

**SUPERIOR COURT**  
**(CLASS ACTIONS)**

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

N°: 500-06-000863-171

DATE: December 10, 2019

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**PRESIDING : THE HONOURABLE DONALD BISSON J.S.C.**

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**PATRICK GOSSELIN**  
Plaintiff

v.

**LOBLAWS INC.**

and

**PROVIGO DISTRIBUTION INC.**

Defendants

and

**FONDS D'AIDE AUX ACTIONS COLLECTIVES**

Mis en cause

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**CLOSING JUDGMENT – CLASS ACTION**

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**INTRODUCTION**

[1] The Court is seized with an *Application of Defendants to Close the Class Action*, which is presented in accordance with paragraph 103 of the September 24, 2019 rectified decision of the Court approving the class action settlement<sup>1</sup> in the present file:

[103] **ORDERS** the Parties, upon the completion of the Execution Period described in the Transaction, to render account of the execution of the judgment, so that a closing judgment can then be pronounced;

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<sup>1</sup> 2019 QCCS 3941.

[2] This Application is also based on Art. 59 of the *Regulation of the Superior Court of Québec in civil matters*<sup>2</sup>:

59. Report on administration. If a judgment orders the collective recovery of the claims made with individual payment of the members' claims, the special clerk or third person designated by the court must file with the court, after the time limit for members to file their claim has expired, a detailed report on its administration and give notice to the parties and the Fonds d'aide aux actions collectives.

The report lists the members who filed a claim, the amount paid to each member, the remaining balance and the amount withheld for the Fonds d'aide aux actions collectives pursuant to section 42 of the Act and Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives (chapter F-3.2.0.1.1, r. 2).

[3] By way of this Application, the accompanying Exhibits R-1 to R-7 and the sworn statement of Me Tommy Trembay of December 5, 2019, the Defendants Loblaws Inc. and Provigo Distribution Inc. report on the implementation and execution of the Settlement Agreement<sup>3</sup> and seeks to obtain a closing judgment.

[4] Plaintiff supports this Application.

[5] According to the Settlement Agreement, the Defendants undertook to provide the Court with a detailed report on the execution of the Settlement Agreement regarding the following items:

- a. the fact that the Settlement Agreement was duly executed and implemented;
- b. The application of the "Bonus Buy Method" and its results further to the distribution of the Net Indemnity and more specifically:
  - i. the duration of the Execution Period;
  - ii. The number of Admissible Consumers to have made purchases during the Execution Period;
  - iii. The exact amount paid to the Admissible Consumers by way of the "Bonus Buy Method";
- c. The fact that the Statement to the Admissible Consumers appeared on the invoices printed further to each Admissible Purchase; and

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<sup>2</sup> RLRQ., c. C-25.01, r. 0.2.1.

<sup>3</sup> Exhibit R-1.

- d. The payment by the Defendants of the extrajudicial fees of the lawyers for Plaintiff as well as their disbursements.

## **PROCEDURALBACKGROUND**

[6] In June 2019, the Defendants and Plaintiff Patrick Gosselin have reached a Settlement Agreement for the Global Amount of \$2,262,000.00 regarding the present class action.

[7] On August 19, 2019<sup>4</sup>, the Court granted the Plaintiff's Motion for approval of a class action for settlement purposes and for approval of the Pre-Approval Notice. The authorized class was described as follows: "All people having purchased at least one "GROS Format / BIG Pack" Item of fresh meat at a Maxi store between June 1st, 2014 and May 31st 2017."

[8] On August 21, 2019, the Defendants published the Pre-Approval Notices.

[9] On September 24, 2019, the Court then granted the Parties' Motion for approval of the Settlement Agreement<sup>5</sup>, and more specifically:

- a. approved the Settlement Agreement and ordered the Parties to comply with it;
- b. ordered the Defendants to issue a final report once the distribution process is completed.

[10] The same day, in the same decision, the Court also approved the payment of the extrajudicial fees of the lawyers for Plaintiff in the total amount of \$650,183.63, including taxes, as well as their disbursements in the amount of \$16,604.15.

[11] According to the Settlement Agreement, the Defendants agreed to pay a Global Indemnity of \$2,262,000.00 from which the extrajudicial fees in the amount of \$650,183.63 were deducted, resulting in a Net Indemnity of \$1,611,816.37 to be distributed to the Admissible Consumers.

## **PRE-APPROVAL NOTICE AND INFORMATION TO THE MEMBERS ADMISSIBLE AND CONSUMMERS ADMISSIBLE**

[12] On August 21, 2019, the Defendants have proceeded to the publication of the Pre-Approval Notices in the daily newspapers *Le Journal de Montréal*, *Le Journal de Québec* and *The Gazette*<sup>6</sup>.

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<sup>4</sup> This decision is Exhibit R-2. The rectified decision of August 22, 2019 is reported at 2019 QCCS 3711.

<sup>5</sup> 2019 QCCS 3941, filed as Exhibit R-3.

<sup>6</sup> See copies of these notices, Exhibit R-4 en liasse.

[13] The Pre-Approval Notices have also been published in French and in English on the website of the lawyers for Plaintiff at the following address: [www.allianceconseil.pro/maxi7](http://www.allianceconseil.pro/maxi7).

[14] The Defendants have also paid in full for such publication of the Pre-Approval Notices.

#### **DETAILED REPORT ON THE EXECUTION OF THE SETTLEMENT AGREEMENT**

[15] On October 25, 2019, the Defendants paid the following amounts to the lawyers for Plaintiff in accordance with the Approval Judgment:

- a. \$650,183.63 which was deducted from the Global Indemnity as payment for their extrajudicial fees;
- b. \$16,604.15 for additional disbursements.

[16] Both cheques<sup>8</sup> were received by the lawyers for Plaintiff on October 31, 2019.

[17] The Date of Execution of the Settlement Agreement for the purpose of the distribution of the Net Indemnity was October 7, 2019. That day, all Maxi as well as Maxi & Cie stores put in place and applied the "Bonus Buy Method" for the purpose of distributing the Net Indemnity to all Admissible Consumers.

[18] Throughout the duration of the execution period, a Statement to the Admissible Consumers was printed on every single invoice produced further to Admissible Purchases being made<sup>9</sup>.

[19] The execution period and distribution process ended on November 10, 2019.

[20] Although the Net Indemnity amounted to \$1,611,816.37, a total amount of \$1,658,384.37 was distributed to 829,414 Admissible Consumers by way of the "Bonus Buy Method". As a result, an additional amount of \$46,568.00 was therefore distributed to the Admissible Consumers.

[21] There is no remaining balance to the Net Indemnity as more than the full amount was distributed to the Admissible Consumers.

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<sup>7</sup> Exhibit R-5 en liasse.

<sup>8</sup> Exhibit R-6.

<sup>9</sup> See a copy of an example of the Statement to the Admissible Consumers, Exhibit R-7.

**CONCLUSION**

[22] Considering the foregoing, the Court is of the opinion that the Settlement Agreement was duly implemented and executed by the Defendants, in accordance with the content of the Settlement Agreement and the Approval Judgment.

[23] As a result, the Court will grant the Application of the Defendants and will declare closed the present class action.

**WHEREFORE, THE COURT:**

[24] **GRANTS** the *Application of Defendants to Close the Class Action*;

[25] **APPROVES** the final report of the Defendants contained in the *Application of Defendants to Close the Class Action*;

[26] **DECLARES** that the Parties have fulfilled their obligations under the Approval Judgment and Settlement Agreement as well as their obligation to report to the Court;

[27] **DECLARES** that the Defendants Loblaws Inc. and Provigo Distribution Inc. have duly executed the Settlement Agreement;

[28] **PRONOUNCES** the closing of the file;

[29] **THE WHOLE**, without judicial costs.



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**DONALD BISSON J.S.C.**

Me Eric Perrier, Me Réjean Paul Forget and Me Jacky Eric Salvant  
Perrier Avocats  
Attorneys for Plaintiff

Me Tommy Tremblay  
Langlois Avocats, LLP  
Attorney for Defendants

Me Frikia Belogbi  
Attorney for the mis en cause Fonds d'aide aux actions collectives

Hearing date (in writing): December 5, 2019