

Following excerpts taken from the Statement of Claim (See PDF Statement of Claim)

K2: Egregious operation: generally

1. CLICO's operation was grossly deficient and egregious in the following (and other) respects:

- (1) The interests of policyholders and mutual fund investors were subordinated to the interests (and demands) of others, in particular the private interests of Mr Duprey and Mr Monteil;**
- (2) Returns offered on products and related costs were excessive and unsustainable;**
- (3) Money invested by policyholders and mutual fund investors was improperly disbursed, including:**
 - (a) to fund Mr Duprey's personal needs and lifestyle, as well as those of other members of his family and private companies;**
 - (b) to fund ventures by other companies which were not in the interests of CLICO but rather in the interests of Mr Duprey and Mr Monteil and companies related to them;**
 - (c) to fund CLF notwithstanding its failure to repay previous indebtedness to CLICO;**
 - (d) to fund CIB by way of providing deposits and a bond, notwithstanding its failure to repay previous indebtedness to CLICO.**
- (4) CLICO's assets were improperly dealt with;**
- (5) CLICO was improperly exposed to liabilities unrelated to its interests;**
- (6) CLICO was improperly caused to provide security for transactions unrelated to its interests;**
- (7) CLICO was improperly caused to provide an interest free current account facility to CLF; and,**
- (8) Assets were not matched to liabilities, in particular in order to generate the sums needed to pay the rates of return contractually due to policyholders and mutual fund investors.**

2. There was no proper governance of CLICO (nor of CLF and CIB).

K5: Ponzi schemes

3. Mr Duprey and Mr Monteil operated or procured the operation of two types of ponzi schemes:
4. **Internal ponzi scheme:** Mr Duprey and Mr Monteil procured improper diversion and misappropriation of CLICO's money (including policyholders' money) in order to fund CIB and/or CLF and/or other group entities, often in return for worthless or wholly inadequate purported consideration and/or security. They did so in circumstances where they knew or should have known that there was no or little prospect of return. They knew or ought to have known that CLF and CIB were each (a) highly dependent upon CLICO not seeking repayment of principal and accumulated interest on existing indebtedness from them, as well as dependent upon CLICO for further funding and (b) unable to pay its debts to CLICO as they fell due.
5. **External ponzi scheme:** Mr Duprey and Mr Monteil procured improper dealing with new money from policyholders and mutual fund investors (i.e. money from new policyholders/investors and new money from existing policyholders/investors), including improperly funding redemptions and repayments to existing policyholders/investors, without sufficient or any proper regard to what was required to fund future liabilities to them. Mr Eugene Dziadyk, then a director of CLICO, in an attachment to an email dated 11.04.06 noted that Mr Duprey was "*borrowing at extraordinary rates from CLICO policyholders*". In a presentation prepared by Mr Dziadyk and Ms Gardier in August 2006, it was stated that CLICO was operating a "*Ponzy (sic) scheme: Use today's premiums to pay yesterday's obligations*".