

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES CREDITORS'*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SINO-FOREST CORPORATION**

Applicant

APPLICATION UNDER THE *COMPANIES CREDITORS'*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

**RESPONDING BRIEF OF ERNST & YOUNG LLP
(Motion Returnable April 20, 2012)**

April 19, 2012

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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. c-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
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Applicant

**APPLICATION UNDER THE *COMPANIES CREDITORS'*
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- 2 Undertakings and Refusals from the Cross-Examination of Daniel Bach on his Affidavit sworn April 11, 2012, held on April 17, 2012

Tab 1

Court File No. CV-12-9667-00-CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

GV/kp

IN THE MATTER OF THE COMPANIES CREDITORS'
ARRANGEMENT ACT

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ARRANGEMENT IN THE MATTER OF SINO-FOREST CORPORATION
Applicant

APPLICATION UNDER THE COMPANIES CREDITORS'
ARRANGEMENT ACT

, R.S.C. 1985, c. C-36, AS AMENDED

This is the Cross-Examination of DANIEL BACH on his Affidavit sworn the 11th day of April, 2012, taken at the offices of VICTORY VERBATIM REPORTING SERVICES, Suite 900, 222 Bay Street, Ernst & Young Tower, Toronto-Dominion Centre, Toronto, Ontario, on the 17th day of April 2012.

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1 DANIEL BACH, affirmed

2 CROSS-EXAMINATION BY MS. ROY:

3 1. Q. Good morning.

4 A. Good morning.

5 2. Q. You are Daniel Bach?

6 A. I am.

7 3. Q. You have been affirmed this morning?

8 A. I have.

9 4. Q. You swore an affidavit in this

10 proceeding on April 11th, 2012?

11 A. Yes.

12 5. MS. ROY: And I would like to just mark

13 the motion record that contains that

14 affidavit as Exhibit 1 for identification.

15 So that is a motion record for a motion

16 returnable April 13th, 2012.

17

18 --- EXHIBIT NO. 1 : Motion Record returnable on April

19 13, 2012

20

21 BY MS. ROY:

22 6. Q. You are an associate at Siskinds law

23 firm. Is that correct?

24 A. Yes.

25 7. Q. And Siskinds represents certain

1 individuals in a proposed class action, correct?

2 A. What do you mean by "individuals"?

3 8. Q. Well, the proposed representative
4 plaintiffs. You represent the proposed
5 representative plaintiffs?

6 A. Among other parties, yes.

7 9. Q. And you have taken a position in the
8 CCAA proceeding. Is that correct?

9 A. Yes.

10 10. Q. And as such, you have knowledge of
11 the CCAA proceeding?

12 A. Yes.

13 11. Q. And I take it from your affidavit
14 that you also have knowledge of the class proceeding
15 in court file number CV-11431153-00CP?

16 A. Yes.

17 12. Q. And in fact, you provide an overview
18 of that class proceeding in your affidavit starting
19 at paragraph 4. Is that correct?

20 A. Yes.

21 13. Q. And that is page 31 of the motion
22 record.

23 A. Page 31, correct.

24 14. Q. And you swore this affidavit in
25 support of a motion brought on behalf of an ad hoc

1 committee of purchasers of the applicant's
2 securities, correct?

3 A. Yes.

4 15. Q. And that ad hoc committee includes
5 the representative plaintiffs in the Ontario class
6 action?

7 A. Yes.

8 16. Q. And this committee seeks on April
9 20th, 2012 to have the stay of proceedings lifted in
10 the CCAA for the purpose of two motions in the class
11 action?

12 A. Yes.

13 17. Q. A motion with respect to funding by
14 a third party?

15 A. Yes.

16 18. Q. And a motion with respect to a
17 settlement entered into with one of the defendants,
18 Poyry?

19 A. Yes.

20 MR. LASCARIS: It may be helpful if I
21 clarify one thing in regard to the latter
22 form of relief.

23 19. MS. ROY: Yes, Mr. Lascaris.

24 MR. LASCARIS: The motion that is
25 currently pending in respect of the Poyry

1 settlement is essentially for notice
2 approval. It is envisioned, of course,
3 pursuant to normal class action procedure
4 that there would then be a follow-on
5 hearing at which the fairness of the
6 settlement would be assessed by the court.
7 So to be clear, we are seeking the lifting
8 of the stay for the purposes of both of
9 those hearings to go forward.

10 20. MS. ROY: And I understand from your
11 motion record with respect to the Poyry
12 settlement, you are seeking the notice
13 relief as well as the relief of having the
14 class action certified against Poyry. Is
15 that correct?

16 MR. LASCARIS: For settlement purposes,
17 correct.

18
19 BY MS. ROY:

20 21. Q. The balance of the committee's
21 motion that is set out in the notice of motion in
22 Exhibit A has not been scheduled as yet. Correct,
23 Mr. Bach?

24 A. That is my understanding, yes.

25 MR. LASCARIS: Again, I understand that

1 today's case conference, the relief
2 relating to the portion of the motion
3 relating to the leave and certification
4 motions, has also been scheduled for May
5 8th.

6
7 BY MS. ROY:

8 22. Q. Thank you. The balance of the
9 motion has not been scheduled, however, the relief
10 that is being sought with respect to essentially
11 setting aside the CCAA proceeding, correct?

12 A. That is my understanding. Whether
13 or not something has changed this morning, I don't
14 know.

15 23. Q. Thank you. So the purpose of my
16 cross-examination today is just to address the
17 relief that is being sought on April 20th, which is
18 the lift stay in respect of the funding motion and
19 the settlement motion. I would like to just turn to
20 your affidavit. So starting at paragraph 4 you
21 outline the various class actions that were
22 originally brought in Ontario, correct? So you
23 reference an action brought by the trustees of the
24 Labourers' Pension Fund, and then an action brought
25 by Messrs. Grant and Wong, and then you go on to

1 describe the carriage motion, correct?

2 A. Correct. I believe there is another
3 part of the affidavit, or maybe it is that part,
4 where I discuss the Smith action in some additional
5 detail. Yes, at paragraph 55 through 57.

6 24. Q. Right. So there were originally
7 four class actions that were brought in Ontario,
8 correct?

9 A. Yes.

10 25. Q. And there was a carriage motion?

11 A. Yes.

12 26. Q. And ultimately, the result of the
13 carriage motion was that your firm, Siskinds, and
14 Koskie Minsky were granted carriage of the Ontario
15 class action, correct?

16 A. No, the carriage motion selected the
17 action to proceed on which we are counsel.

18 27. Q. Fair enough. And you discuss in
19 your affidavit the consolidation of the trustee
20 Labourers' class action with the Grant/Wong action,
21 correct?

22 A. Yes.

23 28. Q. And that is how David Grant came to
24 be a representative plaintiff in the Ontario class
25 action that is now proceeding? Is David Grant a

1 representative plaintiff in the class action?

2 A. Yes.

3 29. Q. In your affidavit you then go on to
4 discuss the Sharma v. Timminco decision starting at
5 paragraph 1?

6 A. Yes.

7 30. Q. And that is a decision of the
8 Ontario Court of Appeal?

9 A. Yes.

10 31. Q. And you described the result in that
11 decision at paragraph 11, and I would just like to
12 read that to you. So you say:

13 "...Immediately following the issuance of
14 the Timminco decision, out of an abundance
15 of caution, Dimitri Lascaris of Siskinds
16 [who is sitting next to you today] wrote to
17 counsel of those defendants in the Ontario
18 class action against whom a part 23.1 claim
19 is sought to be asserted and they requested
20 that they enter into a tolling agreement,
21 failing which the plaintiffs would seek to
22 have the leave motion heard on March 22,
23 2012..."

24 Is that correct?

25 A. That is what my affidavit says.

1 32. Q. And is that also a correct
2 statement?

3 A. It is.

4 33. Q. And Dimitri Lascaris, who is here
5 with you today, is a partner at Siskinds, correct?

6 A. Yes.

7 34. Q. And he sought to have the parties
8 enter into the tolling agreement to preserve the
9 causes of action that might otherwise expire under
10 the limitation periods in the Securities Act?

11 A. Are you asking me why Mr. Lascaris
12 did what he did?

13 35. Q. Yes.

14 A. That is my understanding of his
15 purpose.

16 36. Q. And in fact, such a tolling
17 agreement was entered into effective March 6, 2012?

18 A. That is correct.

19 37. Q. And in your affidavit you talk about
20 the expiry of the tolling agreement and you do that
21 at paragraph 14. And again, I would just like to
22 read to you the portion of your affidavit that deals
23 with this. So you say:

24 "...The expiration date of February 28th,
25 2013..."

1 And I take it that is the expiry of the tolling
2 agreement?

3 A. Correct.

4 38. Q. "...was carefully crafted by the
5 parties in the Ontario class action with
6 the assistance of the Honourable Justice
7 Perell in order for the leave motion to be
8 prepared and heard and for a decision to be
9 rendered by him before the expiration of
10 the tolling agreement. As such, any
11 interruption or delay to the time table
12 will have the pass on effect with the
13 result that the decision on the leave
14 motion might not be released before
15 February 28th, 2013..."

16 And you say:

17 "...This puts the class members at risk of
18 having some or all of their claims
19 extinguished as a result of the potential
20 expiry of a limitation period..."

21 That is what you said in your affidavit?

22 A. Yes.

23 39. Q. And that is a true statement?

24 A. Yes.

25 40. Q. And if I understand correctly, what

1 you are saying is that interruption and delay in the
2 class action is an issue for the proposed
3 representative plaintiffs. Is that correct?

4 A. Yes.

5 41. Q. It could throw the schedule off?

6 A. Yes, it could throw the schedule
7 off.

8 42. Q. And the schedule that we are
9 referring to you produced at paragraph 72 of your
10 affidavit, which is at page 49 of the motion record?

11 A. That is correct.

12 43. Q. And this is the timetable that was
13 ordered by Justice Perell in his order released
14 March 26, 2012, correct?

15 A. Yes, and a copy of his decision with
16 this timetable is found at tab G to my affidavit.

17 44. Q. Thank you. I would actually like to
18 turn up that order, if we could. So if we could
19 turn to tab G of your affidavit?

20 A. I don't believe this is the order.
21 I believe this is his decision.

22 45. Q. Sorry, the decision. I would like
23 to take you to paragraph 85 of the decision, and
24 that is at page 271 of the motion record.

25 A. Okay.

1 being advocated by the defendants is unfair
2 to the plaintiffs and the proposed class
3 and will impede fulfilling the purposes of
4 the class proceedings legislation, which
5 are first and foremost access to justice,
6 secondarily, judicial economy, and thirdly,
7 behaviour modification, all the while
8 providing due process and fairness to all
9 parties. Unfortunately, the suffocating
10 expense of motions and class actions, along
11 with the excruciating delays and the
12 additional costs of the inevitable leave to
13 appeal motions and appeals that follow
14 class action orders is a serious barrier to
15 achieving the purpose of the legislation
16 for both the plaintiffs and defendants..."

17 Have I read that passage correctly?

18 A. You read most of the paragraph. I
19 think you left off the end of the final sentence.

20 50. Q. Fair enough, and the end of that
21 sentence says:

22 "...and a substantial disincentive to class
23 counsel employing legislation for other
24 than the huge cases that would justify the
25 litigation risks..."

1 A. That is what the paragraph says.

2 51. Q. And I interpret Justice Perell's
3 concern here to be the same concern that the
4 representative plaintiffs have, which is delay,
5 correct?

6 MR. LASCARIS: You are asking Mr. Bach
7 if that is his interpretation of this
8 paragraph?

9 52. MS. ROY: I am.

10 THE DEPONENT: And when you refer to the
11 representative plaintiffs concern about
12 delay, you are speaking about the
13 statements made in my affidavit in
14 paragraphs 10 and 11 about Timminco?

15

16 BY MS. ROY:

17 53. Q. In part, yes, and also the
18 submissions that were made on behalf of the
19 representative plaintiffs in the motion that
20 resulted in this order.

21 A. Can I have the question again?

22 54. Q. Justice Perell's concern, as I
23 interpret it, is delay, and the representative
24 plaintiffs also have a concern with delay, correct?
25 You said so in your affidavit.

1 A. I think I also read this paragraph
2 as indicating concern about delay, and I think the
3 representative plaintiffs, as I said, have a concern
4 about delay. Whether or not the nature of the
5 concern is the same, you would have to ask Justice
6 Perell.

7 55. Q. Fair enough. In this order, Justice
8 Perell also froze the Statement of Claim, correct?

9 A. That is my understanding, yes.

10 56. Q. So there could be no more amendments
11 to the statement of claim without leave, correct?

12 A. That is my understanding, yes.

13 57. Q. And again, this was to make sure
14 that things proceeded expeditiously?

15 A. You will have to ask Justice Perell.

16 58. Q. If I say that it was for things to
17 proceed expeditiously, would you disagree with me?

18 A. You would have to ask Justice
19 Perell.

20 59. Q. So you have no information to the
21 contrary?

22 A. Justice Perell has not communicated
23 to me his reasons behind making that decision.

24 60. Q. And you have no other information
25 that would contradict my statement?

1 A. I don't know what Justice...I have
2 no information on why Justice Perell wrote that.

3 61. Q. Thank you. So Justice Perell, at
4 paragraph 93 of his order, which is at page 272 of
5 the motion record, sets the schedule, which is the
6 same schedule that you reproduced in your affidavit,
7 correct?

8 A. That is correct.

9 MR. LASCARIS: You said 93 of the order.
10 I presume you mean the reasons?

11 62. MS. ROY: The reasons.

12 MR. LASCARIS: Yes.

13

14 BY MS. ROY:

15 63. Q. And he says in his reasons here
16 that:

17 "...Only motions set out in this schedule
18 may proceed..."

19 Correct? We just read the part of his decision that
20 said other motions may proceed on leave?

21 A. That is what he says.

22 64. Q. On my reading of Justice Perell's
23 order, the funding motion is on the schedule, so
24 that can go ahead, correct?

25 MR. LASCARIS: What do you mean by that,

1 "can go ahead"? Without leave you mean?

2

3 BY MS. ROY:

4 65. Q. Without leave.

5 A. I think that is correct.

6 66. Q. But I don't see on this schedule the
7 plaintiff's motion with respect to the Poyry
8 settlement. Is that correct?

9 A. Paragraph 93 does not mention that.
10 So on your reading of this time table and this
11 reasons, the plaintiffs would be required to seek
12 leave, correct?

13 MR. LASCARIS: For purposes of?

14 67. MS. ROY: The Poyry settlement motion.

15 THE DEPONENT: That is my understanding,
16 yes.

17

18 BY MS. ROY:

19 68. Q. And just to be clear, the Poyry
20 settlement motion that I am talking about is the one
21 that Mr. Lascaris corrected at the beginning of this
22 examination that has to do with the notice and
23 certification of the class proceeding against Poyry
24 for the purposes of settlement?

25 A. That is how I understood your

1 question.

2 69. Q. And that is how you answered it as
3 well?

4 A. Yes.

5 70. Q. Now, I can see why the plaintiffs
6 would want to bring on the funding motion as quickly
7 as possible. That makes some sense to me, but can
8 you explain to me why the settlement motion has any
9 urgency behind it? Why does it need to be brought
10 on before the leave and the certification motion, or
11 why does it need to be brought on quickly?

12 MR. LASCARIS: Well, you will...

13 71. MS. ROY: I would like Mr. Bach to
14 answer.

15 MR. LASCARIS: Well, you are asking a
16 question which I think is properly the
17 subject of argument before Justice
18 Morawetz, and you will learn of our
19 reasons, to the extent that they are not
20 evident to you at this time, when we file
21 our factum.

22 72. MS. ROY: So the urgency is not a
23 factual matter, it is a legal argument
24 matter?

25 MR. LASCARIS: Well, I think the facts

1 that give rise to the urgency or the
2 desirability of the motion going forward
3 can be gleaned from Mr. Bach's affidavit.

4 73. MS. ROY: Well, I am asking Mr. Bach to
5 clarify what the urgency is. He has sworn
6 an affidavit. I am here to cross-examine
7 on his affidavit. It is not clear to me
8 what the urgency is, so I am asking Mr.
9 Bach the question.

10 MR. LASCARIS: Well, why don't you take
11 him to specific portions of the affidavit
12 and ask him questions about that? You
13 can...if there is a specific factual
14 assertion relating to this question of the
15 timing of that motion, you can ask him
16 questions about it.

17 74. MS. ROY: This whole affidavit goes to
18 the point of having the motion with respect
19 to the Poyry settlement brought on now.

20 MR. LASCARIS: Well, that is one of...

21 75. MS. ROY: You are seeking the stay to be
22 lifted so that you can bring this motion
23 on, and I am asking why you need to do that
24 at this time. I think that is a perfectly
25 reasonable question based on the affidavit

1 that is before us. It is the whole purpose
2 of why we are here.

3 MR. LASCARIS: Go ahead.

4 THE DEPONENT: The Poyry settlement
5 agreement contemplates Poyry providing
6 certain information to the representative
7 plaintiffs. Certain of that information
8 will only be provided once the settlement
9 becomes effective. This is discussed in
10 the Poyry settlement agreement which is
11 attached to my affidavit.

12

13 BY MS. ROY:

14 76. Q. And I have a copy of that Poyry
15 settlement agreement here.

16 A. I believe it is an exhibit to my
17 affidavit, correct?

18 77. Q. Is it?

19 A. Yes, it is Exhibit Z.

20 78. Q. So can you point me to that?

21 A. Sure. So if you turn up section 3,
22 which is settlement benefits, 3.4 is titled
23 "Cooperation". Do you see that?

24 79. Q. I see it.

25 A. And if you turn over the page, at

1 sub 3...

2 80. Q. Yes?

3 A. ...you will see that:

4 "...the settling defendant will provide
5 copies of certain categories of documents
6 in their possession, custody and control 30
7 days after the effective date..."

8 Do you see that?

9 81. Q. I see that.

10 A. And the effective date is defined in
11 section 1.

12 82. Q. Yes.

13 A. And it is defined as the date when
14 the final order has been received from the last of
15 the Ontario court and the Quebec court to issue the
16 final order.

17 83. Q. And so explain to me why you need
18 this information before the leave motion and the
19 certification motion.

20 A. Information provided by the settling
21 defendants may be important to questions before the
22 court on a leave motion and will provide further
23 information for the judge to explore those
24 questions, the court to explore those questions, and
25 for parties to present their case.

1 84. Q. My understanding on the schedule
2 that you put in your affidavit from Justice Perell,
3 that the time has already passed for the plaintiffs
4 to put in their material for the motions for leave
5 and certification, correct?

6 A. We have filed a motion record in
7 leave and certification, that is correct.

8 85. Q. So do you intend to file a
9 supplementary motion record that is not on the
10 schedule, then?

11 A. I don't know what will happen in the
12 future.

13 86. Q. Well, I am trying to figure out what
14 the schedule is here. I am at a loss as to what the
15 urgency is since the time has already passed for you
16 to file the material. It is was on your insistence
17 that a very tight timeline be put in place with
18 respect to the certification and the leave motion,
19 so I am trying to explore here if you are going to
20 be seeking to vary that schedule.

21 MR. LASCARIS: You are asking Mr. Bach
22 to predict what is going to happen before
23 the evidence to be provided by Poyry has
24 been provided. When the evidence has been
25 provided we will be in a position to make

1 predictions about how we will deal with it.

2 87. MS. ROY: So you don't know at this
3 point whether this information will be
4 helpful to you or not? Is that what you
5 are saying?

6 MR. LASCARIS: We anticipate that it
7 will, but how precisely that is going to
8 affect the approach to the litigation of
9 the leave motion cannot be determined until
10 we have actually seen it.

11 88. MS. ROY: If you anticipate that the
12 material will be helpful to you, can you
13 not anticipate that you will seek to put it
14 before the court? Wasn't that Mr. Bach's
15 answer just now, that the information that
16 Poyry provides might be useful to the court
17 in determining the leave and the
18 certification motions?

19 MR. LASCARIS: But you are asking Mr.
20 Bach to tell you what might transpire. He
21 can, I suppose, answer your question, but
22 without having seen the evidence, we cannot
23 state definitively what our course of
24 action will be.

25

1 BY MS. ROY:

2 89. Q. But you can state definitively that
3 you need to see the evidence before the
4 certification and the leave motion?

5 A. Yes.

6 90. Q. And why is that?

7 A. I have already answered the
8 question. Because it is...it may be relevant to the
9 question before the court on the leave motion.

10 91. Q. Well, I think it is quite clear that
11 if it is relevant to you, that you will put in
12 additional materials, and that is all I am trying to
13 seek from you.

14 MR. LASCARIS: Well, he said it may be
15 relevant. We anticipate that it will be
16 relevant, but how and whether it would be
17 desirable to file further material
18 before...not as part of our reply, but as
19 our case in-chief is going to depend upon
20 what precisely the evidence consists of.

21
22 BY MS. ROY:

23 92. Q. What is the date of this agreement?

24 A. It is made as of March 20, 2012.

25 That is on page 363 of the motion record.

1 93. Q. And what was the date that the
2 parties attended before Justice Perell to set the
3 schedule that we have been referring to in your
4 affidavit and in the reasons of Justice Perell March
5 26th?

6 A. March 26th.

7 94. Q. That was the date of the reasons.
8 What was the date of the appearance?

9 A. March 22.

10 95. Q. So that is two days after the
11 settlement agreement was entered into?

12 A. That is what the documents say.

13 96. Q. And no mention was made of the
14 settlement or the fact that it might need to be put
15 on the schedule on March 22nd, correct?

16 A. I was not in court. I don't know.

17 MR. LASCARIS: Mr. Lascaris, you were in
18 court. Was any mention made of that?

19 MR. LASCARIS: I was not in court.

20 However, Mr. Baert has advised counsel for
21 the defendants in the class proceeding, I
22 understand, that not all signatures on the
23 agreement were obtained as of the date of
24 the hearing.

25 97. MS. ROY: So the answer is no, that it

1 was not mentioned in court on March 22nd?

2 MR. LASCARIS: Again, I wasn't there. I
3 can't say definitively. If it wasn't
4 mentioned, my understanding is the reason
5 is because the signatures were not all in
6 the agreement at that time. Whatever the
7 effective date or the date on the agreement
8 might be, it was not fully executed.

9 98. MS. ROY: Well, I was in court on the
10 22nd and there was no mention of it. Do
11 you have any information to the contrary?
12 If I say that, do you have any reason to
13 disagree with me?

14 MR. LASCARIS: I am not the witness here
15 today, so you...

16
17 BY MS. ROY:

18 99. Q. Okay, Mr. Bach, if I say that there
19 was no mention made of this agreement on March 22nd
20 before Justice Perell, do you have any information
21 to the contrary?

22 A. I don't know anything about what
23 was...on this point what was said in court on March
24 22nd.

25 100. Q. So the answer is no, then?

1 MR. LASCARIS: No, he said he doesn't
2 know.

3 THE DEPONENT: I can't answer the
4 question.

5

6 BY MS. ROY:

7 101. Q. Thank you. How have you satisfied
8 yourselves that the Poyry settlement is in the best
9 interests of the CCAA stakeholders such that the
10 stay needs to be lifted in order for it to proceed?

11 MR. LASCARIS: I am sorry, you are
12 saying that we take the position that the
13 settlement agreement is in the best
14 interests of the CCAA stakeholders?

15 102. MS. ROY: Do you take a contrary
16 position?

17 MR. LASCARIS: Are you referring to
18 something specifically in the notice of
19 motion? If you are, please direct Mr. Bach
20 to it and he can answer your question.

21

22 BY MS. ROY:

23 103. Q. Do you take the position in the CCAA
24 proceedings that the settlement agreement with Poyry
25 is in the best interests of the stakeholder?

1 A. I don't know the answer to that
2 question.

3 104. Q. Can you undertake to find out for
4 me?

5 MR. LASCARIS: We will advise you, yes. U/T

6

7 BY MS. ROY:

8 105. Q. How have you satisfied yourself, and
9 I take this to be a given, that the Poyry settlement
10 is in the best interests of the class?

11 MR. LASCARIS: Well, we are not going to
12 answer that question. The question of the
13 merits of the settlement is one, in our
14 respectful view, which is properly the
15 subject of a hearing before Justice Perell.

16 106. MS. ROY: You are asking Justice
17 Morawetz in the CCAA proceeding to lift the
18 stay so that it can proceed.

19 MR. LASCARIS: To lift the stay so that
20 Justice Perell can adjudicate the question
21 of whether that settlement is in the best
22 interests of the class members.

23 107. MS. ROY: And I am not asking you to
24 adjudicate it. I am asking you to provide
25 me with your position.

1 MR. LASCARIS: Counsel, may I finish?
2 We are not asking Justice Morawetz himself
3 to pass upon the fairness of the
4 settlement. That is, in our view, a matter
5 for the case management judge in the class
6 proceeding. We are asking Justice
7 Morawetz, if necessary, to lift the stay
8 or, to the extent necessary, to lift the
9 stay for the purposes of allowing Justice
10 Perell to pass upon the fairness of the
11 settlement.

12 108. MS. ROY: So you will be making no
13 submissions to Justice Morawetz in respect
14 of the fairness of the settlement with
15 Poyry to class members?

16 MR. LASCARIS: Well, I am not going to
17 commit to what we are going to say or not
18 say. I can tell you that we are not asking
19 Justice Morawetz to express a view on the
20 fairness of the Poyry settlement.

21 109. MS. ROY: Well, Mr. Lascaris, I am
22 either asking you for your position, or I
23 am asking you...

24 MR. LASCARIS: I have stated our
25 position.

1 110. MS. ROY: And your position is?
2 MR. LASCARIS: Again, that we are going
3 to ask Justice Morawetz, to the extent
4 necessary, to lift the stay for the purpose
5 of enabling the settlement approval motion
6 to go forward before Justice Perell, in
7 addition to the notice approval motion, at
8 which time, if that relief is granted,
9 Justice Perell would himself express a view
10 about the fairness of the settlement. We
11 are not conducting two fairness hearings,
12 one before Justice Morawetz and one before
13 Justice Perell.

14

15 BY MS. ROY:

16 111. Q. What information or materials have
17 you provided to the Monitor in respect of the
18 settlement?

19 A. I don't know.

20 112. Q. Can you undertake to find out for
21 me, please?

22 MR. LASCARIS: We will take that under
23 advisement.

U/A

24

25 BY MS. ROY:

1 113. Q. I would like to go back into your
2 affidavit, if I could. And starting at paragraph 33
3 of your affidavit, which is at page 40 of the motion
4 record, you detail certain interactions that you
5 have had with potential class members, correct?

6 A. No.

7 114. Q. You say...the heading of your
8 section there is "Other Class Members' Involvement
9 in the Ontario Class Action", correct?

10 A. That is correct. Davis Selected is
11 a client of the firm in addition to being a class
12 member.

13 115. Q. And Paulson is a potential class
14 member?

15 A. Yes.

16 116. Q. And then at paragraph 36 you
17 detailed that there have been...there has been
18 contact between your firm and Koskie Minsky with
19 other putative class members?

20 A. That is correct.

21 117. Q. In a letter to Ken Rosenberg
22 yesterday from Peter Osborne of our office we asked
23 that you bring with you any documents pertaining to
24 these communications listed in paragraphs 33, 34, 35
25 and 36. Have you brought any such documents with

1 you?

2 MR. LASCARIS: Those communications, in
3 our view, are privileged and we will not be
4 producing them.

5 118. MS. ROY: You claim privilege over the
6 communications with putative class members?

7 MR. LASCARIS: We do, and the
8 confidentiality obligation as well.

9 119. MS. ROY: I think that that is not a
10 correct position. I will accept that that
11 is what your position is for the purposes
12 of this cross-examination, but I am going
13 to put my questions on the record so that
14 we can have a fight about whether
15 solicitor/client privilege applies to
16 those. And I take it that you claim
17 solicitor/client privilege over those
18 communications?

19 MR. LASCARIS: Correct, in that they are
20 confidential communications.

21 120. MS. ROY: And that they are
22 confidential, separate from being
23 solicitor/client communications?

24 MR. LASCARIS: I am saying that there
25 are two grounds at a minimum upon which we

1 are declining to produce those documents to
2 you.

3 121. MS. ROY: The grounds of
4 solicitor/client privilege and separately,
5 confidentiality?

6 MR. LASCARIS: Correct.

7

8 BY MS. ROY:

9 122. Q. Now, you do detail some of your
10 interactions in your affidavit here, Mr. Bach, that
11 you have had with these class members, correct? And
12 these interactions you have either had yourself or
13 someone else at your firm has had with these
14 either...you say in the case of Davis that they are
15 a client, and in the case of Paulson and the other
16 class members, either you have had that contact or
17 someone at your firm has?

18 A. No.

19 123. Q. No?

20 A. No. Koskie Minsky may have had
21 contact with persons as well.

22 124. Q. So either you or someone at your
23 firm or someone at Koskie Minsky has had these
24 interactions?

25 A. That is correct.

1 125. Q. Now, you say at paragraph 33 that
2 your firm...and I take that to be Siskinds, is that
3 correct...was retained by Davis Selected Advisors
4 LP.

5 A. Koskie Minsky has already been
6 retained by Davis Selected Advisors LP.

7 126. Q. So there is a joint retainer?

8 A. That is correct.

9 127. Q. And you say that the retainer was in
10 respect of the Ontario class action and the CCAA
11 proceeding, among other things?

12 A. We have been retained by Davis
13 Selected Advisors to provide advice and other legal
14 services in relation to their holdings and certain
15 securities in Sino-Forest Corporation.

16 128. Q. As it relates to the Ontario class
17 action and the CCAA proceeding?

18 A. Among other things.

19 129. Q. What is the nature of that retainer?

20 MR. LASCARIS: Don't answer that.

/R

21

22 BY MS. ROY:

23 130. Q. What is Davis' relationship to the
24 class action? Are they a representative plaintiff?

25 A. No.

1 131. Q. Are they providing you and Koskie
2 Minsky with instructions in respect of the class
3 action?

4 MR. LASCARIS: Don't answer that. /R

5

6 BY MS. ROY:

7 132. Q. You will agree with me that Davis
8 can't be added as a rep plaintiff prior to the
9 certification, correct?

10 A. Well, there are no representative
11 plaintiffs of the class action right now.

12 133. Q. And they can't be added as a
13 proposed representative plaintiff through an
14 amendment to the proposed Statement of Claim?

15 A. I am sorry, can you repeat your
16 question?

17 134. Q. Davis cannot be added as a proposed
18 representative plaintiff prior to the certification
19 hearing, correct?

20 MR. LASCARIS: Are you referring to the
21 requirement that leave be sought?

22 135. MS. ROY: Yes.

23 THE DEPONENT: Then, yes, we would
24 require leave.

25

1 BY MS. ROY:

2 136. Q. So what is the nature of Davis'
3 involvement in the class action?

4 MR. LASCARIS: Don't answer that. /R

5

6 BY MS. ROY:

7 137. Q. Will they be filing an affidavit in
8 respect of the class action so that they might be
9 cross-examined?

10 MR. LASCARIS: Don't answer that. /R

11

12 BY MS. ROY:

13 138. Q. What is the nature of Paulson's
14 involvement with the class action?

15 MR. LASCARIS: Don't answer that. /R

16

17 BY MS. ROY:

18 139. Q. Again, I would say that they cannot
19 be added as a proposed representative plaintiff
20 without leave prior to the certification. Would you
21 agree with that?

22 A. I don't believe any person could be
23 added as a proposed representative plaintiff without
24 leave of the court.

25 140. Q. Will Paulson be filing an affidavit

1 in the class action so that they can be cross-
2 examined?

3 MR. LASCARIS: Don't answer that. /R

4

5 BY MS. ROY:

6 141. Q. Is there anyone else who has been
7 retained by your firm in respect of the class action
8 or the CCAA proceeding?

9 MR. LASCARIS: Did you mean...you said
10 retained by our firm. Did you mean to
11 say...

12

13 BY MS. ROY:

14 142. Q. Sorry, has anyone else retained your
15 firm in respect of the class proceeding?

16 MR. LASCARIS: Don't answer that. /R

17

18 BY MS. ROY:

19 143. Q. Had anyone else retained Koskie
20 Minsky in respect of the class proceeding?

21 MR. LASCARIS: Don't answer that. /R

22

23 BY MS. ROY:

24 144. Q. Turning to the CCAA proceeding, in
25 this proceeding an ad hoc committee of note holders

1 is represented by counsel at Goodmans, including Mr.
2 O'Neill, who is here today, correct?

3 A. That is my understanding.

4 145. Q. Now, you also represent an ad hoc
5 committee, and we went through who those were
6 earlier. Does that ad hoc committee contain any
7 noteholders?

8 A. Yes.

9 146. Q. Who are they?

10 A. Mr. Grant is a note holder, Davis
11 Selected Advisors LP, through certain funds it
12 manages, is a note holder.

13 147. Q. So if we turn to Mr. Grant, he holds
14 100 of the senior notes which are due in 2017. Is
15 that correct?

16 A. Yes.

17 148. Q. And the value of his holdings is
18 approximately \$10,000, correct?

19 A. I think that is correct. If you
20 want me to be sure, I will have to turn up his
21 affidavit.

22 149. Q. Well, if we turn up your affidavit,
23 paragraph 30...

24 MR. LASCARIS: Are you talking about the
25 face value?

1 150. MS. ROY: Yes.

2

3 BY MS. ROY:

4 151. Q. You say that David Grant purchased
5 100 of Sino's 6.25 percent guaranteed senior notes
6 due in 2017.

7 A. Yes.

8 152. MS. ROY: I apologize, I thought the
9 purchase price was in your affidavit, but
10 we can turn up Mr. Grant's affidavit, if
11 you like. So we will just refer to the
12 motion record of the plaintiffs in the
13 class proceeding, which is the motion for
14 certification returnable November 21 to 30.
15 We can mark that as the next exhibit.

16

17 --- EXHIBIT NO. 2 : Motion for certification returnable
18 November 21 to 30

19

20 THE DEPONENT: So I see here paragraph 8
21 of his affidavit he says he invested
22 \$10,150 in Sino.

23

24 BY MS. ROY:

25 153. Q. Right, so that is at tab 5?

1 A. Paragraph 8.

2 154. Q. Pegarah 8. So he invested \$10,000
3 approximately in Sino, correct?

4 A. Yes.

5 155. Q. What are Davis' holdings? What are
6 their notes?

7 MR. LASCARIS: We will take that
8 question under advisement.

U/A

9 156. MS. ROY: On what basis?

10 MR. LASCARIS: We want to give further
11 consideration to whether we will provide
12 you with that information.

13

14 BY MS. ROY:

15 157. Q. And you will agree with me that the
16 total value of Sino-Forest's note outstanding is
17 approximately \$1.8 billion?

18 A. That is my recollection, yes.

19 158. Q. So Mr. Grant's holding would
20 represent a rather infinitesimal amount compared to
21 the total outstanding notes, correct?

22 A. Not to him.

23 159. Q. On the total outstanding, his
24 percentage would be something along the lines of
25 0.000005 percent?

1 A. I don't have a calculator, but I
2 trust you.

3 160. Q. Okay. Now, the other representative
4 plaintiffs in the class action other than Mr. Grant
5 were shareholders of Sino-Forest, correct?

6 MR. LASCARIS: Can you just clarify at
7 what point in time you said they were
8 shareholders?

9 161. MS. ROY: Well, I am just looking at
10 their affidavits. So we have an affidavit
11 sworn...

12 MR. LASCARIS: No, I understand, but are
13 you asking were they shareholders at any
14 point in time, or are you asking whether
15 they were shareholders at some particular
16 point in time? I just want to know exactly
17 what it is that you are trying to get at.

18 162. MS. ROY: Well, eventually I am going to
19 get to what their holdings are now, but it
20 seems to me that during...for the class
21 period, which you have defined, that you
22 have put before the court a number of
23 affidavits from either individuals or
24 representative of the various proposed
25 plaintiffs, and they...

1 MR. LASCARIS: So are you asking were
2 they shareholders during the class period?
3 Is that your question?
4

5 BY MS. ROY:

6 163. Q. Yes. I am asking were they
7 shareholders during the class period as opposed to
8 note holders?

9 A. They were all shareholders.

10 164. Q. Okay. And Paulson was also a
11 shareholder, correct?

12 A. That is my understanding.

13 165. Q. That is what you say in your
14 affidavit?

15 A. Yes.

16 166. Q. Not a note holder?

17 A. I don't know the answer to that
18 question.

19 167. Q. Can you undertake to find out,
20 please?

21 MR. LASCARIS: We will take that under
22 advisement.
23

24 BY MS. ROY:

25 168. Q. Now, Paulson is no longer a

1 shareholder. Is that correct?

2 A. That is my understanding.

3 169. Q. So on your understanding, they would
4 be ineligible to participate in a distribution under
5 the CCAA process?

6 MR. LASCARIS: That is a legal question
7 which you can debate in front of Justice
8 Morawetz. That is not a proper question
9 for this cross-examination. /R

10

11 BY MS. ROY:

12 170. Q. But you agree that they are not a
13 current shareholder of Sino-Forest?

14 MR. LASCARIS: Mr. Bach said that is his
15 understanding.

16

17 BY MS. ROY:

18 171. Q. And the representative plaintiffs in
19 the class action also sold most or all of their
20 shares before the shares of Sino-Forest were cease
21 traded, correct?

22 A. I don't recall.

23 172. Q. Well, if we have a look at the
24 affidavit, I think the...my understanding...if we
25 turn to the affidavit of Joseph Mancinelli, which is

1 at tab 3 of what we have marked as Exhibit 2, I
2 believe, the motion record for certification...

3 A. Ms. Roy, I, as you know, do not have
4 a complete version of this affidavit in front of me.
5 I am wondering if you could share one.

6 173. Q. Absolutely. So if we turn up page
7 146 of the motion record, at paragraph 17 and 18 Mr.
8 Mancinelli sets out what the holdings of the trustee
9 of the Labourers' Pension Fund of Central and
10 Eastern Canada were?

11 A. Yes, I see that.

12 174. Q. Can you tell me what the current
13 holdings of the trustees of the Labourers' Pension
14 Fund of Central and Eastern Canada are? I don't
15 think it is in the affidavit.

16 A. I believe the answer is none, but I
17 am not sure.

18 175. Q. Okay. Can you undertake to find out
19 that answer for me, please?

20 MR. LASCARIS: We will let you know.

U/T

21

22 BY MS. ROY:

23 176. Q. If we go to the next affidavit,
24 which is the affidavit of Michael Gallagher...

25 A. Sorry, with regards to the

1 Labourers'...I just want to read paragraph 18. So
2 paragraph 18 indicates that as of June 30 they
3 continued to hold through pooled funds Sino
4 securities.

5 177. Q. Okay. So can you tell me...I would
6 ask you for an undertaking as to what their holdings
7 are today.

8 MR. LASCARIS: That is fine. U/T

9
10 BY MS. ROY:

11 178. Q. On behalf of the board of trustees
12 of the International Union of Operating Engineers
13 Local 793 Pension Plan, Mr. Gallagher swore an
14 affidavit, which is found at tab 4.

15 A. Yes.

16 179. Q. And he says at paragraph 18, page
17 158 of the motion record, that:

18 "...The trustees sold many of their shares
19 in July and August and continue to hold
20 approximately 37,350 Sino shares..."

21 Correct?

22 A. That is what that says, yes.

23 180. Q. Okay. If we go to the next
24 affidavit, which is on behalf of Mr. Grant...I think
25 we have established that he held the notes and was

1 not shareholder, correct?

2 A. That is my understanding.

3 181. Q. And the next affidavit is of a Mr.
4 Robert Wong, and he says in paragraph 11, page 181
5 of the motion record, the last sentence:

6 "...I was a Sino shareholder continuously
7 from that time [which is June 29, 2002]
8 until June 10, 2011 when I disposed of my
9 last shares of Sino..."

10 A. That is what that says.

11 182. Q. So I would take from that affidavit
12 that he is no longer a current shareholder of Sino,
13 correct?

14 A. That is my understanding.

15 183. Q. The next affidavit is...and I am
16 going to butcher these names, I apologize.

17 A. I am happy just to call it AP7, if
18 you would like to.

19 184. Q. Fair enough. So Richard Grottheim,
20 AP7.

21 A. Yes.

22 185. Q. He swore an affidavit on behalf of
23 them, and he says at paragraph 13 of his affidavit
24 that:

25 "...AP7 continues to hold 96,303 Sino

1 shares..."

2 Correct?

3 A. That is what that says.

4 186. Q. Now, my information is that the
5 outstanding shares of Sino as at June 30th, 2011 was
6 246,095,926 shares.

7 A. That may well be your understanding.

8 187. Q. Do you have any information to the
9 contrary?

10 A. I haven't looked recently.

11 188. MS. ROY: Just mark as the next exhibit
12 a copy of Sino-Forest's MD&A for the second
13 quarter.

14

15 --- EXHIBIT NO. 3 : Copy of Sino-Forest's MD&A

16

17 BY MS. ROY:

18 189. Q. And if we turn to page 5...and I
19 have tabbed it for you...I am sorry, Mr. Bach. I
20 think I have the wrong thing tabbed here for you. I
21 will just have to ask you to...that is not the
22 correct thing. So I will just have to ask if you
23 have any information as to how many current shares
24 of Sino-Forest are outstanding.

25 A. As of today's date?

1 190. Q. Yes.

2 A. I don't know.

3 191. Q. Would you agree with me that on the
4 information that we have just looked at, that one of
5 your rep plaintiffs holds 37,000 and the other one
6 holds 96,000 shares, that on the total outstanding
7 number of Sino shares, that is a rather small amount
8 on a percentage basis?

9 MR. LASCARIS: The numbers are what they
10 are, Counsel. I mean, you are free to
11 argue the significance of the numbers.
12 They are what they are.

13 192. MS. ROY: Fair enough. I would argue
14 that it is hardly a significant number.
15 Thank you. Those are my questions, Mr.
16 Bach.

17

18 CROSS-EXAMINATION BY MR. FABELLO:

19 193. Q. I have a couple. And I am quite
20 happy for Mr. Lascaris to answer these. I want to
21 go back to the questions my friend asked about the
22 date of execution of the Poyry settlement. By the
23 way, I am fine with Mr. Lascaris answering, so long
24 as you adopt his answers, and I take it that you
25 have so far and you will?

1 A. Well, some of what Mr. Lascaris said
2 were refusals and so on, which I don't think I
3 properly adopt, but the things he said that were
4 factual statements, I adopt.

5 194. Q. So you may not agree with his
6 refusals...

7 A. I take no position on the validity
8 if his refusals.

9 195. Q. You don't have to answer that. If
10 you could turn up, please, Mr. Lascaris and Mr.
11 Bach, tab Z again, which is the Poyry agreement, and
12 turn to page 32 of that agreement. This is the
13 signature page.

14 A. Okay.

15 196. Q. Whose signatures going from the top
16 to bottom are there? So at the very top, I think
17 that is Mr. Lascaris'?

18 A. No, that is my signature.

19 197. Q. That is yours, Mr. Bach?

20 A. That is correct.

21 198. Q. Okay.

22 A. I am sorry it is so hard to read.

23 199. Q. It would be the pot calling the
24 kettle black if I took issue with that. Second from
25 the top, whose signature is that? Do you know?

1 A. I am not sure.

2 200. Q. Could you let me know?

3 R. LASCARIS: Sure.

U/T

4 201. MR. FABELLO: Any guess?

5 THE DEPONENT: I don't want to guess.

6

7 BY MR. FABELLO:

8 202. Q. All right, that is fine. Third from
9 the top, that is Siskinds in Quebec?

10 A. That is Simon Hebert.

11 203. Q. Thank you. And on behalf of Poyry,
12 do you know whose signature that is?

13 A. It is John Pirie.

14 204. Q. Okay, and at the bottom?

15 A. I believe that is...I don't know who
16 that is.

17 205. Q. Okay. Would you let me know?

18 MR. LASCARIS: Sure.

U/T

19

20 BY MR. FABELLO:

21 206. Q. And Mr. Bach, on what date did you
22 affix your signature to this document?

23 A. I don't recall.

24 207. Q. Would you check your records and let
25 me know?

1 MR. LASCARIS: Sure. U/T

2 208. MR. FABELLO: I, too, have heard

3 indirectly that Mr. Baert has indicated

4 that as of March 22nd, the document was

5 only partially executed, and that is the

6 best of your information?

7 MR. LASCARIS: That is my understanding.

8 I haven't looked...I believe there was

9 correspondence about that. I haven't

10 looked at it in a while, so I am just going

11 by my recollection.

12 209. MR. FABELLO: Fair enough. And if you

13 think it is relevant, then let me know by

14 undertaking, if you don't know now, as to

15 by what date all parties had signed.

16 MR. LASCARIS: We will provide you that. U/T

17 210. MR. FABELLO: Okay, but we do know that

18 at least some of the parties had signed as

19 of March 22nd, or at least that is the best

20 of your information?

21 MR. LASCARIS: I am not going to

22 speculate about that. Perhaps Mr. Bach

23 knows.

24 THE DEPONENT: I am not going to

25 speculate either.

1 material terms had not been settled by
2 March 22nd.

3 MR. LASCARIS: I will take that under
4 advisement.

U/A

5 217. MR. FABELLO: And finally, I would like
6 to know by what date all of the material
7 terms of this agreement were settled.

8 MR. LASCARIS: That is fine.

U/T

9 218. MR. FABELLO: Just because I started my
10 day at five o'clock, I want to make sure
11 that I have asked the question that...I
12 want to know the date by which all of the
13 signatures had been affixed. Will you do
14 that?

15 MR. LASCARIS: I think you asked that.

16 219. MR. FABELLO: Thank you. I thought I
17 may have. Thank you, those are my
18 questions.

INDEX OF EXHIBITS

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1	Motion Record returnable on April 13, 2012	4
2	Motion for certification returnable November 21 to 30	41
3	Copy of Sino-Forest's MD&A	49

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REPORTER'S NOTE:

advisements
guidance only,
are not

Please be advised that any undertakings, objections, under and refusals are provided as a service to all counsel, for their and do not purport to be legally binding or necessarily accurate and binding upon Victory Verbatim Reporting Services Inc.

transcription of
APRIL,

I hereby certify the foregoing to be a true and accurate the above noted proceedings held before me on the 17th DAY OF 2012 and taken to the best of my skill, ability and understanding.

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Certified Correct:

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}

Greg Vaughan
Verbatim Reporter

Tab 2

CCA re Sino-Forest Corporation

**Undertakings and Refusals from the Cross-Examination of Daniel Bach
on his Affidavit sworn April 11, 2012, held on April 17, 2012**

Question	Page	U/A/R	Description	Answer
			Cross-Examination by Ms. Roy (for the Respondent, Ernst & Young LLP)	
104	30	U	Do you take the position in the CCAA proceedings that the settlement agreement with Poyry is in the best interests of the stakeholders?	Yes
112	32	A	What information or materials have you provided to the Monitor in respect of the settlement?	The materials appended to the motion record in the CCAA proceeding.
117	33	R	Produce documents pertaining to communications with putative class members	
129	36	R	What is the nature of the retainer with Davis Select Advisors LP?	
131	37	R	Is Davis providing Siskinds or Koskie Minsky with instructions in respect of the class action?	
136	38	R	What is the nature of Davis' involvement in the class action?	
137	38	R	Will Davis be filing an affidavit in respect of the class action so that they may be cross-examined?	
138	38	R	What is the nature of Paulson's involvement with the class action?	

Question	Page	U/A/R	Description	Answer
140	39	R	Will Paulson be filing an affidavit in the class action so that they can be cross-examined?	
142	39	R	Has anyone else retained your firm in respect of the class proceeding?	
143	39	R	Has anyone else retained Koskie Minsky in respect of the class proceeding?	
155	42	A	What are Davis' holdings? What are their notes?	Refused
167	44	A	Is Paulson a note-holder?	Refused
169	45	R	Is your understanding that Paulson would be ineligible to participate in a distribution under the CCAA process?	
175 177	46 47	U	What are the current holdings of the trustees of the Labourers' Pension Fund of Central and Eastern Canada?	As of April 17, 2012, Labourers' held no Sino-Forest securities other than those possibly held via certain pooled funds. We are making inquiries as to their current holdings via those funds.
			Cross-Examination by Mr. Fabello (for Underwriters named in Class Actions)	
200	52	U	Advise whose signature is second from the top on page 32 of the Poyry settlement agreement (Exhibit Z, Bach Affidavit).	Jonathan Bida
205	52	U	Advise whose signature is on the bottom on page 32 of the Poyry settlement agreement (Exhibit Z, Bach Affidavit).	Bruno Floriani

Question	Page	U/A/R	Description	Answer
207	53	U	Check Mr. Bach's records and provide the date that he affixed his signature to the Poyry settlement agreement (Exhibit Z, Bach Affidavit).	March 22, 2012, and then again on March 27, 2012. (See response to Q 215)
209, 218	53, 55	U	Provide the date by which all parties had signed the Poyry settlement agreement (Exhibit Z, Bach Affidavit).	April 2, 2012
211	54	U	Confirm with Koskie, Siskinds, Mr. Baert or otherwise that on March 22, 2012, some of the signatures were affixed to the Poyry settlement agreement (Exhibit Z, Bach Affidavit).	Yes, however, as described in the answer to Q 215, the agreement was subsequently re-signed following a change to a material term of the agreement.
212	54	U	Advise whose signatures were affixed to the Poyry settlement agreement as at March 22, 2012 (Exhibit Z, Bach Affidavit).	Daniel Bach and John Pirie, however, as described in the answer to Q 215, the agreement was subsequently re-signed following a change to a material term of the agreement.
215	54	U	Inquire within Siskinds and Koskie to advise whether the terms of the Poyry settlement agreement had been negotiated and settled as at March 22, 2012, even though not everybody had signed by that date (Exhibit Z, Bach Affidavit).	On March 26, 2012, further changes were made to the Settlement Agreement regarding the definition of "Released Claims", which is a material term of the agreement, and accordingly the agreement was re-signed thereafter.
216	55	A	If the terms of the Poyry settlement agreement had not been negotiated and settled as at March 22, 2012, advise which material terms had not been settled by that date (Exhibit Z, Bach Affidavit).	See above
217	55	U	Provide the date by which all the material terms of the Poyry settlement agreement were settled (Exhibit Z, Bach Affidavit).	See above

**IN THE MATTER OF THE *COMPANIES CREDITORS' ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND IN
THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SINO-FOREST CORPORATION**

Court File No. CV-12-9667-00-CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**RESPONDING BRIEF OF
ERNST & YOUNG LLP
(Motion Returnable April 20, 2012)**

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