

ONTARIO SUPERIOR COURT OF JUSTICE

TIM GOULD and ARCHIE LEACH

Plaintiffs

- and -

BMO NESBITT BURNS INC.; BLACKMONT CAPITAL INC.; CANACCORD CAPITAL CORPORATION; NATIONAL BANK FINANCIAL INC.; SPROTT SECURITIES INC.; TD SECURITIES INC.; BDO SEIDMAN, LLP; FMF CAPITAL GROUP LTD.; FMF CAPITAL LLC; FMF HOLDINGS, LLC; MICHIGAN FIDELITY ACCEPTANCE CORPORATION; PKF, LLC; THOMAS LITTLE; ATUL SHAH; MICHAEL HOFFMAN; EDAN KING; HOWARD MOROF; ROBERT PILCOWITZ; ERIC SLAVENS; and LORIE WAISBERG

Defendants

PROVINCE DE QUÉBEC	JEAN-MARIE		DUPUIS;
DISTRICT DE QUÉBEC	et	ROBERT	TAMILIA
(Recours Collectif)	Requérants		
COUR SUPÉRIEURE	c.		
NO : 200-06-000064-066			

FMF CAPITAL GROUP LTD; FMF CAPITAL LLC; FMF HOLDINGS LLC; MICHIGAN FIDELITY ACCEPTANCE CORPORATION c/o FMF CAPITAL GROUP LTD; PKF, LLC; BMO NESBITT BURNS INC.; BLACKMONT CAPITAL INC.; CORPORATION CANACCORD CAPITAL; FINANCIÈRE BANQUE NATIONALE INC.; VALEURS MOBILIÈRES SPROTT INC.; VALEURS MOBILIÈRES TD INC.; BDO SEIDMAN, LLP; THOMAS LITTLE; ATUL SHAH; MICHAEL HOFFMAN; EDAN KING; HOWARD MOROF; ROBERT PILCOWITZ; ERIC SLAVENS; et LORIE WAISBERG Intimés

STATE OF MICHIGAN OAKLAND COUNTY 6TH JUDICIAL CIRCUIT COURT

LIMBC ACCEPTANCE CORPORATION, ESTELLE ASPLER, REBECCA BEKHOR, MARK FISHER, STANLEY SAGAN, URSULA SAGAN and GIACINTO VENDITTI CIVIL ACTION 2005-070937-CZ
On Behalf of Themselves and All Others Similarly Situated No: 05-70937-CZ

Plaintiffs

FMF CAPITAL LLC, FMF CAPITAL GROUP LTD, FMF HOLDINGS LLC, PKF, LLC, MICHIGAN FIDELITY ACCEPTANCE CORPORATION, BDO SEIDMAN LLP, HARRIS NESBITT CORP., BMO NESBITT BURNS INC., NATIONAL BANK FINANCIAL INC., TD SECURITIES INC., CANACCORD CAPITAL CORP., BLACKMONT CAPITAL INC., SPROTT SECURITIES INC., ROBERT PILCOWITZ, EDAN KING, HOWARD MOROF, MICHAEL HOFFMAN, LORIE WAISBERG, ERIC SLAVENS, ATUL SHAH, THOMAS LITTLE, PHYLLIS CANE PILCOWITZ, HILARY KING, JOHN OR JANE DOE TRUSTEES OF THE PHYLLIS CANE PILCOWITZ REVOCABLE TRUST, JOHN OR JANE DOE TRUSTEES OF THE PHYLLIS CANE PILCOWITZ QUALIFIED ANNUITY TRUST, JOHN OR JANE DOE TRUSTEES OF THE HILARY KING REVOCABLE TRUST, JOHN OR JANE DOE TRUSTEES OF THE HILARY KING QUALIFIED ANNUITY TRUST, jointly and severally

Defendants

SETTLEMENT AGREEMENT

RECITALS

WHEREAS Tim Gould and Archie Leach (collectively, the “Ontario Plaintiffs”) commenced a proposed class proceeding against BMO Nesbitt Burns Inc. (“BMO”), Blackmont Capital Inc. (“Blackmont”), Canaccord Capital Corporation (“Canaccord”), National Bank Financial Inc. (“NBF”), Sprott Securities Inc. (“Sprott”), TD Securities Inc. (“TD”), BDO Seidman LLP (“BDO”), Thomas Little, and Atul Shah, and against FMF Capital Group Ltd. (the “Company”), FMF Capital LLC (“FMF Capital”), FMF Holdings LLC (“FMF Holdings”), Michigan Fidelity Acceptance Corporation (“MFAC”), PKF LLC (“PKF”), Robert Pilcowitz, Edan King, Howard Morof, Michael Hoffman, Eric Slavens, and Lorie Waisberg (collectively, the “FMF Defendants”), in the Ontario Superior Court of Justice (the “Ontario Court”) on January 25, 2006 (Court File No. 49348 CP) (the “Ontario Action”);

AND WHEREAS Jean-Marie Dupuis and Robert Tamilya (collectively, the “Petitioners”) have filed an amended petition for authorization to institute a class action (the “Petition”) in a proceeding being prosecuted on their behalf and against the FMF Defendants, BMO, Blackmont, Canaccord, NBF, Sprott, TD, BDO, Thomas Little and Atul Shah, in the Québec Superior Court (the “Québec Court” and together with the Ontario Court, the “Canadian Courts”) and filed on May 4, 2006 (File No. 200-06-000064-066) (the “Québec Action,” and together with the Ontario Action, the “Canadian Actions”);

AND WHEREAS LIMBC Acceptance Corporation, Estelle Aspler, Rebecca Bekhor, Mark Fisher, Stanley Sagan, Ursula Sagan and Giacinto Venditti (collectively, the “Michigan Plaintiffs” and, together with the Ontario Plaintiffs and the Petitioners, the “Plaintiffs”), have filed a Second Amended Complaint in a proposed class action being prosecuted on their behalf against the FMF Defendants, against Phyllis Cane Pilcowitz, Hilary King, the Trustees of the Phyllis Cane Pilcowitz Revocable Trust, the Trustees of the Phyllis Cane Pilcowitz Qualified Annuity Trust, the Trustees of the Hilary King Revocable Trust, and the Trustees of the Hilary King Qualified Annuity Trust (collectively, the “Transferee Defendants”), against BDO, and against BMO, Harris Nesbitt Corp. (now known as BMO Capital Markets Corp. (“Harris”)), Blackmont, Canaccord, NBF, Sprott, TD, Thomas Little and Atul Shah (collectively, the “Underwriter Defendants”; and, together with BDO and the FMF Defendants, the “Defendants”), in the Sixth Judicial Circuit Court for the State of Michigan (the “Michigan Court” and, together with the Canadian Courts, the “Courts”) and commenced on December 5, 2005 (File No. 05-70937-CZ) (the “Michigan Action” and, together with the Canadian Actions, the “Litigation”);

AND WHEREAS the Transferee Defendants are not parties to the Canadian Actions and have not attorned to the jurisdiction of the Canadian Courts;

AND WHEREAS Harris is not a party to the Canadian Action and has not attorned to the jurisdiction of the Canadian Courts.

AND WHEREAS the Plaintiffs believe that the claims asserted in the Litigation have merit; **and whereas** the Plaintiffs nonetheless recognize the expense and length of continued proceedings necessary to prosecute the Litigation through trial and appeals, and also have taken into account the uncertain outcome and the risk of any litigation, especially in complex actions such as the Litigation, as well as the delays inherent in such litigation; **and whereas** the Plaintiffs also are mindful of the inherent problems of proof under, and possible defences to, the securities law and common law violations asserted in the Litigation; **and whereas** the Plaintiffs

believe that the settlement provided for in this Settlement Agreement confers substantial benefits upon the Global Class Members (as defined below); **and whereas** Class Counsel (as defined below), having made a thorough investigation of the facts, have determined that the settlement provided for in this Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Plaintiffs and the Global Class Members;

AND WHEREAS the Defendants and the Transferee Defendants have denied and continue to deny each and all of the claims and contentions alleged by the Plaintiffs in the Litigation, have expressly denied and continue to deny all charges of wrongdoing or liability arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Litigation, have expressly denied and continue to deny that they have committed any violation of law or engaged in any wrongful act, whether as alleged or otherwise, including those described in the Released Claims (as defined below), have expressly denied and continue to deny, *inter alia*, the allegations that the Plaintiffs or the proposed Global Class Members have suffered damage, that the price of the IPSs was artificially inflated by reason of alleged misrepresentations, fraud, conspiracy, misconduct, or otherwise, or that the Plaintiffs or the proposed Global Class Members were harmed by the conduct as alleged in the Litigation; **and whereas** the Defendants have nonetheless concluded that further conduct of the Litigation would be protracted and expensive; **and whereas** the Defendants have therefore determined that it is desirable and beneficial to them and the Transferee Defendants that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement; **and whereas** the Defendants are entering into this Settlement Agreement solely because the settlement would eliminate the burden and expense of further litigation and to assist the Company to continue in business;

AND WHEREAS the Plaintiffs and the Defendants (each of the Plaintiffs and Defendants, individually, a "Party" and, collectively, the "Parties"), by and through their respective counsel of record, participated in arms-length negotiations and did agree to settle the Litigation as between them;

AND WHEREAS the Parties have agreed that, to carry out the full intent of their agreements to settle, they would enter into this Settlement Agreement concerning the Litigation for presentation to the Courts;

AND WHEREAS the Parties have agreed that, to carry out the full intent of their agreements to settle, the Transferee Defendants shall be third party beneficiaries of this Settlement Agreement and shall be entitled to and afforded all of the rights and benefits provided to them or on their behalf in this Settlement Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED by and among the Parties, by and through their respective counsel of record, that, subject to the Courts' approval, the Litigation and the Released Claims (as defined below) shall be finally and fully compromised, settled, and released, and the Litigation shall be dismissed with prejudice as to the Parties, the Related Parties (as defined below), and the Settling Class (as defined below), upon and subject to the terms and conditions of this Settlement Agreement, as follows.

A. DEFINITIONS

1. In this Settlement Agreement, in addition to the terms that are defined elsewhere herein, the following terms have the meanings specified below:
 - (a) “Approval Notices” means the Short Form Approval Notice and the Long Form Approval Notice, attached hereto as Schedules “J” and “K”, respectively.
 - (b) “Approval Orders” means the Ontario Approval Order and the Québec Approval Order, attached hereto as Schedules “G” and “H”, respectively.
 - (c) “Authorized Claimant” means any Settling Class Member who is eligible for compensation under the terms of this Settlement Agreement.
 - (d) “BDO Contribution” means the contribution of eight hundred thousand Canadian dollars (CAN\$800,000) to the Settlement Fund (as defined below) by BDO.
 - (e) “Class Counsel” means Michigan Class Counsel, Ontario Class Counsel, and Québec Class Counsel.
 - (f) “Claimant” means any Global Class Member who files a Claim Form within such time as is prescribed by this Settlement Agreement or as is otherwise prescribed by the Canadian Courts.
 - (g) “Claims Administrator” means the third-party firm selected at arm’s length by Class Counsel and appointed by the Canadian Courts to administer the Settlement Fund, and any employees of such firm.
 - (h) “Claims Deadline” means ninety (90) days from the publication of the Short Form Approval Notice.
 - (i) “Claim Form” means the claim form attached hereto as Schedule “M”, or such other form as is approved by the Canadian Courts, to enable an Authorized Claimant to claim compensation hereunder.
 - (j) “Class” and “Class Members” means the Class I Members and the Class II Members, individually and collectively, including the Exempt Québec Members (as defined below), but specifically excluding the Québec Class Members (as defined below).
 - (k) “Class I” and “Class I Members” means all Persons who purchased IPSs during the IPO, excluding the Defendants, the Transferee Defendants, members of the immediate families of the individual Defendants and Transferee Defendants, the directors, officers, subsidiaries, and affiliates of BDO, the corporate FMF Defendants, and the Transferee Defendants, the directors, senior officers above the office of vice president, subsidiaries, and affiliates of the Underwriter Defendants, any person, firm, trust, corporation, or entity in which any Defendant or Transferee Defendant has a controlling interest or which is related to, or affiliated with, any Defendant or Transferee Defendant, and the legal

representatives, agents, affiliates, heirs, successors-in-interest or assigns of any such excluded Person.

- (l) “Class I Period” means the period during which the IPO distribution of the IPSs occurred.
- (m) “Class II” and “Class II Members” means all Persons who purchased IPSs, or any of the securities represented by IPSs, over the Toronto Stock Exchange (“TSX”) during the Class II Period, excluding the Defendants, the Transferee Defendants, members of the immediate families of the individual Defendants and Transferee Defendants, the directors, officers, subsidiaries, and affiliates of BDO, the corporate FMF Defendants, and the Transferee Defendants, the directors, senior officers above the office of vice president, subsidiaries, and affiliates of the Underwriter Defendants, any person, firm, trust, corporation, or entity in which any Defendant or Transferee Defendant has a controlling interest or which is related to, or affiliated with, any Defendant or Transferee Defendant, and the legal representatives, agents, affiliates, heirs, successors-in-interest, or assigns of any such excluded Person.
- (n) “Class II Period” means the period from, and including, March 24, 2005 to, and including, November 15, 2005.
- (o) “Class Period” means the period commencing on the first day of the Class I Period and ending on the last day of the Class II Period, inclusive.
- (p) “Code” means the United States Internal Revenue Code of 1986, as amended.
- (q) “CPA” means the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, as amended.
- (r) “C.p.c.” means the *Code de Procédure Civile du Québec*, L.R.Q., c. C-25, as amended.
- (s) “Dismissal Order” means the Michigan Dismissal Order attached hereto as Schedule “I-2”.
- (t) “Distribution Protocol” means the plan governing distribution of the Settlement Fund to the Authorized Claimants, attached hereto as Schedule “B”, or such other plan of distribution as is approved by the Canadian Courts.
- (u) “Effective Date” means the earlier of: (i) the date upon which the ability to appeal, if an appeal lies therefrom, from both Approval Orders has expired without any appeal being taken, namely, thirty (30) days after the issuance of the Approval Orders; or (ii) if any appeals have been taken from either or both Approval Orders, the date upon which all such appeals are concluded by way of a Final (as defined below) order or judgment. For purposes of this paragraph, an “appeal” shall not include any appeal that concerns only the issue of Class Counsel’s fees and reimbursement of expenses.

- (v) “Exempt Québec Members” means persons who are precluded from being a member of a group in a class action under Article 999(d) of the C.p.c.
- (w) “Fee Applications” means the Ontario Fee Application and the Québec Fee Application.
- (x) “Fee Award” means the counsel fees and expense reimbursement awarded to Class Counsel by the Canadian Courts.
- (y) “Fee Orders” means the orders of the Canadian Courts approving the Fee Award.
- (z) “Final”, when used in relation to a court order or judgment, means that all rights of appeal from such order or judgment have expired or have been exhausted and the ultimate court of appeal to which an appeal (if any) was taken has upheld such order or judgment.
- (aa) “FMF Contribution” means the contribution of twenty-one million United States dollars (US\$21,000,000) to the Settlement Fund (as defined below) by certain of the FMF Defendants.
- (bb) “Global Class” and “Global Class Members” means the Class Members and the Québec Class Members.
- (cc) “IPO” means the initial public offering of the Company’s IPSs (as defined below) and all events, filings, contracts, acts, and omissions to act by any Defendant or Transferee Defendant or by his, her, or its Related Parties in connection with, or in contemplation of, that initial public offering or any other offering of securities by the FMF Defendants.
- (dd) “IPSs” means the Company’s income participating securities.
- (ee) “Long Form Approval Notice” means the form of notice attached hereto as Schedule “K”, or such other form of notice as may be approved by the Canadian Courts for the purpose of providing Global Class Members with detailed information in regard to: (i) the certification of the Ontario Action and the granting of the Petition in the Québec Action, in each case for settlement purposes only, and the dismissal of the Michigan Action; (ii) the Canadian Courts’ approval of the settlement provided for in this Settlement Agreement; and (iii) the Canadian Courts’ approval of the Fee Applications.
- (ff) “Michigan Class Counsel” means the Ontario-based law firm of Juroviesky and Ricci ^{LLP}, as lead counsel, and the Michigan-based law firm of Frank, Haron, Weiner and Navarro ^{PLC}, as local counsel to the Michigan Plaintiffs.
- (gg) “Ontario Approval Order” means the order attached hereto as Schedule “G”, or such other order as may be issued by the Ontario Court for the purposes of: (i) certifying the Ontario Action for settlement purposes only; (ii) approving the settlement provided for in this Settlement Agreement; (iii) dismissing the Ontario Action with prejudice; and (iv) appointing the Claims Administrator.

- (hh) “Ontario Class Counsel” means the Ontario-based law firm of Siskinds ^{LLP}, counsel to the Ontario Plaintiffs.
- (ii) “Ontario Class Counsel Account” means an interest-bearing trust account established by Ontario Class Counsel by investing the Settlement Fund (as defined below) in a liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule 1 bank, and held and maintained in trust by Ontario Class Counsel in accordance with the terms of this Settlement Agreement, and which Ontario Class Counsel has identified to Defendants at least five (5) days prior to the dates on which any contribution by Defendants is due under the terms of this Settlement Agreement.
- (jj) “Ontario Fee Application” means the application made jointly by Ontario Class Counsel and Michigan Class Counsel to the Ontario Court for the Ontario Court’s approval of Ontario and Michigan Class Counsel’s fees and expense reimbursements, including the fees of their respective experts and consultants.
- (kk) “Ontario Pre-Approval Order” means the order attached hereto as Schedule “D”, or such other order as may be issued by the Ontario Court, for the purpose of approving the Plan of Notice and the Pre-Approval Notice.
- (ll) “Opt Out Deadline” means the date falling thirty (30) days after the publication of the Short Form Approval Notice or such other date set by the Courts.
- (mm) “Opt Out Form” means the opt out coupon which forms part of the Claim Form, or such other coupon as is approved by the Canadian Courts, for the purpose of enabling a Global Class Member to exclude himself, herself, or itself from the Class.
- (nn) “Opt Out Side Letter” means a letter signed by counsel for the Parties stating the Opt Out Thresholds (as defined below).
- (oo) “Opt Out Thresholds” means the amount or amounts of IPSs identified in the Opt Out Side Letter, which, if exceeded, establish an option to terminate this Settlement Agreement in accordance with paragraph H of this Settlement Agreement.
- (pp) “Orders” means the Approval Orders, the Pre-Approval Orders, the Fee Orders, and any other orders entered by the Courts to effect the terms of this Settlement Agreement.
- (qq) “Person” means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and their spouses, heirs, predecessors, successors, representatives, or assignees.

- (rr) “Plaintiffs” means the Michigan Plaintiffs, the Ontario Plaintiffs, and the Petitioners, and each of their past, present, and future directors, officers, members, managers, partners, employees, consultants, insurers, co-insurers, reinsurers, agents, shareholders, trustees, beneficiaries, attorneys, accountants, auditors, subsidiaries, affiliated entities, parent entities, heirs, executors, personal and legal representatives, successors, and assigns, whether by merger, purchase, consolidation, amalgamation, or otherwise.
- (ss) “Plan of Notice” means the Plan of Notice attached hereto as Schedule “C”, or such other plan as may be approved by the Canadian Courts for the purpose of providing adequate notice to the Global Class Members of: (i) the hearings concerning the certification of the Ontario Action and the granting of the Petition in the Québec Action, in each case for settlement purposes only; (ii) the hearings of the Plaintiffs’ motions for the Canadian Courts’ approval of the settlement provided for in this Settlement Agreement; (iii) the Canadian Courts’ approval of the settlement provided for in this Settlement Agreement; and (iv) the terms of this Settlement Agreement.
- (tt) “Pre-Approval Notice” means the form of notice attached hereto as Schedule “F”, or such other form of notice as may be approved by the Canadian Courts, for the purpose of providing notice to the Global Class Members of the hearings of the Plaintiffs’ motions for: (i) the certification of the Ontario Action and the granting of the Petition, in each case for settlement purposes only; (ii) the approval by the Canadian Courts of the settlement provided for in this Settlement Agreement; and (iii) the Canadian Courts’ approval of the Fee Applications.
- (uu) “Pre-Approval Orders” means the Ontario Pre-Approval Order and the Québec Pre-Approval Order, attached hereto as Schedules “D” and “E”, respectively.
- (vv) “QSF” means a Qualified Settlement Fund under Section 468B of the Code and the QSF Regulations (as defined below).
- (ww) “QSF Fund” means that portion of the FMF Contribution paid by MFAC and designated by MFAC as a QSF, and with respect to which a grantor trust election shall have been made under the QSF Regulations (as defined below).
- (xx) “QSF Regulations” means United States Treasury Regulations 1.468B-1 through 1.468B-5.
- (yy) “Québec Approval Order” means the form of order attached hereto as Schedule “H”, or such other order as may be issued by the Québec Court for the purposes of: (i) granting the Petition for settlement purposes only; (ii) approving the settlement provided for by this Settlement Agreement; and (iii) appointing the Claims Administrator.
- (zz) “Québec Class” and “Québec Class Members” means the Class I Members and the Class II Members, individually and collectively, who reside in the Province of Québec other than the Exempt Québec Members.

- (aaa) "Québec Class Counsel" means the Québec-based law firm of Siskinds Desmeules S.E.N.C.R.L.
- (bbb) "Québec Fee Application" means Québec Class Counsel's application to the Québec Court for the Québec Court's approval of Québec Class Counsel's fees and expense reimbursements, including the fees of their experts and consultants.
- (ccc) "Québec Pre-Approval Order" means the form of order attached hereto as Schedule "E", or such other order as may be issued by the Québec Court for the purposes of approving the Plan of Notice and the Pre-Approval Notice.
- (ddd) "Related Party" and "Related Parties" means any of (i) the immediate family members of the individual Defendants and all corporations, limited liability companies, trusts, and partnerships owned or controlled directly or indirectly by the Defendants or their immediate family members or their trusts; (ii) the Transferee Defendants; (iii) BDO Seidman, LLC, BDO Dunwoody, LLC, and Trenwith Valuation LLC; (iv) the parent entities, affiliates or subsidiaries of such corporations, limited liability companies, trusts, trustees, beneficiaries, and partnerships listed in clauses (i), (ii), and (iii) of this paragraph; (v) all past, present and future directors, officers, members, managers, employees, partners, consultants, insurers, co-insurers, reinsurers, agents, shareholders, trustees, beneficiaries, attorneys, accountants, auditors, heirs, executors, and personal and legal representatives of the Persons listed in clauses (i), (ii), (iii), and (iv) of this paragraph; and (vi) the immediate family members, estates, administrators, predecessors, successors, parents, subsidiaries, divisions, and joint ventures of the Persons listed in clauses (i), (ii), (iii), (iv), and (v) of this paragraph, as well as each of their successors and assigns, whether by merger, purchase, consolidation, amalgamation, or otherwise.
- (eee) "Relation Back Election" means the Section 1.468(B)-1 Relation Back Election attached to this Settlement Agreement as Schedule "L" to be jointly executed by certain of the FMF Defendants, Ontario Class Counsel, and any other Party as may be necessary, to cause the QSF Fund to qualify as a QSF as of the date that the funds in the QSF Fund are paid to Ontario Class Counsel.
- (fff) "Released Claims" means all claims, including Unknown Claims (as defined below), demands, rights, liabilities, actions and causes of action, damages, losses, obligations, judgments, suits, matters, and issues of every nature and description whatsoever, known or unknown, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, matured or un-matured, whether or not concealed or hidden, that had been, have been, could have been, or may in the future be, asserted in the Litigation or in any court, tribunal, or proceeding in Canada, the United States, or anywhere else (including but not limited to any claims arising under Federal, provincial, or state law in Canada, the United States, or anywhere else), including, without limitation, all claims alleged or which could have been alleged in the Litigation and all claims for breach of contract, indemnity and/or contribution, negligence, gross negligence, breach of duty of care and/or breach of any other duty (including any fiduciary duty), fraud,

securities fraud, misrepresentation, fraudulent misrepresentation, negligent misrepresentation, unjust enrichment, restitution, disgorgement, rescission, breach of trust, false advertising, concert of action, civil conspiracy, willful or wanton misconduct or any other violation of any Federal, provincial, or state statutes, rules, regulations or common law in Canada, the United States, or anywhere else, by any Party or Related Party against any other Party or Related Party, which have arisen, could have arisen, arise now or hereafter arise out of, or relate in any manner to, the allegations, facts, events, transactions, acts, conduct, occurrences, statements, representations, misrepresentations, omissions, obligations, disclosures, nondisclosures, or any other matter, thing, or cause whatsoever, or any series thereof, embraced, involved, alleged, set forth in or otherwise related, directly or indirectly, to the IPO, the IPSS, the Litigation, or the prosecution, settlement, or resolution of the Litigation.

- (ggg) “Released Persons” means the Defendants and the Related Parties.
- (hhh) “Settlement Agreement” means this agreement, including the recitals and schedules hereto attached.
- (iii) “Settlement Fund” means: (a) the aggregate sum of three monetary contributions: (i) the FMF Contribution; (ii) the Underwriters’ Contribution (as defined below); and (iii) the BDO Contribution, plus (b) the interest accrued from the date upon which the Defendants directly, or by and through their counsel, pay their contributions into the Ontario Class Action Account until disbursed in the manner provided in this Settlement Agreement.
- (ijj) “Settling Class” and “Settling Class Members” means all Global Class Members who do not opt out from the Litigation prior to the Opt Out Deadline, and their successors, heirs, executors, administrators, and assigns, and their respective counsel, experts, and consultants.
- (kkk) “Short Form Approval Notice” means the form of notice attached hereto as Schedule “J”, or such other form of notice as is approved by the Canadian Courts, for the purpose of providing summary information to the Global Class Members in regard to: (i) the certification of the Ontario Action and the granting of the Petition in the Quebec Action, in each case for settlement purposes only, and the dismissal of the Michigan Action; (ii) the Canadian Courts’ approval of the settlement provided for in this Settlement Agreement; and (iii) the Canadian Courts’ approval of the Fee Applications.
- (lll) “Taxes” means any present, future, or estimated tax payable under the *Income Tax Act (Canada)* and/or the Code, and all Federal, provincial, state, municipal, country, local, foreign, territorial, and other taxes, including withholding taxes, imposts, rates, levies, assessments and government fees, charges or dues lawfully levied, assessed, or imposed by the relevant governmental authorities, and includes interest, fines and penalties with respect thereto.

(mmm)“Underwriters’ Contribution” means the contribution of three million seven hundred and fifty thousand Canadian dollars (CAN\$3,750,000) to the Settlement Fund by the Underwriter Defendants.

(nnn) “Unknown Claims” shall collectively mean all claims, demands, rights, liabilities, and causes of action of every nature and description which the Plaintiffs or any Settling Class Member do not know or suspect to exist in his, her or its favour at the time of the release of the Released Persons, which, if known by him, her, or it, might have affected his, her, or its settlement with, and release of, the Released Persons, or might have affected his, her, or its decision not to object to this settlement. The Plaintiffs shall expressly waive, and each of the Settling Class Members shall be deemed to have waived, and by operation of the Approval Orders shall have expressly waived, any and all provisions, rights, and benefits conferred by any law of any state, territory or province of Canada, the United States or anywhere else, or principle of common law, which provides that a general release does not extend to claims which a creditor or releasor does not know or suspect to exist in his, her, or its favour at the time of the release, which, if known by him, her, or it, might have materially affected his, her, or its settlement with the Released Persons. The Plaintiffs and the Global Class Members may hereinafter discover facts in addition to, or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims, but the Plaintiffs shall expressly fully, finally, and forever settle and release, and each Settling Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Approval Orders, shall have, fully, finally, and forever settled and released, any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Plaintiffs acknowledge, and the Settling Class Members shall be deemed by operation of the Approval Orders to have acknowledged, that the foregoing waiver was separately bargained by the Defendants and is a key element of the settlement of which this release is a part.

B. SETTLEMENT BENEFITS

The Settlement Fund

1. The BDO Contribution, the FMF Contribution, and the Underwriters’ Contribution shall be paid in full and final settlement of the Released Claims, including all claims for legal fees, costs, interest, disbursements, settlement, Taxes, administration, mailing, and any other costs involved in the full and final completion and implementation of the settlement process.
2. No part of the FMF Contribution shall be furnished or paid by the Company or any of its subsidiaries, except that the FMF Contribution may be furnished or paid, in whole or in part, from the proceeds of any insurance policy or policies of the Company or

any of its subsidiaries. The remainder of the FMF Contribution shall be paid by MFAC.

3. Within five (5) business days following the execution of this Settlement Agreement, the Underwriter Defendants shall pay the Underwriters' Contribution into the Ontario Class Counsel Account, the FMF Defendants shall pay the FMF Contribution into the Ontario Class Counsel Account, and BDO shall pay the BDO Contribution into the Ontario Class Counsel Account. Immediately upon payment of the FMF Contribution into the Ontario Class Counsel Account, Ontario Class Counsel shall execute and deliver to the FMF Defendants' counsel the Section 1.468(B)-1 Relation Back Election attached to this Settlement Agreement as Schedule L.
4. Ontario Class Counsel shall hold the Settlement Fund in the Ontario Class Counsel Account until the Claims Administrator is appointed or this Settlement Agreement is terminated. Unless this Settlement Agreement is terminated before the appointment of the Claims Administrator, upon the appointment of the Claims Administrator, Ontario Class Counsel shall pay the Settlement Fund to the Claims Administrator for deposit into an account as described in paragraph F.2 below. If this Settlement Agreement is terminated before the appointment of the Claims Administrator, Ontario Class Counsel will repay the Settlement Fund to each of the Defendants who contributed to the Settlement Fund in proportion to their respective contributions to the Settlement Fund, less only reasonable bank administrative costs charged by the financial institution holding the Ontario Class Counsel Account (applied pro rata in proportion to the Defendants' respective contributions to the Settlement Fund). For each calendar year (or any portion thereof) in which the Ontario Class Counsel Account is maintained, Ontario Class Counsel shall provide to Defendants, within 45 days after the end of each such calendar year: (i) a summary of all costs and expenses, including Taxes, if any, paid or incurred for such year in connection with the Ontario Class Counsel Account and (ii) the total of all interest earned for each such year on funds paid into the Ontario Class Counsel Account.
5. Subject only to the approval of the Canadian Courts, the proportions in which the Settlement Fund shall be allocated among and within the Settling Class shall be in accordance with the Distribution Protocol attached hereto as Schedule B.

Currency

6. The Settlement Fund shall be held in Canadian currency.
7. If the FMF Defendants' contribution to the Settlement Fund is paid in United States currency, Ontario Class Counsel shall cause that contribution to the Settlement Fund to be converted into Canadian currency immediately upon receipt, which expense (if any) will be borne by Ontario Class Counsel and the Settling Class Members.
8. If the Settlement Fund must be returned to the Defendants pursuant to sections H or J of this Settlement Agreement, then Ontario Class Counsel and/or the Claims Administrator, as the case may be, shall be obliged to return to the Defendants their respective contributions to the Settlement Fund, less any deductions expressly permitted by this Settlement Agreement, and shall pay to the Defendants the interest

accrued on their respective contributions, in Canadian currency. Neither Ontario Class Counsel nor the Plaintiffs shall have any liability whatsoever to the FMF Defendants for any loss they may incur as a result of any intervening fluctuations in the Canada/U.S. dollar exchange rate.

Corporate Governance

9. The Litigation does not allege that any provision in any of the Company's governance documents caused or contributed to any of the claims stated in the Litigation or requires any change, and the Company and the Company's directors expressly deny that any provision in any of the Company's governance documents requires any change. Nevertheless, the Company agrees to adopt, and the Company's directors agree to cause the Company to adopt, certain technical, clarifying changes to the Company's (i) Mandate of the Board of Directors and (ii) Audit Committee Charter. These changes are set forth in a side letter signed contemporaneously with the execution of this Settlement Agreement (the "Corporate Governance Side Letter"). These changes will be adopted at or prior to the first Annual Meeting of the Company's securityholders occurring after the right to terminate this Settlement Agreement, pursuant to sections H or J herein, is deemed to have been vacated or has expired without being exercised, provided, however, that in the event that that Annual Meeting occurs less than four (4) months after the right to terminate this Settlement Agreement has been vacated or expired without being exercised, then the Company will adopt these changes at or prior to the second Annual Meeting of the Company's securityholders occurring after the right to terminate this Settlement Agreement has been vacated or has expired without being exercised.

Pending Costs and Sanctions Requests

10. The Parties agree to withdraw, upon the Effective Date of this Settlement Agreement or within a reasonable time thereafter, any and all currently pending requests in the Litigation for costs and/or sanctions, and agree that, if this Settlement Agreement receives Final approval, they will not seek enforcement of any award of costs and/or sanctions that has been, or may be, issued before the withdrawal of the related requests for costs and/or sanctions.

C. PROHIBITION AGAINST RETALIATORY ACTION

The FMF Defendants shall take no retaliatory action whatsoever against any current or former employee, independent contractor, or client of any FMF Defendant who cooperated with the Plaintiffs or Class Counsel in the prosecution of the Litigation (a "Cooperating Person") based on the fact that the Cooperating Person cooperated with the Plaintiffs or Class Counsel in their prosecution of the Litigation. As used herein, "retaliatory action" includes, but is not limited to, threatening or commencing legal proceedings that are based wholly or partly upon an alleged breach of a contractual, common law, or equitable duty of confidentiality.

D. RELEASES

1. Upon the Effective Date, the Parties and the Settling Class Members shall have, and by operation of the Approval Orders shall be deemed to have, fully, finally, and forever released, relinquished, and discharged all Released Claims as against every

one of the Released Persons. By entering into this Settlement Agreement, each of the Parties represents and warrants that he, she, or it has not assigned, hypothecated, transferred, or otherwise granted any interest in the Released Claims to any Person.

2. Upon the Effective Date, the Parties and the Settling Class Members shall be permanently barred and enjoined from commencing or prosecuting in any jurisdiction or forum any action against the Released Persons related to, or based on, the Released Claims. This Settlement Agreement shall operate conclusively as an estoppel in the event of any claim, action, complaint, or proceeding brought by any Party or Settling Class Members against the Released Persons with respect to the Released Claims. This Settlement Agreement may be pleaded in the event any claim, action, complaint, or proceeding is brought, and it may be relied upon for the purpose of an application to dismiss the claim, action, complaint, or proceeding on a summary basis, and this Settlement Agreement and the Approval Orders shall be a full defence to any such action. No Party, Settling Class Member, or Related Party may seek to avoid the application of this Settlement Agreement to the Released Persons based on a lack of privity or mutuality.
3. In the event that any Party or Settling Class Member initiates or seeks to prosecute, in any action or proceeding of any kind, including an arbitration, a Released Claim against any of the Released Persons, the Released Persons against whom the Released Claim is asserted shall be entitled to recover from that Party or Settling Class Member the Released Persons' actual costs, including actual legal fees, on a full indemnity basis, in successfully defending the action.
4. In the event that any Person asserts against one or more of the Released Persons in any forum any claim or cause of action arising out of, or related to, the Released Claims, the Plaintiffs and the Settling Class Members hereby expressly waive and disclaim in favour of the Released Persons any right, claim, or entitlement to receive any compensation or funds derived from, or otherwise participate in, any recovery or award against the Released Persons in such action.

E. COURT APPROVAL OF THE SETTLEMENT AGREEMENT

Best Efforts

1. The Parties shall use their best efforts to effectuate the terms of this Settlement Agreement and to secure the Courts' prompt, complete and final dismissal with prejudice of the Litigation. The Parties agree to stay all proceedings and actions in the Litigation, including all discovery, other than proceedings provided for in this Settlement Agreement until the Effective Date or the termination of this Settlement Agreement, whichever occurs first.

Pre-Approval Notice

2. Promptly following execution of the Settlement Agreement, and on behalf, respectively, of the Class and the Québec Class, Ontario Class Counsel and Québec Class Counsel shall file motions with the Ontario and Québec Courts for their approval of the Plan of Notice and Pre-Approval Notice, and shall seek to obtain the

Pre-Approval Orders, in the form of the attached Schedules "D" and "E", respectively.

3. Class Counsel, shall pay all of the costs and expenses reasonably and actually necessary in connection with establishing the Ontario Class Action Account and locating and providing notices to Global Class Members, and shall withhold and/or pay any Taxes required by law to be paid to any governmental authority (collectively, the "Pre-Approval Expenses"). The Pre-Approval Expenses may be paid from the Settlement Fund provided that Class Counsel obtains prior approval for such payments from Defendants' counsel, which approval shall not be unreasonably withheld, or from the Ontario Court following notice to Defendants' counsel. Any request for payment of Pre-Approval Expenses shall include a detailed accounting and supporting documentation of all Pre-Approval Expenses for which Class Counsel seeks reimbursement.

Motions for Approval

4. Subject to the Canadian Courts' approval, and for purposes of this Settlement Agreement only, the Defendants will consent to: (a) the certification of the Ontario Action pursuant to sections 2, 5 and 6 of the CPA; and (b) granting the Petition pursuant to articles 1002 to 1006 of the C.p.c.
5. The Defendants do not consent to certification of the Class or the Québec Class for any purpose other than to effectuate the settlement of the Litigation. If this Settlement Agreement is terminated pursuant to its terms or the Effective Date for any reason does not occur, any orders certifying the Class and the Québec Class and all preliminary and/or final findings regarding the Courts' certification orders shall be automatically set aside on consent upon notice to the Court of the termination of the Settlement Agreement or the failure of the Effective Date to occur, and the Litigation shall proceed as though the Class and the Québec Class had never been certified and such findings had never been made, without prejudice to any Party to either request or oppose class certification on any basis.
6. On behalf, respectively, of the Class Members and the Québec Class Members, Ontario Class Counsel and Québec Class Counsel shall seek Approval Orders from the Ontario and Québec Courts, substantially in the form of Schedules "G" and "H", respectively, attached hereto. Upon approval, Class Counsel shall provide notice, and be reimbursed therefore, in accordance with the terms of the Approval Orders and this Settlement Agreement.
7. To the extent required by law, this Settlement Agreement, the Distribution Protocol, the Claim Form, the Opt Out Form, the Plan of Notice, the Pre-Approval Notice, the Long Form Approval Notice, and the Short Form Approval Notice shall be translated into the French language for submission to the Canadian Courts and for the issuance of the Québec Pre-Approval Order and the Québec Approval Order. The cost of such translations shall be paid for out of the Settlement Fund.
8. Upon execution of this Settlement Agreement, counsel for the FMF Defendants and the Michigan Plaintiffs shall file in the Michigan Action, and notice for hearing, if

necessary, and the remaining Parties hereby waive notice and entry of, an Order approving the establishment of the QSF Fund in accordance with the terms of this Settlement Agreement, substantially in the form of Schedule "I-1", attached hereto. The FMF Defendants may, if necessary, file a motion in the Michigan Court for entry of the Order or to otherwise establish the QSF Fund as a QSF, and the remaining Parties shall not oppose such a motion. The FMF Defendants covenant that they have obtained independent tax advice and counsel with respect to the QSF and all tax positions related thereto and have not sought nor received advice or counsel on these tax positions from counsel for any other Party. The FMF Defendants further covenant that the failure of the QSF Fund to be treated as a QSF will not affect this Settlement Agreement and the settlement set forth herein. The FMF Defendants other than the Company, Capital and Holdings shall, and hereby do, indemnify and hold harmless the Settlement Fund, Class Counsel, Plaintiffs, and the Claims Administrator from any Taxes imposed under the Code or administrative cost or expense incurred by them as a result of such designation or failure of such designation.

9. Upon the Effective Date, counsel for those parties in the Michigan Action shall file in the Michigan Action, and, if necessary, notice for hearing, a stipulated Order dismissing the Michigan Action with prejudice and without costs to any Person. The Order shall be substantially in the form of Schedule "I-2", attached hereto.

F. ADMINISTRATION OF THE SETTLEMENT FUND

1. The Claims Administrator shall administer and distribute the Settlement Fund in accordance with the Distribution Protocol and, with respect to the Québec Class Members, in accordance with the Regulation respecting the percentage withheld for the *Fonds d'aide aux recours collectifs* (the "*Fonds d'Aide*").
2. The Claims Administrator shall deposit, and hold and maintain in trust, the Settlement Fund in 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 pending distribution in accordance with the terms of this Settlement Agreement under the supervision and jurisdiction of the Courts. The account shall be established and maintained in a manner that minimizes transactional costs and risks and maximizes the amount available for distribution.
3. The Settlement Fund shall be applied as follows:
 - (a) to pay to Class Counsel the Fee Awards;
 - (b) to reimburse Class Counsel for all Pre-Approval Expenses properly supported by Pre-Approval Expense Documentation.
 - (c) to pay all of the costs and expenses reasonably and actually incurred in connection with providing all notices, locating Global Class Members for the sole purpose of providing notice to them, soliciting Global Class Members to submit a

Claim Form, assisting with the filing of Claim Forms and Opt Out Forms, administering and distributing the Settlement Fund to Authorized Claimants and processing Claim Forms and Opt Out Forms, including the notice expenses reasonably and actually incurred by brokerage firms (excluding notice expenses incurred by the Defendants or the Related Parties, who shall not be eligible for any payment of notice expenses under this subparagraph) in connection with the provision of notice of this Settlement Agreement to Global Class Members; provided, however, that the Claims Administrator receives any invoice on account of such expenses on or before the Claims Deadline and such invoice requests reimbursement for expenses not exceeding: (i) ten Canadian dollars (CAN\$10.00) per notified Global Class Member; or (ii) five hundred Canadian dollars (CAN\$500.00) per brokerage firm, whichever is less; and provided further that the Claims Administrator shall not pay in excess of five thousand Canadian dollars (CAN\$5,000.00) in the aggregate to all brokerage firms that submit such invoices and, if the aggregate amount of such invoices exceeds five thousand Canadian dollars (CAN\$5,000.00), then the Claims Administrator shall distribute the sum of five thousand Canadian dollars (CAN\$5,000.00) to such brokerage firms on a *pro rata* basis;

- (d) to pay any Taxes required by law to be paid to any governmental authority, in accordance with paragraphs F.9, F.10 and F.11, below; and
 - (e) to distribute the balance of the Settlement Fund to Authorized Claimants as stipulated by this Settlement Agreement, the Distribution Protocol and the Canadian Courts.
4. Following the Claims Deadline, and in accordance with the terms of this Settlement Agreement, the Distribution Protocol, and such further approval and further order(s) of the Courts as may be necessary or as circumstances may require, the Claims Administrator shall distribute the Settlement Fund to Authorized Claimants.
 5. Each Person claiming to be an Authorized Claimant shall be required to submit to the Claims Administrator, on or before the Claims Deadline, a completed Claim Form in the form of Schedule M, attached hereto, signed and represented to be true, and supported by such documents as are specified in the Claim Form .
 6. If the Claims Administrator requires and requests additional information from a Person claiming to be an Authorized Claimant, that Person will have thirty (30) days from the date of the communication or correspondence to respond to such request. All Persons who do not respond to requests for information in a timely manner shall be forever barred from receiving any payments pursuant to this Settlement Agreement and the settlement set forth herein, but will in all other respects be subject to and bound by the provisions of this Settlement Agreement, the releases contained herein, and the Approval Orders.
 7. Except as otherwise ordered by the Courts, all Global Class Members who fail to timely submit a Claim Form on or before the Claims Deadline, or prior to such other date as may be ordered by the Courts, shall be forever barred from receiving any payments pursuant to this Settlement Agreement and the settlement set forth herein,

but will in all other respects be subject to, and bound by, the provisions of this Settlement Agreement, the releases contained herein, and the Approval Orders.

8. If there is any balance remaining in the Settlement Fund after one hundred eighty (180) days from the date of distribution of the Settlement Fund (whether by reason of tax refunds, un-cashed cheques or otherwise), Class Counsel shall, if feasible, reallocate such balance among Authorized Claimants in an equitable and economic fashion. Any balance below CAN\$40,000.00 which still remains in the Settlement Fund thereafter shall be donated as follows: 38% to the Small Investor Protection Association, 38% to the Canadian Cancer Society, and 24% to the *Fonds d'Aide*.
9. Taxes, if any, arising with respect to the Settlement Fund and expenses and costs incurred in connection with the administration of the settlement provided for in this Settlement Agreement shall be paid from the Settlement Fund, and payment thereof shall be the responsibility of the Claims Administrator.
10. Taxes, if any, shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid out of the Settlement Fund without prior order from the Courts, and the Claims Administrator shall be obliged to withhold from distribution to the Class any funds necessary to pay such amount.
11. For each calendar year or any portion thereof in which the Claims Administrator administers the Settlement Fund, the Claims Administrator shall provide to Defendants, within 45 days after the end of each such calendar year: (i) a summary of all costs and expenses, including Taxes, if any, paid or incurred for such year in connection with its administration of the Settlement Fund and (ii) the total of all interest earned for each such year on the Settlement Fund.
12. The Defendants and the Related Parties shall have no responsibility for, interest in, or any liability whatsoever with respect to, the distribution of the Settlement Fund, the determination, administration, or calculation of claims, the payment or withholding of Taxes or the filing of any tax returns or other documents with any governmental authority, or any other expenses or cost associated with the implementation of this settlement.
13. No Person shall have any claim against Class Counsel or the Claims Administrator based on distributions made substantially in accordance with this Settlement Agreement and the settlement contained herein, the Distribution Protocol, or with other Order(s) of the Courts.
14. At the conclusion of the Claims Administrator's duties, the Claims Administrator shall file with the Ontario Court and serve on the Parties a written report describing in detail the actions taken, and disbursements made, by the Claims Administrator in the course of fulfilling its duties.

G. OPT OUTS

1. Global Class Members shall have the right to exclude themselves, or opt out, from the Litigation. Class Members who elect to opt out of this Litigation must complete the

Opt Out Form and file it with the Claims Administrator by the Opt Out Deadline. Québec Class Members who wish to opt out must do so by giving notice (the "Québec Notice") to the Clerk of the Québec Court in the manner prescribed under the C.p.c. by the Opt Out Deadline.

2. Global Class Members who opt out shall be excluded from any and all rights and obligations under this Settlement Agreement. A Global Class Member who opts out of a Class shall be deemed to have thereby opted out of all Classes and all settlements. Except as provided for in paragraph G.3, below, Global Class Members who do not opt out in the manner and time prescribed above shall be deemed to have elected to participate in this Settlement Agreement and in all Orders, regardless of whether such Global Class Members timely file a Claim Form, and shall be for all purposes, a Settling Class Member.
3. Québec Class Members who have commenced proceedings or commence proceedings and fail to discontinue such proceedings by the Opt Out Deadline shall be deemed to have opted out. Québec Class Counsel warrant and represent that, to the best of its knowledge, no such action has been commenced as of the date it executed this Settlement Agreement.
4. Within five (5) days following the Opt Out Deadline, the Claims Administrator shall provide to counsel for all Parties a complete, written list, including addresses and contact information, of all Global Class Members who have opted out in accordance with the Orders, as well as a tabulation of the amount of the IPSs owned (or previously owned) by those Global Class Members who have opted out, the dates of purchase and sale (if any) of the IPSs owned (or previously owned) by those Global Class Members, and copies of the completed Opt Out Forms and each Québec Notice (collectively, the "Opt Out List and Tabulation").

H. OPT OUT THRESHOLDS

1. Notwithstanding anything else in this Settlement Agreement, the FMF Defendants and the Underwriter Defendants may, in their sole and unfettered discretion, cause this entire Settlement Agreement to be terminated if any one of their respective Opt Out Thresholds is exceeded.
2. The Opt Out Thresholds shall be stated in the Opt Out Side Letter signed prior to, or contemporaneously with, the execution of this Settlement Agreement. The Opt Out Side Letter with the stated Opt Out Thresholds shall be kept confidential by the Parties and their counsel and shall not be disclosed to any Person, unless ordered by the Courts. If required to be presented to the Courts, the Opt Out Side Letter shall be filed and maintained under seal.
3. In the event that this Settlement Agreement is terminated pursuant to paragraphs H.1 and H.2 above, then this Settlement Agreement shall be null and void as to all Parties, including BDO (regardless of whether it has withdrawn from this Settlement Agreement pursuant to paragraph H.4), and the Claims Administrator shall return the Settlement Fund and all accrued interest to those Defendants who made contributions to the Settlement Fund, in proportion to their contributions to the Settlement Fund,

less any monies expended or paid by the Claims Administrator, or retained for the payment of Taxes, , and administrative costs incurred to that date, and approved by the Courts. Counsel for the Defendants, or any of them, shall bring a motion, in all applicable jurisdictions, to:

- (a) declare this Settlement Agreement null and void and of no force or effect (except for paragraphs B.4, B.8, H.1, H.2, K.1, L.5 and L.17 hereof);
 - (b) determine whether a notice of termination shall be sent to the Global Class Members and, if so, by whom the costs of such notice ought to be borne; and
 - (c) request an Order setting aside, *nunc pro tunc*, all prior Orders entered by the Courts in accordance with the terms of this Settlement Agreement.
4. Notwithstanding anything else in this Settlement Agreement, if any one of the Opt Out Thresholds identified in section 1 of the Opt Out Side Letter is exceeded, BDO may, in its sole and unfettered discretion, withdraw from this Settlement Agreement and all of the provisions hereof, except that, regardless of any such withdrawal, paragraph D.1 of this Settlement Agreement shall remain in full force and effect, but only as among the Defendants, including BDO, and the Related Parties. Thus, as among the Defendants, including BDO, regardless of BDO's withdrawal, the Defendants, including BDO, shall have, and by operation of the Approval Orders shall be deemed to have, fully, finally, and forever released, relinquished, and discharged all Released Claims as against every one of the Released Persons as if BDO had remained a Party to this Settlement Agreement, but the Plaintiffs and the Settling Class Members shall not have released, relinquished, or discharged any Released Claims against BDO, BDO Seidman, LLC, BDO Dunwoody, LLC, or Trenwith Valuation LLC. In all other respects, (i) BDO shall no longer be a Party to this Settlement Agreement, (ii) Ontario Class Counsel or the Claims Administrator, if applicable, shall return the BDO Contribution to BDO, and (iii) BDO shall not be dismissed from the Litigation.
5. Any right to terminate, or in the case of BDO, withdraw, under this section of the Settlement Agreement shall be exercised within thirty (30) days of the receipt by the FMF Defendants and by BDO of the Opt Out List and Tabulation, after which date any right to terminate or withdraw under section H of this Settlement Agreement will have expired.
6. If the Opt Out Thresholds are not exceeded, the right to terminate, provided in paragraph H.1, will be deemed to have been waived as of the date the Claims Administrator provided counsel with the Opt Out List and Tabulation.

I. CLASS COUNSEL FEES

1. Contemporaneously with their motions brought pursuant to paragraph E.7 hereof, or promptly following the hearing of such motions, Class Counsel will submit the Fee Applications for consideration by the Canadian Courts. Collectively, the Fee Applications may request approval of Class Counsel fees (which shall include all fees and expenses of counsel retained or consulted by Class Counsel in its preparation of

the Distribution Protocol) not to exceed twenty-five percent (25%) of the Settlement Fund plus applicable Taxes. The Fee Applications may also request reimbursement of Class Counsel's actual disbursements or expenses, including the fees of any experts, consultants or investigators, incurred in connection with prosecuting the Litigation. The determination as to the amount of any fees, disbursements, and reimbursement of litigation expenses and interest to be awarded will be made by the Courts. Defendants shall not oppose any such fee application. Class Counsel are not precluded from making additional applications for expenses incurred in accordance with the terms of this Settlement Agreement.

2. The Fee Award shall be paid to Class Counsel from the Settlement Fund within ten (10) days of the Effective Date of this Agreement.
3. The Defendants and the Related Parties shall have no responsibility for, or any liability whatsoever with respect to, any payment of counsel fees and expenses to Class Counsel.
4. The Defendants and the Related Parties shall not oppose any fee application brought by Class Counsel substantially in accordance with the provisions of paragraph I.1, above.
5. The procedure for, and the allowance or disallowance by the Canadian Courts of, any Fee Applications to be paid out of the Settlement Fund are not part of the settlement provided for herein (except as expressly provided in paragraphs I.1, I.2 and I.3), and are to be considered by the Canadian Courts separately from their consideration of the fairness, reasonableness, and adequacy of the settlement provided for herein. Any order or proceeding relating to the Fee Applications, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Settlement Agreement or affect or delay the finality of the Approval Orders and the settlement of the Litigation provided for therein.

J. FAILURE TO OBTAIN APPROVALS

1. In the event that this Settlement Agreement is not approved by the Canadian Courts, or the Order of Dismissal is not entered by the Michigan Court, or an appeal precludes the consummation of the settlement provided for herein in accordance with the terms and conditions of this Settlement Agreement, or this Settlement Agreement is terminated, or fails to become effective, the Parties shall be restored to their respective positions in the Litigation as though this Settlement Agreement had never been made. In such event, the terms and provisions of this Settlement Agreement, with the exceptions of paragraphs B.4, B.8, H.1-3, K.1, L.5 and L.17 of this Settlement Agreement, shall have no further force and effect and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Courts in accordance with the terms of this Settlement Agreement shall be treated as vacated, *nunc pro tunc*. No order(s) of any Court or modification or reversal on appeal of any order of any Court concerning the Distribution Protocol or the amount of the Fee Award shall constitute grounds for cancellation or termination of this Settlement Agreement.

2. In the event that the settlement provided for in this Settlement Agreement is terminated or fails to become effective in accordance with the terms hereof, then the Settlement Fund shall be immediately refunded by Ontario Class Counsel or the Claims Administrator, as applicable, to the Defendants who contributed to the Settlement Fund in proportion to their contributions to the Settlement Fund, except that the Pre-Approval Expenses paid from the Settlement Fund shall be allocated against the FMF Contribution and the Underwriters' Contribution in equal proportion. Neither the Plaintiffs, the Global Class Members, the Claims Administrator, nor Class Counsel shall have any obligation to repay any amounts actually and properly disbursed from the Settlement Fund.

K. NO ADMISSION OF WRONGDOING

1. Defendants expressly deny any wrongdoing by themselves or the Related Parties. Neither this Settlement Agreement, whether or not consummated, nor any negotiations, discussions, or proceedings in connection herewith, shall be:
 - (a) offered or received against the Defendants or the Related Parties as evidence, or construed or deemed to be evidence, of any presumption, concession or admission by the Defendants or the Related Parties of the truth of any fact alleged by the Plaintiffs or the Global Class Members, or the validity of any claim that has been or could have been asserted in the Litigation or in any litigation, or the deficiency of any defence that has been or could have been asserted in the Litigation or in any litigation, or of any liability, negligence, fault, or wrongdoing of the Defendants or the Related Parties;
 - (b) offered or received against the Defendants or the Related Parties as evidence, or as a presumption, concession or admission, of any fault, misrepresentation, or omission with respect to any statement or written document approved or made by the Defendants or the Related Parties, or against the Plaintiffs or the Global Class Members or Class Counsel or their experts and consultants as evidence of any infirmity in the claims of the Plaintiffs or the Global Class;
 - (c) offered or received against the Defendants or the Related Parties as evidence, or a presumption, concession, or admission, of any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason as against any of the Defendants or the Related Parties, their counsel, or their experts and consultants, in any civil, criminal, or administrative action or proceeding, other than such proceeding as may be necessary to give effect to provisions of this Settlement Agreement; provided, however, that if this Settlement Agreement is approved by the Canadian Courts, the Defendants and the Related Parties may refer to it to effectuate the liability protection granted to them hereunder; or
 - (d) construed against the Defendants or the Related Parties, the Plaintiffs, the Global Class, their respective counsel, or their respective experts and consultants as an admission or concession that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial.

L. MISCELLANEOUS PROVISIONS

Language

1. The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents, be prepared in English, with the exception of Schedules C (Plan of Notice), E (Québec Pre-Approval Order), F (Pre-Approval Notice), H (Québec Approval Order), J (Short Form Approval Notice), and K (Long Form Approval Notice); les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais, à l'exception des annexes C (Plan de notification), E (Ordonnance de Pré-Approbation du Québec), F (Avis de Pré-Approbation), H (Ordonnance d'approbation de Québec), J (version abrégée de l'avis d'approbation), et K (version allongée de l'avis d'approbation).

Interpretation

2. The captions contained in this Settlement Agreement are inserted only as a matter of convenience and in no way define, extend, or describe the scope of this Settlement Agreement or the intent of any provision thereof.
3. The terms "Settlement Agreement," "hereof," "hereunder," and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.
4. In the computation of time in this Settlement Agreement, except where a contrary intention appears,
 - (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
 - (b) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.
5. This Settlement Agreement shall be interpreted in accordance with the laws of the Province of Ontario without regard to choice of law rules.

Ongoing Jurisdiction

6. For purposes of this Settlement Agreement, the laws applicable to the Ontario Action shall be the laws of Ontario and the laws of Canada applicable therein, the laws applicable to the claims raised in the Québec Petition shall be the laws of Québec and the laws of Canada applicable therein, and the laws applicable to the Michigan Action shall be the laws of the State of Michigan and the laws of the United States of America applicable therein.
7. The Courts shall retain jurisdiction with respect to implementation and enforcement of the terms of this Settlement Agreement, and the Parties, only to the extent they have already done so, submit to the jurisdiction of the Courts for purposes of implementing and enforcing the settlement provided for in this Settlement

Agreement. Nothing in this Agreement shall be construed as subjecting the Underwriter Defendants to the jurisdiction of the Michigan Court.

Entire Agreement

8. This Settlement Agreement, and the Recitals herein, the Schedules attached hereto, the Opt Out Side Letter and the Corporate Governance Side Letter constitute the entire agreement among the Parties, and no representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement or its Recitals, the Schedules, the Opt Out Side Letter or the Corporate Governance Side Letter, other than the representations, warranties, and covenants contained and memorialized in such documents. Any and all prior and contemporaneous agreements, negotiations, discussions, representations, warranties, and inducements concerning the Litigation, this Settlement Agreement, and the subjects addressed in this Settlement Agreement are merged and integrated into this Settlement Agreement.
9. The Recitals and Schedules to this Settlement Agreement are material and integral parts hereof and are fully incorporated into, and form part of, this Settlement Agreement.
10. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

Binding Effect

11. The Parties agree that the amount paid to the Settlement Fund and the other terms of the settlement were negotiated in good faith by the Parties and reflect a settlement that was reached voluntarily after consultation with competent legal counsel.
12. This Settlement Agreement was negotiated at arms length, mutually drafted by all of the Parties, and entered into freely by the Parties with the advice, input, and participation of their own independent legal counsel. In the event that an ambiguity exists in any provision of this Settlement Agreement, such ambiguity is not to be construed against any Party as the drafter of the document.
13. Class Counsel hereby represent and warrant that they are expressly authorized by the Plaintiffs to take all appropriate action required or permitted to be taken by the Global Class or on behalf of the Global Class pursuant to this Settlement Agreement to effectuate its terms and also are expressly authorized to enter into any modifications or amendments to this Settlement Agreement on behalf of the Global Class which they deem appropriate.
14. The Parties: (i) acknowledge that it is their intent to consummate this Settlement Agreement; (ii) agree to use their best efforts to cause the timely occurrence of all events, transactions, or other circumstances described herein; (iii) agree to generate all documents and writings as may be necessary to carry out the intent of this Settlement Agreement; (iv) agree that the Plaintiffs and Class Counsel shall prepare and bring the necessary applications to the Courts, at their sole expense, to obtain Court certifications, dismissal orders, and Court approvals of the settlement contained

herein, including responding to any opposition by the Global Class Members to the approval of the settlement, provided that this subparagraph does not preclude Defendants, at their own expense, from preparing and submitting papers and participating in any hearings; and (v) agree that, except as otherwise provided herein, each Party shall bear his, her, or its own costs.

15. This Settlement Agreement shall be binding upon the Parties and the Settling Class Members and their successors, heirs, executors, administrators, and assigns, and their respective counsel, experts, and consultants, and shall inure to the benefit of the Parties, the Settling Class Members, and the Related Parties, as well as their successors, heirs, executors, administrators, and assigns, and their respective counsel, experts and consultants.
16. The waiver by one Party of any breach of this Settlement Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement or a waiver by any other Party.
17. This Settlement Agreement constitutes a transaction in accordance with Civil Code of Québec art. 2631 *et seq.*, and the Parties are hereby renouncing any errors of fact, of law, and/or of calculation.
18. This Settlement Agreement may be amended, modified, waived, or discharged only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest. Amendments and modifications may be made without notice to the Global Class Members unless ordered by the Courts or any one of the Courts.

Survival

19. All agreements made during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement, except that the disclosure of such information may be made (i) with the approval of the Party who provided the information or (ii) if required by the Courts, in an in camera proceeding.
20. The Parties and their counsel each agree that they shall not make any disparaging remarks about any of the Parties with respect to the Litigation or the acts or omissions of the Parties as alleged in the Litigation.

Notice

21. Any and all notices, requests, directives, or communications required by this Settlement Agreement shall be in writing and shall, unless otherwise expressly provided herein, be given personally, by express courier, by postage prepaid mail, or by facsimile transmission followed by postage prepaid mail, and shall be addressed as follows:

If to: Tim Gould and/or Archie Leach,

% Siskinds ^{LLP}
680 Waterloo Street

London, ON N6A 3V8

Tel.: (519) 672-2121 x.376

Fax: (519) 672-6065

Attention: A. Dimitri Lascaris

If to: Jean-Marie Dupuis and/or Robert Tamilia,

% Siskinds, Desmeules S.E.N.C.R.L.

43 Rue Buade, Bur 320

Québec City, QC G1R 4A2

Tel.: (418) 694-2009

Fax: (418) 694-0281

Attention: Simon Hébert

If to: LIMBC Acceptance Corporation, Estelle Aspler, Rebecca Bekhor, Mark Fisher, Stanley Sagan, Ursula Sagan and/or Giacinto Venditti,

% Juroviesky and Ricci ^{LLP}

4950 Yonge St., Ste 904

Toronto, ON M2N 6K1

Tel.: (416) 481-0718

Fax: (416) 481-1792

Attention: Henry Juroviesky.

and

Frank, Haron, Weiner and Navarro ^{PLC}

Suite 225

5435 Corporate Drive

Troy, Michigan 48098-2624

Tel.: (248) 952-0400

Fax: (248) 952-0890

Attention: David L. Haron, Esq.

If to: FMF Capital Group Ltd., FMF Capital LLC, FMF Holdings LLC, Michigan Fidelity Acceptance Corporation, PKF LLC, Robert Pilcowitz, Edan King, Howard Morof, Michael Hoffman, Eric Slavens, and/or Lorie Waisberg,

% Honigman Miller Schwartz and Cohn ^{LLP}

38500 Woodward Ave., Suite 100

Bloomfield Hills, MI 48304-5048

Tel.: (248) 566-8404

Fax: (248) 566-8405

Attention: Joseph Aviv

and

% Paliare Roland Rosenberg Rothstein ^{LLP}
501-250 University Ave.
Toronto, ON M5H 3E5

Tel.: (416) 646-4318
Fax: (416) 646-4301
Attention: Chris G. Paliare

If to: BDO Seidman ^{LLP}

% Stikeman Elliott ^{LLP}
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L1B9

Tel.: (416) 869-5213
Fax: (416) 947-0866
Attention: Peter F.C. Howard

and

% Dickinson Wright ^{PLLC}
500 Woodward Avenue
Detroit, Michigan 48226

Tel.: (313) 223-3500
Fax: (313) 223-3598
Attention: Thomas G. McNeill

If to: BMO Nesbitt Burns Inc., Atul Shah and/or Thomas Little

% Lenczner Slaght Royce Smith Griffin ^{LLP}
Suite 2600, 130 Adelaide Street West
Toronto, ON M5H 3P5

Tel.: (416) 865-9500
Fax: (416) 865-9010
Attention: Ronald Slaght

If to: BMO Capital Markets Corp., f/k/a Harris Nesbitt Corp.

% Young & Susser
262 American Drive, Suite 305
Southfield, MI 48034

Tel.: (248) 353-8620
Fax: (248) 353-6559
Attention: Roger D. Young

If to: Blackmont Capital Inc. and/or Canaccord Capital Corporation

Miller Thomson ^{LLP}
Suite 5800, 40 King Street West
Toronto, ON M5H 3S1

Tel.: (416) 595-8596
Fax: (416) 595-8605
Attention: Donald J. Sorochan

If to: National Bank Financial Inc.

Lax O'Sullivan Scott ^{LLP}
Suite 1920, 145 King Street West
Toronto, ON M5H 1J8

Tel.: (416) 598-1744
Fax: (416) 598-3730
Attention: Terrence J. O'Sullivan

If to: Sprott Securities Inc.

Groia & Company Professional Corporation
The Sterling Tower
372 Bay Street, Suite 1000
Toronto, ON M5H 2W9

Tel.: (416) 203-4475
Fax: (416) 203-9231
Attention: Gavin Smyth

If to: TD Securities Inc.

McCarthy Tétrault ^{LLP}
Barristers & Solicitors
Suite 4700, Toronto-Dominion Bank Tower
Toronto-Dominion Centre
Toronto, ON M5K 1E6

Tel.: (416) 601-7887
Fax: (416) 868-0673
Attention: F. Paul Morrison

or to any such address or individual number as may be designated by notice given by any Party to another.

Counterparts

22. This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Courts.

Authorized Signatures

23. Each counsel executing this Settlement Agreement on behalf of any Party hereby warrants that such counsel has the full authority to do so.

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed, by their duly authorized counsel, dated as of November 28, 2006.

TIM GOULD and ARCHIE LEACH

JEAN-MARIE DUPUIS et ROBERT TAMILIA

By their counsel,
Siskinds ^{LLP}

By their counsel,
Siskinds, Desmeules, S.E.N.C.R.L.

Per:

Per:


A. Dimitri Lascaris

Simon Hébert

LIMBC ACCEPTANCE CORPORATION; ESTELLE ASPLER; REBECCA BEKHOR; MARK FISHER; STANLEY SAGAN; URSULA SAGAN and GIACINTO VENDITTI

FMF CAPITAL GROUP LTD.; FMF CAPITAL LLC; FMF HOLDINGS, LLC; MICHIGAN FIDELITY ACCEPTANCE CORPORATION; PKF, LLC; MICHAEL HOFFMAN; EDAN KING; HOWARD MOROF; ROBERT PILCOWITZ; ERIC SLAVENS; and LORIE WAISBERG

By their counsel,
Juroviesky and Ricci ^{LLP}

By their counsel,
Paliare Roland Rosenberg Rothstein ^{LLP}

Per:

Per:

Henry Juroviesky

Chris G. Paliare

And

and

Frank, Haron, Weiner, and Navarro ^{PLC}

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By their counsel,
Palfare Roland Rosenberg Rothstein LLP

Per:

Henry Jurovicsky

Per:

Chris G. Palfare

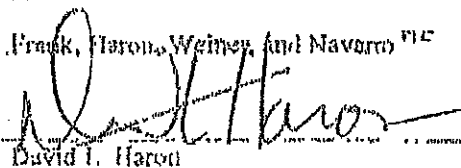
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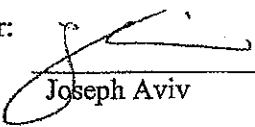
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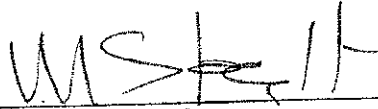


Joseph Aviv

BMO NESBITT BURNS INC., ATUL
SHAH & THOMAS LITTLE

By their counsel,
Lenczner Slaght Royce Smith Griffin ^{LLP}

Per:



Ronald G. Slaght, Q.C.

BDO SEIDMAN ^{PLLC}

By their counsel,
Stikeman Elliott ^{LLP}

Per:

Peter F.C. Howard

And

Dickinson Wright ^{PLLC}

Per:

Thomas G. McNeill

SPROTT SECURITIES INC.

By their counsel,
Groia & Company

Per:

Gavin Smyth

BLACKMONT CAPITAL INC. and
CANACCORD CAPITAL
CORPORATION

By their counsel,
Miller Thomson ^{LLP}

Per:

Craig A. Mills

HARRIS NESBITT CORP.

By their counsel,
Young & Susser

Per:

Roger D. Young

NATIONAL BANK FINANCIAL INC.

By their counsel,
Lax O'Sullivan Scott ^{LLP}

Per:

Terrence J. O'Sullivan

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By their counsel,
McCarthy Tétrault ^{LLP}

Per:

F. Paul Morrison

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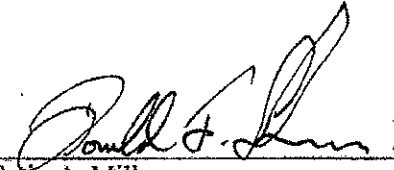
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Per:



~~CRISTINA A. MILLER~~
DONALD J. SOROCHAN, QC

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And

Dickinson Wright ^{PLLC}

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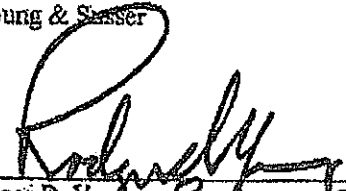
HARRIS NESBITT CORP.

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Young & Sasser

Per:

Peter F.C. Howard

Per:



~~Roger D. Young~~ Roger D. Young

And

Dickinson Wright ^{PLLC}

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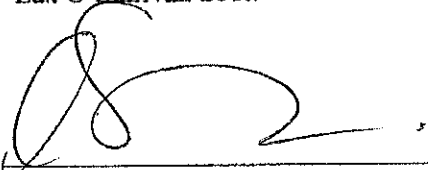
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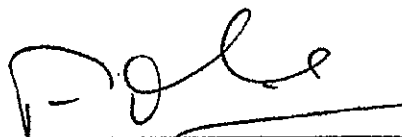
TD SECURITIES INC.

By their counsel,
McCarthy Tétraut ^{LLP}

Per:

Gavin Smyth

Per:


F. Paul Morrison

SCHEDULE A
INTENTIONALLY OMITTED

SCHEDULE B
DISTRIBUTION PROTOCOL

Definitions

Capitalized terms herein have the same meaning as in the Settlement Agreement. In addition, for purposes of this Distribution Protocol:

"Compensation Fund" means the Settlement Fund less: (i) all Court-approved Class Counsel Fees and expense reimbursements; and (ii) all notice and administration costs.

"Disposition Proceeds" means the total proceeds paid to the Settling Class Member (less brokerage commissions) in consideration of all of his, her or its sale(s) of IPSs; provided however that, with respect to any IPSs that the Settling Class Member purchased during the Class Period and that the Settling Class Member continued to hold beyond November 16, 2005, the Disposition Proceeds for such IPSs shall be deemed to be CAN\$0.94 per IPS, whether or not the Settling Class Member actually sold such IPSs after November 16, 2005;

"FIFO" means the principle of first-in first-out, and requires, in the case of a Two-Class Purchaser whose IPSs were commingled, that the IPSs purchased first by the Two-Class Purchaser be deemed to have been sold completely before IPSs purchased later are sold;

"Net Loss" means that the Settling Class Member's Disposition Proceeds are less than the Settling Class Member's Purchase Price, and is the difference between: (1) the Settling Class Member's Purchase Price; and (2) the Settling Class Member's Disposition Proceeds;

"Prospectus IPSs" means IPSs purchased during the Class I Period;

"Purchase Price" means the total monies paid by the Settling Class Member (including brokerage commissions) to acquire Prospectus IPSs or TSX IPSs (as the case may be);

"TSX IPSs" means IPSs purchased during the Class II Period; and

"Two-Class Purchaser" means a Settling Class Member who purchased both Prospectus IPSs and TSX IPSs.

Variables in the Calculation of Compensation

The amount of each Settling Class Member's actual compensation from the Compensation Fund will depend upon:

- (1) the number of IPSs purchased by the Settling Class Member during the Class Period, and the prices at which the Settling Class Member purchased and sold (or is deemed to have sold) such IPSs;
- (2) whether or not the Settling Class Member sustained a Net Loss and, if so, the amount of the Settling Class Member's Net Loss;
- (3) whether the Settling Class Member purchased Prospectus IPSs and/or TSX IPSs;

- (4) whether or not the Settling Class Member sold some or all of his, her or its IPSs during the Class II Period;
- (5) whether the Settling Class Member continues to hold, at the time of the Settling Class Member's submission of a Claim Form to the Claims Administrator, some or all of the IPSs that he, she or it acquired during the Class Period;
- (6) whether the Settling Class Member is a Two-Class Purchaser and, if so, whether the IPSs purchased by the Settling Class Member were commingled; and
- (7) the number of Prospectus IPSs and TSX IPSs purchased by Settling Class Members who timely file valid Claim Forms with the Claims Administrator.

In order to receive compensation under this Settlement Agreement, a Settling Class Member must have sustained a Net Loss. Each Settling Class Member who timely submits a valid Claim Form, and who is eligible for compensation, will be entitled to receive compensation, calculated by the Claims Administrator, according to the formulae set forth below.

Methodology for Calculating the Settling Class Member's Actual Compensation from the Compensation Fund

The Settling Class Member's *actual* compensation from the Compensation Fund will be his, her, or its ***pro rata* share of the Compensation Fund, based on his, her or its estimated damages, calculated pursuant to the formulae set forth below.** Therefore, each Settling Class Member's *actual* compensation is likely to be less than the Settling Class Member's estimated damages.

The estimated damages of each Settling Class Member will be determined as follows:

(1) For Settling Class Members who purchased only Prospectus IPSs and who did not dispose of any of such IPSs prior to November 15, 2005:

The Settling Class Member's estimated damages are the number of Prospectus IPSs purchased by such Settling Class Member, multiplied by an estimated per-IPS inflation of CAN\$4.26.

(2) For Settling Class Members who purchased only TSX IPSs and who did not dispose of any of such IPSs prior to November 15, 2005:

The Settling Class Member's estimated damages are the lesser of: (a) his, her or its Net Loss; and (b) the number of TSX IPSs purchased by such Settling Class Member, multiplied by an estimated average per-IPS inflation of CAN\$1.87.

(3) For Settling Class Members who purchased only Prospectus IPSs and who sold some or all of such IPSs prior to November 15, 2005:

The Claims Administrator will apply the formula set forth in (1) above, except that, with respect to any Prospectus IPSs sold by the Settling Class Member prior to November 15, 2005, the estimated average per-IPS inflation will be \$0.75.

(4) For Settling Class Members who purchased only TSX IPSs and who sold some or all of such IPSs prior to November 15, 2005:

The Claims Administrator will apply the formula set forth in (2) above, except that, with respect to any TSX IPSs sold by the Settling Class Member prior to November 15, 2005, the estimated average per-IPS inflation will be \$0.56.

(5) For Settling Class Members who are Two-Class Purchasers and who satisfy the Claims Administrator that their Prospectus IPSs remained segregated at all material times from their TSX IPSs:

The Claims Administrator will apply the formulae set forth in (1) and (3) above to the Settling Class Member's Prospectus IPSs, and will apply the formulae set forth in (2) and (4) above to the Settling Class Member's TSX IPSs, and the Settling Class Member's total estimated damages shall be the aggregate of his, her or its estimated damages in respect of: (a) Prospectus IPSs; and (b) TSX IPSs.

(6) For Settling Class Members who are Two-Class Purchasers and whose Prospectus IPSs and TSX IPSs are deemed by the Claims Administrator to have been commingled:

The Claims Administrator will apply FIFO in determining the time at which the Settling Class Member sold his, her or its IPSs, and will then apply the applicable formulae set forth in (1) to (4) above.

Commingling of the Prospectus IPSs and the TSX IPSs of Two-Class Purchasers

In calculating the estimated damages sustained by a Settling Class Member who is a Two-Class Purchaser, the Claims Administrator will assume that the Settling Class Member's Prospectus IPSs and TSX IPSs were commingled, unless the Settling Class Member is able to satisfy the Claims Administrator, through the furnishing of appropriate documentation and other information, that the Settling Class Member's Prospectus IPSs were segregated at all material times from the Settling Class Member's TSX IPSs.

Identification of Prospectus IPSs and TSX IPSs

For purposes of distributing the Compensation Fund to the Settling Class Members, the Claims Administrator will assume that all IPSs purchased at a price of CAN\$10.00 per IPS are Prospectus IPSs, and that all IPSs purchased at a price of less than CAN\$10.00 per IPS are TSX IPSs.

Provisional Determinations of *Actual* Compensation

Within sixty (60) days of the date by which all Claim Forms must be filed, the Claims Administrator shall send to each Settling Class Member who has submitted a Claim Form, and

whose Claim Form was rejected in whole or in part, a notice disclosing the complete or partial rejection of the Claim Form and the reasons for such rejection (the "Rejection Notice").

Dispute Resolution Mechanism

In the event that a Settling Class Member disputes the Claims Administrator's decision to reject his, her or its Claim Form, whether in whole or in part (a "Dispute"), the Settling Class Member may bring the Dispute before a Referee appointed by the Canadian Courts for that purpose.

The Referee will be bilingual.

The Settling Class Member may initiate a Dispute by submitting written correspondence to the Claims Administrator within twenty (20) days of the date of his, her or its Rejection Notice. The correspondence must state the Settling Class Member's reasons for the Dispute, and must be accompanied by a certified cheque or money order, payable to the Claims Administrator, in the amount of CAN\$250, which will be applied to the cost of the reference. Upon receiving notice from a Settling Class Member that he, she or it elects to initiate a Dispute, the Claims Administrator, as soon as practicable, will advise Ontario Class Counsel (if the Settling Class Member resides outside of Québec) or Québec Class Counsel (if the Settling Class Member resides in Québec), as well as the Referee, in writing of the initiation of the Dispute and of the Claims Administrator's reasons for having rendered the decision to which the Dispute relates (with a copy to the Settling Class Member), and will provide to Ontario or Québec Class Counsel (as the case may be) and the Referee a copy of the Settling Class Member's correspondence stating the reasons for the Dispute.

Within twenty (20) days of their receipt of the Settling Class Member's and the Claims Administrator's written submissions with respect to the Dispute, Ontario Class Counsel or Québec Class Counsel (as the case may be) shall deliver to the Referee (with copies to the Claims Administrator and to the Settling Class Member initiating the Dispute) a written statement of their position with respect to the Dispute. If within the aforesaid period Class Counsel do not deliver to the Referee a written statement of their position with respect to the Dispute, then Class Counsel will be deemed to have taken no position with respect thereto.

All Disputes shall be resolved on the basis of written submissions, and in no case on the basis of an in-person or other oral hearing. The Referee will render his, her or its decision with respect to all Disputes within thirty (30) days of the date by which Class Counsel is required to state their position with respect to the Dispute.

The decision of the Referee shall be final and there shall be no right of appeal or judicial review from the Referee's decision. The Referee shall distribute a copy of the decision to the objecting Settling Class Member, the Claims Administrator and Class Counsel. If the Settling Class Member is in any way successful on the reference, the CAN\$250 deposit shall be returned to the Settling Class Member, but if totally unsuccessful, the CAN\$250 deposit shall be applied to the cost of the Referee.

To the extent that the fees and disbursements of the Referee are not covered by payments made by Settling Class Members who unsuccessfully Dispute a decision of the Claims Administrator, such fees and disbursements shall be paid from the Settlement Fund.

Final Distribution

No later than sixty (60) days following the adjudication of all Disputes, the Claims Administrator will make final distributions of compensation to the Class Members. In so doing, the Claims Administrator will deduct from any payments otherwise due to the Québec Class Members any amounts owing to the Québec *Fonds d'Aide*.

SCHEDULE C
PLAN OF NOTICE

PART 1 – NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING

The Pre-Approval Notice will be posted on www.classaction.ca and www.jruslaw.com in the English and French languages. The Pre-Approval Notice will also be disseminated as follows:

National Notice

Publication of the Pre-Approval Notice, which notice will be at least a 1/8 page in size, will occur at least thirty (30) days prior to the Ontario and Québec certification and settlement approval hearings. Such publication will be made in the English language in the *National Post* and *Globe and Mail* (National Editions) and in the French language in *La Presse*, *Le Soleil*, and *L'Acadie Nouvelle* (New Brunswick).

Individual Notice

The Underwriter Defendants, by and at their own expense, shall provide the Pre-Approval Notice to all Class I Members by direct mailing to the last known address of each Class I Member.

Class Counsel will make available to the public a toll free number and email address that will enable Class Members to obtain more information about the proposed settlement, or to request that a copy of the Settlement Agreement be sent to them directly. Additionally, the public may obtain copies of the Settlement Agreement and view the Pre-Approval Notice posted on Class Counsel's website: www.classaction.ca, and www.jruslaw.com

PART 2 – NOTICE OF CERTIFICATION AND APPROVAL OF SETTLEMENT

The Long Form Approval Notice will be posted, in both the English and French languages, on (i) www.classaction.ca and www.jruslaw.com, and (ii) the website of the Claims Administrator. The Long Form Approval Notice and the Short Form Approval Notice will also be disseminated as follows:

National Notice

Publication of the Short Form Approval Notice, which notice will be approximately a 1/16 page in size, will occur as soon as practicable following the Effective Date, and, in any event, no later than thirty (30) days following such date. Such publication will be made in the English language in the *National Post* and the *Globe and Mail* (National Edition) and in the French language in *La Presse*, *Le Soleil*, and *L'Acadie Nouvelle* (New Brunswick).

Individual Notice

Within thirty (30) days of the Effective Date, and in any event prior to, or on the same date as, the publication of the Short Form Approval Notice, a copy of the Long Form Approval Notice, together with the Claim Form, shall be mailed postage pre-paid, by and at the expense of the Underwriter Defendants to all known IPS-purchasers in the IPO or thereafter during the Class Periods at the last known address of the Class I Members.

Class Counsel will mail, within thirty (30) days of the Effective Date, and in any event prior to, or on the same date as, the publication of the Short Form Approval Notice, a copy of the Long

Form Approval Notice, together with the Claim Form, postage pre-paid, to the address of all putative Class II Members known to Class Counsel at such time.

In addition, Class Counsel will make available to the public a toll free number and email address that will enable Class Members to obtain more information about the settlement and the claims process, or to request that a copy of the Long Form Approval Notice be sent to them. Class Counsel or the Claims Administrator will directly mail the Long Form Approval Notice and the Claim Form to any Class Member who contacts Class Counsel's or the Claims Administrator's offices and requests same.

SCHEDULE D

ONTARIO PRE-APPROVAL ORDER

Court File No. 49348 CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)
JUSTICE MAURICE C. CULLITY) _____, the ____ day
of _____, 2006

BETWEEN:

TIM GOULD and ARCHIE LEACH

Plaintiffs

- and -

BMO NESBITT BURNS INC.; BLACKMONT CAPITAL INC.; CANACCORD CAPITAL CORPORATION; NATIONAL BANK FINANCIAL INC.; SPROTT SECURITIES INC.; TD SECURITIES INC.; BDO SEIDMAN, LLP; FMF CAPITAL GROUP LTD.; FMF CAPITAL LLC; FMF HOLDINGS, LLC; MICHIGAN FIDELITY ACCEPTANCE CORPORATION; PKF, LLC; THOMAS LITTLE; ATUL SHAH; MICHAEL HOFFMAN; EDAN KING; HOWARD MOROF; ROBERT PILCOWITZ; ERIC SLAVENS; and LORIE WAISBERG

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the proposed Representative Plaintiffs in the within class proceeding, for an Order setting a date for the certification and settlement approval hearing, approving the form of the Notice of Certification and Settlement Approval Hearings and approving the method of dissemination of said Notice, was heard this day in Toronto, Ontario, Canada.

ON READING the materials filed and on hearing the submissions of counsel for the Plaintiffs and counsel for the Defendants:

1. **THIS COURT ORDERS** that the certification and settlement approval hearing for the within proceeding shall take place on January 25, 2007 at 10:00 a.m.;
2. **THIS COURT ORDERS** that the form of the Notice of Certification and Settlement Approval Hearings (the "Notice") is hereby approved in substantially the form attached hereto as Schedule "A" and as Schedule F to the Settlement Agreement; and
3. **THIS COURT ORDERS** that the Notice be disseminated in accordance with the Plan of Notice attached hereto as Schedule "B" and as Schedule C to the Settlement Agreement.

Date: _____, 2006

THE HONOURABLE
JUSTICE MAURICE C. CULLITY

SCHEDULE E
QUÉBEC PRE-APPROVAL ORDER

COUR SUPÉRIEURE

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE QUÉBEC

N° : 200-06-000064-066

DATE : le novembre, 2006

EN PRÉSENCE DE : L'HONORABLE , J.C.S.

JEAN-MARIE DUPUIS

et

ROBERT TAMILIA

Requérants;

c.

FMF CAPITAL GROUP LTD & ALS.

Intimés;

**JUGEMENT SUR REQUÊTE POUR AUTORISER LA PUBLICATION
DE L'AVIS AUX MEMBRES CONCERNANT LA PRÉSENTATION
D'UNE REQUÊTE POUR OBTENIR L'AUTORISATION D'EXERCER
UN RECOURS COLLECTIF POUR FINS DE RÈGLEMENT**

[1] **ATTENDU** que les parties sont impliquées dans un litige de la nature d'un recours collectif;

- [2] **ATTENDU** que les requérants ont conclu une transaction avec les Intimés;
- [3] **ATTENDU** que les requérants demandent que soient fixés la date, l'heure et l'endroit de la présentation de la requête pour obtenir l'autorisation d'exercer un recours collectif pour fins de règlement seulement et pour l'approbation de la transaction et de la requête pour approuver le paiement des honoraires et débours des procureurs des requérants;
- [4] **ATTENDU** que les requérants demandent également au Tribunal d'approuver l'avis aux membres et d'en ordonner sa publication;
- [5] **VU** la requête sous étude;
- [6] **VU** que les intimés consentent à la requête;
- [7] **VU** les pièces versées au dossier;
- [8] **VU** les déclarations des procureurs des parties et les représentations faites de part et d'autres;
- [9] **VU** les articles 1025, 1045 et 1046 du *Code de procédure civile*;
- [10] **APRÈS EXAMEN**, il y a lieu de faire droit à la requête;

POUR CES MOTIFS, LE TRIBUNAL:

- [11] **ACCUEILLE** la requête;
- [12] **APPROUVE** l'avis aux membres du groupe joint en Annexe 1 au présent jugement;
- [13] **FIXE** au 2006 la date de présentation de la requête pour obtenir l'autorisation d'exercer un recours collectif pour fins de règlement et pour approbation de la transaction, et ce, en la salle du Palais de justice de Québec, 300, boul. Jean-Lesage, à Québec, à compter de
- [14] **FIXE** pour audition le 2006 en la salle du Palais de justice de Québec, 300, boul. Jean-Lesage, à Québec la requête pour autoriser l'entente relative aux honoraires entre les requérants et ses procureurs;
- [15] **ORDONNE** qu'un avis conforme à l'Annexe 1 [french translation of Schedule F to the Settlement Agreement], joint au présent jugement, soit publié et diffusé selon le Plan de diffusion des avis joint en Annexe 2 [french translation of Schedule C to the Settlement Agreement] à ce jugement, au moins trente (30) jours avant la date de l'audition ci-haut.
- [16] **LE TOUT** sans frais.

, J.C.S.

Me Simon Hébert (Casier 15)
SISKINDS, DESMEULES, AVOCATS
Procureurs des requérants

Me Catherine McKenzie
IRVING MITCHELL KALICHMAN
4119, rue Sherbrooke Ouest
Westmount (Québec) H3Z 1A7
Procureurs de BMO Nesbitt Burns Inc., Thomas Little et Atul Shah

Me Julie-Martine Loranger
GOWLING LAFLEUR HENDERSON, s.r.l.
1, Place Ville Marie, 37e étage
Montréal (Québec) H3B 3P4
Procureurs de Financière Banque Nationale inc

Me Mason Poplaw
McCARTHY, TÉTRAULT
1000, rue de La Gauchetière Ouest, bureau 2500
Montréal (Québec) H3B 0A2
Procureurs de Valeurs Mobilières TD inc

Me Louis Coallier
MILLER, THOMSON, POULIOT
Le Tour CIBC, 31e étage
1155, boulevard René-Lévesque Ouest
Montréal (Québec) H3B 3S6
Procureurs de Corporation Canaccord Capital, Blackmont Capital inc

Me Jean St-Onge
LAVERY, DE BILLY
1, Place Ville-Marie, bureau 4000
Montréal (Québec) H3B 4M4
Procureurs de Valeurs Mobilières Sprott inc

Me Marc Prévost
ROBINSON, SHEPPARD, SHAPIRO
900, Place Victoria, bureau 4600
Montréal (Québec)
Procureurs de FMF Capital Group Ltd., FMF Capital LLC, FMF Holdings LLC, Michigan Fidelity Acceptance Corporation c/o of FMF Capital Groupe Ltd, PKF, LLC, Micheal Hoffman, Edan King, Howard Morof, Robert Pilcowitz, Eric Slavens

SCHEDULE F

PRE-APPROVAL NOTICE

FMF CAPITAL GROUP LTD. SECURITIES LITIGATION

NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARINGS

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

CLASS MEMBERS:

All persons who:

(1) purchased Income Participating Securities ("IPSs") of FMF Capital Group Ltd. (the "Company") in the Company's March 2005 initial public offering ("IPO") ("Class I Members"); and/or

(2) purchased the Company's IPSs, or any of the securities represented by such IPSs, over the Toronto Stock Exchange ("TSX") during the period from and including March 24, 2005 to and including November 15, 2005 ("Class II Members", and together with the Class I Members, the "Global Class Members").

1. PURPOSE OF THIS NOTICE:

Class proceedings have been commenced in the Ontario Superior Court of Justice (the "Ontario Court") and the Québec Superior Court (the "Québec Court," and, together with the Ontario Court, the "Canadian Courts") against BMO Nesbitt Burns Inc., Blackmont Capital Inc., Canaccord Capital Corporation, National Bank Financial Inc., Sprott Securities Inc., TD Securities Inc., BDO Seidman LLP, the Company, FMF Capital LLC, FMF Holdings LLC, Michigan Fidelity Acceptance Corporation, PKF LLC, Robert Pilcowitz, Edan King, Howard Morof, Michael Hoffman, Eric Slavens, Lorie Waisberg, Thomas Little, and Atul Shah (collectively, the "Defendants"), and a class action has been filed in the Sixth Judicial Circuit Court for the State of Michigan (the "Michigan Court", and together with the Canadian Courts, the "Courts") against the Defendants, against Harris Nesbitt Corp. and against Phyllis Cane Pilcowitz, the Phyllis Cane Pilcowitz Revocable Trust, the Phyllis Cane Pilcowitz Qualified Annuity Trust, Hilary King, the Hilary King Revocable Trust, and the Hilary King Qualified Annuity Trust (collectively, the "Transferee Defendants").

The Plaintiffs allege in the Courts that the Defendants or some of them disseminated a prospectus and other information containing various misrepresentations to persons who purchased the Company's IPSs and, in the Michigan Court, that the Transferee Defendants were unjustly enriched by the actions of some or all of the Defendants.

A Settlement Agreement has been reached between the Plaintiffs and the Defendants. The Settlement Agreement is not an admission

of liability on the part of the Defendants, each of whom expressly denies any wrongdoing or liability. The sums of US\$21 million and CAN\$4.55 million (together, the "Settlement Fund") shall be paid to settle the claims of all Class Members, wherever they may reside. Additionally, the Company has agreed to adopt certain technical, clarifying changes to the Company's (i) Mandate of the Board of Directors, and (ii) Audit Committee Charter.

In addition to seeking the Courts' approval of the Settlement Agreement, Class Counsel will seek the Courts' approval of legal fees not to exceed 25% of the Settlement Fund, plus disbursements and applicable taxes. These legal fees and expenses will be deducted from the Settlement Fund and will be applied to satisfy the collective legal fees and expenses of Ontario, Québec and Michigan Class Counsel (as defined under "Class Counsel", below).

If you would like a copy of the Settlement Agreement, it is available on the websites of Ontario Class Counsel and Michigan Class Counsel at www.classaction.ca and www.jruslaw.com. You can also obtain a hard copy by contacting Ontario Class Counsel, toll free, at **1-800-461-6166, Ext. 380**.

**2. ONTARIO
APPROVAL HEARING:**

A settlement approval hearing in the Ontario class proceeding has been scheduled for January 25, 2007 at 10:00 a.m. at the Courthouse of the Ontario Court, 361 University Ave., Toronto, ON. At this hearing, the Ontario Court will determine whether the Settlement Agreement is in the best interests of all Class Members, excluding those who reside in the Province of Québec, but including those who reside in the Province of Québec and who are precluded from being a member of a group in a class action under Article 999(d) of the Québec *Code of Civil Procedure* (the "Non-Québec Class Members"). All timely filed written submissions from the Non-Québec Class Members will be considered at this time, as well as any objections to the proposed settlement by Class Members who appear in person. If the Settlement Agreement is approved, the Ontario Court will certify the action as a class proceeding for settlement purposes only, and will determine the joint fee request of Class Counsel.

If you wish to comment on, or make an objection to, the Settlement Agreement by written submissions, they must be delivered to Ontario Class Counsel, at the address listed below, by no later than January 18, 2007. Ontario Class Counsel will forward all such submissions to the Ontario Court.

Commencing on January 11, 2007, copies of the Ontario settlement approval materials will be available for inspection by Class

Members on Ontario and Michigan Class Counsels' websites at www.classaction.ca and www.jruslaw.com. If the Settlement Agreement receives final approval from the Canadian Courts, further Notices will be published on the aforementioned websites, and in such media as are directed by the Canadian Courts.

3. QUÉBEC APPROVAL HEARING:

A settlement approval hearing in the Québec class action has been scheduled for _____, 2007, at _____ a.m. in room ____ of the Québec City Court House, 300, boul. Jean-Lesage, Québec City, Québec, G1K 8K6. At this hearing, the Québec Court will determine whether the Settlement Agreement is in the best interests of the Class Members who reside in Québec, excluding those who are precluded from being a member of a group in a class action under Article 999(d) of the Québec *Code of Civil Procedure* (the "Québec Class Members"). All timely filed written submissions from Québec Class Members will be considered at this time. If the Settlement Agreement is approved, the Québec Court will then grant the motion for Authorization to File a Class Action for settlement purposes only and will determine the fee request of Québec Class Counsel.

If you are a Québec Class Member and wish to comment on, or make an objection to, the Settlement Agreement, you must deliver a written submission to Québec Class Counsel at the address listed below, no later than [date 10 days prior to hearing], 2007. Québec Class Counsel shall forward all such submissions to the Québec Court. If you do not deliver a written submission to Québec Class Counsel by [date 10 days prior to hearing], 2007, you will not be entitled to participate in the settlement approval hearing and you will have no standing to later file an appeal should the Settlement Agreement be approved.

Commencing on January 11, 2007, copies of the settlement approval materials will be available for inspection by Class Members on Ontario and Michigan Class Counsels' websites at www.classaction.ca and www.jruslaw.com. If the Settlement Agreement receives final approval from the Canadian Courts, further Notices will be published on the aforementioned websites, and in such media as are directed by the Canadian Courts.

4. DISMISSAL OF MICHIGAN ACTION:

If the Settlement Agreement receives the approval of the Canadian Courts, promptly following the Canadian Courts' approval of this Settlement Agreement and the expiration of all appeal periods, Michigan Class Counsel shall file a Stipulated Order of Dismissal in the Michigan Court.

5. DISTRIBUTION

For purposes of this Section 5:

PROTOCOL:

"Compensation Fund" means the Settlement Fund less: (i) all Court-approved Class Counsel Fees and expense reimbursements; and (ii) all notice and administration costs.

"Disposition Proceeds" means the total proceeds paid to the Settling Class Member (less brokerage commissions) in consideration of all of his, her or its sale(s) of IPSs; provided however that, with respect to any IPSs that the Settling Class Member purchased during the Class Period and that the Settling Class Member continues to hold at the time that he, she or it submits a Claim Form to the Administrator, the Disposition Proceeds for such IPSs shall be deemed to be CAN\$0.94 per IPS;

"FIFO" means the principle of first-in first-out, and requires, in the case of a Two-Class Purchaser whose IPSs were commingled, that the IPSs purchased first by the Two-Class Purchaser be deemed to have been sold completely before IPSs purchased later are sold;

"Net Loss" means that the Settling Class Member's Disposition Proceeds are less than the Settling Class Member's Purchase Price, and is the difference between: (1) the Settling Class Member's Purchase Price; and (2) the Settling Class Member's Disposition Proceeds;

"Prospectus IPSs" means IPSs purchased during the Class I Period;

"Purchase Price" means the total monies paid by the Settling Class Member (including brokerage commissions) to acquire Prospectus IPSs or TSX IPSs (as the case may be);

"Settling Class Members" means all Global Class Members who do not validly opt out of the Settlement Agreement;

"TSX IPSs" means IPSs purchased during the Class II Period; and

"Two-Class Purchaser" means a Settling Class Member who purchased both Prospectus IPSs and TSX IPSs.

Variables in the Calculation of Compensation

The amount of each Settling Class Member's actual compensation from the Compensation Fund will depend upon: (1) the number of IPSs purchased by the Settling Class Member during the Class Period, and the prices at which the Settling Class Member purchased and sold (or is deemed to have sold) such IPSs; (2) whether or not the Settling Class Member sustained a Net Loss and, if so, the amount of the Settling Class Member's Net Loss; (3) whether the Settling Class Member purchased Prospectus IPSs and/or TSX IPSs; (4) whether or not the Settling Class Member

sold some or all of his, her or its IPSs during the Class II Period; (5) whether the Settling Class Member continues to hold, at the time of the Settling Class Member's submission of a Claim Form to the Claims Administrator, some or all of the IPSs that he, she or it acquired during the Class Period; (6) whether the Settling Class Member is a Two-Class Purchaser and, if so, whether the IPSs purchased by the Settling Class Member were commingled; and (7) the number of Prospectus IPSs and TSX IPSs purchased by Settling Class Members who timely file valid Claim Forms with the Claims Administrator.

In order to receive compensation under this Settlement Agreement, a Settling Class Member must have sustained a Net Loss. Each Settling Class Member who timely submits a valid Claim Form, and who is eligible for compensation, will be entitled to receive compensation, calculated by the Claims Administrator, according to the formulae set forth below.

Methodology for Calculating the Settling Class Member's Actual Compensation from the Compensation Fund

The Settling Class Member's *actual* compensation from the Compensation Fund will be his, her, or its ***pro rata* share of the Compensation Fund, based on his, her or its estimated damages, calculated pursuant to the formulae set forth below.** Therefore, each Settling Class Member's *actual* compensation is likely to be less than the Settling Class Member's estimated damages.

The estimated damages of each Settling Class Member will be determined as follows:

(1) For Settling Class Members who purchased only Prospectus IPSs and who continued to own all of such IPSs at the close of trading on November 14, 2005:

The Settling Class Member's estimated damages are the number of Prospectus IPSs purchased by such Settling Class Member, multiplied by an estimated per-IPS inflation of CAN\$4.25.

(2) For Settling Class Members who purchased only TSX IPSs and who continued to own all such IPSs at the close of trading on November 14, 2005:

The Settling Class Member's estimated damages are the lesser of: (a) his, her or its Net Loss; and (b) the number of TSX IPSs purchased by such Settling Class Member, multiplied by an estimated average per-IPS inflation of CAN\$2.43.

(3) For Settling Class Members who purchased only

Prospectus IPSs and who sold some or all of such IPSs prior to November 15, 2005:

The Claims Administrator will apply the formula set forth in (1) above, except that, with respect to any Prospectus IPSs sold by the Settling Class Member prior to November 15, 2005, the estimated average per-IPS inflation will be \$0.75.

(4) For Settling Class Members who purchased only TSX IPSs and who sold some or all of such IPSs prior to November 15, 2005:

The Claims Administrator will apply the formula set forth in (2) above, except that, with respect to any TSX IPSs sold by the Settling Class Member prior to November 15, 2005, the estimated average per-IPS inflation will be \$0.56.

(5) For Settling Class Members who are Two-Class Purchasers and who satisfy the Claims Administrator that their Prospectus IPSs remained segregated at all material times from their TSX IPSs:

The Claims Administrator will apply the formulae set forth in (1) and (3) above to the Settling Class Member's Prospectus IPSs, and will apply the formulae set forth in (2) and (4) above to the Settling Class Member's TSX IPSs, and the Settling Class Member's total estimated damages shall be the aggregate of his, her or its estimated damages in respect of: (a) Prospectus IPSs; and (b) TSX IPSs.

(6) For Settling Class Members who are Two-Class Purchasers and whose Prospectus IPSs and TSX IPSs are deemed by the Claims Administrator to have been commingled:

The Claims Administrator will apply FIFO in determining the time at which the Settling Class Member sold his, her or its IPSs, and will then apply the applicable formulae set forth in (1) to (4) above.

Commingling of the Prospectus IPSs and the TSX IPSs of Two-Class Purchasers

In calculating the estimated damages sustained by a Settling Class Member who is a Two-Class Purchaser, the Claims Administrator will assume that the Settling Class Member's Prospectus IPSs and TSX IPSs were commingled, unless the Settling Class Member is able to satisfy the Claims Administrator, through the furnishing of appropriate documentation and other information, that the Settling Class Member's Prospectus IPSs were segregated at all material times from the Settling Class Member's TSX IPSs.

Identification of Prospectus IPSs and TSX IPSs

For purposes of distributing the Compensation Fund to the Settling Class Members, the Claims Administrator will assume that all IPSs purchased at a price of CAN\$10.00 per IPS are Prospectus IPSs, and that all IPSs purchased at a price of less than CAN\$10.00 per IPS are TSX IPSs.

Provisional Determinations of Actual Compensation

Within sixty (60) days of the date by which all Claim Forms must be filed, the Claims Administrator shall send to each Settling Class Member who has submitted a Claim Form, and whose Claim Form was rejected in whole or in part, a notice disclosing the complete or partial rejection of the Claim Form and the reasons for such rejection (the "Rejection Notice").

Dispute Resolution Mechanism

In the event that a Settling Class Member disputes the Claims Administrator's decision to reject his, her or its Claim Form, whether in whole or in part (a "Dispute"), the Settling Class Member may bring the Dispute before a bilingual Referee appointed by the Canadian Courts for that purpose.

In order to Dispute a claims decision by the Claims Administrator, a Settling Class Member will be required to pay \$250 to the Claims Administrator prior to the adjudication of the Dispute, and will be entitled to reimbursement of that sum only in the event that the Settling Class Member succeeds in the Dispute.

The procedure to be followed by the Settling Class Member who makes a Dispute is set forth in greater detail in the Distribution Protocol attached as Schedule "B" to the Settlement Agreement.

Final Distribution

No later than sixty (60) days following the adjudication of all Disputes, the Claims Administrator will make final distributions of compensation to the Class Members. In so doing, the Claims Administrator will deduct from any payments otherwise due to the Québec Class Members any amounts owing to the Québec *Fonds d'Aide*.

6. RELEASE OF CLAIMS AND EFFECT ON OTHER PROCEEDINGS:

If the Settlement Agreement receives the approval of the Canadian Courts, you will be bound by the terms of the Settlement Agreement, unless you "opt out". This means that you will not be able to bring or maintain any other claim or legal proceeding against the Defendants or any other person released by the Settlement Agreement in relation to the matters alleged in these

proceedings.

If you opt out, you will not be bound by the terms of the Settlement Agreement, but you will not be eligible for any of the benefits of the Settlement Agreement. This means that you will be barred from making a claim and receiving payment pursuant to the Settlement Agreement.

7. CLASS COUNSEL: A. Dimitri Lascaris and Charles M. Wright of the law firm of *Siskinds^{LLP}* are counsel to the Plaintiffs in the Ontario class proceeding (“Ontario Class Counsel”). Ontario Class Counsel can be reached at 680 Waterloo Street, P.O. Box 2520, London, Ontario, N6A 3V8, Attention: **A. Dimitri Lascaris**, or by telephone, toll free, at **1-800-461-6166, Ext. 380**.

Simon Hébert of the law firm of *Siskinds, Desmeules^{S.E.N.C.R.L.}* is counsel to the Petitioners in the Québec class proceeding (“Québec Class Counsel”). Québec Class Counsel can be reached at 43, Rue Buade, Bur 320, Québec City, Québec, G1R 4A2, Attention: **Simon Hébert**, or by telephone at **(418) 694-2009**.

Henry Juroviesky of the Ontario-based law firm of *Juroviesky and Ricci^{LLP}* and the Michigan-based law firm of *Frank, Haron, Weiner and Navarro^{PLC}* are counsel to the Plaintiffs in the Michigan Action (“Michigan Class Counsel”, and together with Ontario and Québec Class Counsel, “Class Counsel”). Michigan Class Counsel can be reached at 4950 Yonge Street, Suite 904, Toronto, Ontario, M2N 6K1, Attention: **Henry Juroviesky**.

8. INTERPRETATION: If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO SUPERIOR COURT OF JUSTICE AND THE QUÉBEC SUPERIOR COURT OF JUSTICE

SCHEDULE G
ONTARIO APPROVAL ORDER

Court File No. 49348 CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE)
JUSTICE MAURICE C. CULLITY) _____, the ____ day
of _____, 2007

BETWEEN:

TIM GOULD and ARCHIE LEACH

Plaintiffs

- and -

BMO NESBITT BURNS INC.; BLACKMONT CAPITAL INC.; CANACCORD CAPITAL CORPORATION; NATIONAL BANK FINANCIAL INC.; SPROTT SECURITIES INC.; TD SECURITIES INC.; BDO SEIDMAN, LLP; FMF CAPITAL GROUP LTD.; FMF CAPITAL LLC; FMF HOLDINGS, LLC; MICHIGAN FIDELITY ACCEPTANCE CORPORATION; PKF, LLC; THOMAS LITTLE; ATUL SHAH; MICHAEL HOFFMAN; EDAN KING; HOWARD MOROF; ROBERT PILCOWITZ; ERIC SLAVENS; and LORIE WAISBERG

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the proposed Representative Plaintiffs for an Order that the within proceeding be certified as a class proceeding for settlement purposes only, that the Settlement Agreement be approved, and that **[name of administrator]** be appointed as Claims Administrator; was heard this day in Toronto, Ontario, Canada.

ON READING the materials filed and on hearing submissions of counsel for the Plaintiffs and counsel for the Defendants:

1. **THIS COURT ORDERS** that the within proceeding be, and is, certified as a class proceeding, for purposes of settlement only, pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c.6, ss.2 and 5;

2. **THIS COURT ORDERS** that “Class I” be, and is, defined and certified subject hereto as:

All Persons (excluding Persons who reside in the Province of Québec, but including Persons who reside in the Province of Québec and who are precluded from being a member of a group in a class action under Article 999(d) of the Québec *Code of Civil Procedure*) who purchased Income Participating Securities (“IPSs”) of FMF Capital Group Ltd. during the IPO.

Excluded from Class I are the Defendants, the Transferee Defendants, members of the immediate families of the individual Defendants and Transferee Defendants, the directors, officers, subsidiaries, and affiliates of BDO, the corporate FMF Defendants, and the Transferee Defendants, the directors, senior officers above the office of vice president, subsidiaries, and affiliates of the Underwriter Defendants, any person, firm, trust, corporation, or entity in which any Defendant or Transferee Defendant has a controlling interest or which is related to, or affiliated with, any Defendant or Transferee Defendant, and the legal representatives, agents, affiliates, heirs, successors-in-interest or assigns of any such excluded Person.

3. **THIS COURT ORDERS** that “Class II” be, and is, defined and certified subject hereto as:

All Persons (excluding Persons who reside in the Province of Québec, but including Persons who reside in the Province of Québec and who are precluded from being a member of a group in a class action under Article 999(d) of the Québec *Code of Civil Procedure*) who purchased IPSs, or any of the securities represented by such IPSs, over the Toronto Stock Exchange (“TSX”) during the period extending from, and including, March 24, 2005 to, and including, November 15, 2005 (the “Class II Period”).

Excluded from Class II are the Defendants, the Transferee Defendants, members of the immediate families of the individual Defendants and Transferee Defendants, the directors, officers, subsidiaries, and affiliates of BDO, the corporate FMF Defendants, and the Transferee Defendants, the directors, senior officers above the office of vice president, subsidiaries, and affiliates of the Underwriter Defendants, any person, firm, trust, corporation, or entity in which any Defendant or Transferee Defendant has a controlling interest or which is related to, or affiliated with, any Defendant or Transferee Defendant, and the legal representatives, agents, affiliates, heirs, successors-in-interest or assigns of any such excluded Person.

4. **THIS COURT ORDERS** that Tim Gould and Archie Leach be, and are, appointed as the Representative Plaintiffs for the within class proceeding;

5. **THIS COURT ORDERS** that the causes of action asserted on behalf of the Classes are breach of s. 130 of the *Securities Act*, R.S.O. 1990, c. S.5, negligence and negligent misrepresentation, and breach of ss. 36 and 52 of the *Competition Act*, R.S. 1985, c. C-34.

6. **THIS COURT ORDERS** that the within proceeding be, and is, certified on the basis of the following common issues:

What claims do the Class I Members and the Class II Members have against the Defendants arising from the Defendants' alleged acts, omissions, disclosures or non-disclosures relating either to the IPO, or subsequent alleged acts, omissions, disclosures or non-disclosures relating to the IPSs.

7. **THIS COURT DECLARES** that the Settlement Agreement, in its entirety (including the Recitals, the definitions set out in paragraph 1 and its Schedules) (the "Agreement"), forms part of this Order and is binding upon the Representative Plaintiffs, upon all Class Members who do not opt out of the Class in accordance with the Notice, and upon the Defendants; terms defined in the Settlement Agreement shall have the same definitions in this Order as in the Settlement Agreement;

8. **THIS COURT DECLARES** that the Agreement is fair, reasonable and in the best interests of the Class I Members and the Class II Members;

9. **THIS COURT ORDERS** that [name of administrator] be appointed Claims Administrator;

10. **THIS COURT ORDERS** that a Notice of certification and approval of settlement be distributed and/or published in accordance with the Plan of Notice, which is attached hereto as Schedule "A" and as Schedule C to the Settlement Agreement, and that the

notice shall be substantially in the form of Schedule “B” attached hereto and attached to the Settlement Agreement as Schedules J and K;

11. **THIS COURT ORDERS** that Class Members may opt out of the Class by obtaining from the Claims Administrator a Claim Form and completing and returning the Opt Out Coupon that forms part of the Claim Form to the Claims Administrator by the date thirty (30) days after the Notice of certification and approval of settlement is published (the “Opt Out Period”);
12. **THIS COURT ORDERS** that no Class Members may opt out of the Classes after the expiration of the Opt Out Period.
13. **THIS COURT ORDERS** that the Agreement is approved pursuant to s. 29 of the *CPA*;
14. **THIS COURT ORDERS** that the Parties and the Settling Class Members, and their successors, heirs, executors, administrators, and assigns are hereby permanently barred and enjoined from instituting, commencing, or prosecuting against Defendants and the Related Parties any claims, including Unknown Claims, demands, rights, liabilities, actions and causes of action, damages, losses, obligations, judgments, suits, matters, and issues of every nature and description whatsoever, known or unknown, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, matured or un-matured, whether or not concealed or hidden, that had been, have been, could have been, or may in the future be, asserted in the Litigation or in any court, tribunal, or proceeding in Canada, the United States, or anywhere else (including but not limited to any claims arising under Federal, provincial, or state law in Canada, the

United States, or anywhere else), including, without limitation, all claims alleged or which could have been alleged in the Litigation and all claims for breach of contract, indemnity and/or contribution, negligence, gross negligence, breach of duty of care and/or breach of any other duty (including any fiduciary duty), fraud, securities fraud, misrepresentation, fraudulent misrepresentation, negligent misrepresentation, unjust enrichment, restitution, disgorgement, rescission, breach of trust, false advertising, concert of action, civil conspiracy, willful or wanton misconduct or any other violation of any Federal, provincial, or state statutes, rules, regulations or common law in Canada, the United States, or anywhere else, by any Party or Related Party against any other Party or Related Party, which have arisen, could have arisen, arise now or hereafter arise out of, or relate in any manner to, the allegations, facts, events, transactions, acts, conduct, occurrences, statements, representations, misrepresentations, omissions, obligations, disclosures, nondisclosures, or any other matter, thing, or cause whatsoever, or any series thereof, embraced, involved, alleged, set forth in or otherwise related, directly or indirectly, to the IPO, the IPSs, the Litigation, or the prosecution, settlement, or resolution of the Litigation, all of which are hereby compromised, settled, released, discharged and dismissed with prejudice against the Defendants and the Related Parties.

15. **THIS COURT ORDERS** that the within proceeding be dismissed against the Defendants without costs and with prejudice.

Date: _____, 2007

THE HONOURABLE
JUSTICE MAURICE C. CULLITY

SCHEDULE H
QUÉBEC APPROVAL ORDER

COUR SUPÉRIEURE

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE QUÉBEC

N° : 200-06-000064-066

DATE : le janvier 2007

EN PRÉSENCE DE : **L'HONORABLE** , J.C.S.

JEAN-MARIE DUPUIS

et

ROBERT TAMILIA

Requérants;

c.

FMF CAPITAL GROUP LTD & ALS.

Intimés;

**JUGEMENT SUR REQUÊTE POUR OBTENIR L'AUTORISATION D'EXERCER UN
RECOURS COLLECTIF POUR FINS DE RÈGLEMENT, POUR OBTENIR L'APPROBATION
D'UNE TRANSACTION ET L'OBTENTION DU STATUT DE REPRÉSENTANTS DES
MEMBRES DU GROUPE DU QUÉBEC**

[1] **ATTENDU** que les parties sont impliquées dans un litige de la nature d'un reco

V 1 25-08-06

[2] **ATTENDU** que les requérants ont conclu une transaction (ci-après la « Transaction ») avec les Intimés;

[3] **CONSIDÉRANT** que la tenue de l'audition à l'origine de ce jugement a été annoncée au moyen d'avis publiés en vertu du jugement rendu le ;

[4] **ATTENDU** que les requérants par leur requête pour obtenir l'autorisation d'exercer un recours collectif pour fins de règlement, pour obtenir l'approbation d'une transaction et l'obtention du statut de représentants des membres du groupe du Québec demandent, notamment, que ce recours collectif soit autorisé après la conclusion de la Transaction avec les Intimés;

[5] **VU** la requête sous étude;

[6] **VU** que cette requête a été signifiée au Fonds d'aide aux recours collectifs;

[7] **VU** les décisions rendues par mes collègues, les Honorables Juges Denis et Lemelin¹;

[8] **VU** que les Intimés consentent à la requête;

[9] **VU** les articles 1025, 1045 et 1046 du *Code de procédure civile*;

[10] **APRÈS EXAMEN**, et considérant que la Cour ne voit aucune raison de ne pas entériner la Transaction proposée en l'instance, la considérant raisonnable, équitable, appropriée et dans le meilleur intérêt du groupe;

POUR CES MOTIFS, LE TRIBUNAL:

[11] **ACCUEILLE** la requête;

[12] **AUTORISE** la requête amendée pour obtenir l'autorisation d'exercer un recours collectif et pour obtenir le statut de représentants déposée au dossier de la Cour le 4 mai 2006;

[13] **AUTORISE** l'exercice d'un recours collectif contre les Intimés en l'instance, pour fins de règlement seulement;

[14] **ACCORDE** aux requérants Robert Tamilia et Jean-Marie Dupuis le statut de représentants des personnes faisant partie du groupe ci-après décrit (ci-après désignées «les Membres du Groupe»);

[15] **DÉCLARE** que le groupe ci-haut décrit se divise en deux sous groupes et que chaque sous groupe est décrit comme suit:

Sous-Groupe I désigne:

Tous les membres du Groupe qui ont acheté des Titres représentatifs de titres participatifs et à revenu en dépôt de FMF CAPITAL GROUP LTD. pendant la période durant laquelle la distribution (PAPE) des Titres représentatifs de titres participatifs et à revenu en dépôt de FMF CAPITAL GROUP LTD. a eu lieu (la période du Sous-Groupe I) à l'exclusion des individus et des entités suivants:

a) toutes les personnes morales de droit privé, sociétés ou associations qui, pendant la période de douze mois précédant la requête pour autorisation, ont eu sous leur direction ou contrôle plus de cinquante (50) personnes liées à elles par un contrat de travail;

¹ *ACEF CENTRE c. Bristol-Myers Squibb Co.*, C.S.M. 500-06-000004-917, le 8 août 1995, par l'Honorable J. Denis et *Gagné c. Primerica Financial Services Ltd.*, C.S.Q. 200-06-000008-006, le 16 octobre 2001 par l'Honorable J. Lemelin.

- b) les Intimés et les membres de leurs familles immédiates;
- c) les directeurs, les officiers, et les filiales des corporations intimées;
- d) toute personne, société, fiducie, corporation, officier, directeur ou tout autre individu ou entité dans laquelle n'importe quel intimé a une participation majoritaire ou qui est lié ou affilié à n'importe quel Intimés; et
- e) les représentants légaux, agents, filiales, héritiers, ou légataires d'une telle partie exclue (à l'exception de ceux mentionnés au paragraphe (a) ci-haut), ou de n'importe quelle autre personne qui de par loi doit être exclue de ce groupe.

Est également exclue du sous groupe 1 toute autre personne qui transmettra en temps opportun une demande d'exclusion du sous groupe 1 en accord avec la section H.1 de l'entente de règlement.

Sous-Groupe II désigne:

Tous les membres du Groupe qui ont acheté (i) des Titres représentatifs de titres participatifs et à revenu en dépôt de FMF CAPITAL GROUP LTD., ou (ii) n'importe quelle des valeurs représentées par de tels Titres représentatifs de titres participatifs et à revenu en dépôt, du Toronto Stock Exchange pendant la période du 24 mars 2005 au 15 novembre 2005 inclusivement (la période du Sous-Groupe II), à l'exclusion des individus et des entités suivants:

- a) toutes les personnes morales de droit privé, sociétés ou associations qui, pendant la période de douze mois précédant la requête pour autorisation, ont eu sous leur direction ou contrôle plus de cinquante (50) personnes liées à elles par un contrat de travail;
- b) les Intimés et les membres de leurs familles immédiates;
- c) les directeurs, les officiers, et les filiales des corporations intimées;
- d) toute personne, société, fiducie, corporation, officier, directeur ou tout autre individu ou entité dans laquelle n'importe quel intimé a une participation majoritaire ou qui est lié ou affilié à n'importe quel Intimés; et
- e) les représentants légaux, agents, filiales, héritiers, ou légataires d'une telle partie exclue (à l'exception de ceux mentionnés au paragraphe (a) ci-haut), ou de n'importe quelle autre personne qui de par loi doit être exclue de ce groupe.

Est également exclue du sous groupe 2 toute autre personne qui transmettra en temps opportun une demande d'exclusion du sous groupe 2 en accord avec la section H.1 de l'entente de règlement.

[16] **DÉCLARE** que la Transaction avec les appendices qui y sont jointes, annexée au présent jugement comme Annexe 1 est valable, équitable, raisonnable, dans le meilleur intérêt des Membres du Groupe et constitue une transaction au sens de l'article 2631 du Code civil du Québec, liant toutes les parties et tous les membres qui y sont décrits;

[17] **DÉCLARE** que la version anglaise de la Transaction constitue l'entente entre les parties, sur laquelle ces dernières se sont entendues, et que la version française n'est qu'une traduction, de sorte qu'en cas de divergence entre la version anglaise et la version française, la première doit primer;

[18] **APPROUVE** la Transaction;

[19] **DÉCLARE** que la Transaction dans son intégralité (y compris son préambule, ses définitions et ses annexes) fait partie intégrante du présent jugement;

[20] **ORDONNE** aux parties et aux membres du groupe, à l'exception de ceux qui s'en seront exclus conformément aux termes et conditions du présent jugement, de se conformer à la Transaction;

[21] **ORDONNE** qu'un avis, en langue anglaise et française, conforme aux modèles joints à ce jugement comme annexe 2, soit publié selon le mode de diffusion prévu à l'annexe 3 de ce jugement;

[22] **ORDONNE** que chaque membre du groupe qui désire s'en exclure et ainsi ne pas être lié par la Transaction le fasse conformément à la procédure décrite dans l'avis aux membres annonçant l'autorisation du recours collectif pour fins de règlement et l'approbation de la Transaction joint au présent jugement comme annexe 2 pour en faire partie intégrante et à l'annexe E de la Transaction (formulaire d'exclusion);

[23] **DÉCLARE** que pour être admissibles, les demandes d'exclusion doivent être faites par écrit et transmises par courrier enregistré ou recommandé à l'adresse qui suit:

Cour supérieure de Québec
Greffe civil
300, boulevard Jean-Lesage
Salle 1.24
Québec (Québec) G1K 8K6

avec les informations requises aux termes du formulaire d'exclusion, le tout à l'intérieur d'un délai de 30 jours suivant la publication de l'avis annonçant l'autorisation du recours collectif pour fins de règlement et l'approbation de la Transaction (annexe 2).

[24] **ORDONNE** que toute personne qui se sera exclue du groupe en produisant le formulaire d'exclusion dans le délai de 30 jours suivant la publication de l'avis annonçant l'autorisation du recours collectif pour fins de règlement et l'approbation de la Transaction (annexe B) ne sera pas liée par la Transaction et ne pourra bénéficier de ce qui est prévu dans cette Transaction;

[25] **DÉCLARE** que ce jugement lie tous les membres du groupe qui ne se seront pas exclus selon la procédure décrite ci-dessus;

[26] **DÉSIGNE** la firme pour agir à titre d'administrateurs des réclamations avec mandat d'administrer les réclamations conformément à la Transaction et à la loi.

[27] **LE TOUT** sans frais.

, J.C.S.

Me Simon Hébert (Casier 15)
SISKINDS, DESMEULES, AVOCATS
Procureurs des requérants

Me Catherine McKenzie
IRVING MITCHELL KALICHMAN
4119, rue Sherbrooke Ouest
Westmount (Québec) H3Z 1A7
Procureurs de BMO Nesbitt Burns Inc., Thomas Little et Atul Shah

Me Julie-Martine Loranger
GOWLING LAFLEUR HENDERSON, s.r.l.
1, Place Ville Marie, 37e étage
Montréal (Québec) H3B 3P4
Procureurs de Financière Banque Nationale Inc.

Me Mason Poplaw
McCARTHY, TÉTRAULT
1000, rue de La Gauchetière Ouest, bureau 2500
Montréal (Québec) H3B 0A2
Procureurs de Valeurs Mobilières TD Inc.

Me Louis Coallier
MILLER, THOMSON, POULIOT
Le Tour CIBC, 31e étage
1155, boulevard René-Lévesque Ouest
Montréal (Québec) H3B 3S6
Procureurs de Corporation Canaccord Capital, Blackmont Capital Inc.

Me Jean St-Onge
LAVERY, DE BILLY
1, Place Ville-Marie, bureau 4000
Montréal (Québec) H3B 4M4
Procureurs de Valeurs Mobilières Sprott Inc.

Me Marc Prévost

ROBINSON, SHEPPARD, SHAPIRO

900, Place Victoria, bureau 4600

Montréal (Québec)

Procureurs de FMF Capital Group Ltd., FMF Capital LLC, FMF Holdings LLC, Michigan Fidelity Acceptance Corporation c/o of FMF Capital Group Ltd., PKF, LLC, Micheal Hoffman, Edan King, Howard Morof, Robert Pilcowitz, Eric Slavens, Lorie Waisberg

SCHEDULE I-1
QSF ORDER

STATE OF MICHIGAN
CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT

LIMBC ACCEPTANCE CORPORATION, *et al.*,

Plaintiffs,

v.

Case No. 05-070937-CZ
The Honorable Wendy L. Potts

FMF CAPITAL LLC, *et al.*,

Defendants.

Henry Juroviesky (Pro Hac Vice)
Jonathane Ricci (P58740)
Juroviesky and Ricci LLP
Attorneys for Plaintiffs

David L. Haron (P14655)
Monica P. Navarro (P52985)
Frank, Haron, Weiner and Navarro
Attorneys for Plaintiffs

Joseph Aviv (P30014)
Bruce L. Segal (P36703)
Honigman Miller Schwartz and Cohn LLP
Attorneys for Defendants FMF Capital LLC,
FMF Holdings LLC, Michigan Fidelity
Acceptance Corporation, FMF Capital Group
Ltd., Robert Pilcowitz, Edan King, Howard
Morof, Michael Hoffman, Lorie Waisberg,
Eric Slavens, PKF, LLC, Phyllis Cane
Pilcowitz, Hilary King, Trustee of the Phyllis
Cane Pilcowitz Revocable Trust, Trustee of the
Phyllis Cane Pilcowitz Qualified Annuity
Trust, Trustee of the Hilary King Revocable
Trust, and Trustee of the Hilary King Qualified
Annuity Trust

Rodger D. Young (P22652)
Young & Susser
Attorneys for Defendants Harris Nesbitt
Corp., BMO Nesbitt Burns Inc., National
Bank Financial Inc., TD Securities Inc.,
Sprott Securities Inc., and Atul Shah

Scott T. Seabolt (P55890)
Foley & Lardner LLP
Attorneys for Defendants Canaccord Capital
Corp. and Blackmont Capital Inc.

Thomas G. McNeill (P36895)
Dickinson Wright PLLC
Attorneys for BDO Seidman, LLP

STIPULATED ORDER APPROVING QSF FUND

STIPULATED ORDER APPROVING QSF FUND

At a session of the Court held in the Oakland County Courthouse
in the City of Pontiac, County of Oakland, State of Michigan, on
_____, 2007.

PRESIDING: The Honorable _____
Circuit Judge

Upon the stipulation of the Plaintiffs and the FMF Defendants, as is evidenced by the signatures of their attorneys at the bottom of this order, and the Court being advised that (i) a global settlement of the action, as well as related actions pending in Ontario and Québec, Canada, has been reached and documented in a written settlement agreement (the "Settlement Agreement"; all capitalized terms herein are as defined in the Settlement Agreement), (ii) the Settlement Agreement requires the approval of the Canadian courts, and (iii) the Settlement Agreement requires the prompt establishment of a Settlement Fund, a portion of which, identified as the QSF Fund, shall be a Qualified Settlement Fund in accordance with Section 468B of the Internal Revenue Code and Treasury Regulations 1.468B-1 through 1.468B-5, and provides that other parties have waived notice of hearing and entry of this Order :

IT IS ORDERED that the establishment of the QSF Fund is authorized and approved and shall be subject to the continuing jurisdiction of the Court.

Circuit Judge

I stipulate to the entry of the above order:

David L. Haron (P14655)
Monica P. Navarro (P52985)
Frank, Haron, Weiner and Navarro
Attorneys for Plaintiffs

Joseph Aviv (P30014)
Bruce L. Segal (P36703)
Honigman Miller Schwartz and Cohn LLP
Attorneys for Defendants FMF Capital LLC,
FMF Holdings LLC, Michigan Fidelity
Acceptance Corporation, Robert Pilcowitz,
Edan King, Howard Morof, Michael
Hoffman, Lorie Waisberg, and Eric Slavens

SCHEDULE 1-2
MICHIGAN DISMISSAL ORDER

STATE OF MICHIGAN
CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT

LIMBC ACCEPTANCE CORPORATION, *et al.*,

Plaintiffs,

v.

Case No. 05-070937-CZ
The Honorable Wendy L. Potts

FMF CAPITAL LLC, *et al.*,

Defendants.

Henry Juroviesky (Pro Hac Vice)
Jonathane Ricci (P58740)
Juroviesky and Ricci LLP
Attorneys for Plaintiffs

David L. Haron (P14655)
Monica P. Navarro (P52985)
Frank, Haron, Weiner and Navarro
Attorneys for Plaintiffs

Joseph Aviv (P30014)
Bruce L. Segal (P36703)
Honigman Miller Schwartz and Cohn LLP
Attorneys for Defendants FMF Capital LLC,
FMF Holdings LLC, Michigan Fidelity
Acceptance Corporation, FMF Capital Group
Ltd., Robert Pilcowitz, Edan King, Howard
Morof, Michael Hoffman, Lorie Waisberg,
Eric Slavens, PKF, LLC, Phyllis Cane
Pilcowitz, Hilary King, Trustee of the Phyllis
Cane Pilcowitz Revocable Trust, Trustee of the
Phyllis Cane Pilcowitz Qualified Annuity
Trust, Trustee of the Hilary King Revocable
Trust, and Trustee of the Hilary King Qualified
Annuity Trust

Rodger D. Young (P22652)
Young & Susser
Attorneys for Defendants Harris Nesbitt
Corp., BMO Nesbitt Burns Inc., National
Bank Financial Inc., TD Securities Inc.,
Sprott Securities Inc., and Atul Shah

Scott T. Seabolt (P55890)
Foley & Lardner LLP
Attorneys for Defendants Canaccord Capital
Corp. and Blackmont Capital Inc.

Thomas G. McNeill (P36895)
Dickinson Wright PLLC
Attorneys for BDO Seidman, LLP

STIPULATED ORDER OF DISMISSAL

STIPULATED ORDER OF DISMISSAL

At a session of the Court held in the Oakland County Courthouse
in the City of Pontiac, County of Oakland, State of Michigan, on
_____, 2007.

PRESIDING: The Honorable _____
Circuit Judge

Upon the stipulation of the parties, as is evidenced by the signatures of their attorneys at the bottom of this order, and the Court being advised that a global settlement of the action, as well as related actions pending in Ontario and Quebec, Canada, has been reached, documented in a written settlement agreement, and approved by the Canadian courts:

IT IS ORDERED that the action is dismissed with prejudice as to all claims that were or could have been asserted in the action by Plaintiffs, the purported class members, or the Defendants. Regardless of any prior order, no costs or sanctions shall be awarded to any party.

This Order resolves the last pending claim and closes the case.

Circuit Judge

I stipulate to the entry of the above order:

David L. Haron (P14655)
Monica P. Navarro (P52985)
Frank, Haron, Weiner and Navarro
Attorneys for Plaintiffs

Henry Juroviesky (Pro Hac Vice)
Jonathane Ricci (P58740)
Juroviesky and Ricci LLP

Rodger D. Young (P 22652)
Young & Susser
Attorneys for Defendants Harris Nesbitt Corp.,
BMO Nesbitt Burns Inc., National Bank
Financial Inc., TD Securities Inc., and Sprott
Securities Inc., and Atul Shah

Thomas G. McNeill (P 36895)
Dickinson Wright PLLC
Attorneys for BDO Seidman, LLP

Joseph Aviv (P30014)
Bruce L. Segal (P36703)
Honigman Miller Schwartz and Cohn LLP
Attorneys for Defendants FMF Capital LLC,
FMF Holdings LLC, Michigan Fidelity
Acceptance Corporation, Robert Pilcowitz,
Edan King, Howard Morof, Michael
Hoffman, Lorie Waisberg, and Eric
Slavens,PKF, LLC, Phyllis Cane Pilcowitz,
Hilary King, Trustee of the Phyllis Cane
Pilcowitz Revocable Trust, Trustee of the
Phyllis Cane Pilcowitz Qualified Annuity
Trust, Trustee of the Hilary King Revocable
Trust, and Trustee of the Hilary King
Qualified Annuity Trust

Scott T. Seabolt (P 55890)
Foley & Lardner LLP
Attorneys for Defendants Canaccord Capital
Corp. and Blackmont Capital Inc.

SCHEDULE J
SHORT FORM APPROVAL NOTICE

FMF CAPITAL GROUP LTD. SECURITIES LITIGATION
NOTICE OF CERTIFICATION AND APPROVAL OF SETTLEMENT AGREEMENT

Notice published under the Ontario *Class Proceedings Act, 1992* and the *Code de Procédure Civile du Québec*

TO: ALL PERSONS WHO:

(1) PURCHASED INCOME PARTICIPATING SECURITIES ("IPSs") OF FMF CAPITAL GROUP LTD. (THE "COMPANY") IN THE COMPANY'S MARCH 2005 INITIAL PUBLIC OFFERING ("CLASS I MEMBERS"); AND/OR

(2) PURCHASED THE COMPANY'S IPSs, OR ANY OF THE SECURITIES REPRESENTED BY SUCH IPSs, OVER THE TORONTO STOCK EXCHANGE ("TSX") DURING THE PERIOD FROM AND INCLUDING MARCH 24, 2005 TO AND INCLUDING NOVEMBER 15, 2005 ("CLASS II MEMBERS", AND TOGETHER WITH THE CLASS I MEMBERS, THE "CLASS MEMBERS").

IF YOU ARE A CLASS MEMBER, THIS NOTICE WILL BE IMPORTANT TO YOU.

This Short Form Approval Notice is published by orders of the Ontario Superior Court of Justice and the Québec Superior Court (the "Courts").

By orders dated _____, 2007 and _____, 2007, respectively, the Ontario and Québec Courts certified and approved the settlement of class actions filed in Ontario and Québec against the Company and its subsidiaries and related entities, certain of the Company's officers and directors, the Company's auditors, and the underwriters of the initial public offering ("IPO") and arising out of alleged misrepresentations made in the Company's IPO prospectus and in certain pre and post-IPO disclosures relating to the Company.

A Long Form Approval Notice, with full details of the settlement, is available at the websites of Ontario Class Counsel and Michigan Class Counsel at www.classaction.ca and at www.jruslaw.com, and at the website of [name of administrator], the Claims Administrator, at www._____.ca, or by telephoning the Claims Administrator at [phone number].

The Settlement Agreement between the parties provides for the settlement of the claims of all Class Members, wherever they may reside, for the sums of US\$21 million and CAN\$4.55 million in cash. The amount of each Class Member's compensation will depend upon: (1) the number of IPSs purchased by the Class Member during the Class Period, and the prices at which the Settling Class Member purchased and sold such IPSs; (2) whether or not the Settling Class Member sustained a net loss on purchases and sales of IPSs and, if so, the amount of that loss; (3) whether the Class Member purchased IPSs in the Company's initial public offering ("IPO") and/or over the TSX; (4) whether or not the Class Member sold IPSs during the Class II Period; (5) whether the Class Member continues to hold the IPSs acquired during the Class Period; (6) whether the Class Member is a member of both Class I and Class II and, if so, whether the IPSs

purchased by the Class Member in the IPO were commingled with IPSs purchased over the TSX; and (7) the number of IPSs purchased by Class Members who timely file valid Claim Forms with the Claims Administrator.

Class Members who are eligible for compensation must file, not later than _____, 2007, a signed and properly completed Claim Form with the Claims Administrator at [address], failing which the Class Member will no longer be entitled to any compensation. If you wish to opt out of the settlement, you must file an Opt Out Form in Ontario, with the Claims Administrator, at the above address, and in Québec, with the Clerk of the Québec Court, at the address indicated at (2), below, not later than _____, 2007. All forms are available on Class Counsel's website and on the Claims Administrator's website.

The court documents concerning these class proceedings are available for inspection at the offices of:

- (1) the Ontario Superior Court of Justice, Court House, 393 University Ave., Toronto, Ontario, M5G 1E6 (Court File No.: 49348 CP); and
- (2) the Québec Superior Court, Québec City Court House, 300, boul. Jean-Lesage, Québec City, Québec, G1K 8K6 (Court File No.: 200-06-000064-066).

_____, 2007

SCHEDULE K

LONG FORM APPROVAL NOTICE

FMF CAPITAL GROUP LTD. SECURITIES LITIGATION

NOTICE OF COURT APPROVAL OF THE SETTLEMENT OF THESE ACTIONS

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

CLASS MEMBERS: All persons who:

(1) purchased Income Participating Securities (“IPSS”) of FMF Capital Group Ltd. (the “Company”) in the Company’s March 2005 initial public offering (“IPO”) (“Class I Members”); and/or

(2) purchased the Company’s IPSS, or any of the securities represented by such IPSS, over the Toronto Stock Exchange (“TSX”) during the period from and including March 24, 2005 to and including November 15, 2005 (“Class II Members”, and together with the Class I Members, the “Global Class Members”).

1. PURPOSE OF THIS NOTICE:

Please be advised that the Ontario Superior Court of Justice (the “Ontario Court”) and the Québec Superior Court of Justice (the “Québec Court”, and collectively with the Ontario Court, the “Canadian Courts”) have approved the Settlement Agreement concerning the class actions initiated in the Canadian Courts against BMO Nesbitt Burns Inc., Blackmont Capital Inc., Canaccord Capital Corporation, National Bank Financial Inc., Sprott Securities Inc., TD Securities Inc., BDO Seidman LLP, the Company, FMF Capital LLC, FMF Holdings LLC, Michigan Fidelity Acceptance Corporation, PKF LLC, Robert Pilcowitz, Edan King, Howard Morof, Michael Hoffman, Eric Slavens, Lorie Waisberg, Thomas Little, and Atul Shah (collectively, the “Defendants”), and in the Sixth Judicial Circuit Court for the State of Michigan (the “Michigan Court”, and together with the Canadian Courts, the “Courts”) against the Defendants, against Harris Nesbitt Corp. (“Harris”), and against Phyllis Cane Pilcowitz, the Phyllis Cane Pilcowitz Revocable Trust, the Phyllis Cane Pilcowitz Qualified Annuity Trust, Hilary King, the Hilary King Revocable Trust, and the Hilary King Qualified Annuity Trust (collectively, the “Transferee Defendants”).

The Plaintiffs allege in the Courts that the Defendants or some of them disseminated a prospectus and other information containing various misrepresentations to persons who purchased the Company’s IPSS and, in the Michigan Court, that the Transferee Defendants were unjustly enriched by the actions of some or all of the Defendants.

The Defendants expressly deny any wrongdoing or liability but have

agreed to pay, collectively, the sums of US\$21 million and CAN\$4.55 million (the "Settlement Fund") to settle the claims of all Class Members. Additionally, the Company has agreed to adopt certain technical, clarifying changes to the Company's (i) Mandate of the Board of Directors, and (ii) Audit Committee Charter.

2. CLASS MEMBERS' ENTITLEMENT UNDER THE AGREEMENT:

Class Members will be eligible for compensation from the Settlement Fund if they sustained a net loss on their purchases and sales of the Company's IPSs and if they timely submit a valid Claim Form to the Claims Administrator. Class Members will have until _____, 2007 to file a Claim Form.

The amount of each Class Member's compensation will depend upon: (1) the number of IPSs purchased by the Class Member during the Class Period, and the prices at which the Settling Class Member purchased and sold such IPSs; (2) whether or not the Settling Class Member sustained a net loss on purchases and sales of IPSs and, if so, the amount of that loss; (3) whether the Class Member purchased IPSs in the Company's initial public offering ("IPO") and/or over the TSX; (4) whether or not the Class Member sold IPSs during the Class II Period; (5) whether the Class Member continues to hold the IPSs acquired during the Class Period; (6) whether the Class Member is a member of both Class I and Class II and, if so, whether the IPSs purchased by the Class Member in the IPO were commingled with IPSs purchased over the TSX; and (7) the number of IPSs purchased by Class Members who timely file valid Claim Forms with the Claims Administrator. The formulae according to which each Class Member's compensation (if any) will be calculated are set forth in greater detail in the Distribution Protocol attached as Schedule "B" to the Settlement Agreement.

The Distribution Protocol includes a procedure for Class Members to dispute decisions of the Claims Administrator (a "Dispute"). Class Members may bring the Dispute before a bilingual Referee appointed by the Canadian Courts for that purpose. Class Members may initiate Disputes by submitting written correspondence to the Claims Administrator within twenty (20) days of the date of the Class Member's notice from the Claims administrator of the partial or complete rejection of the Class Member's claim (the "Rejection Notice"). The correspondence must state the Class Member's reasons for the Dispute, and must be accompanied by a certified cheque or money order, payable to the Claims Administrator, in the amount of CAN\$250, which will be applied to the cost of the reference. Upon receiving notice from a Class Member of a Dispute, the Claims Administrator must advise Ontario Class Counsel (if the Class Member resides outside of Québec) or Québec Class Counsel (if the Class Member resides in Québec), as well as the Referee, in writing of the initiation of the Dispute and of the

Claims Administrator's reasons for having rendered the decision to which the Dispute relates (with a copy to the Class Member), and will provide to Ontario or Québec Class Counsel (as the case may be) and the Referee a copy of the Class Member's correspondence stating the reasons for the Dispute. Within twenty (20) days of their receipt of the Class Member's and the Claims Administrator's written submissions with respect to the Dispute, Ontario Class Counsel or Québec Class Counsel (as the case may be) shall deliver to the Referee (with copies to the Claims Administrator and to the Class Member initiating the Dispute) a written statement of their position (if any) with respect to the Dispute.

All Disputes shall be resolved on the basis of written submissions, and in no case on the basis of an in-person or other oral hearing. The Referee will render his, her or its decision with respect to all Disputes within thirty (30) days of the date by which Class Counsel is required to state their position with respect to the Dispute.

The decision of the Referee shall be final and there shall be no right of appeal or judicial review from the Referee's decision. The Referee shall distribute a copy of the decision to the objecting Class Member, the Claims Administrator and Class Counsel. If the Settling Class Member is in any way successful on the reference, the CAN\$250 deposit shall be returned to the Settling Class Member, but if totally unsuccessful, the CAN\$250 deposit shall be applied to the cost of the Referee.

Final Distribution

No later than sixty (60) days following the adjudication of all Disputes, the Claims Administrator will make final distributions of compensation to the Class Members. In so doing, the Claims Administrator will deduct from any payments otherwise due to the Québec Class Members any amounts owing to the Québec *Fonds d'Aide*.

4. OPTING OUT:

All persons who come within the definition of the Class will automatically be included in the Class unless they exclude themselves from the Class ("Opt Out").

If you would like to exclude yourself from these class proceedings, you can Opt Out by obtaining, completing, and signing the "Opt Out Coupon" that forms part of the Claim Form, and sending it, by registered mail postmarked no later than _____, 2007 (the "Opt Out Deadline"), to the Claims Administrator at the address listed below.

Residents of Québec must return the Opt Out Form to the clerk of

the Québec Court before the Opt Out Deadline.

If you opt out, you will not be bound by the Settlement Agreement, but you will not be eligible for any of the benefits of the Settlement Agreement. This means that you will be barred from making a claim and receiving payment pursuant to the Settlement Agreement.

5. IMPORTANT DEADLINES:

_____, 2007 – Opt Out Deadline

_____, 2007 – Claims Deadline

Because of the deadlines, you must act without delay.

6. CLAIMS ADMINISTRATION:

[name of administrator] has been appointed by the Courts to be Claims Administrator who will administer the Settlement Fund. Please address any mail to the Claims Administrator as follows:

[contact information for administrator]

The address for the clerk of the Québec Court is, Québec Superior Court, Québec City Court House, 300, boul. Jean-Lesage, Québec City, Québec, G1K 8K6.

A complete copy of the Settlement Agreement, and detailed information on how to obtain or file a Claim Form or an Opt Out Coupon, are available on Claims Administrator's website at www._____.ca and the websites of Ontario Class Counsel and Michigan Class Counsel at www.classaction.ca and www.jruslaw.com. To obtain a paper copy of the Claim Form, please call the Claims Administrator at [phone number], or visit any of the above websites.

7. CLASS COUNSEL:

A. Dimitri Lascaris and Charles M. Wright of the law firm of *Siskinds^{LLP}* are counsel to the Plaintiffs in the Ontario class proceeding ("Ontario Class Counsel"). Ontario Class Counsel can be reached by telephone, toll free, at **1-800-461-6166, Ext. 380**.

Simon Hébert of the law firm of *Siskinds, Desmeules^{S.E.N.C.R.L.}* is counsel to the Petitioners in the Québec class proceeding ("Québec Class Counsel"). Québec Class Counsel can be reached by telephone at **(418) 694-2009**.

Henry Juroviesky of the Ontario-based law firm of *Juroviesky and Ricci^{LLP}* and the Michigan-based law firm of *Frank, Haron, Weiner and Navarro^{PLC}* are counsel to the Plaintiffs in the Michigan Action ("Michigan Class Counsel", and together with Ontario and Québec Class Counsel, "Class Counsel"). Michigan Class Counsel can be reached at 4950 Yonge Street, Suite 904, Toronto, Ontario, M2N

6K1, Attention: **Henry Juroviesky**.

8. LEGAL FEES: The Courts collectively have awarded legal fees, expenses and applicable taxes to Ontario, Québec and Michigan Class Counsel (as defined below) in the total amount of CAN\$[**value of Fee Award**] (the “Fee”). Class Counsel were retained on a contingent basis such that they were only to be paid if they were successful in the litigation. Class Counsel were responsible for funding all disbursements incurred in pursuing this litigation. The Fee will be deducted from the Settlement Fund.

9. INTERPRETATION: If there is a conflict between the provisions of this Notice and the Settlement Agreement and any of its Schedules, the terms of the Settlement Agreement will prevail.

PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO SUPERIOR COURT OF JUSTICE AND THE QUÉBEC SUPERIOR COURT OF JUSTICE

SCHEDULE L

SECTION 1.468(B)-1 RELATION BACK ELECTION

Transferor: Michigan Fidelity Acceptance Corporation (“MFAC”)

Address: 25800 Northwestern Highway, Suite 875
Southfield, Michigan 48075

EIN: 38-3075078

Name of QSF: MFAC has made a grantor trust election pursuant to U.S. Treas. Reg. §1.468B-1(k)

Date of Existence: [Date funds are contributed]

Description of Assets: \$9 million USD

MFAC

Ontario Class Counsel

By: _____

By: _____

Its: _____

Its: _____

Dated: _____

Dated: _____

SCHEDULE M

CLAIM FORM

FMF SECURITIES LITIGATION

Must be Returned and Postmarked No later Than _____, 2007

This Claim Form contains the following:

- I. Privacy Statement
- II. General Instructions
- III. Claimant Information Section
- IV. Opt Out Coupon

I. PRIVACY STATEMENT

The Personal Information of each Class Member (as defined below) is being collected, used, and retained by the Claims Administrator in compliance with the *Personal Information Protection and Electronics Documents Act* S.C. 2000, c.5 (PIPEDA), and:

- for the purpose of operating and administering the Settlement Fund in the FMF Securities Litigation (in each case, as defined below);
- to evaluate and consider the Class Member's eligibility to claim compensation from the Settlement Fund; and
- is strictly private and confidential and will not be disclosed without the express written consent of the Class Member, except as provided in the settlement agreement resolving the FMF Securities Litigation (the "Settlement Agreement").

II. GENERAL INSTRUCTIONS

1. Class actions have been filed: (a) in Ontario and Québec against FMF, FMF Capital LLC, FMF Holdings LLC, Michigan Fidelity Acceptance Corporation, PKF, LLC, Robert Pilcowitz, Edan King, Howard Morof, Michael Hoffman, Eric Slavens, Lorie Waisberg, BMO Nesbitt Burns, Inc., Blackmont Capital Inc., Canaccord Capital Corporation, National Bank Financial Inc., Sprott Securities Inc., TD Securities Inc., Thomas Little, Atul Shah, and BDO Seidman LLP (collectively, the "Defendants"); and (b) in Michigan against the Defendants, Harris Nesbitt Corp. ("Harris"), and Phyllis Cane Pilcowitz, Hillary King, John or Jane Doe Trustees of the Phyllis Cane Pilcowitz Revocable Trust, John or Jane Doe Trustees of the Phyllis Cane Pilcowitz Qualified Annuity Trust, John or Jane Does Trustees of the Hilary King Revocable Trust, and John or Jane Doe Trustees of the Hilary King Qualified Annuity Trust (collectively, the "Transferee Defendants"). The Ontario, Québec

and Michigan class actions are hereinafter referred to collectively as the "FMF Securities Litigation".

If you purchased any income participating securities ("IPSs") of FMF Capital Group Ltd. ("FMF") in the March 2005 initial public offering (the "IPO") of FMF IPSs, then you are a member of Class I in the FMF Securities Litigation, **UNLESS** you are an Excluded Person (as defined below) or you opt out.

If you purchased any FMF IPSs during the period from and including March 24, 2005 to and including November 15, 2005 (the "Class II Period"), then you are a member of Class II **UNLESS** you are an Excluded Person or you opt out.

2. To recover from the fund established in settlement of the FMF Securities Litigation and pursuant to the Settlement Agreement (the "Settlement Fund"), you must complete and, on page ● hereof, sign this Claim Form. If you fail to file a properly addressed Claim Form by the date stipulated below, your claim may be rejected and you may be precluded from recovery from the Settlement Fund.
3. **YOU MUST MAIL YOUR COMPLETED AND SIGNED CLAIM FORM, POSTMARKED ON OR BEFORE _____, 2007, TO:**

Claims Administrator

[● insert mailing address for claims administrator]

If you are NOT a Class Member, DO NOT submit a Claim Form.

III. CLAIMANT INFORMATION SECTION

If you purchased FMF IPSs and held the certificate(s) in your name, you are the beneficial purchaser as well as the record purchaser. If, however, the certificate(s) were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial purchaser and the third party is the record purchaser.

INSTRUCTIONS FOR PART I AND PART II OF THE CLAIMANT INFORMATION SECTION

PART I

Use PART I below (entitled "Claimant Identification") to: (a) identify each purchaser of record ("nominee"), if different from the beneficial purchaser, of FMF IPSs that form the basis of the claim; and (b) confirm that the beneficial purchaser is not an Excluded Person. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL PURCHASER OR PURCHASERS, OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASER OR PURCHASERS.**

All joint purchasers must sign where indicated below.

Executors, administrators, guardians and trustees must complete and sign where indicated below on behalf of Persons or entities represented by them and their authority must accompany this Claim Form and their titles or capacities must be stated.

The social insurance number or other taxpayer identification number and telephone of the beneficial purchaser may be used in verifying the claim.

Failure to provide the foregoing information could delay verification of your claim or result in its rejection.

PART II

Use PART II below (entitled "Schedule of Transactions in FMF IPSs"), to supply all required details of your transaction(s) in FMF IPSs. If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

On the schedules below, provide all of the requested information with respect to all of your purchases of FMF IPSs that took place in the IPO or during the Class II Period, and all of your sales of the FMF IPSs, whether or not those sales occurred during or after the Class II Period. Failure to report all such transactions may result in the rejection of your claim.

List each transaction referred to in 2 above separately and in chronological order, by trade date, beginning with the earliest. You must accurately provide the month, day and year of each transaction you list.

Broker confirmations or other documentation of your transactions in FMF IPSs should be attached to your Claim Form. Failure to provide this documentation could delay verification of your claim or result in its rejection.

The above requests are designed to provide the minimum amount of information necessary to process the most simple claims. The Claims Administrator may request additional information as required to efficiently and reliably calculate your compensation. In cases where the Claims Administrator cannot perform the calculation accurately or at a reasonable cost to the Class with the information provided, the Claims Administrator may condition acceptance of the claim upon the production of additional information.

PART I: CLAIMANT IDENTIFICATION

- Section A:** I am the BENEFICIAL PURCHASER
(Check One)
- I am the BENEFICIAL PURCHASER and a JOINT PURCHASER
- I am the legal representative of the BENEFICIAL PURCHASER(S)

Section B: I am not an EXCLUDED PERSON

(If you do not check this box, your Claim Form will be rejected. For purposes of the Settlement Agreement and this Claim Form, you are an "Excluded Person" if you are: (1) one of the Defendants, Harris or one of the Transferee Defendants; (2) a member of the immediate family of one of the individual Defendants or one of the Transferee Defendants; (3) a director, officer, subsidiary or affiliate of FMF, FMF Capital LLC, FMF Holdings LLC, Michigan Fidelity Acceptance Corporation, PKF, LLC or BDO Seidman LLP; (4) a director, senior officer above the office of vice-president, subsidiary or affiliate of BMO Nesbitt Burns, Inc., Blackmont Capital Inc., Canaccord Capital Corporation, National Bank Financial Inc., Spratt Securities Inc. or TD Securities Inc. For purposes of this definition of "Excluded Person", and without limiting the generality of the term "affiliate", a claimant is affiliated to one of the entities identified above if the claimant is controlled, whether directly or indirectly, by the same person or entity who controls, whether directly or indirectly, any of those entities.)

Section C. Individuals

(If you are an individual and not a corporate entity, you must complete this Section C.)

1. First Beneficial Purchaser:

First Name: _____ Initial: _____ Last Name: _____

Last name at time of purchase (if different from above): _____

Date of death of beneficial purchaser (if applicable): _____

Current Address: _____

City: _____ Province: _____ Postal Code: _____

SIN or other taxpayer identification number: _____

Res. Phone No.(_____) _____ Bus. Phone No. (_____) _____ Ext.: _____

E-mail Address: _____

2. Second Beneficial Purchaser (if applicable):

First Name: _____ Initial: _____ Last Name: _____

Last name at time of purchase (if different from above): _____

Date of death of beneficial purchaser (if applicable): _____

Current Address: _____

City: _____ Province: _____ Postal Code: _____

SIN or other taxpayer identification number: _____

Res. Phone No.(_____) _____ Bus. Phone No. (_____) _____ Ext.: _____

E-mail Address: _____

Section D. Corporations and Other Legal Entities

(If you are a corporate entity or other legal entity, you must complete this Section D.)

Entity Name: _____

Name of responsible person (e.g., director, officer, president, general partner, trustee):

Surname: _____ First Name: _____

Title of responsible person (check box) Director
 Officer (Please Specify): _____
 President
 General Partner
 Trustee
 Other _____

Entity's Street Address: _____

City: _____ Province: _____ Postal Code: _____

Phone No.(_____) _____ Fax No. (_____) _____

Type of claimant: (check box) Corporation
 Partnership
 Trust
 Other _____

Jurisdiction of Incorporation: _____ Company Number: _____

Tax ID: GST # _____

PST # _____

HST # _____

QST # _____

Section E. Purchaser of Record

(Complete this Section E only if the Purchaser of Record is Different from the Beneficial Purchaser)

Name of Purchaser of Record: _____

Section F: Identification of Legal Representative of Beneficial Purchaser(s)

(Complete this Section F only if the Person submitting this Claim Form is the Legal Representative of the Beneficial Purchaser(s).)

If you are claiming as a Legal Representative, please attach a copy of the court order or other official document appointing you as representative.

- Executor
- Administrator
- Guardian
- Trustee
- Other _____

Representative's First Name: _____ Initial: _____ Last Name: _____

Last name at time of purchase (if different from above): _____

Date of death of beneficial purchaser (if applicable): _____

Current Address: _____

City: _____ Province: _____ Postal Code: _____

Res. Phone No.(_____) _____ Bus. Phone No. (_____) _____ Ext.: _____

E-mail Address: _____

Section G: Legal Counsel of Beneficial Purchaser(s) or their Legal Representative

(Complete this Section G only if the Beneficial Purchaser(s) or his, her, its or their Legal Representative is/are represented by Legal Counsel.)

Law Firm Name: _____

Lawyer First Name: _____ Lawyer Last Name: _____

Office Address: _____

City: _____ Province: _____ Postal Code: _____

Lawyers Phone No.:(_____) _____ Ext.: _____

Lawyers Fax No.: (_____) _____

PART II: TRANSACTIONS IN FMF IPSs

(If you require additional space, you may copy this page or attach extra schedules in the same format as below. Sign and print your name on each additional page.)

M. FMF IPSS PURCHASED IN THE IPO [(ENTER IN THIS TABLE ONLY IPSS PURCHASED AT A PRICE OF CAN\$10.00 PER IPS)]:

TRADE DATE MM/DD/YYYY	NUMBER OF IPSS PURCHASED	TOTAL PURCHASE PRICE (EXCLUDING COMMISSIONS)	COMMISSION
1.	1.	1.	1.
2.	2.	2.	2.
3.	3.	3.	3.
4.	4.	4.	4.
5.	5.	5.	5.

N. FMF IPSS PURCHASED DURING THE CLASS II PERIOD [(ENTER IN THIS TABLE ONLY IPSS PURCHASED ON OR BEFORE NOVEMBER 15, 2005 AT A PRICE OF LESS THAN CAN\$10.00 PER IPS)]:

TRADE DATE MM/DD/YYYY	NUMBER OF IPSS PURCHASED	TOTAL PURCHASE PRICE (EXCLUDING COMMISSIONS)	COMMISSION
1.	1.	1.	1.
2.	2.	2.	2.
3.	3.	3.	3.
4.	4.	4.	4.
5.	5.	5.	5.

SALES OF FMF IPSS, WHETHER OR NOT SUCH SALES OCCURRED BEFORE, ON OR AFTER NOVEMBER 15, 2005 (IF APPLICABLE):

TRADE DATE MM/DD/YYYY	NUMBER OF IPSS SOLD	TOTAL SALES PRICE (EXCLUDING COMMISSIONS)	COMMISSION
1.	1.	1.	1.
2.	2.	2.	2.
3.	3.	3.	3.
4.	4.	4.	4.
5.	5.	5.	5.
6.	6.	6.	6.
7.	7.	7.	7.
8.	8.	8.	8.
9.	9.	9.	9.
10.	10.	10.	10.

O. NUMBER OF FMF IPSS PURCHASED IN THE IPO, AND HELD AT THE CLOSE OF TSX TRADING ON NOVEMBER 14, 2005 (IF APPLICABLE):

P. NUMBER OF FMF IPSS PURCHASED DURING THE CLASS II PERIOD, AND HELD AT THE CLOSE OF TSX TRADING ON NOVEMBER 14, 2005 (IF APPLICABLE):

Q. IF YOU PURCHASED FMF IPSS BOTH IN THE IPO AND DURING THE CLASS II PERIOD, DID THE IPSS PURCHASED IN THE IPO REMAIN SEGREGATED AT ALL TIMES FROM THE IPSS PURCHASED DURING THE CLASS II PERIOD?

YES

NO

(IF YOU ANSWERED "YES" TO THE FOREGOING QUESTION, PLEASE PROVIDE PROOF (E.G. ALL BROKERAGE STATEMENTS THROUGHOUT THE PERIOD THAT YOU HELD IPSS)

PART III: ACKNOWLEDGEMENTS AND DECLARATION

I submit this Claim Form under the terms of the Settlement Agreement, dated November ●, 2006 and described in the Notice. I agree to furnish additional information to Class Counsel or the Claims Administrator to support this claim, if required to do so. I have not submitted any other claim covering the same purchases or sales of FMF IPSs during the Class Period and know of no other Person having done so on my behalf.

I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

I (We) hereby warrant and represent that I (we) have included information about all of my (our) transactions in FMF IPSs.

I (We) hereby warrant and represent, under penalty of perjury, that the foregoing information supplied by the undersigned is true and correct.

Executed this _____ day of _____, 2007 in _____
Month City/Town

Province

Beneficial/Joint Purchaser 1

Joint Purchaser 2

Sign your name here

Sign your name here

Print or Type Name here

Print or Type Name here

Capacity of person(s) signing (please check):

- Beneficial Purchaser
- Executor
- Guardian
- Trustee
- Administrator
- Other _____

IV. OPT OUT COUPON

By completing and submitting this Form, you **EXCLUDE** yourself from the settlement of the FMF Securities Litigation. **DO NOT** use this Form if you want to receive benefits under that settlement.

IMPORTANT NOTICE: **IF YOU WISH TO EXCLUDE YOURSELF FROM THIS SETTLEMENT, YOU MUST NOT ONLY FILL OUT THIS COUPON AND SUBMIT IT TO THE CLAIMS ADMINISTRATOR, BUT YOU MUST ALSO COMPLETE THE CLAIMANT INFORMATION SECTION OF THIS CLAIM FORM**

PART I: CLAIMANT IDENTIFICATION

Check a box: I am the BENEFICIAL PURCHASER
 I am the BENEFICIAL PURCHASER and a JOINT PURCHASER

INDIVIDUAL BENEFICIAL/JOINT PURCHASER 1

First Name: _____ Initial: _____ Last Name: _____

Last name at time of purchase (if different from above): _____

Date of death of beneficial purchaser (if applicable): _____

Current Address: _____

City: _____ Province: _____ Postal Code: _____

SIN or other taxpayer identification number: _____

Res. Phone No.(_____) _____ Bus. Phone No. (_____) _____ Ext.: _____

E-mail Address: _____

INDIVIDUAL JOINT PURCHASER 2 (IF APPLICABLE)

First Name: _____ Initial: _____ Last Name: _____

Last name at time of purchase (if different from above): _____

Date of death of beneficial purchaser (if applicable): _____

Current Address: _____

City: _____ Province: _____ Postal Code: _____

SIN or other taxpayer identification number: _____

Res. Phone No.(_____) _____ Bus. Phone No. (_____) _____ Ext.: _____

E-mail Address: _____

**ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF
TIME**

THANK YOU FOR YOUR PATIENCE

Reminder Checklist:

Please sign and submit the above Claim Form.

Remember to attach copies of supporting documentation, if available. DO NOT send original stock certificates.

Keep a copy of your Claim Form for your records.

If you desire an acknowledgement of receipt of your Claim Form, please send it registered mail, Return Receipt Requested.

If you move, please send your new address to the Claims Administrator.