

CANADA  
PROVINCE OF QUÉBEC  
District of Montréal

SUPERIOR COURT  
Class action

File No.: 500-06-000485-090

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**OPTION CONSOMMATEURS,**

Plaintiff

-and-

**HENRI JOLY**

Designated person

vs.

**THE BRICK WAREHOUSE LP,**

Defendant

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**AFFIDAVIT OF PIERRE TAILLEFER**

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I the undersigned, Pierre Taillefer, C.A. and partner at BDO Canada LLP, practicing my profession at 1000, De La Gauchetière Street West, Suite 200 Montréal (Québec) H3B 4W5, hereby depose and say:

1. By judgment rendered on September 29, 2014 by Mr. Justice Louis Crête, of the Superior Court, I was appointed to audit the administration of the settlement by Defendant The Brick in the present case and to report thereon as per paragraph 8 of the Judgment.
2. Thereafter, I was appointed to produce a final report of administration on the remaining balance and to perform a second Special Purpose Audit to obtain a detailed understanding of the process followed by The Brick to issue new cheques to, in accordance with judgments rendered on June 1, 2016 and September 2, 2016 by Mr. Justice Louis Crête of the Superior Court,:
  - a. 2,587 members of Group 1 who were omitted and not compensated;
  - b. 6,971 members of Group 2 who were omitted and not compensated;
  - c. 3,919 members of Group 2 who were partially compensated (\$29.24 instead of \$70.00).

3. The audit was carried out over the period with the participation of my partner Mario Piroddi of BDO Canada LLP's Kamloops, British Columbia office, and this Affidavit is made in reference to our audit report (Appendix 1);
4. Attached to this affidavit is:
  - a. Listings of omitted members of Group 1 to whom a notice was mailed with their address, the value and number of fees charged to them joined together with cheques issued and amount unissued when the notice was returned to The Brick (Appendix A - A.1 and A.2).
  - b. A listing of omitted members of Group 2, with address, to whom a notice was mailed (Appendix A - A.3).
  - c. A listing of omitted members of Group 2 who made a claim to The Brick joined with cheques issued to those members (Appendix A – A.4)
  - d. A listing of all cheques issued to omitted members of Group 1, showing uncashed cheques (Appendix B).
  - e. A listing of all cheques issued to omitted members of Group 2, showing uncashed cheques (Appendix C).
  - f. A listing of all cheques issued to members of Group 2 who were partially compensated, showing uncashed cheques (Appendix D).
  - g. A table indicating the remaining balance, including amounts unissued and cheques uncashed (Appendix E).
5. Our previous audit revealed that 2,587 class members of Group 1 were omitted from the list of eligible customers by The Brick. As such, at the time of our previous audit, these class members had not been advised of the settlement and had not received the settlement benefits.

Our updated procedures have identified that The Brick mailed 2,083 cheques to these members representing an amount of \$69,971.32. Of these cheques, 953 remain uncashed representing an amount of \$31,783.88.

The difference between the original 2,587 customers and the 2,083 cheques sent is the number of notices sent by The Brick, which were returned to the latter. No cheque was mailed to a class member when his notice was returned to The Brick.

6. Our previous audit revealed that 6,971 class members of Group 2 were omitted from the list of eligible customers by The Brick. As such, at the time of our previous audit, these class members had not been advised of the settlement and had not received the settlement benefits.

The Brick received a list of 1,310 class members of Group 2 who were omitted from the list of eligible customer by The Brick completed a claim form.

Our updated procedures have identified that The Brick mailed 1,310 cheques to these members representing an amount of \$77,735.00. Of these cheques, 88 remain uncashed representing an amount of \$5,005.00.

7. Our previous audit revealed that 3,919 class members of Group 2 entitled to a reimbursement of \$70.00 under the Settlement only received an amount of \$29.24, i.e. \$40.76 less.

Our updated procedures have identified that The Brick mailed 3,919 cheques of \$40.76 to these members representing an amount of \$159,738.44. Of these cheques, 946 remain uncashed representing an amount of \$38,558.96.

8. Our audit further revealed that the total sum of all cheques issued and mailed since our last audit by The Brick to members of Groups 1 and 2 which remain uncashed represent an amount of \$75,347.84. Moreover, an amount of \$17,193.12 was not issued to omitted members of Group 1 because their mailed notice was returned to The Brick. This amount should be added to the amount of uncashed cheques for a remaining balance of \$92,540.96.

And I have signed,

BDO Canada LLP  
by: *Pierre Taillefer*

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Pierre Taillefer  
Partner, BDO Canada LLP

SWORN before me at the City of  
Montréal, in the Province of Québec,

this 31<sup>st</sup> of October 2017

Marie-France Proulx, #130108  
Commissioner for Oaths





## APPENDIX 1

### AUDITOR'S REPORT SCOPE

The Brick Warehouse LP ("The Brick") is a retailer of home furnishings, appliances, electronics and mattresses that has locations across Canada. In 2009, The Brick began charging annual membership fees of \$35 to customers using its Brick Credit Card in the Province of Quebec. A class action lawsuit was commenced and certified in the Province of Quebec in respect of class members who bought a good or service from The Brick in Quebec using the financing program on or before 30 April 2010 and who were billed an annual membership fee. A settlement agreement was entered into among Henri Joly, Option Consommateurs and The Brick which was approved by the Superior Court (Quebec). In accordance with the terms of the Settlement Agreement, The Brick agreed to pay certain eligible customers as well as Belleau Lapointe and Option Consommateurs. Over the course of effecting the payments to eligible customers, there have been inquiries made by certain eligible customers and by Option Consommateurs that there may be eligible customers who may be entitled to payment in respect of the terms of the Settlement Agreement or who may not have received the correct amount.

### ENGAGEMENT OBJECTIVES

As agreed by the Superior Court of the Province of Quebec, Option Consommateurs and The Brick, BDO was engaged to perform a second Special Purpose Audit ("SPA") under the Standards for IS Audit and Assurance issued by the Professional Standards and Career Management Committee of the Information Systems Audit and Control Association ("ISACA"). The objective of our audit was to:

1. Obtain a detailed understanding of the process followed by The Brick for reissuing cheques to all eligible customers, subsequent to judgments delivered by the Superior Court of the Province of Quebec dated June 1, 2016 and September 2, 2016 ("2016 Judgments");
2. Produce an affidavit including:
  - For Group 1: The listing of cheques issued in September 2016 as well as the listing of cheques cashed, cheques returned and cheques outstanding (number of cheques and total amount in dollars) from this same listing;
  - For Group 2: The listing of claims forms/notices sent out to the 6,971 eligible customers;
  - For Group 2: The listing of cheques issued, as well as the listing of cheques cashed, cheques returned and cheques outstanding (number of cheques and total amount in dollars) from this same listing;
  - The remaining balance including amounts unissued and cheques uncashed subsequent to the 2016 Judgments based on The Brick's available databases.

### PROCEDURES

In order to fulfill the terms of the engagement, the following procedures were conducted:

1. Interviewed personnel engaged in the management and day-to-day activities of The Brick to understand the flow of data through the organization, how the data was stored and maintained in The Brick's databases, with respect to customers in Quebec who paid the \$35 application fee during the relevant period.
2. Updated our understanding of the systems in place at The Brick used to generate the list of eligible customers and the list of cheques cashed. We did not, however, re-perform testing of information technology general controls or of the exact data extracts as the



3. processes followed by The Brick are the same processes as those originally tested by BDO during our first engagement.
4. Joined listings of cheques issued to the original listings of customers to whom the Brick owed payment. BDO then took a sample of 50 cashed cheques for Group 1 members and 25 cashed cheques for Group 2 members, and verified these back to cancelled cheque scans and bank statements. Details were agreed including name, address, and amount of payment (Appendix A).
5. Tested a sample of 50 returned cheques for Groups 1 and 2. These cheques were compared to the original listing for accuracy of amounts, names and addresses. For the 50 returned cheques tested, BDO identified 9 where Data Group had changed the address from the original listing. The Brick represented that this was due to Data Group running the addresses through the Canada Post Notice of Change of Address program. Data Group only maintains mailing records for 90 days, and as such, we were unable to validate these changes.
6. Compared the number of cheques mailed out for Groups 1 and 2 to the Canada Post documentation supporting this mailing. For Group 1, a total of 2,083 pieces were mailed in October 2016 agreeing to the total cheques per the cheque listing. For Group 2, a total of 1,310 pieces were mailed in February 2017, agreeing to the total cheques per the cheque listing.
7. For Group 2, we compared the number of notices mailed out to the Canada Post documentation supporting this mailing. A total of 6,971 notices were sent out (Appendix A.3). Following the sending of these notices, 1,310 class members of Group 2 completed a claim form which was forwarded to The Brick (Appendix A.4).
8. For Group 1A, a total of 1,931 cheques with a total value of \$65,526.84 were issued. Of those cheques, 889 totaling \$29,912.52 are outstanding (Appendix B.1).
9. For Group 1B, a total of 152 cheques totaling \$4,444.48 were issued. Of these cheques, 64 totaling \$1,871.36 are outstanding (Appendix B.2).
10. For Group 2, a total of 1,310 cheques totaling \$77,735 were issued. Of these cheques, 88 totaling \$5,005 are outstanding (Appendix C).
11. For the 3,919 class members of Group 2 that received \$40.76 less than what they were entitled to, reviewed the listing of cheques sent and uncashed cheques remaining (Appendix D).
12. Obtained a listing of all uncashed cheques.
13. Calculated the remaining balance (Appendix E).
14. Reviewed the results with the management of The Brick.

## SIGNIFICANT ASSUMPTIONS

While BDO Canada LLP was engaged to perform a second SAP as described in this report, it is important for users to understand the nature of the engagement and sources of audit evidence. In particular, the following information is of importance for users when reviewing the results of our engagement, as attached in the appendices to this report:

- As BDO Canada LLP was not engaged when the notice mailings were made to claimants, we cannot attest to:
  - Whether all notices mailed to claimants were actually mailed out;
  - What the addresses on the customer packages were;
  - Whether envelopes marked as R (see Appendix A) were actually returned to The Brick;
- As Group 2 was included in the listing of cheques issued. We were unable to validate the eligible customer list of this group.
- Of the original cheques issued to Groups 1 and 2, 1,992 have not been cashed. Some of these cheques were returned by mail. When these cheques were returned by Canada Post, The Brick staff removed them from the envelopes to determine which cheques were being returned and



the envelopes were disposed of. As a result, we were unable to determine the reason for the cheques being returned.

The key management personnel that were involved in the audit activities included:

- > Greg Nakonechny, Vice President, Legal and Corporate Secretary
- > Moe Assaf, Senior Director of Credit
- > Greg Mah, Solutions Architect
- > Darci Walker, Regional Manager Operations
- > Marguerite Childs, Director Treasury & Inventory Accounting

BDO Canada LLP  
by: Pierre Jullien, Partner  
Chartered Professional Accountants

Montreal, Quebec  
October 31, 2017