

## DISTRIBUTION PROTOCOL

### A. DEFINITIONS

1. For the purpose of this Distribution Protocol the defined terms have the same meaning as in the Settlement Agreement, unless otherwise specified. In particular, the following definitions will apply:

- a) *Administration Expenses* means all fees, disbursements, expenses, costs, taxes and any other amounts whether incurred or payable by the Plaintiffs, Class Counsel or otherwise for the approval, implementation and administration of this Settlement Agreement, including the costs of all notices.
- b) *Administration Form* means the form provided for in Sections 8.1(2) and 9.1(1)(c) of the Settlement Agreement inclusive of any electronic version.
- c) *Affiliate Players* means Class Members identified in the Defendants' records as having played on a team during the Class Period as an affiliate in accordance with the bylaws of Hockey Canada.
- d) *Bridgepoint* means BridgePoint Financial Services Inc.
- e) *Claim Fund* means the Settlement Amount remaining after deductions in respect of Administration Expenses, Class Counsel Disbursements, Class Counsel Fees, any amounts payable to any entity that has assisted in funding the Class Actions, including, but not limited to any levies owing to the CPF and Bridgepoint whether by statute or otherwise, taxes, and representative plaintiff honorarium, if any, to be paid out to Class Members pursuant to the Distribution Protocol.
- f) *Claims Administrator* means the firm proposed by Class Counsel and appointed by the Court to administer the Claims Fund in accordance with the provisions of the Settlement Agreement and this Distribution Protocol, and any employees of such firm.
- g) *Class or Class Period* means:

All players who are members of a team owned and/or operated by one or more of the clubs located in the Province of Ontario or at some point commencing October 17, 2012 and ending November 15, 2018, who were members of a team and all players who were members of a team who were under the age of 18 on October 17, 2012;

All players who were or are members of a WHL team owned and/or operated by one or more of the defendants located in the Province of British Columbia at some point, commencing October 30, 2012, and all players who were members of a team who were under the age of 19 on October 30, 2012, but excluding any players who commenced playing for a team on or after February 15, 2016;

All players who were or are members of a WHL team owned and/or operated by one or more of the defendants located in the Province of Alberta at some point, commencing October 30, 2012 and ending January 1, 2020, and all players who were members of a team who were under the age of 18 on October 30, 2012;

All players who were or are members of a WHL team owned and/or operated by one or more of the defendants located in the Province of Manitoba at some point, commencing October 30, 2012 and ending December 15, 2017, and all players who were members of a team who were under the age of 18 on October 30, 2012;

All players who were or are members of a WHL team owned and/or operated by one or more of the defendants located in the Province of Saskatchewan at some point, commencing October 30, 2012, and all players who were members of a team who were under the age of 18 on October 30, 2012, but excluding any players who commenced playing for a team on or after April 29, 2014;

All players who were members of a team owned and/or operated by one or more of the Defendants in the Province of Québec at some point, on or after October 29, 2011, and up to June 12, 2018;

All players who were members of the team operated by 9264-8849 Québec Inc. operating under the name Groupe Sags 7-96 and/or Les Saguenéens in the Province of Québec at some point, on or after November 5, 2011, and up to June 12, 2018;

All players who were members of a team owned and/or operated by one or more of the Defendants located in the Province of New Brunswick at some point, on or after October 29, 2012, and up to July 28, 2017;

All players who were members of a team owned and/or operated by one or more of the Defendants located in the Province of Prince Edward Island at some point, on or after October 29, 2012, and up to October 28, 2017; and

All players who were members of a team owned and/or operated by one or more of the Defendants located in the Province of Nova Scotia at some point, on or after October 29, 2012, and up to July 4, 2016.

- h) *Class Actions* means the Ontario Class Action, Alberta Class Action and Québec Class Action collectively.

- i) *Class Amendments* means the amendments to the class definition in the Ontario Class Action by order of Justice Perell of the Ontario Superior Court of Justice, on consent, on January 20, 2020 and the amendments to the class definition in the Alberta Class Action by order of Justice Hall of the Alberta Court of Queen’s Bench, on consent, on January 22, 2020.
- j) *Class Counsel* means Charney Lawyers PC, Goldblatt Partners LLP and Savonitto & Ass. Inc.
- k) *Class Counsel Disbursements* include the disbursements, including expert and other fees, and applicable taxes incurred by Class Counsel in the prosecution of the Class Actions.
- l) *Class Counsel Fees* means the fees of Class Counsel, and any applicable taxes or charges thereon.
- m) *Class Member* means a member of the Class or their estate, if a Class Member is deceased.
- n) *CPF* means the Class Actions Fund created pursuant to Section 59.1 of the Law Society Act and administered by the Class Actions Committee of the Law Foundation of Ontario.
- o) *Counsel for the Defendants* means Torys LLP.
- p) *Court* means one of the Ontario Superior Court of Justice, Alberta Court of Queen’s Bench or Québec Superior Court of Justice.
- q) *Full Season* means:

*Being listed on a Team Roster in the WHL or OHL, or on the Admissibility List in the QMJHL, on November 15<sup>1</sup> in a respective season in the Class Period and being listed on a Team Roster in the WHL or OHL, or on the Admissibility List in the QMJHL, on February 10 in a respective season in the Class Period.*

- r) *Half Season* means:  
*Being listed on a Team Roster in the WHL or OHL, or on the Admissibility List in the QMJHL, on November 15<sup>2</sup> in a respective season in the Class Period or being listed on a Team*

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<sup>1</sup> November 17 for Class Members on a QMJHL Admissibility List in 2014; November 13 for Class Members on a QMJHL Admissibility List in 2015; November 11 for Class Members on a QMJHL Admissibility List in 2016.

<sup>2</sup> November 17 for Class Members on a QMJHL Admissibility List in 2014; November 13 for Class Members on a QMJHL Admissibility List in 2015; November 11 for Class Members on a QMJHL Admissibility List in 2016.

*Roster in the WHL or OHL, or on the Admissibility List in the QMJHL, on February 10 in a respective season in the Class Period.*

- s) *Party and Parties* means the Defendants, the Plaintiffs, and, where necessary, the Class Members.
- t) *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 other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.
- u) *Plaintiffs* mean Samuel Berg, Travis McEvoy, Kyle O'Connor, Lukas Walter and Thomas Gobeil.
- v) *Relative Share* means the proportion of the Claim Fund that individual Class Members will be entitled to as calculated in accordance with this Distribution Protocol.
- w) *Settlement Agreement* means the agreement executed on March 31, 2020, including the recitals and schedules.
- x) *Settlement Amount* means CAD \$30,000,000.
- y) *Trust Account* means a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the Bank Act, S.C. 1991, c. 46) held at a Canadian financial institution, opened by Class Counsel, under the control of Class Counsel or the Claims Administrator, once appointed, for the benefit of the Class Members or Defendants, as provided for in this Settlement Agreement.

## **B. GENERAL PRINCIPLES OF THE ADMINISTRATION**

2. This Distribution Protocol is intended to govern the administration of the Claim Fund for the Class Actions. This protocol is intended to provide an expeditious and user-friendly distribution to the Class Members and result in payment to the highest possible proportion of Class Members. To this end, Class Members will be able to complete all necessary steps to make a claim to the Claim Fund by completing an online Administration Form which will only require their name, contact information, confirmation of their desire to receive a payment from the Claim Fund and undertaking they have not signed an NHL contract.

**C. THE CLAIMS ADMINISTRATOR'S DUTIES AND RESPONSIBILITIES**

3. The Claims Administrator shall administer this Distribution Protocol in accordance with the provisions of the Orders of the Courts, the Settlement Agreement and the ongoing authority and supervision of the respective Courts.

4. The Claims Administrator's duties and responsibilities shall include the following:

- a) providing notice(s) to the Class Members as may be required;
- b) overseeing the administration process and communications with the Class Members, including a bilingual administration website;
- c) making calculations of Class Members' Relative Share of the Claim Fund;
- d) arranging payment to Class Members in a timely fashion;
- e) reporting the results of the administration process and the intended distributions to Class Counsel in a timely fashion;
- f) performing such recalculation of the distributions as may be required by Class Counsel or if ordered by the Court;
- g) maintaining the administration information so as to permit Class Counsel to audit the administration at the discretion of Class Counsel or if ordered by the Court;
- h) dedicating sufficient personnel to respond to Class Members inquiries in English or French, as the Class Member elects;
- i) remitting amounts payable to the Class Proceedings Fund and Bridgepoint;
- j) arranging payments of Class Counsel fees and disbursements and administration expenses, as ordered or approved by the Court;
- k) reporting to Class Counsel respecting Claims received and administered and administration expenses;
- l) holding the Claim Fund in the Trust Account and making all payments from the Claim Fund as authorized;
- m) cash management and audit control; and

n) preparing and submitting reports and records as directed by Class Counsel or the Court.

5. Class Counsel shall oversee the claims process and provide advice and assistance to the Claims Administrator regarding this Administration Protocol and Distribution Protocol and the claims process.

#### **D. CALCULATION OF CLASS MEMBER COMPENSATION**

6. Class Members will be compensated based on their number of Full Seasons, Half Seasons and quarter seasons in the Class. The value of a Full Season will be calculated by dividing the Claim Fund by the total seasons attributable to valid Administration Forms received by the Claims Deadline. The value of a Half Season will be half the value of a Full Season and the value of a quarter season will be one-quarter the value of a Full Season.

All non-affiliate Class Members who were listed on a Team Roster in the WHL or OHL, or on the Admissibility List in the QMJHL, on November 15<sup>3</sup> in a respective season in the Class Period, receive a half-season credit. All non-affiliate Class Members who were listed on a Team Roster in the WHL or OHL, or on the Admissibility List in the QMJHL, on February 10 in a respective season in the Class Period, receive a half-season credit. No Class Member can receive more than 2 half-season credits for any season in the Class Period.

Exceptions to the above criteria:

1. In the first season of each Province's Class Period, all non-affiliate Class Members who were listed on a Team Roster in the WHL or OHL, or on the Admissibility List in the QMJHL, on November 15 receive a quarter-season credit.
2. Ontario non-affiliate Class Members who were listed on a Team Roster in the OHL on November 15, 2018 receive a quarter-season credit. No Ontario non-affiliate Class Member can receive more than 1 quarter-season credit for the entire 2018-2019 season.

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<sup>3</sup> November 17 for Class Members on a QMJHL Admissibility List in 2014; November 13 for Class Members on a QMJHL Admissibility List in 2015; November 11 for Class Members on a QMJHL Admissibility List in 2016.

3. British Columbia non-affiliate Class Members who were listed on a Team Roster in the WHL on February 10, 2016 receive a quarter-season credit.
4. Alberta non-affiliate Class Members who were listed on a Team Roster in the WHL on February 10, 2020 receive a quarter-season credit.
5. No Manitoba non-affiliate Class Member can receive more than 1 half-season credit for the entire 2017-2018 season.
6. Prince Edward Island non-affiliate Class Members who were listed on the Admissibility List in the QMJHL on November 15, 2017 receive a quarter-season credit. No Prince Edward Island non-affiliate Class Member can receive more than 1 quarter-season credit for the entire 2017-2018 season.

Affiliate Players are Class Members who are not on a Major Junior Card, as defined by the bylaws of Hockey Canada. Affiliate players will receive \$250 and will not receive compensation in accordance with season credits. However, if an Affiliate also qualifies for season credits described above in excess of \$250, the Affiliate would not receive \$250, but instead receive the amounts attributed to their season credits.

A non-affiliate Class Member who is not entitled to compensation for either a half or full season credit for a particular year under these rules, shall receive a quarter-season credit.

7. An example of the operation of the compensation calculation is below:

If the Claim Fund is \$15 million, and the total seasons attributable to valid Administration Forms received by the Claims Deadline is 5,000, each Full Season will be worth \$3,000.

If a Class Member has one Full Season, they would receive \$3,000. If a Class Member has 2.5 seasons, they would receive \$7,500.

## **E. THE ADMINISTRATION PROCESS**

8. Generally, the Claims Administration Process will be as follows:

### **Step 1: Calculation of the value of a Full Season**

9. The Administrator shall calculate the value of a Full Season based upon all valid Administration Forms received by the Claims Deadline and the value of the Claims Fund.

### **Step 2: Calculation of Each Class Member's Relative Share**

10. The Claims Administrator will calculate the Relative Share of the Claim Fund for each Class Member who has submitted an Administration Form by the Claims Deadline. The records held by the Defendants shall be used to identify the number of season(s) credited to a Class Member. All Affiliate Players will be identified and compensated in accordance with section "D" above.

### **Step 3 – First Distribution**

11. Class Members will be provided with cheques consisting of 80% of their Relative Share of the Claim Fund.

### **Step 4 – Second Distribution**

12. Within a set time after the First Distribution, the Claims Administrator will process the Second Distribution and distribute cheques to Class Members consisting of the remaining 20% of their Relative Share. The Relative Shares of the Second Distribution may be adjusted to account for, among other things, any errors identified following the First Distribution or additional Administration Expenses.

### **Step 5 – Report**

13. The Claims Administrator will provide a report on the results of the Administration and Distribution to Class Counsel, who will report to the Courts.

**G. RESIDUAL DISCRETION**

14. Notwithstanding the foregoing, if Class Counsel have reasonable and material concerns that the Distribution Protocol is producing an unjust result on the whole or to any material segment of the Class or that a modification is required or recommended, they shall seek a reasonable modification to this Distribution Protocol or for further directions with respect to the distribution of the Claim Fund.

15. In arriving at a determination that an unjust result is occurring or that a modification is required or recommended, and in considering what modification may be required, Class Counsel shall seek comments or input from the Defendants and the Claims Administrator.

**I. CONFIDENTIALITY**

16. All information received from the Defendants or the Class is collected, used, and retained by the Claims Administrator pursuant to, inter alia, the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5.