

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE MR. JUSTICE            )     FRIDAY, THE 14TH DAY OF  
FARLEY                                        )     FEBRUARY 2001

**B E T W E E N:**

**Claude Millard and Roger Grisé**

Plaintiffs

– 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, Kenneth Gill, Anne Gilmour, Michael Goselin, Goselin & Associates, Stewart and Associates, McColl Turner, Irv Dyck, M.R.S. Trust Company and Alan Lawson, Fisher Inc., the Trustee of the Estate of Roderick Alton, a Bankrupt**

Defendants

*Proceeding Under the Class Proceedings Act, 1992*

**ORDER WITH RESPECT TO DISTRIBUTION OF SETTLEMENT FUNDS AND RELATED MATTERS**

**THIS MOTION** made by Class Counsel for the distribution of settlement funds and related matters was heard on February 14, 2001 at 393 University Avenue, Toronto.

**ON READING** the initial settlement agreement, the McColl Turner settlement agreement, the fee

agreement, the affidavit of Jeffrey D. Glatt sworn February 6, 2001, the supplementary affidavit of Jeffrey D. Glatt sworn February 13, 2001 and the affidavit of Claude Millard sworn January 11, 2001, and on hearing submissions of counsel for the plaintiffs, no one appearing in opposition of the relief sought, although notice was provided to all defendants and notice approved by the Court was provided to the North George and Lionaird class members:

WHEREAS by Order of this Court dated April 27, 2000, this Court certified the within Action as a class proceeding pursuant to the *Class Proceedings Act, 1992* and, among other matters, established the North George Class and the Lionaird Class as the two primary classes of plaintiffs bound by the results of the within Action and the RRSP Subclass as a subclass of the Lionaird Class;

AND WHEREAS by Order of this Court dated April 27, 2000, this Court approved a settlement agreement (the "Initial Settlement Agreement") respecting the claims of the North George Class and the Lionaird Class against Robert McGillen, Stewart and Associates and M.R.S. Trust Company;

AND WHEREAS by Order of this Court dated February 14, 2001, this Court approved a settlement agreement (the "McColl Turner Settlement Agreement") respecting the claims of the North George Class against McColl Turner;

AND WHEREAS by Order of this Court dated July 26, 2000, this Court approved a fee agreement (the "Fee Agreement") made as of August 12, 1998 between Class Counsel (as defined in the Fee Agreement) and the representative plaintiffs respecting the payment of fees and disbursements of Class Counsel;

AND WHEREAS (i) certain amounts are now due and payable pursuant to the Initial Settlement Agreement and the McColl Turner Settlement Agreement, (ii) Class Counsel wish to distribute some of those amounts to the North George Class and the Lionaird Class and (iii) certain fees and disbursements are payable to Class Counsel in connection with such distribution;

**NOW THEREFORE THIS COURT HEREBY ORDERS AS FOLLOWS:**

**Payment of Settlement Funds**

1. McColl Turner shall pay to Class Counsel on March 19, 2001 the sum of \$485,000, plus all accrued interest thereon, due and payable pursuant to the McColl Turner Settlement Agreement.
2. M.R.S. Trust Company shall pay to Class Counsel on March 19, 2001 the sum of \$400,000, plus all accrued interest thereon, due and payable pursuant to the Initial Settlement Agreement.
3. Stewart and Associates and Robert McGillen shall pay or cause to be paid to Class Counsel on March 19, 2001 the sum of \$200,000, plus all accrued interest thereon, due and payable pursuant to the Initial Settlement Agreement.

**Allocation of the Settlement Funds**

4. The amount referred to in paragraph 1 and one-half of the amount referred to in paragraph 3 (collectively, the "North George Funds") shall be allocated for the benefit of the members of the North George Class.
5. The amount referred to in paragraph 2 and one-half of the amount referred to in paragraph 3 (collectively, the "Lionaird Funds") shall be allocated for the benefit of the members of the Lionaird Class.

**Distribution and Use of the North George Settlement Funds**

6. Class Counsel are authorized and directed to distribute \$400,000 of the North George Funds to the members of the North George Class, on a *pro rata* basis in terms of their loss of principal, as set out in Schedule "A" annexed hereto.
7. Of the said \$400,000 to be distributed, Class Counsel shall withhold in reserve the amount of \$21,076.38 in respect of the disputed claims identified in Schedule "A", pending resolution of the related disputes.
8. Class Counsel are authorized and directed to pay \$156,347.40 of the North George Funds to Class Counsel as fees and disbursements (plus GST thereon) payable pursuant to the Fee Agreement.
9. Class Counsel are authorized and directed to use the balance of the North George Funds to pay future expenses to be incurred on behalf of the North George Class or to apply to this Court for

further advice and directions with respect to the use and application of such remaining funds.

**Distribution and Use of the Lionaird Funds**

10. Class Counsel are authorized and directed to distribute \$380,000 of the Lionaird Funds to the members of the Lionaird Class, on a *pro rata* basis, as set out in Schedule "A" annexed hereto.
11. Class Counsel are authorized and directed to pay \$109,150.45 of the Lionaird Funds to Class Counsel as fees and disbursements (plus GST thereon) payable pursuant to the Fee Agreement.
12. Class Counsel are authorized and directed to use the balance of the Lionaird Funds to pay future expenses to be incurred on behalf of the Lionaird Class or to apply to this Court for further advice and directions with respect to the use and application of such remaining funds.

**Method and Manner of Distribution**

13. All amounts to be distributed to the RRSP Subclass shall be paid to M.R.S. Trust Company, in trust, for deposit to the RRSP or RRIF account of each member of the RRSP Subclass, respectively. In the event that any member of the RRSP Subclass no longer has an active RRSP or RRIF account with M.R.S. Trust Company, then upon the direction of such member of the RRSP Subclass or his or her counsel, M.R.S. Trust Company shall make all arrangements necessary to transfer the funds to which such member of the RRSP Subclass is entitled to the current trustee of an RRSP or RRIF account held by such member of the RRSP Subclass.
14. All amounts to be distributed to all members of the Lionaird Class who are not members of the RRSP Subclass and to all members of the North George Class shall be paid by cheque to be issued by Class Counsel out of its trust account and sent by ordinary mail to the last known address of each such class member.

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Justice Farley, Ontario Superior Court of Justice  
(Commercial List)

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**Claude Millard, et al**  
– Plaintiffs –

v.

**North George Capital Management Limited, et al**  
- Defendants -

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
(PROCEEDING COMMENCED AT TORONTO)

**O R D E R**  
February 14, 2001

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