

# ARBITRATION TRIBUNAL

Constituted by virtue of *Regulation respecting the guarantee plan  
for new residential buildings*  
(O.C. 841-98 of 17 June 1998)

Under the aegis of

**CENTRE CANADIEN D'ARBITRAGE COMMERCIAL (CCAC)**

**CANADIAN COMMERCIAL ARBITRATION CENTRE (CCAC)**

Arbitration body authorized by the *Régie du Bâtiment du Québec* responsible for the  
administration of the Building Act (R.s.Q., c. B-1.1)

**CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL**

File no: CCAC: S12-022101-NP

**FRED KORMAN INC.**  
Claimant

v.

**FLAVIA D'ORAZIO  
STACEY PRENDERGAST**  
Respondents

and

**LA GARANTIE DES BÂTIMENTS RÉSIDENTIELS NEUFS DE L'APCHQ INC.**  
Manager

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## ARBITRATION NOTICE and ORDER

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Arbitrator: Me Jean Philippe Ewart

For the Beneficiaries: Mrs. Flavia D'Orazio  
Mr. Stacey Prendergast

For the Contractor: Me Jean Rousseau  
CROCHETIÈRE PÉTRIN

For the Manager: Me Élie Sawaya  
SAVOIE FOURNIER

Date of Notice and Order: 19 June 2012

## IDENTIFICATION OF THE PARTIES

CONTRACTOR:

FRED KORMAN INC.  
c/o Me Jean Rousseau  
CROCHETIÈRE PÉTRIN SENCRL  
100, rue Belvédère Sud, s. 310  
Sherbrooke (Québec) J1H 4B5  
(the “**Contractor**”)

BENEFICIARIES:

FLAVIA D’ORAZIO  
STACEY PRENDERGAST  
65, Ch. du Mont-Owl’s Head  
Mansonville (Québec) JOE 1X0  
(the “**Beneficiaries**”)

MANAGER OF THE GUARANTEE PLAN:

LA GARANTIE DES BÂTIMENTS  
RÉSIDENTIELS NEUFS DE L’APCHQ INC.  
5930 Louis - H. Lafontaine Blvd  
Anjou (Québec) H1M 1S7  
(the “**Manager**”)

## MANDATE

- [1] A request for arbitration was filed by the Contractor dated 21 February 2012 (the “**Request for arbitration**”) and the undersigned was named arbitrator on 29 February 2012.

## PROCEEDINGS

- [2] This is a request for arbitration by the Contractor from a decision of the Manager dated 12 December 2011 (the “**Decision**”) rendered in furtherance of a claim by the Beneficiaries in accordance with the *Regulation respecting the guarantee plan for new residential buildings* (R.S.Q. c. B-1.1, r. 8) (the “**Regulation**”) under the *Building Act* (R.S.Q., c. B-1.1).

## PRELIMINARY MOTIONS

- [3] Counsel to the Manager advised under a pre trial conference held on 13 April 2012 that the Manager would file at the hearing a preliminary motion to dismiss the action of the Contractor on the basis of section 19 of the Regulation and more particularly that the Decision was rendered in his view as of 21 November 2011 and the Request for arbitration was as of 21 February 2012, the Manager alleging that same is in contravention of said section.

[4] Following case management discussions, hearing was initially set for 8 June 2012. A motion request for suspension was submitted by and with consent of the Parties on 17 May 2012; by Procedural Order of the same date the Tribunal granted in the circumstances a suspension for a period ending on 18 June 2012.

**WITHDRAWAL**

[5] Counsel to the Contractor has advised in writing the Parties and the Tribunal on 18 June 2012 that the Contractor 'renounce[s] and withdraw[s] of the arbitration process'.

**FOR THESE REASONS, THE ARBITRATION TRIBUNAL:**

[6] **ACKNOWLEDGES and RECORDS** the Withdrawal and Desist from the Contractor and consequently **DISMISSES** the arbitration demand of the Contractor;

[7] **ORDERS** in accordance with section 123 of the Regulation that the costs of the present arbitration be borne as to fifty percent (50%) by the Contractor and as to fifty percent (50%) by the Manager.

DATE: 19 June 2012

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M<sup>e</sup> Jean Philippe Ewart  
Arbitrator