

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

SETTLEMENT ADMINISTRATION AND DISTRIBUTION PLAN

GENERAL PRINCIPLES

1. This settlement administration and distribution plan (the “**Plan**”) will govern the procedure for claiming entitlement, and the determination of eligibility and subsequent payment thereof, of the “Settlement Amount” as defined in the settlement agreement as made between Eric Finkel and Coast Capital Savings Federal Credit Union (formerly known as Coast Capital Savings Credit Union) (“**Coast Capital Savings**”), dated June 30, 2021 (the “**Settlement Agreement**”).
2. The administration shall implement and conform to the Settlement Agreement, orders of the Court and this Plan.

DEFINITIONS

3. The definitions set out in the Settlement Agreement apply to and are incorporated in this Plan. For ease of reference, certain defined terms from the Settlement Agreement are set out here:
 - (a) **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) [of the Settlement Agreement], that remain active and are associated with an active Coast Capital Savings deposit account, but does not include any Opted-Out Memberships.

- (b) **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.
- (c) **Class Counsel** means Camp Fiorante Matthews Mogerman LLP.
- (d) **Class Counsel Fees** include the fees, disbursements, costs, interest, GST/PST and other applicable taxes or charges of Class Counsel.
- (e) **Class Period** means August 28, 2007 to August 31, 2015.
- (f) **Effective Date** means the next calendar day after the day on which all appellate rights with respect to the Settlement Approval Order made in [this action] have expired or have been exhausted.
- (g) **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.
- (h) **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) [of the Settlement Agreement], 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) [of the Settlement Agreement] 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 [of the Settlement Agreement].

- (i) **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) [of the Settlement Agreement], 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.
- (j) **Parties** means the Plaintiff, the Class Members, and Coast Capital Savings.
- (k) **Proceeding** means British Columbia Court File No. S-136507, Vancouver Registry.
- (l) **Qualifying International Withdrawal** means an International Withdrawal by a Class Member during the Class Period.
- (m) **Settlement Amount** means the all-inclusive sum of one million four hundred thousand Canadian dollars (CAD \$1,400,000.00).
- (n) **Settlement Approval Order** means a final judgment or final approval order approving [the Settlement Agreement].
- (o) **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.

- (p) **Settlement Fund** means a Trust Account controlled by Class Counsel, which will hold the Settlement Amount.
- (q) **Trust Account** means a segregated interest-bearing trust account under the control of Class Counsel for the benefit of the Settlement Class Members.

4. Additional defined terms used in this Plan are set out here:

- (a) **Approved Claim** means each Settlement Class Member's distribution from the Settlement Fund.
- (b) **Claim** means the form that a Claims Based Settlement Class Member must complete and submit before the Claims Filing Deadline in order to be considered for settlement benefits under this Plan.
- (c) **Claims Based Settlement Class Member** means a Settlement Class Member identified as having a Non-Active Coast Membership.
- (d) **Claims Filing Deadline** means the date by which Claims and any required supporting documentation must be postmarked or electronically submitted by Claims Based Settlement Class Members to be considered for settlement benefits under this Plan, which date shall be 30 days after the first publication of the notice advising of the claims process.
- (e) **Direct Deposit Settlement Class Member** means a Settlement Class Member identified as having an Active Coast Membership.
- (f) **Honourarium** means the \$10,000.00 honourarium to be paid to the representative plaintiff, subject to the Court's approval.
- (g) **Net Settlement Amount** means the Settlement Amount plus accrued interest, less, if and in such amounts approved by the Court, Class Counsel Fees and Honourarium.

(h) **Representative Plaintiff** means Eric Finkel.

DISTRIBUTION TO SETTLEMENT CLASS MEMBERS

Amount Available for Distribution

5. The Settlement Amount shall be invested in the Trust Account and interest earned on the Settlement Amount while in the Trust Account (minus taxes on that interest) will accrue to the benefit of the Settlement Class Members.
6. Class Counsel is seeking Court approval of a payment of the Honourarium to the Representative Plaintiff out of the Settlement Amount. The Honourarium will be treated as a disbursement.
7. Class Counsel is seeking Court approval of legal fees in the amount of 30% of the first \$1,000,000 recovered and 25% of all amounts recovered in excess of \$1,000,000 (calculated after deducting disbursements from the Settlement Amount), plus taxes.
8. Class Counsel is also seeking Court approval of payment, out of the Settlement Amount, of Class Counsel Fees as follows:
 - (a) payment of \$121,366.11 in disbursements (which, for clarity, includes taxes but does not include the Honourarium);
 - (b) a holdback of \$25,000 to be used to pay future disbursements related to administering and distributing the Settlement Amount (to the extent the holdback exceeds future disbursements related to administering and distributing the Settlement Amount, the excess amount will be used to pay part of the balance of legal fees and taxes under paragraph 8(c)); and
 - (c) approval of legal fees of up to \$360,908.47 and taxes of up to \$43,309.02, of which 75% (\$270,681.35 in legal fees and \$32,481.77.75 in taxes) to be paid to Class Counsel's on receipt of the Settlement Amount in accordance with Settlement Agreement, and the balance (which is to be calculated in

accordance with paragraph 7) to be paid after distribution of the Net Settlement Amount.

9. As described above, the Honourarium and Class Counsel Fees are subject to court approval. If approved, the monies available to provide settlement benefits to Settlement Class Members pursuant to this Plan will be at least \$832,466.37 (the final number is dependent on future disbursements).

Valuation of Claims

10. The Net Settlement Amount allocated to Settlement Class Members will be subject to claims-weighting to reflect different third party intermediary charges, or presumed charges, related to foreign exchange rates applied during the Class Period, as follows:

Qualifying International Withdrawal Date	Weighted Percentage
For the period August 28, 2007 to October 8, 2010	26.5%
For the period October 9, 2010 to August 31, 2015	73.5%

11. For example, a claim made in respect of a Qualifying International Withdrawal between August 28, 2007 and October 8, 2010 will be calculated as follows:

amount of the foreign currency transaction x 0.265 = weighted transaction amount.

12. The Net Settlement Amount will be distributed to Settlement Class Members *pro rata* (proportionally) based on the value of the Settlement Class Member's weighted transaction amount as against the value of all the weighted transactions amounts of all Approved Claims. If the amount allocated to Settlement Class

Members appears to be disproportionate to the alleged loss, Class Counsel will seek directions from the Court.

THE CLAIMS PROCESS

13. Subject to paragraph 39, Direct Deposit Settlement Class Members will not be required to submit a claim in order to be considered for settlement benefits under this Plan. Their portion of the Net Settlement Amount will be determined in accordance with paragraph 12, and their respective Approved Claims will be deposited directly to the relevant Active Coast Membership by Coast Capital Savings. Such payments are made and received in full and final settlement of all entitlements to compensation under the 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, is entitled to make a claim to those or any additional funds.
14. Claims Based Settlement Class Members will be required to submit a Claim to Class Counsel before the Claims Filing Deadline in order to be considered for settlement benefits under this Plan. The Claim will require information to allow it to be confirmed by Class Counsel as involving a Qualifying International Withdrawal. The following information may assist and may be provided as part of the Claim:
 - (a) The Claims Based Settlement Class Member's name and PAN number at the time the Qualifying International Withdrawal was made.
 - (b) Information about the asserted Qualifying International Withdrawal, including the date, location, and amount.
15. The Claim will also require the following:

- (a) Authorization to Class Counsel to contact the Claims Based Settlement Class Member or their representative, as Class Counsel deems appropriate, for more information.
 - (b) A declaration that the information submitted in the Claim is true and correct.
16. If the Claim can be confirmed by Class Counsel as involving a Qualifying International Withdrawal, then the claimant will be entitled to settlement benefits under this Plan. Their portion of the Net Settlement Amount will be determined in accordance with paragraph 12, and the Approved Claim amount sent directly to them via e-transfer or cheque. Where a claimant elects to receive payment by cheque, \$2 will be deducted from that Claims Based Settlement Class Member's payment to reflect the cost of issuing a cheque.

Assistance in Filing a Claim

17. Claims Based Settlement Class Members can contact Class Counsel, at no charge, with questions about how to complete a Claim. Claims Based Settlement Class Members may not utilize third-party claims services to file Claims.

The Claims Filing Process

18. Claims Based Settlement Class Members must submit their Claims to Class Counsel by
- (a) email dated no later than the Claims Filing Deadline; or
 - (b) mail postmarked no later than the Claims Filing Deadline.
19. Subject to the discretion of Class Counsel, claims may not be amended after the Claims Filing Deadline. For greater clarity, placeholder claims (inaccurate and/or incomplete claims filed solely for the purpose of meeting the Claims Filing Deadline) will not be permitted.

Deficiencies

20. If, during claims processing, Class Counsel finds that deficiencies exist in a Claim or other required information, Class Counsel shall notify the Claims Based Settlement Class Member, by email or regular mail, of the deficiencies. Class Counsel shall allow the Claims Based Settlement Class Member 10 days from the date of such notice to correct the deficiencies. If the deficiencies are not corrected within the 10-day period, the Claim shall be rejected.

Adjustments to Claims Process

21. Subject to the timelines set out in the Settlement Agreement, the Claims Filing Deadline may be extended, and Class Counsel may adjust aspects of the Claims process unrelated to the allocation of the Net Settlement Amount to address any deficiencies that may arise, or to take steps to increase the take-up rate. Subject to the timelines set out in the Settlement Agreement, Class Counsel may extend the Claims Filing Deadline and/or adjust the Claims process if, in its opinion, doing so will not adversely affect the allocation method or fair and efficient administration of the Net Settlement Amount, and it is in the best interests of the Settlement Class Members to do so.

Decision in Respect of the Claim

22. In respect of each Claims Based Settlement Class Member who has filed a Claim in accordance with this Plan, Class Counsel shall:
- (a) decide whether the Claims Based Settlement Class Member is eligible to receive settlement benefits payable out of the Net Settlement Amount in accordance with the Settlement Agreement, orders of the Court and this Plan; and
 - (b) make a determination of the value of the Settlement Class Member's weighted transaction amount.

23. Class Counsel shall send to the Claims Based Settlement Class Member, by email or regular mail, a decision as to the approval or rejection of the Claim (the "**Decision Notice**").
24. The Claims Administrator's decision will be binding upon the Claims Based Settlement Class Member, subject to the Settlement Class Member's right to seek reconsideration as outlined in paragraphs 25 to 30.

Reconsideration of the Decision

25. Claims Based Settlement Class Members shall be granted 30 days from the date of the Decision Notice to seek written reconsideration of the rejection (in whole or in part) of their Claims.
26. The following grounds shall not be grounds for reconsideration:
 - (a) the refusal of the Claims Administrator to accept a Claim postmarked or electronically submitted after the Claims Filing Deadline;
 - (b) the refusal of the Claims Administrator to accept a Claim where the Claims Based Settlement Class Member did not declare that the information submitted in the Claim is true and correct;
 - (c) the refusal of the Claims Administrator to accept a Claim where there was a failure to respond to a request for additional information made pursuant to paragraph 20; and
 - (d) the structure of the valuation of the Claim as outlined in this Plan, and as approved by the Court.
27. Reconsideration will be done by the Claims Administrator.
28. Reconsideration will be on the basis of written submissions, supported by the documentation provided by the Claims Based Settlement Class Member as part of the claims process. Claims Based Settlement Class Members are not permitted to provide any new documentation as part of the reconsideration.

29. A \$10 fee is payable by a Claims Based Settlement Class Member upon submission of a written request for reconsideration by the Claims Administrator. If a Claims Based Settlement Class Member's claim was partially approved, the fee shall be deducted from the Claims Based Settlement Class Member's settlement benefits. If a Claims Based Settlement Class Member's claim was rejected, or if the partially approved claim is insufficient to cover the amount of the fee, the Claims Based Settlement Class Member will be required to pay the fee to the Claims Administrator by e-transfer or cheque within 10 days after delivering a submitting a request for reconsideration. If a Claims Based Settlement Class Member does not pay the fee within 10 days after delivering a written request for reconsideration, there will be no reconsideration. The fee shall be refunded if the reconsideration is decided in favour of the Claims Based Settlement Class Member.
30. The reconsideration decision is final and binding and shall not be subject to any further appeal or review whatsoever.

Adjustments to Reconsideration Process and Extension of the Reconsideration Deadline

31. The Claims Administrator may extend the reconsideration deadline and may adjust the reconsideration process if, in its opinion, doing so will not adversely affect the fair and efficient administration of the Net Settlement Amounts and it is in the best interests of the Claims Based Settlement Class Members to do so.

DUTIES AND RESPONSIBILITIES

Supervisory Powers of the British Columbia Court

32. Class Counsel shall administer this Plan under the ongoing authority and supervision of the British Columbia Supreme Court.

The Exchange of Information between Class Counsel and Coast Capital

33. Class Counsel and Coast Capital will exchange information in accordance with paragraph 3.4(3)(a) of the Settlement Agreement.

Payment of Settlement Benefits

34. After the Claims have been reviewed, and any reconsiderations have been resolved in accordance with paragraphs 25 to 30, Class Counsel will determined the amount to be distributed to each Settlement Class Member in accordance with 12.
35. In respect of the Direct Deposit Settlement Class Members:
 - (a) Class Counsel will deliver to Coast Capital a list (the “**List**”) of Active Coast Memberships and the amount to be transferred to each Active Coast Memberships’ Coast Capital Account;
 - (b) Coast Capital will make direct payment to the Active Coast Memberships’ Coast Capital Account in accordance with the List, subject to s. 3.4 of the Settlement Agreement.
36. In respect of the Claims Based Settlement Class Members, Class Counsel will send them an e-transfer or mail them a cheque with their portion of the Net Settlement Amount, in accordance with paragraph 16 above (note that \$2 will be deducted from the payment in the case of a cheque).
37. If a Claims Based Settlement Class Member does not accept the e-transfer or cash the cheque sent to them pursuant to paragraph 36 within six months of the date of issuance, the amount will be considered an “**Unclaimed Amount**”.
38. For any Unclaimed Amount, 50% will go to the Law Foundation of British Columbia, and the remaining 50% will be donated to Credit Counselling Society.
39. If, pursuant to s. 3.4(3)(d)(D) of the Settlement Agreement, Coast Capital returns any funds to Class Counsel with respect to shares of the Distribution Funds that could not be deposited, Class Counsel will use the contact information provided by Coast pursuant to s. 3.4(3)(d)(D) to determine if the associated person will accept their share of the Distribution Funds via e-transfer or cheque (\$2 will be deducted in the case of a cheque), or if that person will not accept their share, or if that

person cannot be contacted or does not respond after reasonable efforts are undertaken, that share will be treated as an Unclaimed Amount.