

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY**

THE HONOURABLE
JUSTICE MCMAHON

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FRIDAY, THE
15TH DAY OF DECEMBER, 2006

B E T W E E N:

**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 (Ontario)*, 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 Section 38 of the *Judicature Act (Yukon)* R.S.Y. 2002, c. 128.

O R D E R

THIS MOTION, made by the plaintiffs, for an order approving the legal fees recoverable with respect to these proceedings and other related proceedings, was heard on October 12 and 13, 2006, at the Court House, 611 - 4 St. S.W., Calgary, in the Province of Alberta, in the presence of counsel for the parties, judgment having been reserved until this day.

ON READING the motion record of the Plaintiffs, the Settlement Agreement dated May 10, 2006 (the "Agreement"), and the facts of the parties, and upon hearing the submissions of counsel and for written reasons delivered this day,

1. **THIS COURT ORDERS AND DECLARES** that the defendant, the Attorney General of Canada, ("Canada") shall pay legal counsel, specifically, the National Consortium, the Merchant Law Group and the Independent Counsel, as these groups of counsel are defined in the Agreement, in respect of their legal fees as set out in Article Thirteen of the Agreement, and that Article Thirteen of the Agreement be and hereby is approved.

2. **THIS COURT ORDERS AND DECLARES** that, in particular, Canada shall pay the National Consortium (as defined in section 13.07(5) of the Agreement) forty million dollars (\$40,000,000.00) plus GST in the amount of \$2,400,000.00, plus HST and PST, where applicable, in the amount of \$813,048.99, plus disbursements, inclusive of all applicable taxes, of \$2,402,173.56, and said legal fees, disbursements and taxes be and hereby are approved by this court.

3. **THIS COURT ORDERS AND DECLARES** that the legal fees, disbursements and applicable taxes, payable to the National Consortium payable under paragraph 2 hereof shall be paid no later than sixty days after the Implementation Date (as defined in Article One of the Agreement).

4. **THIS COURT ORDERS AND DECLARES** that the payments referred to above in paragraphs 1 through 3 represent fair and reasonable compensation.

5. **THIS COURT ORDERS AND DECLARES** that the Independent Counsel, the Merchant Law Group, the National Consortium and all other counsel who signed the Agreement, have otherwise waived any contingency fee agreements they have with the class members with respect to receipt of the Common Experience Payment, in accordance with the provisions of the Agreement.
