

## DEFINITIONS

- (1) **Action** means *Charette et al v Trinity Capital Corporation, et al*, brought in the Ontario Superior Court of Justice under Court File No. CV-11-422085.
- (2) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable relating to approval, implementation and administration of the Settlement including the costs of disseminating notices and the fees, disbursements and taxes paid to the Administrator, the person appointed to receive and report on objections to the Settlement to the Court, the Referee, and any other expenses approved by the Court which shall all be paid from the Settlement Amount. For greater certainty, Administration Expenses include the Non-Refundable Expenses but do not include Class Counsel Fees.
- (3) **Administrator** means Epiq Class Action Services Canada, Inc., appointed by the Court to administer the Agreement, and any employees of such firm.
- (4) **Approval Order** means the Order of Justice Glustein approving the Settlement.
- (5) **Authorized Claimant** means any Class Member who has been approved for compensation by the Administrator.
- (6) **Claim Form** means the form or forms which, when completed and submitted in a timely manner to the Administrator, enables a Class Member to apply for compensation pursuant to the Agreement.
- (7) **Class or Class Members** means all persons, other than Excluded Persons, who participated in the Program in at least one of the taxation years of 2001, 2002 or 2003.
- (8) **Class Counsel Fees** means the fees, disbursements, and any applicable taxes and a *pro rata* share of all interest earned on the Settlement Amount to the date of payment, as approved by the Court.
- (9) **Contributing Parties** means Fraser Milner Casgrain LLP, BDO Canada LLP and their insurers who have or will fund the Settlement.
- (10) **Court** means the Ontario Superior Court of Justice.
- (11) **CPA** means the *Class Proceedings Act, 1992*, SO 1992, c 6, as amended.
- (12) **Defendants** means Trinity Capital Corporation, Trinity Wood Capital Corporation, Capital Structures Ltd., Capital Structures 2002 Ltd., TC Capital Limited,

The John McKellar Charitable Foundation, Fraser Milner Casgrain LLP, BDO Canada LLP, James Gordon Arnold, James Douglas Beatty, Ralph Thomas Neville and Graham Turner.

(13) **Effective Date** means either: (i) the date on which the Approval Order has become a final order and the time for any appeals has expired; or (ii) if an appeal is taken from the Approval Order, relating only to Class Counsel Fees, then thirty (30) days after the issuance of the Approval Order.

(14) **Escrow Account** means the interest bearing Canadian currency trust account with one of the Canadian Schedule 1 banks or a liquid money market account or equivalent security with a rating equivalent to, or better than, that of an interest bearing account in a Canadian Schedule 1 bank in Ontario, initially under the control of Strosberg Sasso Sutts LLP and then transferred to the control of the Administrator once the Settlement is final.

(15) **Escrow Settlement Amount** means the Settlement Amount plus any interest accruing thereon as a result of investment thereof after payment of all Non-Refundable Expenses, Class Counsel Fees and any Administration Expenses.

(16) **Excluded Persons** means

- (a) James Gordon Arnold, James Douglas Beatty, Ralph Thomas Neville and Graham Turner;
- (b) Trinity Capital Corporation, Trinity Wood Capital Corporation, Capital Structures Ltd., Capital Structures 2002 Ltd., TC Capital Limited, The John McKellar Charitable Foundation, Fraser Milner Casgrain LLP, BDO Canada LLP and their past or present subsidiaries, affiliates, legal representatives, General Counsel, predecessors, successors and assigns;
- (c) any person who was an officer or director of the corporate defendants during the Class Period;
- (d) any immediate member of the Individual Defendants' families;
- (e) any entity in which any of the above persons has or had during the Class Period any legal or de facto controlling interest; and
- (f) all persons who validly opted out of the Action in accordance with section 9 of the Order of Justice Belobaba dated May 30, 2013.

- (17) **Foundation** means The John McKellar Charitable Foundation.
- (18) **Individual Defendants** means James Gordon Arnold, James Douglas Beatty, Ralph Thomas Neville and Graham Turner.
- (19) **Non-Refundable Expenses** means certain administration expenses stipulated in section 4.1(1) of the Agreement to be paid from the Settlement Amount.
- (20) **Plaintiffs** means Marc Charette and Andrew Cumming.
- (21) **Plan of Allocation** means the plan for the distribution of compensation to Class Members, as approved by the Court.
- (22) **Plan of Notice** means the plan for disseminating the Notice to the Class, as approved by the Court, which shall substantially be in accordance with the plan.
- (23) **Program** means the Donation Program for Medical Science and Technology.
- (24) **Referee** means Gregory D. Wigglesworth of Kirwin Partners LLP.
- (25) **Released Claims** (or **Released Claim** in the singular) means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages whenever and wherever incurred, and rights and liabilities of any nature whatsoever, including interest, costs, expenses, administration expenses, penalties, Class Counsel Fees and lawyers' fees, known or unknown, suspected or unsuspected, in law, under statute or in equity or at common law, that the Releasers, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have as against the Releasees relating or connected in any way to the sales and marketing of the Program, or in relation to any professional opinions prepared by the Settling Defendants, or any of them, concerning the Program, or to any conduct alleged, or that could have been alleged, in the Action, including, without limitation, any such claims that have been asserted, would have been asserted or could have been asserted, whether in Canada or elsewhere.
- (26) **Released Third Parties** means Peter Browning, Peter Fillion, G.W. Culverson, GQ Financial Corporation, Parallel Management Inc., Moore Stephens Cooper Molyneux LLP, Triple Win Incorporated, Wildman & Associates Wealth Management Inc., Meyers Norris Penney LLP, Creative Wealth Management Group Inc., Global Tax Group Inc., and 4042603 Canada Inc. For greater certainty, Released Third Parties does

not include Pepper Weberg Trading & Investment Corporation, IPC Securities Corporation, or IPC Investment Corporation.

(27) **Releasees** means the Settling Defendants and the Released Third Parties, and their respective past and present affiliates, and subsidiaries, and each of their respective insurers, reinsurers, directors, officers, partners, employees, agents, trustees, servants, parents, successors, predecessors, assigns and each of their respective heirs, executors, administrators, guardians, estates, trustees, successors and assigns.

(28) **Releasors** means, jointly and severally, the Plaintiffs, the Class Members and their respective past and present predecessors, affiliates, subsidiaries, directors, officers, employees, partners, parents, agents, trustees, servants, shareholders, heirs, executors, administrators, guardians, estate trustees, successors and assigns, as the case may be.

(29) **Second Motion** means the motion brought in the Court for an order:

- (a) approving the Settlement;
- (b) appointing the Administrator and the Referee;
- (c) approving the Notice;
- (d) approving the Plan of Allocation;
- (e) dismissing this Action without costs and with prejudice; and
- (f) approving Class Counsel Fees.

(30) **Settlement** means the settlement provided for in the Agreement.

(31) **Settlement Amount** means \$37,000,000, inclusive of the Administration Expenses, Class Counsel Fees, interest, taxes and any other costs or expenses related to the Action or the Settlement.

(32) **Settling Defendants** means Fraser Milner Casgrain LLP, Graham Turner, BDO Canada LLP (Formerly BDO Dunwoody LLP) and Ralph Thomas Neville.