

ANNEXE B

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF QUÉBEC

No : 200-06-000181-159

SUPERIOR COURT
(Civil Division)

LES CONSTRUCTIONS SYLVAIN LIBOIRON
INC.

Applicant

v.

AGENCE DU REVENU DU QUÉBEC

Defendant

and

LA PROCUREURE GÉNÉRALE DU QUÉBEC

Third Party

NOTICE TO THE MEMBERS

1. **WE HEREBY NOTIFY YOU** that the bringing of a class action was authorized on March 1st, 2017, by a judgement of the Honourable Justice Simon Ruel of the Superior Court, on behalf of the Group described hereinafter, that is [TRANSLATION]:

Since March 6th, 2012, all natural persons and all legal persons governed by private law, companies, associations or other groups within the meaning of article 571 of the *Code of Civil Procedure*, from whom sums were seized by Agence du Revenu du Québec, pursuant to section 31.1.1 of the *Tax Administration Act*, R.S.Q., c. C. A-6.002, since the filing of a notice of intention or a proposal under the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, until the issuance of a certificate of full performance of proposal under section 65.3 or 66.38(1) of the Act.

Since March 6th, 2012, all legal or natural persons (including trustees appointed under the *Bankruptcy and Insolvency Act* or any receiver) who have suffered prejudice as a result of the use by the Agence du Revenu du Québec of the remedy provided in section 31.1.1 *Tax Administration Act* despite the filing of a notice of intention to make a proposal, a proposal or declaration of voluntary or forced bankruptcy.

2. The Associate Chief Justice appointed the Honourable Simon Ruel, S.C.J., to hear all the related proceedings.
3. The status of representative for the bringing of the class action was granted to Les Constructions Sylvain Liboiron inc., who, for such purposes, has elected its domicile at the office of its attorneys, Bédard, Poulin, avocats, s.e.n.c.r.l., at 47, rue Dalhousie, Québec (Québec) G1K 8S3.
4. The Defendant's address is:

Agence du Revenu du Québec
3800, rue de Marly
Québec (Québec) G1X 4A5
5. The main questions of fact and of law to be dealt with collectively are as follows:
 1. Does the debt allocation procedure set forth in section 31.1.1 of the *Tax Administration Act* constitute a compensation within the scope of paragraph 97(3) *Bankruptcy and Insolvency Act*?
 2. Are sections 30.3, 30.4 and 31.1.1 of the *Tax Administration Act* constitutionally inoperative to the extent of their conflict with the *Bankruptcy and Insolvency Act*?
 3. Must debt allocations done under section 31.1.1 of the *Tax Administration Act* respect the *Civil Code of Quebec's* provisions regarding imputation of payments?
 4. What are the refunds or damages payable to each Member, as the case may be?
6. The conclusions sought that are related to those questions are as follows¹:
 - a) The collective action seeks a judgement against Agence du Revenu du Québec, ordering it to make a collective refund of sums unlawfully seized in favor of the Members of the Group, the whole with interests at the rate prescribed by law and the additional indemnity provided for by law.
 - b) Applicant seeks a judgement against Agence du Revenu du Québec awarding, to each Member concerned, five thousand dollars (\$5,000.00) or 15% of the amounts seized as damages for moral and material prejudice as well as punitive damages for the intentional infringements of the rights and freedoms that are provided for in *Charter of Human Rights and Freedoms*.

¹ See the judgment in authorization of the class action to consult the exhaustive list of the conclusions sought by the class action to be exercised.

- c) Applicant seeks a judgement against Agence du Revenu du Québec awarding \$2,000,000.00 in punitive damages with interest and additional indemnity provided for by law.
 - d) ALTERNATIVELY, applicant seeks a judgement against Agence du Revenu du Québec ordering it to redo the imputations of payments of the sums appropriated or seized and a judgment ordering the refund of Members of the Group and interested third parties.
7. The class action to be brought by the representative on behalf of the Members of the Group is to consist of a liability action against the State and an application to declare constitutionally inoperative some sections of the *Tax Administration Act* to the extent of their conflict with the *Bankruptcy and Insolvency Act*.
 8. Every Member forming a part of the Group who is not excluded from the Group by the means indicated hereinafter shall be bound by any judgement rendered in the class action.
 9. The date after which no Member may elect to be excluded (except with special permission) has been set as the date that is 30 days after the publication of this notice, that is, on April 17th, 2017, at 5:00 p.m..
 10. A Member who has not already brought a personal suit may elect to be excluded from the Group by notifying the clerk of the Superior Court of the district of Québec of such election, by registered or certified mail, before the exclusion deadline, specifying the number of the record, as shown at the top of this notice, at the following address:

Greffe de la Cour supérieure, district de Québec
300, boul. Jean-Lesage
Québec (Québec) G1K 8G6
 11. Any Member of the Group who has brought a suit that would be decided by the final judgment rendered in the class action and who does not discontinue said suit by the exclusion deadline is deemed to be excluded from the Group.
 12. A Member of the Group who is not a representative or an intervener cannot be called upon to pay the costs of the class action.
 13. The court may allow a Member to intervene if such intervention is considered useful to the Group. An intervening Member is required to submit to an examination on discovery at Defendant's request. A Member who does not intervene in the class action has to submit to an examination on discovery only if the court considers it necessary.
 14. Members of the Group may obtain a copy of the judgement authorizing this class action, as well as more information regarding the class action, by consulting the registry of class actions at www.tribunaux.qc.ca or by consulting representative's attorneys' website at www.bpavocats.com under Liboiron c. Revenu Quebec.

15. In the event of any inconsistency between the terms of this notice and those of the judgement of the Honourable Simon Ruel, S.C.J., the terms of the judgement shall prevail.

Bédard Poulin, avocats, s.e.n.c.r.l.
47, rue Dalhousie
Québec (Québec) G1K 8S3
Website : www.bpavocats.com

BÉDARDPOULIN
a v o c a t s