

**SETTLEMENT AGREEMENT AND RELEASE**

Made as of June 30, 2021

Between

**ERIC FINKEL**  
(the "Plaintiff")

and

**COAST CAPITAL SAVINGS FEDERAL CREDIT UNION**  
(formerly known as Coast Capital Savings Credit Union)

("Coast Capital Savings")

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## RECITALS

### WHEREAS:

A. On August 28, 2013, the Plaintiff commenced the Proceeding against Coast Capital Savings Credit Union, which Proceeding alleges that Coast Capital Savings participated in the Alleged Conduct, and the Plaintiff claimed damages allegedly caused as a result of the Alleged Conduct on behalf of himself and the proposed Class Members.

B. On March 31, 2016, the Proceeding was certified as a class proceeding. Common issues in respect of, among other things, breach of contract and conduct contrary to the *Business Practices and Consumer Protection Act*, S.B.C. c. 2 were certified.

C. On October 20, 2017, the decision to certify the Proceeding as a class proceeding was upheld by the British Columbia Court of Appeal.

D. Coast Capital Savings took the position that it is not liable in respect of the claims in the Proceeding, and Coast Capital Savings believes it has good and reasonable defences in respect of the merits of the Proceeding, including its defences that all amounts charged to the Class Members properly formed part of the conversion rate set and applied by third party entities that processed foreign currency withdrawals initiated by Class Members at ATMs located outside of Canada during the Class Period and no “surcharge” was charged by Coast Capital Savings.

E. Coast Capital Savings does not admit, through the execution of this Settlement Agreement, or otherwise, any of the Alleged Conduct alleged in the Proceeding.

F. Despite Coast Capital Savings’ belief that it is not liable in respect of the Alleged Conduct and that it has good and valid defences in respect of the claims advanced in the Proceeding, Coast Capital Savings has negotiated and entered into this Settlement Agreement in order to achieve a full and final resolution of all claims asserted or which could have been asserted against it by the Plaintiff and the Class Members in the Proceeding, and to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation to the detriment of its operations, and so it can focus its resources on advancing the financial wellbeing of its membership.

G. As part of this resolution, Coast Capital Savings has agreed to pay the Settlement Amount for the benefit of the Class Members. Coast Capital Savings has agreed to participate in the Coast Distribution Process subject to employee availability, taking into account existing and anticipated organizational needs and requirements.

H. The Plaintiff and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiff's claims, and having regard to the benefits of this Settlement Agreement, and the burdens and expense in prosecuting the Proceeding, including the risks and uncertainties associated with trials and appeals in light of the potential defences asserted by Coast Capital Savings, the Plaintiff and Class Counsel have concluded that this Settlement Agreement is fair, reasonable, and in the best interests of the Plaintiff and the classes he represents.

I. The Plaintiff and the Class Members intend to fully and completely settle and resolve the claims advanced or which could have been advanced in the Proceeding as against the Releasee on the Effective Date pursuant to this Settlement Agreement;

J. The Parties therefore wish to, and hereby do, finally resolve, without admission of liability, the Proceeding as against Coast Capital Savings.

NOW THEREFORE, in consideration of the covenants, agreements, and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Proceeding be settled and dismissed on the merits with prejudice, without costs as to the Plaintiff, the Class, or Coast Capital Savings, subject to the approval of the Court, on the following terms and conditions:

#### **SECTION 1 – DEFINITIONS**

1. For the purpose of this Settlement Agreement, including the Recitals and Schedules hereto the following definitions apply:
  - (1) *Alleged Conduct* means all conduct that has been alleged or could have been alleged as against Coast Capital Savings in the Proceeding, including alleged breaches of Coast Capital Savings' Personal Account and Services Agreement

entered into with Class Members and alleged breaches of the *Business Practices and Consumer Protection Act*, S.B.C. c. 2 relating to undisclosed “surcharges” allegedly charged by Coast Capital Savings to its members who made foreign currency withdrawals at ATMs, located outside of Canada, from their accounts held with Coast Capital Savings during the Class Period.

- (2) ***ATM*** means automated teller machine or automated banking machine.
- (3) ***Active Coast Memberships*** means memberships associated with accounts through which a Qualifying International Withdrawal was made, identified further to section 3.4(3)(a)(C), that remain active and are associated with an active Coast Capital Savings deposit account, but does not include any Opted-Out Memberships.
- (4) ***Cirrus System*** means the branded international payment system operated by MasterCard Incorporated that processed part of the International Withdrawals requested by Coast Capital Savings’ members at foreign ATMs during part of the Class Period.
- (5) ***Class*** and ***Class Members*** means members of Coast Capital Savings who are residents of British Columbia and used their Coast Capital Savings member card to make a Qualifying International Withdrawal from their personal Coast Capital Savings account through an ATM on the Plus System or the Cirrus System outside Canada from August 28, 2007 to August 31, 2015. For greater certainty, Class and Class Members referred to in this Settlement Agreement include all the classes and “Class Members” and “Subclass Members” defined in the Order Made After Application (Contested Certification), made March 31, 2016 in the Proceeding.
- (6) ***Class Counsel*** means Camp Fiorante Matthews Mogerman LLP.
- (7) ***Class Counsel Fees*** include the fees, disbursements, costs, interest, GST/PST and other applicable taxes or charges of Class Counsel.
- (8) ***Class Period*** means August 28, 2007 to August 31, 2015.

- (9) ***Coast Distribution Date*** means the date of the final distribution by Coast Capital Savings under the Coast Distribution Process.
- (10) ***Coast Distribution Process*** means the distribution process by Coast Capital Savings described and defined below in section 3.4 of this Settlement Agreement.
- (11) ***Court*** means the Supreme Court of British Columbia.
- (12) ***Disclosures*** means the disclosures described and defined below in section 3.3(1) of this Settlement Agreement.
- (13) ***Effective Date*** means the next calendar day after the day on which all appellate rights with respect to the Settlement Approval Order made in the Action have expired or have been exhausted.
- (14) ***International Withdrawal*** means a foreign currency transaction (referred to as a “withdrawal”) conducted through the use of a Coast Capital Savings member card to obtain funds in a foreign (non-Canadian Dollar) currency from an ATM located outside of Canada with funds drawn from a Coast Capital Savings account.
- (15) ***Processor*** means [REDACTED].
- (16) ***Non-Active Coast Memberships*** means (a) memberships associated with accounts through which a Qualifying International Withdrawal was made, identified further to section 3.4(3)(a)(C), that remain active and are not associated with an active Coast Capital Savings deposit account; (b) memberships identified further to section 3.4(3)(a)(C) as belonging to Class Members at the time of a Qualifying International Withdrawal, that have been closed or do not otherwise continue to hold an active Coast Capital Savings account associated with the membership number through which a Qualifying International Withdrawal was made, but does not include any Opted-Out Memberships; and (c) any PAN or membership that is deemed to be a Non-Active Coast Membership in section 3.4.
- (17) ***Notice and Settlement Administration Plan*** means a plan that sets out:

- (a) the form and procedure by which notice of the Settlement will be provided to the Class Members, including notice of the legal fees and expenses paid or payable to Class Counsel;
  - (b) the procedure by which Class Members can claim an entitlement under the Settlement; and
  - (c) the procedure for the determination of eligible claims and the amount of those claims, and the subsequent payment of them.
- (18) ***Opted-Out Memberships*** means memberships associated with accounts through which a Qualifying International Withdrawal was made, identified further to section 3.4(3)(a)(C), that are associated with persons who opted out of the Proceeding in accordance with the order pronounced by Mr. Justice Masuhara on November 14, 2019.
- (19) ***Parties*** means the Plaintiff, the Class Members, and Coast Capital Savings.
- (20) ***Plus System*** means the branded international payment system operated by Visa International that processed part of the International Withdrawals requested by Coast Capital Savings members at foreign ATMs during part of the Class Period.
- (21) ***Proceeding*** means British Columbia Court File No. S-136507, Vancouver Registry.
- (22) ***Qualifying International Withdrawal*** means an International Withdrawal by a Class Member during the Class Period.
- (23) ***Released Claims*** means any and all manner of claims, demands, actions, suits, causes of action, disputes, whether class, individual, or otherwise in nature, whether personal or subrogated, damages whenever incurred, damages of any kind including compensatory, punitive or other damages, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and



liquidated or unliquidated, in law, under statute, or in equity, that Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, will, or may have, arising out of or relating in any way to the Alleged Conduct.

- (24) ***Released Distribution Claims*** means any and all manner of claims, demands, actions, suits, causes of action, disputes, whether class, individual, or otherwise in nature, whether personal or subrogated, damages whenever incurred, damages of any kind including compensatory, punitive or other damages, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute, or in equity, that Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, will, or may have, arising out of or relating in any way to Coast Capital Savings' involvement in either the Notice and Settlement Approval Plan or the Coast Distribution Process.
- (25) ***Releasee*** means Coast Capital Savings, and all of its owners, directors, officers, managers, partners, employees, servants, employees, representatives, insurers, agents, service providers, administrators, estate trustees, trustees, legal and personal representatives, predecessors, successors, and assigns, past, present, and future.
- (26) ***Releasors*** means the Plaintiff and the Settlement Class Members, and their respective predecessors, successors, heirs, beneficiaries, executors, administrators, committees, representatives, trustees, assigns, and affiliates of any kind.
- (27) ***Settlement Agreement*** means this agreement and release, including the recitals and schedules.
- (28) ***Settlement Amount*** means the all-inclusive sum of one million four hundred thousand Canadian dollars (CAD \$1,400,000.00).
- (29) ***Settlement Approval Hearing*** means the date the Court is scheduled to consider the Settlement Approval Order.

- (30) *Settlement Approval Order* means a final judgment or final approval order approving this Settlement Agreement, which order will be substantially in the form attached as Schedule “B” or as may be amended with the consent of the Parties.
- (31) *Settlement Class Member* means a member of the Class who has not opted out in accordance with the order pronounced by Mr. Justice Masuhara on November 14, 2019.
- (32) *Settlement Fund* means a Trust Account controlled by Class Counsel, which will hold the Settlement Amount.
- (33) *Trust Account* means a segregated interest-bearing trust account under the control of Class Counsel for the benefit of the Settlement Class Members.

## **SECTION 2– SETTLEMENT APPROVAL**

### **2.1 Best Efforts**

- (1) The Parties will use their reasonable best efforts to
  - (a) effectuate this Settlement Agreement, including obtaining the approval of the Court, and to secure the prompt, complete, and final dismissal with prejudice of the Proceeding as against Coast Capital Savings; and
  - (b) secure the prompt, complete and final dismissal of the Proceeding against Coast Capital Savings, with prejudice and without costs.

### **2.2 Application for Settlement Approval**

- (1) As soon as practicable after the Settlement Agreement is executed the Plaintiff will bring an application before the Court approving this Settlement Agreement.
- (2) At least thirty days in advance of the application referred to in section 2.2(1), or such shorter period of time as the Parties may agree, Class Counsel shall provide Coast Capital Savings with drafts of the Notices of Application, any related notices to the Class, and any supporting materials which are intended to be filed with the Court in support of the application, provided nothing herein requires the approval of Coast Capital Savings of such materials.

### **2.3 Right of Termination**

(1) If the Settlement Approval Order is not granted, or is reversed or modified on appeal, then unless the Parties expressly agree otherwise in writing:

- (a) Subject to section 2.4 below, this Settlement Agreement and all orders made pursuant to it will be null and void, will have no further force and effect with respect to the Parties, and will not be offered in evidence or used in any litigation for any purpose; and
- (b) All orders in existence as of the date on which this Settlement was executed will become operative and fully effective, as if proceedings relating to this Settlement had not occurred.

### **2.4 Survival of Provisions After Termination**

(1) If this Settlement Agreement is terminated or otherwise fails to take effect for any reason, the provisions of sections 3.2, 3.4(4), 3.4(6), 3.4(7), 5.1, 5.2 and 6.1 shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of the interpretation of these surviving sections within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately as set out in section 2.3 above.

## **SECTION 3-- SETTLEMENT BENEFITS**

### **3.1 Payment of Settlement Amount**

(1) At least 15 days prior to the Settlement Approval Hearing, or as the Parties otherwise agree, acting reasonably, Coast Capital Savings will pay the Settlement Amount to Borden Ladner Gervais LLP, in trust with irrevocable instructions to Borden Ladner Gervais LLP to:

- (a) Hold the Settlement Amount in an interest-bearing trust account pending the Settlement Approval Order in the Action;

- (b) If the Settlement is not approved in the Action, to return the Settlement Amount and all interest earned thereon to Coast Capital Savings upon its request to do so; and
  - (c) If the Settlement is approved in the Action, to pay the Settlement Amount and all accrued interest thereon, to Class Counsel in trust within 15 days after the Effective Date.
- (2) Upon receiving the Settlement Amount, Class Counsel will deposit those monies into the Trust Account pending orders from the Court approving the Settlement Agreement, Class Counsel Fees, and the Notice and Settlement Administration Plan.
- (3) Class Counsel shall not pay out all or part of the monies in the Trust Account, except in accordance with this Settlement Agreement and the orders of the Court, and, in any event, only after the Effective Date.
- (4) Except as otherwise provided herein, Coast Capital Savings will have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement.
- (5) When the Settlement Amount is paid in accordance with section 3.1(1)(c), Class Counsel will receive it in trust in full satisfaction of all payment obligations under this Settlement Agreement and in full satisfaction of the Released Claims against the Releasee.
- (6) Coast Capital Savings will have no legal or beneficial interest in the Settlement Fund.
- (7) As soon as reasonably possible after the Effective Date, Class Counsel will provide instructions to Coast Capital Savings and funds required by Coast Capital Savings to complete the Coast Distribution Process in accordance with this Settlement Agreement and the orders of the Court.

### 3.2 Taxes and Interest

(1) Except as hereinafter provided, all interest earned on the Settlement Amount while in the Trust Account shall accrue to the benefit of the Class Members and shall become and remain part of the Trust Account.

(2) Subject to section 3.2(3), all taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be the responsibility of the Class Members. Class Counsel shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned on the Settlement Amount shall be paid from the Trust Account.

(3) Coast Capital Savings shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned by the Settlement Amount or pay any taxes on the monies in the Trust Account.

### 3.3 Disclosures

(1) Coast Capital Savings will include, on a travel page on its website (the “**Travel Webpage**”), the following with respect to International Withdrawals:

- (a) The language set out in Schedule “A” to this Agreement (the “**General Disclosure**”); and
- (b) With specific language to be agreed to by the Parties, acting reasonably, and subject to the Processor’s agreement, a point-in-time example transaction explaining the cost of an International Withdrawal to a Coast Capital Savings member, including the identity of the third party participants known to Coast Capital Savings, or a generic reference to those participants, involved in the example transaction and the breakdown, as applicable where such information is available, of the applicable rates of conversion or fees or commissions applied as of the point-in time of the example transaction (the “**Example Transaction Disclosure**”)

(collectively, the General Disclosure and the Example Transaction Disclosure, the “**Disclosures**”).

(2) Should the Processor not agree to the Example Transaction Disclosure, the Plaintiff may, on notice to the Processor and to Coast Capital Savings, seek an order or declaration that Coast Capital Savings make the Example Transaction Disclosure, by identifying on a Travel Webpage (a) the relevant Canadian gateway processor in an International Withdrawal and (b) a breakdown of the total transaction cost, including the applicable currency conversion rate(s) as of the point-in-time of the proposed example transaction and the method by which those conversion rate(s) are set, where known as a result of investigations conducted during this Proceeding, and any fees or commissions. Any such application will be made by the Plaintiff without the Plaintiff seeking costs as against Coast Capital Savings and on any such application Coast Capital Savings will take no position.

(3) If the Processor does not agree to the Example Transaction Disclosure, and if the Court does not order or declare that Coast Capital Savings make the Example Transaction Disclosure, as set out in section 3.3(2), above, Coast Capital Savings will include the General Disclosure on the Travel Webpage.

(4) In recognition that it is in the interests of the Parties and the Class Members’ that the content of the Travel Webpage be accurate and not misleading, the Parties agree that Coast Capital Savings is at liberty to amend the content of the Travel Webpage, including the General Disclosure, from time to time as may be required by commercial developments, including changes in the technical processes of transacting or processing International Withdrawals.

(5) Subject to s. 3.3(4), the Travel Webpage will be maintained by Coast Capital Savings for a period of five (5) years, calculated from the date the Travel Webpage is first available online. After the five-year period ends, Coast Capital Savings is at liberty, in its sole discretion, to maintain or delete the Travel Webpage.

(6) Should any Party determine that the Travel Webpage is not in compliance with this Section 3.3, notice of non-compliance will be provided to Coast Capital Savings in

accordance with this Agreement and Coast Capital Savings will correct any non-compliance within 15 business days of receipt of notice.

### **3.4 Distribution and the Notice and Settlement Administration Plan**

(1) At the Settlement Approval Hearing, the Plaintiff will apply to the Court for approval of Class Counsel Fees, the Notice and Settlement Administration Plan, and the order described below in s. 3.4(3)(d).

(2) Class Counsel Fees will be reimbursed and paid out of the Settlement Fund.

(3) As part of the Notice and Settlement Administration Plan:

(a) The following exchange of information will occur after the Effective Date:

(A) Class Counsel will provide to Coast Capital Savings information regarding the persons who opted out of the Proceeding in accordance with the order pronounced by Mr. Justice Masuhara on November 14, 2019, such information consisting of their name and the address associated with their Coast Capital Savings account(s), and any other personal information that Class Counsel has received. From this information, Coast Capital Savings will use reasonable efforts to identify from its current banking system any "PAN" numbers active during the Class Period associated with the Opted-Out Memberships, and provide that "PAN" number or numbers to Class Counsel, and will identify any persons for whom Coast Capital Savings cannot determine that person's associated Opted-Out Membership (the "**Questionable Opt-Outs**"). Class Counsel will make further inquiry with the Questionable Opt-Outs to obtain further personal information, including their Coast Capital Savings Member number or account number, and provide that information to Coast Capital Savings prior to or in conjunction with providing the information described in section 3.4(3)(a)(B) below. If such further information is not provided, or if, with that information, Coast Capital Savings is unable to identify the Questionable Opt-

Outs' associated "PAN" number during the process set out in section 3.4(3)(a)(C) below, such persons will not be treated as having an Opted-Out Membership;

- (B) Class Counsel will then identify and provide to Coast Capital Savings (a) from daily reports issued by "Everlink", the "PAN" number associated with Settlement Class Members' deposit accounts through which Qualifying International Withdrawals were made; and (b) from daily reports issued by "Threshold" or "DC Payments", the "PAN" number and the "Debit Account ID/Credit Account ID" number ("**Account Number**") associated with Settlement Class Members' deposit accounts through which Qualifying International Withdrawals were made. In providing the information described in this section, Class Counsel will exclude any "PAN" number and Account Number (where applicable) associated with Opted-Out Memberships;
- (C) From the information provided under section 3.4(3)(a)(B), Coast Capital Savings will search its active banking system and identify and advise Class Counsel which PAN numbers are associated with Active Coast Memberships, Non-Active Coast Memberships, or, if not identified by Coast Capital Savings previously, Opted-Out Memberships. If a specific PAN number cannot be identified by Coast Capital Savings as associated with any membership, Coast Capital Savings will treat that PAN as if it is associated with a Non-Active Coast Membership and it will be deemed a Non-Active Coast Membership for the purposes of this Agreement. If a specific PAN number is associated with more than one membership, Coast Capital Savings will associate the PAN with an Active Coast Membership and, further, in the event that there is more than one Active Coast Membership associated with the PAN, Coast Capital Savings has sole discretion to choose which of those Active Coast Memberships will be used for the purposes of distribution under this section 3.4;



- (D) Along with the information provided under section 3.4(3)(a)(C), Coast Capital Savings will also provide, to the extent reasonably available, the names and most recent contact information for any Non-Active Coast Memberships;
  - (E) Subject to obtaining the order set out in section 3.4(3)(d) below, from the information provided under section 3.4(3)(a)(C), Class Counsel will deliver to Coast Capital Savings a list, in a form to be agreed by the Parties, of the Active Coast Memberships and the amount to be transferred to each Active Coast Memberships' Coast Account (defined below) by Coast Capital Savings (the "**List**");
  - (F) Should any of the above steps fall within the period March to May 2022, the Parties acknowledge and agree that Coast Capital Savings may pause this information exchange, and that this information exchange process will recommence May 31, 2022; and
  - (G) The Parties agree to use best efforts to assist each other in the above information exchange, and address any technical issues that may arise;
- (b) the Plaintiff will be solely responsible for determining the respective shares of the Settlement Fund to be distributed to the specific Active Coast Memberships and Non-Active Coast Memberships;
  - (c) the Plaintiff will be solely responsible for distribution of the Non-Active Coast Memberships' respective shares of the Settlement Fund;
  - (d) with respect to the distribution of the Active Coast Memberships' respective shares of the Settlement Fund, the Plaintiff will seek an order that Coast Capital Savings distribute the respective shares of the Settlement Fund to Active Coast Memberships through a direct payment to an active Coast Capital Savings deposit account (the "**Coast Account**") identified as part of the identification process of Active Coast Memberships described above in section 3.4(3)(a)(C), without requiring the Class Members associated with

the Active Coast Memberships to make a claim under the Settlement Administration Plan (being the Coast Distribution Process), and Coast Capital Savings will engage in the Coast Distribution Process provided that the order also provides that:

- (A) Within 90 days, or such other time as parties may agree, acting reasonably, of delivery of the information described in section 3.4(3)(a)(C), Class Counsel will (a) deliver to Coast Capital Savings the List and (b) transfer to Coast Capital Savings from the Trust Account the funds to be transferred to Coast Accounts in accordance with the List (the “**Distribution Funds**”);
- (B) Subject to section 3.4(3)(d)(C) and (D) below, within 30 days or such other time as parties may agree, acting reasonably, of receipt of the List and the Distribution Funds, Coast Capital Savings will transfer the amounts specified in the List from the Distribution Funds into the relevant Coast Accounts (the last date of transfer, being the Coast Distribution Date) and provide the Plaintiff confirmation that the amounts specified in the List have been transferred.
- (C) If the List is delivered to Coast Capital Savings during the period March to May 2022, the 30 day period specified in section 3.4(3)(d)(B) above will not commence until May 31, 2022.
- (D) If between the time that Coast Capital Savings identifies the Active Coast Membership and the time that Coast Capital Savings attempts to make payment in accordance with section 3.4(3)(d)(B), the associated active deposit account becomes inactive and there are no other active deposit accounts associated with that membership, or any other technical issue arises that prevents the deposit, Coast Capital Savings will (a) identify that membership to Class Counsel by providing the associated PAN number, the associated name, and the most recent contact details associated with it, and (b) return the

share of the Distribution Funds associated with that membership to Class Counsel (subject to agreement otherwise). The Parties will treat that membership as if it was not on the List and deem it a Non-Active Membership, and the Plaintiff will be responsible for distribution of its share of the Distribution Funds;

- (E) To the extent that Coast Capital Savings makes payment in accordance with subsection 3.4(3)(d)(B), such payments are made and received in full and final settlement of all entitlements to compensation under this Settlement Agreement and no person, even if that person was formerly a holder of the Coast Capital Savings membership or was in any way associated with either the relevant Coast Capital Savings membership, or a Qualifying International Withdrawal, at any time during the Class Period, is entitled to make a claim to those or any additional funds;
  - (F) Coast Capital Savings' obligation in respect of the Coast Distribution Process is limited to making a payment to the Coast Account in an amount specified in the List from the Distribution Funds in accordance with section 3.4(3)(d)(B);
  - (G) Coast Capital Savings is not liable nor responsible for making any payments with respect to Non-Active Class Memberships or any payments that are not expressly set out in the List, subject to section 3.4(3)(d)(D); and
  - (H) No person may bring a claim or action against any party to this Settlement Agreement in relation to the distribution of the Settlement Funds without leave of the Court.
- (4) Coast Capital Savings shall not be liable for any fees, disbursements or taxes, including but not limited to any fees, disbursements or taxes of Class Counsel's, the Plaintiffs' or any Settlement Class Member's respective lawyers, experts, advisors, agents, or representatives, or Class Counsel Fees.

(5) As part of the Notice and Settlement Administration Plan, the Parties, acting reasonably, will agree to a communications plan and the language to be used.

(6) Coast Capital Savings is not responsible for notification to any Class Members about the Settlement Agreement, or related court approvals or distribution processes. Coast Capital Savings will have the right, but not the obligation, to communicate with its members to alert them to the settlement through Coast Capital Savings' website or other means, after giving reasonable advance notice to Class Counsel of the proposed communication.

(7) Coast Capital Savings is not responsible for the cost of any mail outs or other costs relating to distribution of funds to Class Members, other than its own costs in processing payments in accordance with section 3.4(3)(d).

(8) For any unclaimed amount in the Settlement Fund, 50% will go to the Law Foundation of British Columbia, and the remaining 50% will be donated to one or more consumer financial literacy organizations to be agreed to by the Parties, acting reasonably.

(9) The Settlement Fund will be disbursed in accordance with this Settlement Agreement, the Notice and Settlement Administration Plan, and as otherwise directed by the Court.

(10) Other than the matters addressed in sections 3.4(1) through (7) and (9), the Court has discretion to amend the Notice and Settlement Administration Plan. With the exception of this section 3.4, the Notice and Settlement Administration Plan will not form part of this Settlement Agreement and the approval of the Settlement will not be contingent on either the approval of the Notice and Settlement Administration Plan or the presentation of the Notice and Settlement Administration Plan.

#### **SECTION 4– RELEASES AND DISMISSALS**

##### **4.1 Release of the Released Claims and the Released Distribution Claims**

(1) In consideration of payment of the Settlement Amount, and for other valuable consideration set forth in the Settlement Agreement, the receipt and sufficiency of which are hereby acknowledged:

- (a) Upon the Effective date, the Releasors and each of them, forever and absolutely release, remise and forever discharge the Releasee from the Released Claims; and
- (b) Upon the Coast Distribution Date, the Releasors and each of them, forever and absolutely release, remise and forever discharge the Releasee from the Released Distribution Claims.

(2) The Parties and their respective counsel shall use their best efforts to have the terms of the releases of the Released Claims and the Released Distribution Claims contemplated herein incorporated into the order obtained from the Court approving this Settlement Agreement. Should the terms of the releases contemplated herein (or either of them) not be incorporated into the order obtained from the Court approving this Settlement Agreement, the Parties shall use their best efforts to have the terms of the releases of the Released Claims and the Released Distribution Claims (or either of them, as applicable) contemplated herein incorporated into the Court order contemplated in section 3.4(3)(d).

(3) The Plaintiff and Class Members acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the subject matter of the Proceeding and this Settlement Agreement, and that it is their intention to release fully, finally and forever all Released Claims and Released Distribution Claims (including, without limitation, anything that might be based on additional or different facts later discovered), and in furtherance of such intention, the releases shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

#### **4.2 No Further Claims**

(1) The Releasors and each of them will not now or hereafter threaten, institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim, proceeding, complaint or demand against or collect or seek to recover from any Releasee or any other person who may claim contribution or indemnity under statute, contract, or at law or at equity, or claim any other relief of a monetary, declaratory or

injunctive nature, from any Releasee in respect of any Released Claim or any Released Distribution Claim.

(2) The Releasors and each of them agree that the releases under this Settlement Agreement shall operate conclusively as an estoppel in the event of any claim, action, complaint or proceeding which might be brought in the future by the Releasors and any of them in respect of any Released Claim, any Released Distribution Claim, or in violation of either sections 3.4 or 4.2(1) or both sections 3.4 and 4.2(1), as the case may be, and the Releasors and each of them agree that the releases contained in this Settlement Agreement, or either of them, may be pleaded in the event any such claim, action, complaint or proceeding is brought, as a complete defence and reply, and may be relied upon in any proceeding to dismiss the claim, action, complaint or proceeding on a summary basis.

#### **4.3 Dismissal of the Proceeding**

(1) The Proceeding will be dismissed with prejudice and without costs as soon as reasonably possible after the Effective Date.

### **SECTION 5 – EFFECT OF SETTLEMENT**

#### **5.1 No Admission of Liability**

(1) Whether or not this Settlement Agreement is terminated or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, will not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or equitable doctrine, or of any wrongdoing or liability by Coast Capital Savings, or of the truth of any of the claims or allegations contained in the Proceeding or any other pleading filed by the Plaintiff.

#### **5.2 Agreement Not Evidence**

(1) The Parties agree that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, will not be referred to, offered as evidence or received in

evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law.

## **SECTION 6-- MISCELLANEOUS**

### **6.1 Releasee Has No Liability for Administration**

(1) Other than fulfilling its duties expressly set out herein, the Releasee has no responsibility for and no liability whatsoever with respect to the administration, implementation or enforcement of this Settlement Agreement or the Notice and Settlement Administration Plan, including the Coast Distribution Process, or the administration, investment or distribution of the Settlement Funds, including under the Coast Distribution Process.

### **6.2 Destruction of Documents**

(1) Further to paragraph 12 of the Order pronounced by Mr. Justice Masuhara on June 16, 2021 regarding the confidentiality of the information disclosed by Royal Bank of Canada pursuant to that Order and the requirements of the Parties (and their counsel) to destroy the documents received pursuant to that Order within 90 days of the conclusion of the Proceeding, the commencement of the 90 day period in which the Parties (and their counsel) will destroy the received documents is triggered upon the pronouncement of the dismissal order in the proceeding, or within 90 days of the final determination of any appeals arising therefrom, whichever date is later.

(2) Class Counsel and the Plaintiff agree to destroy, and to instruct any of their service providers to destroy, within 120 days of the final distribution of the Settlement Fund, all copies of the documents produced or provided by Coast Capital Savings in this proceeding that contain Class Members' personal information.

### **6.3 Headings, etc.**

(1) In this Settlement Agreement:

- (a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Settlement Agreement; and
- (b) the terms “this Settlement Agreement”, “hereof”, “hereunder” and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

#### **6.4 Applications**

- (1) Any disputes that are not resolved by agreement of the parties shall be resolved by the Court.
- (2) All applications contemplated by this Settlement Agreement shall be on notice to the Plaintiff and Coast Capital Savings.

#### **6.5 Computation of Time**

- (1) In the computation of time in this Settlement Agreement, except where a contrary intention appears,
  - (a) where there is a reference to a number of days between two events, the number of days will be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
  - (b) only in the case where the time for doing an act expires on a Saturday, Sunday or a holiday, the act may be done on the next day that is not a Saturday, Sunday, or a holiday.

#### **6.6 Ongoing Jurisdiction**

- (1) The Court will retain exclusive jurisdiction over the Proceeding, the Parties thereto, and the Class Counsel Fees in the Proceeding.



**6.7 Governing Law**

(1) This Settlement Agreement will be governed by and construed and interpreted in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.

**6.8 Entire Agreement**

(1) This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle, and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions, or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

**6.9 Amendments**

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto and any such modification or amendment must be approved by the Court with jurisdiction over the matter to which the amendment relates.

**6.10 Binding Effect**

(1) This Settlement Agreement will be binding upon, and enure to the benefit of, the Plaintiff, the Releasors, the Releasee, and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiff will be binding upon all Releasors and each and every covenant and agreement made herein by Coast Capital Savings will be binding upon the Releasee.

**6.11 Counterparts**

(1) This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or electronic or PDF signature will be deemed an original signature for purposes of executing this Settlement Agreement.

**6.12 Negotiated Agreement**

(1) This Settlement Agreement has been the subject of negotiations and discussions among the Parties, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement will have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, will have no bearing upon the proper interpretation of this Settlement Agreement.

**6.13 Recitals**

(1) The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

**6.14 Schedules**

(1) The schedules annexed hereto form part of this Settlement Agreement.

**6.15 Authorized Signatures**

(1) Class Counsel warrants that they are fully authorized to execute this Settlement Agreement on behalf of the Plaintiff and the Settlement Class Members and to execute and legally bind the Plaintiff and the Settlement Class Members to this Settlement Agreement.

(2) Borden Ladner Gervais LLP warrants that they are fully authorized to execute this Settlement Agreement on behalf of Coast Capital Savings.

**6.16 Notice**

(1) Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication or document will be provided by email, facsimile or letter by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

For Plaintiff and for Class Counsel in the  
Proceeding:

David G.A. Jones  
Camp Fiorante Matthews Mogeran LLP  
400 – 856 Homer Street  
Vancouver, BC V6B 2W5  
Telephone: 604-689-7555  
Facsimile: 604-689-7554  
Email: djones@cfmlawyers.ca and  
jfung@cfmlawyers.ca

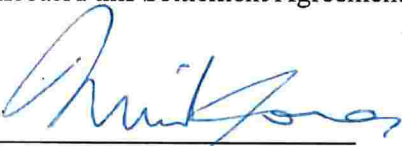
For the Defendant:

Michelle T. Maniago  
Borden Ladner Gervais LLP  
1200 Waterfront Centre  
200 Burrard Street  
Vancouver, BC V7X 1T2  
Telephone: 604-640-4139  
Facsimile: 604-662-5562  
Email: MManiago@blg.com and  
sliesch@blg.com

IN WITNESS THEREOF, the Parties hereto have executed this Settlement Agreement as follows:


Date: 4 March 2022

By:

  
David G.A. Jones as Class Counsel  
on behalf of the Plaintiff and  
the Settlement Class Members

Date: 9 March 2022

By:

  
Michelle T. Maniago  
on behalf of Coast Capital Savings Federal  
Credit Union

### **SCHEDULE A – GENERAL DISCLOSURE**

We charge an International ATM or POS administration fee on international ATM transactions of 2% on the transaction amount. The 'transaction amount' we use to calculate the commission is the amount of the POS or ATM request we receive and pay from your account to settle your international ATM or POS transaction. The ATM or POS request we receive is in Canadian dollars. Any currency conversion to calculate the Canadian dollar transaction amount is done by a third party in the electronic network your debit request comes through on. We do not set the rates for or complete those currency conversions. Additional fees or commissions charged by third parties involved in processing your international ATM or POS transaction will also be included in the transaction amount.

**SCHEDULE B – APPROVAL ORDER**

No. S136507  
Vancouver Registry

*In the Supreme Court of British Columbia*

Between

Eric Finkel

Plaintiff

and

Coast Capital Savings Credit Union

Defendant

Proceeding under the *Class Proceedings Act*, RSBC 1996, c 50

**ORDER MADE AFTER APPLICATION  
(Settlement Approval)**

BEFORE ) THE HONOURABLE ) [DAY], THE \_\_\_\_  
) MR JUSTICE MASUHARA ) DAY OF \_\_\_\_\_ 2022  
) )

ON THE APPLICATION of the Plaintiff coming on for hearing at Vancouver, British Columbia, on the [DATE], and on hearing David G.A. Jones and Jonathan Fung, counsel for the Plaintiff; and Michelle T. Maniago and Shelby Liesch, counsel for the Defendant, Coast Capital Savings Credit Union, AND ON READING the pleadings and materials filed;

THIS COURT ORDERS that:

1. The Settlement Agreement dated for reference June 30, 2021, attached as Schedule "A" to this Order, is incorporated in its entirety and forms part of this Order by reference, and the definitions in the Settlement Agreement shall be applied in interpreting this Order;
2. The Settlement Agreement is fair, reasonable and in the best interests of the Class;

3. The Settlement Agreement is hereby approved pursuant to section 35 of the *Class Proceedings Act*, RSBC 1996, c. 50, and shall be implemented in accordance with its terms and the terms of this Order;
4. This Order, including the Settlement Agreement, is binding upon the representative plaintiff and each Class Member who did not validly opt-out of this Proceeding.
5. Upon the Effective Date, each Releasor who has not validly opted-out of this Proceeding has released and shall be conclusively deemed to have forever, finally and absolutely released the Releasee from the Released Claims;
6. Upon the Coast Distribution Date, each Releasor who has not validly opted-out of this Proceeding has released and shall be conclusively deemed to have forever, finally and absolutely released the Releasee from the Released Distribution Claims;
7. Other than fulfilling its duties expressly set out in the Settlement Agreement, the Releasee shall have no responsibility or liability whatsoever with respect to the administration, implementation or enforcement of the Settlement Agreement, or the Notice and Settlement Administration Plan, including the Coast Distribution Process, or the administration, investment, or distribution of the Settlement Funds, including under the Coast Distribution Process.
8. On the Effective Date, the Plaintiff has leave to dismiss the action against Coast Capital Savings Credit Union, with prejudice and without costs.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

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Signature of David G.A. Jones  
Lawyer for the Plaintiff

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Signature of Michelle T. Maniago  
Lawyer for the Defendant, Coast Capital  
Savings Federal Credit Union (formerly  
known as Coast Capital Savings Credit  
Union)

By the Court.

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Registrar

THIS ORDER was prepared by the law firm of Camp Fiorante Matthews Mogerman LLP, whose place of business and address for service is #400 – 856 Homer Street, Vancouver, British Columbia, V6B 2W5. Telephone: (604) 689-7555. Fax: (604) 689-7554. Counsel Reference: David G.A. Jones