



Court File No.: CV-11-431153-00CP

THE HONOURABLE REGIONAL SENIOR)
JUSTICE MORAWETZ)

~~FRIDAY~~ **WEDNESDAY** THE 5TH DAY
) OF APRIL, 2017

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

BETWEEN:

THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND EASTERN CANADA, THE TRUSTEES OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 793 PENSION PLAN FOR OPERATING ENGINEERS IN ONTARIO, SJUNDE AP-FONDEN, DAVID GRANT, ROBERT WONG, DAVIS NEW YORK VENTURE FUND, INC. and DAVIS SELECTED ADVISERS, L.P.

Plaintiffs

- and -

SINO-FOREST CORPORATION, ERNST & YOUNG LLP, BDO LIMITED (formerly known as BDO MCCABE LO LIMITED), ALLEN T.Y. CHAN, W. JUDSON MARTIN, KAI KIT POON, DAVID J. HORSLEY, WILLIAM E. ARDELL, JAMES P. BOWLAND, JAMES M.E. HYDE, EDMUND MAK, SIMON MURRAY, PETER WANG, GARRY J. WEST, CREDIT SUISSE SECURITIES (CANADA), INC., TD SECURITIES INC., DUNDEE SECURITIES CORPORATION, RBC DOMINION SECURITIES INC., SCOTIA CAPITAL INC., CIBC WORLD MARKETS INC., MERRILL LYNCH CANADA INC., CANACCORD FINANCIAL LTD., MAISON PLACEMENTS CANADA INC., CREDIT SUISSE SECURITIES (USA) LLC and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED (successor by merger to Banc of America Securities LLC)

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the plaintiffs, for an order approving: (a) a process to identify current contact information for settlement claimants; (b) a redistribution of undeposited settlement funds to settlement claimants who have deposited their settlement cheques; (c) a cy près distribution of settlement funds remaining in any settlement fund in an amount below \$250,000; (d) the payment of the administrator RicePoint's administration costs; (e) repayment of class counsel's unclaimed disbursements relating to prior settlements; and (f) payment of HST arising from disbursements incurred in the U.S. and elsewhere outside of Canada, was heard on April 5, 2017 at 8:30 a.m. at 330 University Avenue, Toronto, Ontario.

WHEREAS the plaintiffs have entered into settlement agreements with the following defendants for which court approval has been granted: (a) Ernst & Young LLP; (b) David Horsley; (c) BDO Limited; (d) W. Judson Martin, Edmund Mak, Simon Murray, Peter Wang, William Ardell, James Bowland, James Hyde, Garry West; and (e) Credit Suisse Securities (Canada) Inc., TD Securities Inc., Dundee Securities Ltd., RBC Dominion Securities Inc., Scotia Capital Inc., CIBC World Markets Inc., Merrill Lynch Canada Inc., Canaccord Financial Ltd. (now known as Canaccord Genuity Corp.), Maison Placements Canada Inc., Credit Suisse Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated, successor by merger to Banc of America Securities LLC (the "Settlements");

ON READING the plaintiffs' notice of motion, the affidavits of Jonathan Ptak, and the objections,

1. **THIS COURT ORDERS** that the time for service and filing of this notice of motion and motion record is validated and abridged and any further service thereof is dispensed with.

2. **THIS COURT ORDERS** that the plan attached hereto as **Schedule "A"** to identify current contact information for Settlement claimants who have made claims in the Settlements but have not deposited their Settlement cheques and to mail these claimants their Settlement cheques is and hereby be approved, the cost to be payable to RicePoint from the Settlement funds to a maximum of \$10,000 plus HST per Settlement.

3. **THIS COURT ORDERS** that following the implementation of the plan attached hereto as **Schedule "A"**, RicePoint shall redistribute undeposited Settlement funds to Settlement claimants who have been located and who have deposited their Settlement cheques, the cost of such redistribution to be payable to RicePoint from the Settlement funds to a maximum of \$72,000 plus HST per redistribution.

4. **THIS COURT ORDERS** that any settlement funds remaining from any Settlement in an amount below \$250,000 shall be distributed a cy près as follows:

(a) for the portion of remaining Settlement funds notionally attributed to Quebec class members, a cy près distribution in accordance with the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives* and to Pro Bono Quebec and l'Observatoire du droit des marchés financiers; and

(b) for the balance of the remaining Settlement fund, a cy près distribution to the Access to Justice Fund of the Law Foundation of Ontario.

5. **THIS COURT ORDERS** that class counsel shall be paid disbursements in the amount of \$39,306.88 from the Settlement funds on a *pro rata* basis.

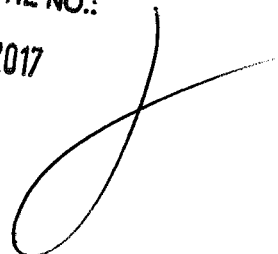
6. **THIS COURT ORDERS** that class counsel shall be paid HST in the amount of \$93,220.78 from the Settlement funds on a *pro rata* basis.



Morawetz RSJ

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:
APR 05 2017

PER / PAR:



Schedule "A"

Additional Claimant Address Search Plan

1. For each Plan of Allocation, after six months have elapsed from the distribution of settlement cheques (or, in the case of the Ernst & Young settlement, after court approval of this plan) (the "**Search Commencement Date**"), RicePoint will identify all claimants to whom settlement cheques have been mailed but who have not deposited their settlement cheques (the "**Undeposited Claimant**").
2. For each Undeposited Claimant, RicePoint will conduct or cause to be conducted all of the following searches in order to find the Undeposited Claimants' current contact information:
 - a. Canadian national change of address database or U.S. Best Addresses, as the case may be;
 - b. reverse phone number lookup;
 - c. Canada 411; and
 - d. general internet searches.
3. The searches identified in (2), above, will be conducted within 45 days of the Search Commencement Date (the "**Search Deadline Date**").
4. Within 30 days of the Search Deadline Date, for Undeposited Claimants with settlement cheques in an amount over \$10,000 for whom current contact information has not been located, RicePoint will conduct or cause to be conducted additional searches to locate current contact information with all costs associated with such additional searches to be paid from the Undeposited Claimant's entitlement under the settlement.
5. If RicePoint locates more than one new mailing address for an Undeposited Claimant, RicePoint will make further inquiries to determine which address is correct.
6. If RicePoint locates a new mailing address for an Undeposited Claimant, RicePoint will issue and mail a new settlement cheque to the Undeposited Claimant, to be stale dated within two months of issuance.
7. If an Undeposited Claimant deposits its settlement cheque, its contact information will be updated accordingly for subsequent settlement cheque distribution. If an Undeposited Claimant does not deposit its settlement cheque, its contact information will not be updated accordingly for subsequent settlement cheque distribution.
8. For each settlement cheque distribution other than the Ernst & Young settlement, RicePoint shall not distribute settlement cheques to previously identified Undeposited Claimants. These cheques shall be withheld until the searches identified in (2) and (4), above, are conducted. If the searches identified in (2) and (4), above, are conducted and no current contact information is found, RicePoint will send Undeposited Claimants their

settlement cheques to the last provided address list, to be stale dated within six months of issuance.

9. The cost of implementing this plan shall not exceed \$10,000 plus HST for each Plan of Allocation.

THE TRUSTEES OF THE LABOURERS' PENSION
FUND OF CENTRAL AND EASTERN CANADA *et al.*

-and- SINO-FOREST CORPORATION *et al.*

Plaintiffs

Defendants

Court File No. CV-11-431153-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding Commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

ORDER

KOSKIE MINSKY LLP
20 Queen Street West, Suite 900, Box 52
Toronto ON M5H 3R3

Kirk M. Baert (LSUC#: 309420)
Tel: (416) 595-2092/Fax: (416) 204-2889

Jonathan Ptak (LSUC #: 45773F)
Tel: (416) 595-2149/Fax: (416) 204-2903

Garth Myers (LSUC#: 62307G)
Tel: (416) 595-2102/Fax: (416) 204-4924

SISKINDS LLP
302-100 Lombard Street
Toronto ON M5C 1M3

Charles M. Wright (LSUC#: 36599Q)
Daniel E. H. Bach (LSUC# 52087E)
Sajjad Nematollahi (LSUC#: 62311B)
Tel: (416) 594-4390/Fax: (416) 594-4391

Lawyers for the Plaintiffs