

CANADA)
PROVINCE OF SASKATCHEWAN)

Q.B.G. No. 816 of 2005

IN THE COURT OF QUEEN'S BENCH
JUDICIAL CENTRE OF REGINA

BETWEEN:

**LARRY PHILIP FONTAINE in his personal capacity and in his capacity as the Executor of the estate of Agnes Mary Fontaine, deceased, MICHELLINE AMMAQ, PERCY ARCHIE, CHARLES BAXTER SR., ELIJAH BAXTER, EVELYN BAXTER, DONALD BELCOURT, NORA BERNARD, JOHN BOSUM, JANET BREWSTER, RHONDA BUFFALO, ERNESTINE CAIBAIOSAI-GIDMARK, MICHAEL CARPAN, BRENDA CYR, DEANNA CYR, MALCOLM DAWSON, ANN DENE, BENNY DOCTOR, LUCY DOCTOR, JAMES FONTAINE in his personal capacity and in his capacity as the Executor of the Estate of Agnes Mary Fontaine, deceased, VINCENT BRADLEY FONTAINE, DANA EVA MARIE FRANCEY, PEGGY GOOD, FRED KELLY, ROSEMARIE KUPTANA, ELIZABETH KUSIAK, THERESA LAROCQUE, JANE McCULLUM, CORNELIUS McCOMBER, VERONICA MARTEN, STANLEY THOMAS NEPETAYPO, FLORA NORTHWEST, NORMAN PAUCHEY, CAMBLE QUATELL, ALVIN BARNEY SAULTEAUX, CHRISTINE SEMPLE, DENNIS SMOKEYDAY, KENNETH SPARVIER, EDWARD TAPIATIC, HELEN WINDERMAN
and ADRIAN YELLOWKNEE**

Plaintiffs

- and -

THE ATTORNEY GENERAL OF CANADA, THE PRESBYTERIAN CHURCH IN CANADA, THE GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA, THE UNITED CHURCH OF CANADA, THE BOARD OF HOME MISSIONS OF THE UNITED CHURCH OF CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE PRESBYTERIAN CHURCH, THE BAPTIST CHURCH IN CANADA, BOARD OF HOME MISSIONS AND SOCIAL SERVICES OF THE PRESBYTERIAN CHURCH IN BAY, THE CANADA IMPACT NORTH MINISTRIES OF THE COMPANY FOR THE PROPAGATION OF THE GOSPEL IN NEW ENGLAND (also known as THE NEW ENGLAND COMPANY), THE DIOCESE OF SASKATCHEWAN, THE DIOCESE OF THE SYNOD OF CARIBOO, THE FOREIGN MISSION OF THE PRESBYTERIAN CHURCH IN CANADA, THE INCORPORATED SYNOD OF THE DIOCESE OF HURON, THE METHODIST CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE ANGLICAN CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE METHODIST CHURCH OF CANADA (ALSO KNOWN AS THE METHODIST MISSIONARY SOCIETY OF CANADA), THE INCORPORATED SYNOD OF THE DIOCESE OF ALGOMA, THE SYNOD OF THE ANGLICAN CHURCH OF THE DIOCESE OF

QUEBEC, THE SYNOD OF THE DIOCESE OF ATHBASCA, THE SYNOD OF THE DIOCESE OF BRANDON, THE ANGLICAN SYNOD OF THE DIOCESE OF BRITISH COLUMBIA, THE SYNOD OF THE DIOCESE OF CALGARY, THE SYNOD OF THE DIOCESE OF KEEWATIN, THE SYNOD OF THE DIOCESE OF QU'APPELLE, THE SYNOD OF THE DIOCESE OF NEW WESTMINSTER, THE SYNOD OF THE DIOCESE OF YUKON, THE TRUSTEE BOARD OF THE PRESBYTERIAN CHURCH IN CANADA, THE BOARD OF HOME MISSIONS AND SOCIAL SERVICE OF THE PRESBYTERIAN CHURCH OF CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE UNITED CHURCH OF CANADA, SISTERS OF CHARITY, A BODY CORPORATE ALSO KNOWN AS SISTERS OF CHARITY OF ST. VINCENT DE PAUL, HALIFAX, ALSO KNOWN AS SISTERS OF CHARITY HALIFAX, ROMAN CATHOLIC EPISCOPAL CORPORATION OF HALIFAX, LES SOEURS DE NOTRE DAME-AUXILIATRICE, LES SOEURS DE ST. FRANCOIS D'ASSISE, INSITUT DES SOEURS DU BON CONSEIL, LES SOEURS DE SAINT-JOSEPH DE SAINT-HYANCITHE, LES SOEURS DE JESUS-MARIE, LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE, LES SOEURS DE L'ASSOMPTION DE LA SAINT VIERGE DE L'ALBERTA, LES SOEURS DE LA CHARITE DE ST.-HYACINTHE, LES OEUVRES OBLATES DE L'ONTARIO, LES RESIDENCES OBLATES DU QUEBEC, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE LA BAIE JAMES (THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF JAMES BAY), THE CATHOLIC DIOCESE OF MOOSONEE, SOEURS GRISES DE MONTRÉAL/GREY NUNS OF MONTREAL, SISTERS OF CHARITY (GREY NUNS) OF ALBERTA, LES SOEURS DE LA CHARITÉ DES T.N.O., HOTEL-DIEU DE NICOLET, THE GREY NUNS OF MANITOBA INC.-LES SOEURS GRISES DU MANITOBA INC., LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE LA BAIE D'HUDSON – THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HUDSON'S BAY, MISSIONARY OBLATES – GRANDIN PROVINCE, LES OBLATS DE MARIE IMMACULEE DU MANITOBA, THE ARCHIEPISCOPAL CORPORATION OF REGINA, THE SISTERS OF THE PRESENTATION, THE SISTERS OF ST. JOSEPH OF SAULT ST. MARIE, SISTERS OF CHARITY OF OTTAWA, OBLATES OF MARY IMMACULATE –ST. PETER'S PROVINCE, THE SISTERS OF SAINT ANN, SISTERS OF INSTRUCTION OF THE CHILD JESUS, THE BENEDICTINE SISTERS OF MT. ANGEL OREGON, LES PERES MONTFORTAINS, THE ROMAN CATHOLIC BISHOP OF KAMLOOPS CORPORATION SOLE, THE BISHOP OF VICTORIA, CORPORATION SOLE, THE ROMAN CATHOLIC BISHOP OF NELSON, CORPORATION SOLE, ORDER OF THE OBLATES OF MARY IMMACULATE IN THE PROVINCE OF BRITISH COLUMBIA, THE SISTERS OF CHARITY OF PROVIDENCE OF WESTERN CANADA, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE GROUARD, ROMAN CATHOLIC EPISCOPAL CORPORATION OF KEEWATIN, LA CORPORATION ARCHIEPISCOPALE CATHOLIQUE ROMAINE DE ST. BONIFACE, LES MISSIONNAIRES OBLATES SISTERS DE ST. BONIFACE-THE MISSIONARY OBLATES SISTERS OF ST. BONIFACE, ROMAN CATHOLIC ARCHIEPISCOPAL CORPORATION OF WINNIPEG, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE PRINCE ALBERT, THE ROMAN

CATHOLIC BISHOP OF THUNDER BAY, IMMACULATE HEART COMMUNITY OF LOS ANGELES CA, ARCHDIOCESE OF VANCOUVER – THE ROMAN CATHOLIC ARCHBISHOP OF VANCOUVER, ROMAN CATHOLIC DIOCESE OF WHITEHORSE, THE CATHOLIC EPISCOPALE CORPORATION OF MACKENZIE-FORT SMITH, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF PRINCE RUPERT, EPISCOPAL CORPORATION OF SASKATOON, OMI LACOMBE CANADA INC. and MT. ANGEL ABBEY INC.

Defendants

PROCEEDING UNDER the following legislation, as appropriate:

- (a) In the Province of Alberta: the *Class Proceedings Act*, S.A. 2003, c. C-16.5;
- (b) In the Province of British Columbia: the *Class Proceedings Act*, R.S.B.C. 1996, c.50;
- (c) In the Province of Manitoba: *The Class Proceedings Act*, C.C.S.M. c. C130;
- (d) In the Provinces of Newfoundland and Labrador, Prince Edward Island, New Brunswick and Nova Scotia: the *Class Proceedings Act, 1992*, S.O. 1992, c. 6;
- (e) In The Northwest Territories: Rule 62 of the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg. 010-96;
- (f) In Nunavut: Rule 62 of the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg 010-96, as adopted by the Territory by operation of Section 29 of the *Nunavut Act*, S.C. 1993, c. 28.
- (g) In the Province of Ontario: the *Class Proceedings Act, 1992*, S.O. 1992, c. 6;
- (h) In the Province of Québec: Articles 999–1051 of the *Code of Civil Procedure* (Québec);
- (i) In the Province of Saskatchewan: *The Class Actions Act*, S.S. 2001, c.C-12.01; and
- (j) In the Yukon Territory: Rule 5(11) of the *Supreme Court Rules (British Columbia.)* B.C. Reg. 220/90 as adopted by the Territory by operation of Section 38 of the *Judicature Act*, R.S.Y. 2002, c. 128.

BEFORE THE HONOURABLE) ON FRIDAY, THE 15th DAY OF
JUSTICE D. BALL, COURTHOUSE) DECEMBER, 2006
REGINA, SASKATCHEWAN)

JUDGMENT

THIS MOTION, made by the Plaintiffs for certification of this action as a class proceeding and for judgment approving the settlement of the action, in accordance with the terms of the Agreement, was heard September 18, 19 and 20, 2006, at the Court House, 2425 Victoria Avenue, Regina, Saskatchewan, in the presence of counsel for the parties, judgment having been reserved until this day.

ON READING the joint motion record of the parties, the facts of the Plaintiffs and the Defendants and upon hearing all interested parties, including all objections, written and oral, and upon being advised of the consent and support of this motion of all of the parties to the Settlement Agreement dated May 10th, 2006,

AND WITHOUT ADMISSION OF LIABILITY on the part of any of the Defendants who deny liability,

AND UPON HEARING the submissions of counsel for the Plaintiffs and the Defendants, for written reasons delivered this day,

1. **THIS COURT ORDERS AND DECLARES** that for the purpose of this judgment, and all subsequent judgments or orders herein, the following definitions shall apply:

DEFINITIONS:

- a) "Action" means this proceeding, court file number 816 of 2005;
- b) "Agreement" means the Settlement Agreement entered into by the parties on May 10th, 2006, with schedules, attached hereto as Schedule "A";
- c) "Approval Date" means the date the last Court issues its approval order;

d) "Approval Orders" means the judgment or orders of the Courts certifying the Class Actions and approving the Agreement as fair, reasonable and in the best interests of the Class Members for the purposes of settlement of the Class Actions pursuant to the applicable class proceedings law;

e) "Canada" means the Defendant, the Government of Canada, as represented in this proceeding by the Attorney General of Canada;

f) "Class" or "Class Members" means:

a. each and every person

i. who, at anytime prior to December 31, 1997, resided at an Indian Residential School in Canada; or

ii. who is a parent, child, grandparent, grandchild, sibling or spouse of a person who, at anytime prior to December 31, 1997, resided at an Indian Residential School in Canada,

and,

b. who, at the date of death resided in, or if living, as of the date hereof, resided

in:

i. Alberta, for the purposes of the Alberta Court of Queen's Bench;

ii. British Columbia, for the purposes of the Supreme Court of British Columbia;

iii. Manitoba, for the purposes of the Manitoba Court of Queen's Bench;

iv. Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories;

v. Nunavut, for the purposes of the Nunavut Court of Justice;

vi. Ontario, Prince Edward Island, Newfoundland, Labrador, New Brunswick, Nova Scotia and any place outside of Canada, for the purposes of the Ontario Superior Court of Justice;

vii. Quebec, for the purposes of the Quebec Superior Court;

viii. Saskatchewan, for the purposes of the Court of Queen's Bench for Saskatchewan; and

- ix. Yukon, for the purposes of the Supreme Court of the Yukon Territory,
but excepting all Excluded Persons,

and
- c. the Family Class as defined in paragraph 5 hereof.
- g) "Class Actions" means the omnibus Indian Residential Schools Class Actions Statement of Claim referred to in Article Four (4) of the Agreement;
- h) "Class Period" means until December 31, 1997;
- i) "Common Experience Payment" means a lump sum payment made to an Eligible CEP Recipient in the manner set out in Article Five (5) of the Agreement;
- j) "Court" means, in Alberta, the Alberta Court of Queen's Bench, in British Columbia, the Supreme Court of British Columbia, in Manitoba, the Manitoba Court of Queen's Bench, in the Northwest Territories, the Supreme Court of the Northwest Territories, in Nunavut, the Nunavut Court of Justice, in Ontario, the Ontario Superior Court of Justice, in Quebec, the Quebec Superior Court, in Saskatchewan, the Court of Queen's Bench for Saskatchewan and in the Yukon, the Supreme Court of the Yukon Territory;
- k) "Defendants" mean Canada and each of the other party Defendants, including each of their respective past and present parents, subsidiaries and related or affiliated entities and their respective employees, agents, officers, directors, shareholders, principals, members, attorneys, insurers, subrogees, representatives, executors, administrators, predecessors, successors, heirs, transferees and assigns and also the entities listed in Schedules "B", "C", "G" and "H" of the Agreement;
- l) "Eligible CEP Recipient" means any former Indian Residential School student who resided at any Indian Residential School prior to December 31, 1997 and who was alive on May 30, 2005 and who is not an Excluded Person;
- m) "Excluded Persons" means:
 - (i) any person who opts out of this proceeding in accordance with this judgment;
or
 - (ii) all persons who attended the Mohawk Institute Residential School in Brantford, Ontario, between 1922 and 1969, and their parents, siblings, spouses, grandparents_or children (including minors, the unborn and disabled individuals) of such a person;
- n) "Forum" means the Alberta Court of Queen's Bench, the Supreme Court of British Columbia, the Manitoba Court of Queen's Bench, the Supreme Court of the Northwest Territories, the Nunavut Court of Justice, the Ontario Superior Court of Justice, the

Quebec Superior Court, the Court of Queen's Bench for Saskatchewan and the Supreme Court of the Yukon Territory, and "Fora" refers to them all;

- o) "Implementation Date" means the latest of:
- i. the expiry of thirty (30) days following the expiry of the Opt Out Periods; and
 - ii. the date following the last day on which a Class Member in any jurisdiction may appeal or seek leave to appeal any of the Approval Orders; and
 - iii. the date of a final determination of any appeal brought in relation to the Approval Orders.
- p) "Indian Residential School" means:
- i. institutions listed on List "A" to OIRSRC's Dispute Resolution Process attached to the Agreement as Schedule "E";
 - ii. institutions listed in Schedule "F" of the Agreement ("Additional Residential Schools") which may be expanded from time to time in accordance with Article 12.01 of the Agreement; and
 - iii. any institution which is determined to meet the criteria set out in Sections 12.01(2) and (3) of the Agreement;
- q) "Mailing Costs" means the cost of mailing a notice to the Class Members as described in *infra* below;
- r) "Notice Costs" means the cost of publishing the Notice at Schedule "B" attached hereto;
- s) "Opt Out Period" or "Opt Out Deadline" means the period commencing on the Approval Date and ending on August 20, 2007, during which an individual may opt out of this class proceeding without leave of the Court, as set out in the Approval Orders;
- t) "Other Released Church Organizations" includes the Dioceses of the Anglican Church of Canada listed in Schedule "G" of the Agreement and the Catholic entities listed in Schedule "H" of the Agreement, that did not operate an Indian Residential School or did not have an Indian Residential School located within their geographical boundaries and have made, or will make, a financial contribution towards the resolution of claims advanced by persons who attended an Indian Residential School;
- u) "Releasees" means, jointly and severally, individually and collectively, the defendants in the Class Actions and each of their respective past and present parents, subsidiaries and related or affiliated entities and their respective employees, agents, officers,

directors, shareholders, principals, members, attorneys, insurers, subrogees, representatives, executors, administrators, predecessors, successors, heirs, transferees and assigns and also the entities listed in Schedules "B", "C", "G" and "H" of the Agreement;

- v) "Representative Plaintiffs" are those individuals listed as plaintiffs in this title of proceedings;
- w) "Spouse" includes a person of the same or opposite sex to a Survivor Class Member who cohabited for a period of at least one year with that Survivor Class Member immediately before his or her death or a person of the same or opposite sex to a Survivor Class Member who was cohabiting with that Survivor Class Member at the date of his or her death and to whom that Survivor Class Member was providing support or was under a legal obligation to provide support on the date of his or her death; and
- x) "Trustee" means Her Majesty in Right of Canada as represented by the incumbent Ministers from time to time responsible for Indian Residential Schools Resolution Canada and Service Canada. The initial Ministers will be the Minister of Canadian Heritage and Status of Women and the Minister of Human Resources Skills and Development, respectively.

2. **THIS COURT ORDERS** that this Action be and is hereby certified as a Class Proceeding.

3. **THIS COURT ORDERS AND DECLARES** that to the extent the Amended Statement of Claim, the materials filed in connection with the motion for certification and approval of settlement, or this judgment are inconsistent with the applicable rules of civil procedure or rules of court, strict compliance with such rules is waived in order to ensure the most just, expeditious and efficient resolution of this matter.

4. **THIS COURT ORDERS** that the Survivor Class is defined as the following:

All persons who resided at an Indian Residential School in Canada at anytime prior to December 31, 1997, who are living, or who were living as of May 30, 2005, and who, as of the date hereof, or who, at the date of death resided in:

- (a) Alberta, for the purposes of the Alberta Court of Queen's Bench;

- (b) British Columbia, for the purposes of the Supreme Court of British Columbia;
- (c) Manitoba, for the purposes of the Manitoba Court of Queen's Bench;
- (d) Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories; and
- (e) Nunavut, for the purposes of the Nunavut Court of Justice;
- (f) Ontario, Prince Edward Island, Newfoundland, and Labrador, New Brunswick, Nova Scotia and any place outside of Canada, for the purposes of the Ontario Superior Court of Justice;
- (g) Quebec, for the purposes of the Quebec Superior Court;
- (h) Saskatchewan, for the purposes of the Saskatchewan Court of Queen's Bench;
- (i) Yukon, for the purposes of the Supreme Court of the Yukon Territory;

But excepting Excluded Persons.

5. **THIS COURT ORDERS** that the Family Class is defined as the following:

- (a) the spouse, child, grandchild, parent, grandparent or sibling of a Survivor Class Member;
- (b) the spouse of a child, grandchild, parent, grandparent or sibling of a Survivor Class Member;
- (c) a former spouse of a Survivor Class Member;
- (d) a child or other lineal descendent of a grandchild of a Survivor Class Member;
- (e) a person of the same or opposite sex to a Survivor Class Member who cohabited for a period of at least one year with that Survivor Class Member immediately before his or her death;
- (f) a person of the same or opposite sex to a Survivor Class Member who was cohabiting with that Survivor Class Member at the date of his or her death and to whom that Survivor Class Member was providing support or was under a legal obligation to provide support on the date of his or her death; or
- (g) any other person to whom a Survivor Class Member was providing support for a period of at least three years immediately prior to his or her death; and

Who, as of the date hereof, are resident in:

- (a) Alberta, for the purposes of the Alberta Court of Queen's Bench;

- (b) British Columbia, for the purposes of the Supreme Court of British Columbia;
- (c) Manitoba, for the purposes of the Manitoba Court of Queen's Bench;
- (d) Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories; and
- (e) Nunavut, for the purposes of the Nunavut Court of Justice;
- (f) Ontario, Prince Edward Island, Newfoundland, and Labrador, New Brunswick, Nova Scotia and any place outside of Canada, for the purposes of the Ontario Superior Court of Justice;
- (g) Quebec, for the purposes of the Quebec Superior Court;
- (h) Saskatchewan, for the purposes of the Saskatchewan Court of Queen's Bench;
- (i) Yukon, for the purposes of the Supreme Court of the Yukon Territory;

But excepting Excluded Persons.

6. **THIS COURT ORDERS** that the Deceased Class is defined as the following:

All persons who resided at an Indian Residential School in Canada at anytime prior to December 31, 1997, who died before May 30, 2005, and who were, at their date of death, residents of:

- (a) Alberta, for the purposes of the Alberta Court of Queen's Bench;
- (b) British Columbia, for the purposes of the Supreme Court of British Columbia;
- (c) Manitoba, for the purposes of the Manitoba Court of Queen's Bench;
- (d) Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories; and
- (e) Nunavut, for the purposes of the Nunavut Court of Justice;
- (f) Ontario, Prince Edward Island, Newfoundland, and Labrador, New Brunswick, Nova Scotia and any place outside of Canada, for the purposes of the Ontario Superior Court of Justice;
- (g) Quebec, for the purposes of the Quebec Superior Court;
- (h) Saskatchewan, for the purposes of the Saskatchewan Court of Queen's Bench;
- (i) Yukon, for the purposes of the Supreme Court of the Yukon Territory;

But excepting Excluded Persons.

7. **THIS COURT ORDERS** that the Class shall consist of the Survivor Class, the Family Class and the Deceased Class.

8. **THIS COURT ORDERS AND DECLARES** that the Representative Plaintiffs be and are hereby appointed as representatives of the Class.

9. **THIS COURT ORDERS AND DECLARES** that the Representative Plaintiffs are adequate representatives of the Class and comply with the requirements in the applicable class proceedings law.

10. **THIS COURT ORDERS AND DECLARES** that the common issues in the Action are the following:

- a) By their operation or management of Indian Residential Schools during the Class Period, did the Defendants breach a duty of care they owed to the Survivor Class and the Deceased Class to protect them from actionable physical or mental harm?
- b) By their purpose, operation or management of Indian Residential Schools during the Class Period, did the Defendants breach a fiduciary duty they owed to the Survivor Class and the Deceased Class or the aboriginal or treaty rights of the Survivor Class and the Deceased Class to protect them from actionable physical or mental harm?
- c) By their purpose, operation or management of Indian Residential Schools during the Class Period, did the Defendants breach a fiduciary duty they owed to the Family Class?
- d) If the answer to any of these common issues is yes, can the Court make an aggregate assessment of the damages suffered by all Class members of each class as part of the common trial?

11. **THIS COURT ORDERS AND DECLARES** that the certification of this Action is conditional on the approval of the Agreement in the Fora in accordance with the terms of the Agreement and upon it not being set aside pursuant to paragraph 35 of this judgment and is without prejudice to the Defendants' right to contest certification or to contest the jurisdiction of this court in the future. Should the Agreement not be so approved or be set aside pursuant

to paragraph 35 of this judgment, all materials filed, submissions made or positions taken by any party are without prejudice.

12. **THIS COURT ORDERS** that the Agreement, which is attached hereto as Schedule "A", and which is expressly incorporated by reference into this judgment, including the definitions included therein, is hereby approved and shall be implemented, in accordance with this judgment and any further order of this Court.

13. **THIS COURT ORDERS AND DECLARES** that this Court shall supervise the implementation of the Agreement and this judgment and, without limiting the generality of the foregoing, may issue such orders as are necessary to implement and enforce the provisions of the Agreement and this judgment.

14. **THIS COURT ORDERS AND DECLARES** that the Trustee be and is hereby appointed, until further order of this court, on the terms and conditions and with the powers, rights, duties and responsibilities set out in the Agreement and this judgment.

15. **THIS COURT ORDERS AND DECLARES** that, subject to the provisions of the Agreement, and in particular, section 4.06 thereof, each Class Member and his or her heirs, personal representatives and assigns or their past and present agents, representatives, executors, administrators, predecessors, successors, transferees and assigns, have released and shall be conclusively deemed to have fully, finally and forever released the Defendants and the Other Released Church Organizations and each of their respective past and present parents, subsidiaries and related or affiliated entities and their respective employees, agents, officers, directors, shareholders, partners, principals, members, attorneys, insurers, subrogees, representatives, executors, administrators, predecessor, successors, heirs, transferees and assigns from any and all actions, causes of action, common law and statutory liabilities, contracts, claims and demands of every nature or kind available, asserted or which could have been asserted whether known or unknown including for damages, contribution, indemnity, costs, expenses and interest which they ever had, now have or may have hereafter have, directly or indirectly or any way relating to or arising directly or indirectly by way of any subrogated or assigned right or otherwise in relation to an Indian Residential School or the operation generally of Indian Residential Schools and this release includes any such claim

made or that could have been made in any proceeding including the Class Actions and including claims that belong to the Class Member personally, whether asserted directly by the Class member or by any other person, group or legal entity on behalf of or as a representative for the Class Member.

16. **AND THIS COURT ORDERS AND DECLARES** for greater certainty that the Releases referred to in paragraph 15 above bind each Class Member whether or not he or she submits a claim to the Trustee, whether or not he or she is eligible for individual compensation under the Agreements or whether the Class Member's claim is accepted in whole or in part.

17. **THIS COURT ORDERS AND DECLARES** that any individual action, and all related cross-claims and third party claims, brought by a Class Member, arising out of the operation of Indian Residential Schools and all related cross-claims and third party claims are hereby stayed and shall be dismissed on the Implementation Date.

18. **THIS COURT ORDERS AND DECLARES** that any existing class proceeding or representative action arising out of the operation of Indian Residential Schools, and all related cross-claims and third party claims, brought by a Class Member within the jurisdiction of this court are hereby stayed and shall be dismissed on the Implementation Date.

19. **THIS COURT ORDERS AND DECLARES** that each Class Member and each of his or her respective heirs, executors, administrators, personal representatives, agents, subrogees, insurers, successors and assigns shall not make any claim or take any proceeding against any person or corporation, including the Crown, in connection with or related to the claims released pursuant to paragraph 16 of this judgment, who might claim or take a proceeding against the Defendants or Other Released Church Organizations, in any manner or forum, for contribution or indemnity or any other relief at common law or in equity or under any other federal, provincial or territorial statute or the applicable rules of court. A Class Member who makes any claim or takes any proceeding that is subject to this paragraph shall immediately discontinue such claim or proceeding and this paragraph shall operate conclusively as a bar to any such action or proceeding.

20. **THIS COURT ORDERS AND DECLARES** that the claims of the Class Members in this action and all related cross-claims and third party claims are hereby dismissed, without costs and with prejudice and that such dismissal shall be a defence to any subsequent action in respect of the subject matter hereof.

21. **THIS COURT ORDERS** that, for greater certainty, notwithstanding paragraphs 15, 16, 17, 18, 19 and 20 of this judgment, no action capable of being brought by an individual, except for Family Class Claims, will be released, stayed, dismissed or discontinued, where such action would be released, stayed, dismissed or discontinued only by virtue of the individual being a member of the Family Class.

22. **THIS COURT ORDERS** that commencing on or before March 22, 2007, notice shall be given of this judgment and the approval of the Agreement, by the commencement of the Notice Plan designed by Hilsoft Notifications attached as Schedule "B" and at the expense of Canada, as set out in the Notice Plan. Hilsoft Notifications is authorized by this Court to carry out the Notice Plan in accordance with its terms.

23. **THIS COURT DECLARES** that the notice provided in paragraph 22 above, satisfies the requirements of the applicable class proceeding law, this court and is the best notice practicable under the circumstances.

24. **THIS COURT ORDERS** that forthwith after the publication and delivery of the notice required by paragraph 22 of this judgment, Canada shall serve upon the National Certification Committee, the Defendants and the Trustee and file with this Court, affidavits confirming that notice has been given in accordance with the Notice Plan, the Agreement and this judgment.

25. **THIS COURT ORDERS** that no Class Member may opt out of this class proceeding after August 20, 2007, without leave of this Court.

26. **THIS COURT ORDERS** that no person may opt out a minor or a person who is under a disability without leave of the Court after notice to the Public Guardian and trustee of the minor or person under disability and to the Children's Lawyer, or such other public trustee as may be applicable.

27. **THIS COURT ORDERS** that Crawford Class Action Services, shall, within thirty (30) days of the end of the Opt Out Period, report to this Court and advise as to the names of those persons who have opted out of this class proceeding.

28. **THIS COURT ORDERS AND DECLARES** that the Agreement and this judgment are binding upon each Class Member, including those persons who are minors or are mentally incapable and that any requirements or rules of civil procedure which would impose further obligations with respect to this judgment are dispensed with.

29. **THIS COURT ORDERS THAT** the Honourable Ted Hughes Q.C. be approved as Chief Adjudicator until further order of this court, with the duties and responsibilities as set out in the Agreement.

30. **THIS COURT ORDERS AND DECLARES** that no person may bring any action or take any proceedings against the Trustee, the Chief Adjudicator, the IAP Oversight Committee, the National Certification Committee, the National Administration Committee, the Chief Adjudicator's Reference Group, the Regional Administration Committees, as defined in the Agreement, or the members of such bodies, the adjudicators, or any employees, agents, partners, associates, representatives, successors or assigns, of any of the aforementioned, for any matter in any way relating to the Agreement, the administration of the Agreement or the implementation of this judgment, except with leave of this court on notice to all affected parties.

31. **THIS COURTS DECLARES** that the Representative Plaintiffs, Defendants, Released Church Organizations, Class Counsel, the National Administration Committee, or the Trustee, or such other person or entity as this Court may allow, after fully exhausting the dispute resolution mechanisms contemplated in the Agreement, may apply to the Court for directions in respect of the implementation, administration or amendment of the Agreement or the implementation of this judgment on notice to all affected parties, all in conformity with the terms of the Agreement.

32. **THIS COURT DECLARES** that the Consent and Agreements which were entered into by the Defendants and the Released Church Organizations and this judgment that is


issued by this court, is without any admission of liability, that the Defendants and the Released Church Organizations deny liability and that the Consent to the Agreement is not an admission of liability by conduct by the Defendants and that this judgment is deemed to be a without prejudice settlement for evidentiary purposes.

33. **THIS COURT ORDERS AND DECLARES** that in the event that the number of persons who would otherwise be Eligible CEP Recipients who opt out of this class proceeding exceeds five thousand (5,000), the Agreement will be void and this judgment will be set aside in its entirety subject only to the right of Canada, at its sole discretion, to waive compliance with section 4.14 of the Agreement. For greater certainty, the words "Eligible CEP Recipients" in section 4.14 of the Agreement shall be deemed to read "Persons who would otherwise be Eligible CEP Recipients".

34. **THIS COURT ORDERS**, for greater certainty, the word "the Court" in section 4.12(4) of the Agreement shall be deemed to read "the NAC".

35. **THIS COURT DECLARES** that this order will be rendered null and void in accordance with the terms of the Agreement, in the event that the Agreement is not approved in substantially the same terms by way of order or judgment of each court in the Fora.

36. **THIS COURT DECLARES** that the provisions of the applicable class proceedings law shall apply in their entirety to the supervision, operation and implementation of the Agreement and this judgment.


~~JUSTICE D. BALL~~ *Deputy Local Registrar*
~~JUSTICE OF THE COURT OF QUEEN'S~~
~~BENCH OF SASKATCHEWAN~~

ENTERED this 13th day of March, 2007


CLERK OF THE COURT

IN THE COURT OF QUEEN'S BENCH
JUDICIAL CENTRE OF REGINA

BETWEEN:

LARRY PHILIP FONTAINE in his personal capacity and in his capacity as the Executor of the estate of Agnes Mary Fontaine, deceased, MICHELLINE AMMAQ, PERCY ARCHIE, CHARLES BAXTER SR., ELIJAH BAXTER, EVELYN BAXTER, DONALD BELCOURT, NORA BERNARD, JOHN BOSUM, JANET BREWSTER, RHONDA BUFFALO, ERNESTINE CAIBAIOSAI-GIDMARK, MICHAEL CARPAN, BRENDA CYR, DEANNA CYR, MALCOLM DAWSON, ANN DENE, BENNY DOCTOR, LUCY DOCTOR, JAMES FONTAINE in his personal capacity and in his capacity as the Executor of the Estate of Agnes Mary Fontaine, deceased, VINCENT BRADLEY FONTAINE, DANA EVA MARIE FRANCEY, PEGGY GOOD, FRED KELLY, ROSEMARIE KUPTANA, ELIZABETH KUSIAK, THERESA LAROCQUE, JANE McCULLUM, CORNELIUS McCOMBER, VERONICA MARTEN, STANLEY THOMAS NEPETAYPO, FLORA NORTHWEST, NORMAN PAUCHEY, CAMBLE QUATELL, ALVIN BARNEY SAULTEAUX, CHRISTINE SEMPLE, DENNIS SMOKEYDAY, KENNETH SPARVIER, EDWARD TAPIATIC, HELEN WINDERMAN and ADRIAN YELLOWKNEE

Plaintiffs

- and -

THE ATTORNEY GENERAL OF CANADA et al

Defendants

Proceeding under *The Class Actions Act*, S.S. 2001, c.C-12.01

ORDER

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