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LOWTHORP, RICHARDS, McMILLAN, MILLER,  
CONWAY & TEMPLEMAN  
PATRICK T. LOUGHMAN # 105990  
A PROFESSIONAL CORPORATION  
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Attorneys for ZM Corporation, Petitioner

COUNTY OF VENTURA  
SUPERIOR COURT  
**FILED**

JAN 28 1999

SHEILA GONZALEZ, Superior Court  
Executive Officer and Clerk  
BY: \_\_\_\_\_, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF VENTURA

SIMI VALLEY LE PARC H.O.A.,

Plaintiff/Respondent,

vs.

ZM CORPORATION, dba  
QWIKRESPONSE DISASTER  
CONTROL AND CONSTRUCTION.

Defendant/Petitioner.

Case No. CIV 159037

EX PARTE APPLICATION FOR  
ORDER APPOINTING RECEIVER  
AND ORDER TO SHOW CAUSE  
WHY APPOINTMENT SHOULD NOT  
BE CONFIRMED; DECLARATION OF  
PATRICK T. LOUGHMAN;  
DECLARATION OF GLENN J.  
CAMPBELL; DECLARATION OF F.  
SCOTT JACKSON

DATE: January 29, 1999  
TIME: 8:30 a.m.  
DEPT. 32

I, PATRICK T. LOUGHMAN, declare as follows: I am an attorney at law duly admitted to practice in all the courts of the State of California and am a member of Lowthorp, Richards, McMillan, Miller, Conway & Templeman, a Professional Corporation, attorney of record herein for petitioner, ZM Corporation. The following facts are within my personal knowledge and if called to testify I could so with respect to these facts.

This court confirmed an arbitration award in favor of petitioner and against Simi Valley Le Parc H.O.A. in the amount of \$6,639,187.09, on August 11, 1998. The

1 Judgment was entered on August 11, 1998. A true and correct copy of the Judgment is  
2 attached hereto as Exhibit "A," for the court's reference.

3 Plaintiff/Respondent Simi Valley Le Parc H.O.A., filed a Chapter 11 bankruptcy  
4 proceeding in July of 1997. Petitioner had obtained an Order for Relief from the  
5 Automatic Stay permitting petitioner to liquidate its claim against Simi Valley Le Parc  
6 H.O.A. in an arbitration proceeding. The Court's confirmation of the award in favor of  
7 petitioner was done under the auspices of that Order for Relief from Stay and the  
8 Bankruptcy Court retained jurisdiction over Simi Valley Le Parc H.O.A. as debtor in the  
9 Chapter 11 case.

10 However, in open court on January 27, 1999, the United States Bankruptcy Court  
11 granted petitioner's Petition to Dismiss Simi Valley Le Parc H.O.A.'s Chapter 11 case.  
12 A true and correct copy of the Proposed Order granting the Petition to Dismiss is attached  
13 hereto as Exhibit "B."

14 Given the actions taken to date by the debtor to conceal assets and to take any  
15 steps to avoid the satisfaction of this Judgment, the Court ordered the dismissal of the  
16 case but also held that the restraining order against the debtor would remain in effect for  
17 three days to allow petitioner time to seek its appropriate remedies in the state court.

18 Principal among these remedies, given the dismissal of the bankruptcy case and  
19 the U.S. Trustee's supervision of the estate, is the immediate appointment of a receiver  
20 to assist in the enforcement of the judgment in this case. CCP § 564(b)(3). CCP §  
21 564(b)(3), provides that a receiver may be appointed by the court in the following cases:  
22 "After judgment, to carry the judgment into effect." This is confirmed by CCP § 708.620,  
23 which provides:

24  
25 "The Court may appoint a receiver to enforce the judgment where  
26 the judgment creditor shows that, considering the interest of both  
27 the judgment creditor and the judgment debtor, the appointment  
28 of a receiver is a reasonable method to obtain the fair and orderly

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satisfaction of the judgment."

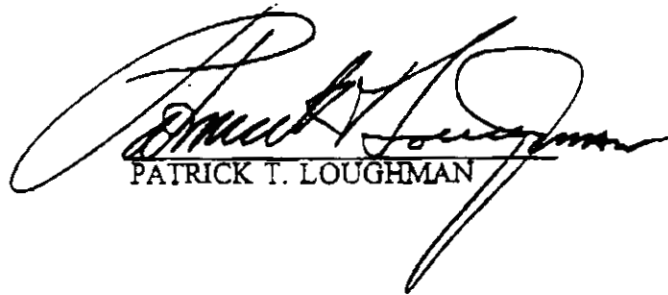
In this case, the principal asset of the debtor is the ability to collect assessments from homeowners. The debtor owns no other substantial property. Debtor's Chapter 11 bankruptcy case has to date shielded it from petitioner's ability to obtain satisfaction of the judgment. The bankruptcy case also provided some supervision and protection from concealment and diversion of assets. With the dismissal of the bankruptcy case, these protections are gone and a receiver should be immediately appointed to take control of the debtor's receipt of assessments to apply against the outstanding judgment as appropriate.

The petitioner requests the appointment of Jeff Becker as receiver in this matter. The qualifications of Mr. Becker are attached hereto as Exhibit "C."

WHEREFORE, petitioner ZM Corporation, dba Qwikresponse Disaster Control and Construction requests and order appointing Jeff Becker as receiver to take immediate possession of the homeowners association accounts and records with respect to assessments at the Simi Valley Le Parc condominiums pending further order of this court and for an order to show cause why the appointment should not be confirmed.

I declare under penalty of perjury under the laws of the State of California, the foregoing is true and correct.

DATED: January 28, 1999



PATRICK T. LOUGHMAN



1 Andrew Goodman's voice mail, informing him that the matter would  
2 be heard in Department 32. On January 28, 1999, in an abundance  
3 of caution, I sent the attached facsimile to Jim Felton of the  
4 law firm of Greenberg and Bass confirming the department within  
5 which the hearing would be held. A true and correct copy of  
6 that facsimile is attached and it was sent and time stamped on  
7 January 28, 1999 at 8:19 a.m., Exhibit "D".

8 THE PROPRIETY OF RELIEF SOUGHT

9 3. The temporary restraining order is appropriate in this  
10 case. We learned through the discovery that was had in the  
11 Bankruptcy Court through the deposition of Al R. Beaupre, Board  
12 Member of the Le Parc Simi Valley Homeowners Association, that  
13 while the underlying arbitration between ZM and Le Parc was  
14 pending, Le Parc prepaid construction contracts in the aggregate  
15 sum of \$1,500,000 and prepaid other contracts.

16 4. The underlying Arbitration Award and Judgment entered  
17 thereon, confirms that Le Parc is indebted to ZM in a sum in  
18 excess of \$6,600,000.00 based upon Le Parc's wrongful breach of  
19 the construction contract, trade liable, defamation and slander,  
20 interference with prospective economic advantage and other  
21 negligent and intentional torts. A true and correct copy of the  
22 Award is part of this court's file and a true and correct copy  
23 is attached to this declaration, Exhibit "E". A temporary  
24 restraining order and preliminary and permanent injunction  
25 should issue restraining Le Parc and its officers, directors,  
26 employees, agents, and representatives and all others from  
27 making any payments, disposing of or transferring any assets of  
28 Le Parc, including cash assets, until a receiver is appointed to

1 act on behalf of ZM as judgment creditor and to act under such  
2 orders as this court may deem just and proper to protect the  
3 judgment creditor's interest in the assets of Le Parc.

4 5. Attached as Exhibit "F" is a true and correct copy of  
5 the Declaration of F. Scott Jackson, an expert in common  
6 interest subdivision law which opines at paragraphs 4, 5 and 6,  
7 that the Association has the power to levy assessments and  
8 collect assessments for liabilities of the Association itself.  
9 Therefore, a receiver is inappropriate, acting under this  
10 court's supervision, to protect ZM's interests as a judgment  
11 creditor in collecting the assessments, levying additional  
12 assessments and policing the assessments in the judgment  
13 creditor's interest.

14 I declare under penalty of perjury that the foregoing is  
15 true and correct and that this declaration was made on January  
16 28, 1999 at Oxnard, California.

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19 GLENN J. CAMPBELL  
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