

Vancouver Sun

North Van woman sues B.C. regulator

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Byline: David Baines, Sun Business Reporter

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Illustrations: Color Photo: Bill Keay, Vancouver Sun / LAUNCHES LEGAL ACTION: Mary Francis Cooper on steps of North Vancouver home.

A 55-year-old North Vancouver woman who lost \$94,500 in the Eron Mortgage Corp. fiasco has filed a class action lawsuit in B.C. Supreme Court against the B.C. government's financial watchdog.

Mary Francis Cooper alleges that Robert Hobart, B.C.'s registrar of mortgage brokers, breached his duty by not intervening in Eron's business affairs when his office became aware of "serious issues" of misconduct.

The lawsuit was filed under the Class Proceedings Act by Vancouver lawyer David Church, who said in an interview Wednesday that he will apply to court to have it certified as a class action.

Church also said the B.C. attorney-general's office has advised it will file a statement of defence by Sept. 30.

About 4,000 people in B.C. and Alberta invested more than \$200 million in about 47 projects sponsored by Eron, which was registered as a mortgage-broking firm under the B.C. Mortgage Brokers Act.

On Oct. 3, Hobart -- who was in charge of administering the act -- suspended Eron's licence for a host of financial irregularities.

Eron was subsequently placed in bankruptcy and investors' money has been frozen while judicial trustee Price Waterhouse attempts to sort out the firm's tangled affairs.

In an interview Wednesday, Cooper, who works as a realtor in North Vancouver, said she invested \$94,500 on her own behalf and another \$50,000 for her husband.

"That's a good portion of our life savings. It's not 100 per cent, but just about, outside of what we have in our home."

She said she invested in a variety of Eron mortgages "because I didn't want to put all my eggs in one basket. But when Eron went down, it was like they were all in one basket anyway."

She said Eron's collapse has had a serious impact on her life.

"For the last year, I had an exacerbation of a kidney ailment. I've been told to slow down and cut back, but that option isn't really available to me. There's no freedom for me at 55."

She also said the financial loss has adversely affected her marriage.

Referring to Hobart's office, she said: "My feeling is that as soon as they knew something was going wrong or not going right, one of two things should have happened: Either they shut it down or they warn all the investors. In this case, nothing happened."

In her statement of claim, Cooper says that, from January 1996 to July 1997, she invested in mortgages and securities offered by Eron Mortgage Corp. and a sister company, Eron Investment Corp. (EIC).

She notes that, under the Mortgage Brokers Act, Eron was required to hold the money in trust and use it for authorized purposes only.

However, she alleges, Eron used the money to fund interest payments on other non-performing mortgages administered by Eron, and to pay for personal items for Eron's principals, Brian Slobogian and Frank Biller.

She also alleges that Eron offered investments to the public that were not mortgages under the act, and that Eron was employing people who were not properly registered under the act, and that EIC itself was not registered.

She claims that at least one Eron employee had been previously disciplined by the Vancouver Stock Exchange and that both Biller and Slobogian had been previously bankrupt.

Cooper says that by at least Aug. 28, 1996, Hobart's office had become aware of "serious violations of the Mortgage Brokers Act by Eron and its principals."

Specifically, she says that Hobart had become aware that:

- Several orders that he and his deputy registrar had given to Eron had been disregarded.

- Unregistered people had been conducting mortgage brokerage activity on Eron's behalf.

- Eron's principals had personal interests in some of the projects Eron was funding, but were not fully advising the investing public of the conflicts.

- Eron was not advising them of the risk of the various projects, or that some of the mortgages were in default.

- Eron was raising funds from public investors in excess of the face amount of the mortgages (thereby creating security shortfalls.)

Despite this awareness, she said, Hobart ``failed to take steps to suspend Eron's operations in a timely manner or to notify persons such as the plaintiff of the violations."

If he had, she said, ``the losses suffered by investors including the plaintiff would have been avoided or diminished."

The lawsuit alleges that Hobart breached the duty of care he owed to the plaintiff, was negligent in administering his duties or, alternatively, was ``reckless and grossly negligent" in failing to suspend Eron's registration until October 1997.

The action seeks unspecified damages plus costs.