

# GLENMORE & CENTRE CLASS ACTION

## Notice of Hearing To Approve Settlement Agreement

*This Notice may affect your rights. Please read it carefully.*

**TO CLASS MEMBERS:** All persons who invested in the Calgary-based real estate investment called Glenmore & Centre (the **Glenmore Investment**)

**EXCEPT:** (i) all persons who have divested this investment and had their investment funds returned in full; and (ii) the Defendants (as defined below).

1. On June 25, 2012, a proposed class action bearing Court File Number 1201-08021 was commenced on behalf of the Class Members in the Alberta Court of Queen's Bench (the **Class Action**) against the following named defendants:
  - (a) Shariff Chandran, Chitra Chandran, Philip C. Pincus, Platinum Equities Inc., Glenmore & Centre Registered Investments Ltd., Glenmore & Centre Registered Capital Ltd., Accretive Asset Management Corp., Glenmore & Centre Retail GP Ltd., and Accolade Equities Inc. (collectively, the **Non-Settling Defendants**); and
  - (b) Riaz Mamdani, Strategic Financial Corp., Strategic Equity Corp. and Glenmore & Centre Ltd. (collectively, the **Settling Defendants**, and together with the Non-Settling Defendants, the **Defendants**).
2. The Class Action relates to Class Members' investment in the Glenmore Investment. The Glenmore Investment related to a developed strip mall which had a number of tenants and which is located in Calgary at 6624 and 6626 Centre Street SE.
3. On December 19, 2013, the Class Action was certified as a class proceeding pursuant to the *Alberta Class Proceedings Act*.
4. On August 14, 2018, the Settling Defendants reached a settlement. The Settling Defendants do not admit any wrongdoing or liability on their part. The settlement is a compromise of disputed claims.
5. On September 11, 2018, at 1:00 pm, a hearing will be held before the Honourable Mr. Justice A.D. Macleod of the Court of Queen's Bench at the Calgary Court Centre, 601 5th Street SW, Calgary, Alberta T2P 5P7 to determine whether to approve the settlement reached and on what conditions.
6. A copy of the Application filed in connection with this settlement approval hearing, which sets out the key terms of the settlement with the Settling Defendants, is enclosed with this Notice.

**If you wish to comment on or make an objection to the settlement, please provide a written submission to Class Counsel at the address listed below by no later than September 5, 2018. Class Counsel will forward all such submissions to the Court. You may also attend at the hearing.**

7. You may learn more about the settlement by visiting the website:  
<http://glenmoreclassaction.com/>

#### **CONTACT INFORMATION FOR CLASS COUNSEL**

Written submissions and questions can be addressed to Class Counsel as follows:

**Andrew Sunter or Joanne Luu**

Burnet, Duckworth & Palmer

Suite 2400, 525-8<sup>th</sup> Ave SW

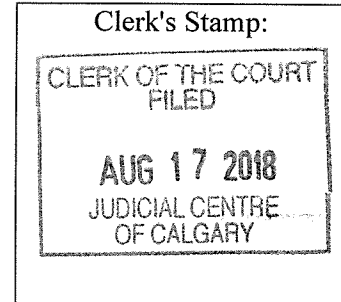
Calgary, AB T2P 1G1

Fax: (403) 260-0332

Email: [asunter@bdplaw.com](mailto:asunter@bdplaw.com) / [jluu@bdplaw.com](mailto:jluu@bdplaw.com)

Phone: (403) 260-0283 (Andrew) / (403) 806-7826 (Joanne)

**Questions about this Notice should NOT be directed to the Court.**



COURT FILE NUMBER	1201-08021
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFFS (APPLICANTS)	HARI HARNAM and GARY GUIDRY
DEFENDANTS (APPLICANTS)	RIAZ MAMDANI, STRATEGIC FINANCIAL CORP., and STRATEGIC EQUITY CORP. and GLENMORE & CENTRE LTD.
DEFENDANTS (NOT PARTY TO THIS APPLICATION)	SHARIFF CHANDRAN, CHITRA CHANDRAN, PHILIP C. PINCUS, PLATINUM EQUITIES INC., GLENMORE & CENTRE REGISTERED INVESTMENTS LTD., GLENMORE & CENTRE REGISTERED CAPITAL LTD., ACCRETIVE ASSET MANAGEMENT CORP., GLENMORE & CENTRE RETAIL GP LTD., GLENMORE & CENTRE LTD. and ACCOLADE EQUITIES INC.
THIRD PARTY PLAINTIFFS (APPLICANTS)	RIAZ MAMDANI, STRATEGIC FINANCIAL CORP., and STRATEGIC EQUITY CORP. and GLENMORE & CENTRE LTD.
THIRD PARTY DEFENDANTS (NOT PARTY TO THIS APPLICATION)	SHARIFF CHANDRAN, CHITRA CHANDRAN, PHILIP C. PINCUS, PLATINUM EQUITIES INC., GLENMORE & CENTRE REGISTERED INVESTMENTS LTD., GLENMORE & CENTRE REGISTERED CAPITAL LTD., ACCRETIVE ASSET MANAGEMENT CORP., GLENMORE & CENTRE RETAIL GP LTD., and ACCOLADE EQUITIES INC.
DOCUMENT	<b>JOINT APPLICATION TO APPROVE PARTIAL SETTLEMENT OF A CLASS PROCEEDING PURSUANT TO SECTION 35 OF THE CLASS PROCEEDINGS ACT</b>

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTIES FILING THIS DOCUMENT

Burnet, Duckworth & Palmer LLP  
2400, 525 – 8 Avenue SW  
Calgary, Alberta T2P 1G1  
Lawyer: Andrew F. Sunter / Joanne Luu  
Phone Number: (403) 260-0283 / 806-7826  
Fax Number: (403) 260-0332  
Email Address: asunter@bdplaw.com / jluu@bdplaw.com  
File No. 70907-1

**NOTICE TO THE CLASS MEMBERS AND DEFENDANTS**

This application may affect your interests.

You have the right to state your position in this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

DATE	<u>September 11, 2018</u>
TIME	<u>1:00 pm</u>
WHERE	<u>Calgary Courts Centre</u>
BEFORE WHOM	<u>The Honourable Mr. Justice A.D. Macleod</u>

Go to the end of this document to see what else you can do and when you must do it.

**Remedy claimed or sought:**

1. The Applicants hereby request:
  - (a) To facilitate the approval of the partial settlement contemplated herein (the **Partial Settlement**), an Order in the form of Order set out at **Schedule A**, which amends the Statement of Claim to add 1721713 Alberta Ltd. (**1721713**) as a plaintiff to this Action in its own capacity and in its capacity as the general partner of Glenmore & Centre Retail Limited Partnership;
  - (b) An Order in the form of Order set out at **Schedule B**, which approves the Partial Settlement; and
  - (c) Any other relief this Honourable Court deems just.

**Grounds for making this application:**

2. The Statement of Claim in this Action was filed on June 25, 2012.
3. On December 19, 2013, this Court certified this Action as a class action and designated Gary Guidry and Hari Harnam as the representative plaintiffs in the lawsuit and appointing Burnet, Duckworth & Palmer LLP (**BDP**) as counsel for the plaintiff class of investors (the **Class**).

4. BDP published and delivered to Class members a Notice of Certification and Opt-Out Form on January 3, 2014. To date no Class member has provided BDP with an Opt-Out Form excluding themselves from participation in the Action.
5. On August 14, 2018, Gary Guidry, Hari Harnam and 1721713 (together, the **Plaintiff Parties**) entered into a Settlement, Funding and Interest Transfer Agreement (the **Settlement Agreement**) with the Defendants Riaz Mamdani, Strategic Financial Corp., Strategic Equity Corp., and Glenmore & Centre Ltd. (together, the **Settling Defendants**).
6. The Partial Settlement contemplated by the Settlement Agreement is a partial settlement of the Action only with the Settling Defendants and does not involve or include Shariff Chandran, Chitra Chandran, Philip C. Pincus, Platinum Equities Inc., Glenmore & Centre Registered Investments Ltd., Glenmore & Centre Registered Capital Ltd., Accretive Asset Management Corp., Glenmore & Centre Retail GP Ltd. or Accolade Equities Inc. (the **Remaining Defendants**), all of whom will remain Defendants in the Action.
7. Key terms of the Settlement Agreement include:
  - (a) In exchange for Glenmore & Centre Ltd. paying \$2,250,000 into a trust account (the **Fund**) held by BDP, the Plaintiff Parties consent to an Order dismissing the Action as against the Settling Defendants and agree to release the Settling Defendants from any future claims made by Class members in relation to this Action, as set out in detail in the Settlement Agreement;
  - (b) To ensure that 1721713 is subject to the terms of the Partial Settlement, the current Statement of Claim is to be amended to add 1721713 as a Plaintiff in the Action in its personal capacity as the General Partner of the Partnership, and not as a representative plaintiff;
  - (c) 1721713 agrees to cause the Partnership to transfer its beneficial interest in and to the Property to a nominee of the Settling Defendants;
  - (d) BDP is to act as the Claims Administrator in connection with the Partial Settlement, and will administer the distribution of the Fund pursuant to the Claims and Distribution Protocol approved by this Court. The Claims and Distribution Protocol proposes to distribute the Fund to verified claimants who invested in the Glenmore Investment on a

*pro rata* basis based on the quantum of each claimant's investment in the Glenmore Investment, after the following amounts are first deducted from the Fund:

- (i) A payment to BDP in the amount of \$220,720.43 for outstanding legal fees and disbursements in the Action (inclusive of GST). BDP does not have a contingency fee arrangement in connection with the Action, but instead entered into a retainer agreement with a number of Class members who agreed to pay its actual legal fees and disbursements incurred in advancing the lawsuit;
  - (ii) Payments to the individuals listed in Appendix "A" to the Claims and Distribution Protocol to reimburse them for amounts already paid to BDP for legal fees and disbursements (inclusive of GST). Such payments total \$135,777.20; and
  - (iii) A payment to BDP for fees and costs incurred in connection with administering the claims and distribution process for the Fund in its capacity as the Claims Administrator, in an amount to be set by the Court at a future date; and
- (e) The Plaintiff Parties and Class members are permitted to proceed with the Action against the Remaining Defendants.
8. The Settlement Agreement is fair and reasonable and in the best interests of the Class.
9. The Plaintiffs and Settling Defendants make this application jointly under section 35 of the *Class Proceedings Act* to approve the Settlement Agreement.
10. The Class members have been given notice of this hearing.

**Material or evidence to be relied on:**

11. Affidavit of Gary Guidry sworn August 15, 2018.

**Applicable Rules:**

12. Rules 1.2, 1.3 and 1.4 of the *Alberta Rules of Court*.

**Applicable Acts and Regulations:**

13. Sections of 15, 22, 23, 33, 35 of the *Class Proceedings Act*.

**Any irregularity complained of or objection relied on:**

14. None.

**How the application is proposed to be heard or considered:**

15. Before the Honourable Mr. Justice A.D. Macleod.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the Applicant what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the Applicant a reasonable time before the application is to be heard or considered.

SCHEDULE "A"

COURT FILE NUMBER **1201-08021**

COURT **COURT OF QUEEN'S BENCH OF ALBERTA**

JUDICIAL CENTRE **CALGARY**

PLAINTIFFS **HARI HARNAM and GARY GUIDRY**

DEFENDANTS **SHARIFF CHANDRAN, CHITRA CHANDRAN, PHILIP C. PINCUS, PLATINUM EQUITIES INC., GLENMORE & CENTRE REGISTERED INVESTMENTS LTD., GLENMORE & CENTRE REGISTERED CAPITAL LTD., ACCRETIVE ASSET MANAGEMENT CORP., GLENMORE & CENTRE RETAIL GP LTD., RIAZ MAMDANI, STRATEGIC FINANCIAL CORP., STRATEGIC EQUITY CORP., GLENMORE & CENTRE LTD. and ACCOLADE EQUITIES INC.**

THIRD PARTIES **SHARIFF CHANDRAN, CHITRA CHANDRAN, PHILIP C. PINCUS, PLATINUM EQUITIES INC., GLENMORE & CENTRE REGISTERED INVESTMENTS LTD., GLENMORE & CENTRE REGISTERED CAPITAL LTD., ACCRETIVE ASSET MANAGEMENT CORP., GLENMORE & CENTRE RETAIL GP LTD., RIAZ MAMDANI, STRATEGIC FINANCIAL CORP., STRATEGIC EQUITY CORP., GLENMORE & CENTRE LTD. and ACCOLADE EQUITIES INC.**

DOCUMENT **ORDER (AMENDING STATEMENT OF CLAIM)**

PARTY FILING THIS DOCUMENT **Hari Harnam and Gary Guidry, the Plaintiffs**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **Burnet, Duckworth & Palmer LLP  
Suite 2400, 525 – 8 Avenue SW  
Calgary, Alberta, T2P 1G1  
Attention: Andrew Sunter  
Telephone: 403-260-0283  
Facsimile: 403-260-0332  
Email: asunter@bdplaw.com**

**DATE ON WHICH ORDER WAS PRONOUNCED: September 11, 2018**

**LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta**

**NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Justice A.D. Macleod**

**UPON** the Application of the Plaintiffs, HARI HARNAM and GARY GUIDRY and the non-party, 1721713 ALBERTA LTD.; **AND UPON** noting the consent of counsel for the non-party, 1721713 ALBERTA LTD.; **AND UPON** noting the consent of counsel for the Defendants/Third Parties, RIAZ MAMDANI, STRATEGIC FINANCIAL CORP., STRATEGIC EQUITY CORP., GLENMORE



& CENTRE LTD. endorsed hereon; **AND UPON** hearing the submissions of counsel in attendance at the hearing;

**IT IS HEREBY ORDERED THAT:**

1. 1721713 ALBERTA LTD. is hereby added as a plaintiff to this Action in its own capacity and in its capacity as the general partner of GLENMORE & CENTRE RETAIL LIMITED PARTNERSHIP.
2. Notwithstanding that this Action was certified as a class proceeding pursuant to the *Class Proceedings Act*, RSA 2003, c. 16.5, as amended, by the Order of the Court granted December 19, 2013, filed in the Action on December 20, 2013 (the "**Certification Order**"), 1721713 ALBERTA LTD. shall not be a representative plaintiff. Nothing in this Order is intended to change, affect, amend or vary the Certification Order.
3. From this time forward, the style of cause of this Action shall be as follows:

PLAINTIFFS

**HARI HARNAM and GARY GUIDRY for themselves and as representative plaintiffs and 1721713 ALBERTA LTD. in its own capacity and as the general partner of GLENMORE AND CENTRE RETAIL LIMITED PARTNERSHIP**

DEFENDANTS

**SHARIFF CHANDRAN, CHITRA CHANDRAN, PHILIP C. PINCUS, PLATINUM EQUITIES INC., GLENMORE & CENTRE REGISTERED INVESTMENTS LTD., GLENMORE & CENTRE REGISTERED CAPITAL LTD., ACCRETIVE ASSET MANAGEMENT CORP., GLENMORE & CENTRE RETAIL GP LTD., RIAZ MAMDANI, STRATEGIC FINANCIAL CORP., STRATEGIC EQUITY CORP., GLENMORE & CENTRE LTD. and ACCOLADE EQUITIES INC.**

THIRD PARTIES

**SHARIFF CHANDRAN, CHITRA CHANDRAN, PHILIP C. PINCUS, PLATINUM EQUITIES INC., GLENMORE & CENTRE REGISTERED INVESTMENTS LTD., GLENMORE & CENTRE REGISTERED CAPITAL LTD., ACCRETIVE ASSET MANAGEMENT CORP., GLENMORE & CENTRE RETAIL GP LTD., RIAZ MAMDANI, STRATEGIC FINANCIAL CORP., STRATEGIC EQUITY CORP., GLENMORE & CENTRE LTD. and ACCOLADE EQUITIES INC.**

4. The Plaintiffs (including 1721713 ALBERTA LTD.) are hereby granted leave to file and serve the Amended Amended Amended Statement of Claim appended hereto as Schedule "A" and shall do so forthwith.

5. The Defendants are granted leave to file and serve amended defences to the statement of claim within 20 days of service of the statement of claim appended hereto as Schedule A.
6. There shall be no costs of this Application as against the parties to this Action that consented to this Application.
7. The consent of counsel shall be sufficient if endorsed on this Order by facsimile or electronically.

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J.C.C.Q.B.A

**CONSENTED TO:**

**Burnet Duckworth & Palmer LLP**

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Andrew Sunter  
Counsel for the Plaintiffs,  
HARI HARNAM and GARY GUIDRY  
and the non-party, 1721713 Alberta Ltd.

**McCarthy Tétrault LLP**

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Sean S. Smyth, QC,  
Counsel for the Defendants/Third Parties,  
RIAZ MAMDANI, STRATEGIC FINANCIAL CORP.,  
STRATEGIC EQUITY CORP., and  
GLENMORE & CENTRE LTD.

Schedule "B"

COURT FILE NUMBER           **1201-08021**

COURT                            **COURT OF QUEEN'S BENCH OF ALBERTA**

JUDICIAL CENTRE           **CALGARY**

PLAINTIFFS                   **HARI HARNAM and GARY GUIDRY for themselves and as representative plaintiffs and 1721713 ALBERTA LTD. in its own capacity and as the general partner of GLENMORE AND CENTRE RETAIL LIMITED PARTNERSHIP**

DEFENDANTS                 **SHARIFF CHANDRAN, CHITRA CHANDRAN, PHILIP C. PINCUS, PLATINUM EQUITIES INC., GLENMORE & CENTRE REGISTERED INVESTMENTS LTD., GLENMORE & CENTRE REGISTERED CAPITAL LTD., ACCRETIVE ASSET MANAGEMENT CORP., GLENMORE & CENTRE RETAIL GP LTD., RIAZ MAMDANI, STRATEGIC FINANCIAL CORP., STRATEGIC EQUITY CORP., GLENMORE & CENTRE LTD. and ACCOLADE EQUITIES INC.**

THIRD PARTIES             **SHARIFF CHANDRAN, CHITRA CHANDRAN, PHILIP C. PINCUS, PLATINUM EQUITIES INC., GLENMORE & CENTRE REGISTERED INVESTMENTS LTD., GLENMORE & CENTRE REGISTERED CAPITAL LTD., ACCRETIVE ASSET MANAGEMENT CORP., GLENMORE & CENTRE RETAIL GP LTD., RIAZ MAMDANI, STRATEGIC FINANCIAL CORP., STRATEGIC EQUITY CORP., GLENMORE & CENTRE LTD. and ACCOLADE EQUITIES INC.**

DOCUMENT                   **ORDER (APPROVING PARTIAL SETTLEMENT OF A CLASS PROCEEDING PURSUANT TO SECTION 35 OF THE CLASS PROCEEDINGS ACT)**

PARTY FILING THIS DOCUMENT   **The Plaintiffs, HARI HARNAM and GARY GUIDRY for themselves and as representative plaintiffs and 1721713 ALBERTA LTD. in its own capacity and as the general partner of GLENMORE AND CENTRE RETAIL LIMITED PARTNERSHIP**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT   **Burnet, Duckworth & Palmer LLP  
Suite 2400 Eighth Avenue Place  
525 – 8 Avenue SW  
Calgary, Alberta, T2P 1G1  
Attention: Andrew Sunter  
Telephone: 403-260-0283  
Facsimile: 403-260-0332  
Email: asunter@bdplaw.com**

**DATE ON WHICH ORDER WAS PRONOUNCED:           September 11, 2018**

**LOCATION WHERE ORDER WAS PRONOUNCED:         Calgary, Alberta**

**NAME OF JUDGE WHO MADE THIS ORDER:           The Honourable Justice A.D. Macleod**

**UPON** the Application of the Plaintiffs, HARI HARNAM and GARY GUIDRY for themselves and as representative plaintiffs and 1721713 ALBERTA LTD. in its own capacity and as the general partner of GLENMORE AND CENTRE RETAIL LIMITED PARTNERSHIP (together, the **Plaintiffs**), made jointly with the Defendants/Third Parties, RIAZ MAMDANI, STRATEGIC FINANCIAL CORP., STRATEGIC EQUITY CORP., GLENMORE & CENTRE LTD. (together, the **Settling Defendants**);

**AND UPON** reviewing the Certification Order filed December 20, 2013, the Application filed •, the Affidavit of Gary Guidry filed • and Exhibits including the Settlement, Funding and Interest Transfer Agreement and underlying schedules;

**AND UPON** hearing the submissions of counsel in attendance at the hearing;

**AND UPON BEING ADVISED** that the Plaintiffs and Settling Defendants consent to this Order;

**IT IS HEREBY ORDERED THAT:**

**A. The Agreement is approved and forms part of this Order**

1. The Settlement, Funding and Interest Transfer Agreement made effective as of the Effective Date as defined therein (the **Agreement**) appended hereto as **Schedule A** is incorporated by reference into, and forms part of this Order.
2. Capitalized terms used in this Order shall have the meanings given to them in the Agreement. The headings in this Order are for reference only and do not affect the meaning or interpretation of the Order.
3. If any provision of this Order is in conflict with the Agreement, the provision contained in this Order shall govern.
4. The Agreement is declared to be fair, reasonable and in the best interests of the Class and Class Members.
5. The Agreement is hereby approved pursuant to Section 35 of the *Class Proceedings Act*, RSA 2003, c. 16.5, as amended.

**B. The Agreement is binding on all Class Members**

6. The Agreement is declared to be binding upon the Representative Plaintiffs, all Class Members (including those Persons who are minors or mentally incapable without the necessity of appointing a litigation representative pursuant to Rule 2.11 of the *Rules of Court*), the other Parties to the Agreement, the Representative Plaintiffs' Counsel and the Settling Defendants' Counsel.
7. Upon the Effective Date, every Class Member shall be deemed to have consented to this Order.

**C. All Claims and Released Claims are dismissed and released as against the Settling Defendants and no future Claims can be brought against them**

8. Upon the Effective Date, any and all Claims commenced in the Action by the Plaintiffs as against RIAZ MAMDANI, STRATEGIC FINANCIAL CORP., STRATEGIC EQUITY CORP., GLENMORE & CENTRE LTD. shall be, and are hereby, dismissed, with prejudice and without costs.
9. Upon the Effective Date, any and all Released Claims commenced in the Action by every Class Member shall be, and are hereby, dismissed against the Released Parties, with prejudice and without costs.
10. Subject to paragraph 11, upon the Effective Date, the Releasing Parties shall be deemed to, and do hereby, release and forever discharge the Released Parties of and from any and all Released Claims. The release and discharge set forth in this paragraph shall be effective notwithstanding the discovery or existence of additional or different facts than those known or believed to be true by the Representative Plaintiffs, Class Members or any of them with respect to the subject matter of the Agreement.
11. If a Releasing Party is resident in a jurisdiction where the release of one tortfeasor is a release of all other tortfeasors, then paragraph 10 shall not apply to that Releasing Party and instead that Releasing Party shall be deemed to covenant and undertake not to sue, make in any way any Claim within the scope of the Released Claims or to threaten, commence, or continue any Claim within the scope of the Released Claims in any jurisdiction against the Released Parties. The covenant and undertaking not to sue set forth in this paragraph shall be effective notwithstanding the discovery or existence of

additional or different facts than those known or believed to be true by the Representative Plaintiffs, Class Members, that Releasing Party or any of them with respect to the subject matter of the Agreement.

12. Upon the Effective Date, the Releasing Parties shall not now or hereafter commence, institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any Claim within the scope of the Released Claims against any Released Party or any other Person who may claim contribution or indemnity from any Released Party in respect of any Released Claim, except for the continuation of the Action against the Remaining Defendants.
13. Notwithstanding the continuation of the Action against the Remaining Defendants, all claims for contribution and indemnity or other claims over, whether asserted or unasserted or asserted in a representative capacity, inclusive of interest, taxes and costs, in respect of any Released Claims, by any Remaining Defendant or any other Person against a Released Party are barred, prohibited and enjoined.

**D. The Plaintiffs may proceed against the Remaining Defendants in this Action**

14. If, in the absence of paragraph 13, a Person or Persons would have the right to make claims for contribution and indemnity or other claims over, whether in equity or in law, by statute or otherwise, from or against the Released Parties:
  - (a) the Releasing Parties (including without limitation the Plaintiffs in this Action) are prohibited and barred from bringing or pursuing the claim that gives rise to the claim for contribution, indemnity, or other claim over against any one or more of the Released Parties;
  - (b) the Releasing Parties shall not be entitled to claim or recover from that Person or Persons that portion of any damages (including punitive damages, if any), restitutionary award, disgorgement of profits, interest and costs awarded in respect of any claim(s) on which judgment is entered that corresponds to the Proportionate Liability of the Released Parties proven at trial or otherwise;
  - (c) the Plaintiffs in this Action shall limit their claims against the Remaining Defendants to, and shall be entitled to recover from the Remaining Defendants,

only those claims for damages, costs and interest attributable to the Remaining Defendants' several liability to the Class Members in this Action, if any; and

- (d) this Court shall have full authority to determine the Proportionate Liability at the trial or other disposition of this Action, whether or not the Released Parties remain in this Action or appear at the trial or other disposition, and the Proportionate Liability shall be determined as if the Released Parties are parties to this Action for that purpose and any such finding by this Court in respect of the Proportionate Liability shall only apply in this Action and shall not be binding upon the Released Parties in any other proceedings.
15. If, in the absence of paragraph 13 hereof, the Remaining Defendants would not have the right to make claims for contribution and indemnity or other claims over, whether in equity or in law, by statute or otherwise, from or against the Released Parties, then nothing in this Order is intended to or shall limit, restrict or affect any arguments which the Remaining Defendants may make regarding the reduction of any judgment against them in this Action.
16. Subject to paragraph 17 hereof, a Remaining Defendant may, upon Application to the Court brought on at least ten (10) days' notice to counsel for the Settling Defendants and Representative Plaintiffs' Counsel, seek orders for the following:
- a. documentary discovery and an affidavit of documents in accordance with the *Rules of Court* from a Settling Defendant;
  - b. oral discovery of a representative of a Settling Defendant, the transcript of which may be read in at trial;
  - c. leave to serve a notice to admit on a Settling Defendant in respect of factual matters; and
  - d. a notice to attend on a representative of a Settling Defendant to testify at trial.

For greater certainty, if the Settling Defendants bring a claim for contribution and indemnity or other claims over against a Remaining Defendant, nothing in this paragraph is intended to or does affect or limit in any way any documentary or oral discovery rights under the *Rules of Court* that the Remaining Defendants or Settling Defendants have in

that claim, and such rights may be exercised by the parties in that claim notwithstanding any other provision in this paragraph.

17. The Settling Defendants retain all rights to oppose such Application(s) brought under paragraph 16 of this Order.
18. On any Application brought pursuant to paragraph 16 of this Order, the Court may make such orders as to costs and other terms as it considers appropriate.
19. A Remaining Defendant may effect service of the Application(s) referred to in paragraph 16 on a Settling Defendant by service on counsel of record for the Settling Defendants in this Action.
20. For purposes of enforcement of this Order, this Court will retain an ongoing supervisory role and the Settling Defendants will attorn to the jurisdiction of this Court for this purpose.
21. Except as provided in this Order and the Agreement, this Order does not affect any claims or causes of action that any Class Member has or may have against the Remaining Defendants.

**E. Transactions and Transfer of Interests Contemplated by the Agreement**

22. The transactions and transfer of interests contemplated by Article 8 of the Agreement are hereby approved.
23. The transactions and transfer of interests contemplated by Article 8 of the Agreement are declared not to constitute a sale of all or any part of the Property pursuant to 5.4(q) of the Limited Partnership Agreement for Glenmore & Centre Retail Limited Partnership dated September 17, 2008, (the **Limited Partnership Agreement**) and no resolution of the Limited Partners (as that term is defined in the Limited Partnership Agreement) is required to approve the Agreement or any of the transactions and transfer of interests contemplated by Article 8 of the Agreement.
24. The Agreement and the transactions and transfer of interests contemplated by Article 8 of the Agreement are declared not to violate the terms of the Limited Partnership Agreement.



**F. The Administration of the Claims and Distribution Protocol and Tax Escrow Agreement**

25. The Settling Defendants, including the Funding Defendant, shall have no responsibility for, and no liability whatsoever with respect to, the administration of the Fund including in respect of Administration Expenses. The sole obligation of the Funding Defendant with regard to the Fund shall be to pay the Initial Fund Amount as set forth in the Agreement.
26. The Fund shall be held in trust for the benefit of the Class by the Representative Plaintiffs' Counsel and administered in accordance with the Agreement.
27. The Claims and Distribution Protocol appended hereto as **Schedule B** and the Claim Form appended hereto as **Schedule C** are hereby approved. The Court orders and declares that the notice program described at paragraph 3 of the Claims and Distribution Protocol satisfies the requirements of sections 21 and 35(7) of the *Class Proceedings Act* and that the Notice of Settlement appended hereto as **Schedule D** is hereby approved.
28. The Representative Plaintiffs' Counsel is hereby appointed as the Claims Administrator and Tax Escrow Agent (the **Claims Administrator**) in respect of the claims and distribution process set out in the Claims and Distribution Protocol and Tax Escrow Agreement, and shall administer the claims and distribution process in accordance with the terms of the Claims and Distribution Protocol, the Tax Escrow Agreement and any further Orders of this Court.
29. The Claims Administrator shall hold the Fund in trust for the benefit of the Class, pending distribution to the Class in accordance with the Claims and Distribution Protocol.
30. The payments contemplated at paragraphs 2(a) and (b) of the Claims and Distribution Protocol in connection with the Representative Plaintiffs' Counsel's legal fees and disbursements are hereby approved, and the Claims Administrator shall distribute these amounts from the Fund forthwith in accordance with paragraphs 2(a) and (b) of the Claims and Distribution Protocol.
31. The Claims Administrator is entitled to its reasonable fees and disbursements at its standard rates and charges in connection with its administration of the claims and distribution process under the Claims and Distribution Protocol and the Tax Escrow

Agreement. This Court shall set and approve the Claims Administrator's fees and disbursements in the Distribution Approval Order contemplated at paragraphs 2(c) and 6 of the Claims and Distribution Protocol.

32. The Claims Administrator shall incur no liability as a result of its appointment or the carrying out of the provisions of this Order, the Tax Escrow Agreement or the Claims Distribution Protocol, save and except for any gross negligence or wilful misconduct on its part.

**G. No costs**

33. There shall be no costs against any party that consented to this Application.

**H. Endorsement of this Order**

34. The consent of counsel shall be sufficient if endorsed on this Order by facsimile or electronically.

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J.C.C.Q.B.A

**CONSENTED TO:**

**Burnet Duckworth & Palmer LLP**

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Andrew Sunter  
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