

S034144

No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

MICHAEL J. QUILLING, RECEIVER FOR
THE ESTATE OF FREDERICK J. GILLILAND

Plaintiff

AND:

FREDERICK J. GILLILAND, 834133 ALBERTA INC.,
832790 ALBERTA INC., and ROYAL GRAND EXCHANGE INTERNATIONAL LTD.

Defendants

WRIT OF SUMMONS AND STATEMENT OF CLAIM

Name and address of plaintiff:

Michael J. Quilling
Quilling, Selander, Cummiskey & Lownds, P.C.
2001 Bryan Street, Suite 1800
Dallas, Texas 75201
United States of America

Name and address of each defendant:

Frederick J. Gilliland
2373 Constantine Place,
West Vancouver, B.C. V7S 3H7

834133 Alberta Inc.
1130, 1015 - 4 Street S.W.,
Calgary, Alberta T2R 1J4

832790 Alberta Inc.
1130, 1015 – 4 Street S.W.,
Calgary, Alberta T2R 1J4

Royal Grand Exchange International Ltd.
703 – 938 Howe Street,
Vancouver, B.C. V6Z 1N9

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To the defendants: Frederick J. Gilliland, 834133 Alberta Inc.,
832790 Alberta Inc., and Royal Grand Exchange International Ltd.

TAKE NOTICE that this action has been commenced against you by the plaintiff for the claims set out in this writ.

IF YOU INTEND TO DEFEND this action, or if you have a set off or counterclaim that you wish to have taken into account at the trial, YOU MUST

- (a) GIVE NOTICE of your intention by filing a form entitled "Appearance" in the above registry of this court, at the address shown below, within the Time for Appearance provided for below and YOU MUST ALSO DELIVER a copy of the Appearance to the plaintiff's address for delivery, which is set out in this writ, and
- (b) if a statement of claim is provided with this writ of summons or is later served on or delivered to you, FILE a Statement of Defence in the above registry of this court within the Time for Defence provided for below and DELIVER a copy of the Statement of Defence to the plaintiff's address for delivery.

YOU OR YOUR SOLICITOR may file the Appearance and the Statement of Defence. You may obtain a form of Appearance at the registry.

JUDGMENT MAY BE TAKEN AGAINST YOU IF

- (a) YOU FAIL to file the Appearance within the Time for Appearance provided for below, or
- (b) YOU FAIL to file the Statement of Defence within the Time for Defence provided for below.

TIME FOR APPEARANCE

If this writ is served on a person in British Columbia, the time for appearance by that person is 7 days from the service (not including the day of service).

If this writ is served on a person outside British Columbia, the time for appearance by that person after service, is 21 days in the case of a person residing anywhere within Canada, 28 days in the case of a person residing in the United States of America, and 42 days in the case of a person residing elsewhere.

[or, if the time for appearance has been set by order of the court, within that time.]

TIME FOR DEFENCE

A Statement of Defence must be filed and delivered to the plaintiff within 14 days after the later of

- (a) the time that the Statement of Claim is served on you (whether with this writ of summons or otherwise) or is delivered to you in accordance with the Rules of Court, and
- (b) the end of the Time for Appearance provided for above.

[or, if the time for defence has been set by order of the court, within that time.]

- (1) The address of the registry is:

Court House
800 Smithe Street
Vancouver, B.C.
V6Z 2E1

- (2) The plaintiff's Address For Delivery is:

Edwards, Kenny & Bray
Barristers and Solicitors
1900 - 1040 West Georgia Street
Vancouver, BC V6E 4H3
Phone No.: (604) 689-1811
Attention: Rachel Fisher

Fax number for delivery: (604) 689-5177


- (3) The name and office address of the plaintiff's solicitor is:

BENNETT JONES LLP
Barristers and Solicitors
3400, One First Canadian Place
P.O. Box 130
Toronto, Ontario M5X 1A4

Jim Patterson/Lincoln Caylor
Tel: (416) 777-6250/6121
Fax: (416) 863-1716
LSUC No. 28199C/

The plaintiff's claim is as set out in the attached Statement of Claim

Dated: July 30, 2003


Solicitor for the Plaintiff

**ENDORSEMENT ON ORIGINATING PROCESS FOR
SERVICE OUTSIDE BRITISH COLUMBIA**

The plaintiff claims the right to serve this writ on the defendants, 834133 Alberta Inc. and 832790 Alberta Inc. outside British Columbia on the grounds that:

Pursuant to Rule 13(1) upon which the Plaintiff relies:

- (a) the whole subject matter of the proceeding is land in British Columbia (with or without rents or profits), or the perpetuation of testimony relating to land in British Columbia;
- (d) relief is sought against a person domiciled or ordinarily resident in British Columbia;
- (h) the proceeding is founded on a tort committed in British Columbia;
- (i) an injunction is sought as to anything to be done in British Columbia, or a nuisance in British Columbia is sought to be prevented or removed, whether or not damages are also sought in addition;
- (j) a person outside British Columbia is a necessary or proper party to a proceeding properly brought against some other person duly served in British Columbia;
- (p) the proceedings is brought upon a foreign judgment and the defendant or respondent has assets in British Columbia.

STATEMENT OF CLAIM

The Parties

1. The Plaintiff, Michael J. Quilling, of Quilling, Selander, Cummiskey & Lownds PC, 2001 Bryan Street, Suite 1800, Dallas, Texas 75201, USA, is a receiver appointed pursuant to an Order Appointing Receiver granted in the United States District Court For the Western District of North Carolina, Charlotte Division, dated May 21, 2003 empowering the receiver to, among other things, sue for and collect, recover, receive and take into possession all goods and monies and disburse funds seized in relation to the fraudulent high yield investment scheme.
2. Frederick J. Gilliland, of 2373 Constantine Place, West Vancouver, B.C. V7S 3H7, age 49, is a Canadian citizen, who resided in Florida during the period at issue and did business within the Western District of North Carolina individually and through Sterling Asset and Sterling Management. Gilliland was indicted by the U.S. Attorney for the Northern District of Florida, Pensacola Division, for securities fraud, mail fraud and wire fraud arising out of the same conduct at issue in this pleading. Gilliland is now a resident of British Columbia.
3. 834133 Alberta Inc. and 832790 Alberta Inc. are corporations incorporated pursuant to the laws of the Province of Alberta, both having their registered offices at 1130, 1015 – 4 Street S.W., Calgary, Alberta T2R 1J4. Mr. Gilliland is their sole director.
4. MM ACMC Banque de Commerce, Inc. ("MBC"), a purported international business corporation, was incorporated on December 12, 1997 in North Carolina. The controlling person of MBC was criminally convicted in Norway, in part, for conduct related to Gilliland's transfer of funds to MBC. As set forth below, MBC obtained money that Gilliland fraudulently raised from investors and would be unjustly enriched if allowed to retain it.
5. Royal Grand Exchange International Ltd. is a corporation incorporated pursuant to the laws of the Province of British Columbia, having its registered and records office at 703 – 938 Howe Street, Vancouver, British Columbia, V6Z 1N9. Mr. Gilliland is the sole director of Royal Grand Exchange International Ltd.

Related Proceeding

6. The Plaintiff, in a related proceeding, has claimed against the Defendants' known financial institutions a "Norwich Pharmacal" order that the Defendants' financial institutions disclose to the Plaintiff all of the Defendants' financial records and that the Defendants' financial institutions are prohibited from disclosing this Order or the effect thereof or that any information has been provided to the Plaintiff.

Gilliland's Investment Schemes

7. From at least mid-1997 through at least November 1998, Gilliland raised more than \$20 million from over 200 investors throughout the United States, Canada, and the United Kingdom, purportedly for investment in the fraudulent "bank debenture" and "high-yield" trading programs discussed below.

8. Gilliland represented to investors that they were investing in bank debenture or high-yield trading programs.

9. Gilliland represented to investors that investor funds will be used to purchase and trade discounted financial instruments issued by purported prime banks, a term referring to the Top 250 or "Prime" world banks, sometimes the "Top 100" world banks, in a clandestine overseas market to generate huge returns for the investor.

10. According to Gilliland, this highly profitable trading occurs in a little-known trading market where a few traders buy and sell deeply discounted bank instruments through a series of prearranged trades. Gilliland and the materials he presented to investors claimed that profits from this trading were purportedly guaranteed because the traders did not purchase the discounted financial instruments until they had prearranged a transaction to sell them on a profitable basis.

11. Gilliland told investors that very few people knew about these purportedly secret trading markets. He required investors to execute "non-disclosure/non-circumvention" agreements that purportedly prohibited the investor from disclosing any information about the purported investment or from using any information gained from the promoter or purported trader to circumvent the program. According to these agreements, information about the purported trading

programs was "highly sensitive, proprietary and confidential" and included "knowledge pertaining to sensitive banking and trade relationships and programs."

Huge Purported Profits

12. Gilliland told prospective investors that they were guaranteed high rates of return ranging from 30% per month to as high as 130% per 10 days. Despite these extraordinary returns, Gilliland assured investors there was no risk to their investment principal.

13. Gilliland explained to one investor that the reason the trading program was able to pay such attractive returns was because the purported trading group was earning 1000% to 2000% per year on the money by participating in a secret high-yield trading program that involved "bank paper."

14. In the fall of 1998, Gilliland met with a group of investors. He provided an investor in attendance with a document that described Gilliland's purported trading program in detail.

15. According to that document, the purported trading program is "an investment vehicle for the continuous purchase and resale of bank-issued debenture instruments."

16. Further, the document stated that "[o]nly the worlds [sic] most powerful and stable Money Centre Banks take part in these programs" and that "these highly controlled, guaranteed programs must follow strict procedures, rules and regulations known as ICC 500 and 600 - promulgated by the 100-year-old, worldwide regulatory body for the international banking community, the International Chamber of Commerce in Paris."

17. The document explained the need for strict secrecy for these programs: "While these programs have been available for years, strict secrecy and non-disclosure agreements are enforced. Therefore, publicity is forbidden and any 'marketing' is strictly by cautious word of mouth. The Security Exchange Commission's and the Treasury Department's official positions are that the programs do not exist. Think of what would happen to the stock market if this much safer, much higher yielding alternative were known."

18. Gilliland provided a brochure entitled *All You Wanted to Know About Bank Debentures Trading Programs But Did Not Dare Ask* to a Florida businessman who invested over \$10

million with him. According to this brochure, these Medium Term Notes or debentures are issued by Money Center Banks that comprised the top 250 banks worldwide. The brochure explains that the purported trading programs that traded these types of instruments were conducted under the specific guidelines set up by the International Chamber of Commerce, "the regulatory body for the world's great Money Center Banks in Paris, France" and they were risk free. The brochure described the purported development and history of these purportedly secret trading programs and included specific examples of discounted bond trades that purportedly produced the huge profits.

19. The purported trading programs Gilliland described to investors in his presentations and written materials do not exist. Banks, large and small, trade bonds, debentures and other financial instruments. Banks, whether international or in the United States, large or small, do not sell bonds or other financial instruments at discounts like those which Gilliland represented to investors would produce the huge, unrealistic rates of return that he promised them.

20. Many of the terms and descriptions in Gilliland's presentations and promotional materials have no accepted commercial meaning. Gilliland also falsely described well-known commercial practices to help establish the reality of his program. For example, the regulations of the International Chamber of Commerce referred to by Gilliland and the written materials he provided to investors establish rules for well-known commercial transactions but have no relationship with the purported secret trading market Gilliland described to investors.

Investor Agreements

21. Gilliland required investors to sign investment agreements with Sterling Management, or, in at least one instance, Sterling Asset. Among other things, these agreements provided: (1) that investor funds would be pooled with other monies provided by Sterling Management or Sterling Asset to meet the purported minimum amount necessary to participate in the investment; (2) that the principal investment purportedly would be fully collateralized by U.S. Treasury bills and, hence, there would be no risk to the investor's principal; and (3) that the full principal would be returned to the investor at the termination of the agreement.

22. In addition, each agreement included a payment schedule that incorporated the purportedly huge returns Gilliland promised to the specific investor.

23. Gilliland signed the agreements on behalf of either Sterling Management or Sterling Asset.

24. Gilliland promised different, but always unrealistic, rates of return to the individuals who invested with him.

Solicitation of Investors

25. Gilliland promoted his bank debenture and high-yield trading programs by presentations to individuals and groups of investors. He also promoted his schemes by encouraging individuals who had invested with him to raise additional money for Gilliland's schemes from their friends. His presentations and written materials explained how the purported bank-debenture trading programs worked, the purported history of the programs, the need for secrecy and the reasons why, according to Gilliland, banks and regulators denied the existence of the programs.

26. Gilliland encouraged investors to create offshore corporations and to open offshore bank accounts in order to invest in his programs.

27. Gilliland encouraged individuals who invested with him to solicit other investors to pool their funds in order to raise the minimum amounts he claimed were required to participate in these purported trading programs.

28. Gilliland paid several investors portions of the purported profits he had promised them while they collected money from their friends to invest in Gilliland's fraudulent schemes.

29. Gilliland's payments of purported profits from his schemes to investors created the false appearance that the trading programs were successful and encouraged other victims to invest.

30. The investors are resident in British Columbia, Ontario, the United States and the United Kingdom.

Sterling Management/Sterling Asset

31. To facilitate his fraudulent schemes, Gilliland formed Sterling Management, a foreign corporation organized in the Turks and Caicos Islands, and Sterling Asset, an international business corporation organized in the Isle of Man. He opened offshore bank accounts in each of these companies' names.

32. Gilliland directed investors to send their money to several Sterling Management and Sterling Asset accounts, including one or more Sterling Management accounts at Barclays Bank PLC ("Barclays") in the Turks and Caicos Island, a Sterling Management account at the Bank of Butterfield ("Butterfield") in Bermuda and a Sterling Asset account at the Allied Dunbar Bank ("Allied Dunbar") in the Isle of Man.

33. Gilliland transferred investor money between these accounts and to various other Sterling Management and Sterling Asset accounts, including \$20 million to an account with MBC at NationsBank in Charlotte, North Carolina and approximately \$4 million to a Sterling Management account with Paramount Insurance, Ltd. in Auckland, New Zealand.

Gilliland's Misrepresentations and Omissions

34. Gilliland made misrepresentations and omissions of material fact to investors about his bank debenture and high-yield trading programs, including, among others, misrepresentations about the existence of the purported trading programs, the risks of the investment, the unrealistic and huge profits he promised to investors and the profitability of his own investments in the programs.

35. Gilliland falsely represented to investors that the money they invested in his purported bank debenture and high-yield trading programs would be used to participate in high-yield international banking transactions with major world banks such as the Barclays Bank. Gilliland represented that his prime bank securities schemes would produce huge, risk-free profits when, in fact, Gilliland knew or was severely reckless in not knowing, that such prime bank trading programs do not exist.

36. Gilliland signed investment agreements on behalf of Sterling Asset and Sterling Management with investors which falsely stated that investors' principal would be fully collateralized by U.S. Treasury bills.

37. Gilliland had no reasonable basis to guarantee investors profits of 30% per month to 130% per ten days in risk-free investments.

38. Gilliland falsely told investors that he made millions for himself by investing in these high-yield investment programs. For example, in one instance he told investors that he invested \$25,000 and made \$1 million. In another instance, he showed investors a check in the sum of \$250,000 and told them that he planned to invest it in the high-yield program he was promoting to the investor to add to the millions he had already made.

39. Gilliland made payments to investors that he falsely claimed were the purported profits from his investment program when, in fact, Gilliland knew that no such profits were earned by his schemes.

40. Gilliland knew he had not made the profits he claimed to investors because the investments he described do not exist.

Fraud and Conspiracy

41. The Defendants conspired to plan and execute through their corporations, agents and employees the fraudulent investment scheme and received the proceeds from the scheme to the detriment of the residents of Canada, the United States and the United Kingdom and the Plaintiff pleads that the Defendants are liable for these damages. The Plaintiff pleads that the Defendants are jointly and severally liable for the conduct of their employees or agents who participated in the misrepresentations to the victims.

Vicarious Liability

42. In the alternative, if the Defendants did not actively participate in planning and executing the investment scheme, which is not admitted but denied, they are vicariously jointly and severally liable for the actions of their agents and employees who did perpetrate the investment scheme.

Restitution and Unjust Enrichment

43. In the alternative, if the Defendants did not actively participate in the planning and execution of the investment scheme, which is not admitted but denied, the Plaintiff pleads that the Defendants were willfully blind to the actions taken by their agents and/or employees and became unjustly enriched by such employees' and/or agents' investment schemes to the detriment of the victims. The Plaintiff pleads that the Defendants have benefited from the investment scheme and have unjustly benefited at the expense of the victims. Accordingly, they are liable to make restitution to the Plaintiff and to disgorge all proceeds from the investment scheme.

Constructive Trustees in Breach of Trust

44. The Plaintiff pleads that the Defendants hold all funds received from the victims or property purchased with or improved with such funds as constructive trustees to the benefit of the victims.

45. The Plaintiff pleads that the Defendants were involved in a joint venture out of which joint venture a profit was made to the detriment of the victims, and that the Defendants are therefore constructive trustees for the victims with respect to such profit and are in breach of this constructive trust. The profit is the total amount paid by the victims to the Defendants. The Plaintiff pleads that the Defendants are jointly and severally liable for this breach of trust.

Joint and Several Liability

46. The Plaintiff pleads that the Defendants are jointly and severally liable for all of the victims' damages and are jointly and severally liable for restitution.

47. The Plaintiff pleads that Gilliland used the corporate Defendants in furtherance of the fraudulent scheme and that these corporations were used as fronts and/or shams in that he cannot rely on any of the corporate Defendants to limit his liability.

Accounting

48. The Plaintiff pleads that it is entitled to an accounting from the Defendants of all amounts received from the victims and the proceeds therefrom and plead and rely upon the breach of the

constructive trust imposed at law upon the Defendants and the Defendants' breach of fiduciary duty.

Injunction

49. The Plaintiff pleads that it is entitled to an interlocutory and permanent injunction restraining the Defendants from disposing of any of their assets in British Columbia and an accounting of all assets, effects and property of the Defendants, including any trust account or any improper disposition thereof and of all money had or received by the Defendants for any person on their behalf and of all dealings and transactions between the victims and the Defendants and between these Defendants.

WHEREFORE THE PLAINTIFF CLAIMS:

- (a) payment of an amount in Canadian currency sufficient to purchase the sum of \$30 million U.S. currency at a Chartered Bank in British Columbia, for restitution of monies obtained by these Defendants from residents of the United States, Canada and the United Kingdom through a fraudulent high yield investment scheme;
- (b) in the alternative to (a) above, payment in the amount of \$30 million U.S. currency at a Chartered Bank in British Columbia, for damages for fraud, fraudulent misrepresentation, deceit, unjust enrichment, breach of fiduciary duty, breach of trust, conspiracy and negligence;
- (c) damages arising out of the detection, investigation and quantification of the losses suffered by the residents of the United States, Canada and the United Kingdom, the particulars of which will be provided prior to trial;
- (d) an interim, interlocutory and permanent injunction restraining the Defendants, their servants or agents or others with knowledge of the Order from selling, mortgaging, pledging, transferring, assigning, diminishing, or otherwise disposing of or dealing in any manner with any of the Defendants' assets whatsoever and wheresoever situated including, but not limited to any fund currently held on

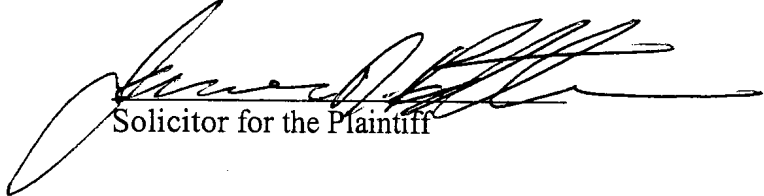
deposit by them in any bank account or investment account for which they have authority to conduct transactions;

- (e) an interim, interlocutory and permanent injunction restraining the Defendants from selling, mortgaging, pledging, transferring, assigning or diminishing or otherwise disposing of or dealing in any manner with any real property, wheresoever located;
- (f) an interim, interlocutory and permanent injunction restraining the Defendants from removing any of their assets from the Province of British Columbia;
- (g) a declaration that the Plaintiff is entitled to trace the moneys received by the Defendants into and through any bank or financial institution an account or deposit facilities in the name of any of the Defendants and into and through any assets purchased by the Defendants with the funds obtained through the fraudulent telemarketing schemes;
- (h) a declaration recognizing Michael J. Quilling as Receiver;
- (i) an accounting of what funds belonging to the defrauded residents of the United States, Canada and the United Kingdom have come into the hands of the Defendants;
- (j) pre-judgment and post-judgment interest on all amounts awarded to the Plaintiff pursuant to the Court Order Interest Act, R.S.B.C. 1996, c.79;

- (k) special costs of this action and all related proceedings; and
- (l) such further and other relief as this Honourable Court may deem just to grant.

PLACE OF TRIAL: Vancouver, BC

Dated: July 30, 2003



Solicitor for the Plaintiff

This Statement of Claim is filed by Jim Patterson/Lincoln Caylor of the firm of BENNETT JONES LLP, whose place of business is 3400, One First Canadian Place, P.O. Box 130, Toronto, Ontario, M5X 1A4, Telephone: (416) 777-6250/6121, Fax: (416) 863-1716, and whose address for delivery is c/o Edwards, Kenny & Bray, 1900 - 1040 West Georgia Street, Vancouver, BC V6E 4H3, Telephone: (604) 689-1811, Fax: (604) 689-5177, Attention: Rachel Fisher.

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BETWEEN:

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FREDERICK J. GILLILAND, 834133 ALBERTA INC., 832790 ALBERTA INC. and ROYAL GRAND EXCHANGE
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DEFENDANTS

WRIT OF SUMMONS AND STATEMENT OF CLAIM

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