

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
MR. JUSTICE PENNY

)
) MONDAY THE 8th
) DAY OF AUGUST, 2011
)

B E T W E E N:

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***

ORDER

THIS MOTION, made by the Moving Party, the Respondent, Ontario Public Service Employees' Union ("OPSEU") for advice and directions of the Court regarding the distribution of the Simcoe County District School Board Insurance Trust was heard this day in the presence of counsel for the Moving Party, the Respondent, OPSEU, no one opposing this motion.

ON READING the Motion Record and the Factum of the Moving Party, the Respondent, OPSEU, and on hearing the submissions made by counsel for the Respondent,

1. **THIS COURT ORDERS** that defined terms used in this Order shall have the meaning ascribed to them in the Anne Stevenson-Schramm Affidavit sworn on the sixth day of July, 2011 unless otherwise indicated;

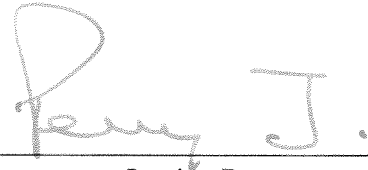
2. **THIS COURT ORDERS** that the Respondents shall distribute the surplus of the Insurance Trust according to the distribution formula ~~as~~ set out in the Affidavit of Anne Stevenson-Schramm; *Appendix A. MAP*

MAP 3. ~~**THIS COURT ORDERS** that the surplus distribution may not take place unless and until, any and all conditions precedent, as deemed appropriate by this Court, have been fulfilled, including but not limited to until NPT RicePoint has provided the services they have undertaken to provide prior to the distribution of the surplus, in the David Weir Affidavit, sworn the fifth day of July, 2011;~~

3. MAP 4. **THIS COURT ORDERS** that any act or omission of the Respondents undertaken pursuant to the opinion, advice or direction of this Court as set out in this Order shall be deemed to have been a proper discharge of their duties in respect of the Insurance Trust Assets, unless the Respondents are guilty of some fraud, wilful concealment or misrepresentation in obtaining the Court's opinion, advice or direction;

4. MAP 5. **THIS COURT ORDERS** that, without limiting the generality of paragraph 4, upon carrying out the distribution of the surplus in accordance with this order, the Respondents and their advisors Morneau Shepell and NPT RicePoint, shall be released and discharged from

any and all liability in respect of any act or omission with respect to the carrying out of the distribution of the surplus.



Justice Penny

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AS DOCUMENT NO.:
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18. Given the complications in attempting to determine how to distribute the surplus, including the imperfections in the data, I have proposed the following methodology for the surplus distribution :

- a. The formula for surplus distribution will be based on years of service under the plan as an OPSEU member multiplied by their "point total". That total will equal the members' value.
- b. A member's point total will be determined by participation in specific benefits over the participation period, as detailed below.
- c. The aggregate total of all members' values will be divided into the available surplus (while subtracting the estimated expenses and contingency fund) to determine the dollar value of each point.
- d. Because the actual retirement date of each member is unclear and the date they were added to the retiree division may not necessarily reflect the actual retirement date, a member's full period of participation in the plan both as an active member and a retired member has been included in their years of participation in the plan.
- e. Once the initial calculation is done, if a member's points represented less than \$20.00, the members' entitlement would be increased to \$20.00 and the available funds will be re-distributed based on the minimum payment criteria.
- f. The points will be assessed as follows to reflect the relative value of the benefit over time:


BENEFIT	POINTS
\$25,000 Life Insurance & AD&D:	0.5 point
\$100,000 Life Insurance & AD&D:	1.0 point
\$150,000 Life Insurance & AD&D:	1.5 points
\$200,000 Life Insurance & AD&D:	2.0 points
Dependent Life:	0.5 point

Long Term Disability:	1.0 point
Single Extended Health Care:	1.0 point
Single Dental:	1.0 point
Family Extended Health Care:	2.0 points
Family Dental:	2.0 points

This point distribution recognizes the relative cost of the benefits provided to each other but is not necessarily reflective of the actual historical changes in the rates paid as that information is not readily available over the full term of the Plan.

19. I make this affidavit in support of a motion to distribute the surplus of the Insurance Trust to the OPSEU members and for no other purpose.

SWORN BEFORE ME at the City of)
 Toronto, in the Province of Ontario,)
 this day of July, 2011)
 _____)
 A Commissioner, etc.


 ANNE STEVENSON-SCHRAMM

JOHN GOODWIN, et al.

THE ELEMENTARY TEACHERS' FEDERATION OF ONTARIO, et al.

Applicants

- and -

Respondents

Court File No. CV-09-383073

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at TORONTO

ORDER

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