



**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE

} FRIDAY THE 27<sup>th</sup>  
} DAY OF SEPTEMBER, 2013  
}

JUSTICE LEDERER

BETWEEN:

JOHN GOODWIN, JAMES McMAHON and JAMES SPRAY

Applicants

- and -

THE ELEMENTARY TEACHERS' FEDERATION OF ONTARIO, THE ONTARIO  
SECONDARY SCHOOL TEACHERS' FEDERATION DISTRICT 17, THE EXECUTIVE OF  
LOCAL 1310 OF THE CANADIAN UNION OF PUBLIC EMPLOYEES, THE ONTARIO  
PUBLIC SERVICE EMPLOYEES UNION and THE SIMCOE COUNTY DISTRICT SCHOOL  
BOARD

Respondents

**APPLICATION UNDER Rules 14.05(3)(a), (d) and (g) of the  
*Rules of Civil Procedure* and section 60 of the *Trustee Act***

**ORDER**

**THIS APPLICATION**, made by the Applicants for advice and directions of the Court regarding the distribution of Demutualization Funds held by the Simcoe County District School Board Insurance Trust was heard on September 18, 2013 in the presence of counsel for the Applicants and counsel for the Respondents, no-one opposing this Application. Further submissions were heard on September 27, 2013 in the presence of counsel for the Applicants and counsel for the Respondents, no-one opposing.

**ON READING** the Notice of Application, the Affidavit of John Goodwin, sworn September 11, 2013 and the exhibits thereto (the "Goodwin Affidavit"), the Affidavit of Aislinn Reid, sworn September 25, 2013 and the exhibits thereto (the "Reid Affidavit"), and on hearing the submissions made by counsel for the Applicants,

1. **THIS COURT ORDERS** that defined terms used in this Order shall have the meaning ascribed to them in the Goodwin Affidavit, unless otherwise indicated.

2. **THIS COURT ORDERS AND DECLARES** that in accordance with the 2006 Amendments, the Board is entitled to receive 32.9% of the Demutualization Funds (the "Board Share").

3. **THIS COURT ORDERS** that Covered Employees represented by the Unions and Non-Represented Covered Employees are entitled to receive 67.1% of the Demutualization Funds (the "Covered Employee Share") as follows:

- (a) 10% to employees represented by OPSEU;
- (b) 10% to employees represented by CUPE;
- (c) 4.0% to the non-represented employees;
- (d) 26.5% to employees represented by ETFO; and
- (e) 16.6% to employees represented by OSSTF.

4. **THIS COURT ORDERS** that subject to the conditions precedent set out in paragraph 5 of this Order, the Applicants are advised and directed to distribute the Board Share of the Demutualization Funds to the Board.

5. **THIS COURT ORDERS** that no distribution of the Board Share may take place unless and until the following conditions precedent have been fulfilled:

- (a) the Applicants have posted this Order on the website described in the Goodwin Affidavit, which posting is to occur within seven days of the issuance and entry of this Order;
- (b) the time for commencement of an appeal of this Order shall have passed, and no one having commenced, or having indicated their intention to commence an appeal; and
- (c) the Applicants shall have obtained a tax clearance certificate from Canada Revenue Agency in respect of any distribution of the Demutualization Funds to the Board, in form and substance satisfactory to the Applicants.

6. **THIS COURT ORDERS** that, pursuant to section 32(c) of the *Municipal Freedom of Information and Protection of Privacy Act*, the Board is authorized and permitted to provide to the Applicants and/or through the Applicants to the Actuaries retained by the Unions to administer the distribution of the Demutualization Funds a revised Board List including Social Insurance Numbers and certificate numbers for all individuals (the "Revised Board List"). The Applicants and the Actuaries shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to them solely for the purpose of facilitating the proposed distribution of the Demutualization Funds, and in particular for the purposes of calculating individual entitlements to the Demutualization Funds and administering the distribution of the Demutualization Funds. The Board and its directors, officers, trustees,

employees and agents shall be released and discharged from any and all liability in respect of any act or omission with respect to the provision of the Revised Board List.

7. **THIS COURT ORDERS** that the Applicants retain Eckler Ltd. ("Eckler") to calculate the individual entitlements of Non-Represented Covered Employees and to administer the distribution of the Non-Represented Covered Employees' share of the Demutualization Funds to the Non-Represented Covered Employees.

8. **THIS COURT ORDERS** that the Unions may direct their respective actuaries, and the Applicants may direct Eckler, to take the steps summarized at paragraph 12 of the Reid Affidavit, and in particular to:

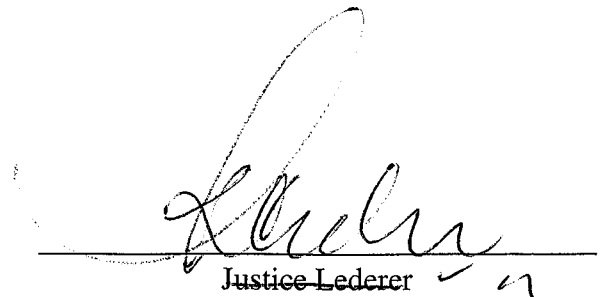
- (a) calculate the preliminary individual entitlements of Covered Employees to the Unions' respective shares of the Demutualization Funds; and
- (b) following the expiry of the Four Month Period, calculate the final individual entitlements of Covered Employees

all in accordance with the Demutualization Funds Distribution Formula attached hereto as Schedule "A", provided, however, that no distribution of the Covered Employee Share will take place pending further Order of this Court.

ENTERED AT / INSCRIPT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

SEP 30 2013

AS DOCUMENT NO.:  
A TITRE DE DOCUMENT NO.:  
PER / PAR:



Justice Lederer

A-K Fedson, Registrar  
Superior Court of Justice

**SCHEDULE "A"**



# **AGREEMENT REGARDING MUTUAL LIFE DEMUTUALIZATION PROCEEDS**

## **BETWEEN**

THE ADMINISTRATIVE TRUSTEES FOR THE INSURANCE TRUSTEES OF THE  
SIMCOE COUNTY BOARD OF EDUCATION

and

THE ELEMENTARY TEACHERS' FEDERATION OF ONTARIO, THE ONTARIO  
SECONDARY SCHOOL TEACHERS' FEDERATION DISTRICT 17, THE EXECUTIVE  
OF LOCAL 1310 OF THE CANADIAN UNION OF PUBLIC EMPLOYEES, THE  
ONTARIO PUBLIC SERVICE EMPLOYEES UNION and THE SIMCOE COUNTY  
DISTRICT SCHOOL BOARD

(collectively the "Parties")

### **Policy/Policies**

Group benefits insurance police number 4056, held with the former Mutual Life of Canada, which demutualized in 1999 and became the former Clarica Life Insurance Company, which in 2000 merged with the Sun Life Assurance Company of Canada.

### **Demutualization Date of Determination**

December 29, 1997

### **Participating Group (s)**

The Participating Groups are the following Parties:

- ◆ the Elementary Teachers' Federation of Ontario ("ETFO"),
- ◆ The Ontario Secondary Teachers' Federation District 17 ("OSSTF"),
- ◆ Local 1310 of the Canadian Union of Public Employees ("CUPE"),
- ◆ Local 330 of The Ontario Public Service Employees Union ("OPSEU") and
- ◆ The Simcoe County District School Board (the "Board")

### **General Criteria**

The Participating Groups' policies must have been in force and in good standing on Date of Determination

### **Demutualization Premium Qualifying Period**

January 1, 1988 to December 29, 1997

### **Qualifying Benefits**

The qualifying benefits provided under the policies are:

- ◆ Life Insurance,
- ◆ Accidental Death and Dismemberment
- ◆ Extended Health,
- ◆ Dental, and
- ◆ Long Term Disability

### **Participating Group's Share (Group's Share)**





The total number of Clarica common shares owned by the Participating Groups as of the date of demutualization July 15, 1999 was 167,597. The value of these shares will be allotted between the Participating Groups in accordance with July 1, 2006 amendment to the May 2, 2000 Joint Trust Agreement between the Participating Groups and as described below:

- a. Thirty-two point nine percent (32.9%) to be paid to the Board;
- b. Sixty-seven point one percent (67.1%) to be paid to employees or former employees of the Board and distributed among them, as follows:
  - i. Ten percent (10%) to employees represented by OPSEU;
  - ii. Ten percent (10%) to employees represented by CUPE;
  - iii. Four percent (4.0%) to the non-bargaining employees;
  - iv. Twenty-six point five percent (26.5%) to employees represented by ETFO;
  - v. Sixteen point six percent (16.6%) to employees represented by OSSTF.

The allocation between the non-bargaining unit employees and employees represented by ETFO and OSSTF was calculated on the basis of each group's proportional share of enrolment in Life Insurance as of the date the shares were received by The Trustees in or about July 1999, as per the July 1, 2006 amendment to the May 2, 2000 Joint Trust Agreement between the Participating Groups. Such allocation is based on data supplied by Sun Life, the insurer at the time, and has been jointly accepted by the undersigned consultants.

#### **Participating Member**

A Participating Member is an individual who was covered under one or more of the Participating Group policies for group insurance benefits during the Qualifying Period. If a Participating Member is deceased, Participating Member shall mean the surviving beneficiary or estate of the deceased Participating Member.

#### **Non-Participating Member**

A Non-Participating Member is an individual who did not have coverage under one or more of the Participating Group policies for group insurance benefits at any time during the Qualifying Period.

#### **Qualifying Benefit Share**

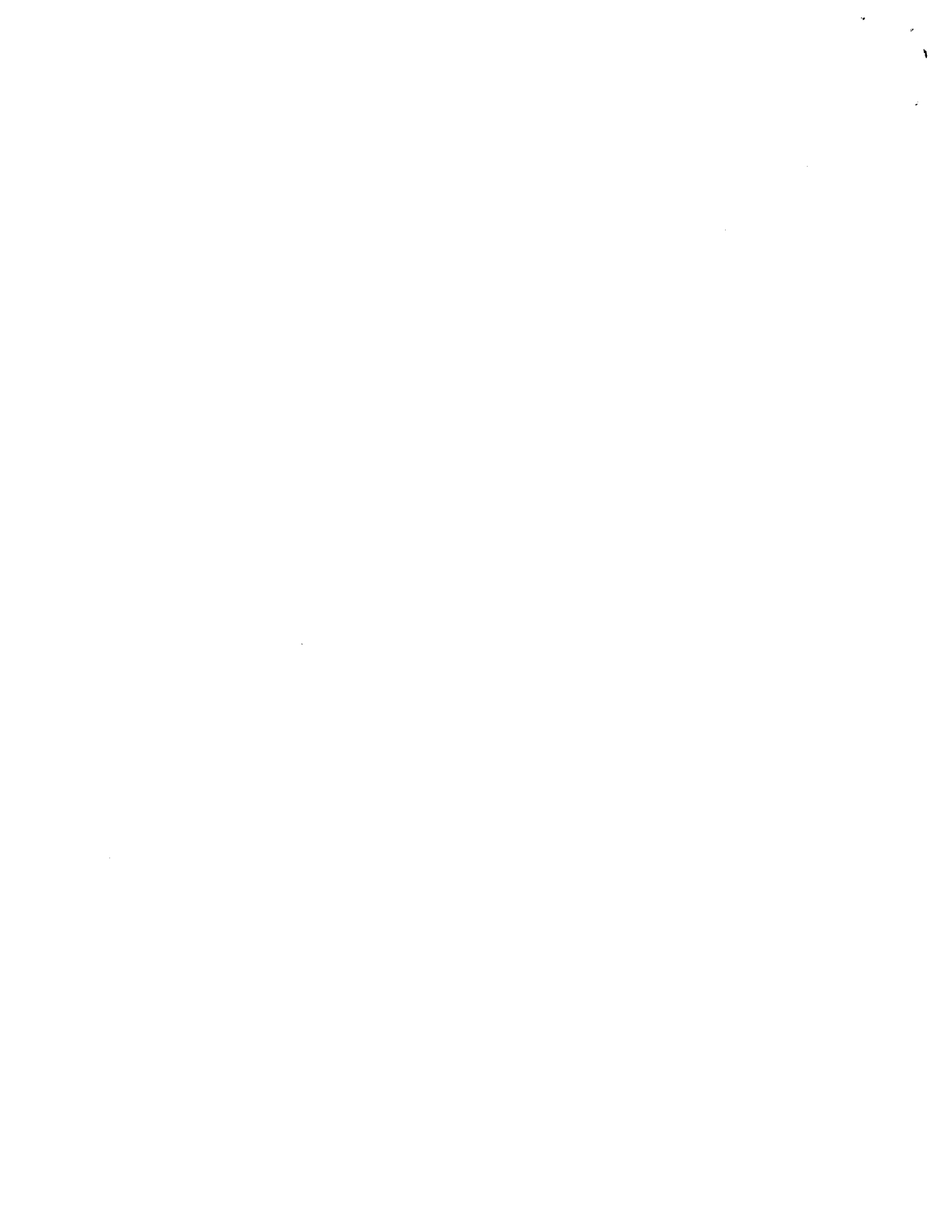
The Qualifying Benefit Share is the percentage of the Participating Group's Share related to the particular Qualifying Benefit.

Each Participating Group will determine how much of its share to assign to each of the Qualifying Benefits. This is because benefit eligibility and participation requirements varied among the Participating Groups (e.g. some coverages were mandatory and some were voluntary) and cost-sharing provisions for Qualifying Benefits also varied by Participating Group.

#### **Distribution of Participating Group Shares**

The total value of the Participating Group Shares, less the Contingency Fund to be distributed. Settlement made by each Participating Group to be cash payment to *Participating Members with left over funds after due diligence being put into the ongoing group insurance plans of the respective Participating Groups*

#### **Member Benefit Share**



The Member's Benefit Share for each Qualifying Benefit, is the percentage of the Qualifying Benefit Share that is awarded to each Participating Member.

For each Participating Member, the Member's Benefit Share is the pro-rata share of the time during the Qualifying Period that the Participating Member had coverage for the Qualifying Benefit to the aggregate of the times for all Participating Members during the Qualifying Period that they had coverage for the Qualifying Benefit.

**Member Total Share**

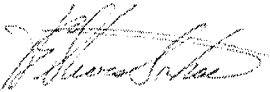
The Member's Total Share is the sum of all the Benefit Shares the member receives for each of the Qualifying Benefits.

**Member Value**

A Member's Value is equal to the Member's Total Share multiplied by the total dollar value of the Participating Group's Share.

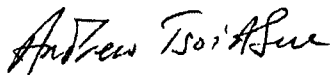
**Agreement**

We, the consultants engaged by one or more of the Participating Groups, confirm that we have discussed and are in agreement with the distribution formula described above in this agreement:



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Anne Stevenson-Schramm  
Principal  
Morneau Shepell Ltd.  
895 Don Mills Road, Suite 700  
One Morneau Sobeco Centre Toronto, Ontario M3C 1W3  
Tel: 416-383-6479  
Email: [astevensonschramm@morneaushepell.com](mailto:astevensonschramm@morneaushepell.com)



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Andrew Tsoi-A-Sue  
Principal  
Eckler Ltd.  
110 Sheppard Ave. E., Suite 900,  
Toronto ON M2N 7A3  
Tel: 416-696-3052  
Email: [atsoi-a-sue@eckler.ca](mailto:atsoi-a-sue@eckler.ca)



JOHN GOODWIN et al.  
Applicants and

THE ELEMENTARY TEACHERS'  
FEDERATION OF ONTARIO et al.  
Respondents

Court File No: CV-12461605

*Ontario*  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**ORDER**

OSLER, HOSKIN & HARCOURT LLP  
Box 50, 1 First Canadian Place  
Toronto, ON M5X 1B8

Alexander Cobb LSUC#: 45363F  
Tel: 416.862.5964  
Fax: 416.862.6666

Lawyers for the Applicants

F. 1108564

