

Federal Court



Cour fédérale

Date: 20210106

Docket: T-1068-14

Ottawa, Ontario, January 6, 2021

PRESENT: The Honourable Madam Justice Kane

BETWEEN:

RAYMOND MICHAEL TOTH

Plaintiff

and

HER MAJESTY THE QUEEN

Defendant

ORDER

UPON considering the motion brought by the Parties in writing pursuant to Rule 369 of the *Federal Courts Rules* for an Order: establishing a schedule for the submission of the remaining claims and payments to Class Members, or their estates, as provided for in the Court’s Order dated January 30, 2019 [Settlement Approval Order] (2019 FC 125) approving the Final Settlement Agreement (“FSA”); and, authorizing the distribution of unpaid residual amounts in the Earnings Loss Benefit/Canadian Forces Income Support [ELB/CFIS] and War Veterans Allowance [WVA] Funds to designated charities;

AND UPON considering the Court’s jurisdiction under Rule 334.28(2) of the *Federal Courts Rules*, paragraph 10 of the Settlement Approval Order, and paragraphs 30, 40,

and 49 of the FSA, which permit the Court to make any order in respect of the distribution of monetary relief, or to resolve any and all issues that may arise in the administration of the FSA;

AND UPON considering the affidavit of Adam Bazak sworn on December 23, 2020;

AND UPON considering that this motion is brought jointly and on consent;

THIS COURT ORDERS that:

1. The following schedule shall apply to the submission of remaining claims for payment [Remaining Claims] to Class Members or their estates under the FSA:
 - a. All Remaining Claims under the FSA, with all necessary documentation, must be received by Veterans Affairs Canada [VAC] on or before February 1, 2021;
 - b. VAC shall make its best efforts, consistent with the FSA, to fully administer all Remaining Claims by March 31, 2021;
 - c. Inability by VAC to effect payment of a Remaining Claim by March 31, 2021 will not extinguish a Remaining Claim if the claim is submitted to VAC with all necessary documentation on or before February 1, 2021; and,
 - d. Any claim for payment under the FSA received by VAC on or after February 2, 2021 [Late Claims] or any claim that is incomplete on that date shall be denied.
2. The Parties will confer, and attempt to resolve, any disagreements regarding whether a Remaining Claim for which notice is provided by February 1, 2021 is supported by necessary documentation or whether it would be unfair to require particular documentation on the facts of a particular case. If the Parties cannot resolve the disagreement, the Parties may request the assistance of the Court.
3. VAC shall distribute the residue [Residue] of the ELB/CFIS and WVA Funds in two phases, as follows:
 - a. In the first phase, VAC shall distribute \$4,000,000 of the Residue as soon as practicable after the date of this Order, to the following three charities in the following amounts:
 - i. \$2,000,000 to the Bursary Fund established by Order of the Honourable Justice Barnes dated 16 October 2013 in *Manuge v. Her Majesty the Queen*, T-463-17 [Bursary Fund];

- ii. \$1,200,000 to the Royal Canadian Legion Poppy Fund [Poppy Fund]; and,
 - iii. \$800,000 to the Veterans Legal Assistance Foundation [VLAF].
 - b. In the second phase, VAC will distribute, on or before March 31, 2021, any remaining Residue not used or reserved to pay Remaining Claims to the following four charities in the following proportions:
 - i. 50% to the Bursary Fund;
 - ii. 30% to the Poppy Fund;
 - iii. 15% to VLAF; and
 - iv. 5% to Ottawa Innerscity Ministries to be used for the Innerscity Veterans Outreach & Support program.
4. The Court retains jurisdiction to deal with any further issues or questions arising from the administration of this Order or the FSA.

"Catherine M. Kane"

Judge