

**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable)
Mr. Justice P. Perell) FRIDAY, THE 11TH DAY
)
) OF SEPTEMBER, 2020

BETWEEN:

ISTVAN REZMUVES, ERNO PONGO, ISTVAN HORVATH
RENATA GALAMB and SAMUEL HORVATH

Plaintiffs

- and -

VIKTOR SERHEY HOHOTS, JOSEPH STEPHEN FARKAS
and THE ESTATE OF ERZSEBET JASZI

Defendants

Proceeding under the *Class Proceedings Act, 1992*, S.O 1992 c. 6 as amended

ORDER

THIS MOTION, made by the Plaintiff and Class Members, for an Order *inter alia* approving the Settlement Agreement reached by the Plaintiffs and Defendants, and approving Class Counsel fees, was heard on September 11, 2020 at the Toronto Court House via video-conference call.

ON READING the Motion Record for the Plaintiffs and putative Class Members, and upon hearing oral submissions from Class Counsel, and noting that the Defendants agreed to the terms of the Settlement Agreement,

Approval of the Settlement Agreement and appointment of the Claims Administrator

1. A declaration that the Settlement Agreement attached hereto as **Schedule A** is fair, reasonable and in the best interests of the Class;
2. An order approving the Settlement Agreement pursuant to Section 29(3) of the *CPA* and directing that it shall be implemented in accordance with its terms and granting the comprehensive release in favour of the Defendants that is set out therein;
3. An order and declaration that RicePoint shall be appointed as the Claims Administrator for the purpose of making payments to approved claimants;
4. An order and declaration that this Order, including the Settlement Agreement at **Schedule A** is binding upon the Plaintiff and each Class Member, whether or not they submit a claim to participate in the distribution of the Settlement Fund, including those Class Members who are minors or mentally incapable, and the requirements of Rule 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of this Action;

Approval of the Notice Plan

5. An order approving the Notice Plan described in the Settlement Agreement and the long form Notice of Court Order substantially in the form in **Schedule B**;

Class Counsel Fees

6. An order and declaration that the Contingency Fee Agreement attached as Schedule D is approved as fair and reasonable;
7. An order approving class counsel fees, together with HST and disbursements in the amount of \$181,500;

8. An order that class counsel fees shall be paid to class counsel by Ricepoint from the settlement amount within fifteen (days) of Ricepoint receiving the settlement funds from the Defendants;

Honorarium for representative plaintiff

9. An order approving the payment of an honorarium to the Plaintiff, Istvan Rezmuves, in the amount of \$2,500.00 on a *quantum meruit* basis, for the substantial and exceptional contributions that he has made in the prosecution of this action for the benefit of the Class, and that this amount shall be paid from the Settlement Fund by the Claims Administrator;

Indemnity payment to the Class Proceedings Fund

10. An Order that the Class Proceedings Fund shall be paid \$10,000 from the Settlement Amount to reflect the fact that it provided funding and indemnity for the class members in *Rezmuves v. Hohots*, and that this amount shall be paid from the Settlement Fund by the Claims Administrator;

Establishment of the Settlement Fund

11. An order that within thirty days after this Settlement Approval Order is granted by the Court, the Defendants, or their insurers, shall cause \$550,000.00 in Canadian currency (the "Settlement Amount") to be paid into a non-interest-bearing Escrow Account, maintained by Ricepoint, and that this payment is inclusive of all damages, costs, administration expenses, Class Counsel fees and any other costs or expenses otherwise related to the Class Proceedings against the Defendants;
12. An order that after deductions have been made for the approved class counsel fees, payment to the Class Proceedings Fund and Honorarium, \$50,000 paid by the Defendants for costs shall be added to the Settlement Amount, and this shall comprise the class action "Settlement Fund";

Approval of the Claims Process and Distribution Protocol

13. An order approving the claims process and distribution protocol as set out in the Settlement Agreement (Schedule A);
14. An order approving the Claim Form substantially in the Form in **Schedule C**;
15. An order establishing the Claims Deadline being one-hundred and twenty (120) days after notice of the settlement approval and claims process is first provided to the class members in accordance with the approved notice plan;
16. An order and declaration that the proposed Order is an order compelling the production of certain information by the Defendants to confirm the identity and validity of class members making claims in accordance with the Settlement Agreement, with such information to be provided to Class Counsel and/or the Claims Administrator, without the consent of the Class Members, but this Order shall satisfy the requirements of any privacy laws in any jurisdiction in Canada allowing such information to be disclosed under the terms of a court order;
17. An order and declaration that the Defendants and their counsel, the Claims Administrator, and Class Counsel are released from any and all obligations pursuant to any and all applicable privacy laws, including common law, statutes and regulations in relation to the disclosure of any personal information required by the terms of the proposed Order;
18. An order that the Claims Administrator shall maintain confidentiality over and shall not share the information provided by Class Counsel and Counsel for the Defendants with any other person, including, but not limited to any lawyer (except Class Counsel and any lawyers retained by the Claims Administrator), unless doing so is necessary for facilitating the claims administration process in accordance with the Settlement Agreement;

19. An order that the Claims Administrator shall use the information provided pursuant to the proposed Order for the sole purpose of facilitating the claims payment process in accordance with the Settlement Agreement, and for no other purpose;
20. An order and declaration that no person may bring any action or take any proceeding against the Claims Administrator or any of its employees, agents, partners, associates, representatives, successors or assigns for any matter in any way relating to the administration of the Settlement Agreement and the proposed Order except with leave of the Court;
21. An order that the Claims Administrator shall facilitate the claims payment process, and report to the Court and the Parties in accordance with the terms of the Settlement Agreement;
22. An order that the Claims Administrator shall pay its Administration Expenses from the Settlement Fund, from time to time, as the Administration Expenses are incurred;
23. An order that the Claims Administrator shall deliver a final report to this Court and the Parties upon the completion of the administration of the Settlement Agreement, detailing the total funds received and the disbursement thereof, the total number of claimants, the amount paid to each claimant, and the amount paid *cy-pres*, if any;

Cy-Pres payment

24. An order that any residual amount remaining in the Settlement Fund after all Class Members' claims and Administration Expenses have been paid, shall be paid, *cy-pres*, to the Canadian Red Cross for use in providing assistance and services to refugees in Canada.

Dismissal of the action

25. An order that this action shall be dismissed against the Defendants without costs and with prejudice;
26. A declaration that, notwithstanding the foregoing, the Court shall retain its supervisory jurisdiction over the administration of this settlement;
27. An order and declaration that any Other Action commenced in Ontario by any Class Member shall be and is hereby dismissed against the Releasees, without costs and with prejudice;
28. Such further and other relief as this Honourable Court deems just.

The Honourable Justice Mr. P. Perell