

**CITATION:** The Trustees of the Labourers' Pension Fund of Central and Eastern Canada v.  
Sin-Forest Corporation, 2014 ONSC 3427  
**COURT FILE NO.:** CV-12-9667-00CL  
**DATE:** 2014-06-05

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** 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 and Robert Wong, Plaintiffs

**AND:**

Sino-Forest Corporation, Ernst and 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, Pöyry (Beijing) Consulting Company Limited, 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., Canacord Securities (USA) LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated (successor by merger to Banc of America Securities LLC), Defendants

**BEFORE:** Regional Senior Justice G.B. Morawetz

**COUNSEL:** *Peter Wardell* and *Simon Bieber*, for the David J. Horsley

*David Bish* and *Stéphanie A. LaFrance*, for the Underwriters

*Derek J. Bell*, for Sino-Forest Litigation Trust

*Brandon Barnes*, for Mr. Kai Kit Poon

*Sarah Petersen*, for Pöyry (Beijing) Consulting Company Limited

*David Vaillancourt*, for BDO Limited

*Hugh Craig*, for The Ontario Securities Commission

*Kirk Baert* and *Ken Rosenberg*, for the Class Action Plaintiffs

**HEARD:** June 5, 2014

**ENDORSEMENT**

[1] The Class Action Plaintiffs and Mr. David J. Horsley, among others, have entered into Minutes of Settlement in order to resolve all causes of action, claims and/or demands, on all accounts howsoever arising in all jurisdictions, made against Mr. Horsley, including the class actions (as defined in the Plan of Compromise or Arrangement of Sino-Forest under the *Companies' Creditors Arrangement Act* ("CCAA") dated December 3, 2012 (the "Plan").

[2] The court has been advised that the settlement agreement requires court approval from this court and if same is granted, an order for recognition and enforcement from the United States Bankruptcy Court for the Southern District of New York.

[3] Class counsel and counsel to Mr. Horsley have prepared a draft Form of Notice (the "Notice") to all persons and entities, wherever they may reside, who acquired any securities of Sino-Forest Corporation, including securities acquired in the primary, secondary and over-the-counter markets (the "Securities Claimants"). The Notice will advise Securities Claimants of, among other things, the terms of the Horsley Settlement, the Settlement Approval Hearing, the Securities Claimants Rights to Object or Make Submissions Regarding the Horsley Settlement, and of certain subsequent hearings in both Ontario and New York relating to the Horsley Settlement.

[4] Previously, in November 2012, the Class Action Plaintiffs in Ernst & Young entered into the Ernst & Young Settlement, which I approved on March 20, 2013. Notice was provided to the Securities Claimants of the claims' filing procedure to participate in the proceeds of the Ernst & Young Settlement.

[5] NPT RicePoint Class Action Services Inc. ("NPT") was appointed as the Administrator of the Ernst & Young Settlement. NPT received in excess of 47,000 claims from Securities Claimants.

[6] Independent of the claims received by NPT in connection with the Ernst & Young Settlement, class counsel advised that they have been contacted by approximately 3,023 persons regarding these proceedings and another 100 persons have contacted Siskins Desmeules, sencrl ("Desmeules") an affiliate of Siskinds LLP and counsel to the class in a parallel action against Sino-Forest and others in connection Quebec. Cohen Milstein, counsel to the class in a parallel action against Sino-Forest and others in the Southern District of New York, has been contacted by approximately 15 persons.

[7] The proposed Notice Plan takes into account the previous experience of the parties obtained in the course of seeking approval of the Ernst & Young Settlement. The Notice Plan provides that all individuals who have previously expressed interest in these proceedings will receive timely notice in an appropriate form such that, in my view, they will have a full opportunity to consider the merits of the Horsley Settlement and participate, if they see fit.

[8] I am satisfied that the proposed form of notice is appropriate in the circumstances.

[9] The approval hearing is scheduled for Thursday, July 24, 2014 at 9:00 a.m. in Toronto. It is my understanding that the parties will coordinate the timing of the hearing with The United States Bankruptcy Court for the Southern District, and if necessary, the date and time can be adjusted.

[10] Finally, I am prepared to hear this matter as part of the joint hearing, if that is the preference of His Honor Judge Glenn and the parties.

[11] The form and content of the Notice is approved and the order has been signed in the form presented.

A handwritten signature in black ink, appearing to read "R. S. Morawetz", is written above a horizontal line.

Morawetz, RSJ

**Date:** June 5, 2014