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00-1290 K1

**NOTICE OF HEARING FOR COURT APPROVAL OF SETTLEMENT, CLAIMS
BAR AND INJUNCTION IN THE "CAPITAL CONSULTANTS LITIGATION":
EIGHTH DISTRICT ELECTRICAL PENSION FUND SETTLEMENT WITH
INDEPENDENT FIDUCIARY SERVICES, INC.**

CLERK, U.S. DISTRICT COURT
DISTRICT OF OREGON
PORTLAND, OREGON

I. Summary

BY _____

The Trustees of the Eighth District Electrical Pension Fund and the plaintiff class in the case of McPherson v. Trustees, et. al., case no. CV-00-1445 HA have reached a settlement with Independent Fiduciary Services, Inc. (IFS), which was not a party to the lawsuit, although it was a service provider to the Eighth District Electrical Pension Fund. This Notice is issued in conjunction with the Notice of Hearing for Court Approval of Settlement, Claims Bar and Injunction approved by the Court on May 13, 2002.

The formal settlement agreement has been filed in the United States District Court in Oregon. It can be reviewed at the Receiver's Website: at www.capitalconsultantsllc.com.

This and all settlements are the result of months of mediation sessions supervised by Ninth Circuit Court of Appeals Senior Judge Edward Leavy at the request of United States District Judge Garr King. Judge Leavy enjoys a well-deserved national reputation for helping parties facing costly and complex litigation settle their disputes.

This settlement agreement is subject to approval by the Court and will not be final unless and until approval is given by the United States District Court and other conditions of the Settlement Agreements are satisfied.

If approved by the United States District Court, the settlement with IFS will bring an additional \$850,000, plus \$50,000 to defray administrative costs, to the McPherson class action on behalf of the Eighth District Electrical Pension Fund and its participants.

This settlement, and others presented to the Court, will be addressed at a public hearing at the Mark O. Hatfield United States Courthouse, 1000 SW Third Avenue in Portland, Oregon on June 19, 2002 at 9:00 a.m. Notice of this hearing is being provided to persons and entities who may be affected by this settlement. If you wish to object see Section V. If you have no objection, you do not need to respond to this notice.

II. Settlements and Parties

In September 2000, the Department of Labor and the Securities and Exchange Commission initiated litigation against CCL and its principals, Jeffrey Grayson and Barclay Grayson. At the request of both agencies, Thomas Lennon was appointed Receiver to take over CCL and wind up its affairs. Soon thereafter, numerous lawsuits were filed by pension and welfare benefit plan trustees and private investors seeking recovery of the investment losses attributed to CCL. These lawsuits named or identified numerous potentially responsible third parties and quickly developed into one of the largest and most complex group of lawsuits in Oregon history. The lawsuits included the class action lawsuit entitled *McPherson v. Trustees et. al.*, case no. CV-00-1445 HA. Plaintiffs and the Receiver made it clear from the start that they believed that CCL's professional advisors, including IFS, bore part of the responsibility for the investment losses, and although not a party to the lawsuits, IFS agreed to voluntarily participate in mediation.

III. Remaining Parties.

Claims that are not settled as of this notice include those that some parties to the Capital Consultants Litigation have filed or may file against:

1. CCL and Jeffrey Grayson for certain claims.
2. Deloitte Touche, LLP – a national accounting firm that provided professional services to the Wilshire defendants until 1997.
3. Pricewaterhouse Coopers – a national accounting firm which performed an AIMR certification of the performance of CCL's investments.
4. Plan service providers such as auditors and investment monitors.
5. Claims the Receiver has in the nature of preference, fraudulent conveyance, equitable subordination or defaulted loan collections, except as regards to settling parties.

IV. Factual Background

The Court-Appointed Receiver took over CCL in September, 2000 following a determination by the Department of Labor and the SEC that it was insolvent and operating in violation of federal law. A class action lawsuit was filed against the Trustees of the Eighth District Electrical Pension Fund.

A more detailed recitation of the facts alleged against the settling parties is contained in the class action lawsuit, entitled McPherson v. Trustees, et. al., case no. CV-00-1445 HA..

[Interested parties may view this document on the Receiver's website
(capitalconsultantsllc.com)]

V. Court Approval of the Settlements

The McPherson class and the Eighth District Trustees believe the settlement with IFS is in the best interests of plan participants and plan beneficiaries for the following reasons:

- ◆ It avoids the risk, delay, and expense of what would be certain to be legally and factually complex litigation.
- ◆ It avoids the expenditure of limited insurance funds in defense of the litigation and instead permits the funds to be distributed to the investors.
- ◆ It avoids defenses that were raised or could have been raised along with contentions by insurance companies that they have no obligation to pay any judgment against their insureds.
- ◆ It streamlines the case against the remaining non-settling parties.
- ◆ This settlement avoids the risk, cost, and delay of appeals, if the Eighth District Trustees and the McPherson class are successful at the trial level.

This settlement, like the other settlements submitted to the Court for approval, also includes a Claims Bar and Injunction, which are meant to prohibit the non-settling parties and others from bringing claims for contribution, indemnity or other similar claims against the settling parties, and parties who have settled in the referenced lawsuits, and others relating to the losses in the value of investment suffered by CCL clients. The Claims Bar and Injunction will also prevent the plaintiffs, any plaintiff ERISA plan participant and the settling defendants from bringing claims against any settling party.

However, the settlements are not valid or binding unless and until approved by the Court following the public hearing. Persons who wish to express a view on whether the

settlements and the Claims Bar and Injunction should be approved may appear at that hearing or submit their views in writing to the Court with a copy to the Receiver.

Approval of the settlement with respect to the class is being conducted in the related action of McPherson v. Trustees, et. al., case no. CV-00-1445 HA, and pension plan participants or class members who wish to file objections to the class settlement must do so in the time and in the matter provided in the notice to class members in that litigation. Individuals who have not received a Class action settlement notice may contact, in writing, counsel in this action and a class action settlement notice will be mailed to them. Counsel to contact in the McPherson action is: Richard J. Birmingham, Birmingham, Thorson & Barnett, P.C., 601 Union Street, Suite 3315, Seattle, WA 98101.

NO LATER THAN JUNE 10, 2002, WRITTEN MATERIALS MUST BE FILED WITH THE COURT: CLERK OF COURT U.S. DISTRICT COURT, 1000 SW 3RD AVE., PORTLAND OR 97204 REF: IN RE CONSOLIDATED CAPITAL CONSULTANTS LITIGATION, CV 00 1290 KI AND SUBMITTED TO RICHARD J. BIRMINGHAM, BIRMINGHAM, THORSON & BARNETT, P.C., 601 UNION STREET, SUITE 3315, SEATTLE, WA 98101, AND TO CHRISTOPHER T. CARSON, 732 NW 19th AVENUE, PORTLAND, OR 97209.

DATED this ¹⁵16~~th~~ day of May, 2002.

By: 

U.S. DISTRICT COURT
JUDGE GARR M. KING