

**REPORT ON A CROSS BORDER AND CROSS
PROVINCIAL REAL ESTATE FRAUD BY ATTORNEYS**

FRIDAY, APRIL 17, 2009

HAROLD C. GAFFNEY

Address of Delivery: #403-567 Lonsdale Avenue,
North Vancouver, B.C. V7M 2G6

Telephone and Fax number: 604.685.6518
harold_gaffney1@hotmail.com

DELIVERED TO:

THE LAW SOCIETY OF UPPER CANADA (LSUC)

ATTENTION TO:

**Malcolm L. Heins;
All Benchers of the LSUC;
and to others**

► **COPY THIS INFORMATION AND FORWARD A COPY TO
ALL THE LAY BENCHERS**

**Re: On the Criminal and Unethical Conduct
of CIBC Attorney R. Stephen Alsace**

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Hello to the treasurer of the LSUC; and Hello to all the Benchers of the LSUC;

**Re: On the Criminal and Unethical Conduct
of Assistant General Counsel R. Stephen Alsace for CIBC**

1. This correspondence is to report a cross border, cross provincial real estate fraud committed by attorney **R. Stephen Alsace**, on behalf of CIBC, with the assistance of attorney **D. Ross McGowan** of *Borden Ladner Gervais* (BLG), the attorney acting for Mr. Alsace and for CIBC and the law firm that was directly involved in a fraudulent land transfer against an elderly man in North Vancouver, B.C. (**See pp. 75 to 78 of the binder**).

2. Attached are correspondences which gives evidence of Mr. Alsace's crime on behalf of CIBC, with the assistance of in-house counsel Mr. McGowan, who has gone way beyond his call of duty, as an attorney, in protecting his clients from an obvious mortgage fraud committed by insiders.

3. There are three crimes that have been committed thus far, with the full knowledge of attorney R. Stephen Alsace:

- i. CIBC altered the face of postal money orders payable to **CIBC MORTGAGES INC.**, and applied it for another purpose (CIBC personal loan) without the knowledge and consent of Harold Gaffney, contrary to s. 332 of the *Criminal Code of Canada*. (**Please see Binder at p. 74**). Mr. Alsace and Mr. McGowan colluded together by compiling a complaint against retired member Anthony Jasich and included in the complaint an email to member Ruth Long, dated 16 Jan, 09, attached herein, for the purpose of justifying their fraud in altering postal money orders, by claiming Mr. Gaffney was in arrears with his loan payments, which evidence shows Mr. Gaffney was not ever in arrears with his CIBC personal loan nor with his mortgage payments.
- ii. CIBC and attorney McGowan negotiated six (6) money orders payable to CIBC for mortgage number **6248031.1**. (**See pp. 1 to 57**) The money orders have either been negotiated towards Mr. Gaffney's mortgage or else the attorneys have pocketed the funds for themselves, contrary to s. 332 and 336 of the *Criminal Code of Canada*.
- iii. The mortgage discharge was signed by two unauthorized signatories for **CIBC MORTGAGES INC – Paolo Brazinha and Jack Glazier**, of the Coquitlam Centre branch, (**See pp. 58 to 73 of the binder**) at the behest of member of the Law Society of British Columbia (LSBC) attorney R. Keith Oliver, who does business at the Coquitlam Centre branch and with the full knowledge of member R. Stephen Alsace and of NY Attorney **Michael Capatides**, lead counsel for CIBC, who knew at all times, when it comes to fraud, Canada is the incubator state for the lower 48.

4. To understand NY Attorney **Michael Capatides** is to know **Garth Drabinski** of Livent. This is to say that for those readers and benchers who would challenge the Canadian credo: *'We are the incubator state for the lower 48'*, they need only study the rise and fall of *Livent* and *Worldcom*, *Enron*, *Global Crossing*, *CIBC*, *360Networks*, *Grand Cayman Islands (Canadian Banks)*, *Grand Cayman Court*, (*Vancouver judges*), etc. then sprinkle more snake-oil and you got a lot of Madoffs -- with Canadian content.

5. CIBC's attorneys are known to play dirty when they are caught in major fraud schemes, as apparent with NY Attorney General Elliott Spitzer when he exposed CIBC and arrested a CIBC executive for stealing more than \$1 million from mutual funds by participating in the late-trading scheme. The SEC followed with civil charges. This was the first case in what would become one of the largest scandals in the history of Wall Street. Attorney for CIBC Michael Capatides had motive to send the prostitute to the former Attorney General when he was Governor. **(See p. 80 of the attached binder)**

6. Thus it is not a stretch to say that NY Attorney **Michael Capatides** continues to direct his assistant Mr. Alsace to play dirty when caught in a scheme of fraud and who better than the in-house attorney D. Ross McGowan of BLG to use his legal training to assist his clients CIBC by delivering a lengthy letter dated 30 Oct. 08, to Mr. Alsace by making allegations that would cover up the fraud committed by his clients, including attorney R. Keith Oliver, the master mind behind the mortgage fraud, who first advised Mr. Gaffney's wife to file for bankruptcy, without invoking the *Family Relations Act*, which to this day Mr. and Mrs. Gaffney are still not legally separated, unlike what Mr. McGowan tried to convey to his readers.

7. Mr. McGowan set the course to defend Mr. Alsace by using his legal practice in further slandering attorney Graeme Keirstead, the Manager of Custodianships and Special Fund of the LSBC in claiming in his letter that Mr. Keirstead is permanently brain injured. **(Please see attached Submissions to the LSBC -- McGee and Benchers)**

8. A recent decision from the Court of Appeal of BC, *Re Oehlerking Estate*, 2009 BCCA 138, appears to be of great concerns to bankers and to lawyers who act for the lenders by arguing that bankers and lawyers are also victims of mortgage fraud. The lawyers for the lenders happen to be lawyers for Davis & Co., the law firm that produced two BC Supreme Court Judges, Grant Burnyeat and Wendy Baker, who prior to their appointment to the bench, were lawyers acting for CIBC and later acted on my case and used their judicial office to pass a benefit to CIBC and to attorney R. Keith Oliver. It makes anyone wonder as to why the lawyers in the case of *Re Oehlerking Estate*, 2009 have been singled out, when many other lawyers from big law firms like BLG are still practicing law without ever having been disciplined for having been involved directly in mortgage fraud. *It's like the Hells Angels fighting for territory!*

9. I can tell you, without fear of contradiction, that CIBC and the lawyers for CIBC, including the lawyers for the straw buyers, are all colluding together in stealing my property for profit. Fraud cannot be executed without the full knowledge of the lawyers involved in the transfer of title, as apparent in many cases involving mortgage fraud.

10. Mr. Oliver converted the property to himself and he could not have done it without the help of Mr. Alsace, who turned a blind eye to the forged mortgage discharge, signed by unauthorized signatories of **CIBC MORTGAGES INC.**

11. Than attorney Alsace committed another crime when he altered postal money orders payable to CIBC MORTGAGES INC. and without Mr. Gaffney's consent, applied it to Mr. Gaffney's personal loan.

12. Than Alsace engages Ross McGowan to assist him in the conclusion of CIBC's crime by negotiating money orders and pocketing the funds for themselves.

13. Mr. David Marston, who served on different US administration as attorney general, including serving on the administration of George W. Bush as A-G, wrote a book entitled, *Malice-Aforethought: How Lawyers Use Our Rules to Get Rich, Get Sex, Get Even, and Get Away With It*. He attacks the lack of ethics of the legal profession. He believes that attorneys committing crimes fall into four (4) categories:

- i. Lawyers who use their legal training to break the law or commit crimes in the course of their practice.
- ii. Lawyers who violate any important ethical rule of the legal profession. Not surprisingly, there are big rules and little rules and lots of technicalities, so the focus here will be on significant professional misconduct, not a minor infractions.
- iii. Lawyers who use their legal training to do things they should be ashamed to tell their mothers.
- iv. Lawyers who cooperate when they know there is a bad lawyer at work. Such lawyers may go through the steps *but* will not go up against the system on behalf of his client. These David Marston calls, "***Unindicted co-conspirators***".

14. Is the LSUC also "***Unindicted co-conspirators***" by allowing attorney Stephen Alsace to cover up the crime he committed on behalf of CIBC? Mr. Alsace is not an obvious fraudster because he acts for CIBC, but that does not mean Mr. Alsace is any different from other lawyers that the LSUC has recently disbarred due to their fraudulent conduct in mortgage fraud because I can tell you, he is of the same ilk as any insiders lending a helping hand to white-collared criminals, like attorney R. Keith Oliver.

15. Same goes for attorney D. Ross McGowan and attorney R. Keith Oliver who should be arrested and charged under section 336 and 332 of the ***Criminal Code of Canada***.

16. It is to be noted that over \$300,000 dollars has been stolen from Mr. Gaffney by some members of the bar, using fictitious names to transfer property electronically at the *BC Land Title Office*, whose custodianship is the LSBC, and by getting two unauthorized signatories within CIBC signing for **CIBC MORTGAGES INC.** and obtain a notary unable to legally notarized the mortgage discharge on Mr. Gaffney's property -- all of it was done under the watchful eye of attorney Stephen Alsace.

17. As an assistant counsel for **NY Attorney Michael Capatides** for CIBC --- it could be said attorney R. Stephen Alsace is '*In over his head*', given that he has involved himself with a small town attorney in Coquitlam BC by the name of R. Keith Oliver. When attorneys choose to use their legal training to break the laws or commit crimes, they ought to be disbarred forthwith.

I await for an immediate response to this urgent matter.

Signed,

Harold Gaffney

From: harold_gaffney1@hotmail.com
To: sweir@blgcanada.com
Subject: FW: BLG and CIBC and Harold Gaffney's Property
Date: Wed, 4 Mar 2009 07:07:55 -0800

Wednesday, March 4, 2009

Dear Mr. Sean Weir, National Managing Partner of BLG;

Would you please, without any further delays, direct Mr. Ross McGowan to respond to my email below, and direct him to produce photocopies of the back of the certified cheques that he claim is in his possession and control. The certified money orders were issued by Coastal Capital Savings Credit Union, and the money orders are payable to CIBC for my monthly mortgage.

In the event I do not hear from you today, I will ask others at BLG to direct Mr. McGowan to produce the requested particulars that I am entitled to have.

The requested particulars can be delivered at this email and/or by fax at 604.685.6518, no later than today.

Thanking you in advance for your attention in this matter.

Signed,

Harold Gaffney

From: harold_gaffney1@hotmail.com
To: rmcgowan@blgcanada.com
Subject: BLG and CIBC and Harold Gaffney's Property
Date: Sun, 1 Mar 2009 19:10:28 -0800

Mr. Ross McGowan,

Mr. Jasich forwarded your email of February 25, 09, to me, of which I attach a copy.

Please take note that Mr. Jasich will not be responding to you at any time due to the complaint made against him at the Law Society of British Columbia (LSBC), in relation to your letter of October 31, 2008, which you have republished, when you emailed it to Mr. Jasich on February 25, 2009.

Further please note that Mr. Jasich is not my solicitor on record and never was, therefore while you insist in making him my lawyer and insist on spreading malicious false information about me to Mr. Jasich and to others by attempting to destroy my good character for profit, you have an obligation and duty to reply to me directly and not expect Mr. Jasich to acknowledge receipt of your correspondences.

Subsequently, I note that you have attached to your correspondence photocopies of six (6) certified cheques from Coast Capital Savings Credit Union, each, payable to CIBC for Mortgage No. 6248031.1. The photocopies you have produced show that the certified cheques was for my Mortgage of February 2008 to July 2008.

Please provide photocopies of the back of the certified cheques that you claim are in your possession and control, no later than today, March 2, 2009. You can deliver the requested particulars by email and/or by fax at 604.685.6518, no later than today.

Signed,

Harold Gaffney



BORDEN
LADNER
GERVAIS

Page 3
Borden Ladner Gervais LLP
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www.blgcanada.com

February 24, 2009

FILE NO: 500008/000740

BY EMAIL (anthonyjasich@shaw.ca)

D. ROSS MCGOWAN
direct tel: (604) 640-4173
direct fax: (604) 622-5873
email: rmcgowan@blgcanada.com

Anthony J. Jasich, LL.B.
#403-567 Lonsdale Avenue
North Vancouver, B.C. V7M 2g6

Attention: Anthony Jasich

Dear Sirs/Mesdames:

**Re: Harold Gaffney; Mortgage Number 6248031.1 –
312 – 450 Bromley Street, Coquitlam, BC**

I am in receipt of a fax dated February 24, 2009 from Harold Gaffney a copy of which is attached. I have previously informed you that I will not have any direct dealings with this individual. I encourage you to alert him to that.

As you are well aware, Mr. Gaffney has been publishing defamation about my client, its employees, my firm and now myself. I hold you substantially responsible for this, particularly as you appear to be the source of the publication of a privileged document in contravention of your obligations pursuant to part 5, paragraph 15 of the Code of Professional Conduct.

I have written you on two occasions prior to this date requiring that you explain yourself and advise me as to what steps you will be taking to address this matter. While Mr. Gaffney purports to require that I respond to him, I have previously informed him and you that I will not respond to him directly. In contrast, you, as a retired lawyer, continue to have professional obligations including a professional obligation to respond to me.

I note in the fax from Mr. Gaffney of February 24, 2009, that he asks a number of questions concerning my involvement with my client. As you well know, my relationship and dealings with my client are the subject of solicitor/client privilege and even if I wanted to respond to him about them, I could not. Suffice it to say that Mr. Gaffney's suppositions about my involvement are the conjecture of an active imagination.

The one point raised by Mr. Gaffney that I can and will respond to concerns what items I hold in my possession on my file. I attach a photocopy of certain original official cheques as were received by me from my client. They remain unnegotiated, unaltered, and are clipped to the correspondence on this matter. I have not been in possession of any other original payment item whatsoever. Further, prior to October 2008, I had never heard of Mr. Gaffney and to the best of my recollection,

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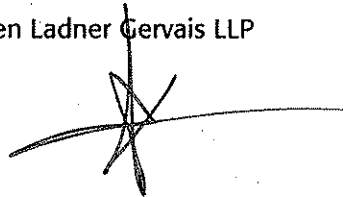
my last dealing with you was in May 2002 when you acted on behalf of Frank Stromotich during an application in which Stromotich was declared a vexatious litigant.

I trust that the foregoing is sufficient to satisfy Mr. Gaffney's inquiry and trust that you will abide by your professional obligations both to inform him of the foregoing and to ensure that Mr. Gaffney is aware that his conduct has become harassing and actionable and must now come to an end.

Yours truly,

Borden Ladner Gervais LLP

By:

A handwritten signature in black ink, appearing to be "D. Ross McGowan", written over a horizontal line.

D. Ross McGowan

DRM/jlm
Encl.



OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

16382538
Page 11

20080129
DATE Y Y Y Y M M D D

REFERENCE # 6248031.1 Mortgage Feb 1 2008

COAST CAPITAL
917dols76cts

PAY 100 DOLLARS \$ 917.76

TO
THE
ORDER
OF

CIBC

33142 305 MILNER AVE.
SCARBOROUGH, ON

DEC 15 2008

CANADIAN DOLLARS
COAST CAPITAL SAVINGS CREDIT UNION

PER

PER

⑈ 16382538 ⑈ ⑆ 30080 ⑈ 8091 ⑆ 281000999996 ⑈



OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

16384752

20080229
DATE Y Y Y Y M M D D

REFERENCE Mortgage 6248031.1 March 1st Payment

COAST CAPITAL
917dols76cts

PAY 100 DOLLARS \$ 917.76

TO
THE
ORDER
OF

CIBC

33142 305 MILNER AVE.
SCARBOROUGH, ON

DEC 15 2008

CANADIAN DOLLARS
COAST CAPITAL SAVINGS CREDIT UNION

PER

PER

⑈ 16384752 ⑈ ⑆ 30080 ⑈ 8091 ⑆ 281000999996 ⑈



OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

16386633

20080328
DATE Y Y Y Y M M D D

REFERENCE MTG # 6248031.1 April 1st (Harold Gaffney)

COAST CAPITAL
917dols76cts

PAY 100 DOLLARS \$ 917.76

TO
THE
ORDER
OF

CIBC

33142 305 MILNER AVE.
SCARBOROUGH, ON

DEC 15 2008

CANADIAN DOLLARS
COAST CAPITAL SAVINGS CREDIT UNION

PER

PER

⑈ 16386633 ⑈ ⑆ 30080 ⑈ 8091 ⑆ 281000999996 ⑈



OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

16388217

20080422
DATE Y Y Y Y M M D D

REFERENCE May 1st payment

PAY 917dol's 76cts 100 DOLLARS \$ 917.76

TO
THE
ORDER
OF

CIBC (Mgt # 6248031.1)

33142 305 MILNER AVE.
SCARBOROUGH, ON

DEC 15 2008

CANADIAN DOLLARS
COAST CAPITAL SAVINGS CREDIT UNION

PER [Signature]

PER _____

⑈ 16388217 ⑈ ⑆ 30080 ⑈ 8091 ⑈ 281000999996 ⑈



OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

16390629

20080530
DATE Y Y Y Y M M D D

REFERENCE Mortgage number 6248031.1
For June 108

PAY 917dol's 76cts 100 DOLLARS \$ 917.76

TO
THE
ORDER
OF

CIBC

33142 305 MILNER AVE.
SCARBOROUGH, ON

DEC 15 2008

CANADIAN DOLLARS
COAST CAPITAL SAVINGS CREDIT UNION

PER [Signature]

PER _____

⑈ 16390629 ⑈ ⑆ 30080 ⑈ 8091 ⑈ 281000999996 ⑈



OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

16391988

20080620
DATE Y Y Y Y M M D D

REFERENCE Mtg 6248031.1 for July 1st 108

PAY 917dol's 76cts 100 DOLLARS \$ 917.76

TO
THE
ORDER
OF

CIBC

33142 305 MILNER AVE.
SCARBOROUGH, ON

DEC 15 2008

CANADIAN DOLLARS
COAST CAPITAL SAVINGS CREDIT UNION

PER [Signature]

PER _____

⑈ 16391988 ⑈ ⑆ 30080 ⑈ 8091 ⑈ 281000999996 ⑈

FAX MEMO

DATE: Tuesday, February 24, 2009
LAW FIRM: BORDEN LADNER GERVAIS
ATTENTION TO: D. Ross McGowan
FAX NUMBER: (604) 622-5873
FROM: Harold Gaffney
Forward Address: # 403-567 Lonsdale Avenue
North Vancouver, B.C. V7M 2G6
Phone/Fax: 604.685.6518
email: harold_gaffney1@hotmail.com

PAGES:

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Re: BLG and CIBC and Harold Gaffney's Property

Mr. Ross McGowan,

On Monday, February 23, 2009, I served you with an email, of which I attach a copy, asking you some questions regarding your involvement with CIBC and my matter. You did not acknowledge my communication. In my email, I asked you the following questions:

1. How long have you been involved with CIBC and with my matter regarding my property at 312-450 Bromley Street, Coquitlam, B.C.?
2. How did you end up with money orders payable to CIBC for my Mortgage Number 6248031.1?
3. How long have you been holding money orders payable to CIBC for my Mortgage Number 6248031.1?
4. Since CIBC is your client, I want you to confirm that you are the attorney responsible for the alteration of the postal money orders, which was payable to CIBC Mortgage Corporation Inc, for Mortgage Number 6248031.1 and which was altered to be paid to my CIBC personal loan, without my knowledge, my consent and without my authorization. It is my understand [sic] that it is a criminal offence to alter the face of a postal money order and use it for a purpose other than what it was intended for.

I need to know Mr. McGowan, no later than today, Tuesday, February 24, 2009, as to whether you are barred by BLG from responding to my email of yesterday, in view of the malicious, irresponsible and libelous letter dated October 31, 2008, of which I attach a copy, authored and signed by you, and published to CIBC and most probable published to others.

I await your respond no later than today, Tuesday, Feb. 24, 2009.

Signed,


Harold Gaffney

Close

To: mccgowan@bigcanada.com

2/24/2009 6:55 A



BORDEN
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GERVAIS

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October 31, 2008

FILE NO: 500008

D. Ross McGOWAN
direct tel: (604) 640-4173
direct fax: (604) 622-5873
email: rmcgowan@blgc.ca

gstephen.alsace@cibc.com
Stephen Alsace
Canadian Imperial Bank of Commerce
Commerce Court West, 15th Floor
Toronto, ON M5L 1A2

Dear Sirs/Mesdames:

Re: Foisting of Funds onto CIBC by Harold Gaffney

We have conducted a background investigation of the facts and circumstances pertaining to the dealings of Harold Cecil Gaffney ("Gaffney"). We have also conducted some background investigation with respect to his "pro bono" lawyer, Anthony J. Jasich ("Jasich").

I. Recommendations

It is our view that this situation arises from two independent sources: Mr. Gaffney and Mr. Jasich. It will be necessary to address both of these individuals to mitigate against further abuse. We also caution you that we have reason to believe that both of these individuals are psychologically unstable. With respect to Mr. Gaffney, we raise caution that his status could escalate to violent behaviour and encourage you to avoid identifying any local point of contact for him.

The goal for CIBC should be to avoid any substantive direct engagement with either individual and respond only to the extent expressly required. We further recommend that a formal complaint be filed with the Law Society of British Columbia in relation to Mr. Jasich to initiate a conduct review of his practice. Based on our private informal discussions, we understand that this move would be welcomed by the LSBC.

With respect to the money orders as are being foisted on CIBC, we suggest that the lowest cost and most practical approach for dealing with those would be to issue a final letter to him substantially in the form attached informing him that all money orders delivered to date have been refused and shall in due course be marked by CIBC "Acceptance Refused". To the extent that future money orders are received, they should also be marked on their face as "Acceptance Refused". Copies of such can be forwarded to our offices to be placed on our file to preserve evidence in response to potential proceedings. We recommend against any further communication or response to Mr. Gaffney as such will simply create the platform for further pursuit by Mr. Gaffney. If he initiates any proceedings against CIBC, we recommend that we

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TO DEFRAUD

be instructed from the outset of those proceedings to have the proceedings struck and that we then (and only then) take proceedings to have him declared a vexatious litigant.

A. Status of Mr. Jasich

Mr. Jasich is a retired member of the Law Society of British Columbia, having been called in 1957. He is allowed to continue to practice as a retired member provided that he does not accept fees for his services.

We have been in contact with the Law Society of British Columbia to discuss his situation and are informed that they are aware of concerns being raised with respect to him and that they would be prepared to conduct a practice review of him if CIBC files a formal complaint about his outrageous comments as contained in the letter dated September 29, 2008. A practice review can lead to a suspension of his right to practice law, even on the 'pro bono' basis alleged by Mr. Gaffney.

MC GOWAN SETS
OUT TO DISCREDIT
JASICH ON FALSE
ALLEGATIONS.

As part of the longer term strategy for dealing with Mr. Gaffney we suggest that we elicit the cooperation of the Law Society of British Columbia for the purposes of a practice review of Mr. Jasich. In that regard we require your instructions to provide a copy of Mr. Jasich's letter of September 29, 2008 to the Law Society of British Columbia. We further propose that a copy of Mr. Gaffney's letter of September 29, 2008 likewise be delivered to the Law Society. The letter from Mr. Gaffney has apparently been copied to multiple third parties and as such does not qualify as protected under PIPEDA. Further, as it alleges criminality and conspiracy as between Mr. Oliver and CIBC, it places CIBC in the position where it is entitled to defend itself from these allegations through third party disclosure and an appropriate investigation.

FACTUAL ERRORS
AND LIBELOUS

The effect of the foregoing should be to disconnect Mr. Gaffney from one of the people as is likely fanning the flame of his conspiracy theories.

We recommend that a formal complaint be lodged with the Law Society Conduct Review Panel so as to initiate that process. I attach a copy of a draft letter for your review.

B. Dealings with Keith Oliver

Independently, we have contacted Keith Oliver, the lawyer defamed in Mr. Jasich's letter as well as defamed by Mr. Gaffney. We have had previous dealings with Mr. Oliver and have always found him to be reasonable, thoughtful and of good integrity. We have no reason to believe any of the allegations of fraud, theft or conspiracy as are directed at Mr. Oliver. In our conversation with Mr. Oliver he informed us that he obtained an Order at the Court of Appeal declaring Mr. Gaffney a vexatious litigant. He is thus precluded from initiating any appeal without leave of the court. The order does not preclude initiation of proceedings at Supreme Court of B.C., but a similar order could well be obtained at that level if Mr. Gaffney persists in advancing proceedings. (We are not recommending that CIBC pursue such at this stage). We have also conducted a review of the numerous decisions wherein Mr.

IT'S APPARENT MC GOWAN
HAS BECOME COUNSEL FOR OLIVER

THERE HAS BEEN NO
ALLEGATIONS OF
CONSPIRACY, BUT
MC GOWAN MUST
BELIEVE IT HIMSELF
SINCE HE MENTIONS IT

MC GOWAN MAKES THE READERS BELIEVE
THAT THE GAFFNEY'S ARE DIVORCED, AND
THEREFORE ATTEMPTING TO MAKE THE
MORTGAGE DISCHARGE (IF) LEGIT.

GAFFNEY'S NOT
LEGALLY SEPARATED
NOR DIVORCED.

Gaffney has brought vexatious claims pertaining to the circumstances of the divorce, the bankruptcy of his wife, and the ultimate sale of the property, that has led to the mortgage being discharged. We are informed that Mr. Oliver has several boxes of litigation materials amassed from his dealings with Mr. Gaffney.

With respect to the funds referred to in Mr. Jasich's letter we are aware that Mr. Oliver has an outstanding Bill of Costs in his favour that has not been paid. Without disclosing any possibly confidential information to Mr. Oliver we made enquiry as to whether he would be interested in making recovery on the costs as have been awarded in his favour. He informs us that based upon the long and difficult dealings with Mr. Gaffney that he has no appetite for any continued pursuit of the issue. In the absence of Mr. Oliver pursuing the issue, we see no benefit to CIBC in pursuit of this aspect of the issue further. If however, funds are ever paid into court, we recommend that notice of such be given to Mr. Oliver.

C. Dealings with Mr. Gaffney

We have been further informed by Mr. Oliver that Mr. Gaffney has intimated subtle threats to him during the course of these proceedings. For instance, Mr. Gaffney made Mr. Oliver aware that Mr. Gaffney was at one time living with a person who had physically attacked and threatened to decapitate a lawyer. (The person referred to is believed to be an elderly man that attacked and left a local young lawyer permanently brain injured during a bizarre incident at New Westminster Court Registry about 3 years ago. The lawyer was attacked by with a scythe by the elderly man, upset about a divorce proceeding.) Thus, Mr. Gaffney should be considered unstable and potentially dangerous and we encourage you to minimize any local branch contact as between your branch personnel and Mr. Gaffney.

While we note that the vast majority of 'vexatious litigants' pose little threat of physical harm, each person must be viewed in the context of the proceedings and the stage of their mental instability. We have studied and dealt with countless vexatious litigants over the years and there are recognized patterns in their delusional logic. Here Mr. Gaffney is embroiled in what he sees as a divorce, the bankruptcy of his wife and a world-wide conspiracy both aimed at him personally and within the context of some intentional global economic meltdown. He cannot be reasoned with only any level other than through his delusions and as such no effort should be made to do so. (I attach a short paper on vexatious litigants that I prepared several years ago as part of an internal law firm training program to assist younger lawyers in dealing with these very troubling sorts.)

We strongly recommend against any significant reply to Mr. Gaffney as this will more likely than not further redirect his conspiracy theories upon CIBC. While there is no guarantee that the strategy of minimal engagement will avoid his psychotic delusions from escalating, we can assure you that any significant response will certainly give rise to a multiplicity of claims being advanced against CIBC.

THE REAL REASON
OLIVER IS NOT
HAVING HIS BILL
OF COSTS ASSESSED
IS BECAUSE THE
COURT OF APPEAL
HAS REFUSED TO
ASSIST OLIVER
AND "HE HAS
NO APPETITE FOR
IT BECAUSE HE
GOT THE PROPERTY

DEFAMATORY
ALLEGATIONS
INCLUDING
DEFAMING
GRAEME
KEIRSTEAD O/
LSBC

THE BIGGEST RISK OF MCGOWAN
IS TO ASK THE COURT TO DECLARE
A LITIGANT, BEING DEFRAUDED OF HIS
PROPERTY, AS A VEXATIOUS LITIGANT.

D. Litigation Options

We have considered the option of delivery of the proceeds of the money orders to court. CIBC could bring application in the proceedings as remain outstanding in the Supreme Court of British Columbia involving Mr. Gaffney and stipulate in the application to the court that CIBC requests that the funds represented by the money orders be remitted to the credit of the Supreme Court action as security for any cost awards made or outstanding, subject to deduction in favour of CIBC of the costs of the application into court. If you decide to pursue this option, we would at the time of the application request a further declaratory order at the time of the application that any future funds delivered by Mr. Gaffney that are not on account of a current or outstanding indebtedness owing by Mr. Gaffney to CIBC be likewise remitted into court without further order. The effect of this will be to obtain an order that allows CIBC to deduct its fees for the application, deliver over the net proceeds represented by the money orders minimizing the risk of claim, and develop a longer term solution for any future money orders that may yet be delivered by Mr. Gaffney to CIBC. It may be possible to seek as a term of such application a limited order declaring Mr. Gaffney to be a vexatious litigant to the extent necessary to restrict any claim he might want to bring against CIBC, its subsidiaries, and its employees or solicitors, (including me and my firm). We have obtained such orders on behalf of CIBC in the past.

However, as set forth above, while this is a valid option for pursuit, it clearly engages CIBC in direct confrontation with Gaffney and if the court is not prepared to grant the order for 'vexatious litigant' status, we will be placed on a long and costly path of twisted applications.

We look forward to receiving your instructions with respect to the proposed strategy. If you want to review any of the multiplicity of cases and decisions involving Mr. Gaffney we have those in our possession and we would be pleased to forward them to you.

Yours truly,

Borden Ladner Gervais LLP

By:

D. Ross McGowan

DRM/mp
Enclosure



BORDEN
LADNER
GERVAIS

Page 18
Borden Ladner Gervais LLP
Lawyers • Patent & Trade-mark Agents
1200 Waterfront Centre
200 Burrard Street, P.O. Box 48600
Vancouver, B.C., Canada V7X 1T2
tel: (604) 687-5744 fax: (604) 687-1415
www.blgcanada.com

March 10, 2009

FILE NO: 500008/0001653

BY EMAIL (harold_gaffney1@hotmail.com)

Harold Gaffney
#403-567 Lonsdale Avenue
North Vancouver, B.C. V7M 2G6

D. ROSS MCGOWAN
direct tel: (604) 640-4173
direct fax: (604) 622-5873
email: rmcgowan@blgcanada.com

Dear Sirs/Mesdames:

Re: **Harold Gaffney; Mortgage Number 6248031.1 –
312 – 450 Bromley Street, Coquitlam, BC**

I write this letter as an effort to diffuse this situation and bring it to an end, at least with respect to the matters as between you, my client, my firm and myself. We are in receipt of your fax dated March 2, 2009. You have made a reasonable request with respect to the items in my possession and as such I will accommodate you. A copy of the front and back of the official cheques as are in my possession is attached.

There are a few additional points in your letter deserving response.

A. Role of Mr. Jasich

I have never suggested that Mr. Jasich was your solicitor on record. There is no proceeding as between you and CIBC and as such there is no "record". However, you have identified him as your "pro bono lawyer". He has identified himself as acting as a pro bono lawyer on your behalf. That is why I have written to him. You appear to now indicate that he is no longer acting for you, and as such I will respond to you on this occasion.

B. Professional Obligations

Mr. Jasich has his own professional obligations and they are the same as mine. We will each deal with those in a manner as is expected of us. My concerns with respect to Mr. Jasich's conduct and professional competence are known to you as a result of an inadvertent disclosure of a privileged communication having been delivered and reviewed by you. While those communications ought to have been maintained as confidential between me and my client, you are now privy to my personal views and the advice that I gave to my client. While you have seen fit to publish that document widely, it ought not to be published further by you or anyone else. Nevertheless, that is an issue that is currently beyond my control insofar as you, Mr. Jasich, and others have possession of the document. I request that you cease

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publishing the privileged letter and perhaps we can move forward to resolving some of the outstanding issues.

C. Originals of Official Cheques

With respect to the original "official cheques" referred to in my letter of February 24, 2009, they remain on my file. If you wish to retrieve the originals, please indicate so by making request upon me in writing and I will obtain instructions for delivery of them.

D. Cessation of Defamation

While I appreciate that you feel distraught with respect to the litigation process that you were involved in, this was a process that neither I, nor my firm, nor CIBC was ever a party to. We were never involved in any of the underlying bankruptcy issues, nor was our client. CIBC was your lender. Your mortgage loan was paid out and as such CIBC was obliged to and did discharge its security. You have misplaced your concerns about that litigation by making unwarranted assumptions and then attacking the motives and integrity of a number of individuals and organizations based only on your incorrect assumptions. Conjecture is not fact and can lead to inappropriate allegations being made.

You obviously care about your own "good character" and reputation and yet by persisting in habitual harassing attacks against people that you do not even know and making suppositions of fact and motive that are actually totally inaccurate, you have created issues where none need be. There need be no issues as between you and CIBC. There need be no issues as between my firm and you. Those can and should all end now. Identified below is a possible solution.

E. Proposal for Resolution

While I do not yet have instructions from all interested parties, it is my suggestion that the matter resolve itself as between you, CIBC, its affiliates, and employees on the following essential terms:

- (a) The original official cheques in my possession shall be returned to you for you to deal with them as you see fit, including the possibility of taking the items to the drawee institution, Coast Capital Savings Credit Union, and obtaining the funds represented by the items;
- (b) You and CIBC, directly and on behalf of CIBC Mortgage Corp. shall exchange mutual releases, releasing one another from all claims, liabilities, obligations and costs as in any way arise from or relate to all matters preceding the release. The release in your favour shall specify that the mortgage that you have repeatedly referred to as well as the personal line of credit were paid out in full, such that you will thereby

receive a written document confirming satisfaction of the payment of the mortgage and the personal line of credit in full and a general waiver of claim for non-debt claims by CIBC and its affiliates in exchange for a comparable mutual release from you in their favour.

On a final note, throughout the dealings on this matter you have made ongoing short fuse demands and impugned the character and motive of numerous people based on little more than supposition. You have attacked the integrity of good people based on a scant knowledge of events gleaned from partial or inaccurate third party accounts. It is my impression that you feel frustrated and angry. While there are many times when one can and should fight for principles, we are not attempting to have any fight with you whatsoever and as such, suggest that if there is any further correspondence that must be exchanged with respect to this matter it be done on a cordial and respectful manner with reasonable time frames for response. We will be adopting that approach with you and hope that you will likewise do so with us.

Yours truly,

Borden Ladner Gervais LLP

By: 

D. Ross McGowan

DRM/mp
Encl.



THIS CHEQUE CONTAINS A SECURITY FEATURE. HOLD AT AN ANGLE TO VIEW.

OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

16382538

2008 01 29

DATE Y Y Y Y M M D D

REFERENCE # 6248031-1 Mortgage Feb 1 2008

COAST CAPITAL
-- DOLLARS -- 0,917 and 76/100

PAY 100 DOLLARS



\$ 917.76

CANADIAN DOLLARS

COAST CAPITAL SAVINGS CREDIT UNION

TO
THE
ORDER
OF

CIBC

PER  

PER

33142 305 MILNER AVE.
SCARBOROUGH, ON

DEC 15 2008

⑈ 16382538 ⑈ ⑆30080⑈809⑆ 281000999996⑈

Open to the public
Public to the public

Endorsement - Signature or Stamp
Endossement - Signature ou étampe

BACK/ENDOS



THIS CHECK IS GUARANTEED BY THE COAST CAPITAL SAVINGS CREDIT UNION. IT IS A LEGAL TENDER AT ALL TIMES.

OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

Page 24
16384752

REFERENCE Mortgage 6248031.1 March 1st Payment

20080229
DATE Y Y Y Y M M D D

PAY 917dols76cts

100 DOLLARS

\$ 917.76

CANADIAN DOLLARS

COAST CAPITAL SAVINGS CREDIT UNION

TO
THE
ORDER
OF

CIBC

33142

305 MILNER AVE.
SCARBOROUGH, ON

DEC 15 2008

PER CJ

PER

⑈ 16384752⑈ ⑆ 30080⑈ 809⑆ 281000999996⑈

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Stamp du dossier

Endorsement - Signature or Stamp
Endossement - Signature ou étampe

BACK/ENDOS



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GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

16386633
Page 26

20080328

DATE Y Y Y Y M M D D

REFERENCE MTG # 6248031.1 April 1st (Harold Gaffney)

COAST CAPITAL
917.00 76cts

PAY 100 DOLLARS

\$ 917.76

CANADIAN DOLLARS

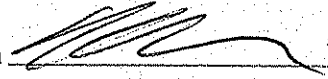
COAST CAPITAL SAVINGS CREDIT UNION

TO
THE
ORDER
OF

CIBC

33142 305 MILNER AVE.
SCARBOROUGH, ON

DEC 15 2008

PER  5

PER

⑈16386633⑈ ⑆30080⑈809⑆ 281000999996⑈

Endorsement - Signature or Stamp
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BACK/ENDOS



THIS CHECK IS VOID IF SECURITY WATERMARK IS NOT VIEWED AT AN ANGLE

OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

Page 28
16388217

REFERENCE may 1st payment

DATE 20080422
Y Y Y Y M M D D

PAY

COAST CAPITAL
FOR DEPOSIT ONLY

917 dollars 76 cents

100 DOLLARS

\$ 917.76

TO
THE
ORDER
OF

CIBC (mgt # 6248031.1)

33142

305 MILNER AVE.
SCARBOROUGH, ON

DEC 15 2008

CANADIAN DOLLARS

COAST CAPITAL SAVINGS CREDIT UNION

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⑈ 16388217⑈ ⑆ 30080⑈ 809⑆ 281000999996⑈

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BACK/ENDOS



THIS CHEQUE CONTAINS A SECURITY WATERMARK. ON REVERSE SIDE, IT MAY BE VIEWED.

OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

16390629

20080530

DATE Y Y Y Y M M D D

REFERENCE Mortgage number 248031.1

For June 108

COAST CAPITAL
SAVINGS -- 917dol's 76cts

PAY

100 DOLLARS

\$ 917.76

CANADIAN DOLLARS

COAST CAPITAL SAVINGS CREDIT UNION

TO
THE
ORDER
OF

CIBC

33142

365 MILLER AVE.
SCARBOROUGH, ON

DEC 15 2008

PER

PER

⑈ 16390629⑈ ⑆ 30080⑈ 809⑆ 281000999996⑈

Other Stamp Here
Stamp Here

Endorsement - Signature or Stamp
Endossement - Signature ou étampe

BACK/ENDOS



OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

16391988

Page 32

20080620

DATE Y Y Y Y M M D D

REFERENCE Mtg 6248031.1 for July 1st/08

COAST CAPITAL
-- SAVINGS -- 917dol's 76cts

PAY 100 DOLLARS

\$917.76

CANADIAN DOLLARS

COAST CAPITAL SAVINGS CREDIT UNION

TO
THE
ORDER
OF

CIBC

33142

305 MILNER AVE.
SCARBOROUGH, ON

DEC 15 2008

PER

PER

⑈16391988⑈ ⑆30080⑈809⑆ 281000999996⑈

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Stamp or Endorsement

Endorsement - Signature or Stamp
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BACK/ENDOS

FAX MEMO

DATE: Monday, March 16, 2009

LAW FIRM: BORDEN LADNER GERVAIS (BLG)

ATTENTION TO: D. Ross McGowan

FAX NUMBER: (604) 622-5873

FROM: Harold Gaffney

Phone/Fax: 604.685.6518
email: harold_gaffney1@hotmail.com

PAGES: 2

Re: CIBC and Harold Gaffney's Property

Hello Mr. Ross McGowan,

On March 10, 2009, I received an email from you, in which you offered that you could resolve all my concerns with CIBC but since then there has been nothing further. Your e-mail included a not so good copy of the front and back of money orders that are in your possession and as a result, on March 12, 2009, I sent you an email, of which I attach a copy, asking you to please scan the money orders in colour, at a higher resolution, front and back.

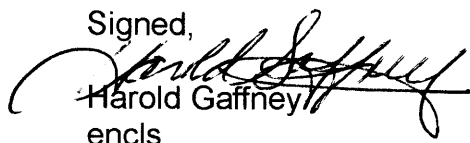
Since I have not heard back from you, I am resending my reasonable request by asking you again to scan the money orders in colour, at a higher resolution, front and back and email the true copies of the money orders in colour, at a higher resolution, front and back, at my email address at **harold_gaffney1@hotmail.com**, no later than **Monday, March 16, 2009**.

I would further ask you to please provide a copy of a signed discharge of mortgage number **6248031.1**, which was jointly held by myself and my estranged wife Mrs. Sheila Gaffney, which should have been filed at the New Westminster Land Title Office.

I await for you to produce the requested particulars, without any further delays, no later than **Monday, March 16, 2009**, by email at **harold_gaffney1@hotmail.com**

Thanking you in advance for your cooperation.

Signed,


Harold Gaffney
encls.

[Print](#)[Close](#)**RE: CIBC and Harold Gaffney****From:** **Harold Gaffney** (harold_gaffney1@hotmail.com)**Sent:** March 12, 2009 9:12:46 AM**To:** Ross McGowan BLG (rmcgowan@blgcanada.com)**Thursday, March 12, 2209**

Mr. McGowan,

I intend to properly answer to your letter, as soon as you please scan the money orders in colour, at a higher resolution, front and back.

Thanking you in advance for your cooperation.

Signed,

Harold Gaffney

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—

—

From: harold_gaffney1@hotmail.com
To: rmcgowan@blgcanada.com; mpozzi@blgcanada.com
CC: sweir@blgcanada.com; mlewis@blgcanada.com
Subject: FW: CIBC and Harold Gaffney
Date: Mon, 16 Mar 2009 17:51:29 -0700

Monday, March 16, 2009

Ms Maria Pozzi,

Surely, there is another lawyer, besides Mr. McGowan, at the Vancouver law firm that is handling CIBC file.

Further, Mr. McGowan surely has a black berry with him and reads his emails.

Subsequently, I am for now copying this email and fax to Mr. Sean Weir, the National Managing Partner in Toronto to direct lawyer Mr. Mark V. Lewis, junior of Mr. McGowan to provide the simple request that I have asked in my fax, which I attach a copy.

I await for a lawyer at the Vancouver BLG office to promptly produce the requested particulars, without any further delays, by email at **harold_gaffney1@hotmail.com** no later than **Tuesday, March 17, 2009**.

Signed,

Harold Gaffney

> Subject: FW: CIBC and Harold Gaffney
> Date: Mon, 16 Mar 2009 16:22:19 -0700
> From: MPozzi@blgcanada.com
> To: harold_gaffney1@hotmail.com
>
>

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FAX MEMO

DATE: Monday, March 16, 2009

LAW FIRM: **BORDEN LADNER GERVAIS**

ATTENTION TO: Mark V. Lewis

FAX NUMBER: 604 687-1415

FROM: Harold Gaffney
Phone Number: 604.685.6518
FAX: 604.685.6518

PAGES: 6

Re: BLG and CIBC and Harold Gaffney's Property

Dear Mr. Lewis,

I would appreciate you take the time to read the attached communication to Mr. Ross McGowan and to his assistant Ms. Maria Pozzi and get back to me, no later than Tuesday, March 17, 2009.

Being a partner with a law firm the size as BLG, as Mr. McGowan is, means that he is not alone working on any files, the law firm is also part of it.

Thanking you in advance for your attention in this matter.

Signed

Harold Gaffney
403-567 Lonsdale Avenue
North Vancouver, B.C. V7M 2G6
Telephone/Fax: 604.685.6518

Encls. Email to Maria Pozzi dated March 16, 2009 transmitted at 5:51 p.m.
Letter from Maria Pozzi dated March 16, 09, in response to H.G.'s email
Fax to Mr. Ross McGowan dated March 16, 2009
Email to Mr.. Ross McGowan dated march 12, 2009

c.c Sean Weir BLG National Managing Partner

FAX MEMO

DATE: Monday, March 16, 2009

COMPANY: Borden Ladner Gervais

ATTENTION TO: **Mr. Sean Weir/National Managing Partner**

FAX NUMBER: **(416) 361-2776**

FROM: **Harold Gaffney**

Forward address at: *# 403-567 Lonsdale Avenue
North Vancouver, B.C. V7M 2G6*

Phone number: 604. 685.6518

FAX: 604.685.6518

Email: **harold_gaffney1@hotmail.com**

PAGES: 6

Time of Transmission: 6:45 PM Pacific Time

Re: CIBC and Harold Gaffney's Property

Dear Mr. Sean Weir,

I would appreciate you take the time to read the attached communication to Mr. Ross McGowan and to his assistant Ms. Maria Pozzi and get back to me, no later than Tuesday, March 17, 2009.

Being a partner with a law firm the size as BLG, as Mr. McGowan is, means that he is not alone working on any files, the law firm is also part of it.

Thanking you in advance for your attention in this matter.

Signed

Harold Gaffney
403-567 Lonsdale Avenue

North Vancouver, B.C. V7M 2G6

Telephone/Fax: 604.685.6518

Encls. Email to Maria Pozzi dated March 16, 2009 transmitted at 5:51 p.m.

Letter from Maria Pozzi dated March 16, 09, in response to H.G.'s email

Fax to Mr. Ross McGowan dated March 16, 2009

Email to Mr.. Ross McGowan dated march 12, 2009

FAX MEMO

DATE: Monday, March 16, 2009

LAW FIRM: **BORDEN LADNER GERVAIS (BLG)**

ATTENTION TO: **D. Ross McGowan**

FAX NUMBER: (604) 622-5873

FROM: **Harold Gaffney**

Phone/Fax: 604.685.6518
email: **harold_gaffney1@hotmail.com**

PAGES: 1

Re: CIBC and Harold Gaffney's Property

Mr. Ross McGowan,

On March 10, 2009, I received an email from you, in which you offered that you could resolve all my concerns with CIBC but since then there has been nothing further. Your e-mail included a not so good copy of the front and back of money orders that are in your possession and as a result, on March 12, 2009, I sent you an email, of which I attach a copy, asking you to please scan the money orders in colour, at a higher resolution, front and back.

Since I have not heard back from you, I am resending my reasonable request by asking you again to scan the money orders in colour, at a higher resolution, front and back and email the true copies of the money orders in colour, at a higher resolution, front and back, at my email address at **harold_gaffney1@hotmail.com**, no later than Monday, **March 16, 2009**.

I would further ask you to please provide a copy of a signed discharge of mortgage number **6248031.1**, which was jointly held by myself and my estranged wife Mrs. Sheila Gaffney, which should have been filed at the New Westminster Land Title Office.

I await for you to produce the requested particulars, without any further delays, no later than Monday, March 16, 2009, by email at **harold_gaffney1@hotmail.com**

Thanking you in advance for your cooperation.

Signed,

Harold Gaffney



BORDEN
LADNER
GERVAIS

March 16, 2009

FILE NO: 500008/0001653

BY EMAIL

Harold Gaffney
#403-567 Lonsdale Avenue
North Vancouver, B.C. V7M 2G6

Dear Sir:

**Re: Harold Gaffney; Mortgage Number 6248031.1 –
312 – 450 Bromley Street, Coquitlam, BC**

We are in receipt of your fax dated March 16, 2009. Ross McGowan is out of the office until March 23rd and will review your faxed letter upon his return. It does not appear that your March 12th email has been received by our offices.

Yours truly,

Borden Ladner Gervais LLP

By: 

Maria Pozzi

Assistant to Ross McGowan

DRM/mp

Page 41
Borden Ladner Gervais LLP
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tel: (604) 687-5744 fax: (604) 687-1415
www.blgcana.com

D. Ross McGOWAN
direct tel: (604) 640-4173
direct fax: (604) 622-5873
email: rmcgowan@blgcana.com

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FAX MEMO

DATE: Monday, March 23, 2009
LAW FIRM: BORDEN LADNER GERVAIS (BLG)
ATTENTION TO: D. Ross McGowan;
FAX NUMBER: (604) 622-5873
FROM: Harold Gaffney
Phone/Fax: 604.685.6518
email: harold_gaffney1@hotmail.com
PAGES: 4

Re: CIBC and Harold Gaffney's Property

Monday, March 23, 2009

Delivered by Fax and Email

Hello Mr. McGowan,

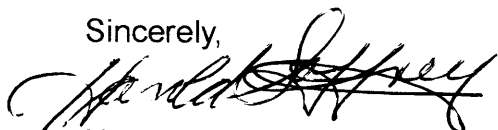
Last Monday, March 16, 2009, I received a letter from your assistance Ms. Pozzi, of which I attach a copy, in response to my fax and emails delivered to you on March 12, and March 16, 09, of which I attach a copy. Ms. Pozzi informed me then that you were out of the office until March 23, 2009 and that upon your return you would respond to my fax and emails of both March 12 and March 16, 2009.

I would appreciate, without any further delays, your cooperation in producing the requested particulars outlined in my fax of March 12 and March 16, 09, which includes the following:

1. To scan in colour at high resolution, front and back, all the money orders, that you say are in your possession and control regarding CIBC;
2. To provide a true copy of a signed discharge of mortgage number 6248031.1 which was jointly held by myself and my estranged wife Mrs. Sheila Gaffney which should have been filed at the New Westminster Land Title Office.

You can produce the said documents at this email address no later than Monday, March 23, 2009, by email at harold_gaffney1@hotmail.com

Sincerely,


Harold Gaffney

Encls.



BORDEN
LADNER
GERVAIS

Page 43
Borden Ladner Gervais LLP
Lawyers • Patent & Trade-mark Agents
1200 Waterfront Centre
200 Burrard Street, P.O. Box 48600
Vancouver, B.C., Canada V7X 1T2
tel: (604) 687-5744 fax: (604) 687-1415
www.blgcanada.com

March 23, 2009

FILE NO: 500008/0001653

BY EMAIL (harold_gaffney1@hotmail.com)

D. ROSS MCGOWAN
direct tel: (604) 640-4173
direct fax: (604) 622-5873
email: rmcgowan@blgcanada.com

Harold Gaffney
#403-567 Lonsdale Avenue
North Vancouver, B.C. V7M 2G6

Dear Sirs/Mesdames:

**Re: Harold Gaffney; Mortgage Number 6248031.1 –
312 – 450 Bromley Street, Coquitlam, BC**

We are in receipt of your fax dated March 23, 2009. I attach a copy of the scanned front and back of the money orders as per your request. I am not in possession of the discharge of the mortgage. As you are aware, it has been filed with the New Westminster Land Title Office and I suggest that you obtain a copy from them.

Yours truly,

Borden Ladner Gervais LLP

By:


D. Ross McGowan

DRM/mp
Encl.

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THIS CHEQUE CONTAINS A SECURITY WATERMARK ON REVERSE - HOLD AT AN ANGLE TO VIEW

Page 44

16382538

OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

REFERENCE # 624803i.1 Mortgage Feb 1 2008

2008 01 29
DATE Y Y Y Y M M D D

PAY

\$ 917.76
100 DOLLARS

COPY

COPY

TO
THE
ORDER
OF

CIBC

CANADIAN DOLLARS

COAST CAPITAL SAVINGS CREDIT UNION

PER 

PER

33142 305 MILLER AVE
SCARBOROUGH ON

DEC 15 2008

⑈ 16382538 ⑈ ⑆ 30080 ⑈ 809 ⑆ 281000999996 ⑈

Endorsement - Signature or Stamp
Endossement - Signature ou étampe

BACK/ENDOS

COPY

THIS CHEQUE CONTAINS A SECURITY WATERMARK ON REVERSE - HOLD AT AN ANGLE TO VIEW



OFFICIAL CHEQUE
GEORGIA STREET BRANCH
 1075 WEST GEORGIA STREET
 VANCOUVER, BC V6E 3C9

16384752

20080229

REFERENCE Mortgage 6248031.1 March 1st Payment

DATE Y Y Y Y M M D D

PAY

\$ 917.76

CANADIAN DOLLARS

COAST CAPITAL SAVINGS CREDIT UNION

TO THE ORDER OF

CIBC

COPY

COPY

PER [Signature]

33142 305 MILNER AVE.
 SCARBOROUGH, ON

DEC 15 2008

PER _____

⑈ 16384752⑈ ⑆ 30080⑈ 809⑆ 281000999996⑈

Endorsement - Signature or Stamp
Endossement - Signature ou étampe

COPY

BACK/ENDOS



THIS CHEQUE CONTAINS A SECURITY WATERMARK ON REVERSE - HOLD AT AN ANGLE TO VIEW

OFFICIAL CHEQUE
GEORGIA STREET BRANCH
 1075 WEST GEORGIA STREET
 VANCOUVER, BC V6E 3C9

16386633

REFERENCE MTG # 6248031.1 April 1st (Harold Goffney)

DATE 20080328
 Y Y Y Y M M D D

PAY _____ / 100 DOLLARS

\$ 917.76

COPY

COPY

TO THE
ORDER
OF

CIBC

33142 305 MILNER AVE.
 SCARBOROUGH, ON

DEC 15 2008

CANADIAN DOLLARS

COAST CAPITAL SAVINGS CREDIT UNION

PER [Signature]

PER _____

⑈ 16386633 ⑈ ⑆ 30080 ⑈ 809 ⑆ 281000999996 ⑈

COPY

Endorsement - Signature or Stamp
Endossement - Signature ou étampe

BACK/ENDOS



THIS CHEQUE CONTAINS A SECURITY WATERMARK ON REVERSE. HOLD AT AN ANGLE TO VIEW.

OFFICIAL CHEQUE
GEORGIA STREET BRANCH
1075 WEST GEORGIA STREET
VANCOUVER, BC V6E 3C9

16388217

REFERENCE may 1st paymentDATE 20080422
Y Y Y Y M M D D

PAY _____ / 100 DOLLARS

\$ 917.76TO
THE
ORDER
OF

COPY

CIBC (Mgt # 6248031.1)

33142 305 MILNER AVE.
SCARBOROUGH, ON

DEC 15 2008

COPY

CANADIAN DOLLARS

COAST CAPITAL SAVINGS CREDIT UNION

PER [Signature]

PER _____

⑈ 16388217⑈ ⑆30080⑈809⑆ 281000999996⑈

Endorsement - Signature or Stamp
Endossement - Signature ou étampe

COPY

BACK/ENDOS



THIS CHEQUE CONTAINS A SECURITY WATERMARK ON REVERSE. HOLD AT AN ANGLE TO VIEW.

OFFICIAL CHEQUE
GEORGIA STREET BRANCH
 1075 WEST GEORGIA STREET
 VANCOUVER, BC V6E 3C9

16390629

20080530

REFERENCE

Mortgage number 248031.1
 For June 108

DATE Y Y Y Y M M D D

PAY

COAST CAPITAL
 917 dol's 76cts

100 DOLLARS

\$ 917.76

CANADIAN DOLLARS

COAST CAPITAL SAVINGS CREDIT UNION

TO
 THE
 ORDER
 OF

CIBC

COPY

33142

385 MILLNER AVE.
 SCARBOROUGH, ON

DEC 15 2008

PER

PER

⑈ 16390629⑈ ⑆ 30080⑈ 809⑆ 281000999996⑈

BR-303 (REV. 05/05)

Endorsement - Signature or Stamp
Endossement - Signature ou étampe

BACK/ENDOS



THIS CHEQUE CONTAINS A SECURITY WATERMARK ON REVERSE. HOLD AT AN ANGLE TO VIEW

OFFICIAL CHEQUE
GEORGIA STREET BRANCH
 1075 WEST GEORGIA STREET
 VANCOUVER, BC V6E 3C9

16391988

REFERENCE Mtg 624/8031.1 for July 1st/08

DATE 20080620
 Y Y Y Y M M D D

PAY COAST CAPITAL SAVINGS - 917dol's 76cts

100 DOLLARS \$ 917.76

TO THE ORDER OF

CIBC

COPY

COPY

33142 305 MILNER AVE. DEC 15 2008
 SCARBOROUGH, ON

CANADIAN DOLLARS
 COAST CAPITAL SAVINGS CREDIT UNION

PER [Signature]

PER _____

⑈16391988⑈ ⑆30080⑈809⑆ 281000999996⑈

COPY

Endorsement - Signature or Stamp
Endossement - Signature ou étampe

BACK/ENDOS

FAX MEMO

DATE: Monday, March 23, 2009
LAW FIRM: BORDEN LADNER GERVAIS (BLG)
ATTENTION TO: D. Ross McGowan;
FAX NUMBER: (604) 622-5873
FROM: Harold Gaffney
Phone/Fax: 604.685.6518
email: harold_gaffney1@hotmail.com
PAGES: 1
Transmission Time: 5:20 p.m.

Re: CIBC and Harold Gaffney's Property

Monday, March 23, 2009

Delivered by Fax and Email

Hello Mr. McGowan,

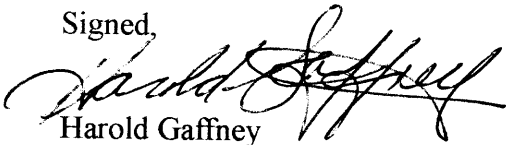
I am in receipt of your email with the attached document.

Subsequently, when scanning the back of the money orders payable to CIBC, I would ask you to please turn up the resolution and make sure that it lines up with the top of the edge of the scanner because what you have sent me is not a high resolution and not satisfactory.

I would reasonably expect that your assistance must have knowledge in scanning documents at high resolution. If not, surely, someone at the office of BLG in Vancouver are knowledgeable.

I would appreciate your cooperation, no later than Tuesday, March 24, 2009.

Signed,


Harold Gaffney

FAX MEMO

DATE: Tuesday, March 24, 2009
LAW FIRM: BORDEN LADNER GERVAIS (BLG)
ATTENTION TO: D. Ross McGowan;
FAX NUMBER: (604) 622-5873
FROM: Harold Gaffney
Phone/Fax: 604.685.6518
email: harold_gaffney1@hotmail.com
PAGES: 1

**Re: CIBC and Harold Gaffney's Property
Money Orders**

Tuesday, March 24, 2009

Delivered by Fax and Email

Hello Mr. McGowan,

Further to my fax and email transmitted to you on Monday, March 23, 2009 at about 5:20 p.m. in response to your email and the copies of the scanned money orders.

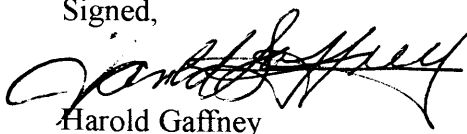
When you or your assistant Ms Pozzi, or anyone else in the office familiar with scanning documents, I would expect that the money orders be authentic in colour and that every details shows up. This is to say that what you have emailed me in a pdf file yesterday, is not authentic and as a result the scanner did not pick up all of the details from the money orders, front and back.

On my email to you this morning, I have attached, in a pdf file, a scanned document of a \$20.00 dollar bill for an example of a high resolution, thus I would reasonably expect that someone in your office is qualified to scan any document in high resolution, wherein the document is authentic in colour and in details.

Thus I would ask you again to please scan all money orders, front and back, at a resolution that will show the authenticity of all the money orders you hold in your possession, including its true original colour and all the details, which does not show up in the document you have emailed me yesterday.

I would expect your cooperation in this reasonable request, no later than today, Tuesday, March 24, 2009 at the end of business day.

Signed,


Harold Gaffney





March 24, 2009

FILE NO: 500008/0001653

BY EMAIL (harold_gaffney1@hotmail.com)

Harold Gaffney
#403-567 Lonsdale Avenue
North Vancouver, B.C. V7M 2G6

D. ROSS MCGOWAN
direct tel: (604) 640-4173
direct fax: (604) 622-5873
email: rmcgowan@blgcanada.com

Dear Sirs/Mesdames:

**Re: Harold Gaffney; Mortgage Number 6248031.1 –
312 – 450 Bromley Street, Coquitlam, BC**

We are in receipt of your faxes dated March 23, and 24, 2009. We have already provided copies of the Coast Capital official cheques to you on three separate occasions. They are copies of originals. The originals are in our possession. The original items have not been negotiated as of today's date.

The first time you requested copies we provided a copy of the face page. The second time we provided you with a copy of the front and back. The third time we provided you with a good resolution colour photocopy clearly marked by us as copies. We will not be sending further or higher resolution copies

There is a potential fraud risk of sending a higher resolution document via PDF. A third party could potentially intercept or access a colour image and seek to negotiate them as though they were original. To avoid such risk, we will not be making a further higher resolution document.

I have invited you to resolve this matter. I will not necessarily be responding to any further correspondence from you unless it is to further the resolution. Whether that is the case will be my determination. I again encourage you to seek guidance and advice from someone as you trust.

We have also received your letter of March 2, 2009, to CIBC plus the money order as was attached also dated March 2, 2009. The original of that item will likewise be placed on our file. We do not accept any trust conditions or obligations with respect to preservation of that item or any other item that you have or may foist upon CIBC. We have previously confirmed to you that any further contact with CIBC must cease. We have already informed you on numerous occasions that the loan amount applicable to the mortgage is paid out in full as well as the loan amount on your personal line. A copy of CIBC records confirming the status of those accounts is attached.

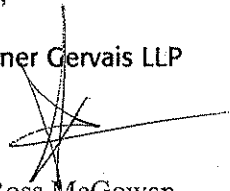
As set forth in my earlier correspondence to you, if you wish to resolve this matter, we can do so now. I trust that you both understand my concern about creating a higher resolution copy as well as understand that there is nothing

more to be gained by any ongoing communication on this matter save and except for the purposes of resolution.

Yours truly,

Borden Ladner Gervais LLP

By:


D. Ross McGowan

DRM/mp
Encl.

Payout Received

006248031.1 First Charge C002927854 HAROLD GAFFNEY & SHEILA GAFFNEY

Security civic addr: 312-450 BROMLEY ST COQUITLAM BC
Committed amount: 140,082.50 Orig. branch: 6910 LOUGHEED MALL
Advanced amount: 140,082.50 Domicile branch: 6910 LOUGHEED MALL
Principal balance: 0.00 Property type: Single Family
Tax balance: 0.00 Appraised amount: 155,000.00
Net Interest rate: 2.750000% Excludes Rate subsidy: Not Applicable
Rate variance reason: Not available Remaining amort: Non-amortizing.
Interest rate type: BTP VRM 5yr clsd Remaining term: 6 months
Monthly Payment of 916.36 Excludes Payment Subsidy: Not Applicable
Net P & I Payment: 869.50 First advance date Aug 09, 2004
Tax amount: 46.86 Last int adj date: Sep 01, 2004
Life ins prem: 0.00 Maturity date: Sep 01, 2009
Payment method: Other Prin bal at maturity: 0.00
Last payment date: Jan 01, 2008 Remain.prepay priv. 21,012.38
Next payment date: Feb 01, 2008 Insurance type: CMHC
Installments o/s: 0.0 Ins policy #: 68600358
Installment amt o/s: 0.00 Employee: N

PRIM APPL HELP F2=Prin Hist F4=CMI Contact F5=Bank Info F6=Renewal Status
F7=Tax Hist F9=Stmnt/Inq F10=Priv Prepay F11=Mtg Prod F12=Clnt Info

PLEN032 LOAN STATUS
LOAN HAS ALREADY BEEN PAID OUT
TR/LOAN #: 06910/3648495798
PRINCIPAL BALANCE O/S.:
LOAN STATUS.....: PAID
OPEN DATE.....: JUN/29/2005
ORIGINAL AMOUNT.....: 20,600.00
ORIGINAL AMORTIZATION.: 060
TERM.....: 012
SECURITY.....: 00
CO-BORR/GUAR.....: 0

110 ML01006 A ACTIVE MAR02/09

GAFFNEY, HAROLD
NEXT PYMT DUE DATE...: MAR/15/2009
PAYMENT AMOUNT.....: 454.55
AMENDED PAYMENT AMT.: 454.55
PAYMENT FREQUENCY...: MONTHLY
PAYMENT TYPE.....: BLENDED
EXTENSIONS GRANTED...: 000
OF PYMT DATE CHNGS: 000

LOAN PURPOSE.....: PAYOUT DEBTS
LOAN TYPE.....: CONSUMER
RATE TYPE.....: VARIABLE
RATE/SPREAD.....: 5.250 %

MATURITY DATE.....: JUL/15/2009
LAST CHANGE DATE....: JUL/15/2008
BASE RATE.....: BANK PRI
RATE AS PER CONTRACT: 10.000 %
PAYOUT AS AT MAR/02/2009

DELINQUENCY:

PYMTS IN ARREARS : 000

TOTAL ARREARS AMT:

LATE PYMTS.....: 4

PYMTS 30/60/90.: 2 /0 /0

BALANCE DUE.:

ADMIN COST.:

PAYOUT BALANCE.:

** SUBJECT TO INTERIM PAYMENTS BEING HONOURED AND NO INTEREST FLUCTUATIONS **

F1=LOAN DETAILS F2=PAYOUT QUOTE F5=TXN HIST F8=COLL WRK SCRN

From: harold_gaffney1@hotmail.com
To: rmcgowan@blgcanada.com
Subject: FW: GAFFNEY & CIBC
Date: Wed, 25 Mar 2009 11:55:31 -0700

Page 64

Wednesday, March 25, 2009

Hello, Mr. McGowan,

DELIVERED FAX & EMAIL

I am in receipt of your email sent on this day and your attached letter dated March 24, 2009, of which I attach a copy.

I would ask you to not worry about the risk of fraud regarding sending the copies of the money orders in high resolution because what you previously emailed me this week was stamped copy, which I presume you have stamped in order to stop anyone from trying to negotiate a copy of the money orders. Thus the very thing you are concerned about, you have already handled it in your previous email to me by stamping the money orders.

Thus, I need to see the authenticity of the money orders that you hold in your possession. Your failure to provide a higher resolution of the money orders would indicate to any reasonable person, that you want to avoid showing me the evidence and you want to me to accept that the money orders you have scanned are genuine, when in fact the money orders have been negotiated already. You have claimed yourself in your letter of March 24, 09, that, you "*won't accept any trust conditions or obligations with respect to preservation*" of money orders.

This has been going on far too long, thus I would appreciate your full cooperation in this matter and I would reasonably expect from you that you email me the money orders in higher resolution to me no later than today, Wednesday, March 25, 2009 at this email address.

I would reasonably expect your full cooperation without any further delays.

Signed,

Harold Gaffney

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3/25/2009

FAX MEMO

DATE: Wednesday, March 25, 2009

COMPANY: CIBC

ATTENTION TO: **Mr. George Stephen Alsace/**
Assist. Counsel to New York Attorney Michael
Capatides, executive vice-president and general counsel
for CIBC;

FAX NUMBER: 416- 980-7151

FROM: **Harold Gaffney**
Address of Delivery: #403-567 Lonsdale Avenue,
North Vancouver, B.C.

FAX: 604. 685.6518
email: harold_gaffney1@hotmail.com

PAGES: 1

Re: Mortgage Number 6248031.1
312-450 Bromley Street, Coquitlam, BC

Wednesday, March 25, 2009

FAX AND EMAIL DELIVERY

Re: Mortgage Number 6248031.1 -- 312-450 Bromley Street, Coquitlam, B.C.

Hello Mr. George Stephen Alsace;

Please advise without any delays, as to whether Mr. **Paolo Brazinha** and Mr. **Jack Glazier** have the authority to be the signatories for **CIBC MORTGAGES INC?**

And who is the person(s) that would have authorized Mr. **Paolo Brazinha** and Mr. **Jack Glazier** to sign for **CIBC MORTGAGES INC.** in relation to the discharge of mortgage number: **6248031.1**, whose registered owner is Harold C. Gaffney and Sheila F. Gaffney, of **Strata Lot 36 District Lot 113 Group 1 New Westminster District Strata Plan NW3181?**

Please reply, without any delays, no later than Thursday, March 26, 2009 at the email noted above or at the fax number of 604.685.6518.

Signed,


Harold Gaffney

FAX MEMO

DATE: Friday, March 27, 2009

COMPANY: CIBC

ATTENTION TO: **Mr. George Stephen Alsace/**
Assist. Counsel to New York Attorney Michael Capatides,
executive vice-president and general counsel for CIBC;

FAX NUMBER: **416- 980-7151**

FROM: **Harold Gaffney**
Address of Delivery: #403-567 Lonsdale Avenue,
North Vancouver, B.C.

FAX: 604. 685.6518
email: **harold_gaffney1@hotmail.com**

PAGES: 1

Re: Mortgage Number 6248031.1
312-450 Bromley Street, Coquitlam, BC

Friday, March 27, 2009

FAX AND EMAIL DELIVERY

Hello Mr. George Stephen Alsace;

I have emailed and faxed you a communication on Wednesday, March 25, 2009, of which I attach a copy.

I remind you that you have a duty as the assistant counsel to **New York Attorney Michael Capatides**, general counsel for CIBC, to reply promptly to communications. Any delays from answering to my communication, attached herein, raises serious questions about CIBC and its world operation.

Subsequently, if you fail to respond to my email and fax of **March 25, 2009**, attached herein, as requested and required, **no later than Friday, March 27, 2009**, at the close of business day, Eastern Time, at the email address noted above or at the fax number of **604.685.6518**, please be advised that I will serve the Law Society of Upper Canada, and other interested parties with the material which you, on behalf of CIBC World Markets refuse to answer.

Signed,



Harold Gaffney

c.c Michael Capatides;
CIBC Ombudsman; and others

Encls.

From: GStephen.Alsace@CIBC.com
To: harold_gaffney1@hotmail.com
Date: Fri, 27 Mar 2009 16:47:45 -0400
Subject: Correspondence of March 25 and 27, 2009

Page 67

Mr. Gaffney,

Regarding the above correspondence, as you are aware, CIBC has retained Ross McGowan of Borden Ladner Gervais, LLP in this matter. Accordingly, Mr. McGowan will be responding to you directly in due course.

G. Stephen Alsace | Assistant General Counsel | CIBC Legal Department | Tel: 416-980-7376 | Fax: 416-980-7151 | gstephen.alsace@cibc.com

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3/27/2009

From: harold_gaffney1@hotmail.com
To: gstephen.alsace@cibc.com
CC: mark.carney@bankofcanada.ca; jflaherty@fin.gc.ca; ombudsman@cibc.com
Subject: FW: Mortgage Number 6248031.1 -- 312-450 Bromley Street, Coquitlam, B.C.
Date: Fri, 27 Mar 2009 09:11:31 -0700

Page 68

Friday, March 27, 2009

FAX AND EMAIL DELIVERY

Re: Mortgage Number 6248031.1 -- 312-450 Bromley Street, Coquitlam, B.C.

Hello Mr. George Stephen Alsace;

I have emailed and faxed you a communication on **Wednesday, March 25, 2009**, (see below).

I remind you that you have a duty as the assistant counsel to **New York Attorney Michael Capatides**, general counsel for CIBC, to reply promptly to communications. Any delays from answering to my communication, attached herein, raises serious questions about CIBC and its world operation.

Subsequently, if you fail to respond to my email and fax of **March 25, 2009** (see below) as requested and required, **no later than Friday, March 27, 2009**, at the close of business day, Eastern Time, at this email address or at the fax number of **604.685.6518**, please be advised that I will serve the Law Society of Upper Canada, and other interested parties with the material which you, on behalf of CIBC World Markets refuse to answer.

Signed,

Harold Gaffney
Phone/Fax 604.685.6518
c.c. Michael Capatides;

3/27/2009

From: harold_gaffney1@hotmail.com
To: gstephen.alsace@cibc.com
Subject: Re: Mortgage Number 6248031.1 -- 312-450 Bromley Street, Coquitlam, B.C.
Date: Wed, 25 Mar 2009 11:14:57 -0700

Wednesday, March 25, 2009

Re: Mortgage Number 6248031.1 -- 312-450 Bromley Street, Coquitlam, B.C.

Hello Mr. **George Stephen Alsace**, Assist. Counsel to New York Attorney Michael Capatides, executive vice-president and general counsel for CIBC;

Please advise without any delays, as to whether Mr. **Paolo Brazinha** and Mr. **Jack Glazier**, have the authority to be the signatories for **CIBC MORTGAGES INC?**

And who is the person(s) that appointed Mr. **Paolo Brazinha** and Mr. **Jack Glazier** as authorized signatories for **CIBC MORTGAGES INC.** in relation to the discharge of mortgage number: **6248031.1**, whose registered owner is Harold C. Gaffney and Sheila F. Gaffney, of **Strata Lot 36 District Lot 113 Group 1 New Westminster District Strata Plan NW3181?**

Please reply, without any delays, no later than **Thursday, March 26, 2009** at this email address or at the fax number of **604.685.6518**.

Signed,
Harold Gaffney
Phone/Fax 604.685.6518

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Page 70
Borden Ladner Gervais LLP
Lawyers • Patent & Trade-mark Agents
1200 Waterfront Centre
200 Burrard Street, P.O. Box 48600
Vancouver, B.C., Canada V7X 1T2
tel: (604) 687-5744 fax: (604) 687-1415
www.blgcanada.com

March 26, 2009

FILE NO: 500008/0001653

BY EMAIL (harold_gaffney1@hotmail.com)

Harold Gaffney
#403-567 Lonsdale Avenue
North Vancouver, B.C. V7M 2G6

D. ROSS MCGOWAN
direct tel: (604) 640-4173
direct fax: (604) 622-5873
email: rmcgowan@blgcanada.com

Dear Sirs/Mesdames:

**Re: Harold Gaffney; Mortgage Number 6248031.1 –
312 – 450 Bromley Street, Coquitlam, BC**

Your fax of March 25, 2009 addressed to CIBC making enquiry as to the authorities of Paolo Brazinha and Jack Glazier has been referred to me for reply. I confirm that Mr. Brazinha and Mr. Glazier are authorized signatories with respect to the Discharge.

Yours truly,

Borden Ladner Gervais LLP

By:

A handwritten signature in black ink, appearing to be 'D. Ross McGowan', written over a horizontal line.

D. Ross McGowan

DRM/mp

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FAX MEMO

DATE: Monday, March 30, 2009

COMPANY: CIBC

ATTENTION TO: **Mr. George Stephen Alsace/**
Assist. Counsel to New York Attorney Michael Capatides,
executive vice-president and general counsel for CIBC;

COPY TO: **NY Attorney Michael Capatides,** executive vice-
president and general counsel for CIBC;

FAX NUMBER: **416- 980-7151**

FROM: **Harold Gaffney**
Address of Delivery: #403-567 Lonsdale Avenue,
North Vancouver, B.C.

FAX: 604. 685.6518
email: **harold_gaffney1@hotmail.com**

PAGES: 6

Re: Mortgage Number 6248031.1
312-450 Bromley Street, Coquitlam, BC

Monday, March 30, 2009

FAX AND EMAIL DELIVERY

Hello Mr. George Stephen Alsace;

I am in receipt of Mr. McGowan's email of Friday, March 27, 2009 and his letter attached to his email, dated March 26, 2009, of which I attach a copy, and I note that he deliberately fails to directly answer to my communications of March 25 and March 27, 2009, attached herein.

Further, it is apparent that Mr. McGowan is using his position of trust to try and pass off information that he knows it to be false, in the same way as he tried to pass off six (6) negotiated money orders as un-negotiated.

Thus unless you are prepared to disclose and produce evidence that shows that Mr. **Paolo Brazinha** and Mr. **Jack Glazier**, are at all times the signatories for **CIBC MORTGAGES INC.**, contrary to what retired member of the bar Mr. Anthony Jasich was advised by his sources at **CIBC MORTGAGES INC.**, then it is without a reasonable doubt that the mortgage discharge, No. **6248031.1**, whose registered owner is Harold C. Gaffney and Sheila F. Gaffney, of **Strata Lot 36 District Lot 113 Group 1 New Westminster District Strata Plan NW3181**, is a forgery.

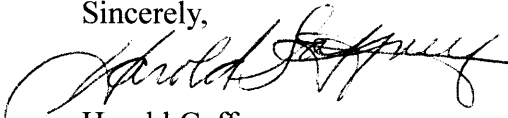
Re: Mortgage Number 6248031.1
312-450 Bromley Street, Coquitlam, BC

Page 2 of 2

If you fail to produce hard evidence by **Monday, March 30, 2009**, at the close of business day, Eastern Time at this email address or at the fax number of **604.685.6518**, please be advised that I will serve the Law Society of Upper Canada, and other interested parties and public bodies in Canada and in the USA with the material which you and Ross McGowan of the Vancouver office of **Borden Ladner Gervais**, on behalf of **CIBC World Markets**, are trying to pass off as genuine, contrary to the *Criminal Code of Canada* and contrary to *The Foreign Corrupt Practices Act*.

I would appreciate your cooperation in this matter without any further delays.

Sincerely,



Harold Gaffney

c.c Micahel Capatides;
 CIBC Ombudsman;
 OSFI;

Encls.

FORM C-114 (Release)

LAND TITLE ACT
FORM C (Section 233) RELEASE
GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 1 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, R.S.B.C. 1996 c.230, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

1. **APPLICATION:** (Name, address, phone number of solicitor, applicant's solicitor or agent)

Oliver & Co., Barristers & Solicitors,
 #202 - 2963 Glen Drive

(604) 464-5585

Coquitlam

BC V3B 2P7

Deeded LTO Fees? YES ☒

2. **PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:**
 [PID] [LEGAL DESCRIPTION]

015-726-339

STRATA LOT 38-DISTRICT LOT 113 GROUP 1 NEW WESTMINSTER
 DISTRICT STRATA PLAN NW3181

STC? YES ☐

3. **NATURE OF INTEREST BEING RELEASED**

Mortgage

CHARGE NO.

BW366048

ADDITIONAL INFORMATION

4. **TERMS**

(1) ☒ RELEASE

The charge described in item 3 is released or discharged as a charge on the land described in item 2.

5. **TRANSFEROR(S):**

CIBC MORTGAGES INC. (REG. NO. A33457)

6. **TRANSFEREE(S):** (Including postal address(es) and postal code(s))

Registered owner

7. **ADDITIONAL OR MODIFIED TERMS:**

N/A

8. **EXECUTION(S):** This instrument creates, assigns, modifies, amends, discharges or governs the priority of the interest(s) described in item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge form, if any.

Officer Signature(s)

A Commissioner for taking Affidavits
 for the Province of British Columbia.
 Virginia Cardozo Stapleton
 3000 Lincoln Avenue
 Coquitlam, BC V3B 7L9

(as to both signatures)

Expiry Date		
Y	M	D
08	01	02

Transferor(s) Signature(s)

CIBC MORTGAGES INC.
 by its authorized signatory(ies)

P. BAZZINHA B4683
JACK GLAZIER AVF
 General Manager

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c.234, to take affidavits for use in British Columbia and certify the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

HAROLD C. GAFFNEY

Thursday, April 2, 2009

Address of Delivery: #403-567 Lonsdale Avenue,
North Vancouver, B.C. V7M 2G6

Telephone and Fax number: 604.685.6518

harold_gaffney1@hotmail.com

HAND DELIVERED

Canadian Imperial Bank of Commerce ("CIBC")

Coquitlam Town Centre

3000 Lincoln Avenue,

Coquitlam, B.C. V3B 7L9

Attention to: Paolo Brazinha

Copy to: **Mr. Michael Capatides** executive vice-president and general counsel,
Legal and Regulatory Compliance for CIBC; and to others

Re: Alleged Signatory for CIBC MORTGAGES INC.

Hello Mr. Paolo Brazinha,

I was at the Coquitlam Banking Centre on Thursday, March 12, 2009, at about 2:45 and the person who assisted us, Kathie Berkenpas, advised us that you were very hard to reach because you have "14 CIBC branches under you", therefore she claimed it was not possible to meet with you. Further Ms. Berkenpas also spoke with a male in one of the offices at the Coquitlam Town Centre and she returned to say that since we were too vague in our wanting to see you that you could not be reached at any time. Since it does not appear as though you will make yourself available to see me at any time, I am compelled to write you this letter.

1. I want you, Mr. Brazinha, to please confirm as to whether the signature on the document enclosed herewith, showing at item 8, the name of P. Brazinha under **CIBC MORTGAGES INC.** is your signature.
2. If the signature is yours, please confirm as to whether you are the authorized signatory for **CIBC MORTGAGES INC.**, as designated in the document attached herein.
3. Further if you say that you are the authorized signatory for **CIBC MORTGAGES INC.** please advise as to whether you are **at all times** the authorized signatory for **CIBC MORTGAGES INC.**?

Failure to respond by **Monday, April 6, 2009**, at the close of business day, means that you have acted with others to commit fraud contrary to s. 380 (1) (a) of the *Criminal Code of Canada* (CCC) and you have knowingly used and acted on a forged document, contrary to s. 368 (1)(a) of the CCC, and with being in possession of a Commissioner for Oaths stamp in the name of Virginia Cardoro Stapleton, also known as Gina Stapleton, contrary to s. 354. (1) of the CCC.

Re: Alleged Signatory for CIBC MORTGAGES INC.

Page 2 of 2

I would reasonably ask that you respond to this communication no later than **Monday, April 6, 2009**, at the close of business day, at the fax number noted above, or by email at harold_gaffney1@hotmail.com and by subsequent delivery at the address of delivery noted above.

I await for your cooperation on this urgent matter. In the meantime,

Please do Govern Yourself Accordingly,

Yours truly,

Harold Gaffney

Encls.

HAROLD C. GAFFNEY

Thursday, April 2, 2009

Address of Delivery: #403-567 Lonsdale Avenue,
North Vancouver, B.C. V7M 2G6
Telephone and Fax number: 604.685.6518
harold_gaffney1@hotmail.com

HAND DELIVERED

Canadian Imperial Bank of Commerce ("CIBC")
Langley Banking Centre
20069-64th Avenue, Langley, BC V2Y 1M9

Attention to: Jack Glazier ext: 452

Copy to: Mr. Michael Capatides executive vice-president and general counsel,
Legal and Regulatory Compliance for CIBC; and to others

Re: Alleged Signatory for CIBC MORTGAGES INC.

Hello Mr. Jack Glazier,

I was at the Langley Banking Centre on Thursday, March 12, 2009, at about 12:45 and the person who assisted us, after having contacted you by phone, informed us that you were starting your vacation at the time we wanted to see you and she advised us that you would be in your office after March 24, 2009. Thus I doubt that you will be available to see me at any time therefore I am compelled to write you this letter.

1. I want you Mr. Glazier, to please confirm as to whether the signature on the document enclosed herewith, showing at item 8, the name of **Jack Glazier (General Manager)** under **CIBC MORTGAGES INC.** is your signature.
2. If the signature is yours, please confirm as to whether you are the authorized signatory for **CIBC MORTGAGES INC.**, as designated in the document attached herein.
3. Further if you say that you are the authorized signatory for **CIBC MORTGAGES INC.** please advise as to whether you are **at all times** the authorized signatory for **CIBC MORTGAGES INC.**?

Failure to respond by **Monday, April 6, 2009**, at the close of business day, means that you have acted with others to commit fraud contrary to s. 380 (1) (a) of the *Criminal Code of Canada* (CCC) and you have knowingly used and acted on a forged document, contrary to s. 368 (1)(a) of the CCC, and with being in possession of a Commissioner for Oaths stamp in the name of **Virginia Cardoro Stapleton**, also known as Gina Stapleton, contrary to s. 354. (1) of the CCC.

I would reasonably ask that you respond to this communication no later than **Monday, April 6, 2009**, at the close of business day, at the fax number noted above, or by email at

harold_gaffney1@hotmail.com and by subsequent delivery at the address of delivery noted above.

Re: Alleged Signatory for CIBC MORTGAGES INC.

Page 2 of 2

I await for your cooperation on this urgent matter. In the meantime,

Please do Govern Yourself Accordingly,

Yours truly,

Harold Gaffney

Encls.

HAROLD C. GAFFNEY

Thursday, April 2, 2009

Address of Delivery: #403-567 Lonsdale Avenue,
North Vancouver, B.C. V7M 2G6
Telephone and Fax number: 604.685.6518
harold_gaffney1@hotmail.com

HAND DELIVERED

Canadian Imperial Bank of Commerce ("CIBC")
Coquitlam Town Centre
3000 Lincoln Avenue,
Coquitlam, B.C. V3B 7L9

Attention to: Virginia (Gina) Stapleton
Mutual Fund Representative for CIBC

Copy to: Mr. Michael Capatides executive vice-president and general counsel,
Legal and Regulatory Compliance for CIBC; and to others

Re: Alleged Signatory for CIBC MORTGAGES INC.

Hello Ms. Virginia (Gina) Stapleton,

I was at the Coquitlam Banking Centre on Thursday, March 12, 2009, at about 2:45 and the person who assisted us, Kathie Berkenpas, advised us that you were in a meeting and that you would be in on the Friday and than Ms. Berkenpas corrected herself and said, "*I'm lying, she'll be in her office maybe on Monday*". Since it does not appear as though you would be available to see me at any time, I am compel to write you this letter.

1. I want you, Ms. Virginia Stapleton, to please confirm as to whether you have witnessed the signatures on the document enclosed herewith, showing at item 8, the name of **P. Brazinha** and **Jack Glazier**, under **CIBC MORTGAGES INC.**
2. If you have witnessed the signatures of **P. Brazinha** and **Jack Glazier**, please confirm as to who advised you that **P. Brazinha** and **Jack Glazier**, are at all times the authorized signatory for **CIBC MORTGAGES INC.**, as designated in the document attached herein.
3. Further please advise as to whether you Ms. Stapleton have the authority to swear in **P. Brazinha** and **Jack Glazier** under **CIBC MORTGAGES INC.**?

Failure to respond by **Monday, April 6, 2009**, at the close of business day, means that you have acted with others to commit fraud contrary to s. 380 (1) (a) of the *Criminal Code of Canada* (CCC) and you have knowingly used and acted on a forged document, contrary to s. 368 (1)(a) of the CCC, and with being in possession of a Commissioner for Oaths stamp in the name of Virginia Cardoro Stapleton, also known as Gina Stapleton, contrary to s. 354. (1) of the CCC.

Re: Alleged Signatory for CIBC MORTGAGES INC.

Page 2 of 2

I would reasonably ask that you respond to this communication no later than **Monday, April 6, 2009**, at the close of business day, at the fax number noted above, or by email at harold_gaffney1@hotmail.com and by subsequent delivery at the address of delivery noted above.

I await for your cooperation on this urgent matter. In the meantime,

Please do Govern Yourself Accordingly,

Yours truly,

Harold Gaffney

Encls.

HAROLD C. GAFFNEY**Wednesday, April 1, 2009**

Address of Delivery: #403-567 Lonsdale Avenue,
 North Vancouver, B.C. V7M 2G6
 Telephone and Fax number: 604.685.6518
harold_gaffney1@hotmail.com

HAND DELIVERED**Canadian Imperial Bank of Commerce ("CIBC")**

1036 West Georgia Street (CIBC Branch), Vancouver, BC,

Attn: **Tammy Peters** /Branch Manager of 1036 West Georgia Street;
Copy to: **New York Attorney Michael Capatides** executive vice-president and
 general counsel, Legal and Regulatory Compliance for CIBC; and others

Re: Mortgage Number 6248031.1, 312-450 Bromley Street, Coquitlam, B.C.

Enclose please find a postal money order, dated March 31, 2009, from Harold Gaffney paid to **CIBC MORTGAGES INC.** for mortgage number **6248031.1**, in the amount of **\$917.76** for the monthly payment of April, 09.

At present, **CIBC MORTGAGES INC.** ought to be holding for Mr. Gaffney's mortgage # **6248031.1**, a total amount of **\$14,684.16** in money orders, notwithstanding the fact that CIBC altered the face of the postal money orders, which was to be applied to Mortgage number **6248031.1** and fraudulently and contrary to the directions on the postal money orders, applied it to another purpose (CIBC personal loan) without Harold Gaffney's knowledge and consent, contrary to s. 332 of the *Criminal Code of Canada*.

Please note that Mr. Anthony J. Jasich, a retired member of the Law Society of British Columbia, was advised by his sources at **CIBC MORTGAGES INC.**, that mortgage discharges can only be executed from back east at headquarters in Toronto Canada, and that the names of the persons on the document, attached herein, namely **Paolo Brazinha, Jack Glazier** and **Virginia Stapleton** are not authorized signatories of **CIBC MORTGAGES INC.**, nor employees of **CIBC MORTGAGES INC.**

Thus unless CIBC MORTGAGES INC. and NY Attorney Michael Capatides, who also oversees **CIBC Ombudsman**, produces evidence contrary to the findings of Mr. Jasich, which would clearly show that **Paolo Brazinha** and **Jack Glazier** are *at all times* the authorized signatories for **CIBC MORTGAGES INC.**, it is without a doubt that the mortgage discharge, No. **6248031.1**, whose registered owner is Harold C. Gaffney and Sheila F. Gaffney, of **Strata Lot 36 District Lot 113 Group 1 New Westminster District Strata Plan NW3181**, is a forgery and a fraud.

You can contact me by fax at 604.685.6518 or at the email noted above.

I await for your cooperation on this urgent matter. In the meantime,

Please do Govern Yourselves Accordingly,

Yours truly,

Harold Gaffney

Encls.



**Postal Money Order
Mandat-poste**



Serial no. 1012901382
N° de série



490 414 582

DATE 2008 10 29
V/A M/M J/J

Pay to
Payer à

Name
Nom

CIBC MORTGAGE CORP.

Amount
Montant

\$917.76

Check instructions on reverse before cashing.
Lire les instructions au verso avant l'encaissement.

Office no.
N° du bureau

026794

Fee Code
Code de droit

0

Currency
Monnaie

CAN

3648495798

Sender
Expéditeur

Name
Nom

HAROLD GAFFNEY

Address
Adresse

ATTN: ANTHONY JASICH LLP,
463-567 LINDALE AVE
NORTH LANCUM, B.C. V7M 2G6
PLAN # 644-675-6512

Account no.
N° du compte

[Signature]
6245031

41-015-250 (08-01)

1012901382 02701-1270

0000091776

COPIES

33142-010
DIS-FOURD RETURN TO
SCARBOROUGH, ONTARIO
305 JAMES AVE
JAN - 6 2009
ITEMS PROCESSING
TEPC
33142-010

Endorsement - Signature or stamp
Endossement - Signature ou étampe

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House sale fraud investigated

■ Police collect documents with ruling

By [Anna Marie D'Angelo](#)

News Reporter

dangelo@nsnews.com

LAWYERS from Ladner Downs law firm had to turn over sealed documents to the police after a B.C. Supreme Court ruling in August concerning the fraudulent sale of a North Vancouver lot.

Lawyers for Ladner Downs claimed the documents were privileged client lawyer information, according to search warrant information.

But B.C. Supreme Court Judge Mr. Justice Patrick Dohm declared the documents were not privileged information and could be released to the North Vancouver RCMP for their criminal investigation.

The court ruling related to the fraudulent sale of a lot on Dec. 29, 1998 on Lockhaven Place in Deep Cove.

The real owner of the lot, Wilbert Owen Kennedy, lives in Bellingham, Wash.

He found out he no longer was the registered owner of the property when his property tax notice did not arrive this past spring.

Mark and Marzanna Biskupski bought the lot for \$220,000. The Biskupskis were three weeks away from moving into their newly built 2,600-square-foot home on the lot when they found out their money had gone to an imposter and not the real property owner.

The **News** contacted Mark Biskupski at his new home. Biskupski did not know the imposter's true identity. Biskupski said "everything went the legal way" as far as the lot's sale.

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"Everything is up in the air. It depends what the courts decide and what Mr. Kennedy wants to do," said Biskupski.

According to search warrant information, Barry Allan Buydens, 36, of North Vancouver, is suspected of impersonating Wilbert Kennedy with intent to convert the proceeds of a fraudulent sale of real property.

Buydens is not charged with a crime.

According to search warrant information, an imposter was able to list for sale Kennedy's property through Sutton West Coast Realty. The transfer of land title was conducted by Lander Downs law firm.

The real estate agent who listed the property for sale was Robin Cameron.

Cameron told police that she never met the imposter so she couldn't describe him. She said she listed the property and conducted sale negotiations by phone or fax, according to the search warrant.

Lawyer Mark Lewis, of Ladner Downs, worked for the imposter in the land sale.

Lewis told police that he worked on the real estate transaction, but "never actually met" the client. Other people at the law firm met the client, but Lewis said "he would not release that information nor would his firm provide a description of the person in question," according to the search warrant.

The property was bought from the imposter by Noort Developments. The property was conveyed to the Biskupskis from Noort. The Biskupskis contracted Noort Developments to build their house. Real estate agent, Richard Staszko, of Homelife Bay City, represented Noort.

Staszko told police that he had not met the imposter either and that the entire transaction, or almost the entire transaction, was done by fax, according to the search warrant.

Police executed a search warrant on Staszko's residence to obtain the original copy of the contract for purchase and sale of the lot that contained Kennedy's fraudulent signature.

According to the search warrant, after North Vancouver RCMP economic crime unit officers started their investigation, the imposter contacted

Homelife Bay City Realty on June 10 requesting a that cheque be re-issued relating to the lot's sale.

North Vancouver Mounties were called to the Homelife office. There was a cab driver waiting to take the cheque. The cab driver said a man in an "expensive-looking sports utility or 4x4 type truck" told him to pick up the cheque and bring it to Jack Lonsdale's Pub.

The cab driver was followed to the pub by two Mounties. RCMP plainclothes officers were also present near the pub.

The cab driver recognized a man in a silver Toyota truck. The truck drove around the area a couple of times and, after 15 minutes, drove off without picking up the cheque.

A Mountie noticed that the driver was the same man with reddish blonde hair seen loitering around the front of the pub a short time before.

Police traced the licence plate and found out the truck was registered to Tourocan Development Ltd., doing business as Lo-Cost Rent-A Car Ltd., on Marine Drive. The truck was rented by Buydens, according to the search warrant.

In addition to Kennedy's forged signature, notary public Virginia Lange had her name forged on a transfer of land registration that was found at the New Westminster Land Titles Office, according to the search warrant. Lange has an office on Mount Seymour Parkway.

Meanwhile Kennedy informed police he never employed any lawyer named Mark Lewis or a law firm of Ladner Downs at any time.

North Vancouver provincial court information indicates that Buydens is currently charged with:

- stealing a vehicle belonging to Lo-Cost Rent-A-Car in North Vancouver City.
- possessing stolen property consisting of a vehicle belonging to Lo-Cost Rent-A-Car.

He is slated for a trial on March 15, 2000 in North Vancouver provincial court.

Buydens was charged regarding the vehicle two days before a search

warrant was issued to enter the home of Buydens' estranged wife home on Berkley Road in the Seymour area. Police were searching for examples of Buydens' handwriting. Buydens continues to live in the Seymour area.

Fall = Garage Sales
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Omissions
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Overconcentration
Churning
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Failure to Supervise
Breach of Promise/Contract
Breach of Fiduciary Duty
Negligence

Home > Brokerage Firms > Oppenheimer & Co Background Information

Oppenheimer & Co Background Information

Oppenheimer & Company is the brokerage subsidiary of Oppenheimer Holdings, Inc. a Canadian Company. Its history is confused by its name. The present company was founded in 1977 as Goldale Investments Ltd., later changed to E. A. Viner Holdings Ltd., then Fahnestock Viner Holdings, Inc. before becoming Oppenheimer.

The company traces its roots to E. A. Fahnestock who, it claims, was a financial advisor to Abraham Lincoln before forming an investment firm bearing his name in 1881. The firm remained independent for more than 100 years before being purchased by Viner Holdings in 1988.

Meanwhile, Oppenheimer & Company was a brokerage firm founded in the early 1950's, which later formed a mutual fund and an institutional advisory division. In 1982, the firm was bought by British firm, but three years later Oppenheimer's management bought the firm. The mutual fund division was sold separately and, after ownership changes, the Oppenheimer mutual funds are now run by Massachusetts Mutual Life Insurance Company and have no connection to the brokerage firm.

In 1997, the Oppenheimer management partners made a hefty profit by first selling the advisory firm, then selling the brokerage operation to Canadian Imperial Bank of Commerce (CIBC) for over a half-billion dollars. The name was changed to CIBC Oppenheimer and it was merged with Wood Gundy, another U.S. investment firm the bank purchased. Bad investments, mismanagement and scandal soon hit CIBC resulting in large losses. Thus, in 2003 it sold the Oppenheimer operation to Fahnestock Viner Holdings for about \$300 million. Fahnestock decided to use the name Oppenheimer.

Oppenheimer Holdings, Inc. is listed on the New York Stock Exchange and claims almost 3,000 total employees in regional offices throughout North and South America. It has market capitalization of approximately \$750 million, and reports annual revenues about the same amount, with earnings of \$44 million.

Shepherd, Smith & Edwards Law Firm

Our law firm represents institutional and individual investors nationwide who have lost a substantial portion of retirement or other assets. Our attorneys and staff have more than 100 years of combined experience in the securities industry and in securities law. Several of our lawyers served for years as Vice President or Compliance Officer of brokerage firms.

Each lawyer and staff member of our firm is devoted to assisting investors to recover losses caused by unsuitability, over-concentration, fraud, misrepresentation, self-dealing, unauthorized trades or other wrongful acts, whether intentional or negligent. We have handled thousands of cases against hundreds of large and small investment firms, including claims against CIBC Oppenheimer and Oppenheimer & Company.

Call us at (800)259-9010 or [contact us](#) through our Website to arrange a free confidential consultation with an attorney to discuss your or your company's experiences with an investment advisor which led to losses in accounts.

Additional Information:

Oppenheimer Fined for Victimizing Widow

In July 2007, Oppenheimer & Co. was fined a million dollars by Massachusetts regulators for claims of supervisory failures as a widow and her dying husband were being victimized by an Oppenheimer broker. The firm also paid more than a million to the widow, including an earlier settlement.

Oppenheimer was charged with failing to supervise its broker as that broker allegedly engaged in theft, fraud, churning and unauthorized trading in the account of an elderly couple. The firm consented to the order without admitting or denying the claims. The broker is currently under indictment for securities fraud.

Yet, abuse of the widow reportedly did not end with Oppenheimer's failure to supervise. After personnel at her bank persuaded the widow to go to Oppenheimer's management, the firm apparently minimized the problem, which included \$350,000 in forged checks, and allowed to broker remain at the firm for a year until he resigned. During the investigation, Oppenheimer was also accused of making "false and misleading" statements and withholding emails from the state regulators.

Meanwhile, to recover her losses, the widow hired an attorney to file claims in arbitration, which were later for less than was lost, but the state required Oppenheimer to pay her the difference. In its answer to the arbitration claims Oppenheimer responded that she "only has herself to blame for any losses or other injury she may have suffered."

"I guess the message is that anybody stupid enough to invest with Oppenheimer & Co. gets what they deserve," said Massachusetts' head regulator. "That's the only way to read a statement like that."

CIBC Fined For Role in Late Trading Scandal

CIBC and its world markets division agreed to pay \$125 million to resolve charges by regulators in its role in a widespread scandal involving after hours trades in shares of mutual funds. The firm paid \$25 million in fines to the SEC and NY Attorney General's Office and made \$100 million available to reimburse victims, including other owners of the mutual fund shares. The bank neither admitted nor denied the allegations.

"By knowingly financing customers' late trading and market timing, as well as providing financing in amounts far greater than the law allows, CIHI and World Markets boosted their customers' trading profits at the expense of long-term mutual fund shareholders," said the SEC's Director of Enforcement.

NY Attorney General Elliott Spitzer exposed the scandal when he arrested a CIBC executive for stealing more than \$1 million from mutual funds by participating in the late-trading scheme. The SEC followed with civil charges. This was the first case in what would become one of the largest scandals in the history of Wall Street.

The late trading was accomplished by entering trades in mutual fund shares at that day's closing price of the funds, but after the market closed. This gave traders the advantage of knowing of events and after-hours trading prices on shares owned by the funds. A billion dollars was reportedly made available to hedge funds, along with the means to make the illegal transactions and disguise these from the fund managers.

CIBC Oppenheimer Pays Billions in Enron Scandal

During its sale of Oppenheimer, CIBC was fighting Securities and Exchange Commission charges of fraud in its dealings with Enron. Just after the sale, CIBC settled with the SEC paying an \$80 million fine. CIBC and others had been charged with helping Enron to defraud its shareholders by falsifying the company's earnings.

In 2004, Enron shareholders filed civil suits against CIBC and other banking firms claiming these banks assisted Enron to manipulate its earnings. After losing several motions to dismiss, CIBC

CIBC counsel Michael Capatides had motive to send the prostitute to the former AG when he was governor.

agreed to settle its part in the case for \$2.4 billion. Just prior to going to trial, the case was dismissed on technicalities by an appellate court and is now pending before the U. S. Supreme Court.

CIBC Oppenheimer Sued in Enronesque Claim

Prior to the surfacing of the Enron scandal, with CIBC Oppenheimer center-stage, claims were filed in a New York court alleging that firm had previously assisted another firm to falsify its books and therefore defrauding purchasers of securities of the company.

The complaint alleged that CIBC entered into a transaction with Livent, a theatrical production company. The transaction was purported to be a bona fide purchase by CIBC of production and royalty rights in certain Livent shows, in exchange for a "non-refundable" fee of \$4 million.

However, a secret side letter contradicted the investment agreement, requiring Livent to repay the \$4.6 million within six months, with interest.

Instead of a debt, Livent treated the \$4.6 million payment as income on its financial statements, hiding that the proceeds were actually a loan. Meanwhile the firm sold notes to others who say they relied on the company's falsified financial reports. Livent soon went defunct and the noteholders then sued CIBC.

CIBC moved to dismiss the case, which was denied by the judge. The parties later settled the matter so the allegations were never proved.

Blog Posts on Oppenheimer & Co

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Ex-Livent Producer Loses Bid to Sue Law Firm, Ovitz (Update1)

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By Joe Schneider

Jan. 22 (Bloomberg) -- Former theater producer **Myron Gottlieb**, awaiting a verdict on criminal fraud charges, lost a bid to sue a Toronto law firm and **Michael Ovitz**, **Walt Disney Co.**'s former president, for allegedly conspiring against him.

The Court of Appeal for Ontario today upheld a lower-court ruling throwing out Gottlieb's suit, saying it can't proceed while criminal charges against him are pending. The producer sued the law firm Stikeman Elliott LLP and Ovitz, who bought a stake in Gottlieb's **Livent Inc.**, accusing them of conspiracy to injure him by implicating him in the fraud.

Gottlieb and **Garth Drabinsky**, his former partner in Livent, are accused of defrauding shareholders and creditors of more than C\$500 million (\$398 million) by faking invoices and hiding production costs to attract investors in the 1990s. The men produced such Broadway hits as "Phantom of the Opera" and "Ragtime."

Gottlieb and Drabinsky, each charged with two counts of fraud and one of issuing a forged document by lying in financial statements, pleaded not guilty to all counts. Each fraud count carries a maximum jail term of 14 years while the maximum prison sentence for the forged document charge is 10 years.

In closing arguments Jan. 9, Drabinsky's lawyer **Edward Greenspan** said Livent's staff and new owners conspired to frame the two men for the accounting fraud. Ontario Superior Court Judge **Mary Lou Benotto** plans to tell the two accused men on Feb. 2 when she will issue a verdict.

Gottlieb also named Deloitte & Touche and KPMG, two accounting firms, plus several other individuals, as defendants in his conspiracy lawsuit.

Claim's Timing

"It is difficult to see how such a claim could be dealt with prior to the determination of the criminal proceedings," Justice **Robert Sharpe** wrote on behalf of the three-member appeals panel. "It would be impossible to know what, if any, damages the appellant had suffered until he has been acquitted or convicted."

Livent, short for Live Entertainment, was founded in 1990 and sold shares in an initial public offering on the Toronto Stock Exchange in 1993. The stock peaked at C\$18.25 in 1996, giving the company a market value of C\$287 million. Two years later, police started investigating allegations of accounting irregularities and the production company went bankrupt.

Drabinsky quit as chief executive officer in April 1998, saying he wanted to serve as chief creative officer. Two months later Ovitz bought a 12 percent stake in Livent and a new management team took over.

Drabinsky and Gottlieb were fired in November 1998, after Livent's new management alleged that there were accounting irregularities and that earnings statements dating back at least two years would have to be revised.

The case is between Myron I. Gottlieb and Stikeman Elliott LLP, C48141, Court of Appeal for Ontario (Toronto).

To contact the reporter on this story: **Joe Schneider** in Toronto at jschneider5@bloomberg.net.

Last Updated: January 22, 2009 16:19 EST

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Guilty verdict brings Livent duo new celebrity status

Comment

Theresa Tedesco, Chief Business Correspondent, Financial Post

Published: Wednesday, March 25, 2009



Brett Gundlock/National Post

Garth Drabinsky leaves the court house in Toronto, after a guilty verdict was delivered in the Livent fraud trial Wednesday.

In the end, the long-awaited courtroom drama proved almost anti-climactic.

With humane efficiency, Ontario Superior Court Justice Mary Lou Benotto took less than 10 minutes to finally bring the curtain down on one of the longest-running legal productions in Canadian history when she uttered the words "guilty on all three counts."

With that, the seven-year-old criminal fraud case against Garth Drabinsky, 59, and Myron Gottlieb, 65, the co-founders of now-defunct Livent Inc., had finally ended. The pair were each convicted on three counts of fraud and forgery in connection with the spectacular collapse of the live-theatre company in November, 1998.

All that remained was the palpable disappointment in the slumped shoulders of Drabinsky, the stoic stare of Gottlieb, and the tearful reactions of friends and family who sobbed and consoled each other.

The 30-minute public display of private grief in the fourth-floor Toronto courtroom provided the dramatic punctuation mark on the first major corporate criminal convictions in Canada.

Unlike some of her U.S. peers, Justice Benotto was not auditioning for reality television or preening for the klieg lights from the bench. That much was clear when she swiftly entered the fourth-floor courtroom at the appointed hour and began by reciting statistics: 62 days of trial; 7,000 pages of testimony, arguments and exhibits. The judge, who had previously presided over the controversial tainted blood trial,

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thanked the lawyers for their professionalism, assured everyone in the courtroom the complex issues were examined thoroughly and argued expertly, and delivered her reasons for the verdict in an 84-page document.

Turning to Drabinsky and Gottlieb, she said the reasons for her decision were too long to be read in the courtroom and urged them to read the document in its entirety because it would explain why and how she reached her verdict.

"The creative success that you achieved through your careers was spectacular," she told them, even praising the pair for accomplishments in live theatre, which had "reflected favourably on all of us in Canada."

"But this trial was not about that. This trial was about the accounting practices of Livent."

Without pausing for effect, Justice Benotto declared that the accounting system was "fraudulent," fraught with manipulations that occurred "systematically," and was "widespread and long-standing."

The punch line: "Most importantly, I have been satisfied beyond a reasonable doubt that you knew what was happening with the financial statements."

It would be premature to conjecture whether the two former Livent executives have any regrets they chose to be tried by a judge instead of a jury.

The high-profile demise of Livent in 1998 predated a series of stunning multi-billion-dollar accounting frauds – Enron, Worldcom, Tyco and Adelphia – that led to criminal convictions against prominent corporate executives in the United States who are already serving lengthy prison sentences.

Those guilty verdicts were all meted out by juries. Ditto in the case of Drabinsky's friend Conrad Black, who has already served one year of a six-and-a-half-year sentence in a Florida jail.

Livent, North America's largest producer of live theatre that brought musicals such as *The Phantom of the Opera*, *Ragtime*, *Showboat* and *Kiss of the Spider Woman*, became synonymous with Canada's perceived ineptitude at prosecuting white-collar crime.

Charged by the RCMP in 2002 with defrauding investors of \$500-million, it took the Mounties three years to act after the U.S. Attorney for the Southern District of New York and the U.S. Securities and Exchange Commission filed a bevy of criminal and civil charges against Drabinsky and Gottlieb, as well as six other former employees, in 1999.

Each facing 140 years in prison and up to US\$16-million in fines and fearing they wouldn't get a fair trial, the Canadian businessmen became fugitives from the United States and prepared to face the criminal charges eventually filed by the RCMP.

After a six-year delay, the long-awaited fraud trial finally began last May.

For five months, the two sides presented vastly different story lines to explain what led to the collapse of the company after Drabinsky and Gottlieb lost control in June, 1998 as part of an investment deal with Michael Ovitz, the former Hollywood talent agent and Walt Disney Co. executive.

Armed with a paper trail of 237 exhibits and 14 witnesses (seven former employees), Crown Attorney Robert Hubbard alleged the company's co-founders ordered accounting staff to doctor financial statements every quarter between 1993 and 1998 to ensure the company would meet financial projections.

The testimony portrayed hands-on businessmen who micro-managed almost every aspect of Livent's financial activities, including co-signing most of the cheques.

Testimony included first-hand accounts of alleged discussions about financial manipulations; abusive management practices, and internal memos with scribbles and notations of the two accused.

Through all of this, Drabinsky, the former larger-than-life showman, and Gottlieb sat silent. Neither testified at trial, nor did they call any witnesses in their defence.

Instead, they relied on their esteemed lawyers -- brothers Edward and Brian Greenspan -- to hammer away at the Crown's witnesses during cross-examination in the hope of portraying them as victims unaware of a pervasive fraud playing out under their noses until it was too late.

It was a strategy that made for some interesting courtroom theatre, but when it was over, Justice Benotto wasn't convinced.

"The actions of Mr. Drabinsky and Mr. Gottlieb satisfy all three of the ways a prohibited act can be conducted. They were deceitful, they perpetrated a falsehood and reasonable people would consider them dishonest," she declared in her ruling.

Not only did she "not accept that there is a proven absence of motive," she said that while both sides focused on financial gain, the evidence led her to look in another direction.

"This was no ordinary company. There was more than money at stake. There was the vision of the founders. The company was created by Mr. Drabinsky and Mr. Gottlieb with a goal to create an international live theatre production company that would be the best in the world. They were well on their way to achieving that goal," she wrote.

"The company was always short of cash and needed investor money to keep coming in. To keep it coming in, the income had to be misstated. The money came in and the company grew. The income was manipulated in order to keep the money coming in so the next theatre could be built, so the next production could be staged...The motive was the continuation of the company."

The applause and accolades faded long ago for Drabinsky and Gottlieb. With the court's emphatic convictions, they have now secured new celebrity status as Canada's most prominent white-collar criminals.