

**ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)**

THE HONOURABLE MR.)
JUSTICE BLAIR)

TUESDAY, SEPTEMBER 15, 1998

B E T W E E N :

Claude Millard

Plaintiff

- and -

**North George Capital Management Limited, Triple A
Financial Services Inc. North George Capital Limited
Partnership, North George Capital II Limited Partnership,
North George Capital III Limited Partnership, North George
Capital IV Limited Partnership, North George Capital V
Limited Partnership, Lionaird Capital Corp., Roderick Alton,
Michael Magee, Robert McGillen, Morrison & Holingsworth,
Kenneth Gill, Anne Gilmour, Michael Goselin, Goselin &
Associates, Stewart and Associates, McColl Turner, Irv Dyck,
Don McCrory, Pierre Montpelier**

Defendants

ORDER

THIS MOTION, made without notice by the plaintiff for an order to investigate North George Capital Management Limited and Lionaird Capital Corp. and related relief, was heard this day at 393 University.

ON READING the "Motion without Notice" dated September 13, 1998, the affidavit of Claude Millard dated September 14, 1998 and the Notice of Action, and on hearing the submissions of counsel for the plaintiff, and counsel for the defendants Alton and Magee, no one appearing for North George or Lionaird, although properly served in accordance with my September 14, 1998 endorsement.

AND UPON BEING ADVISED that the plaintiff and the defendants, Alton and Magee, consent to the making of this Order:

1. **THIS COURT ORDERS** that without prejudice to the defendants' rights to later challenge the plaintiff's entitlement to the investigation order, an investigation be made of Lionaird Capital Corp. ("Lionaird") and North George Capital Management Limited ("North George") (collectively, the "Corporations") for a period commencing on the date of this order and ending 5:00 p.m., September 23, 1998.

2. **THIS COURT ORDERS** that Lindquist Avey Macdonald Baskerville Company of Toronto, Ontario, forensic and investigative accountants (the "Inspector") is hereby appointed as an officer of this Court to act as an inspector with the powers herein set out to investigate the Corporations provided for under the terms of this Order.

3. **THIS COURT ORDERS** the Corporations, Alton and Magee to co-operate fully with the Inspector in the exercise of its powers hereunder and, without limiting the generality of the foregoing, to provide the Inspector with such access to the books, records, assets and

premises of the Corporations as the Inspector requires to exercise its powers and perform its obligations hereunder.

4. **THIS COURT ORDERS** that, upon the request of the Inspector, each of:

- (a) Alton;
- (b) Magee;

shall produce to the Inspector all documents or records relating to the Corporations in their possession or over which they exercise control.

5. **THIS COURT ORDERS** that the Corporations, Triple A, Alton and Magee shall preserve and protect all records of commercial transactions involving the Corporations or either of them.

6. **THIS COURT ORDERS** that, unless otherwise extended by this Court, during the period commencing on the date hereof and terminating at 11:59 p.m. on Wednesday, September 23, 1998, the Corporations, Triple A, Alton and Magee shall be enjoined from, directly or indirectly, moving or causing or permitting the removal from the jurisdiction or in any way disposing of any assets, real or personal, moveable or immovable, legally or beneficially owned or controlled by them which have a value individually or in the aggregate in excess of \$50,000.

7. **THIS COURT ORDERS** that the Inspector shall report to this Court as the Inspector deems appropriate or as this Court directs.

8. **THIS COURT ORDERS** that the Inspector is authorized to provide the plaintiff and the defendants, Alton and Magee, oral or written status reports on the progress of its investigation and a copy of any interim or final report delivered to the Court.

9. For the purposes of this order, all references to documents, records or information regarding North George shall be and be deemed to include all documents, records and information regarding the following limited partnerships managed by North George as the general partner thereof:

- (c) North George Capital Limited Partnership;
- (d) North George Capital II Limited Partnership;
- (e) North George Capital III Limited Partnership;
- (f) North George Capital IV Limited Partnership; and
- (g) North George Capital V Limited Partnership.

10. **THIS COURT ORDERS** that all costs of the investigation including, without limitation, the fees and disbursements of the Inspector (the "Costs"), shall be paid by the Corporations, subject to any final assessment or taxation as may be ordered by this Court, up to a maximum of \$15,000. The Corporations shall deliver to Smith Lyons, not later than noon, on September 17, 1998 a certified cheque in the amount of \$15,000 payable to "Smith Lyons, in trust" to secure payment of the Costs.

11. **THIS COURT ORDERS** that the Inspector shall not be liable for any act or omission as a result of this appointment or the fulfilment of the duties of the Inspector in carrying out the provisions of this Order, save and except for gross negligence or wilful misconduct on the part of the Inspector and that no action, application or other proceeding shall

be taken, made or construed against the Inspector without the leave of this Court first being obtained.

12. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the plaintiff or the Inspector may apply at any time to Mr. Justice Blair, or to such other Judge as he may designate, to seek any further relief, and any interested person may apply to Mr. Justice Blair, or to such other Judge as he may designate to vary or rescind this Order or seek any other relief on two (2) days' notice to the plaintiff and the Inspector or on such other notice, if any, as this Court may Order.

13. **THIS COURT ORDERS** that the plaintiff or the Inspector may, from time to time, apply to Mr. Justice Blair, or to such other Judge as he may designate, for direction in the discharge of the Inspector's powers and duties hereunder or in respect of the proper execution of this Order on notice only to the plaintiff and the Inspector, as the case may be, or on such other notice, if any, as this Court may Order.

14. **THIS COURT ORDERS** that the costs of this motion shall be spoken to on the return of the motion on September 23, 1998.

"Mr. Justice Blair"

Millard
– Plaintiff –

v.

North George Capital et al
– Defendant –

ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)

(PROCEEDING COMMENCED AT TORONTO)

ORDER

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Created: 16-Sep-1998 10:04 AM Last Saved: 16-Sep-1998 10:04 AM