

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF  
PACE SECURITIES CORP., PACE FINANCIAL LIMITED,  
PACE INSURANCE BROKERS LIMITED AND  
PACE GENERAL PARTNER LIMITED**

Applicants

**MOTION RECORD OF THE INVESTOR CLAIMANTS  
(Motion for Approval of the Form of Notice to Investor Claimants and for  
Settlement Approval)**

July 7, 2021

**Paliare Roland Rosenberg Rothstein LLP**  
155 Wellington Street West, 35th Floor  
Toronto ON M5V 3H1  
Tel: 416.646.4300  
Fax: 416.646.4301

**Kenneth T. Rosenberg** (LSO# 21102H)  
Tel: 416.646.4304  
ken.rosenberg@paliareroland.com

**Massimo (Max) Starnino** (LSO# 41048G)  
Tel: 416.646.7431  
max.starnino@paliareroland.com

**Lily Harmer** (LSO# 31880T)  
Tel: 416.646.4326  
lily.harmer@paliareroland.com

**Jesse Wright** (LSO# 80382Q)  
Tel: 416.646.6314  
jesse.wright@paliareroland.com

Representative Counsel

TO SERVICE LIST:

<p><b>CHAITONS LLP</b> 5000 Yonge Street, 10<sup>th</sup> Floor Toronto, ON M2N 7E9</p> <p><b>George Benchetrit</b> Tel: 416.218.1141 <a href="mailto:george@chaitons.com">george@chaitons.com</a></p> <p>Lawyers for Ernst &amp; Young Inc., in its capacity as Court-Appointed Liquidator of the estate and effects of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited</p>	<p><b>ERNST &amp; YOUNG INC.</b> EY Tower 100 Adelaide Street West PO Box 1 Toronto, ON M5H 0B3</p> <p><b>Jeffrey Kerbel</b> <a href="mailto:jeffrey.d.kerbel@ca.ey.com">jeffrey.d.kerbel@ca.ey.com</a></p> <p><b>Alison Ho</b> <a href="mailto:alison.ho@ca.ey.com">alison.ho@ca.ey.com</a></p>
<p><b>GOODMANS LLP</b> 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7</p> <p><b>Jason Wadden</b> Tel: 416.597.5165 <a href="mailto:jwadden@goodmans.ca">jwadden@goodmans.ca</a></p> <p><b>Michael Wilson</b> Tel: 416.597.4130 <a href="mailto:mwilson@goodmans.ca">mwilson@goodmans.ca</a></p> <p>Lawyers for Financial Services Regulatory Authority of Ontario</p>	<p><b>LENCZNER SLAGHT ROYCE SMITH GRIFFIN LLP</b> 130 Adelaide Street West, Suite 2600 Toronto, ON M5H 3P5</p> <p><b>Shara Roy</b> Tel: 416.865.2942 <a href="mailto:sroy@litigate.com">sroy@litigate.com</a></p> <p>Lawyers for Laurentian Bank Securities Limited</p>
<p><b>BLANEY MCMURTRY LLP</b> 2 Queen Street East, Suite 1500 Toronto, Ontario M5C 3G5</p> <p><b>Mervyn Abramowitz</b> Tel: 416.597.4887 <a href="mailto:mabramowitz@blaney.com">mabramowitz@blaney.com</a></p> <p>Lawyers for MNP Ltd., court-appointed liquidator of First Hamilton Holdings Inc.</p>	<p><b>MNP LTD.</b> 300 - 111 Richmond Street West Toronto, ON, M5H 2G4</p> <p><b>Jerry Henechowicz</b> <a href="mailto:jerry.henechowicz@mpn.ca">jerry.henechowicz@mpn.ca</a></p>

<p><b>LAX O'SULLIVAN LISUS GOTTLIEB LLP</b> Counsel Suite 2750, 145 King Street West Toronto, ON M5H 1J8</p> <p><b>Crawford G. Smith</b> LSO#42131S Tel: 416.598.8648 <a href="mailto:csmith@lolg.ca">csmith@lolg.ca</a></p> <p><b>Andrew Winton</b> LSO#: 54473 Tel: 416.644.5342 <a href="mailto:awinton@lolg.ca">awinton@lolg.ca</a></p> <p><b>Jasmine K. Landau</b> LSO#: 74316K Tel: 416.956.0110 <a href="mailto:jlandau@lolg.ca">jlandau@lolg.ca</a></p> <p>Lawyers for Pace Savings &amp; Credit Union Ltd.</p>	<p><b>PALIARE ROLAND ROSENBERG ROTHSTEIN LLP</b> 155 Wellington Street West, 35th Floor Toronto ON M5V 3H1</p> <p><b>Kenneth T. Rosenberg</b> Tel: 416.646.4304 <a href="mailto:ken.rosenberg@paliareroland.com">ken.rosenberg@paliareroland.com</a></p> <p><b>Massimo (Max) Starnino</b> Tel: 416.646.7431 <a href="mailto:max.starnino@paliareroland.com">max.starnino@paliareroland.com</a></p> <p><b>Danielle Glatt</b> Tel: 416.646.7440 <a href="mailto:danielle.glatt@paliareroland.com">danielle.glatt@paliareroland.com</a></p> <p>Representative Counsel for the Investor Claimants</p>
<p><b>CRAWLEY MACKEWN BRUSH LLP</b> 179 John Street, Suite 800 Toronto, ON M5T 1X4</p> <p><b>Melissa MacKewn</b> (LSO# 39166E) Tel: 416.217.0840 <a href="mailto:mmackewn@cmblaw.ca">mmackewn@cmblaw.ca</a></p> <p><b>Anna K. Markiewicz</b> (LSO# 45460H) Tel: 416.217.0803 <a href="mailto:amarkiewicz@cmblaw.ca">amarkiewicz@cmblaw.ca</a></p> <p><b>Elizabeth McLellan</b> (LSO# 79681N) Tel: 416.217.0853 <a href="mailto:lmclellan@cmblaw.ca">lmclellan@cmblaw.ca</a></p> <p>Lawyers for Gerald McRae, Joseph Thomson and Andre Sian</p>	<p><b>KUSHNERYK MORGAN LLP</b> 200 Bay Street North Tower, Suite 1200 Toronto, ON M5J 2J2</p> <p><b>Susan Kushneryk</b> Tel: 647.317.1526 <a href="mailto:skushmeryk@kmcounsel.ca">skushmeryk@kmcounsel.ca</a></p> <p><b>Eric Morgan</b> Tel: 647.907.1536 <a href="mailto:emorgan@kmcounsel.ca">emorgan@kmcounsel.ca</a></p> <p>Lawyers for Ernie Eves, Tim Huxley, Mike Leskovec and Grant Walsh</p>
<p><b>CRAWLEY MACKEWN BRUSH LLP</b> 179 John Street, Suite 800 Toronto, ON M5T 1X4</p> <p><b>Alistair Crawley</b> Tel: 416.217.0806 <a href="mailto:acrawley@cmblaw.ca">acrawley@cmblaw.ca</a></p> <p><b>Clarke Tedesco</b> Tel: 416.217.0884 <a href="mailto:ctedesco@cmblaw.ca">ctedesco@cmblaw.ca</a></p> <p>Lawyers for Larry Smith</p>	<p><b>CAMP ADVOCACY PROFESSIONAL CORPORATION</b> 40 University Ave, Suite 720 Toronto, ON M5J 1T1</p> <p><b>James Camp</b> Tel: 416.786.1880 <a href="mailto:james@campadvocacy.com">james@campadvocacy.com</a></p> <p>Lawyer for Harry Mahesh</p>

<p><b>INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA</b> Suite 2000, 121 King Street West Toronto, Ontario M5H 3T9 Tel: 416.646.7225</p> <p><b>Tatsiana Okun</b> <a href="mailto:tokun@IIROC.CA">tokun@IIROC.CA</a></p>	<p><b>DALE &amp; LESSMAN LLP</b> 181 University Avenue, Suite 2100 Toronto, ON M5H 3M7</p> <p><b>Geoffrey Janoscik</b> Tel: 416-369-7823 <a href="mailto:gjanoscik@dalelessmann.com">gjanoscik@dalelessmann.com</a></p> <p>Lawyers for Brett McFarquhar/ 7903197 Canada Inc. (investor in PACE Capital Partners)</p>
<p><b>WALDIN BARRISTERS</b> TD Centre North Tower 77 King Street West, Suite 3000 Toronto, Ontario, M5K 1G8</p> <p><b>Jan-Paul Waldin</b> Tel: 416-364-6762 <a href="mailto:jan-paulwaldin@waldin.ca">jan-paulwaldin@waldin.ca</a></p> <p>Lawyers for Mr. Ariel Simms,(PSC investment advisor)</p>	<p><b>WEISZ FELL KOUR LLP</b> 100 King Street W., Suite 5600 Toronto, ON M5X 1C9</p> <p><b>Steven Weisz</b> Tel: 416.613.8281 Email: <a href="mailto:sweisz@wfklaw.ca">sweisz@wfklaw.ca</a></p> <p><b>Pat Corney</b> Tel: 416.613.8287 Email: <a href="mailto:pcorney@wfklaw.ca">pcorney@wfklaw.ca</a></p> <p>Lawyers for Philip Smith</p>

## INDEX

<b>TAB</b>	<b>DESCRIPTION</b>	<b>PAGE</b>
1.	Notice of Motion	1
A.	Schedule "A": Form of Notice Order	8
B.	Schedule "B": Settlement Approval Order	20
2.	Second Report of Representative Counsel	39
A.	Appendix "A" Representation Orders	63
B.	Appendix "B" Claim Procedure Orders	90
C.	Appendix "C" Settlement Term Sheet	113

**TAB 1**

Court File No. CV-20-00641059-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF  
PACE SECURITIES CORP., PACE FINANCIAL LIMITED,  
PACE INSURANCE BROKERS LIMITED AND  
PACE GENERAL PARTNER LIMITED**

Applicants

**NOTICE OF MOTION  
(Motion for Approval of the Form of Notice to Investor Claimants and for  
Settlement Approval)**

Paliare Roland Rosenberg Rothstein LLP in its capacity as representative counsel for the Investor Claimants (as defined in the order made in these proceedings dated August 6, 2020 appointing representative counsel) ("**Representative Counsel**") will make a motion to a judge of the Commercial List at a date and time to be set at a chambers appointment held on July 8, 2021, at 10:00 a.m., or as soon after that time as the motion can be heard.

**PROPOSED METHOD OF HEARING:** The motion is to be heard by videoconference.

**THE MOTION IS FOR:**

1. An initial order substantially in the form appended hereto as Schedule “A” (the “**Form of Notice Order**”), among other things:
  - (a) approving the form and content of the notice (the “**Notice**”) of the hearing to approve of the settlement contemplated by a term sheet dated June 24, 2021 (the “**Settlement**”) among Representative Counsel on behalf of the Investor Claimants, PACE Savings & Credit Union Limited (the “**Credit Union**”), certain individuals and organizations insured by AIG Insurance Company of Canada and certain individual investment advisors represented by their insurers, AXIS Reinsurance Company (Canadian Branch) and Liberty Mutual (together, the “**Settling Parties**”);
  - (b) providing directions for the publication of the Notice (the “**Notice Plan**”);  
and,
  - (c) providing advice and direction in respect of the scope of Representative Counsel’s appointment as it applies to certain specific investor claimants.
2. An order approving and implementing the Settlement, substantially in the form appended hereto as Schedule “B” (the “**Settlement Approval Order**”).
3. Such further and other relief as this Court considers just.

**THE GROUNDS FOR THE MOTION ARE:**



1. The Investors Claimants are holders of the following securities having a face value of approximately \$48 million (together the “**Preferred Shares**”):

- (a) PACE Financial Limited (“**PFL**”) Series A 5% cumulative redeemable retractable non-voting term preference shares;
- (b) First Hamilton Holdings Limited (“**FHH**”) Series A 7% cumulative non-voting preference shares; and/or
- (c) First Hamilton Holdings Limited Series B 5% cumulative redeemable retractable non-voting preference shares,

and, in one instance, Pace Capital Partners Series A Limited Partnership Units (the “**PCP Units**”).

2. In May 2020, liquidation proceedings were commenced in respect of each of PACE Securities Corp. (“**PSC**”), PFL and FHH.

3. By order dated August 6, 2020, as amended March 2, 2021, this Court appointed Representative Counsel to represent the Investor Claimants in respect of various claims pertaining to their interest in the Preferred Shares and PCP Units (the “**Investor Claims**”).

4. By order dated March 2, 2021, this Court appointed Mr. Joel Wiesenfeld as mediator to attempt to facilitate the resolution of the Investor Claims.

5. On June 24, 2021, Representative Counsel, the Settling Parties and the Liquidators executed a term sheet settling the Investor Claims as between them.

6. Under the Settlement, the Settling Parties will pay an all-inclusive, non-reversionary amount of \$40,000,000 to the Investor Claimants in exchange for a full and final release of the Investor Claims against the Settling Parties (including any related claims over for contribution or indemnity).

7. The Settlement is fair and reasonable and in the best interests of the Investor Claimants as a whole; namely:

- (a) The Settlement was reached after good faith, hard bargaining between experienced counsel, with the benefit of a very experienced mediator;
- (b) The \$40 million settlement is expected to result in a recovery of 70% or more of the principal invested by the Investor Claimants;
- (c) The Settlement provides certainty of outcome and avoids years of litigation and its attendant risk and expense;
- (d) The committee of twelve Investor Claimants, representing various interests and appointed pursuant to the order of this court dated August 6, 2020 supports the Settlement and believes that it is in the best interests of the Investor Claimants;
- (e) Representative Counsel, who are experienced in investor loss cases, recommend the Settlement;
- (f) The Settlement facilitates the objective of these proceedings, namely, the winding-up of the Applicants;

- (g) The Settlement provides stability to and will facilitate the completion of the administration of the Credit Union, to the benefit of its members;
- (h) The Liquidator recommends the settlement.

**Statutes and Rules**

- (i) Rules 3.02, 16.08, 37 and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194;
- (j) Section 209 off the *OBCA*; and
- (k) Such further and other grounds as counsel may advise and this Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) The Second Report of Representative Counsel;
- (b) The Liquidator's report to the court;
- (c) Such further and other evidence as counsel may advise and this Court may admit.

July 6, 2021

**PALIARE ROLAND ROSENBERG  
ROTHSTEIN LLP**  
155 Wellington Street West, 35<sup>th</sup> Floor  
Toronto, ON M5V 3H1  
Tel: 416.646.4300

**Kenneth T. Rosenberg** (LSO# 21102H)

Tel: 416.646.4304

[ken.rosenberg@paliareroland.com](mailto:ken.rosenberg@paliareroland.com)

**Lily Harmer** (LSO# 31880T)

Tel: 416.646.4326

[lily.harmer@paliareroland.com](mailto:lily.harmer@paliareroland.com)

**Massimo (Max) Starnino** (LSO# 41048G)

Tel: 416.646.7431

[max.starnino@paliareroland.com](mailto:max.starnino@paliareroland.com)

**Jesse Wright** (LSO# 80382Q)

Tel: 416.646.6314

[jesse.wright@paliareroland.com](mailto:jesse.wright@paliareroland.com)

Representative Counsel

# SCHEDULE "A"

Court File No. CV-20-00641059-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE	)	THURSDAY, THE
	)	
JUSTICE CONWAY	)	8 <sup>th</sup> DAY OF JULY, 2021

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF  
PACE SECURITIES CORP., PACE FINANCIAL LIMITED,  
PACE INSURANCE BROKERS LIMITED AND  
PACE GENERAL PARTNER LIMITED**

**ORDER RE NOTICE TO INVESTOR CLAIMANTS**

**THIS MOTION** made by Paliare Roland Rosenberg Rothstein LLP in its capacity as representative counsel for the Investor Claimants (as defined in the order made in these proceedings dated August 6, 2020 appointing representative counsel) (“**Representative Counsel**”) for an order (i) approving the form and content of notice (the “**Notice**”) to Investor Claimants of the settlement of their claims in respect of their acquisition of preferred shares of PACE Financial Limited (“**PFL**”) and First Hamilton Holdings Inc. (“**FHH**”) and units of Pace Capital Partners Series A Limited Partnership, as applicable (the “**Investor Claims**”); and (ii) approving the plan for distribution of the Notice, was heard this day via Zoom conference at Toronto, Ontario.

**ON READING** the motion record of Representative Counsel, and on hearing the submissions of Representative Counsel, and counsel for the PACE Savings and Credit Union Limited (the “**Credit Union**”), the Liquidators and counsel for the Settling Parties, no one else appearing,

1. **THIS COURT ORDERS** that the capitalized terms not otherwise defined in this order shall have the meanings given to them in Schedule “A”.
2. **THIS COURT ORDERS** that time for service and filing of this notice of motion and motion record is validated and abridged and any further service thereof is dispensed with.
3. **THIS COURT ORDERS** that the Notice, substantially in the form attached as Schedule “B”, be and hereby is approved and that Representative Counsel, with the consent of the Liquidators, may make minor non-material amendments to such form as may be necessary or desirable.
4. **THIS COURT ORDERS** that notice of the Settlement and the motion seeking approval of the Settlement shall be provided as follows:
  - (a) Representative Counsel shall, by July 13, 2021, send or cause to be sent a copy of the Notice directly, either electronically or by mail, to all Investor Claimants identified to Representative Counsel to the last email or municipal address known to Representative Counsel, and thereafter to any other person or entity who requests a copy of the Notice, provided that such person or entity has furnished his, her or its contact information to Representative Counsel;

- (b) Representative Counsel shall, forthwith:
- (i) Post the Notice at: <https://www.paliareroland.com/pace-securities-litigation>;
  - (ii) issue and cause to be disseminated a press release incorporating the Notice;
  - (iii) provide hyperlinks to the notice from the Twitter account: @PaliareRoland;
  - (iv) cause a copy of the Notice to be published in *The Globe and Mail*, in English, in one weekday publication;

5. **THIS COURT ORDERS** that any persons objecting to the Settlement shall deliver a notice of objection substantially in the form attached hereto as Schedule “C” (the “**Notice of Objection**”) to Representative Counsel and the Liquidators by no later than 5:00 P.M. (Eastern) on July 23, 2021, by email transmission to the coordinates indicated on the Notice of Objection.

6. **THIS COURT ORDERS** that for the purpose of the order made in these proceedings dated August 6, 2020 appointing Representative Counsel and for the purpose of the Settlement, the individuals listed in Schedule “D” hereto, among others, are Investor Claimants.

---

Conway J.



**SCHEDULE "A"****DEFINED TERMS**

**"Applicants"** means First Hamilton Holdings Inc., First Hamilton Financial Services Inc., First Hamilton Capital Inc., First Hamilton General Partner 2 Inc., First Hamilton Mortgage Brokers Inc., PACE Securities Corp, PACE Financial Limited, PACE Insurance Brokers Limited and PACE General Partner Limited;

**"Defendants"** means the Applicants and any related persons or organizations;

**"Individual Insureds"** means Joseph Thomson, Gerald McRae, Andre Sian, Ernest Eves, Timothy Huxley, Michael Leskovec, Grant Walsh and Larry Smith;

**"Insured Organizations"** means PACE Securities Corporation, First Hamilton Holdings Inc. and PACE Financial Limited;

**"Investment Advisors"** means Ariel Simms; and, Patrick Carson, Gyulmet Ramazanov, Thomas D. Moxam, Pat Cilla, Thomas Ogilwy, and Margaret Pakula;

**"Investor Claim"** means a claim or cause of action as against one or more of the Defendants in respect of the purchase of Preference Shares in Canada, or anywhere else in the world, including, without limitation, claims for contribution or indemnity, personal injury or tort damage, restitutionary recovery, nonpecuniary damages, pure economic loss, or claims for recovery grounded in Ontario Securities legislation, and, the claims of 7003197 Canada Inc. in respect of its purchase of Pace Capital Partners Series A Limited Partnership Units;

**"Investor Claimants"** means all individuals and entities (including their respective successors, heirs, assigns, litigation guardians and designated representatives under applicable provincial family law legislation) who assert or may be entitled to assert an Investor Claim, excluding all Defendants, insiders or securities brokers involved in the sale of the Preference Shares.

**"Liquidators"** means (a) Ernst & Young Inc., in its capacity as Court-Appointed Liquidator of the estate and effects of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited, and (b) MNP Ltd., in its capacity as Court-Appointed Liquidator of the estate and effects of First Hamilton Holdings Inc. First Hamilton Financial Services Inc., First Hamilton General Partner 2 Inc., First Hamilton Capital Inc. and First Hamilton Mortgage Brokers Inc.;

**"Preference Shares"** means PACE Financial Limited Series A 5% cumulative non-voting preference shares, First Hamilton Holdings Limited Series A 7% cumulative non-voting preference shares and First Hamilton Holdings Limited Series B 5% cumulative redeemable retractable non-voting preference shares, including warrants in respect of the foregoing.

**“PSC Liquidator”** means Ernst & Young Inc., in its capacity as Court-Appointed Liquidator of the estate and effects of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited;

**“Representative Counsel”** means Paliare Roland Rosenberg Rothstein LLP in its capacity as counsel for the Investor Claimants;

**“Settling Parties”** means PACE Savings & Credit Union Limited; the Insured Organizations; the Insured Individuals; AIG Insurance Company of Canada in its capacity as insurer for the Insured Organizations and the Insured Individuals; the Investment Advisors; and, AXIS Reinsurance Company (Canadian Branch) and Liberty Mutual in their capacity as insurers for the Investments Advisors;

**“Settlement”** means the agreement of compromise evidenced by the Term Sheet dated June 24, 2021, between Representative Counsel, the Settling Parties and the Liquidators to resolve all or substantially all of the Investor Claims;

## SCHEDULE “B”

### NOTICE OF SETTLEMENT OF CLAIMS PERTAINING TO THE PURCHASE OF PREFERRED SHARES OF PACE FINANCIAL LIMITED AND FIRST HAMILTON HOLDINGS INC.

**TO:** Holders of PACE Financial Limited (“PFL”) Series A 5% cumulative non-voting preference shares, First Hamilton Holdings Limited (“FHH”) Series A 7% cumulative redeemable retractable non-voting preference shares, and/or First Hamilton Holdings Limited Series B 5% cumulative redeemable retractable non-voting preference shares, including warrants in respect of the foregoing (together, the “**Investor Claimants**”).

#### **Background**

By order dated August 6, 2020 and amended March 2, 2021, Paliare Roland Rosenberg Rothstein LLP was appointed as representative counsel (“**Representative Counsel**”) for the Investor Claimants in respect of various claims arising from their acquisition of the preferred shares of PFL and FHH and 7003197 Canada Inc. in respect of its purchase of PACE Capital Partners Series A Limited Partnership Units (the “**Investor Claims**”).

#### **The Mediation and the Proposed Settlement**

By order dated March 2, 2021, the Court directed a mediation of the Investor Claims.

On June 24, 2021, PACE Savings & Credit Union Limited (the “**Credit Union**”), AIG Insurance Company of Canada (“**AIG**”) on behalf of certain individual insureds, PFL, FHH and PACE Securities Corp., and certain investment advisors (together, the “**Settling Parties**”) reached an agreement to resolve all or substantially all of the Investor Claims forming the subject matter of the mediation (the “**Settlement**”).

The Settlement is subject to court approval, as discussed below.

If approved, and its conditions fulfilled, the Settlement contemplates that the Settling Parties will pay \$40 million to the trust account of Representative Counsel, for future distribution to Investor Claimants, net of Representative Counsel fees and other administrative costs and expenses, all in accordance with a scheme of distribution to be approved by the court at a later date.

In return, the Investor Claims will be dismissed against the Settling Parties, and there will be an order forever barring such claims.

***The Settlement is highly recommended by Representative Counsel and a Committee of Investor Claimants.***

#### **Hearing to Approve the Settlement**

On July 30, 2021, there will be a settlement approval hearing before the Ontario Superior Court of Justice (the “**Settlement Approval Hearing**”). The hearing will be held virtually, by Zoom videoconference.

Additional information in respect of the Settlement is contained in Representative Counsel’s motion record in respect of the Settlement Approval Hearing, which can be found at <https://www.paliareroland.com/pace-securities-litigation>, together with a Notice of Objection.

**If you wish to object to the Settlement you must send a Notice of Objection by email to both of the following addresses by no later than 5:00 p.m. (Eastern) on Friday, July 23, 2021:**

[info.pacesecuritieslitigation@paliareroland.com](mailto:info.pacesecuritieslitigation@paliareroland.com)

[pace.securities@ca.ey.com](mailto:pace.securities@ca.ey.com)

The Notices of Objection will be filed with the Court. Individual Investor Claimants objecting to the Settlement may but are not required to attend at the Settlement Approval Hearing to make submissions in support of their objections.

#### **Further Information**

If you would like additional information or to object to the Settlement Agreement, please contact Representative Counsel at the address below:

<b>PALIARE ROLAND ROSENBERG ROTHSTEIN LLP</b>
<b>Telephone:</b> 1-(888) 974-1652 <b>Email:</b> <a href="mailto:info.pacesecuritieslitigation@paliareroland.com">info.pacesecuritieslitigation@paliareroland.com</a> <b>Website:</b> <a href="https://www.paliareroland.com/pace-securities-litigation">https://www.paliareroland.com/pace-securities-litigation</a>

**DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO  
SUPERIOR COURT OF JUSTICE**

SCHEDULE "C"

NOTICE OF OBJECTION

TO: [info.pacesecuritieslitigation@paliareroland.com](mailto:info.pacesecuritieslitigation@paliareroland.com)

AND TO: [pace.securities@ca.ey.com](mailto:pace.securities@ca.ey.com)

RE: PACE CREDIT UNION—SETTLEMENT APPROVAL HEARING

I, \_\_\_\_\_ (please check all boxes that apply):

(insert name)

- am a current holder of PACE Financial Limited Series A 5% Cumulative Non-voting Preference shares and/or warrants in respect of same;
- am a current holder of First Hamilton Holdings Limited Series A 7% cumulative non-voting preference shares and/or warrants in respect of same;
- am a current holder of First Hamilton Holdings Limited Series B 5% cumulative redeemable retractable non-voting preference shares and/or warrants in respect of same;

I acknowledge that pursuant to the order of the Honourable Justice Conway dated July 8 2021 (the "Order"), persons wishing to object to the Settlement of claims in respect of the shares described above are required to complete and deliver this Notice of Objection to the email addresses indicated above to be received by no later than July 23, 2021 at 5:00 p.m. (Eastern).

I hereby give notice that I object to the Settlement Agreement, for the following reasons:

---



---



---



---



---

- I DO NOT intend to appear at the hearing of the motion to approve the Settlement, and I understand that my objection will be filed with the court prior to the hearing of the motion on July 30, 2021.
- I DO intend to appear, in person or by counsel, and to make submissions at the hearing of the motion to approve the Settlement on July 30, 2021.

**MY ADDRESS FOR SERVICE IS**

Name:

Address:

Tel.:

Fax:

Email:

**MY LAWYER'S ADDRESS FOR SERVICE IS (if applicable):**

Name:

Address:

Tel.:

Fax:

Email:

**Date:** \_\_\_\_\_

**SCHEDULE “D”****CONFIRMATION OF INVESTOR CLAIMANT STATUS**

<b>Last Name</b>	<b>First Name</b>	<b>Assumed Relationship</b>	<b>Investment</b>
Barnes	Danica	Chris Barnes (VP Institutional Sales of PSC and voting shareholder of FHH)	100 FHH Shares
Carson	Frederick	Patrick Carson (Investment Advisor)	1000 FHH Shares
Carson	Jason	Patrick Carson (Investment Advisor)	3000 FHH Shares
Carson	Marcia	Patrick Carson (Investment Advisor)	1000 FHH Shares
Cassano	Giovanni	Tina Cassano (director of HR at PCU)	2000 PFL Shares
Cilla	Annalisa	Pasquale (Pat) Cilla (Investment Advisor)	1000 FHH Shares
Cilla	Daniel	Pasquale (Pat) Cilla (Investment Advisor)	1000 FHH Shares
Cilla	Ivana	Pasquale (Pat) Cilla (Investment Advisor)	1210 FHH Shares
Farrant	Steve	Stepfather of Joe Thompson (CEO of PSC, PFL and FHH, among other things)	100 FHH Shares
Goodfellow	Ian	PCU Board Member	6600 PFL Shares
Hamersley	Naomi	Partner of Chris Barnes (VP Institutional Sales of PSC and voting shareholder of FHH)	100 FHH Shares
Hamersley	Noelle	Mother-in-law of Chris Barnes (VP Institutional Sales of PSC and voting shareholder of FHH)	200 FHH Shares
Nims	John	Joana Nims (analyst at PSC, may also be one of the voting shareholders at FHH)	1000 PFL Shares 463 FHH Shares
Simms	Jared	Ariel Simms (Investment Advisor)	10,000 FHH Shares
Topping	Kenneth	PCU Board Member	100 PFL Shares (Likely Gift) 3936 of FHH Shares
Topping	Lynn	Kenneth Topping (PCU Board Member)	8700 FHH Shares
Wagg	Diana	Financial Service Officer at the Credit Union	1400 FHH Shares

Court File No. CV-20-00641059-00CL

**IN THE MATTER OF A WINDING UP OF PACE SECURITIES CORP., PACE FINANCIAL LIMITED, PACE INSURANCE BROKERS LIMITED AND PACE GENERAL PARTNER LIMITED****ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**PROCEEDING COMMENCED AT  
TORONTO**ORDER RE NOTICE TO INVESTOR CLAIMANTS****Paliare Roland Rosenberg Rothstein LLP**155 Wellington Street West, 35th Floor  
Toronto ON M5V 3H1  
Tel: 416.646.4300**Kenneth T. Rosenberg (LSO# 21102H)**Tel: 416.646.4304  
ken.rosenberg@paliareroland.com**Massimo (Max) Starnino (LSO# 41048G)**Tel: 416.646.7431  
max.starnino@paliareroland.com**Lily Harmer (LSO# 31880T)**Tel: 416.646.4326  
lily.harmer@paliareroland.com**Jesse Wright (LSO# 80382Q)**Tel: 416.646.6314  
jesse.wright@paliareroland.com

Representative Counsel



## **SCHEDULE "B"**

Court File No. CV-20-00641059-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE	)	FRIDAY, THE
	)	
JUSTICE KOEHNEN	)	30 <sup>th</sup> DAY OF JULY, 2021

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF  
PACE SECURITIES CORP., PACE FINANCIAL LIMITED,  
PACE INSURANCE BROKERS LIMITED AND  
PACE GENERAL PARTNER LIMITED**

Applicants

**SETTLEMENT APPROVAL ORDER**

**THIS MOTION** made by Paliare Roland Rosenberg Rothstein LLP in its capacity as representative counsel for the Investor Claimants (as defined in the order made in these proceedings dated August 6, 2020 appointing representative counsel ("**Representative Counsel**")), for an order approving the settlement of certain of the Investor Claimants' claims in respect of their acquisition of preferred shares of PACE Financial Limited ("**PFL**") and First Hamilton Holdings Inc. ("**FHH**") (together, with the claims of 7903197 Canada Inc. in respect of its purchase of Pace Capital Partners Series A Limited Partnership Units ("**PCP Units**"), the "**Investor Claims**"), was heard this day via Zoom conference at Toronto, Ontario.

**ON READING** the motion record and supplementary motion record of Representative Counsel, the Liquidator's Report, and on hearing the submissions of Representative Counsel, counsel for PACE Savings and Credit Union (the "**Credit Union**"), the Liquidators and certain Settling Parties, no one else appearing although duly served and given notice as required by the order of Justice Conway dated July 8, 2021 respecting the form of notice for the settlement approval hearing:

**Sufficiency of Service and Definitions**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the capitalized terms not otherwise defined in this order shall have the meanings given to them in Schedule "A".
3. **THIS COURT FINDS** that all applicable parties have adhered to, and acted in accordance with the order of this Court dated July 8, 2021, in respect of the notice of this Motion (the "**Notice Order**") and that the procedures provided for in the Notice Order have provided good and sufficient notice of the hearing of this Motion, and that all persons shall be and are hereby barred from objecting to the settlement contemplated by the term sheet dated June 24, 2021 (the "**Settlement**") marked as Schedule "B" to this order.

### **Approval of the Settlement**

4. **THIS COURT ORDERS** that the Settlement be and hereby is approved and will be implemented in accordance with its terms and this order and any further orders of this Court.

5. **THIS COURT ORDERS AND DECLARES** that, without in any way affecting the finality of this order, this Court reserves exclusive and continuing jurisdiction over the Investor Claimants, Representative Counsel and the Settling Parties for the purpose of implementing the Settlement and enforcing and administering the Settlement and this order.

### **Settlement Implementation**

6. **THIS COURT ORDERS AND DIRECTS** the Settling Parties to pay, in the proportions contemplated by the Settlement, the total amount of \$40 million (the “**Settlement Amount**”) to Representative Counsel, in trust, no later than 60 calendar days from: (a) the day on which the period for appealing this order expires without an appeal having been brought; or (b) in the event of an appeal, the day of the final disposition of any such appeal.

7. **THIS COURT ORDERS AND DECLARES** that on payment of the Settlement Amount in full (the “**Settlement Implementation Date**”), the Settlement and all associated steps, releases, discharges, cancellations, transactions and arrangements effected thereby are approved and shall be deemed to be implemented, binding and effective in accordance with the terms of the Settlement Agreement, and shall enure to

the benefit of and be binding upon the Investor Claimants, the Settling Parties and all other persons and parties named or referred to in, affected by, or subject to the Settlement Agreement, including, without limitation, their respective heirs, administrators, executors, legal representatives, successors and assigns.

8. **THIS COURT ORDERS** that each of Representative Counsel, the Settling Parties and the Liquidator are authorized and directed to have taken and to take all steps and actions, and to have done and to do all things, necessary or appropriate to the genesis and implementation of the Settlement, on and in accordance with its terms, and to enter into, execute, deliver, complete, implement and consummate all of the steps, transactions, distributions, deliveries, allocations, instruments and agreements contemplated pursuant to the Settlement, and any such steps and actions, whether already taken or to be taken, are hereby authorized, ratified and approved, and neither Representative Counsel nor the Liquidator shall incur any liability as a result of acting in accordance with the terms of the Settlement.

9. **THIS COURT ORDERS** that Representative Counsel, the Settling Parties and the Liquidators and any other person required to make any payments, distributions, deliveries allocations, steps or other actions pursuant to the Settlement are hereby directed to complete such actions in accordance with the terms of the Settlement, and such actions are hereby approved.

10. **THIS COURT ORDERS** that each Investor Claimant is hereby deemed to have consented to all of the provisions of the Settlement, in its entirety, and as of the Settlement Implementation Date each Investor Claimant is hereby deemed to have executed and

delivered to the Settling Parties all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Settlement.

11. **THIS COURTS ORDERS** that, notwithstanding any bankruptcy, receivership or other insolvency proceeding now or hereafter issued pursuant to the *BIA*, the *CCAA* or otherwise in respect of any of the Settling Parties, including, without limitation, PFL or FHH, the Settlement Agreement shall be binding on any trustee in bankruptcy or receiver that may be appointed and shall not be void or voidable, nor shall the Settlement, the payments and distributions contemplated pursuant thereto, or any prior payments to Investor Claimants in respect of the Preferred Shares or PCP Units (the “**Prior Payments**”) constitute nor be deemed to constitute a fraudulent preference, a fraudulent assignment, a fraudulent conveyance, a transfer at undervalue, or other reviewable transaction or otherwise subject to review under the *BIA*, *CCAA* or any other applicable federal or provincial legislation, nor shall the Settlement Agreement or Prior Payments constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

12. **THIS COURT ORDERS** that it may issue such further and ancillary orders, from time to time, as are necessary to implement and enforce the provisions of the Settlement and this order.

### **Releases and Bar Orders**

13. **THIS COURT ORDERS** that on the Settlement Implementation Date all claims by the Investor Claimants against the Settling Parties arising from the purchase, sale, distribution and payments made in respect of the Preferred Shares and/or PCP Units shall

be fully finally, irrevocably and forever compromised, released, discharged, cancelled and barred (the “**Released Claims**”) pursuant to and in accordance with the Settlement.

14. **THIS COURT ORDERS** that on the Settlement Implementation Date, the ability of any Investor Claimant to proceed against the Settling Parties in respect of any Released Claims shall be forever discharged, barred and restrained, and all proceedings with respect to, in connection with, or relating to any such matter shall be permanently stayed, pursuant to and in accordance with the Settlement.

15. **THIS COURT ORDERS** that on the Settlement Implementation Date the Investor Claimants’ recovery from any person who is not one of the Settling Parties (the “**Non-Settling Defendant(s)**”) and with which the Settling Parties are judicially determined to be jointly and severally liable to the Investor Claimants for damages, shall be reduced (in aggregate) by the amount of funds ultimately received by the Investor Claimants in respect of a Released Claim pursuant to the Settlement Agreement, as determined by the Court, and the Investor Claimants shall thereafter be permitted to claim and recover from the Non-Settling Defendants only that proportion of damages attributable to the liability of the Non-Settling Defendants, as determined by the Court.

---

Koehnen J.

**SCHEDULE "A"****DEFINED TERMS**

**"Applicants"** means First Hamilton Holdings Inc., First Hamilton Financial Services Inc., First Hamilton Capital Inc., First Hamilton General Partner 2 Inc., First Hamilton Mortgage Brokers Inc., PACE Securities Corp., PACE Financial Limited, PACE Insurance Brokers Limited and PACE General Partner Limited;

**"Defendants"** means the Applicants and any related persons or organizations;

**"Individual Insureds"** means Joseph Thomson, Gerald McRae, Andre Sian, Ernest Eves, Timothy Huxley, Michael Leskovec, Grant Walsh and Larry Smith;

**"Insured Organizations"** means PACE Securities Corporation, First Hamilton Holdings Inc. and PACE Financial Limited;

**"Investment Advisors"** means Ariel Simms; and, Patrick Carson, Gyulmet Ramazanov, Thomas D. Moxam, Pat Cilla, Thomas Ogilwy, and Margaret Pakula;

**"Investor Claim"** means a claim or cause of action as against one or more of the Defendants in respect of the purchase of Preference Shares in Canada, or anywhere else in the world, including, without limitation, claims for contribution or indemnity, personal injury or tort damage, restitutionary recovery, nonpecuniary damages, pure economic loss, or claims for recovery grounded in Ontario Securities legislation, and, the claims of 7003197 Canada Inc. in respect of its purchase of Pace Capital Partners Series A Limited Partnership Units;

**"Investor Claimants"** means all individuals and entities (including their respective successors, heirs, assigns, litigation guardians and designated representatives under applicable provincial family law legislation) who assert or may be entitled to assert an Investor Claim, excluding all Defendants, insiders or securities brokers involved in the sale of the Preference Shares.

**"Liquidators"** means (a) Ernst & Young Inc., in its capacity as Court-Appointed Liquidator of the estate and effects of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited, and (b) MNP Ltd., in its capacity as Court-Appointed Liquidator of the estate and effects of First Hamilton Holdings Inc. First Hamilton Financial Services Inc., First Hamilton General Partner 2 Inc., First Hamilton Capital Inc. and First Hamilton Mortgage Brokers Inc.;

**"Preference Shares"** means PACE Financial Limited Series A 5% cumulative non-voting term preference shares, First Hamilton Holdings Limited Series A 7% cumulative non-voting preference shares and First Hamilton Holdings Limited Series B 5% cumulative redeemable retractable non-voting preference shares, including warrants in respect of the foregoing.



**“Representative Counsel”** means Paliare Roland Rosenberg Rothstein LLP in its capacity as counsel for the Investor Claimants;

**“Settling Parties”** means PACE Savings & Credit Union Limited; the Insured Organizations; the Insured Individuals; AIG Insurance Company of Canada in its capacity as insurer for the Insured Organizations and the Insured Individuals; the Investment Advisors; and, AXIS Reinsurance Company (Canadian Branch) and Liberty Mutual in their capacity as insurers for the Investments Advisors;

**“Settlement”** means the agreement of compromise evidenced by the Term Sheet dated June 24, 2021, between Representative Counsel, the Settling Parties and the Liquidators to resolve all or substantially all of the Investor Claims.

Court File No. CV-20-00641372-00CL

Court File No. CV-20-00641059-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE *BUSINESS CORPORATIONS*  
ACT, R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS*  
ACT, R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF FIRST HAMILTON HOLDINGS INC., FIRST  
HAMILTON FINANCIAL SERVICES INC., FIRST HAMILTON CAPITAL INC., FIRST  
HAMILTON GENERAL PARTNER 2 INC. and FIRST HAMILTON MORTGAGE BROKERS**

**AND IN THE MATTER OF A WINDING UP OF A PACE SECURITIES CORP., PACE  
FINANCIAL LIMITED, PACE INSURANCE BROKERS LIMITED AND PACE GENERAL  
PARTNER LIMITED**

**SETTLEMENT TERM SHEET<sup>1</sup>**

1. In consideration of the full and final settlement of their claims in respect of the purchase, sale and distribution of preferred shares of Pace Financial Limited (“PFL”) and First Hamilton Holdings Inc. (“FHH”) and the claim of 7903197 Canada Inc. in respect of the purchase, sale and distribution of units of Pace Capital Partners LP (“PCP”), and subject to the terms and conditions set forth herein, a global payment, inclusive of costs, taxes and disbursements, in the amount of \$40,000,000, shall be made to the Investor Claimants<sup>2</sup> as follows (the “Settlement”):
  - a. By PACE Savings & Credit Union Limited (“PACE Credit Union”), \$ \_\_\_\_\_ ;
  - b. By AIG Insurance Company of Canada, on behalf of the Individual Insureds and Insured Organizations (“AIG”), \$ \_\_\_\_\_ ; and,
  - c. By the PSC Investment Advisors’ insurers as defined below, \$ \_\_\_\_\_ (together with PACE Credit Union, AIG, Individual Insureds, Insured Organizations and PSC Investment Advisors, the “Settling Parties”).
  
2. The Settlement is subject to an order of the court in respect of these proceedings approving and implementing the Settlement, including an order barring and enjoining the claims of all persons in respect of the purchase, sale, distribution and payments made in respect of preferred shares of PFL and FHH, and the claim of 7903197 Canada Inc. in respect of the purchase, sale, distribution

<sup>1</sup> Unless otherwise defined herein, capitalized terms have the meaning identified in the Claims Brief and the Coverage Letters provided by AIG and produced pursuant to this mediation.

<sup>2</sup> For the avoidance of doubt, “Investor Claimants” has the meaning attributed to it by the court orders made in these proceedings dated August 6, 2020, as amended March 2, 2021, appointing representative counsel, and the Investor Claimants shall act through their court-appointed representative, Paliare Roland Rosenberg Rothstein LLP (“Representative Counsel”).

and payments made in respect of units of PCP. The settlement approval motion shall be brought forward by the Investor Claimants, using their best efforts. The Settling Parties shall be at liberty to adduce supportive evidence if they so choose, on reasonable notice to other Settling Parties with opportunity to object or seek confidentiality terms. The Settling Parties shall consent to a settlement approval order in form satisfactory to counsel for all parties and the Liquidators, including in respect of all available litigation bar orders and releases, including in respect of the conduct of Representative Counsel and their agents and advisors, including the members of their advisory committee.

3. Within 60 days of settlement approval, the Settling Parties shall pay the amounts set out in paragraph one above to Paliare Roland Rosenberg Rothstein LLP, in trust, for future allocation and distribution to the Investor Claimants in accordance with a subsequent order of the court in these proceedings, obtained on motion brought by Representative Counsel. The Settling Parties acknowledge that they will not oppose the allocation and distribution motion.
4. Upon receipt of payment of the amounts set out in paragraph one, the Investor Claimants will deliver, a full, unconditional and binding release of the Settling Parties and a corresponding bar order, in respect of claims arising from the purchase, sale and distribution of preferred shares of PFL and FHH, or units of PCP, by all Investor Claimants, all in a form satisfactory to the Settling Parties, Ernst & Young Inc., MNP Ltd., and the Investor Claimants, acting reasonably.
5. Upon receipt of the release referred to in paragraph four above, full and final releases in a form satisfactory to all Settling Parties shall be exchanged by all Settling Parties (which includes the Individual Insureds and Insured Organizations) which releases shall include protection from any future claims against each or any of them for contribution and indemnity or otherwise from any other parties, including PCP investors. PACE Credit Union will release Larry Smith solely from any liability arising from an allegation that he is an officer or director of PACE Securities Corp. and will strike any allegation that Larry Smith was a director or officer of PACE Securities Corp. in the action bearing Court File No. CV-19-00633165-00CL (the "Credit Union Action"). For greater clarity, PACE Credit Union does not release Larry Smith from any allegations that remain in the Credit Union Action, and entry into this settlement by Larry Smith as an Individual Insured will be without prejudice to any defence that he might raise in the Credit Union Action.
6. PACE Credit Union agrees that, in the Credit Union Action, with respect to its contribution to the Settlement and fees and expenses to respond to the Investor Claimants' claims, it will claim only the damages, costs, taxes, disbursements and interest that are attributable to the combined several share of liability of Larry Smith, Phillip Smith, Frank Klees, Brent Bailey, Deborah Baker, Ian Goodfellow, Al Jones, Wendy Mitchell, George Pohle, Peter Rebellati, Jim Tindall, Pauline Wainwright, Neil Williamson, Ken Topping and Stan Dimakos (the "Existing Defendants"), such that PACE Credit Union's recovery with respect to the matters settled in this mediation shall be limited to the damages, costs, taxes, disbursements and interest attributable to the combined several liability proven against the Existing Defendants at trial according to their combined proportionate degree of fault. For greater certainty, PACE Credit Union does not claim against the Existing Defendants any damages, costs, taxes, disbursements and interest that may be severally attributable to the Settling Defendants with respect to matters settled in this mediation, and agrees to indemnify the Settling Defendants for any damages, costs, taxes, disbursements and interest that they may incur in responding to the Credit Union Action.
7. Consents and releases in a form satisfactory to AIG, the Individual Insureds, and the Settling Investment Advisors including the PSC Settling Investment Advisors' insurers (Axis and Liberty

Mutual) shall be exchanged, and with the consent of the Liquidators on behalf of Insured Organizations.

8. Investor Claimants, Representative Counsel and Settling Parties having knowledge of the identity of the contributors to the Settlement will not disclose that information in any public communications, including any news releases, or any communications directly to any third parties including PACE Credit Union customers who are not Investor Claimants, without explicit written authorization from the parties to be disclosed, subject to communications with legal or financial advisors and/or legal and financial disclosure obligations. In the event of a breach of this obligation by an individual Investor Claimant or Settling Party this Settlement shall remain in full force and effect, and any right of recourse by the affected Settling Parties will be limited to a claim for a remedy against the breaching Investor Claimant party.
9. For the avoidance of doubt, pending the bringing of the motion to approve and implement the Settlement, the duty of confidentiality applicable to the mediation before Mr. Joel Wiensfeld shall continue to apply to the Settlement, but the Settling Parties agree that Representative Counsel and/or the Liquidators may, to the extent necessary, disclose the fact of the settlement in correspondence with the court for the purpose of scheduling the aforementioned motion.
10. The PSC Liquidator shall consent (and so shall any other Settling Party and the Investor Claimants if such consent is required) to the release of all funds held at Laurentian Bank in the accounts of J. Thomson and G. McRae, those accounts being:
  - a. Joe Thomson –
  - b. Gerald McRae –
11. The Investor Claimants and the Settling Parties other than PACE Credit Union and Andre Sian release all claims to the remaining assets of First Hamilton Holdings Inc., First Hamilton Financial Services Inc., First Hamilton Capital Inc., First Hamilton General Partner 2 Inc., First Hamilton Mortgage Brokers, Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited.
12. The Investor Claimants shall provide their written support for the resolution of any and all regulatory matters associated with the purchase, sale, and distribution of preferred shares of PFL and FHH or the operations of those companies to counsel for any of the Settling Parties who request such support, provided that the support shall be in form and content satisfactory to Representative Counsel, acting reasonably.
13. The costs of the court-ordered mediation conducted by Joel Wiesenfeld with respect to this matter shall be split equally between PCU and AIG.
14. Together with the settlement approval motion or thereafter, counsel for the Investor Claimants shall bring a motion to approve counsel fees and disbursements. The Settling Parties will not oppose the motion by counsel for the Investor Claimants for approval of counsel fees and disbursements.
15. The final settlement approval is to be heard and achieved by July 31, 2021, or such later date as Representative Counsel and the Settling Parties may agree, subject to the availability of the Court to hear the motion by that date.

- 16. The Investor Claimants and the Settling Parties shall do all things and provide such assurances and consents as reasonably necessary to give effect to the settlement contemplated herein in a timely way.
- 17. The parties intend that this Settlement Term Sheet is a binding settlement of this action, subject to Court approval. If any disputes arise in preparing the Settlement Agreement, such disputes will be mediated by Joel Wiesenfeld.
- 18. The Settlement is subject to the law of Ontario and the laws of Canada applicable therein.
- 19. The Settlement becomes effective at 5 pm Eastern on June 24, 2021 and may be withdrawn, by email sent to Joel Wiesenfeld prior to that time.
- 20. This Settlement Term Sheet may be signed electronically and in counterparts.

Dated as of June 24, 2021.

Investor Claimants, by Paliare Roland Rosenberg Rothstein LLP pursuant to the orders herein dated August 6, 2020, as amended by orders dated March 2, 2021.

AIG Canada, in its capacity as insurer for PACE Securities Corporation, PACE Financial Limited, First Hamilton Holdings Inc., Joseph Thomson, Gerald McRae, Andre Sian, Ernest Eves, Timothy Huxley, Michael Leskovec, Grant Walsh and Larry Smith


PACE Savings & Credit Union Limited, by its Administrator Financial Services Regulatory Authority of Ontario

<b>Soloman Lam</b>	Digitally signed by Soloman Lam
	Date: 2021.06.24 17:33:11 -04'00'

AIG Canada, in its capacity as insurer for PACE Securities Corporation, PACE Financial Limited, First Hamilton Holdings Inc., Joseph Thomson, Gerald McRae, Andre Sian, Ernest Eves, Timothy Huxley, Michael Leskovec, Grant Walsh and Larry Smith

---

PSC Investment Advisor Ariel Simms, by  
his lawyer Barry Papazian



---

PSC Investment Advisors Patrick Carson,  
Gyulmet Ramazanov, Thomas D. Moxam, Pat  
Cilla, Thomas Ogilwy, Margaret Pakula, by their  
lawyer, Natalie Leon

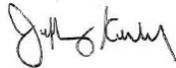
*Barry B. Papazian*

---

PSC Investment Advisor Ariel Simms, by  
his lawyer Barry Papazian

---

PSC Investment Advisors Patrick Carson,  
Gyulmet Ramazanov, Thomas D. Moxam, Pat  
Cilla, Thomas Ogilwy, Margaret Pakula, by their  
lawyer, Natalie Leon

<p>Ernst &amp; Young Inc., in its capacity as Court-Appointed Liquidator of the estate and effects of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited, and not in its personal or corporate capacities</p> <p>Per:</p>  <p>Jeffrey D. Kerbel Senior Vice-President</p>	<p>MNP, in its capacity as Court-Appointed Liquidator of the estate and effects of First Hamilton Holdings Inc. First Hamilton Financial Services Inc., First Hamilton General Partner 2 Inc., First Hamilton Capital Inc. and First Hamilton Mortgage Brokers Inc., and not in its personal or corporate capacities</p> <p>Per:</p> <p>Jerry Henechowicz, CPA, CA, CIRP, LIT Senior Vice President</p>
--	---



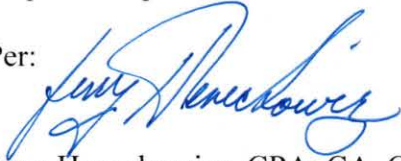
Ernst & Young Inc., in its capacity as Court-Appointed Liquidator of the estate and effects of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited, and not in its personal or corporate capacities

Per:

Jeffrey D. Kerbel  
Senior Vice-President

MNP, in its capacity as Court-Appointed Liquidator of the estate and effects of First Hamilton Holdings Inc. First Hamilton Financial Services Inc., First Hamilton General Partner 2 Inc., First Hamilton Capital Inc. and First Hamilton Mortgage Brokers Inc., and not in its personal or corporate capacities

Per:

  
Jerry Henechowicz, CPA, CA, CIRP, LIT  
Senior Vice President

**IN THE MATTER OF A WINDING UP OF PACE SECURITIES CORP., PACE FINANCIAL LIMITED, PACE INSURANCE BROKERS LIMITED AND PACE GENERAL PARTNER LIMITED**

---

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

---

**SETTLEMENT APPROVAL ORDER**

---

**Paliare Roland Rosenberg Rothstein LLP**

155 Wellington Street West, 35th Floor  
Toronto ON M5V 3H1  
Tel: 416.646.4300

**Kenneth T. Rosenberg** (LSO# 21102H)

Tel: 416.646.4304  
ken.rosenberg@paliareroland.com

**Massimo (Max) Starnino** (LSO# 41048G)

Tel: 416.646.7431  
max.starnino@paliareroland.com

**Lily Harmer** (LSO# 31880T)

Tel: 416.646.4326  
lily.harmer@paliareroland.com

**Jesse Wright** (LSO# 80382Q)

Tel: 416.646.6314  
jesse.wright@paliareroland.com

Representative Counsel

**IN THE MATTER OF A WINDING UP OF PACE SECURITIES CORP., PACE FINANCIAL LIMITED, PACE INSURANCE BROKERS LIMITED AND PACE GENERAL PARTNER LIMITED**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**NOTICE OF MOTION**  
**(Motion for Approval of the Form of Notice to Investor  
Claimants and for Settlement Approval)**

**Paliare Roland Rosenberg Rothstein LLP**

155 Wellington Street West, 35th Floor

Toronto ON M5V 3H1

Tel: 416.646.4300

**Kenneth T. Rosenberg** (LSO# 21102H)

Tel: 416.646.4304

ken.rosenberg@paliareroland.com

**Massimo (Max) Starnino** (LSO# 41048G)

Tel: 416.646.7431

max.starnino@paliareroland.com

**Lily Harmer** (LSO# 31880T)

Tel: 416.646.4326

lily.harmer@paliareroland.com

**Jesse Wright** (LSO# 80382Q)

Tel: 416.646.6314

jesse.wright@paliareroland.com

Representative Counsel

**TAB 2**

Court File No. CV-20-00641059-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF  
PACE SECURITIES CORP., PACE FINANCIAL LIMITED,  
PACE INSURANCE BROKERS LIMITED AND  
PACE GENERAL PARTNER LIMITED**

Applicants

Court File No. CV-20-00641372-00CL

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF  
FIRST HAMILTON HOLDINGS INC., FIRST HAMILTON FINANCIAL SERVICES  
INC., FIRST HAMILTON CAPITAL INC., FIRST HAMILTON GENERAL PARTNER 2  
INC. and FIRST HAMILTON MORTGAGE BROKERS INC.**

Applicants

**SECOND REPORT  
OF THE COURT APPOINTED REPRESENTATIVE COUNSEL TO THE  
INVESTOR CLAIMANTS**

(July 6 2021)

1. By orders made in these proceedings on August 6, 2020 and amended March 2, 2021, marked as Appendix "A" to this report (the "**Representation Orders**"), Paliare Roland Rosenberg Rothstein LLP ("**Representative Counsel**") was appointed to

represent the interests of certain persons (the “**Investor Claimants**”) who purchased preferred shares (the “**Preferred Shares**”) of Pace Financial Limited (“**PFL**”) or First Hamilton Holdings Inc. (“**FHH**”) or units of Pace Capital Partners LP (“**PCP**”).

## **PART I. OVERVIEW**

2. On March 2, 2021, Representative Counsel obtained the Claim Procedure Orders, marked as Appendix “B” to this report (the “**Claim Procedure Orders**”), establishing, among other things, the procedure for an early stage mediation (the “**Mediation**”) conducted by Mr. Joel Wiesenfeld (the “**Mediator**”) of the Investor Claimants’ claims in respect of their purchase of the Preferred Shares and units of Pace Capital Partners LP (the “**Investor Claims**”).

3. With the assistance of the Mediator, Representative Counsel and various parties finalized agreed upon terms of settlement resolving substantially all of the Investor Claims, subject to court approval (the “**Settlement**”), as evidenced by the redacted Settlement Term Sheet marked as Appendix “C” to this report<sup>1</sup> (the “**Settlement Term Sheet**”).

## **PART II. PURPOSE**

4. The purpose of this report of Representative Counsel is to provide the Court with information regarding the Settlement achieved through the Mediation.

---

<sup>1</sup> It is a term of the settlement that the contribution of the settling parties to the overall settlement shall remain confidential and so that information has been redacted.

5. In addition, in connection with the Settlement, this report addresses an issue in respect of the scope of Representative Counsel's appointment which requires clarification.

### **PART III. BACKGROUND**

#### **A. *The Participants in the Mediation***

6. Parties to the Mediation Process included Representative Counsel on behalf of the Investor Claimants; PACE Savings and Credit Union Limited (the "**Credit Union**" or "**PACE**") by its administrator the Financial Services Regulatory Authority of Ontario ("**FSRA**"); AIG Insurance Company of Canada ("**AIG**"), in its capacity as the insurer for PSC, FHH and PFL (the "**Insured Organizations**") and certain of their directors and officers (the "**Individual Insureds**"); the Individual Insureds, various investment advisors formerly employed by PSC represented by their insurers AXIS Reinsurance Company (Canadian Branch) and Liberty Mutual (the "**Investment Advisors**"); Ernst & Young Inc., in its capacity as Court-Appointed Liquidator of PSC, PFL, Pace Insurance Brokers Limited, and Pace General Partner Limited (the "**PACE Liquidator**"); and MNP Ltd., in its capacity as Court-Appointed Liquidator of the estate and effects of FHH, First Hamilton Financial Services Inc., First Hamilton General Partner 2 Inc., First Hamilton Capital Inc., and First Hamilton Mortgage Brokers Inc., (the "**FHH Liquidator**", and, together with the PACE Liquidator, the "**Liquidators**").

7. Pursuant to the Claims Procedure Orders, FSRA, the administrator of the Credit Union, although not an Interested Party within the meaning of those Orders, was entitled, but not required, to participate in the Mediation Process for the purpose of observing and facilitating the Mediation Process.

8. In the Settlement, the Credit Union, AIG, the Insured Organizations, the Individual Insureds, and the Investment Advisors are collectively referred to as the “**Settling Parties**” (we note, for certainty, that this term excludes the Investor Claimants and the Liquidators).

#### 1. **Investor Claimants**

9. The Investor Claimants are a group of approximately 700 individuals, most of whom are members of the Credit Union. The group appears to include a large number of individuals at or near retirement age who purchased the Preferred Shares with a significant portion of their retirement savings, who in the view of Representative Counsel, did not qualify to purchase the Preferred Shares.

10. Twelve Investor Claimants volunteered and were selected to participate on a consultative committee (the “**Representative Committee**”). Following its formation, this committee met with Representative Counsel every one to two weeks, and more often in the run-up to and during the Mediation.

11. In the course of documenting the Settlement an issue arose regarding the scope of Representative Counsel’s appointment. Notably, Representative Counsel’s appointment excludes, among others, (i) any persons “related” to the Applicants in these proceedings and (ii) any “insiders”. The terms “related” and “insider” are not defined in the Representation Order, and are to be interpreted contextually.

12. Representative Counsel has, at this time, identified the following individuals who might be characterized as being “related” to an Applicant or an “insider”, based upon consultation with the PACE Liquidator, Investor Claimants and other sources.



Last Name	First Name	Assumed Relationship	Investment
Barnes	Danica	Chris Barnes (VP Institutional Sales of PSC and voting shareholder of FHH)	100 FHH Shares
Carson	Frederick	Patrick Carson (Investment Advisor)	1000 FHH Shares
Carson	Jason	Patrick Carson (Investment Advisor)	3000 FHH Shares
Carson	Marcia	Patrick Carson (Investment Advisor)	1000 FHH Shares
Cassano	Giovanni	Tina Cassano (director of HR at PCU)	2000 PFL Shares
Cilla	Annalisa	Pasquale (Pat) Cilla (Investment Advisor)	1000 FHH Shares
Cilla	Daniel	Pasquale (Pat) Cilla (Investment Advisor)	1000 FHH Shares
Cilla	Ivana	Pasquale (Pat) Cilla (Investment Advisor)	1210 FHH Shares
Cilla	Pasquale	Settling Party (Investment Advisor)	2500 FHH Shares
Farrant	Steve	Stepfather of Joe Thompson (CEO of PSC, PFL and FHH, among other things)	100 FHH Shares
Goodfellow	Ian	PCU Board Member	6600 PFL Shares
Hamersley	Naomi	Partner of Chris Barnes (VP Institutional Sales of PSC and voting shareholder of FHH)	100 FHH Shares
Hamersley	Noelle	Mother-in-law of Chris Barnes (VP Institutional Sales of PSC and voting shareholder of FHH)	200 FHH Shares
McRae	Gerald Douglas	Settling Party (PSC Chief Compliance Officer)	
Nims	John	Father of Joana Nims (analyst at PSC, may also be one of the voting shareholders at FHH)	1000 PFL Shares 463 FHH Shares
Simms	Jared	Ariel Simms (Investment Advisor)	10,000 FHH Shares
Topping	Kenneth	PCU Board Member	100 PFL Shares (Likely Gift) 3936 of FHH Shares
Topping	Lynn	Kenneth Topping (PCU Board Member)	8700 FHH Shares
Wagg	Diana	Financial Service Officer at the Credit Union	1400 FHH Shares

13. None of the foregoing have delivered an “Opt-Out” or otherwise expressed a desire to be excluded from representation by Representative Counsel, and Representative Counsel is of the view that, other than Pasquale Cilla and Gerald McRae, who are Settling Parties, the Representation Order should not be interpreted or applied in a manner that would exclude these individuals from the scope of Representative Counsel’s appointment in these proceedings. Such a interpretation would be inconsistent with both the restructuring and compensatory objectives of the Representation Order.

## **2. The Settling Parties**

14. Representative Counsel have identified Investor Claims against the Credit Union, the Insured Organizations, the Insured Individuals and the Investment Advisors, among others.

15. The Credit Union is incorporated under the *Credit Unions and Caisses Populaires Act, 1994*. The Credit Union has 17 branches throughout southern Ontario and has over \$1 billion in assets under management, but has reported declining regulatory capital and financial losses at its Annual General Meeting held April 28, 2021. The Credit Union undertook substantial growth starting around 2014, including by acquiring a number of other credit unions throughout south western Ontario. In September 2018, however, the Credit Union was placed under administration by the Deposit Insurance Corporation of Ontario (“DICO”) which amalgamated with FSRA effective June 8, 2019.

16. PSC and PFL are direct and indirect wholly-owned subsidiaries of the Credit Union. PSC is incorporated under the *Ontario Business Corporations Act* (“**OBCA**”) with its head office is in Mississauga. At all material times, it was an investment dealer regulated by

the Investment Industry Regulatory Organization of Canada (“**IIROC**”) and an investment fund manager regulated by the Ontario securities Commission (“**OSC**”).

17. PFL is a corporation incorporated under the OBCA. It was created by PSC as an investment vehicle for qualified investors to earn fixed dividends from an investment in a basket of high-yield bonds. PCP is a limited partnership which operated as a vehicle for qualified unit holders to earn fixed dividends from an investment in a basket of high-yield bonds.

18. FHH is a corporation incorporated under the OBCA with its head office in Hamilton, Ontario, which carried on business as an investment corporation. PSC acted as FHH’s portfolio manager, investing FHH’s funds in corporate bonds and debt instruments, and assisting FHH in the acquisition or development of equity investments.

19. AIG issued Private Company Directors & Officers Liability insurance policies to PSC, PFL, and FHH (including the Individual Insureds)

20. The Investment Advisors were employed at PSC. One Investment Advisor is insured by AXIS Reinsurance Company (Canadian Branch). The other five Investment Advisors are insured by Liberty Mutual.

21. There were other investment advisors, as well as other individuals involved in the sale of the Preferred Shares, who are not making a financial contribution to the Settlement and are therefore not parties to it (the “**Non-Parties**”). At this time, Representative Counsel does not intend to pursue litigation against the Non-Parties; however, because

they are not contributing financially to the Settlement, claims against the Non-Parties are not being released.

22. E&Y and MNP participated in the Mediation Process as liquidators of PSC (and its subsidiaries) and FHH (and its subsidiaries) respectively.

## **B. Losses**

### **1. The PFL Preferred Shares**

23. PSC was registered under the *Securities Act* as an investment dealer effective June 28, 2013, and on January 20, 2014, the Credit Union announced that its wholly owned subsidiary, PSC, had commenced operation. On June 22, 2017, the Credit Union formed PFL as a subsidiary of PSC.

24. PFL offered Series A, 5% Cumulative Redeemable Retractable Non-voting Term Preferred Shares as an exempt distribution without a prospectus by Confidential Offering Memorandum dated June 27, 2017 (the "**PFL Offering Memorandum**").

25. The PFL Offering Memorandum disclosed that PFL intended to invest in debt instruments that would be, among other things, Canadian and US debt instruments with at least 50% of the portfolio rated "B" or better.

26. The PFL Preferred Shares were offered at \$10 per share (subsequently there was a 2 for 1 split) and had a fixed term of 5 ½ years, with limited liquidity provisions.

27. The PFL Preferred Shares paid base dividends of 5% with an additional 2% bonus dividend payable at the discretion of PFL depending on performance. PFL was to pay a

commission of 3% for sales of PFL Preferred Shares that were deducted from the proceeds of the offering.

28. The PFL Offering Memorandum identified PSC as the investment manager (i.e., the Manager) to manage the PFL investment portfolio. As Manager, PSC became entitled to and received asset management fees and performance fees.

29. The PFL Offering Memorandum described an investment in the PFL Preferred Shares as “highly speculative” and suitable only for investors “who can afford a total loss of their investment”, and also noted that PFL’s business “involves a high degree of risk, which a combination of experience, knowledge and careful evaluation may not be able to overcome.”

30. However, the risk associated with the debt securities in the PFL investment portfolio was increased by the use of margin. The PFL Offering Memorandum did not refer to margin investing by PFL.

31. Accordingly, Representative Counsel believes that the PFL Preferred Shares were inappropriate for the Investor Claimants to whom they were sold and that inadequate disclosure was made in the PFL Offering Memorandum in respect of the material risks associated with the PFL Preferred Shares.

## **2. The FHH Preferred Shares**

32. On February 2, 2018, FHH was incorporated.

33. On or about March 19, 2018 and April 30, 2018, pursuant to the FHH Offering Memorandum, FHH offered the FHH 7% Preferred Shares and the FHH 5% Preferred Shares, respectively, as exempt distributions without a prospectus.

34. The FHH Offering Memorandum disclosed that FHH intended to invest in debt instruments that would be, among other things, Canadian and US debt instruments with a weighted average rating of “B” or better.

35. The FHH Preferred Shares were offered at a unit price of \$10 per unit, with \$9.50 allocated to each FHH Preferred Share and \$0.50 allocated to a warrant. FHH 7% Preferred Shares paid base dividends of 7% and FHH 5% Preferred Shares paid base dividends of 5%.

36. FHH appointed PSC as Manager to manage the FHH investment portfolio. As Manager, PSC became entitled to and received asset management fees and performance fees, in addition to selling commissions.

37. The FHH Offering Memorandum described an investment in the FHH Preferred Shares as “highly speculative” and a “risky investment”, suitable only for investors “who can afford a total loss of their investment”. The FHH Offering Memorandum also noted that FHH’s business “involves a high degree of risk, which a combination of experience, knowledge and careful evaluation may not be able to overcome”, and it did disclose that FHH would be investing on margin. However, Representative Counsel believes that the FHH Offering Memorandum did not disclose other facts that were material to the risks associated with the FHH investment portfolio.

38. Accordingly, Representative Counsel believes that the FHH Preferred Shares were inappropriate for the Investor Claimants to whom they were sold.

### 3. Events Leading to the Investor Claimants' Losses

#### (a) *FSRA Places the Credit Union under Administration*

39. In May 2018, DICO commenced a special audit and examination of the conduct and certain transactions of the Credit Union.

40. Before that time, DICO had been reviewing matters within the Credit Union and had instructed the Credit Union to cause PSC to stop selling the Preferred Shares of PFL, which was indirectly owned by the Credit Union. Thereafter, PSC shifted focus to selling the Preferred Shares of FHH, which was not owned by the Credit Union.

41. DICO uncovered that the conduct of the Credit Union's former management, individually and collectively, had resulted in material losses to the Credit Union.

42. DICO also uncovered multiple and serious alleged breaches of the *Credit Unions and Caisses Populaires Act* by the Credit Union's former officers and directors.

43. As a result of that investigation, on September 28, 2018, DICO issued an Administration Order in respect of PACE (the "**Administration Order**"). As a result of the Administration Order, DICO, in its capacity as administrator, suspended the powers of the Credit Union's board except for limited purposes, which purposes were exhausted and spent as of December 2018.

44. Subsequent to the Administration Order, in or about March 2019, the Credit Union, by its administrator, commenced a civil lawsuit (Court File No.: CV-19-00616388-CL)

alleging fraud, misconduct and negligence as against the Credit Union's former officers and directors (as the case may be), including Larry Smith and Philip Smith. This action is referred to in paragraph 5 of the Settlement (the "**Credit Union Action**").

**(b) Laurentian Bank Securities' Margin Call**

45. PSC did not hold its customers' cash and securities itself. Rather, it was licensed by IIROC as a "Type 2 Introducing Broker", and as such contracts its back-office functions to a "carrying broker." Laurentian Bank Securities Limited ("**LBS**") was PSC's carrying broker and the custodian of its securities and its clients' cash and securities.

46. PFL and FHH both raised capital by selling Preferred Shares. Both entities used those proceeds to purchase high-yield bonds on "margin" through their accounts at PSC. The interest and any trading profits earned on the bonds net of management costs from PSC and other expenses were to be used to fund regular dividend payments to the preferred shareholders.

47. Margin is a form of loan whereby the broker loans money to its client to allow the client to purchase more securities than could otherwise be purchased with the amount of money the client has available in the account. The loan in the account is collateralized by the securities purchased and cash, and comes with a periodic interest rate. Because LBS was PSC's carrying broker, any margin loans provided through a PSC account were in fact provided by LBS.

48. In early 2020, LBS lowered the maximum margin loan exposure to a particular security as well as lowering the maximum aggregate margin loans to any one client and



raising the required margin rate from 7% to 52% for a significant percentage of the portfolio.

49. These unilateral changes occurred in the context of the turmoil in the global capital markets caused by the Covid-19 pandemic. FHH was required to liquidate significant parts of its portfolio to meet the new margin requirements in a market affected by the Covid-19 pandemic. Ultimately, LBS reduced FHH's borrowing capacity to zero on April 30, 2020.

50. Ultimately, PSC, PFL, and FHH commenced liquidation proceedings, triggering the liquidation of the PFL and FHH investment portfolios, and the loss of the Investor Claimants' investments, which were in the total principal amount of approximately \$48 million. While there remain potentially valuable assets in the estates of PSC, PFL and FHH, which might ultimately reduce the amount of the investors' losses, the investors are choosing to disclaim any interest in those assets because of the contingent nature of their value. The Settling Parties have accepted that disclaimed interest.

**C. *The Credit Union's Current Financial Position***

51. The Credit Union remains under administration by FSRA.

52. By letter dated April 12, 2021, FSRA announced that it would provide a \$500 million credit facility to the Credit Union to help it "continue to operate" and to protect its members. At its Annual General Meeting held April 28, 2021, the Chief Executive Officer of FSRA stated that, should compensation for the Investor Claimants add up to tens of millions of dollars, the Credit Union on its own did not have the financial capital to fund such

compensation. It has been reported in the media that a process has been launched to explore a sale or merger of the Credit Union.

53. Throughout, the uncertainty surrounding the Investors' Claims has impeded efforts by the Credit Union to serve its members.

***D. The Claims***

54. The proposed Settlement resolves all potential claims by the Investor Claimants against the Settling Parties. The claims include statutory claims for misrepresentation in an offering memorandum, common law claims for negligent misrepresentation, breach of fiduciary duty, negligence, and oppression.

**PART IV. MEDIATION PROCESS**

55. On August 6, 2020, the Honourable Justice Hainey made the Representative Counsel Order appointing Paliare Roland Rosenberg Rothstein LLP as Representative Counsel to, among other things, advance the interests of the Investors in the Liquidation Proceedings.

56. At PACE's request, the Representative Counsel Order provided that the Credit Union would have until at least October 15, 2020, to make a settlement proposal to the Investor Claimants. The Credit Union did not make a settlement proposal to the Investor Claimants and on or about November 20, 2020, some or all of the Credit Union's directors resigned, and FSRA resumed oversight of the Credit Union's day-to-day operations.

57. On March 2, 2021, this Court issued the Claim Procedure Orders establishing a process to resolve the claims of the Investor Claimants. Pursuant to and in accordance with the Claim Procedure Orders:

- (a) Representative Counsel delivered a Claims Brief to the Mediator, the Interested Parties (as defined in the Claims Procedure Orders), the Liquidators and FSRA on March 22, 2021.
- (b) The Mediator declared the Mediation to have formally commenced on April 21, 2021.
- (c) Following the formal start of the Mediation, various Interested Parties delivered Responding Briefs, and documents were produced and made available using a common virtual dataroom hosted by the PACE Liquidator, in response to specific requests for documents and information, and at the direction of the Mediator.
- (d) The Mediator began convening plenary sessions starting on June 14, 2021, using virtual conferencing software.
- (e) Late on June 22, 2021, Representative Counsel and the Settling Parties arrived at a settlement in principle. Over the next two days, the parties documented the Settlement, which was memorialized in the Settlement Term Sheet, executed on June 24, 2021.

58. Throughout the Mediation, Representative Counsel:

- (a) was assisted by the Farber Group, which had been retained as a financial advisor for the purpose of calculating damages and modelling potential litigation outcomes; and,
- (b) reported to, consulted with and obtained advice from Representative Committee, who were integral to the articulation of the claim, negotiating strategy, and, ultimately, the Settlement.

## **PART V. THE SETTLEMENT**

### **A. *Contents of the Settlement***

59. Subject to Court approval, the parties, including the members of the Representative Committee, have agreed to the proposed Settlement and are supportive of its terms. The key components of the Settlement are monetary compensation totalling \$40 million (the “**Settlement Amount**”) to be paid to the Investor Claimants in exchange for the release of claims against the Settling Parties (collectively, the “**Released Claims**”). It is a term of the Settlement that the precise contribution made by each of the Settling Parties will remain confidential, subject to communications with legal or financial advisors and/or legal and financial disclosure obligations.

60. Given ongoing concerns about the financial position of the Credit Union, Representative Counsel required assurance from FSRA that if the Credit Union was unable to fund its contribution towards the settlement for any reason, FSRA would ensure payment in full of the Credit Union’s contribution. FSRA has provided such confirmation to Representative Counsel.

## **1. Monetary Compensation**

61. The Settlement contemplates that the Settlement Amount will be paid to Representative Counsel, in trust, within 60 days of the final approval of the Settlement by this court, for further distribution to Investor Claimants in accordance with a scheme of distribution to be approved by this court on future motion by Representative Counsel.

62. The precise recovery to an individual Investor will not be known until the scheme of distribution is approved, but Representative Counsel estimate that, on a *pro rata* basis, the Settlement Amount will result in a recovery to Investor Claimants of 70% or more of the principal invested by them.

## **2. Releases**

### ***(a) Releases by the Investor Claimants***

63. Upon payment and receipt of the Settlement Amount, the Investor Claimants will deliver and the Settling Parties will receive the benefit of (i) a full, unconditional, and binding contractual release and (ii) a corresponding bar order, in respect of the Investor Claims, all in a form satisfactory to the Settling Parties, the Liquidators, and the Investor Claimants, acting reasonably.

### ***(b) Releases between Settling Parties***

64. Upon payment of the Settlement Amount and receipt of the release from the Investor Claimants, the Settling parties will exchange full and final releases as between the Settling Parties, except for the release to be provided by the Credit Union to Larry Smith, which will be limited to a release of Larry Smith's liability arising from his alleged position as a director of PSC.

**(c) Release by the Credit Union**

65. The Credit Union has agreed to limit any damages, costs, taxes or disbursements sought in the Credit Union Action to the damages attributable to the several liability of the existing parties in that action that may be proved at trial.

**(d) Releases between Insurers and Insureds**

66. AIG, the Individual Insureds, the Liquidators on behalf of the Insured Organizations, the Investment Advisors, and the Investment Advisors' insurers (AXIS Reinsurance Company (Canadian Branch) and Liberty Mutual) have agreed to exchange consents and releases.

**3. Non-Disclosure**

67. Investor Claimants, Representative Counsel, and the Settling Parties agree not to disclose information regarding the identity of the contributors to the Settlement in any public communications. This includes disclosure to Credit Union members who are not Investor Claimants. Should any Investor Claimant breach this obligation, the Settlement shall remain in effect and any recourse by the party affected by the breach will be limited to a remedy against the breaching Investor Claimant.

**4. Letters in Support of Settling Parties vis-à-vis Regulatory Matters**

68. In recognition of ongoing regulatory matters pertaining to certain Settling Parties, the Investor Claimants have agreed to provide written support for the resolution of any and all regulatory matters associated with the purchase, sale, and distribution of the Preferred Shares, upon receipt of a request for such support.

**B. Representative Counsel Supports the Settlement**

69. Representative Counsel supports the Settlement having regard to the magnitude of the Settlement Amount and the proportionate recovery that it represents relative to other successful investor loss cases, the financial need of the Investor Claimants and the timeliness of recovery contemplated by the Settlement, the legal and factual complexity of the claims and the challenges associated with trial and recovery, and the support of the Representative Committee.

**1. Magnitude of the Settlement Amount**

70. In Representative Counsel's experience, the Settlement Amount is at the very high end of recoveries in investor loss cases. It is in excess of 80% of the principal amount invested in the Preferred Shares by Investor Claimants, and, as noted above, if the Settlement Amount were distributed to Investor Claimants *pro rata* with the amount invested, Representative Counsel expects that each Investor Claimant would recover more than 70% of the amount invested. By comparison, Representative Counsel recently settled another large investor loss case involving a leading Canadian Bank (*MacDonald v BMO* (Court File No. 06-CV-316213 CP)). That case had to be litigated over the course of 16 years; the plaintiffs were successful at summary judgment (pending a reference to finally determine damages, and pending appeal); and a very favourable settlement in the amount of \$100 million was achieved and approved by the court. However, given the cost of litigation and without even considering the time-value of money, the net recovery to investors in that case will be materially less than that achieved, in less than a year, in this case.

71. Anecdotally, Representative Counsel is only aware of a small handful of cases in the last forty years in which investors have recovered more than 70% of the principal invested.

## **2. The Needs of Investor Claimants**

72. In concluding the Settlement, Representative Counsel was also very mindful of the particular needs of the Investor Claimants. As previously reported by Representative Counsel and the Liquidators, many of the Investor Claimants are near or at retirement age. They need their money now and will not benefit from protracted litigation. Time is not on their side.

73. Representative Counsel has not interviewed each and every Investor Claimant, but we have heard from many of them, and their experiences are sobering. We have heard from Investor Claimants who, as a result of the loss of their investment, felt compelled to sell their home to finance their living expenses; who have had to depend on their children or extended family for financial support; who have had to delay retirement plans or return to work; who have found themselves unable to disclose their financial loss to their spouse, with the result that they have had to shoulder feelings of anxiety, guilt and uncertainty by themselves; and, who have experienced severe depression and suicidal thoughts. Representative Counsel hopes that the Settlement will serve to materially ameliorate the condition of these Investor Claimants and other Investor Claimants who are similarly situated.



### 3. Complexity of the Claims

74. While Representative Counsel is of the view that the Investor Claims have merit and was and remains prepared to attempt to try the claims on their merits, if required, there is no question that the Preferred Shares Claims are factually and legally complex, difficult to prosecute, and subject to uncertainty.

75. The most straight-forward Investor Claims are the statutory misrepresentation claims against PFL and FHH. Both of those entities are insolvent, however, and have limited insurance.

76. Representative Counsel is of the view that class-wide claims grounded in negligence, group enterprise liability, or oppression are tenable. However, these heads of liability, particularly as applied to investor loss cases, are not well considered at the trial and appellate levels.

77. Further, investor loss cases tend to raise individual issues and are prone to being defended on an individual basis. Although the Investor Claimants represent a discrete accessible group, trying approximately 700 cases, even with the benefit of limited discovery and other simplified procedures, would be a daunting task, having regard only to time and expense. The age and mental acuity of some of the Investor Claimants speaks to their ineligibility for and the unsuitability of the investments at issue, but can also present challenges in the context of a trial.

78. Finally, extended litigation may result in the erosion of insurance. In that event, success, in the form of a judgment, is likely to result in further litigation for the purpose of enforcement, with additional uncertainty.

#### **4. Support of the Representative Committee**

79. Representative Counsel's support for the Settlement is validated by the response of the Representative Committee, which shares the views expressed above in respect of the significance of the recovery achieved and the importance to Investor Claimants of timely resolution of their claims. On the execution of the Settlement, many committee members expressed a sense of relief. Representative Counsel polled each committee member individually and nobody expressed opposition to the Settlement.

#### **5. Other Salutary Effects of Settlement**

80. Representative Counsel's assessment of the Settlement is concerned with its impact on and value to the Investor Claimants. Having formed the view that the Settlement coincides with those interests, however, it is also important to note the benefit that the Settlement has for these proceedings and more broadly.

81. Importantly, the Investor Claims represented an impediment to the conclusion of these winding-up proceedings, and, more generally, to the ability of the Credit Union to serve its members. The resolution of the Investor Claims facilitates the attainment of both those objectives.

### **PART VI. CONCLUSION**

82. The Settlement Term Sheet is the result of a unique process designed to resolve a large number of claims by a diverse group of investors against an ecosystem of individual and organizational defendants. That the process has resulted in recovery of over 70% of principal in approximately one year is a remarkable result. Representative Counsel recommends approval of the Settlement.

**Paliare Roland Rosenberg Rothstein LLP**

155 Wellington Street West, 35th Floor

Toronto ON M5V 3H1

Tel: 416.646.4300

**Kenneth T. Rosenberg** (LSO# 21102H)

Tel: 416.646.4304

ken.rosenberg@paliareroland.com

**Massimo (Max) Starnino** (LSO# 41048G)

Tel: 416.646.7431

max.starnino@paliareroland.com

**Lily Harmer** (LSO# 31880T)

Tel: 416.646.4326

lily.harmer@paliareroland.com

**Jesse Wright** (LSO# 80382Q)

Tel: 416.646.6314

jesse.wright@paliareroland.com

Representative Counsel

## APPENDIX "A"

Court File No. CV-20-00641059-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE

)

THURSDAY, THE 6<sup>TH</sup>

JUSTICE HAINEY

)

DAY OF AUGUST, 2020

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF  
PACE SECURITIES CORP., PACE FINANCIAL LIMITED,  
PACE INSURANCE BROKERS LIMITED AND  
PACE GENERAL PARTNER LIMITED**

Applicants

**ORDER**

**THIS MOTION** made by Ernst & Young Inc. in its capacity as court appointed liquidator of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited (the "**PSC Liquidator**", and together with MNP Ltd. in its capacity as court appointed liquidator of First Hamilton Holdings Inc., First Hamilton Financial Services Inc., First Hamilton Capital Inc., First Hamilton General Partner 2 Inc. and First Hamilton Mortgage Brokers Inc. (the "**FHH Liquidator**"), the "**Court Appointed Liquidators**") for an order appointing Paliare Roland Rosenberg Rothstein LLP ("**Paliare Roland**") as representative counsel for the investors described in Schedule "A" hereto (the "**Investor Claimants**") in these proceedings was heard this day via Zoom conference at Toronto, Ontario,

-2-

**ON READING** the Motion Records of the Court Appointed Liquidators, and on hearing the submissions of counsel for: the Court Appointed Liquidators; Pace Savings & Credit Union Ltd. (the "**Credit Union**"); Financial Services Regulatory Authority of Ontario; Surinder Sawrup, Aman Sawrup, and Saira Ahmad; Laurentian Bank Securities Limited ("**LBS**"); and such other counsel as were present; no one else appearing although duly served, as appears from the Affidavit of Service of Amy Casella sworn July 31, 2020,

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that Paliare Roland be and is hereby appointed to represent the Investor Claimants in these proceedings (the "**Representative Counsel**"), in respect of their Investor Claims (as defined in Schedule "A") provided that the scope of that representation may be amended at the request of Representative Counsel, following consultation with the Court Appointed Liquidators, upon further motion to this Court on notice to the Court Appointed Liquidators, the Credit Union and such others as this Court may direct.
3. **THIS COURT ORDERS** that Representative Counsel shall represent the interests of the Investor Claimants without any obligation to consult with or seek instructions from individual Investor Claimants, provided however, that Representative Counsel, acting in consultation with the Court Appointed Liquidators, shall establish a committee of Investors (the "**Representative Committee**") on such terms as may agreed to by the Court Appointed Liquidators or established by further order of this Court.
4. **THIS COURT ORDERS** that, subject to the exclusive right of the Credit Union to present a settlement proposal as set out in paragraph 14 hereof, Representative Counsel be and is hereby permitted, but not directed, to take and to perform, for and on behalf of the Investor Claimants, all steps and all acts necessary or desirable to represent the interests of the Investor Claimants in these proceedings ("**Representative Counsel Mandate**") including, without limitation:

-3-

- a. developing a process, in consultation with the Court Appointed Liquidators, for the investigation, identification, advancement and resolution of valid and provable Investor Claims;
  - b. addressing the Investor Claims, as part of these proceedings or in such related or consequential proceedings as may be approved by this Court, including, without limitation, by negotiation, compromise, arrangement, settlement, or litigation;
  - c. reporting to and responding to inquiries from the members of the Representative Committee and individual Investor Claimants; and
  - d. performing such other actions as approved by this Court.
5. **THIS COURT ORDERS** that the Court Appointed Liquidators shall forthwith provide to the Representative Counsel, subject to mutually satisfactory confidentiality arrangements, or by further order of this Court, without charge, the following information, documents and data in their possession (the “**Information**”) to be used only for the purpose of the Representative Counsel Mandate:
- a. the names, last known addresses and last known telephone numbers and e-mail addresses, and other contact information of the Investor Claimants; and
  - b. upon request of the Representative Counsel, such documents and data as may be reasonably relevant to issues affecting the Investor Claimants, subject to the agreement of the Court Appointed Liquidators or further order of this Court.
6. **THIS COURT ORDERS** that, within 10 days of the making of this order, Representative Counsel shall provide notice of this order to each of the Investor Claimants through a communication in form and content satisfactory to Representative Counsel, the Court Appointed Liquidators and the Credit Union, or as

-4-

may be further directed by this Court (the “**Notice**”), to be delivered in the following manner:

- a. publication on the website maintained by the Court Appointed Liquidators in connection with these proceedings;
- b. publication of the Notice in the Globe and Mail within 10 calendar days of the making of this order;
- c. by regular mail sent to the last known address of each Investor Claimant; and,
- d. where possible by email sent to the last known email address of the Investor Claimant,

and such Notice shall be deemed to be effective on the later of the date of publication or the date the Notice was sent, as applicable.

7. **THIS COURT ORDERS** that an Investor Claimant who prefers not to take the benefit of Representative Counsel may opt out of such representation by completing the Opt-Out Notice in the form of Schedule B to this order (the “**Opt-Out Notice**”) and delivering it to Representative Counsel by email to the address indicated on the Opt-Out Notice such that it is received by no later than 11:59 p.m. (Eastern Daylight Time) on September 16, 2020, and Representative Counsel shall provide a copy of all Opt-Out Notices that it receives to each of the Court Appointed Liquidators.
8. **THIS COURT ORDERS** that an Investor Claimant who delivers an Opt-Out Notice (a “**Self-Represented Investor Claimant**”) shall not have the benefit of Representative Counsel, and Representative Counsel shall have no obligation to report to, respond to inquiries from, or otherwise take any account of the interests of any Self-Represented Investor Claimant. For greater certainty, nothing in this order obliges any party to deal with any Self-Represented Investor Claimant or precludes the compromise of the claims of a Self-Represented Investor Claimant in the ordinary course, by operation of applicable law.



9. **THIS COURT ORDERS** that the fees and expenses of Representative Counsel shall be paid out of the funds recovered for the Investor Claimants (if any) pursuant to or by virtue of this appointment, in accordance with terms to be agreed with the members of the Representative Committee and approved by this Court in the ordinary course, or, in the absence of an agreement, as directed by further order of this Court, having regard to the resources invested, risk assumed and results achieved by Representative Counsel, together with such other considerations as this Court determines to be relevant.
10. **THIS COURT ORDERS** that Representative Counsel and members of the Representative Committee shall not be liable for any act or omission in respect of their appointment or fulfillment of their duties in respect of the provisions of this Order, other than for gross negligence or wilful misconduct. No action or other proceedings shall be commenced against Representative Counsel or members of the Representative Committee in respect of alleged gross negligence or willful misconduct, except with prior leave of this Court on at least 21 days' notice to Representative Counsel and upon further order in respect of security for costs of the Representative Counsel and the members of the Representative Committee in connection with any such action or proceeding, to be given by the plaintiff on a substantial indemnity basis.
11. **THIS COURT ORDERS** that "**Tolled Claims**" shall mean any and all actions, suits, claims, causes of action, demands, or grievances, whether in Canada or elsewhere, whether known or unknown, which an Investor Claimant may bring against any of the Applicants, or any related persons or entities, including the Credit Union, or against LBS, or any of its related entities, in respect of the Preference Shares (as defined in Schedule A), but shall not include proceedings of the kind described in s. 11.1(2) of the *Companies' Creditors Arrangement Act*.
12. **THIS COURT ORDERS** that until Representative Counsel has completed the Representative Counsel Mandate or until this Court otherwise directs (the "**Stay Period**"), no proceeding or enforcement process in respect of Tolled Claims (each, a

**“Proceeding”**) shall be commenced or continued in any Court or tribunal against or in respect of the Applicants, or any of their related entities, including the Credit Union, or against LBS, or any of its related entities, except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or their related entities, including the Credit Union, or against LBS, or any of its related entities, are hereby stayed and suspended pending further Order of this Court. .

13. **THIS COURT ORDERS** that to the extent that any statute of limitations or other notice or limitation period (or any other time period of similar effect) whether statutory, equitable, contractual or otherwise, under Canadian law, or any other applicable law, (a **“Limitation Period”**) in connection with a Tolled Claim expires on or after the date of this Order (the **“Effective Date”**) such Limitation Period shall be and is hereby tolled such that it ceases to continue running as of the Effective Date and, for greater certainty, that all time elapsing on or after the Effective Date shall not be counted in determining any such Limitation Period.
14. **THIS COURT ORDERS** that until October 15, 2020 or such later date as may be agreed by Representative Counsel and the Court Appointed Liquidators or ordered by this Court (the **“Exclusivity Period”**), the Credit Union shall have the exclusive authority to seek, design and present a settlement and/or settlement package in respect of direct and indirect Investor Claims (including Claims Over and Third Party Claims) against the Credit Union and/or its officers and directors in respect of the Preference Shares, for consideration by Representative Counsel and the Court Appointed Liquidators.

15. **THIS COURT ORDERS** that Representative Counsel may move before this Court to terminate their appointment, or for advice and directions in respect of their appointment or the fulfillment of their duties in carrying out the provisions of this Order, and notice of such motion shall be given to the Applicants, the Court Appointed Liquidators, and other interested persons, provided that this court retains its jurisdiction to dispense with such notice where appropriate.

A handwritten signature in cursive script, appearing to read "Haidy J.", written over a horizontal line. The signature is written in black ink and is positioned on the right side of the page.

## SCHEDULE "A"

### Definition of Investor Claimants

**"Investor Claimants"** means all individuals (including their respective successors, heirs, assigns, litigation guardians and designated representatives under applicable provincial family law legislation) who assert or may be entitled to assert a claim or cause of action as against one or more of the Applicants and any related persons or organizations (collectively **"Defendants"**) in respect of:

- (i) the purchase PACE Financial Limited's Series A 5% Cumulative Redeemable Retractable Non-voting Term Preference Shares; and,
- (ii) the purchase of equivalent investments in FHH as well as FHH warrants (collectively, with (i) the **"Preference Shares"**).

in Canada, or anywhere else in the world, including without limitation claims for contribution or indemnity, personal injury or tort damage, restitutionary recovery, non-pecuniary damages, pure economic loss, or claims for recovery grounded in Ontario Securities legislation (the **"Investor Claims"**).

The Investor Claimants shall exclude all Defendants, insiders or securities brokers involved in the sale of the Preference Shares.

**SCHEDULE "B"****OPT-OUT LETTER****TO: PacerInvestorClaimantOptOut@paliareroland.com****RE: CLAIMS AGAINST PACE SECURITIES CORP., PACE FINANCIAL LIMITED, FIRST HAMILTON HOLDINGS INC., et al.**

My Name is: \_\_\_\_\_

My telephone number is: \_\_\_\_\_

My email address is: \_\_\_\_\_

I am an Investor Claimant as defined in the Representation Order of Mr. Justice Hainey dated July 11, 2020 (the "Order").

In accordance with paragraph 11 of the Order, I am hereby notifying you that I prefer not to take the benefit of Representative Counsel, as defined in the Order

I acknowledge that as a result of my having delivered this notice, Representative Counsel shall have no obligation to report to me, to respond to inquiries from me, or otherwise take any account of my interests.

I also acknowledge that nothing in the Order: (a) obliges any party to deal with me or my claims by virtue of my having delivered this notice; or, (b) precludes the compromise of my claims in the ordinary course, by operation of applicable law.

Date:

\_\_\_\_\_  
Signature of Witness\_\_\_\_\_  
Signature of Investor Claimant

Name:

Address:

Telephone Number:

Court File No. CV-20-00641059-00CL

**IN THE MATTER OF A WINDING UP OF PACE SECURITIES CORP., PACE  
FINANCIAL LIMITED, PACE INSURANCE BROKERS LIMITED AND  
PACE GENERAL PARTNER LIMITED**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER**

**CHAITONS LLP**

5000 Yonge Street, 10<sup>th</sup> Floor  
Toronto, ON M2N 7E9

**George Benchetrit**

LSUC Registration No. 34163H

Tel: (416) 218-1141

Fax: (416) 218-1841

Email: george@chaitons.com

**Lawyers for Ernst & Young Inc., in its capacity as  
Liquidator of the estate and effects of Pace  
Securities Corp., Pace Financial Limited, Pace  
Insurance Brokers Limited and Pace General Partner  
Limited**

Court File No. CV-20-00641059-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	TUESDAY, THE 2 <sup>nd</sup>
	)	
JUSTICE KOEHNEN	)	DAY OF MARCH, 2021

B E T W E E N:

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS  
ACT, R.S.C., 1985, C. C-44, AS AMENDED***

AND IN THE MATTER OF A WINDING UP OF

**PACE SECURITIES CORP., PACE FINANCIAL LIMITED, PACE  
INSURANCE BROKERS LIMITED AND PACE GENERAL PARTNER  
LIMITED**

Applicants

**ORDER**

THIS MOTION, made by 7903197 CANADA INC. was heard this day at 330 University Avenue, 9th Floor, Toronto, Ontario M5G 1R7.

ON READING the Motion Record of 7903197 Canada Inc. and on hearing the submissions of the lawyers for the parties,

-2-

1. **THIS COURT ORDERS THAT** the motion of 7903197 Canada Inc. is properly returnable on today's date, March 2, 2021.

2. **THIS COURT ORDERS THAT** the Order of Justice Hainey dated August 6, 2020 in the herein proceeding (the "Representative Counsel Order") is amended to include the purchase of Pace Capital Partners Series A Limited Partnership Units by 7903197 Canada Inc. (the "PCP Units") within the definition of Preference Shares contained in Schedule "A" of the Representative Counsel Order and that such amendment is effective as if it had been contained within the original Representative Counsel Order, provided that the obligations of Representative Counsel to 7903197 Canada Inc. in respect of the PCP Units shall have effect only from the date of this order.



---



IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, R.S.O. 1990, C. B. 16, AS AMENDED  
PACE SECURITIES CORP., PACE FINANCIAL LIMITED, PACE INSURANCE BROKERS LIMITED AND PACE GENERAL PARTNER  
LIMITED

---

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

---

**ORDER**

---

**DALE & LESSMANN LLP**  
181 University Avenue, Suite 2100  
Toronto ON M5H 3M7

Tel: 416-863-1010  
Fax: 416-863-1009

**Geoffrey Janoscik (#55249K)**

Tel: 416-369-7823  
Fax: 416-863-1009  
*gjanoscik@dalelessmann.com*

Lawyers for 7903197 Canada Inc.

RCP-E 4C (May 1, 2016)

Court File No. CV-20-00641372-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE MR.	)	THURSDAY, THE 6 <sup>TH</sup> DAY
	)	
JUSTICE HAINEY	)	AUGUST, 2020.

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS  
CORPORATIONS ACT*, R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF  
FIRST HAMILTON HOLDINGS INC., FIRST HAMILTON  
FINANCIAL SERVICES INC., FIRST HAMILTON CAPITAL INC.,  
FIRST HAMILTON GENERAL PARTNER 2 INC.  
and FIRST HAMILTON MORTGAGE BROKERS INC.**

Applicants

**ORDER**

**THIS MOTION** made by MNP Ltd., in its capacity as court appointed liquidator of First Hamilton Holdings Inc., First Hamilton Financial Services Inc., First Hamilton Capital Inc., First Hamilton General Partner 2 Inc. and First Hamilton Mortgage Brokers Inc. (and together with Ernst & Young Inc., in its capacity as court-appointed liquidator of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited in Ontario Superior Court of Justice (Commercial List) file No.CV-2000641059-00CL, the “**Court Appointed Liquidators**”), for an order appointing Paliare Roland Rosenberg Rothstein LLP

- 2 -

(“**Paliare Roland**”) as representative counsel for the investors described in Schedule “A” hereto (the “**Investor Claimants**”) in this proceeding was heard this day via videoconference at Toronto, Ontario,

**ON READING** the Motion Records of the Court Appointed Liquidators, and on hearing the submissions of counsel for the Court Appointed Liquidators, Pace Savings & Credit Union Ltd. (the “**Credit Union**”), Surinder Sawrup, Aman Sawrup, and Saira Ahmad and Laurentian Bank Securities (“**LBS**”), such other counsel as were present; no one else appearing although duly served, as appears from the Affidavit of Service of Anna Miele, sworn August 4, 2020,

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that Paliare Roland be and is hereby appointed to represent the Investor Claimants in this proceeding (the “**Representative Counsel**”), in respect of their Investor Claims (as defined in Schedule “A”) provided that the scope of that representation may be amended at the request of Representative Counsel, following consultation with the Court Appointed Liquidators, upon further motion to this Court on notice to the Court Appointed Liquidators, the Credit Union and such others as this Court may direct.
3. **THIS COURT ORDERS** that Representative Counsel shall represent the interests of the Investor Claimants without any obligation to consult with or seek instructions from individual Investor Claimants, provided however, that Representative Counsel, acting in consultation with the Court Appointed Liquidators, shall establish a committee of Investors (the “**Representative**

**Committee**") on such terms as may be agreed to by the Court Appointed Liquidators or established by further order of this Court.

4. **THIS COURT ORDERS** that, subject to the exclusive right of the Credit Union to present a settlement proposal as set out in paragraph 14 hereof, Representative Counsel be and is hereby permitted, but not directed, to take and to perform, for and on behalf of the Investor Claimants, all steps and all acts necessary or desirable to represent the interests of the Investor Claimants in these proceedings ("**Representative Counsel Mandate**") including, without limitation:

- (a) developing a process, in consultation with the Court Appointed Liquidators, for the investigation, identification, advancement and resolution of valid and provable Investor Claims;
- (b) addressing the Investor Claims, as part of these proceedings or in such related or consequential proceedings as may be approved by this Court, including, without limitation, by negotiation, compromise, arrangement, settlement, or litigation;
- (c) reporting to and responding to inquiries from the members of the Representative Committee and individual Investor Claimants; and
- (d) performing such other actions as approved by this Court.

5. **THIS COURT ORDERS** that the Court Appointed Liquidators shall forthwith provide to the Representative Counsel, subject to mutually satisfactory confidentiality arrangements, or by further order of this Court, without charge, the following information, documents and data in their possession (the "**Information**") to be used only for the purpose of the Representative Counsel Mandate:

- 4 -

- (a) the names, last known addresses and last known telephone numbers and e-mail addresses, and other contact information of the Investor Claimants; and
- (b) upon request of the Representative Counsel, such documents and data as may be reasonably relevant to issues affecting the Investor Claimants, subject to the agreement of the Court Appointed Liquidators or further order of this Court.

6. **THIS COURT ORDERS** that, within 10 days of the making of this order, Representative Counsel shall provide notice of this order to each of the Investor Claimants through a communication in form and content satisfactory to Representative Counsel, the Court Appointed Liquidators and the Credit Union, or as may be further directed by this Court (the “**Notice**”), to be delivered in the following manner:

- (a) publication on the website maintained by the Court Appointed Liquidators in connection with these proceedings;
- (b) publication of the Notice in the Globe and Mail within 10 calendar days of the making of this order;
- (c) by regular mail sent to the last known address of each Investor Claimant; and
- (d) where possible, by email sent to the last known email address of the Investor Claimant.

and such Notice shall be deemed to be effective on the later of the date of publication or the date the Notice was sent, as applicable.

7. **THIS COURT ORDERS** that an Investor Claimant who prefers not to take the benefit of Representative Counsel may opt out of such representation by completing the Opt- Out Notice in the form of Schedule B to this order (the “**Opt-Out Notice**”) and delivering it to Representative Counsel by email to the address indicated on the Opt- Out Notice such that it is received by no later than 11:59 p.m. (Eastern Daylight Time) on September 16, 2020, and Representative Counsel shall provide a copy of all Opt- Out Notices that it receives to each of the Court Appointed Liquidators.

8. **THIS COURT ORDERS** that an Investor Claimant who delivers an Opt-Out Notice (a “**Self-Represented Investor Claimant**”) shall not have the benefit of Representative Counsel, and Representative Counsel shall have no obligation to report to, respond to inquiries from, or otherwise take any account of the interests of any Self- Represented Investor Claimant For greater certainty, nothing in this order obliges any party to deal with any Self-Represented Investor Claimant or precludes the compromise of the claims of a Self-Represented Investor Claimant in the ordinary course, by operation of applicable law.

9. **THIS COURT ORDERS** that the fees and expenses of Representative Counsel shall be paid out of the funds recovered for the Investor Claimants (if any) pursuant to or by virtue of this appointment, in accordance with terms to be agreed with the members of the Representative Committee and approved by this Court in the ordinary course, or, in the absence of an agreement, as directed by further order of this Court, having regard to the resources invested, risk assumed and results achieved by Representative Counsel, together with such other considerations as this Court determines to be relevant.

10. **THIS COURT ORDERS** that Representative Counsel and members of the Representative Committee shall not be liable for any act or omission in respect of their appointment or fulfillment

- 6 -

of their duties in respect of the provisions of this Order, other than for gross negligence or wilful misconduct. No action or other proceedings shall be commenced against Representative Counsel or members of the Representative Committee in respect of alleged gross negligence or willful misconduct, except with prior leave of this Court on at least 21 days' notice to Representative Counsel and upon further order in respect of security for costs of the Representative Counsel and the members of the Representative Committee in connection with any such action or proceeding, to be given by the plaintiff on a substantial indemnity basis.

11. **THIS COURT ORDERS** that "**Tolled Claims**" shall mean any and all actions, suits, claims, causes of action, demands, or grievances, whether in Canada or elsewhere, whether known or unknown, which an Investor Claimant may bring against any of the Applicants, or any related persons or entities, including the Credit Union, or against LBS, or any of its related entities, in respect of the Preference Shares (as defined in Schedule A), but shall not include proceedings of the kind described in s. 11.1(2) of the *Companies' Creditors Arrangement Act*.

12. **THIS COURT ORDERS** that until Representative Counsel has completed the Representative Counsel Mandate or until this Court otherwise directs (the "**Stay Period**"), no proceeding or enforcement process in respect of Tolled Claims (each, a "**Proceeding**") shall be commenced or continued in any Court or tribunal against or in respect of the Applicants, or any of their related entities, including the Credit Union, or against or in respect of LBS, or any of its related entities, except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or their related entities, including the Credit Union, or against or in respect of LBS, or any of its related entities, are hereby stayed and suspended pending further Order of this Court.

13. **THIS COURT ORDERS** that to the extent that any statute of limitations or other notice or limitation period (or any other time period of similar effect) whether statutory, equitable, contractual or otherwise, under Canadian law, or any other applicable law, (a “**Limitation Period**”) in connection with a Tolled Claim expires on or after the date of this Order (the “**Effective Date**”) such Limitation Period shall be and is hereby tolled such that it ceases to continue running as of the Effective Date and, for greater certainty, that all time elapsing on or after the Effective Date shall not be counted in determining any such Limitation Period.

14. **THIS COURT ORDERS** that until October 15, 2020 or such later date as may be agreed by Representative Counsel and the Court Appointed Liquidators or ordered by this Court (the “**Exclusivity Period**”), the Credit Union shall have the exclusive authority to seek, design and present a settlement and/or settlement package in respect of direct and indirect Investor Claims (including Claims Over and Third Party Claims) against the Credit Union and/or its officers and directors in respect of the Preference Shares, for consideration by Representative Counsel and the Court Appointed Liquidators.

15. **THIS COURT ORDERS** that Representative Counsel may move before this Court to terminate their appointment, or for advice and directions in respect of their appointment or the fulfillment of their duties in carrying out the provisions of this Order, and notice of such motion shall be given to the Applicants, the Court Appointed Liquidators, and other interested persons, provided that this court retains its jurisdiction to dispense with such notice where appropriate.



A handwritten signature in black ink, appearing to read "Harvey J.", is written over a horizontal line. The signature is cursive and extends slightly above and below the line.



- 8 -

## SCHEDULE "A"

### DEFINITION OF INVESTOR CLAIMANTS

**"Investor Claimants"** means all individuals (including their respective successors, heirs, assigns, litigation guardians and designated representatives under applicable provincial family law legislation) who assert or may be entitled to assert a claim or cause of action as against one or more of the Applicants and any related persons or organizations (collectively **"Defendants"**) in respect of:

- (i) the purchase PACE Financial Limited's Series A 5% Cumulative Redeemable Retractable Non-voting Term Preference Shares; and
- (ii) the purchase of equivalent investments in FHH as well as FHH warrants (collectively, with (i) the **"Preference Shares"**)

in Canada, or anywhere else in the world, including without limitation claims for contribution or indemnity, personal injury or tort damage, restitutionary recovery, non-pecuniary damages, pure economic loss, or claims for recovery grounded in Ontario Securities legislation (the **"Investor Claims"**).

The Investor Claimants shall exclude all Defendants, insiders or securities brokers involved in the sale of the Preference Shares.

- 9 -

**SCHEDULE "B"**  
**OPT-OUT LETTER**

**TO: PaceInvestorClaimantOptOut@paliareroland.com**

**RE: CLAIMS AGAINST PACE SECURITIES CORP.,  
PACE FINANCIAL LIMITED, FIRST HAMILTON HOLDINGS INC., et al.**

My Name is: \_\_\_\_\_

My Telephone Number is: \_\_\_\_\_

My email address is: \_\_\_\_\_

I am an Investor Claimant as defined in the Representation Order of Mr. Justice Hainey dated August 6, 2020 (the "**Order**").

In accordance with paragraph \_\_\_\_\_ of the Order, I am hereby notifying you that I prefer not to take the benefit of Representative Counsel as defined in the Order.

I acknowledge that as a result of my having delivered this notice, Representative Counsel shall have no obligation to report to me, to respond to inquiries from me, or otherwise take any account of my interests.

I also acknowledge that nothing in the Order: (a) obliges any party to deal with me or my claims by virtue of my having delivered this notice; or, (b) precludes the compromise of my claims in the ordinary course, by operation of applicable law.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Witness

Name:

Address:

Telephone Number:

\_\_\_\_\_  
Signature of Investor Claimant

**IN THE MATTER OF A WINDING UP OF FIRST HAMILTON HOLDINGS INC.,  
FIRST HAMILTON FINANCIAL SERVICES INC., FIRST HAMILTON CAPITAL  
INC., FIRST HAMILTON GENERAL PARTNER 2 INC. and FIRST HAMILTON  
MORTGAGE BROKERS INC.**

Court File No. CV-20-00641372-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**ORDER**

(Appointment of Representative Counsel)

**BLANEY McMURTRY LLP**  
2 Queen Street East  
Suite 1500  
Toronto, ON M5C 3G5

**Mervyn D. Abramowitz (LSO #28325R)**  
Tel: (416) 597-4887  
mabramowitz@blaney.com

Lawyers for the Applicants, MNP Ltd., in its capacity as  
Court-Appointed Liquidator of  
First Hamilton Holdings Inc.,  
First Hamilton Financial Services.,  
First Hamilton Capital Inc.,  
First Hamilton General Partner 2 Inc., and  
First Hamilton Mortgage Brokers Inc.

Court File No. CV-20-00641372-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE

)

TUESDAY, THE 2<sup>nd</sup>

JUSTICE KOEHNEN

)

DAY OF MARCH, 2021

)

B E T W E E N:



**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS  
ACT*, R.S.C., 1985, C. C-44, AS AMENDED**

AND IN THE MATTER OF A WINDING UP OF

**FIRST HAMILTON HOLDINGS INC., FIRST HAMILTON FINANCIAL  
SERVICES INC., FIRST HAMILTON CAPITAL INC., FIRST HAMILTON  
GENERAL PARTNER 2 INC. and FIRST HAMILTON MORTGAGE  
BROKERS INC.**

Applicants

**ORDER**

THIS MOTION, made by 7903197 CANADA INC. was heard this day at 330 University Avenue, 9th Floor, Toronto, Ontario M5G 1R7.

ON READING the Motion Record of 7903197 Canada Inc. and on hearing the submissions of the lawyers for the parties,

-2-

1. **THIS COURT ORDERS THAT** the motion of 7903197 Canada Inc. is properly returnable on today's date, March 2, 2021.
  
2. **THIS COURT ORDERS THAT** the Order of Justice Hainey dated August 6, 2020 in the herein proceeding (the "Representative Counsel Order") is amended to include the purchase of Pace Capital Partners Series A Limited Partnership Units by 7903197 Canada Inc. (the "PCP Units") within the definition of Preference Shares contained in Schedule "A" of the Representative Counsel Order and that such amendment is effective as if it has been contained within the original Representative Counsel Order, provided that the obligations of Representative Counsel to 7903197 Canada Inc. in respect of the PCP Units shall have effect only from the date of this order.



---

IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, R.S.O. 1990, C. B. 16, AS AMENDED  
FIRST HAMILTON HOLDINGS INC., FIRST HAMILTON FINANCIAL SERVICES INC., FIRST HAMILTON CAPITAL INC., FIRST  
HAMILTON GENERAL PARTNER2 INC. and FIRST HAMILTON MORTGAGE BROKERS INC.

---

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

---

**ORDER**

---

**DALE & LESSMANN LLP**  
181 University Avenue, Suite 2100  
Toronto ON M5H 3M7

Tel: 416-863-1010  
Fax: 416-863-1009

**Geoffrey Janoscik (#55249K)**

Tel: 416-369-7823  
Fax: 416-863-1009  
*gjanoscik@dalelessmann.com*

Lawyers for 7903197 Canada Inc.

RCP-E 4C (May 1, 2016)

## **APPENDIX “B”**

Court File No. CV-20-00641059-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE )  
 )  
JUSTICE KOEHNEN )

TUESDAY, THE  
2<sup>nd</sup> DAY OF MARCH, 2021



**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF  
PACE SECURITIES CORP., PACE FINANCIAL LIMITED,  
PACE INSURANCE BROKERS LIMITED AND  
PACE GENERAL PARTNER LIMITED**

Applicants

**ORDER**

**(Procedure for the Resolution of Investor Claims)**

**THIS MOTION** made by Paliare Roland Rosenberg Rothstein LLP in its capacity as representative counsel for the Investor Claimants (“**Representative Counsel**”) for an order establishing a process for the resolution of claims of Investor Claimants in respect of their acquisition of the preferred shares of PACE Financial Limited and First Hamilton Holdings Inc. (together, with the claims of 7903197 Canada Inc. in respect of its purchase of Pace Capital Partners Series A Limited Partnership Units, the “**Preferred Shareholder Claims**”), was heard this day via Zoom conference at Toronto, Ontario.

**ON READING** the motion record of the moving party, the Court Appointed Liquidator’s Third Report, the consent of Pace Savings & Credit Union Ltd. by its Administrator, Financial Services Regulatory Authority of Ontario (the “**Credit Union**”),



and on hearing the submissions of counsel for the moving party, the Credit Union, and the Court Appointed Liquidators, and certain potential defendants to the Preferred Shareholder Claims, no one else appearing,

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that in this order the capitalized terms below shall have the indicated meanings, and that capitalized terms not otherwise defined in this order shall have the meaning given to them in the Representative Counsel Order:
  - a. **“Claims Adjudication Process”** means the expedited process to be determined by this Court following the Claims Adjudication Start Date after receiving any evidence and hearing submissions from the Representative Counsel, the Court Appointed Liquidators and Interested Parties and receiving any recommendation from the Mediator, which process will feature documentary and oral discoveries, as appropriate, and fixed trial dates, and which is intended to result in the adjudication of any outstanding Preferred Shareholder Claims and Related Claims by no later than 9 months after the Claims Adjudication Start Date, subject to paragraphs 4, 7(g) , any order made pursuant to paragraph 11 below and the further order of this Court.
  - b. **“Claims Adjudication Start Date”** means the date that is the earlier of (i) the date so designated by the Mediator, and (ii) the date that is 6 months from the Mediation Start Date or such later date as Representative Counsel, the Interested Parties and the Court Appointed Liquidators may jointly agree.
  - c. **“Claims Brief”** means a briefing book prepared by Representative Counsel containing unissued pleadings on behalf of the Investor Claimants, describing, so far as possible having regard to the information available to

them at the time of its preparation, the Preferred Shareholder Claims, including, without limitation, the amount of the claims, the individuals against whom the claims are asserted, a concise statement of the material facts alleged in support of the claims and the cause of action advanced, and any relevant point or conclusion of law, and Representative Counsel may, in its discretion, include in the Claims Brief such evidence as it determines may be helpful to the resolution of the Preferred Shareholder Claims;

- d. **“Court Appointed Liquidators”** means the PSC Liquidator together with the FHH Liquidator or either of them, as the context requires;
- e. **“Document”** means anything within the scope of Rule 30.01 of the Ontario *Rules of Civil Procedure*;
- f. **“FHH Liquidator”** means MNP Ltd. in its capacity as court appointed liquidator of First Hamilton Holdings Inc., First Hamilton Financial Services Inc., First Hamilton Capital Inc., First Hamilton General Partner 2 Inc. and First Hamilton Mortgage Brokers Inc.;
- g. **“FSRA”** means the Financial Services Regulatory Authority of Ontario;
- h. **“Interested Party”** means every person against whom a Preferred Shareholder Claim is asserted in the Claims Brief or who is named in a Responding Brief for the purposes of a Related Claim, and such other persons whom the Mediator may, in his discretion, identify, provided, for the avoidance of doubt, that the Investor Claimants, Representative Counsel, the Court Appointed Liquidators, and FSRA are not an Interested Party for the purposes of this order without further leave of this Court.
- i. **“Mediation Process”** means the process established by the Mediator for the purpose of facilitating the resolution of the Preferred Shareholder Claims;

- j. **“Mediation Start Date”** means the date that is designated by the Mediator, no less than 30 days and no more than 60 days following the date of the delivery of the Claims Brief to the Mediator by Representative Counsel pursuant to this order;
  - k. **“Mediator”** means Mr. Joel Wiesenfeld;
  - l. **“PSC Liquidator”** means Ernst & Young Inc. in its capacity as court appointed liquidator of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited;
  - m. **“Related Claim”** means any claim identified in a Responding Brief;
  - n. **“Representative Counsel Order”** means the order made in these proceedings dated August 6, 2020, appointing representative counsel for the Investor Claimants; and,
  - o. **“Responding Brief”** means a briefing book prepared by an Interested Party describing, so far as possible having regard to the information available to them at the time of its preparation, the Interested Party’s defences, counter-claims, cross-claims and third party claims, including, without limitation, the amount of any claims, the Interested Parties against whom the claims are asserted, a concise statement of the material facts alleged in support of the defences and claims, and any relevant point or conclusion of law, and an Interested Party may, in its discretion, include in the Responding Brief such evidence as it determines may be helpful to the resolution of the Preferred Shareholder Claims or Related Claims identified in any Responding Brief.
3. **THIS COURT ORDERS** that the Mediator is hereby appointed to attempt to facilitate the resolution of the Preferred Shareholder Claims and any Related Claims.

4. **THIS COURT ORDERS** that the Mediator's primary objective is to achieve, if possible, a comprehensive settlement of all Preferred Shareholder Claims and Related Claims, but that where the Mediator is satisfied that attainment of that objective is not possible, the Mediator may seek to facilitate partial settlements, and shall seek to obtain agreement with respect to the Claims Adjudication Process, and the participants in the Mediation Process shall work together and with the Mediator, in good faith, to attain these objectives.
5. **THIS COURT ORDERS** that Representative Counsel shall in due course prepare the Claims Brief and, no later than 20 days after the making of this Order, shall deliver a copy of this order and the Claims Brief to the Mediator, the Court Appointed Liquidators, FSRA, and to every Interested Party, with a covering letter specifically directing their attention to the mandatory obligations created by paragraphs 15 and 16 of this order, as follows: where they have filed a Notice of Appearance or are otherwise on the Service List in these proceedings, by email to the recipient's counsel of record or to the recipient if they are self-represented; where they have not filed a Notice of Appearance and are not on the Service List in these proceedings, , to the last known email address that is recorded in records of the Court Appointed Liquidators, provided that the Liquidators do not have reason to believe that the email address is no longer active; where they have not filed a Notice of Appearance and are not on the Service List in these proceedings, and where there is no known active email address, by regular mail to the last known municipal mailing address of the recipient that is recorded in records of the Court Appointed Liquidators; or, as this Court may otherwise direct.
6. **THIS COURT ORDERS** that following the Mediator's review of the Claims Brief, the Mediator shall consult with each of Representative Counsel, the Court Appointed Liquidators, and every other Interested Party, and shall thereafter establish and implement the Mediation Process, provided that the Mediation Process shall not commence before the Mediation Start Date.

7. **THIS COURT ORDERS** that, for the purpose of determining and implementing the Mediation Process, the Mediator is hereby empowered to do all such things as the Mediator believes would be helpful to the resolution of the Preferred Shareholder Claims and Related Claims, including, without limitation:
- a. requiring Interested Parties to participate in the Mediation;
  - b. requiring the delivery of Responding Briefs;
  - c. requiring the production of any insurance policies that may respond to the claims at issue and the amount and status of coverage under the policy;
  - d. facilitating agreement of the participants in the Mediation Process on a document production protocol, including a timely and efficient process to resolve any disputed assertions of privilege in respect of any Documents, and, if necessary, compelling the production of Documents from participants in the Mediation Process, including the Investor Claimants, provided that the production of Documents at the direction of the Mediator is without prejudice to the producing party's right to seek a ruling of the court in any civil proceeding as to the relevance and/or privileged nature of any such Documents produced and any attendant or other relief associated with any such ruling;
  - e. meeting with Representative Counsel, the Court Appointed Liquidators, the Interested Parties, and FSRA, either privately or in groups;
  - f. imposing obligations as to the confidentiality of information exchanged in respect of the Mediation Process in addition to those obligations set out in this order; and,
  - g. making recommendations to this Court in respect of the Claims Adjudication Process, but such recommendations shall not be binding on this Court.
8. **THIS COURT ORDERS** that the Mediator may apply to this Court on notice to the Representative Counsel, any Interested Parties, the Court Appointed

Liquidators, and FSRA for advice and direction as he determines is necessary from time to time.

9. **THIS COURT ORDERS** that the Mediator's costs shall be paid by the Interested Parties in the proportions to be agreed by them in consultation with the Mediator, and, in the absence of agreement, the Mediator shall apportion the costs as he thinks fair and reasonable having regard to the issues raised in such consultation, provided that the Mediator's total costs apportioned in this way shall not exceed \$100,000. If the Mediator's total costs are estimated to exceed \$100,000, the parties to the mediation may agree to an arrangement to pay such costs or terminate the Mediation Process.
10. **THIS COURT ORDERS** that the Mediator shall not be liable to any party or participant for any act or omission in connection with the Mediation Process and shall have the immunity of a Judge of a Superior Court in Canada.
11. **THIS COURT ORDERS** that following the Claims Adjudication Start Date, the Court Appointed Liquidators or Representative Counsel, as appropriate, shall bring a motion to this Court, on no less than 7 days notice, for an order establishing the Claims Adjudication Process in respect of all Preferred Shareholder Claims and any Related Claims that remain unresolved at that time.
12. **THIS COURT ORDERS** that, notwithstanding anything else in this order, FSRA shall be entitled, but not required, to participate in the Mediation Process, either in whole or in part, for the purpose of observing and facilitating the Mediation Process; for greater certainty, FSRA shall not be an Interested Party within the meaning of this order without leave of this Court.
13. **THIS COURT ORDERS AND DECLARES** that, subject to any direction of the Mediator or further order of this Court, the Court Appointed Liquidators have a facilitative role to play in respect of preparation of the Claims Brief, the preparation of the Responding Briefs, the Mediation Process, and the Claims

Adjudication Process, including, without limitation, through the production of non-privileged Documents and other relevant information to Representative Counsel and to the Interested Parties in accordance with the terms of the Document production protocol established pursuant to paragraph 7(d), above, and, accordingly, the Court Appointed Liquidators, acting in consultation with the Mediator and subject to such terms as to costs or otherwise as the Court Appointed Liquidators may in their discretion require, are hereby authorized to:

- a. establish one or more electronic data rooms to facilitate the transmission of relevant information to Representative Counsel and Interested Parties;
- b. populate the electronic data rooms with such non-privileged Documents and information as determined to be relevant pursuant to the terms of the Document production protocol established in paragraph 7(d) above;
- c. gather non-privileged information, and produce reports to be shared with Representative Counsel and/or the Interested Parties as the Mediator requests and directs; and,
- d. render such other assistance to the Mediator as he may require,

provided, for greater certainty, that nothing in this paragraph shall detract from any powers or protections granted to the Court Appointed Liquidators by any prior orders of this Court.

14. **THIS COURT ORDERS AND DECLARES** that the exclusion of the Court Appointed Liquidators from the definition of “Interested Party” and their role pursuant to paragraph 13, above, shall not prejudice a party’s right to bring a Related Claim against Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited, Pace General Partner Limited, First Hamilton Holdings Inc., First Hamilton Financial Services Inc., First Hamilton Capital Inc., First Hamilton General Partner 2 Inc. and First Hamilton Mortgage Brokers Inc., or any of their directors or officers.

15. **THIS COURT ORDERS AND DECLARES** that the Claims Brief, Responding Briefs and all other briefs, reports and communications exchanged in the course of the Mediation Process shall have the same privileges as pleadings in a Superior Court in Canada for the purpose of any defence to a potential future claim for libel or defamation arising therefrom.
16. **THIS COURT ORDERS AND DECLARES** that the Claims Brief, Responding Briefs, all other briefs, reports and communications exchanged as part of the Mediation Process, and the Mediator's notes and records shall be deemed to be without prejudice settlement discussions, and shall not be disclosed to or discussed with this Court or any third parties not participating in the Mediation Process, and shall not be used for any purpose other than the Mediation Process.
17. **THIS COURT ORDERS AND DECLARES** that any and all information or documents, including, but not limited to, briefs, Documents and submissions, which come into FSRA's possession by way of the Mediation Process (the "Mediation Information") shall not be disclosed by FSRA to any other regulatory agency, authority or body, wherever located, whether pursuant to an information sharing protocol, memorandum of understanding, or otherwise, provided that nothing herein prejudices the right of an individual to provide information available to it outside of the Mediation Process to FSRA or any right that FSRA may have to compel the production of information outside of the Mediation Process.
18. **THIS COURT ORDERS AND DECLARES**, for greater certainty, that, notwithstanding the pendency of the Mediation Process but subject to compliance with paragraph 16 of this order, participants in the mediation remain at liberty to seek relief from this court in respect of any matter relevant to these proceedings.
19. **THIS COURT ORDERS AND DECLARES** that an Interested Party that was not provided with notice of the motion giving rise to this order may move to vary or



set aside this Order as it applies to that Interested Party on not less than 7 days notice to Representative Counsel, the Interested Parties, and the Court Appointed Liquidators, provided that notice of their motion to vary or set aside shall be given no later than 10 days after delivery to them of the Claims Brief, Responding Brief or other notice that they are an Interested Party.

\_\_\_\_\_  
DAJ

**IN THE MATTER OF A WINDING UP OF PACE SECURITIES CORP., PACE  
FINANCIAL LIMITED, PACE INSURANCE BROKERS LIMITED AND  
PACE GENERAL PARTNER LIMITED**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(Procedure for the Resolution of Investor Claims)**

**Paliare Roland Rosenberg Rothstein LLP**

155 Wellington Street West  
35th Floor  
Toronto ON M5V 3H1  
Tel: 416.646.4300  
Fax: 416.646.4301

**Kenneth T. Rosenberg** (LSO# 21102H)

Tel: 416.646.4304  
ken.rosenberg@paliareroland.com

**Massimo (Max) Starnino** (LSO# 41048G)

Tel: 416.646.7431  
max.starnino@paliareroland.com

**Danielle Glatt** (LSO# 65517N)

Tel: 416.646.7440  
danielle.glatt@paliareroland.com

Representative Counsel

Court File No. CV-20-00641372-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

THE HONOURABLE  
 JUSTICE KOEHNEN

)  
 )  
 )

TUESDAY, THE  
 2<sup>nd</sup> DAY OF MARCH, 2021



**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
 R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,  
 R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF  
 FIRST HAMILTON HOLDINGS INC., FIRST HAMILTON FINANCIAL SERVICES  
 INC., FIRST HAMILTON CAPITAL INC., FIRST HAMILTON GENERAL PARTNER 2  
 INC. and FIRST HAMILTON MORTGAGE BROKERS INC.**

Applicants

**ORDER**

**(Procedure for the Resolution of Investor Claims)**

**THIS MOTION** made by Paliare Roland Rosenberg Rothstein LLP in its capacity as representative counsel for the Investor Claimants (“**Representative Counsel**”) for an order establishing a process for the resolution of claims of Investor Claimants in respect of their acquisition of the preferred shares of PACE Financial Limited and First Hamilton Holdings Inc. (together, with the claims of 7903197 Canada Inc. in respect of its purchase of Pace Capital Partners Series A Limited Partnership Units, the “**Preferred Shareholder Claims**”), was heard this day via Zoom conference at Toronto, Ontario.

**ON READING** the motion record of the moving party, the Court Appointed Liquidator’s Third Report, the consent of Pace Savings & Credit Union Ltd. by its Administrator, Financial Services Regulatory Authority of Ontario (the “**Credit Union**”), and on hearing the submissions of counsel for the moving party, the Credit Union, and

the Court Appointed Liquidators, and certain potential defendants to the Preferred Shareholder Claims, no one else appearing,

1. **THIS COURT ORDERS** that the timing and method of service and filing of this motion is hereby abridged and validated such that the motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that in this order the capitalized terms below shall have the indicated meanings, and that capitalized terms not otherwise defined in this order shall have the meaning given to them in the Representative Counsel Order:
  - a. **"Claims Adjudication Process"** means the expedited process to be determined by this Court following the Claims Adjudication Start Date after receiving any evidence and hearing submissions from the Representative Counsel, the Court Appointed Liquidators and Interested Parties and receiving any recommendation from the Mediator, which process will feature documentary and oral discoveries, as appropriate, and fixed trial dates, and which is intended to result in the adjudication of any outstanding Preferred Shareholder Claims and Related Claims by no later than 9 months after the Claims Adjudication Start Date, subject to paragraphs 4, 7(g) , any order made pursuant to paragraph 11 below and the further order of this Court.
  - b. **"Claims Adjudication Start Date"** means the date that is the earlier of (i) the date so designated by the Mediator, and (ii) the date that is 6 months from the Mediation Start Date or such later date as Representative Counsel, the Interested Parties and the Court Appointed Liquidators may jointly agree.
  - c. **"Claims Brief"** means a briefing book prepared by Representative Counsel containing unissued pleadings on behalf of the Investor Claimants, describing, so far as possible having regard to the information available to them at the time of its preparation, the Preferred Shareholder Claims,

including, without limitation, the amount of the claims, the individuals against whom the claims are asserted, a concise statement of the material facts alleged in support of the claims and the cause of action advanced, and any relevant point or conclusion of law, and Representative Counsel may, in its discretion, include in the Claims Brief such evidence as it determines may be helpful to the resolution of the Preferred Shareholder Claims;

- d. “**Court Appointed Liquidators**” means the PSC Liquidator together with the FHH Liquidator or either of them, as the context requires;
- e. “**Document**” means anything within the scope of Rule 30.01 of the Ontario *Rules of Civil Procedure*;
- f. “**FHH Liquidator**” means MNP Ltd. in its capacity as court appointed liquidator of First Hamilton Holdings Inc., First Hamilton Financial Services Inc., First Hamilton Capital Inc., First Hamilton General Partner 2 Inc. and First Hamilton Mortgage Brokers Inc.;
- g. “**FSRA**” means the Financial Services Regulatory Authority of Ontario;
- h. “**Interested Party**” means every person against whom a Preferred Shareholder Claim is asserted in the Claims Brief or who is named in a Responding Brief for the purposes of a Related Claim, and such other persons whom the Mediator may, in his discretion, identify, provided, for the avoidance of doubt, that the Investor Claimants, Representative Counsel, the Court Appointed Liquidators, and FSRA are not an Interested Party for the purposes of this order without further leave of this Court.
- i. “**Mediation Process**” means the process established by the Mediator for the purpose of facilitating the resolution of the Preferred Shareholder Claims;

- j. **“Mediation Start Date”** means the date that is designated by the Mediator, no less than 30 days and no more than 60 days following the date of the delivery of the Claims Brief to the Mediator by Representative Counsel pursuant to this order;
  - k. **“Mediator”** means Mr. Joel Wiesenfeld;
  - l. **“PSC Liquidator”** means Ernst & Young Inc. in its capacity as court appointed liquidator of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited;
  - m. **“Related Claim”** means any claim identified in a Responding Brief;
  - n. **“Representative Counsel Order”** means the order made in these proceedings dated August 6, 2020, appointing representative counsel for the Investor Claimants; and,
  - o. **“Responding Brief”** means a briefing book prepared by an Interested Party describing, so far as possible having regard to the information available to them at the time of its preparation, the Interested Party’s defences, counter-claims, cross-claims and third party claims, including, without limitation, the amount of any claims, the Interested Parties against whom the claims are asserted, a concise statement of the material facts alleged in support of the defences and claims, and any relevant point or conclusion of law, and an Interested Party may, in its discretion, include in the Responding Brief such evidence as it determines may be helpful to the resolution of the Preferred Shareholder Claims or Related Claims identified in any Responding Brief.
3. **THIS COURT ORDERS** that the Mediator is hereby appointed to attempt to facilitate the resolution of the Preferred Shareholder Claims and any Related Claims.

4. **THIS COURT ORDERS** that the Mediator's primary objective is to achieve, if possible, a comprehensive settlement of all Preferred Shareholder Claims and Related Claims, but that where the Mediator is satisfied that attainment of that objective is not possible, the Mediator may seek to facilitate partial settlements, and shall seek to obtain agreement with respect to the Claims Adjudication Process, and the participants in the Mediation Process shall work together and with the Mediator, in good faith, to attain these objectives.
5. **THIS COURT ORDERS** that Representative Counsel shall in due course prepare the Claims Brief and, no later than 20 days after the making of this Order, shall deliver a copy of this order and the Claims Brief to the Mediator, the Court Appointed Liquidators, FSRA, and to every Interested Party, with a covering letter specifically directing their attention to the mandatory obligations created by paragraphs 15 and 16 of this order, as follows: where they have filed a Notice of Appearance or are otherwise on the Service List in these proceedings, by email to the recipient's counsel of record or to the recipient if they are self-represented; where they have not filed a Notice of Appearance and are not on the Service List in these proceedings, , to the last known email address that is recorded in records of the Court Appointed Liquidators, provided that the Liquidators do not have reason to believe that the email address is no longer active; where they have not filed a Notice of Appearance and are not on the Service List in these proceedings, and where there is no known active email address, by regular mail to the last known municipal mailing address of the recipient that is recorded in records of the Court Appointed Liquidators; or, as this Court may otherwise direct.
6. **THIS COURT ORDERS** that following the Mediator's review of the Claims Brief, the Mediator shall consult with each of Representative Counsel, the Court Appointed Liquidators, and every other Interested Party, and shall thereafter establish and implement the Mediation Process, provided that the Mediation Process shall not commence before the Mediation Start Date.

7. **THIS COURT ORDERS** that, for the purpose of determining and implementing the Mediation Process, the Mediator is hereby empowered to do all such things as the Mediator believes would be helpful to the resolution of the Preferred Shareholder Claims and Related Claims, including, without limitation:
- a. requiring Interested Parties to participate in the Mediation;
  - b. requiring the delivery of Responding Briefs;
  - c. requiring the production of any insurance policies that may respond to the claims at issue and the amount and status of coverage under the policy;
  - d. facilitating agreement of the participants in the Mediation Process on a document production protocol, including a timely and efficient process to resolve any disputed assertions of privilege in respect of any Documents, and, if necessary, compelling the production of Documents from participants in the Mediation Process, including the Investor Claimants, provided that the production of Documents at the direction of the Mediator is without prejudice to the producing party's right to seek a ruling of the court in any civil proceeding as to the relevance and/or privileged nature of any such Documents produced and any attendant or other relief associated with any such ruling;
  - e. meeting with Representative Counsel, the Court Appointed Liquidators, the Interested Parties, and FSRA, either privately or in groups;
  - f. imposing obligations as to the confidentiality of information exchanged in respect of the Mediation Process in addition to those obligations set out in this order; and,
  - g. making recommendations to this Court in respect of the Claims Adjudication Process, but such recommendations shall not be binding on this Court.
8. **THIS COURT ORDERS** that the Mediator may apply to this Court on notice to the Representative Counsel, any Interested Parties, the Court Appointed



Liquidators, and FSRA for advice and direction as he determines is necessary from time to time.

9. **THIS COURT ORDERS** that the Mediator's costs shall be paid by the Interested Parties in the proportions to be agreed by them in consultation with the Mediator, and, in the absence of agreement, the Mediator shall apportion the costs as he thinks fair and reasonable having regard to the issues raised in such consultation, provided that the Mediator's total costs apportioned in this way shall not exceed \$100,000. If the Mediator's total costs are estimated to exceed \$100,000, the parties to the mediation may agree to an arrangement to pay such costs or terminate the Mediation Process.
10. **THIS COURT ORDERS** that the Mediator shall not be liable to any party or participant for any act or omission in connection with the Mediation Process and shall have the immunity of a Judge of a Superior Court in Canada.
11. **THIS COURT ORDERS** that following the Claims Adjudication Start Date, the Court Appointed Liquidators or Representative Counsel, as appropriate, shall bring a motion to this Court, on no less than 7 days notice, for an order establishing the Claims Adjudication Process in respect of all Preferred Shareholder Claims and any Related Claims that remain unresolved at that time.
12. **THIS COURT ORDERS** that, notwithstanding anything else in this order, FSRA shall be entitled, but not required, to participate in the Mediation Process, either in whole or in part, for the purpose of observing and facilitating the Mediation Process; for greater certainty, FSRA shall not be an Interested Party within the meaning of this order without leave of this Court.
13. **THIS COURT ORDERS AND DECLARES** that, subject to any direction of the Mediator or further order of this Court, the Court Appointed Liquidators have a facilitative role to play in respect of preparation of the Claims Brief, the preparation of the Responding Briefs, the Mediation Process, and the Claims

Adjudication Process, including, without limitation, through the production of non-privileged Documents and other relevant information to Representative Counsel and to the Interested Parties in accordance with the terms of the Document production protocol established pursuant to paragraph 7(d), above, and, accordingly, the Court Appointed Liquidators, acting in consultation with the Mediator and subject to such terms as to costs or otherwise as the Court Appointed Liquidators may in their discretion require, are hereby authorized to:

- a. establish one or more electronic data rooms to facilitate the transmission of relevant information to Representative Counsel and Interested Parties;
- b. populate the electronic data rooms with such non-privileged Documents and information as determined to be relevant pursuant to the terms of the Document production protocol established in paragraph 7(d) above;
- c. gather non-privileged information, and produce reports to be shared with Representative Counsel and/or the Interested Parties as the Mediator requests and directs; and,
- d. render such other assistance to the Mediator as he may require,

provided, for greater certainty, that nothing in this paragraph shall detract from any powers or protections granted to the Court Appointed Liquidators by any prior orders of this Court.

14. **THIS COURT ORDERS AND DECLARES** that the exclusion of the Court Appointed Liquidators from the definition of “Interested Party” and their role pursuant to paragraph 13, above, shall not prejudice a party’s right to bring a Related Claim against Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited, Pace General Partner Limited, First Hamilton Holdings Inc., First Hamilton Financial Services Inc., First Hamilton Capital Inc., First Hamilton General Partner 2 Inc. and First Hamilton Mortgage Brokers Inc., or any of their directors or officers.

15. **THIS COURT ORDERS AND DECLARES** that the Claims Brief, Responding Briefs and all other briefs, reports and communications exchanged in the course of the Mediation Process shall have the same privileges as pleadings in a Superior Court in Canada for the purpose of any defence to a potential future claim for libel or defamation arising therefrom.
16. **THIS COURT ORDERS AND DECLARES** that the Claims Brief, Responding Briefs, all other briefs, reports and communications exchanged as part of the Mediation Process, and the Mediator's notes and records shall be deemed to be without prejudice settlement discussions, and shall not be disclosed to or discussed with this Court or any third parties not participating in the Mediation Process, and shall not be used for any purpose other than the Mediation Process.
17. **THIS COURT ORDERS AND DECLARES** that any and all information or documents, including, but not limited to, briefs, Documents and submissions, which come into FSRA's possession by way of the Mediation Process (the "Mediation Information") shall not be disclosed by FSRA to any other regulatory agency, authority or body, wherever located, whether pursuant to an information sharing protocol, memorandum of understanding, or otherwise, provided that nothing herein prejudices the right of an individual to provide information available to it outside of the Mediation Process to FSRA or any right that FSRA may have to compel the production of information outside of the Mediation Process.
18. **THIS COURT ORDERS AND DECLARES**, for greater certainty, that, notwithstanding the pendency of the Mediation Process but subject to compliance with paragraph 16 of this order, participants in the mediation remain at liberty to seek relief from this court in respect of any matter relevant to these proceedings.
19. **THIS COURT ORDERS AND DECLARES** that an Interested Party that was not provided with notice of the motion giving rise to this order may move to vary or

set aside this Order as it applies to that Interested Party on not less than 7 days notice to Representative Counsel, the Interested Parties, and the Court Appointed Liquidators, provided that notice of their motion to vary or set aside shall be given no later than 10 days after delivery to them of the Claims Brief, Responding Brief or other notice that they are an Interested Party.

\_\_\_\_\_  
DJJ

IN THE MATTER OF A WINDING UP OF  
FIRST HAMILTON HOLDINGS INC., FIRST HAMILTON FINANCIAL SERVICES  
INC., FIRST HAMILTON CAPITAL INC., FIRST HAMILTON GENERAL PARTNER 2 INC. and FIRST HAMILTON MORTGAGE BROKERS INC.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER  
(Procedure for the Resolution of Investor Claims)**

**Paliare Roland Rosenberg Rothstein LLP**

155 Wellington Street West  
35th Floor  
Toronto ON M5V 3H1  
Tel: 416.646.4300  
Fax: 416.646.4301

**Kenneth T. Rosenberg** (LSO# 21102H)

Tel: 416.646.4304  
ken.rosenberg@paliareroland.com

**Massimo (Max) Starnino** (LSO# 41048G)

Tel: 416.646.7431  
max.starnino@paliareroland.com

**Danielle Glatt** (LSO# 65517N)

Tel: 416.646.7440  
danielle.glatt@paliareroland.com

Representative Counsel for the Investor Claimants

## **APPENDIX “C”**

Court File No. CV-20-00641372-00CL

Court File No. CV-20-00641059-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE *BUSINESS CORPORATIONS*  
ACT, R.S.O. 1990, C. B.16, AS AMENDED**

**AND IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS*  
ACT, R.S.C., 1985, C. C-44, AS AMENDED**

**AND IN THE MATTER OF A WINDING UP OF FIRST HAMILTON HOLDINGS INC., FIRST  
HAMILTON FINANCIAL SERVICES INC., FIRST HAMILTON CAPITAL INC., FIRST  
HAMILTON GENERAL PARTNER 2 INC. and FIRST HAMILTON MORTGAGE BROKERS**

**AND IN THE MATTER OF A WINDING UP OF A PACE SECURITIES CORP., PACE  
FINANCIAL LIMITED, PACE INSURANCE BROKERS LIMITED AND PACE GENERAL  
PARTNER LIMITED**

**SETTLEMENT TERM SHEET<sup>1</sup>**

1. In consideration of the full and final settlement of their claims in respect of the purchase, sale and distribution of preferred shares of Pace Financial Limited (“PFL”) and First Hamilton Holdings Inc. (“FHH”) and the claim of 7903197 Canada Inc. in respect of the purchase, sale and distribution of units of Pace Capital Partners LP (“PCP”), and subject to the terms and conditions set forth herein, a global payment, inclusive of costs, taxes and disbursements, in the amount of \$40,000,000, shall be made to the Investor Claimants<sup>2</sup> as follows (the “Settlement”):
  - a. By PACE Savings & Credit Union Limited (“PACE Credit Union”), \$ \_\_\_\_\_ ;
  - b. By AIG Insurance Company of Canada, on behalf of the Individual Insureds and Insured Organizations (“AIG”), \$ \_\_\_\_\_ ; and,
  - c. By the PSC Investment Advisors’ insurers as defined below, \$ \_\_\_\_\_ (together with PACE Credit Union, AIG, Individual Insureds, Insured Organizations and PSC Investment Advisors, the “Settling Parties”).
  
2. The Settlement is subject to an order of the court in respect of these proceedings approving and implementing the Settlement, including an order barring and enjoining the claims of all persons in respect of the purchase, sale, distribution and payments made in respect of preferred shares of PFL and FHH, and the claim of 7903197 Canada Inc. in respect of the purchase, sale, distribution

---

<sup>1</sup> Unless otherwise defined herein, capitalized terms have the meaning identified in the Claims Brief and the Coverage Letters provided by AIG and produced pursuant to this mediation.

<sup>2</sup> For the avoidance of doubt, “Investor Claimants” has the meaning attributed to it by the court orders made in these proceedings dated August 6, 2020, as amended March 2, 2021, appointing representative counsel, and the Investor Claimants shall act through their court-appointed representative, Paliare Roland Rosenberg Rothstein LLP (“Representative Counsel”).

and payments made in respect of units of PCP. The settlement approval motion shall be brought forward by the Investor Claimants, using their best efforts. The Settling Parties shall be at liberty to adduce supportive evidence if they so choose, on reasonable notice to other Settling Parties with opportunity to object or seek confidentiality terms. The Settling Parties shall consent to a settlement approval order in form satisfactory to counsel for all parties and the Liquidators, including in respect of all available litigation bar orders and releases, including in respect of the conduct of Representative Counsel and their agents and advisors, including the members of their advisory committee.

3. Within 60 days of settlement approval, the Settling Parties shall pay the amounts set out in paragraph one above to Paliare Roland Rosenberg Rothstein LLP, in trust, for future allocation and distribution to the Investor Claimants in accordance with a subsequent order of the court in these proceedings, obtained on motion brought by Representative Counsel. The Settling Parties acknowledge that they will not oppose the allocation and distribution motion.
4. Upon receipt of payment of the amounts set out in paragraph one, the Investor Claimants will deliver, a full, unconditional and binding release of the Settling Parties and a corresponding bar order, in respect of claims arising from the purchase, sale and distribution of preferred shares of PFL and FHH, or units of PCP, by all Investor Claimants, all in a form satisfactory to the Settling Parties, Ernst & Young Inc., MNP Ltd., and the Investor Claimants, acting reasonably.
5. Upon receipt of the release referred to in paragraph four above, full and final releases in a form satisfactory to all Settling Parties shall be exchanged by all Settling Parties (which includes the Individual Insureds and Insured Organizations) which releases shall include protection from any future claims against each or any of them for contribution and indemnity or otherwise from any other parties, including PCP investors. PACE Credit Union will release Larry Smith solely from any liability arising from an allegation that he is an officer or director of PACE Securities Corp. and will strike any allegation that Larry Smith was a director or officer of PACE Securities Corp. in the action bearing Court File No. CV-19-00633165-00CL (the "Credit Union Action"). For greater clarity, PACE Credit Union does not release Larry Smith from any allegations that remain in the Credit Union Action, and entry into this settlement by Larry Smith as an Individual Insured will be without prejudice to any defence that he might raise in the Credit Union Action.
6. PACE Credit Union agrees that, in the Credit Union Action, with respect to its contribution to the Settlement and fees and expenses to respond to the Investor Claimants' claims, it will claim only the damages, costs, taxes, disbursements and interest that are attributable to the combined several share of liability of Larry Smith, Phillip Smith, Frank Klees, Brent Bailey, Deborah Baker, Ian Goodfellow, Al Jones, Wendy Mitchell, George Pohle, Peter Rebellati, Jim Tindall, Pauline Wainwright, Neil Williamson, Ken Topping and Stan Dimakos (the "Existing Defendants"), such that PACE Credit Union's recovery with respect to the matters settled in this mediation shall be limited to the damages, costs, taxes, disbursements and interest attributable to the combined several liability proven against the Existing Defendants at trial according to their combined proportionate degree of fault. For greater certainty, PACE Credit Union does not claim against the Existing Defendants any damages, costs, taxes, disbursements and interest that may be severally attributable to the Settling Defendants with respect to matters settled in this mediation, and agrees to indemnify the Settling Defendants for any damages, costs, taxes, disbursements and interest that they may incur in responding to the Credit Union Action.
7. Consents and releases in a form satisfactory to AIG, the Individual Insureds, and the Settling Investment Advisors including the PSC Settling Investment Advisors' insurers (Axis and Liberty



Mutual) shall be exchanged, and with the consent of the Liquidators on behalf of Insured Organizations.

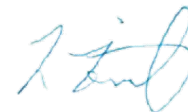
8. Investor Claimants, Representative Counsel and Settling Parties having knowledge of the identity of the contributors to the Settlement will not disclose that information in any public communications, including any news releases, or any communications directly to any third parties including PACE Credit Union customers who are not Investor Claimants, without explicit written authorization from the parties to be disclosed, subject to communications with legal or financial advisors and/or legal and financial disclosure obligations. In the event of a breach of this obligation by an individual Investor Claimant or Settling Party this Settlement shall remain in full force and effect, and any right of recourse by the affected Settling Parties will be limited to a claim for a remedy against the breaching Investor Claimant party.
9. For the avoidance of doubt, pending the bringing of the motion to approve and implement the Settlement, the duty of confidentiality applicable to the mediation before Mr. Joel Wiensfeld shall continue to apply to the Settlement, but the Settling Parties agree that Representative Counsel and/or the Liquidators may, to the extent necessary, disclose the fact of the settlement in correspondence with the court for the purpose of scheduling the aforementioned motion.
10. The PSC Liquidator shall consent (and so shall any other Settling Party and the Investor Claimants if such consent is required) to the release of all funds held at Laurentian Bank in the accounts of J. Thomson and G. McRae, those accounts being:
  - a. Joe Thomson –
  - b. Gerald McRae –
11. The Investor Claimants and the Settling Parties other than PACE Credit Union and Andre Sian release all claims to the remaining assets of First Hamilton Holdings Inc., First Hamilton Financial Services Inc., First Hamilton Capital Inc., First Hamilton General Partner 2 Inc., First Hamilton Mortgage Brokers, Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited.
12. The Investor Claimants shall provide their written support for the resolution of any and all regulatory matters associated with the purchase, sale, and distribution of preferred shares of PFL and FHH or the operations of those companies to counsel for any of the Settling Parties who request such support, provided that the support shall be in form and content satisfactory to Representative Counsel, acting reasonably.
13. The costs of the court-ordered mediation conducted by Joel Wiesenfeld with respect to this matter shall be split equally between PCU and AIG.
14. Together with the settlement approval motion or thereafter, counsel for the Investor Claimants shall bring a motion to approve counsel fees and disbursements. The Settling Parties will not oppose the motion by counsel for the Investor Claimants for approval of counsel fees and disbursements.
15. The final settlement approval is to be heard and achieved by July 31, 2021, or such later date as Representative Counsel and the Settling Parties may agree, subject to the availability of the Court to hear the motion by that date.

16. The Investor Claimants and the Settling Parties shall do all things and provide such assurances and consents as reasonably necessary to give effect to the settlement contemplated herein in a timely way.
17. The parties intend that this Settlement Term Sheet is a binding settlement of this action, subject to Court approval. If any disputes arise in preparing the Settlement Agreement, such disputes will be mediated by Joel Wiesenfeld.
18. The Settlement is subject to the law of Ontario and the laws of Canada applicable therein.
19. The Settlement becomes effective at 5 pm Eastern on June 24, 2021 and may be withdrawn, by email sent to Joel Wiesenfeld prior to that time.
20. This Settlement Term Sheet may be signed electronically and in counterparts.

Dated as of June 24, 2021.



Investor Claimants, by Paliare Roland Rosenberg Rothstein LLP pursuant to the orders herein dated August 6, 2020, as amended by orders dated March 2, 2021.



AIG Canada, in its capacity as insurer for PACE Securities Corporation, PACE Financial Limited, First Hamilton Holdings Inc., Joseph Thomson, Gerald McRae, Andre Sian, Ernest Eves, Timothy Huxley, Michael Leskovec, Grant Walsh and Larry Smith




PACE Savings & Credit Union Limited, by its Administrator Financial Services Regulatory Authority of Ontario

Digitally signed by Soloman Lam  
Date: 2021.06.24 17:33:11 -04'00'

AIG Canada, in its capacity as insurer for PACE Securities Corporation, PACE Financial Limited, First Hamilton Holdings Inc., Joseph Thomson, Gerald McRae, Andre Sian, Ernest Eves, Timothy Huxley, Michael Leskovec, Grant Walsh and Larry Smith

---

PSC Investment Advisor Ariel Simms, by  
his lawyer Barry Papazian



---

PSC Investment Advisors Patrick Carson,  
Gyulmet Ramazanov, Thomas D. Moxam, Pat  
Cilla, Thomas Ogilwy, Margaret Pakula, by their  
lawyer, Natalie Leon

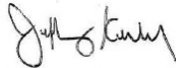
*Barry B. Papazian*

---

PSC Investment Advisor Ariel Simms, by  
his lawyer Barry Papazian

---

PSC Investment Advisors Patrick Carson,  
Gyulmet Ramazanov, Thomas D. Moxam, Pat  
Cilla, Thomas Ogilwy, Margaret Pakula, by their  
lawyer, Natalie Leon

<p>Ernst &amp; Young Inc., in its capacity as Court-Appointed Liquidator of the estate and effects of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited, and not in its personal or corporate capacities</p> <p>Per:</p>  <p>Jeffrey D. Kerbel Senior Vice-President</p>	<p>MNP, in its capacity as Court-Appointed Liquidator of the estate and effects of First Hamilton Holdings Inc. First Hamilton Financial Services Inc., First Hamilton General Partner 2 Inc., First Hamilton Capital Inc. and First Hamilton Mortgage Brokers Inc., and not in its personal or corporate capacities</p> <p>Per:</p> <p>Jerry Henechowicz, CPA, CA, CIRP, LIT Senior Vice President</p>
--	---


Ernst & Young Inc., in its capacity as Court-Appointed Liquidator of the estate and effects of Pace Securities Corp., Pace Financial Limited, Pace Insurance Brokers Limited and Pace General Partner Limited, and not in its personal or corporate capacities

Per:

Jeffrey D. Kerbel  
Senior Vice-President

MNP, in its capacity as Court-Appointed Liquidator of the estate and effects of First Hamilton Holdings Inc. First Hamilton Financial Services Inc., First Hamilton General Partner 2 Inc., First Hamilton Capital Inc. and First Hamilton Mortgage Brokers Inc., and not in its personal or corporate capacities

Per:

  
Jerry Henechowicz, CPA, CA, CIRP, LIT  
Senior Vice President

**IN THE MATTER OF A WINDING UP OF PACE SECURITIES CORP., PACE FINANCIAL LIMITED, PACE INSURANCE BROKERS LIMITED  
AND PACE GENERAL PARTNER LIMITED**

Court File No. CV-20-00641059-00CL

**IN THE MATTER OF A WINDING UP OF FIRST HAMILTON HOLDINGS INC., FIRST HAMILTON FINANCIAL SERVICES  
INC., FIRST HAMILTON CAPITAL INC., FIRST HAMILTON GENERAL PARTNER 2 INC. and FIRST HAMILTON MORTGAGE BROKERS INC.**

Court File No. CV-20-00641372-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**SECOND REPORT OF THE COURT APPOINTED  
REPRESENTATIVE COUNSEL TO THE INVESTOR CLAIMANTS**

**Paliare Roland Rosenberg Rothstein LLP**

155 Wellington Street West, 35th Floor  
Toronto ON M5V 3H1  
Tel: 416.646.4300

**Kenneth T. Rosenberg (LSO# 21102H)**

Tel: 416.646.4304  
ken.rosenberg@paliareroland.com

**Massimo (Max) Starnino (LSO# 41048G)**

Tel: 416.646.7431  
max.starnino@paliareroland.com

**Lily Harmer (LSO# 31880T)**

Tel: 416.646.4326  
lily.harmer@paliareroland.com

**Jesse Wright (LSO# 80382Q)**

Tel: 416.646.6314  
jesse.wright@paliareroland.com

Representative Counsel

**IN THE MATTER OF A WINDING UP OF PACE SECURITIES CORP., PACE FINANCIAL LIMITED, PACE INSURANCE BROKERS LIMITED AND PACE GENERAL PARTNER LIMITED**

---

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

---

**MOTION RECORD**

**(Motion for Approval of the Form of Notice to Investor  
Claimants and for Settlement Approval)**

---

**Paliare Roland Rosenberg Rothstein LLP**

155 Wellington Street West, 35th Floor

Toronto ON M5V 3H1

Tel: 416.646.4300

**Kenneth T. Rosenberg (LSO# 21102H)**

Tel: 416.646.4304

ken.rosenberg@paliareroland.com

**Massimo (Max) Starnino (LSO# 41048G)**

Tel: 416.646.7431

max.starnino@paliareroland.com

**Lily Harmer (LSO# 31880T)**

Tel: 416.646.4326

lily.harmer@paliareroland.com

**Jesse Wright (LSO# 80382Q)**

Tel: 416.646.6314

jesse.wright@paliareroland.com

Representative Counsel