

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

KATHRYN ROBINSON and RICK ROBINSON

Plaintiffs

and

ROCHESTER FINANCIAL LIMITED, PROMITTERE CAPITAL GROUP
INC., PROMITTERE ASSET MANAGEMENT LTD., BANYAN TREE
FOUNDATION and FRASER MILNER CASGRAIN LLP

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**SUPPLEMENTARY OBJECTIONS BRIEF
RE: SETTLEMENT AND CLASS COUNSEL FEE APPROVAL
RETURNABLE JANUARY 17, 2012**

January 16, 2012

SCARFONE HAWKINS LLP

Barristers & Solicitors
One James Street South
14th Floor
P.O. Box 926, Depot 1
Hamilton, Ontario
L8N 3P9

DAVID THOMPSON (LSUC # 28271N)

thompson@shlaw.ca

MATTHEW G. MOLOCI (LSUC # 40579P)

moloci@shlaw.ca

Tel: 905-523-1333

Fax: 905-523-5878

Lawyers for the plaintiffs,
Kathryn Robinson and Rick Robinson

TO: **LENCZNER SLAGHT ROYCE SMITH GRIFFIN^{LLP}**
Barristers and Solicitors
130 Adelaide Street West, Suite 2600
Toronto, Ontario
M5H 3P5

GLENN SMITH (LSUC # 157770)
gsmith@litigate.com
PETER GRIFFIN (LSUC # 19527Q)
pgriffin@litigate.com

Tel : 1-416-865-9500
Fax: 1-416-865-9010

Lawyers for the defendant, Fraser Milner Casgrain^{LLP}

TO: **THORNTON GROUT FINNIGAN LLP**
Suite 3200, 100 Wellington Street West
P. O. Box 329, Toronto-Dominion Centre
Toronto, Ontario
M5K 1K7

JOHN FINNIGAN
JFinnigan@tgf.ca
Tel: 1-416-304-1616
Fax: 1-416-304-1313

Lawyers for Grant Thornton Limited

AND
TO: **ROBERT THIESSEN**
Bayside
1325 Pacific Highway
Unit 3302
San Diego, California
92101 USA

E-Mail: rthiessen@rogers.com

Defendants, Rochester Financial Limited, Banyan Tree
Foundation, Promittere Asset Management Ltd., Promittere
Capital Group Inc.

INDEX

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INDEX

TAB DESCRIPTION

1. List of further Objections received to January 16, 2012 (9:00 a.m.)
2. Correspondence from various Class Members regarding objection

TAB 1

LIST OF FURTHER OBJECTIONS RECEIVED TO JANUARY 16, 2012 (9:00 A.M.)

OPT-OUT CODE 1

No.	Claim No	Surname	First Name	Opt Out Code	City	Prov.	Financial Advisor
1	C0707	Foster	Janice	1	Edmonton	AB	Hawrysh, Theodore
2	C0748	Gacich	Tad	1	Newmarket	ON	Gacich, Tad
3	C1125	Knip	Heather	1	Niverville	MB	Friesen, Neil
4	C1126	Knip	Trevor	1	Niverville	MB	Friesen, Neil
5	C1173	Kroeker	Dennis	1	Arnes	MB	Friesen, Neil
6	C1358	Malenchak	Gary & Nelsia	1	Morden	MB	Eger, Robert
7	C1376	Marie	Peter	1	Burlington	ON	Lawson, Douglas A.ias A.
8	C1419	McGregor	Stacey	1	Vancouver	BC	Friesen, Neil
9	C1786	Quinn	Kathleen J.	1	Toronto	ON	Quinn, Shirley
10	C1787	Quinn	Kathleen J.	1	Toronto	ON	Quinn, Shirley
11	C1875	Robinson	Gene	1	Oshawa	ON	Thiessen, Robert
12	C1877	Robinson	Ralph	1	Enniskille	ON	Thiessen, Robert
13	C1878	Robinson	Ronald	1	Oshawa	ON	Kaylx Securities
14	C1879	Robinson	Ronald D.	1	Bowmanville	ON	Naus, D
15	C1880	Robinson	Ronald R.	1	Oshawa	ON	Naus, D
16	C2008	Simpson	Keith	1	Doral	FL	Quinn, Shirley
17	C2277	Wildman	Libby	1	Toronto	ON	Wildman, Libby

OPT-OUT CODE 2

No.	Claim No	Surname	First Name	Opt Out Code	City	Prov.	Financial Advisor
1	C0580	Dueck	Mark	2	Winnipeg	MB	Eger, Robert
2	C2339	Young	Gail & Ronald	2	Winnipeg	MB	Eger, Robert

OPT-OUT CODE 3

No.	Claim No	Surname	First Name	Opt Out Code	City	Prov.	Financial Advisor
1	C0710	Foster	Ralston	3	Sherwood Park	AB	Hawrysh, Theodore
2	C1004	Inkster	B.J.	3	North Vancouver	BC	Hawrysh, Theodore
3	C1359	Malenchak	Gary	3	Morden	MB	
4	C1843	Remin	Stanley Wm.	3	Edmonton	AB	Hawnysh, Theo

OPT-OUT CODE 4

No.	Claim No	Surname	First Name	Opt Out Code	City	Prov.	Financial Advisor
1	C0211	Booth	J. A.	4	Oakville	ON	Booth, James
2	C0347	Castillo	Ryan	4	Markham	ON	Quinn, Shirley
3	C0611	Edwards	R. Dennis	4	Broadview	SK	1130255 Alberta Inc.
4	C0772	Gauer	Katrin	4	London	ON	Quinn, Shirley
5	C0913	Haynes	Robert J.	4	Fort McMurray	AB	Eger, Robert
6	C1276	Lewis	Cyril	4	Ajax	ON	Quinn, Shirley
7	C1788	Quinn	Edmund R.	4	Toronto	ON	Quinn, Shirley
8	C1789	Quinn	Shirley	4	Toronto	ON	Quinn, Shirley
9	C1790	Quinn	Shirley A.	4	Toronto	ON	Quinn, Shirley
10	C2055	Southam	Estate of Bradley	4	Winnipeg	MB	Eger, Robert

TAB 2

Fax Cover Sheet

To: DAVID Thompson

From: Ralston (Ralph) Foster
Janice Patterson (Foster)

Fax: 9055235878

Date: Jan 11, 2012

Phone:

Area:

Re: Banyan Tree Class action

Urgent For Review Please Comment Please Reply Please Recycle

Comments

Please find the letters of objections from myself Ralston (Ralph) Foster and my daughter Janice Patterson.

Confirm receiving at the following e-mails.

Ralph Foster - ralph_foster@shaw.ca

Janice Patterson - jj_ebony@hotmail.com

Thank You.

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION
REGARDING BANYAN TREE FOUNDATION
LEVERAGED CHARITABLE DONATION PROGRAM**

Read this notice carefully as it may affect your legal rights.

PURPOSE OF THIS NOTICE

This notice is to all individuals who participated in the Banyan Tree Gift Program for the taxation years 2003, 2004, 2005, 2006 and 2007.

In 2008, the plaintiffs commenced a proposed class proceeding against Rochester Financial Limited, Promittere Capital Group Inc., Promittere Asset Management Inc., Banyan Tree Foundation and Fraser Milner Casgrain LLP, in the Ontario Superior Court of Justice, Court File No. 08-CV-349792.

On January 19, 2010, the Ontario Superior Court of Justice certified this action as a class proceeding.

The representative plaintiffs in the class proceeding have reached a proposed settlement with the defendants on behalf of all Class Members, subject to obtaining necessary court-approval. The settlement is a compromise of disputed claims.

TERMS OF PROPOSED SETTLEMENT

The Plaintiffs will be requesting a declaration from the court that all promissory notes in favour of 1106999 Ontario Limited, Rochester Financial Limited and any other lender who provided loans under the Gift Program, are void and unenforceable against Class Members.

The defendants agree to establish a Settlement Fund of \$11,000,000.00. Each Class Member will be paid a portion of the Settlement Fund on a *pro-rata* basis in accordance with participation in the Banyan Tree Gift Program.

Pursuant to the terms of the proposed settlement, \$350,000.00 will be set aside for claims administration costs to be paid from the Settlement Fund.

The Court will be asked to approve a Counsel Fee of \$2,750,000.00, representing 25% of the Settlement Fund, plus payment of disbursements and applicable taxes.

The Court will also be asked to approve proposed compensation to be paid to the representative plaintiffs, Kathryn and Rick Robinson.

The Settlement Agreement and Distribution Plan will be published at www.classactionlaw.ca prior to the hearing date.

COURT HEARING

The Court will be asked to approve the proposed settlement as recommended by the representative plaintiffs, Class Counsel and the defendants and their counsel.

A court hearing will be held on **January 17, 2012**, at 10:00 a.m. EST, at 361 University Avenue, Toronto.

Class Members who do not oppose the proposed settlement do not need to appear at the hearing or take any action at this time. Class Members are bound by the terms of settlement if approved.

OBJECTIONS TO THE PROPOSED SETTLEMENT

At the hearing, the Court may consider any objections to the proposed settlement by Class Members. Class Members may, but need not, submit any objections in writing to Class Counsel on or before **January 6, 2012**:

BY MAIL TO:

THE BANYAN TREE CLASS ACTION

SCARFONE HAWKINS LLP

Barristers & Solicitors

One James Street South, 14th Floor, P.O. Box 926, Depot #1
Hamilton, Ontario, L8N 3P9

ATTENTION: DAVID THOMPSON/ MATTHEW G. MOLOCI

OR BY FAX TO: 1-905-523-5878

OR BY EMAIL TO: banyanclassaction@shlaw.ca

A written objection should include the following information:

- (a) the Class Member's name, address, telephone number, fax number, mail and e-mail address;
- (b) a brief statement of the nature of and reason for the objection; and
- (c) whether the Class Member intends to appear at the hearing in person or by counsel and, if by counsel, the name, address, telephone number, fax number mail and e-mail address of counsel.

Any objections to the settlement will be filed with the court and may be considered at the January 17, 2012 hearing.

If the Court approves the proposed settlement, all Class Members will be bound by the terms of the settlement, unless they have previously opted-out. If the proposed settlement is approved, there will be a further court-approved Notice detailing the settlement administration process.

ADDITIONAL INFORMATION

Questions for Class Counsel should be directed in writing or telephone to:

Scarfone Hawkins LLP

Barristers and Solicitors

One James Street South, 14th Floor, P.O. Box 926

Depot #1

Hamilton, Ontario, L8N 3P9

Attention: David Thompson/Matthew G. Moloci

Tel: 905.526.4394

Fax: 905.523.5878

E-mail: banyanclassaction@shlaw.ca

ADDITIONAL INFORMATION REGARDING THE SETTLEMENT CAN BE FOUND AT WWW.CLASSACTIONLAW.CA

**THIS NOTICE HAS BEEN APPROVED BY THE ONTARIO SUPERIOR COURT OF JUSTICE.
QUESTIONS ABOUT THIS NOTICE SHOULD NOT BE DIRECTED TO THE COURT.**

Ralph Foster

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

Dear Mr. Thompson and Mr. Moloci

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

I am advised that you have been requested to present a revised settlement proposal to the court for approval which will remove any elements prejudicial to class members' cases with CRA.

I hereby confirm that I strongly object to the currently proposed settlement and I fully support and in fact insist on your presenting to the court on behalf of class members a revised settlement proposal, to be agreed with tax counsel acceptable to the Donor's Committee, which will eliminate any statement, declaration, or other or action which could reasonably be expected to have a negative influence on the tax status of class members.

Regards,



Jan 10, 2012

Ralph Foster

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

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Regards,



Jan 10, 2012
Janice Patterson

Christine Hutton

From: Tad Gacich <tad@gacichfinancial.com>
Sent: Thursday, January 12, 2012 5:34 PM
To: David Thompson
Cc: Matt Moloci
Subject: Banyan Tree Settlement

Attn: Scarfone Hawkins
David Thompson thompson@shlaw.ca
Matthew Moloci moloci@shlaw.ca
Phone: (905) 523-1333
Fax: (905) 523-5878
Dear Mr. Thompson and Mr. Moloci

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal. I am advised that you have been requested to present a revised settlement proposal to the court for approval which will remove any elements prejudicial to class members' cases with CRA. I hereby confirm that I strongly object to the currently proposed settlement and I fully support and in fact insist on your presenting to the court on behalf of class members a revised settlement proposal, to be agreed with tax counsel acceptable to the Donor's Committee, which will eliminate any statement, declaration, or other or action which could reasonably be expected to have a negative influence on the tax status of class members.

Regards,

Tad

Tad Gacich CFP CLU LL.B.
Gacich Financial Inc.
2-117 Wellington Street East
Aurora, ON
L4G 1H9
Tel: 905 727-5222
Fax: 905 727-5217
Cell: 416 428-1012
email:tad@gacichfinancial.com

Patrick Randle

From: H & T Knip <htknip@rainyday.ca>
Sent: Saturday, January 14, 2012 11:39 PM
To: Matt Moloci; David Thompson
Cc: robert.eger@shaw.ca; Banyan Class Action
Subject: Banyan Tree Foundation Leveraged Charitable Donation Program - Heather Knip

To:

Scarfone Hawkins
Barristers & Solicitors
One James Street South
14th Floor
Hamilton, Ont. L8N 3P9

Attention:

David Thompson
Matthew Moloci

Dear Sirs:

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that

"If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Thank-you.

Sincerely,

HEATHER KNIP
Box 1474
Niverville, MB R0A 1E0

Email: htknip@rainyday.ca
Phone: 204-388-6686

D.O.B: June 11, 1979
SIN: 648 469 310
Year of Participation: 2005
Amount: \$10,000.00
Receipt No.: 050581

Patrick Randle

From: H & T Knip <htknip@rainyday.ca>
Sent: Saturday, January 14, 2012 11:39 PM
To: Matt Moloci; David Thompson
Cc: robert.eger@shaw.ca; Banyan Class Action
Subject: Banyan Tree Foundation Leveraged Charitable Donation Program - Trevor Knip

To:

Scarfone Hawkins
Barristers & Solicitors
One James Street South
14th Floor
Hamilton, Ont. L8N 3P9

Attention:

David Thompson
Matthew Moloci

Dear Sirs:

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Thank-you.

Sincerely,

TREVOR KNIP
Box 1474
Niverville, MB R0A 1E0

Email: htknip@rainyday.ca
Phone: 204-388-6686

D.O.B: April 14, 1973
SIN: 643 932 072
Year of Participation: 2005
Amount: \$25,000.00
Receipt No.: 050582

Christine Hutton

From: Dennis & Linda Kroeker <denlin4@lakenet.ca>
Sent: Wednesday, January 11, 2012 5:35 PM
To: David Thompson; Matt Moloci
Cc: Robert Eger
Subject: Banyan Tree Objection

To:

Scarfone Hawkins
Barristers & Solicitors
One James Street South
14th Floor
Hamilton, Ont. L8N 3P9

Attention:

David Thompson
Matthew Moloci

Dear Sirs:

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that

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Thank-you.

Sincerely,
Dennis Kroeker
Box 158
Arnes Manitoba
R0C 0C0

Christine Hutton

From: gary malenchak <spinyman@hotmail.com>
Sent: Saturday, January 14, 2012 12:00 AM
To: David Thompson; Matt Moloci
Subject: Banyan Tree Donation

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Nelsia Malenchak

Christine Hutton

From: gary malenchak <spinyman@hotmail.com>
Sent: Friday, January 13, 2012 11:57 PM
To: David Thompson; Matt Moloci
Subject: Banyan Tree Donation

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Gary Malenchak

Christine Hutton

From: Peter Marie <pmarie@cogeco.ca>
Sent: Wednesday, January 11, 2012 2:46 PM
To: Banyan Class Action
Cc: robert.egar@shaw.ca
Subject: Banyan Class Action Objection

Scarfone Hawkins

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class council on it's website, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of the CRA that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this`assertion.

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Yours truly,

Peter Marie
1347 Headon Rd
Burlington, ON
L7M 1X4

Christine Hutton

From: Stacey McGregor <stacey@shiftcommunicationsinc.com>
Sent: Wednesday, January 11, 2012 10:17 PM
To: David Thompson; Matt Moloci
Subject: Banyan Tree

January 11, 2012

Scarfone Hawkins
Barristers & Solicitors
One James Street South
14th Floor
Hamilton, Ont. L8N 3P9

Attention:

David Thompson
Matthew Moloci

Dear Sirs:

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that:

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Thank-you.

Sincerely,

Stacey McGregor
505 – 1340 West 12th Avenue
Vancouver, BC V6H1M5

Patrick Randle

From: Kathleen Quinn <kathyquinn48@gmail.com>
Sent: Saturday, January 14, 2012 5:15 PM
To: David Thompson; molici@shlaw.ca
Subject: signed fax to follow Monday 16/12 signed K. Quinn
Attachments: Scarfone Letter Example.pdf

Saturday January 14, 2012

I understand from my Uncle Ed Quinn that I should send you this letter than protects all of Banyan Tree investors with Revenue Canada as well as demonstrate that there are more of us too. I will fax a signed version of this letter this Sunday (tomorrow) or Monday morning.....signed Kathleen Quinn,

1005-63 St. Clair Ave. W. Toronto, Ontario M4V2Y9 416-485-7970

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

Dear Mr. Thompson and Mr. Moloci

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Regards,

Christine Hutton

From: Ralph Robinson <ralph@ronrobcon.com>
Sent: Thursday, January 12, 2012 12:22 PM
To: David Thompson; Matt Moloci
Cc: robert.eger@shaw.ca
Subject: Banyan Tree proposed settlement

Gentlemen

We would like to inform you we have paid off some of our notes and feel an injustice has been done. Charities have received monies from our donations and believe CRA getting involved has stopped the flow of our monies going to these charities.

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Signed

Ronald R. Robinson
Ronald D. Robinson
Gene G. Robinson
Ralph F. Robinson
1370287 Ontario Limited

Christine Hutton

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Gene G. Robinson
Ralph F. Robinson
1370287 Ontario Limited

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Cc: robert.eger@shaw.ca
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Ronald R. Robinson
Ronald D. Robinson
Gene G. Robinson
Ralph F. Robinson
1370287 Ontario Limited

Christine Hutton

From: Keith Simpson <kspanama@yahoo.com>
Sent: Saturday, January 14, 2012 3:53 PM
To: David Thompson; Matt Moloci
Cc: ED Quinn
Subject: Banyan objection
Attachments: Banyan 002.jpg

Dear Mr Thompson and Mr Moloci,
Please find a signed copy of my objection to the currently proposed settlement regarding Banyan Tree foundation.

Keith Simpson.

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

Dear Mr. Thompson and Mr. Moloci

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.


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Regards,

KEITH SIMPSON

JAN 12, 2012



Christine Hutton

From: Libby Wildman <lwildman@wildman-associates.com>
Sent: Friday, January 13, 2012 12:19 PM
To: David Thompson; Matt Moloci
Subject: Banyan Tree- objecting to your wording

David and Matthew,

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Regards,
Libby

Libby Wildman
O [416 234-1999](tel:4162341999) e225
C [416 803-9255](tel:4168039255)

266 King St. West
Suite 402, Toronto
M5V 1H8
WWW.Wildman-associates.com

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

Dear Mr. Thompson and Mr. Moloci

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Regards,



877 Borebank St
WPG, MB.
R3N 1G5
204-487-2378



Date: 1-12-12

Number of pages including cover sheet: 2

Copy & Print Centre

To: Matthew Moloci
David Thompson

Phone: 523-1337

Fax: 1-905-523-5878

CC: _____

From: Rob & Carol Young

Phone: 453-4333

Fax: _____

REMARKS: Urgent For your review Reply ASAP Please Comment

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- and Much More •

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

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Regards,

Gail Young

498 Atlantic

1-12-12

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

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Regards,



Ronald Young

1-12-12

574 1/2 BANNERMAN AVE
B2W0V9.

Fax Cover Sheet

To: DAVID Thompson

From: Ralston (Ralph) Foster
Janice Patterson (Foster)

Fax: 9055235878

Date: Jan 11, 2012

Phone:

Area:

Re: Banyan Tree Class action

Urgent For Review Please Comment Please Reply Please Recycle

Comments

Please find the letters of objections from myself Ralston (Ralph) Foster and my daughter Janice Patterson.

Confirm receiving at the following e-mails.

Ralph Foster - ralph_foster@shaw.ca

Janice Patterson - jj_ebony@hotmail.com

Thank You.

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION
REGARDING BANYAN TREE FOUNDATION
LEVERAGED CHARITABLE DONATION PROGRAM**

Read this notice carefully as it may affect your legal rights.

PURPOSE OF THIS NOTICE

This notice is to all individuals who participated in the Banyan Tree Gift Program for the taxation years 2003, 2004, 2005, 2006 and 2007.

In 2008, the plaintiffs commenced a proposed class proceeding against Rochester Financial Limited, Promittere Capital Group Inc., Promittere Asset Management Inc., Banyan Tree Foundation and Fraser Milner Casgrain LLP, in the Ontario Superior Court of Justice, Court File No. 08-CV-349792.

On January 19, 2010, the Ontario Superior Court of Justice certified this action as a class proceeding.

The representative plaintiffs in the class proceeding have reached a proposed settlement with the defendants on behalf of all Class Members, subject to obtaining necessary court-approval. The settlement is a compromise of disputed claims.

TERMS OF PROPOSED SETTLEMENT

The Plaintiffs will be requesting a declaration from the court that all promissory notes in favour of 1106999 Ontario Limited, Rochester Financial Limited and any other lender who provided loans under the Gift Program, are void and unenforceable against Class Members.

The defendants agree to establish a Settlement Fund of \$11,000,000.00. Each Class Member will be paid a portion of the Settlement Fund on a *pro-rata* basis in accordance with participation in the Banyan Tree Gift Program.

Pursuant to the terms of the proposed settlement, \$350,000.00 will be set aside for claims administration costs to be paid from the Settlement Fund.

The Court will be asked to approve a Counsel Fee of \$2,750,000.00, representing 25% of the Settlement Fund, plus payment of disbursements and applicable taxes.

The Court will also be asked to approve proposed compensation to be paid to the representative plaintiffs, Kathryn and Rick Robinson.

The Settlement Agreement and Distribution Plan will be published at www.classactionlaw.ca prior to the hearing date.

COURT HEARING

The Court will be asked to approve the proposed settlement as recommended by the representative plaintiffs, Class Counsel and the defendants and their counsel.

A court hearing will be held on **January 17, 2012**, at 10:00 a.m. EST, at 361 University Avenue, Toronto.

Class Members who do not oppose the proposed settlement do not need to appear at the hearing or take any action at this time. Class Members are bound by the terms of settlement if approved.

OBJECTIONS TO THE PROPOSED SETTLEMENT

At the hearing, the Court may consider any objections to the proposed settlement by Class Members. Class Members may, but need not, submit any objections in writing to Class Counsel on or before **January 6, 2012**:

BY MAIL TO:

**THE BANYAN TREE CLASS ACTION
SCARFONE HAWKINS LLP**

Barristers & Solicitors
One James Street South, 14th Floor, P.O. Box 926, Depot #1
Hamilton, Ontario, L8N 3P9

ATTENTION: DAVID THOMPSON/ MATTHEW G. MOLOCI

OR BY FAX TO: 1-905-523-5878

OR BY EMAIL TO: banyanclassaction@shlaw.ca

A written objection should include the following information:

- (a) the Class Member's name, address, telephone number, fax number, mail and e-mail address;
- (b) a brief statement of the nature of and reason for the objection; and
- (c) whether the Class Member intends to appear at the hearing in person or by counsel and, if by counsel, the name, address, telephone number, fax number mail and e-mail address of counsel.

Any objections to the settlement will be filed with the court and may be considered at the January 17, 2012 hearing.

If the Court approves the proposed settlement, all Class Members will be bound by the terms of the settlement, unless they have previously opted-out. If the proposed settlement is approved, there will be a further court-approved Notice detailing the settlement administration process.

ADDITIONAL INFORMATION

Questions for Class Counsel should be directed in writing or telephone to:

Scarfone Hawkins LLP

Barristers and Solicitors
One James Street South, 14th Floor, P.O. Box 926
Depot #1
Hamilton, Ontario, L8N 3P9

Attention: David Thompson/Matthew G. Moloci

Tel: 905.526.4394

Fax: 905.523.5878

E-mail: banyanclassaction@shlaw.ca

ADDITIONAL INFORMATION REGARDING THE SETTLEMENT CAN BE FOUND AT WWW.CLASSACTIONLAW.CA

**THIS NOTICE HAS BEEN APPROVED BY THE ONTARIO SUPERIOR COURT OF JUSTICE.
QUESTIONS ABOUT THIS NOTICE SHOULD NOT BE DIRECTED TO THE COURT.**

Ralph Foster

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

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Jan 10, 2012

Ralph Foster

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

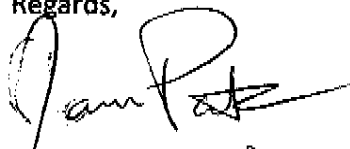
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Regards,



Jan 10, 2012
Janice Patterson

Christine Hutton

From: Barbara Inkster <dbinkster@shaw.ca>
Sent: Friday, January 13, 2012 1:41 AM
To: David Thompson; Matt Moloci
Cc: robert.eger@shaw.ca
Subject: Banyan Tree Class action

Dear David and Matthew,

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Barbara Inkster

Christine Hutton

From: gary malenchak <spinyman@hotmail.com>
Sent: Friday, January 13, 2012 11:57 PM
To: David Thompson; Matt Moloci
Subject: Banyan Tree Donation

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

I am advised that you have been requested to present a revised settlement proposal to the court for approval which will remove any elements prejudicial to class members' cases with CRA.

I hereby confirm that I strongly object to the currently proposed settlement and I fully support and in fact insist on your presenting to the court on behalf of class members a revised settlement proposal, to be agreed with tax counsel acceptable to the Donor's Committee, which will eliminate any statement, declaration, or other or action which could reasonably be expected to have a negative influence on the tax status of class members.

Gary Malenchak

Christine Hutton

From: Stanley Remin <stanley9@shaw.ca>
Sent: Friday, January 13, 2012 1:32 AM
To: David Thompson; Matt Moloci
Cc: robert.eger@shaw.ca
Subject: Banyan Tree Class action

Dear David and Matthew,

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Stan Remin

Christine Hutton

From: Jim Booth <jimbooth@sympatico.ca>
Sent: Thursday, January 12, 2012 2:04 PM
To: David Thompson; Matt Moloci

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

Dear Mr. Thompson and Mr. Moloci

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Regards,

Jim Booth

Patrick Randle

From: Ryan C <ryancastillo@hotmail.com>
Sent: Sunday, January 15, 2012 3:30 PM
To: David Thompson; Matt Moloci
Subject: Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program.
Attachments: Banyan Tree re - Class Action.rtf

Please view the attached notice regarding my position relative to the proposed settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program.

Attn: Scarfone Hawkins
David Thompson thompson@shlaw.ca
Matthew Moloci moloci@shlaw.ca
Phone: (905) 523-1333
Fax: (905) 523-5878

Dear Mr. Thompson and Mr. Moloci,

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Regards,

Ryan Castillo

Attn: Scarfone Hawkins
David Thompson thompson@shlaw.ca
Matthew Moloci moloci@shlaw.ca
Phone: (905) 523-1333
Fax: (905) 523-5878

Dear Mr. Thompson and Mr. Moloci,

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Regards,

Ryan Castillo


Scarfone Hawkins
Dear Sirs:

I have reviewed the Proposed Settlement of Class Action regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "if the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid. In particular because Class Members are not at risk of repaying the loans. "I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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c.c. David Thompson thompson@shlaw.ca
Matthew Moloci moloci@shlaw.ca

DIENNIS EDWARDS


Patrick Randle

From: 6474355295 <"6474355295"@faxmaker.com>
Sent: Monday, January 16, 2012 8:09 AM
To: Matt Moloci; Christine Hutton; Cindy Yates; David Thompson
Subject: Fax received from 6474355295
Attachments: 20120116_080901_00002.pdf

INCOMING FAX REPORT

Status: Received
Date/Time: 1/16/2012 8:09:04 AM
Speed: 14400 bps
Connection time: 00:39
Pages: 1
Resolution: Normal
Remote ID: 6474355295
Line number: 2
DTMF/DID:
Description: Fax received from 6474355295

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

Dear Mr. Thompson and Mr. Moloci

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "if the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Regards,

Katrin Gauer. Jan 16, 2012.
Katrin Gauer
Banyan Tree 2002-05.

Christine Hutton

From: Robert Haynes <haynes417@hotmail.com>
Sent: Thursday, January 12, 2012 10:59 PM
To: David Thompson; moloci@shlwaw.ca
Cc: haynes417@hotmail.com
Subject: Banyan Tree Class Action

From
Robert Haynes
417 Diefenbaker Dr
Fort McMurray, Ab
T9K2K4

Attention: David Thompson
Matthew Moloci

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Patrick Randle

From: 9056863972 <"9056863972"@faxmaker.com>
Sent: Saturday, January 14, 2012 3:43 PM
To: Matt Moloci; Christine Hutton; Cindy Yates; David Thompson
Subject: Fax received from 9056863972
Attachments: 20120114_154301_00009.pdf

INCOMING FAX REPORT

Status: Received
Date/Time: 1/14/2012 3:43:03 PM
Speed: 14400 bps
Connection time: 00:34
Pages: 1
Resolution: Normal
Remote ID: 9056863972
Line number: 2
DTMF/DID:
Description: Fax received from 9056863972

Untitled

Scarfone Hawkins

Phone: (905) 523-1333

Fax: (905) 523-5878

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Jan 14, 2012

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me.

I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not

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Cybil Lewis

Patrick Randle

From: 6474355295 <"6474355295"@faxmaker.com>
Sent: Sunday, January 15, 2012 2:08 PM
To: Matt Moloci; Christine Hutton; Cindy Yates; David Thompson
Subject: Fax received from 6474355295
Attachments: 20120115_140714_00008.pdf

INCOMING FAX REPORT

Status: Received
Date/Time: 1/15/2012 2:07:22 PM
Speed: 14400 bps
Connection time: 01:23
Pages: 3
Resolution: Normal
Remote ID: 6474355295
Line number: 2
DTMF/DID:
Description: Fax received from 6474355295

Ed Quinn RFP,CFP.
59 Gloxinia Crescent
Toronto, Ontario
M1W 2C5
Phone: (416) 291-6090
Fax: (647) 435-5295
Cell: (416) 399-6922
Toll: 1-800-287-4254
Email: edquinn@rogers.com

Ed Quinn Mgt.Ltd.

Fax

A Carphone Hawkins
To: David Thompson
Matthew Moloci
Fax: 905.523.5878
From: Ed Quinn
Date: Jan 15 2012
Phone:
Pages: 3
Re:
CC:

Urgent For Review Please Comment Please Reply Please Recycle

Attached are two letters — from my spouse
and myself — each objecting to the proposed
settlement re Banyan Tree Foundation

Thompson
Ed Quinn

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878


Dear Mr. Thompson and Mr. Moloci

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Regards,


EDMUND R. QUINN

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

Dear Mr. Thompson and Mr. Moloci

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Regards,



SHIRLEY A. QUINN

Patrick Randle

From: 6474355295 <"6474355295"@faxmaker.com>
Sent: Sunday, January 15, 2012 2:08 PM
To: Matt Moloci; Christine Hutton; Cindy Yates; David Thompson
Subject: Fax received from 6474355295
Attachments: 20120115_140714_00008.pdf

INCOMING FAX REPORT

Status: Received
Date/Time: 1/15/2012 2:07:22 PM
Speed: 14400 bps
Connection time: 01:23
Pages: 3
Resolution: Normal
Remote ID: 6474355295
Line number: 2
DTMF/DID:
Description: Fax received from 6474355295

Ed Quinn RFP,CFP.
59 Gloxinia Crescent
Toronto, Ontario
M1W 2C5
Phone: (416) 291-6090
Fax: (647) 435-5295
Cell: (416) 399-6922
Toll: 1-800-287-4254
Email: edquinn@rogers.com

Ed Quinn Mgt.Ltd.

Fax

A Carphone Hawkins

To: <u>David Thompson</u>	From: <u>Ed Quinn</u>
Fax: <u>Matthew Moloci</u> <u>905.523.5878</u>	Date: <u>Jan 15 2012</u>
Phone:	Pages: <u>3</u>
Re:	CC:

Urgent For Review Please Comment Please Reply Please Recycle

Attached are two letters — from my spouse
and myself — each objecting to the proposed
settlement re Banyan Tree Foundation

Thompson
Ed Quinn

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878


Dear Mr. Thompson and Mr. Moloci

I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Regards,


EDMUND R. QUINN

Attn: Scarfone Hawkins

David Thompson thompson@shlaw.ca

Matthew Moloci moloci@shlaw.ca

Phone: (905) 523-1333

Fax: (905) 523-5878

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I have reviewed the Proposed Settlement of Class Action Regarding Banyan Tree Foundation Leveraged Charitable Donation Program you sent to me. I note that class counsel on its web site, www.classactionlaw.ca, have stated that "If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans." I have recently read a tax opinion that supports this assertion. Because I have an unresolved Notice of Objection with CRA regarding the Banyan donation, the proposed settlement is clearly not in my best interests. I feel it is highly inappropriate that this class action settlement should be structured in such a way as to have a significant (and negative to class members) influence on tax matters that should be decided by a tax court or on appeal.

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Regards,



SHIRLEY A. QUINN

JAN. 11 2012

SCARFONE HAWKINS

FAX (905) 523-5878

Re: BANYAN TREE

The estate of Bradley Gordon Southam
c/o 134-1185 St. Anne's Road
Winnipeg, Mb. R2N 0A3
204-895-0331
Email: lloydsoutham@hotmail.com
S.I.N. # 638 575 837
Date of Birth June 5, 1969
Banyan Tree Donor in 2003 for \$72,000.00
Receipt # 030930

January 10/12

Scarfone Hawkins
ClassActionLaw
Hamilton, Ont.
Phone: (905) 523-1333; Fax: (905) 523-5878
David Thompson thompson@shlaw.ca or Matthew Moloci moloci@shlaw.ca

I have now had a chance to review the Proposed Settlement of Class Action regarding the Banyan Tree Foundation Leveraged Charitable Donation Program. However, I note that class counsel on its web site, www.classactionlaw.ca, have stated that:

"If the Ontario Superior Court of Justice, as part of settlement, makes a declaration that the promissory notes are void and unenforceable, that declaration will support the argument of Canada Revenue Agency that the Banyan Tree Foundation Gift Program is not valid, in particular because Class Members are not at risk to repay the loans."

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Sincerely,



Lloyd Southam, Administrator of Estate

KATHRYN ROBINSON et al.
Plaintiffs

-and-

ROCHESTER FINANCIAL LIMITED et al.
Defendants

Court File No. 08-CV-349792-CP00

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding under the *Class Proceedings Act*, 1992

PROCEEDING COMMENCED AT
TORONTO

**SUPPLEMENTARY OBJECTIONS BRIEF
RE: SETTLEMENT AND CLASS COUNSEL
FEE APPROVAL
RETURNABLE JANUARY 17, 2012**

SCARFONE HAWKINS LLP

Barristers & Solicitors
One James Street South
14th Floor
P.O. Box 926, Depot 1
Hamilton ON L8N 3P9

David Thompson (LSUC # 28271N)

thompson@shlaw.ca

Matthew G. Moloci (LSUC # 40579P)

moloci@shlaw.ca

Tel: 905-523-1333

Fax: 905-523-5878

Lawyers for the plaintiffs,
Kathryn Robinson and Rick Robinson

RCP-E 4C (July 1, 2007)