drive, Tillbury Ontario, a white 2019 Lexus SUV CFR894, a storage facility associated with one or more of the defendants at 7690 Queen’s Line, Chatham, Ontario, 9439 Chatham-Kent Country Road 2 (also known as Longwood Road), a grey 2017 Cadillac XT5 plate CCAK 223(“the **Premises**”) shall forthwith permit entry into the Premises to the persons authorized herein for the purposes of searching for, identifying, inspecting, preserving, reproducing, and removing into the custody of the Independent Supervising Solicitor (as defined in paragraph 2 herein), any and all documents, items, devices, equipment, and any component thereof, which are listed in Schedule “A” hereto (“**the Evidence**”) or which the Plaintiff’s solicitors believe to be the Evidence including any Computer Material as defined below.

2. **THIS COURT ORDERS** that for purposes of this Order, the Individual Defendants and any person(s) appearing to be in charge of the Premises shall grant entry and permit re-entry into the Premises during the times and in the manner specified in this Order to the following persons, collectively or individually, at the same time or different times (such persons hereinafter collectively referred to as “**Authorized Persons**”):

- (a) four solicitors, students-at-law, or law clerks from the law firm of Lenczner Slaght Royce Smith Griffin LLP, solicitors for the Plaintiff;
- (b) three solicitors from the law firm of Stockwoods LLP (“**the Independent Supervising Solicitor**”), and such other persons as they may require;
- (c) two representatives from Grant Thornton Limited (or any affiliates) (“**Grant Thornton**”);
- (d) one representative from King International Advisory Group or Investigative Solutions Network Inc., private investigation firms.

3. **THIS COURT ORDERS THAT** BDO Canada Limited in its capacity as receiver manager (the “Receiver”) of the corporate defendants shall be an Authorized Person for all purposes in this order. If it is necessary for the Receiver to enter into any of the Premises then it shall not be necessary for any Authorized Person to attend to conduct the search of the Premises. The Receiver, as an Officer of the Court, shall, with its counsel Aird & Berlis fulfill the function of Independent Supervising Solicitor for any searches conducted by the Receiver. The Receiver may, but shall not be required to, have any other Authorized Person attend for the purposes of the search of any Premises.

4. **THIS COURT ORDERS THAT** the Chatham-Kent Police Service and any other police services having jurisdiction be, and hereby are, authorized to keep the peace in the carrying out of this Order.

5. **THIS COURT ORDERS** that the Independent Supervising Solicitor shall act as an officer of the Court in respect of the observance and implementation of the terms of this Order.

6. **THIS COURT ORDERS** that all persons responsible for service and execution of this Order be entitled to take all necessary reasonable measures to enforce it and to reasonably prevent or remove any impediment to its execution.

7. **THIS COURT ORDERS** that this Order may only be served and the initial entry to the Premises made between 9:00 a.m. and 8:00 p.m. on a weekday.

8. **THIS COURT ORDERS** that following the service of the Order on any person(s) appearing to be in charge of the Premises, no entry to the Premises shall be permitted unless there are present at the time of entry the Authorized Persons, or any of them, provided that one Independent Supervising Solicitor and such other persons as they may require are also present.

9. **THIS COURT ORDERS** that the Individual Defendants their agents, employees family members or anyone else acting on their behalf, and any person(s) appearing to be in charge of the Premises shall allow the Authorized Persons to remain on the Premises until further Order of this Court, to exercise their rights and discharge their duties as set out in this Order.

10. **THIS COURT ORDERS** that the Individual Defendants, their agents, employees, family members and anyone else acting on their behalf, and any person(s) appearing to be in charge of the Premises shall allow the Authorized Persons to record by audio, video or photograph the Evidence,

the Premises, and all acts, conversations and discussions occurring in the course of the Authorized Persons' search of the Premises and that relate to this Order between the time this Order is served and the completion of the search, with the exception of communications between the Individual Defendants and their solicitors.

11. **THIS COURT ORDERS** that if it is deemed impracticable by the Independent Supervising Solicitor, in his or her discretion, to search for, identify, inspect or reproduce Evidence located on any computers, digital or other storage media at the Premises, the Independent Supervising Solicitor shall be entitled to remove such electronic evidence into its possession for these purposes for a period of 72 hours or such further period as may be agreed to by the parties or ordered by the Court.

COMPUTER MATERIALS

12. **THIS COURT ORDERS** that the Individual Defendants and any person(s) upon whom the Order is served are restrained from concealing, moving, tampering with, altering, erasing or destroying any information, data, documentation (whether in electronic, hardcopy or other form), computers, computer programs, computer tapes, computer disks or other data stored on any other data storage media wherever located. The Individual Defendants and any person(s) upon whom the Order is served, shall not turn on any of the electronic devices covered by this Order and such devices already turned on shall be shut down immediately, without making any changes or alterations as described above to preserve all information including metadata.

ACCESS TO COMPUTER MATERIALS

13. **THIS COURT ORDERS** that Grant Thornton is (for the purpose of securing and preserving the Evidence) entitled to take an image of the data on any computer, iPad, tablet,

magnetic tape or disk, DVD, CD, USB device, cell phone or smart phone or any other electronic storage media device (collectively “**Computer Materials**”) located on the Premises or delivered up by the Individual Defendants in accordance with this Order, to be provided to the Independent Solicitor pending further order of this Court.

14. **THIS COURT ORDERS** that Grant Thornton shall be given access by the Individual Defendants to any Computer Materials of the Individual Defendants for the purpose of retrieval and duplication of any and all electronic records or information contained herein. To facilitate this access, the Individual Defendants shall disclose to Grant Thornton all usernames, accounts, passwords, access codes, keys and encryption solutions and shall remove and deactivate any other security safeguards existing on any of the foregoing or restricting access to any storage computer data to which the Individual Defendants may have remote access.

15. **THIS COURT ORDERS** that The Individual Defendants shall permit Grant Thornton to connect a hard drive or external media to such Computer Materials, to execute an imaging software program, to make two (2) complete images of the data from all the Computer Materials and to test the new images that have been made.

16. **THIS COURT ORDERS** that should Grant Thornton, in consultation with the Independent Supervising Solicitor, determine that it is not practical to perform the tasks permitted in this Order while attending at the Premises, Grant Thornton shall be permitted to remove any Computer Materials for the purpose of performing such tasks, provided that Grant Thornton shall return the Computer Materials to the Premises within three (3) business days of their removal, and shall subsequently provide any images captured to the Independent Supervising Solicitor, pending further order of this Court.

17. **THIS COURT ORDERS** that the Individual Defendants and any person(s) upon whom the Order is served shall immediately inform Grant Thornton of the location of the Computer Materials of the Individual Defendants and if the materials are located at one or more different locations such locations shall be treated as part of the Premises for purposes of carrying out the terms of the Order.

18. **THIS COURT ORDERS** that the Individual Defendants and any person(s) upon whom the Order is served shall immediately inform Grant Thornton of the existence of any on-line internet based e-mail or other accounts or remotely accessed computers where information related to any of the Defendants may be stored, provide all means of accessing these accounts or computers and allow Grant Thornton to change the access to these accounts to allow Grant Thornton an adequate opportunity to secure the information contained on these accounts or computers.

RIGHTS OF THE DEFENDANTS AND PERSONS SERVED

19. **THIS COURT ORDERS** that at the time of initial entry into the Premises, the Individual Defendants and any person(s) appearing to be in charge of the Premises shall be served with this Order and a copy of the Motion Record containing the evidence by which the Order was obtained, with only one solicitor of the Plaintiff and the Independent Supervising Solicitor being present at the time of initial entry into the Premises.

20. **THIS COURT ORDERS** that the solicitors for Plaintiff under the supervision of the Independent Supervising Solicitor may serve a true copy of this Order on the Individual Defendants and any person(s) appearing to be in charge of the Premises but it is not necessary to serve a certified copy or original of this Order on any person.

21. **THIS COURT ORDERS** that upon service of this Order, the person(s) served shall forthwith be advised in plain language by the Independent Supervising Solicitor of the nature of the Order and their legal rights, including the right to seek legal advice and to segregate documents over which legal privilege is claimed (“**Privileged Documents**”), provided that they do so forthwith. While seeking legal advice and segregating Privileged Documents the Individual Defendants may refuse entry to the Premises for a period not to exceed two hours to all of the Authorized Persons except for the Independent Supervising Solicitor and such other persons as they may require, who shall be and hereby are authorized to enter the Premises and take such steps as they deem necessary to secure and preserve the Evidence therein and ensure that no steps are taken to alter, deface, discard, conceal or destroy any of the Evidence or Computer Materials while the Individual Defendants and/or person(s) served are seeking legal advice.

22. **THIS COURT ORDERS** that the Individual Defendants and their solicitors shall be entitled, although not obligated, to be present during the search.

23. **THIS COURT ORDERS** that any Privileged Documents identified as provided for in paragraph 20 shall be provided directly to the Independent Supervising Solicitor and sealed pending further order of the Court.

24. **THIS COURT ORDERS** that the Plaintiff’s solicitor shall ensure that a list is made of all the evidence that is seized or delivered up pursuant to this order and shall serve a copy of that list on the Individual Defendants or the Individual Defendants’ solicitors.

OBLIGATIONS OF THE DEFENDANTS AND PERSONS SERVED

25. **THIS COURT ORDERS** that upon service of the Order, the Individual Defendants and any person(s) upon whom the Order is served, shall forthwith disclose to the Authorized Persons

and grant access and deliver up to the Authorized Persons any and all of the Evidence, wherever situate, including but not limited to the whereabouts of all of the Evidence, whether under the possession, custody or control of the Individual Defendants or any third party.

26. **THIS COURT ORDERS** that upon service of this Order, the Individual Defendants and any person(s) upon whom the Order is served, shall forthwith render any necessary assistance to the Authorized Persons to locate, decode, access, and decrypt the Evidence and any and all information or electronic data to which the Authorized Persons may not have ready and immediate access, including the provision of all keys, identification codes, passwords, passphrases, or any other such information or knowledge necessary to achieve access thereto.

27. **THIS COURT ORDERS** that upon service of this Order, the Individual Defendants and any person(s) upon whom the Order is served, shall forthwith render any necessary assistance to the Independent Supervising Solicitor and the persons assisting him to enable them to effectively carry out their responsibilities under this Order.

CUSTODY OF, ACCESS TO, AND USE OF EVIDENCE SEIZED OR DELIVERED UP

28. **THIS COURT ORDERS** that all Evidence seized pursuant to this Order, including the Privileged Documents, shall be held in the custody of the Independent Supervising Solicitor pending the trial of this action, or until such time as the Court orders otherwise.

29. **THIS COURT ORDERS** that the Individual Defendants and/or their solicitors shall be provided with reasonable access to all Evidence which was seized from or delivered up by that Individual in the custody of the Independent Supervising Solicitor for the purpose of examining and making copies of the said Evidence in the presence of a representative of the Independent Supervising Solicitor.

30. **THIS COURT ORDERS** that the Plaintiff may seek leave of this court on 48 hours' notice to be permitted access to the Evidence seized from the Individual Defendants.

31. **THIS COURT ORDERS** that the Evidence seized shall be used by the Plaintiff only for purposes of this action, unless the Court orders otherwise.

PROHIBITED ACTS

32. **THIS COURT ORDERS** that unless otherwise ordered by this Court, the Defendant, any of its officers, directors, servants, agents or employees, and any person(s) served with this Order shall not directly or indirectly, by any means whatsoever:

- (a) remove any Evidence from the Premises, erase or delete from any means of electronic storage, or transmit any of the Evidence from the Premises, or alter, deface, discard, conceal or destroy in any manner any of the Evidence; and
- (b) touch, activate, or operate any computer equipment either locally or remotely from any location, or access or alter any text, graphics, electronic data, information, or other content of any web site or its databases or any electronic mail, newsgroup or Internet relay chat communications, or other information, instructions or data stored in any location remote from the Premises that may contain or constitute the Evidence.

33. **THIS COURT ORDERS** that, in order to give effect to the Order, any person who is ordered not to do something shall not do it personally, through others acting on his behalf, or on his instructions, or with his encouragement or acquiescence, or in any other way.

VARIATION/DISCHARGE OR CONFIRMATION OF ORDER

34. **THIS COURT ORDERS** that the terms of this Order shall remain in force and be effective for ten (10) days and shall thereafter terminate unless the Plaintiff returns to the Court on or before October 11, 2019 to apply to continue this Order.

35. **THIS COURT ORDERS** that the Individual Defendants or any person with notice of this Order may apply to the Court at any time to vary or discharge this Order or so much of it as affects such person, but anyone wishing to do so shall provide the Plaintiff's solicitors with at least twenty-four (24) hours' notice thereof.

REPORT TO THE COURT

36. **THIS COURT ORDERS** that the Independent Supervising Solicitor, upon receipt of a request in writing from any party, shall within seven (7) business days of receiving such request, deliver a report which describes the execution of this Order, who was present at the execution, and what materials were reproduced and/or removed into the custody of the Independent Supervising Solicitor, and deliver a copy of the report to the parties, or their solicitors of record, and that the costs of the preparation of such a report shall be in the discretion of the Court as to quantum and the party who should bear them.

SEALING ORDER

37. **THIS COURT ORDERS** that, until further Order of this Court, the Motion Record in support of this Motion shall be sealed and not form part of the public record and any persons served with a copy of it shall keep it and its contents confidential and shall not disclose its contents to any person except their legal counsel.

Hanley J

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

SEP 30 2019

PER / PAR: *CJ*

SCHEDULE "A" - THE EVIDENCE

1. Any Computer Materials that have recorded on it any:
 - (a) record of any email, MSN messenger, instant messenger, text message, letter or other electronic communication (including the meta-data regarding, associated with, or pertaining to these communications) from or to or on behalf of the Defendants regarding:
 - (i) the finances, assets, undertakings, books and records and properties, real and personal including proceeds thereof of the Defendants;
 - (ii) the use of the CMO Service at CIBC by the Defendants;
 - (iii) the relationship between any of the Defendants and CIBC;
 - (iv) the use of the Libro Credit Union or any other financial institution or money service business by the Defendants;
 - (v) the location, source or use of the worldwide assets and income of any of the Defendants;
 - (vi) cheques or copies or images of cheques issued to or by any of the Defendants; and
 - (vii) the use of funds by the Defendants since 2014.
2. Any hard copy or print out of any information describe above.
3. Any RSA Tokens which may be related to the CMO Service.

4. Any financial instruments including shares, cash, gold bars or other documents or things which are or represent real assets.

5. Any other document (as defined by Rule 30.01 of the *Rules of Civil Procedure*) containing evidence regarding the assets of the Defendants including assets held directly, indirectly, or on behalf of the Defendants or over which the Defendants exercise some form of control.

CANADIAN IMPERIAL BANK OF COMMERCE
Plaintiff

-and- SIMRANJIT DHILLON et al.
Defendants

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

ORDER

**LENCZNER SLAGHT ROYCE
SMITH GRIFFIN LLP**

Barristers
Suite 2600
130 Adelaide Street West
Toronto ON M5H 3P5

J. Thomas Curry (25740V)

Tel: (416) 865-3096
Fax: (416) 865-9010
Email: tcurry@litigate.com

Monique J. Jilesen (43092W)

Tel: (416) 865-2926
Fax: (416) 865-2851
Email: mjilesen@litigate.com

Christopher Yung (62082I)

Tel: (416) 865-2976
Fax: (416) 865-3730
Email: cyung@litigate.com

Jessica Kras (77700K)

Tel: (416) 865-3718
Fax: (416) 865-6773
Email: jkras@litigate.com

Lawyers for the Plaintiff

LSRSG 101524630