

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR. JUSTICE            )    TUESDAY, THE 18TH DAY  
  )    )  
PETER A. CUMMING                         )    OF DECEMBER, 2001



PERCY LEVY

Plaintiff

and

NELBAR FINANCIAL CORPORATION, ESSEX CAPITAL MANAGEMENT LTD.,  
GEORGE NELSON ALLEN, ROBIN MORIARTY, BARBARA ALLEN,  
WOODBINE DRIVING RANGE LIMITED, FORMERLY KNOWN AS 884085  
ONTARIO LIMITED, 1272327 ONTARIO INC., NELSON ALLEN FINANCIAL  
CORPORATION and KUKOKE HOLDINGS INC.

Defendants

Proceeding Under the *Class Proceedings Act, 1992*

**ORDER**

THIS MOTION by class counsel, made without notice on an urgent basis,  
was heard this day at Toronto, Ontario.

ON READING the affidavit of Mark A. Mason, on hearing submissions of  
class counsel and on hearing class members Robert Morton, Margaret Lamont and Gloria

Hutton and George Hutchinson, and class counsel undertaking to abide by any order this court may make if it afterwards concludes that this order ought not to have been made:

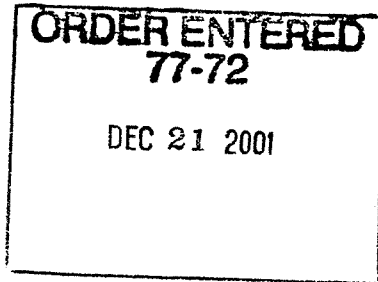
1. THIS COURT ORDERS that, pursuant to section 12 of the *Class Proceedings Act, 1992*, class counsel be and are hereby authorized to withhold 15% of all monies recovered on behalf of persons who applied to the Canadian Investor Protection Fund to recover losses relating to Nelbar Financial Corporation and/or Essex Capital Management ("Class Members").
2. THIS COURT ORDERS that class counsel shall deposit all such monies received in an interest bearing trust account maintained by Heenan Blaikie to be held until the court determines the appropriate amount of fees and disbursements to be charged by class counsel on notice to each Class Member.
3. THIS COURT ORDERS that the Canadian Investor Protection Fund and its Board of Governors shall pay to class counsel, care of Heenan Blaikie, in trust, 15% of the award to each of the Class Members and to pay the remaining 85% to the individual Class Member.
4. THIS COURT ORDERS that any Class Member who has received monies from the Canadian Investor Protection Fund and who has not paid 15% of the monies

received to class counsel, shall pay 15% of the monies received by him, her or it, from the Canadian Investor Protection Fund, to Heenan Blaikie, in trust, on or before January 25, 2002, subject to any such person applying to the court to object to this holdback.

5. THIS COURT ORDERS that, on a date to be fixed by the court, class counsel shall prepare their accounts for all services rendered to the Class Members relating to the class action and the claims against the Canadian Investor Protection Fund, and that the fees and disbursements of class counsel shall be fixed by the court, on notice to the Class Members, in a manner to be directed by the court.

6. THIS COURT ORDERS that this order shall be served on the Class Members and the Canadian Investor Protection Fund by prepaid mail or by courier addressed to their last known address.

*December 19, 2001* *Peter A. Cumming J.*  
JUSTICE



PERCY LEVY

Plaintiff

vs. NELBAR FINANCIAL  
CORPORATION ET AL.

Defendants

Court File No. 31902/99

ONTARIO  
SUPERIOR COURT OF JUSTICE  
PROCEEDINGS COMMENCED AT TORONTO

ORDER

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SOLICITORS FOR THE PLAINTIFF

FILE: 69-000-000  
REF: HTS/ba