

ONTARIO

SUPERIOR COURT OF JUSTICES

BETWEEN:

TIM GOULD and ARGHEA CHIRIAC

Plaintiffs

- and -

BMO NESBITT BURNS INC., BLACKROCK MONEYS CAPITAL INC., CANACOR'S CAPITAL CORPORATION, NATIONAL BANK FINANCIAL SERVICES GROUP'S SECURITIES INC., TD SECURITIES INC., BAYVIEW BANK, THE BANK OF MONTREAL, AVIVA, GRUBER FIDELITY FUND, FMC CAPITAL LTD, FIDELITY INVESTMENTS, VICTORIA MOUNTAIN MUTUAL LIFE ASSURANCE CORPORATION, RBC, J.P. MORGAN, THOMSON REUTERS, THE SHAW, MICHAEL ROY, EDAN KING, HOWARD MOROZ, and LORIE WAISBERG

Defendants

Proceeding under the Class Proceedings Act, 1992

NOTICE OF MOTION

(Motion for Summary Judgment 25/0087)

The Representative Plaintiffs will make a motion at the Court on Thursday, January 20, 2007, at 10:00 a.m., or as soon thereafter as a date can be ascertained before the Hon. Judge Justice Maurice C. Gully at the Courthouse of the Ontario Superior Court of Justice, 10 University Ave., Toronto, Ontario.

PROPOSED METHOD OF SERVICE

in writing under subrule 7.10.1(1) because it is (insert one of the cases, with page or made without notice),

in writing as served under subrule 7.10.1(1) (a)

orally.

THE MOTION IS FOR:

1. an Order approving Class Counsel's proposed award of fees and disbursements in the amount of \$6,000,000.00, plus disbursements in the amount of \$289,440.50, and an amount of \$129,000.00 for a total of \$6,318,440.50; and
2. such further and other orders as this Honorable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

3. the *Class Proceedings Act*, R.S.O. 1990, c. 64, sections 22 and 33;
4. the Representative Plaintiffs, Tim Gould and Archibald Neace ^{LLP} ("Siskinds"), to commence a class proceeding against the defendants with respect to information concerning FMI Capital Group Inc.'s ("FMI Group's") business and affairs which was disseminated by the Defendants (or some of them) during (i) the period from the initial public offering of FMI Group's common shares on the TSX on March 14, 2005, to and including November 15, 2005, and (ii) during the period from and including March 14, 2005, to and including November 15, 2005, when such IPSs were traded over the Toronto Stock Exchange;
5. a Statement of Claim was issued on January 25, 2006;
6. on November 28, 2006, following over four months of negotiations between the parties, the parties entered into a Settlement Agreement that provides for significant benefits to both the Class Members and the Class Counsel that may be obtained with due and efficiency;
7. the litigation was undertaken on a contingency basis, all of the disbursements were funded by Siskinds, and Siskinds' attorneys incurred significant out-of-pocket costs during the litigation; and
8. such further and other grounds as counsel advises.

THE FOLLOWING DOCUMENTS IN EXHIBIT WILL BE USED IN THE HEARING ON THE MOTION:

9. the Affidavit of A. Dimitri Lascaris, sworn January 18, 2007;
10. the Affidavit of Tim Gould and the Exhibit attached hereto, sworn January 19, 2007;

11. the Affidavit of Archie Beach and the Exhibit attached thereto, sworn January 7, 2008;

12. the Affidavit of Jimmishon Gross, and the Exhibit attached thereto, sworn January 7, 2007;

13. the Affidavit of Rebecca Jackson, also known as Rebecca Jackson, sworn January 10, 2007;

14. the Affidavit of Mark Wayne James, sworn January 4, 2007;

15. the Affidavit of Semeloy Sozan and the Exhibit attached thereto, sworn January 7, 2007;

16. the Affidavit of Ursula Goggin, sworn January 7, 2007;

17. the Affidavit of Gaetano Orlando, sworn January 7, 2007;

18. the Affidavit of Kay Wente, sworn January 7, 2007; and

19. such other materials as counsel may advise and this Honourable Court permit.

Siskinds ^{LLP}
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