

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF HULL

SUPERIOR COURT  
(Class Action)

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N° : 550-06-000026-113

DAVID BROWN, [REDACTED]  
[REDACTED]  
[REDACTED]

Plaintiff

v.

LLOYD'S UNDERWRITERS, [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

-and-

SAMSON ET ASSOCIÉS INC, [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Defendants

### MOTION TO INSTITUTE PROCEEDINGS

IN SUPPORT OF HIS MOTION, THE PLAINTIFF DAVID BROWN  
RESPECTFULLY SUBMITS:

1. On August 19, 2010, Mr. Justice Michel Déziel has authorized a Class Action against Whitney Canada Inc. and Desjardins Financial Security Investments Inc. (herein after called Optifund) in the Superior Court file bearing no. 550-06-000024-068; copy of this judgment being deposited as exhibit P-1.
2. On May 16, 2011, the same judge in the same file has also authorized the Class Action against François Roy and Marc Jémus; copy of this judgment being deposited as exhibit P-2.

3. On the same date, Mr. Justice Déziel has also approved a transaction agreed upon by Whitney Information Network Inc. and Whitney Canada Inc. on one part and Plaintiff on the other part, providing for the payment of \$250,000 for the benefit of the members of the group, which has been deposited with the Clerk of the Superior Court; copy of this judgment of approbation being deposited as exhibit **P-3**.
4. On May 15, 2012, the Québec Court of Appeal has authorized the Class Action against the B2B Trust; copy of this judgment being deposited as exhibit **P-4**.
5. On May 29, 2013, in the Superior Court file bearing no. 550-06-000026-113, Mr. Justice Déziel has authorized the Class Action against Lloyd's Underwriters ("Lloyd's") and Samson & Associés Inc. ("Samson"); copy of this judgment being deposited as exhibit **P-5**.
6. Each of these judgments authorizing the Class Action is based on the same alleged sets of facts and is raising similar questions of law, involving each of the defendants in both files.

### **The Group**

7. Each of these judgments authorizing the Class Action has been rendered for the benefit of the same group of members, described as follow:

#### *Description of the Group*

*All those natural persons, and legal persons with less than fifty (50) employees, who have made various investments proposed to them by Marc Jémus, François Roy and/or Robert Primeau, and/or through them, and/or in or through companies related to one of them, in the years 2001 to 2005 inclusively.*

### **The facts at the basis of this Class Action**

#### **The fraudulent scheme set up by Jémus, Roy and Primeau**

8. At the origin of these Class Actions is the fraudulent scheme framed and executed by mainly three individuals, namely Marc Jémus, François Roy and Robert Primeau (hereinafter called Jémus, Roy and Primeau).

9. The members of the group were induced to invest in this fraudulent scheme by the false representations of Jémus, Roy and Primeau.
10. However, the contribution of the defendants in both files (C.S. 550-06-000024-068 and C.S. 550-06-000026-113) was also necessary for this scheme to succeed, both for the credibility that they have given to it and for their failure to meet the basic professional duties of prudence and diligence when acting as brokers in securities and financial consultants, trustees or accountants.
11. These defendants have acted negligently, in total disregard of the interest of their clients and in breach of their professional obligations.
12. The *modus operandi* used by Jémus, Roy and Primeau to commit their fraud can be summarized as follows.

#### **The recruitment of the members of the group**

13. The majority of Group Members, as Plaintiff Brown and his wife, initially followed a training in real estate investments with Whitney Canada Inc. and/or Whitney Information Network Inc. (hereinafter collectively called Whitney Group).
14. Other members, who had not purchased training courses, were attracted by the reputation of the Whitney Group and the apparent success of the other investors.
15. Whitney Group was offering real estate investments trainings based on a program called «The Russ Whitney's Building Wealth System» and was representing to future students that they will learn «secret techniques to generate wealth quickly», as it appears from extracts of Whitney Canada and Russ Whitney Building Wealth Websites, being deposited as exhibit **P-6**.
16. For example, it is mentioned that Russ Whitney himself became a millionaire using those investment methods, as it appears from an extract of Russ Whitney Building Wealth Website, being deposited as exhibit **P-7** and from a Newsletter from Whitney Canada, being deposited as exhibit **P-8**.
17. Before beginning their training with Whitney Group, new students had to fill out an *Evaluation sheet* in which they provided information concerning

their financial situation, as it appears from a copy of an *Evaluation Sheet* being deposited as exhibit **P-9**.

18. Most Group Members met Roy, Jémus, and/or Primeau during or just following a training with the Whitney Group, which often took place in Gatineau or in the surrounding areas, as it appears from a note given to a Group Member during a seminar, being deposited as exhibit **P-10**.
19. Actually, Roy was a mentor working for the Whitney Group as it appears from a copy of a business card being deposited as exhibit **P-11**.
20. Roy used his position as a mentor to recruit new investors, to convince them to transfer their money to his company, to invest it in Primeforce, (one of the Primeau's business names) as it appears from emails from and to Jean Lapointe, Head of Canadian Mentorship Training Program for Whitney Group, being deposited as exhibit **P-12**.
21. As mentor for Whitney Group, Roy could have access to the detailed financial situation of several students as presented in Evaluation Sheets, similar to the one already deposited as exhibit P-9.
22. As Roy, Jémus has worked as a mentor for the Whitney Group but during a short period of time; he was also hired as a speaker during some of Whitney Group's events.
23. During Whitney Group's sessions or trainings, it was mostly and usually as a broker in financial products or as an accountant that Jémus was introduced to Group members by Whitney's mentors as it appears from some notes and business card already deposited as exhibit P-10.
24. In addition, Jémus was presented as being an expert for developing programs for the investments of self-directed RRSPs in real estate and that, in this quality, he had been involved in the development of that kind of programs with Revenue Canada, which was also totally false.
25. Furthermore, Whitney Group's representatives were presenting Jémus as the only person in Canada that could propose to Group Members specific arrangements for RRSPs investments in real estate through B2B Trust.
26. Upon recommendations made to them by Whitney's representatives or by Roy or Jémus, almost all of the members have opened an account with B2B Trust and have transferred their RRSPs investments to B2B Trust.

27. In addition to these transfers of funds, the members of the group were also solicited to borrow money from B2B Trust, which many of them have done.
28. These loans were also invested in the members RRSPs through their B2B Trust account according to the recommendations of Jémus, Roy and Primeau.
29. Primeau was then presented as being able to find good real estate investments and described as a "mortgage broker / hand money lender" as shown by exhibit P-10.

**The investments in real estate ventures proposed by Jémus, Roy and Primeau**

30. Once the money was in B2B Trust accounts, members of the group were convinced to buy Class C preferred shares in companies controlled by either Jémus, Roy or Primeau for the purpose of doing real estate investments.
31. The following companies, as well as other companies, were used for such investments: Pension Positive Inc., 3877311 Canada Inc., Les Entreprises de gestion Robert Primeau Inc., and, whose shareholders, directors or managers were whether Jémus, Roy, or Primeau, as it appears from extracts of the *Registre des entreprises* of Quebec for two of the companies and of the Registry of Corporations Canada for the other, being deposited *en liasse* as exhibit **P-13**.
32. The money transferred to these three companies, together with the proceeds of the loans granted by B2B Trust to many members, were supposed to be invested in various real estate ventures, for the purchase of properties, loans to builders, mortgages, all proposed whether by Jémus, Roy or Primeau.
33. In many cases these investments in real estate ventures were directly executed by Jémus, Roy or Primeau who had been given a power of attorney by many of the members to act with full authority to carry out transactions on their behalf (see on this aspect, exhibit P-20 at p.3).
34. A good example of conflict of interests and of the way some transactions have been handled under these powers of attorney, is given by a *Mémo* of Jean Boivene, an investigator from Ginsberg, Gingras et Associés Inc., dated August, 5, 2005, deposited as exhibit **P-14**.

35. Even though the members were informed that each of the investments was to be matched to a particular property and to be made in a specific manner, it happened that in many instances it had not been the case.
36. The investments were made in a manner that renders difficult to follow where the money has gone and for what purposes it was used.
37. In many instances, members of the group have discovered later on that they did not own the properties they were supposed to have purchased and that their loans were only secured by third row mortgages over the real value of the properties.
38. Furthermore, it appeared that, in many cases, no serious management of the properties was ever made, so that the taxes were not paid, the rents not collected, the maintenance not done.
39. As a result, the members of the group have lost all or most of the investments they have made through Jémus, Roy and Primeau and/or through their above mentioned companies.
40. Furthermore, the representations made to the members of the group that their investments in these real estate ventures were admissible to RRSP were totally false; as a consequence, members of the group have been considered as having redeemed their RRSPs and have been assessed to reimburse the tax deductions they have claimed in the previous years, plus interests and penalties.

#### **The bankruptcy of the companies and the findings of the Receiver**

41. On October 28, 2005, Les Entreprises de Gestion Robert Primeau Inc. went bankrupt, as appears from the Insolvency Name Search database of the Office of the Superintendent of Bankruptcy Canada, extracts of which are deposited as exhibit **P-15**.
42. On April 6, 2006, both Pension Positive Inc. and 3877311 Canada Inc. went bankrupt, the whole as appears from the Insolvency Name Search database of the Office of the Superintendent of Bankruptcy Canada, extracts of which are deposited *en liasse* as exhibit **P-16**.
43. On April 4, 2005, the firm Ginsberg, Gingras et Associés Inc. was appointed as Receiver of Pension Positive Inc., 3877311 Canada Inc. and Primeau and later on as their trustee in bankruptcy since this firm has concluded that both companies were insolvent.

44. Ginsberg Gingras & Associés Inc. have executed a complete investigation on the books and on the management of these two companies by Jémus and Roy and have deposited four reports on the findings of their investigation; those reports also point out the participation of Primeau and his other companies.
45. More particularly, on July 18, 2005, Ginsberg Gingras & Associés made a first report concerning the financial situation of Pension Positive Inc., as it appears from a copy of that report deposited as exhibit **P-17** with the two volumes of a "Book of investments information" deposited as exhibit **P-17A** (Volume I) and as exhibit **P-17B** (Volume II);
46. On January 4<sup>th</sup>, 2006, Ginsberg Gingras & Associés made a second report concerning Pension Positive Inc., as it appears from a copy of that report deposited as exhibit **P-18**.
47. Also, July 22, 2005, Ginsberg Gingras & Associés made a first report concerning the financial situation of 3877311 Canada Inc., as it appears from a copy of that report including a "Book of investment information" deposited as exhibit **P-19**.
48. On January 4<sup>th</sup>, 2006, Ginsberg Gingras & Associés made another report concerning the financial situation of 3877311 Canada Inc., as it appears from a copy of that report deposited as exhibit **P-20**.
49. The findings of the investigation by Ginsberg Gingras & Associés as related in the above mentioned reports are to the effect that the books of the companies were kept, whether deliberately or negligently, in a total mess and were full of irregularities, false entries and omissions.
50. As a result, it is almost impossible to establish where the money came from and where it went and consequently to retrace the details of the investments made by each of the members of the group.
51. It is also clear from the investigation that the investments made in various real estate ventures were not serious, that no follow-up was made and that no measures at all were taken to protect these investments.
52. Furthermore, the reports indicate that part of the money obtained from the members was diverted to other use than real estate investments.
53. Particularly, some of the money were used for the personal benefit of Jémus, Roy and Primeau and their relatives.

## The Private Offering Memorandums and the Subscription Agreements

54. At the time they were selling shares of their companies to group members, Jémus, Roy and Primeau had had prepared some documents to be provided to B2B Trust justifying the opening of an account for each member at B2B Trust and allowing the transfer of these shares in the members' RRSPs accounts.
55. Therefore, for each company, a *Private Offering Memorandum and a Subscription Agreement* was provided by Jémus, Roy or Primeau to indicate how many Class C Preferred Shares were sold to each member of the group.
56. The Private Offering Memorandums for each company were, for all relevant purposes, identical, as it appears from examples of Private Offering Memorandums, one from Pension positive, one from 3877311 Canada Inc. and another from Les Entreprises de gestion Robert Primeau Inc., deposited *en liasse* as exhibit **P-21**.
57. The same can be said of the Subscription Agreements, as it appears from examples of Subscription Agreements, one from Pension positive, one from 3877311 Canada Inc. and another from Les Entreprises de gestion Robert Primeau Inc., deposited *en liasse* as exhibit **P-22**.
58. These documents are on their face inadequate and frivolous.
59. More precisely, without limiting the generality of the foregoing, the Private Offering Memorandums for each company included several errors, omissions and misrepresentations, some of which are detailed in a Report prepared by Alain Falardeau, lawyer acting in matters related to securities, which report is deposited as exhibit **P-23** as if it was recited in whole in the present motion.
60. The Subscription Agreements also contained several errors and misrepresentations and omitted to include some required information; these problems are also examined in Me Falardeau's Report.
61. After having analysed an example of a Private Offering Memorandum for each of the companies, Me Falardeau concluded, at page 9 of his report, that he had never seen documents of such a poor quality and, at page 13, that these Memorandums do not meet by far the legal requirements needed for this type of documents.
62. After reviewing the documentation of the three companies, Mr. Julien Béliveau from Services financiers Square Victoria Inc. made



the same statement of facts in his report dated April 15, 2008, at page 27, adding that these documents are a mockery of the legitimate process to obtain financing; Mr. Béliveau's Report is deposited as exhibit **P-24**.

63. Also, as far as the Plaintiff knows, no valid prospectus were ever submitted to the *Autorité des marchés financiers* for any of the three companies involved, namely Pension Positive Inc., 3877311 Canada Inc. and Les Entreprises de gestion Robert Primeau Inc., nor did they receive any legislative or discretionary exemption to submit such prospectus.
64. If such prospectus had been submitted, it is obvious that they would never have been approved as valid prospectus, as it is stated in Me Falardeau's Report at page 10, exhibit P-23.
65. These *Private Offering Memorandums and Subscription Agreements* were requested by B2B Trust for the opening of the members' RRSPs accounts and in order to complete the transactions therein, as it appears from B2B Trust's *Small Business Transaction – Documentation – Check List*, deposited as exhibit **P-25**.
66. These documents were provided to B2B Trust directly by Jémus or Roy or by other representatives attached to whether Optifund, IForum Securities Inc. or IForum Financial Services Inc., firms supposedly representing the members of the group.
67. B2B Trust and the firms involved were grossly negligent in considering these documents as valid Private Offering Memorandums and Subscription Agreements.
68. If these Private Offering Memorandums and Subscription Agreements were intended to be used to deceive the average non-professional investors, it should have been obvious for professional consultants, brokers, trustees and financial institutions that they were fake on their face.

#### **The valuation certificates**

69. The Subscription Agreements for each of these companies, exhibit P-22, indicate at each of their respective section 1 that every Class C Preferred Share was sold to members at a price of \$1.00.
70. In order to justify this value of \$1.00, Jémus, Roy and Primeau have had prepared some documents called *Qualified Investment/Validation*

*Certificate of Opinion* confirming that this was the Fair Market value of «The investment».

71. Furthermore, these above mentioned documents were certifying that «The investment» was a Qualified investment for the Registered Plan under the Income Tax Act and regulations.
72. These documents were transmitted to the members by Jémus, Roy or Primeau.
73. These documents were requested and checked by B2B Trust as it appears from B2B Trust's *Small Business Transaction – Documentation –Check List*, deposited as exhibit P-25.
74. Some of the certificates concerning the Class C Preferred Shares of Les Entreprises de gestion Robert Primeau Inc. were prepared and signed by Mr. Serge Lafortune, an employee of Samson et Associés Inc., as it appears from an example of such a certificate deposited as exhibit **P-26**.
75. The *Qualified Investment/Valuation Certificate of Opinion* for the shares of Pension Positive Inc. were prepared and signed by another accountant, namely Pierre Selfani, and were also provided to B2B Trust and the members of the group through Roy, Jémus and/or Primeau.
76. This accountant Pierre Selfani might also have prepared and signed some of these certificates for the shares of Les Entreprises de gestion Robert Primeau, but their exact number is unknown to Plaintiff.
77. Most of the *Qualified Investment/Valuation Certificate of Opinion* for the shares of 3877311 Canada Inc. were prepared and signed by Mr. Lafortune of Samson et Associés, as it appears from samples of such certificates deposited *en liasse* as exhibit **P-27**.
78. For the period from 2001 to 2004, every certificate of evaluation prepared by either Mr. Lafortune and Mr. Selfani for the Class C Preferred Shares of Les Entreprises de gestion Robert Primeau Inc., Pension Positive Inc. and 3877311 Canada Inc. indicates a fair market value of \$1.00, which is not consistent with reality and shows that a real appraisal of the fair market value had never been done.
79. In an examination out of court dated March 21, 2007, Mr. Lafortune acknowledged that he had never proceeded to the appraisal of a business (see pages 4 and 25 of the examination); this examination also shows that he never proceeded to a serious estimation of the fair market value of the shares, being satisfied by the statements of his clients that

they had no other value than the price paid by the members, \$1.00 per share, a copy of this examination is deposited as exhibit P-28.

80. Leclerc Juricomptables Inc. were mandated to analyse the *Qualified Investment/Valuation Certificate of Opinion* prepared and signed by Mr. Lafortune and Mr. Selfani with regard to the shares of Les Entreprises de gestion Robert Primeau Inc., 3877311 Canada Inc. and Pension Positive Inc., as it appears from their report dated March 31, 2008 deposited as exhibit P-29, as if it was recited in whole in this motion.
81. These experts are of opinion that both Mr. Lafortune and Mr. Selfani had not followed the standards of their profession in proceeding to the evaluation of the fair market value of the shares (see pages 15 and 16 of the opinion); they themselves estimated the value between \$0.00 and \$0.78 (see Annex B of the report).
82. Furthermore, Mr. Lafortune has admitted that he had prepared the financial statements of 3877311 Canada Inc (see page 9 of exhibit P-28) and, though he was surprised and could not remember having signed certificates for Les Entreprises de gestion Robert Primeau Inc. (see pages 14 and 27 of exhibit P-28), he has also prepared the financial statements for this company as it appears from the financial statements of this company for 2002 and 2003 deposited *en liasse* as exhibit P-30.
83. In doing so, Mr. Lafortune and the defendant Samson et Associés Inc. had put themselves in a conflict of interest that should have prevented them to act as appraisers of the fair market value of the shares.

#### **The involvement of the Firms acting in financial services and securities**

84. In order to proceed to the purchase of shares of the three above mentioned companies and to execute transactions in their self-directed RRSPs accounts at B2B Trust, the members of the group had to be represented by individuals detaining a certificate of *L'Autorité des Marchés financiers* (the «*Autorité*») and attached to a Firm registered with the *Autorité*.
85. Most members of the group were represented by a someone attached to Optifund or to IForum Financial Services Inc. and/or to IForum Securities Inc. (collectively, the «Firms»).
86. Jémus was the first representative for several members of the group when he was working for Optifund and/or IForum Financial Services Inc.,

as it appears from samples of B2B Trust RRSPs accounts statements from some members of the group deposited *en liasse* as exhibit **P-31**.

87. In most cases, the accounts of the members were transferred to another representative attached to whether Optifund or IForum Financial Services Inc. or to IForum Securities Inc.
88. Thus, in addition to Jémus, other individuals have been acting as members' representatives who were attached to IForum Securities Inc., namely: Yves Mechaka, Enrico Bruni and Denis Hogan, as it appears from various documents received from B2B Trust by Plaintiff and his wife, samples of these documents being deposited *en liasse* as exhibit **P-32**.
89. Similarly, some members of the group have learned that their representative was no longer Jémus, but advisors attached to Optifund such as Richard Martel or Marc McDemid, as shown by documents deposited *en liasse* as exhibit **P-33**.
90. In several cases, there was a total confusion as to who was the representative of the member for a given transaction, as to the company from which the shares were purchased and as to which Firm the representative was attached to, as it appears from documents deposited *en liasse*, as exhibit **P-33A**).
91. These documents show that on the same date, for the same amount, the member Maria Knight is supposed to have purchased shares from Pension Positive Inc. or 3877311 Canada Inc.; on these documents the names of Optifund and IForum Securities Inc. appear, together with the names of Jémus and Hogan.
92. The signatures of the members of the group were guaranteed on several documents by different representatives supposedly attached to whether Optifund, IForum Securities Inc. or IForum Financial Services Inc. as shown by exhibit P-33A) and by other documents deposited *en liasse* as exhibit **P-34**.
93. In fact, in the vast majority of cases, members of the group only dealt with Jémus and/or Roy and/or Primeau and never spoke to the other persons who were supposed to be their official designated representatives for the purpose of doing transactions in their B2B Trust RRSP's self-directed accounts.
94. Also, in the vast majority of cases, members of the group did not even know who was their official designated representative, the Firms to which

they were attached or whether they were acting or not within the scope of their certificate.

95. The *Attestation de droit de pratique* from the *Autorité des marchés financiers* indicates the fields of practice in which Jémus was authorized to act, together with the name of the Firms to which he was attached at different periods, copy of this document being deposited as exhibit **P-35**.
96. In September 2010, Jémus was charged by the *Autorité des marchés financiers* for having infringed, in many cases involving members of the group, the securities laws and regulations as shown by 27 *Constats d'infraction* deposited as exhibit **P-36**.
97. On June 2011, Jémus, together with Roy and Primeau, was also charged of having committed a criminal act towards many members of the group under section 380(1) a) of the Criminal Code, as shown by the copy of a summons and of the Courts record deposited *en liasse* as exhibit **P-37**.
98. The *Attestation de droit de pratique* from the *Autorité des marchés financiers* indicates the fields of practice in which Yves Méchaka, whose name appears as representative of many members, was authorized to act, together with the name of the Firms to which he was attached at different periods; copy of this document being deposited as exhibit **P-38**.
99. In a decision dated October, 27 2009, rendered at the request of the *Association Canadienne des Courtiers en Valeurs Mobilières*, Méchaka was permanently prohibited to be attached to a Firm acting as broker in securities member of this *Association*, as shown by a copy of this decision, bearing the number [2009] IIROCC No.46, deposited as exhibit **P-39**.
100. This decision (P-39) relates all the infringements of his professional duties by Méchaka and his negligence, while he was acting as a director, administrator and president of IForum Securities Inc. from 2001 to 2005.
101. In a disciplinary decision rendered pursuant the *Securities Act* (R.S.Q., c. V-1.1) and *An Act respecting the distribution of Financial Products and Services* (R.S.Q., D-9.2) and their regulations, Méchaka was found guilty on many grounds and permanently struck off, as shown by a copy of this decision deposited as exhibit **P-40**.
102. IForum Financial Services Inc. and IForum Securities Inc. are two affiliated companies acting as mutual fund brokers and investment dealers, as it appears from the relevant extracts of *Le registre des entreprises (CIDREQ)* for those companies, deposited *en liasse* as exhibits **P-41**.

103. The *Attestation de droit de pratique* from the *Autorité des marchés financiers* indicates the fields of practice in which IForum Financial Services Inc. was authorized to act at different periods, copy of this document is deposited as exhibit **P-42**.
104. A similar attestation indicates the fields of practice in which IForum Securities Inc. was authorized to act at different periods, copy of this document is deposited as exhibit **P-43**.
105. On November 9, 2005, pursuant to the *Securities Act*, (R.S.Q., c. V-1.1) and the *Act respecting the Autorité des marchés financiers* (R.S.Q., c. A-33.2), the *Bureau de décision et de révision en valeurs mobilières* made a recommendation to the Quebec Finance Minister to name an administrator, on a provisional basis, to manage both IForum Financial Services Inc. and IForum Securities Inc., as it appears from a copy of this decision dated November 9, 2005 deposited as exhibit **P-44**.
106. On the same day, the *Bureau de décision et de révision en valeurs mobilières* rendered another decision to prohibit IForum Financial Services Inc. and IForum Securities Inc. to entered into any transaction on securities, as it appears from a copy of that decision dated November 9, 2005 and a copy of another decision in rectification dated November 10, 2005, deposited *en liasse* as exhibit **P-45**.
107. On or about December 13, 2005, IForum Securities Inc. went bankrupt, as it appears from an extract of the Office of the superintendent of Bankruptcy Canada database deposited as exhibit **P-46**.
108. On or about December 13, 2005, IForum Financial Services Inc. went bankrupt, as it appears from an extract of the Office of the superintendent of Bankruptcy Canada database deposited as exhibit **P-47**.
109. In fact, IForum Financial Services Inc. and IForum Securities Inc. were under the control of the same persons and were not operating as two distinct firms, as appears for example from exhibit P-41 and from sections 17 to 27 and 37 of *The Agreement* attached to the decision deposited as exhibit P-39.
110. Their employees and agents were acting irrespectively for one firm or the other without taking into account their registration with the *Autorité des marchés financiers* and the accounts of the clients were in some cases transferred in bulk from IForum Securites Inc. to IForum Financial Services Inc., as indicated at section 39 a) of the decision deposited as exhibit P-39.

111. IForum Financial Services Inc. was deducting on each transaction a fee of 1% as it appears from the Report on 3877311 Canada Inc. from Ginsberg Gingras & Associés dated January 4<sup>th</sup>, 2006, page 6 of exhibit P-20.
112. Almost all of the transactions of the members of the group with B2B Trust were concluded through their representatives whether attached to IForum Financial Services Inc., IForum Securities Inc. or Optifund.
113. In practice, the members of the group never had any formal relations or communications with B2B Trust, except receiving statements of accounts for fees that the members were asked to pay.
114. IForum Financial Services Inc. and IForum Securities had a very close and financially important business relation with B2B Trust and many of their clients, including members of the group, have opened accounts at this financial institution, as appears from section 77 of the *Agreement* attached to exhibit P-39.
115. In July, 2001, IForum Securities Inc. and B2B Trust have signed an agreement for services; this agreement is mentioned at section 19 of the *Agreement* attached to exhibit P-39; according to another decision rendered at the request of the *Association Canadienne des Courtiers en Valeurs Mobilières*, this agreement for services had never been declared to the *Association* and was only discovered in 2005 (see para. 22 of the decision); copy of this latter decision concerning William John Marston, rendered on February, 1, 2010 is deposited as exhibit **P-48**.
116. Plaintiff intends to ask the Court to render an order to force B2B Trust to deposit this agreement for services between itself and IForum Securities Inc.
117. The defendant Lloyd's Underwriters is an insurance company, as it appears from the relevant extracts of *Le registre des entreprises (CIDREQ)* for this company, *en liasse*, exhibit **P-49**.
118. At all relevant times to these proceedings, the defendant Lloyd's Underwriters was the professional liability insurer of IForum Financial Services Inc., a copy of the renewed Professional Liability Insurance policy for IForum Financial Services Inc. covering the period from February 14, 2005 to February 14, 2006 is deposited as exhibit **P-50**.

**The case of the Plaintiff Brown and of his wife**

119. The cases of Plaintiff and of his wife, Darlene Brown, against each of the defendants in both files (C.S. 550-06-000024-068 and C.S. 550-06-000026-113) are typical of those of the members of the group and they illustrate the role of each of the defendants.
120. Between September 2002 and late 2003, Plaintiff and his wife have purchased from the Whitney Group courses to be trained in real estate investments and have paid for this \$22,994.25.
121. After having completed an initial training, Plaintiff and his wife started, in late 2003, their mentorship training with Jean Lapointe, Head of Canadian mentorship program.
122. During these sessions, Jean Lapointe introduced Plaintiff and his wife to Roy, a mentor under his authority, who was presented as a real estate investor with and through whom good investments in the area around Ottawa and Gatineau could be made.
123. In the following days, Plaintiff and his wife met Jémus and Primeau in Gatineau, both through Roy.
124. In reasons of the representations made to them during their training sessions and their meeting with Jémus, Roy and Primeau, Plaintiff and his wife came to trust these persons and were confident that the investments proposed to them were sound.
125. Therefore, Plaintiff and his wife were not suspicious and, at the inducement and through Jémus, Roy and Primeau, have invested a total amount of \$65,953.44, as detailed below.
126. Following the instructions of Jémus and Roy, Plaintiff has transferred his RRSP, estimated at \$7,737.86, to B2B Trust.
127. Thereafter, again following the instructions of Jémus, Plaintiff and his wife have applied for a loan from B2B Trust.
128. On March 5, 2004, B2B Trust approved a \$23,806 self-directed RRSP loan, the whole as appears from a letter from Gary Wilhelm, Assistant



Vice-President of Investment Lending & Credit Risk at B2B Trust, deposited as exhibit **P-51**.

129. In the same manner, Plaintiff's wife has transferred to B2B Trust a total amount of \$12,452.58 from her self-directed RRSP and has also borrowed from B2B Trust an amount of \$21,957.
130. The money detained by B2B Trust in the RRSP accounts of Plaintiff and his wife was used to buy shares of the companies controlled by Jémus, Roy and Primeau and also to be invested in various real estate ventures.
131. More particularly, on or about March 11, 2004, Plaintiff's wife has purchased 24,686 Class C preferred shares of 3877311 Canada Inc., for one dollar (\$1.00) each, as it appears from the Subscription Agreement for those shares (exhibit P-22) and as it appears also from a B2B Trust statements of account deposited as exhibit **P-52**.
132. On or about June 10, 2004, Plaintiff has purchased 23,490 Class C preferred shares of Les Entreprises de Gestion Robert Primeau Inc. for one dollar (\$1.00) each, as it appears from the Subscription Agreement for those shares (exhibit P-22) and as it appears also from an Application by Plaintiff to invest with B2B Trust in Les Entreprises de Gestion Robert Primeau INC. with attached documents deposited *en liasse* as exhibit **P-53**.
133. In both cases, the values of the shares were certified by defendant Samson and Associates Inc. at one dollar (\$1.00) each, as it appears from two *Qualified Investment/Valuation Certificate of Opinion*, one indicating the value on February 18, 2004 with regard to Plaintiff's investment (exhibit P-26) and the other, on September 15, 2003 with regard to Plaintiff's wife investment, the latter being deposited as exhibit **P-54**.
134. In the same documents Samson and Associates have certified that in both cases «*the investment in the Corporation is a Qualified Investment for a Registered Plan*», which was not the case.
135. Furthermore, Brown lent \$7,692.11 to Marcel Chartrand, a builder in Hawkesbury, with a third row mortgage even though he was led to believe his investment was to be secured with a second row mortgage; an Application by Plaintiff with B2B Trust to invest in such mortgage is deposited *en liasse* as exhibit **P-54A**).
136. These transactions: (transfer of RRSP, loan from B2B Trust, purchase of shares of Les Entreprises Gestion Robert Primeau Inc., third mortgage

loan to Chartrand) are described in two statements of account sent by B2B Trust to Plaintiff deposited *en liasse* as exhibit **P-54B**).

137. Plaintiff's wife has also made a loan of \$9,380 to Marcel Chartrand, which was secured by a third row mortgage when she was told by Jémus that it would be by a second row mortgage; this investment is indicated on exhibit P-52.
138. All these investments in shares or in mortgage loans have been processed through their self-directed RRSPs accounts at B2B Trust.
139. Plaintiff and his wife have never personally dealt with B2B Trust; all transactions have been handled on their behalf directly by Jémus, Roy or Primeau and supposedly by Richard Martel from Optifund or Bruni and Hogan from IForum Securities Inc., whom they have never met.
140. When he first opened his account at B2B Trust, Plaintiff's designated representative was Jémus then attached to Optifund Investment Inc., as it appears from the *Account Opening Form* dated January 29, 2003, deposited *en liasse* with other documents as exhibit **P-55**.
141. On the same day, Plaintiff's RRSP was transferred to B2B Trust and Optifund Investment Inc. was acting as the dealer, as it appears from the *Transfer Authorization for Registered Investment Form*, dated January 29, 2003, deposited as exhibit **P-56**.
142. On a *Self-Directed RSP Loan Application Form*, dated January 28, 2004, Richard Martel from Optifund is mentioned as the representative of Plaintiff and his wife and Martel has guaranteed Plaintiff's signature, copy of this form is deposited *en liasse* with other documents as exhibit **P-57**.
143. In mid-2004, Plaintiff's dealer identity changed from Optifund to IForum Securities Inc. and Plaintiff's representative and advisor was mentioned as being Mr. Enrico Bruni, as it appears from documents received from B2B Trust from June 2004 to March 2006, deposited *en liasse* as exhibit P-32.
144. The same changes happened concerning the Plaintiff's wife investments, except that her new representative and advisor is mentioned as being Yves Méchaka, as appears from exhibit P-32.
145. Plaintiff and his wife have never been formally informed of the change of the Firm acting as their dealer and never met with Martel from Optifund nor with Bruni, Méchaka and Hogan from IForum Securities Inc.

146. However, Martel, Bruni, Méchaka and Hogan have guaranteed Plaintiff's signature and his wife's signature on various documents, as it appears from some of them deposited as P-32 and P-57.
147. Preoccupied by the fact that they did not know where their money had gone, Plaintiff and his wife were answered by Jémus, Roy and Primeau that part of their money had been invested on their behalf for down payments of condominiums situated on Chemin du Golf in Gatineau.
148. They were told that another part of their money had been used similarly for down payments on three properties situated on Chemin des Grives also in Gatineau.
149. Plaintiff and his wife have found out later on that Jémus and Roy companies had never purchased the land to build the condominiums on Chemin du Golf.
150. They were also later informed by a third party that the three properties on Chemin des Grives had been sold to another buyer.
151. Plaintiff and his wife have never been able to recover the amounts of money they had transferred in their RRSPs accounts with B2B Trust nor the proceeds from the loans granted to them by B2B Trust as more detailed below.
152. In addition to these investments in Class C shares and loans to Marcel Chartrand, Plaintiff and his wife were also involved through Jémus, Roy and Primeau in other real estate ventures, which could be retraced for some of them, whereas others remains obscure.
153. On or about February 24, 2004, Jémus and Roy have introduced Plaintiff and his wife to notary Lafrenière.
154. On April 15, 2004, Plaintiff and his wife have signed, before notary Lafrenière, a deed of loan, whereby they were borrowing \$127,449 from GMAC Residential Funding of Canada Limited / Financement résidentiel GMAC du Canada Limitée, as it appears from a copy of this deed deposited as exhibit **P-58**.
155. As appears from this deed, the loan was guaranteed by a hypothec on a property owned by Roy and situated at 320, 322, 324 and 326, St- André Street, in Gatineau, Quebec.
156. On April 16, 2004, Plaintiff and his wife have signed another deed before notary Lafrenière, whereby they were purchasing the same property on

St-André Street in Gatineau from Roy for the amount of \$147,000, as it appears from a copy of this deed deposited as exhibit **P-59**.

157. The above mentioned deed of sale indicates that \$132,300 of the purchase price was paid in cash.
158. On the same day, Plaintiff and his wife have signed a third deed, whereby they were borrowing from 3877311 Canada Inc., represented by Roy, an amount of \$24,945.29, as it appears from a copy of this deed of loan deposited as exhibit **P-60**.
159. This loan was also guaranteed by a hypothec on the property situated on St-André Street in Gatineau.
160. Following these real estate investments, Plaintiff and his wife found themselves in a very uncomfortable financial situation as they were indebted towards two creditors, namely GMAC Residential Funding of Canada Limited and 3877311 Canada Inc.
161. On November 4th, 2005, Plaintiff and his wife sold their property on St-André Street in Gatineau for the amount of \$160,000, as it appears from a copy of deed of sale signed before notary André Trépanier in Gatineau deposited as exhibit **P-61**.
162. The amount received by Plaintiff and his wife following the sale of the property has served to reimburse their debts to GMAC Residential Funding of Canada Limited and to 3877311 Canada Inc.; they were only left with an amount of \$1,175.47 as it appears from a letter from Me André Trépanier, notary dated November 10, 2005 and an statement of account, deposited *en liasse* as exhibit **P-62**.
163. However, as mentioned above, Plaintiff and his wife have never recovered the amounts of money they had transferred in their RRSPs accounts with B2B Trust, that is \$7,737.86 in the case of Plaintiff and \$12,452.58 in the case of his wife.
164. The proceeds from the loans granted to them by B2B Trust were also totally lost, that is \$23,806 in the case of Plaintiff and \$21,957 in the case of his wife.
165. Therefore, Plaintiff is entitled to claim from the defendants as damages, the following amounts:

-\$7,737.86, equivalent to the capital transferred to his RRSP;

-\$5,723.24 equivalent to the interests paid on his loan;

-\$2,914.45 equivalent to the fees paid to B2B Trust:

Total: \$16,375.55

166. Furthermore, Plaintiff is entitled to obtain the nullity of the loan which was granted to him by B2B Trust or to claim damages equivalent to the amount of this loan, that is \$23,806.
167. Plaintiff is also entitled to claim as damages all the taxes, interests and penalties that he has been and may be obliged to pay to Revenue Canada due to the fact that his investments made through Jémus, Roy and Primeau were not deemed to be admissible to tax deductions in his RRSP.
168. Finally, Plaintiff is entitled to claim as general damages for troubles and inconveniences and loss of opportunity, an amount of \$50,000.

### **The members of the group**

#### **The approximate number of members**

169. Plaintiff estimates the number of persons being members of the group he represents between 175 to 200.
170. Already, Plaintiff and his attorneys know the identities of 162 members and have obtained some information on their situation.
171. According to the information available, it is estimated that half of the members have been represented for some time by IForum Securities Inc. and the other half by IForum Financial Services Inc., even though there was not a clear distinction between these two entities as alleged above at paragraphs 109 and 110.
172. Furthermore, at least 40 members of the group have been represented by Optifund before being represented by IForum Securities Inc. or IForum Financial Services Inc.

#### **Identical, similar or related questions of facts**

173. The situation of each member of the group raises similar, if not identical, questions of facts.

174. Indeed, most of them have been first recruited after having taken courses and trainings in real estate investments with the Whitney Group and after having at this occasion disclosed their personal financial situation.
175. All of them went through the same *modus operandi* with Jémus, Roy or Primeau, or the three of them, and were decisively influenced by their false representations and lies.
176. Most of them, if not all of them, have transferred their RRSP to B2B Trust following the instructions of Jémus, Roy or Primeau and many of them have also borrowed money from this trust.
177. In the same manner than Plaintiff and his wife, the members of the group were represented in their dealings with B2B Trust by so called representatives or advisors from Optifund, IForum Securities Inc. and/or IForum Financial Services Inc.
178. According to Primeau himself, as referred to in the Pension Positive Report of January 4<sup>th</sup>, page 2, deposited as exhibit P-18, 700 to 800 real estate transactions, whether false or real, have been entered in by the members of the group.
179. As mentioned and detailed by Mr. Justice Déziel in his judgment authorizing the bringing of a class action rendered on August, 10, 2010, at section 29, 30 and 31 (exhibit P-1), the total value of the amounts that have been transferred to or through the companies of Jémus, Roy and Primeau could be estimated at a minimum of \$10,000,000.
180. Many members of the group have lost, as Plaintiff and his wife, the totality or a large part of the money invested in real estate ventures organized and proposed to them by Jémus, Roy and Primeau.
181. Therefore, the only individual questions to be determined in proper time will be the amounts of the losses of each of the members.

#### **The liability of each of the defendants in Both files**

182. Each of the defendants in both class actions has contributed, in one way or another, by his fault and negligence, to cause damages to each of the members of the group.

**The liability of the defendants Jémus and Roy**

183. As more fully described above, Jémus and Roy, together with Primeau, have set up a fraudulent scheme in which they have attracted the members of the group by misrepresentations, lies and false promises.
184. Informed of the personal financial situation of members, they have convinced them to transfer their RRSP to B2B Trust.
185. They have thereafter obtained the signature of the members which they used to give instructions directly to B2B Trust for the purchase of the shares of the companies they were controlling.
186. They have had prepared fake documents in order to certify the value of the shares.
187. Furthermore, they have induced many of the members of the group to borrow important sums of money from B2B Trust, which in the same manner, were transferred to them to buy shares of their companies or to be invested in frivolous or not existing real estate ventures.
188. In order to give even more credibility to these transactions, they processed them through recognized firms acting in the field of securities and financial services, more precisely through Optifund, IForum Securities Inc. and IForum Financial Services Inc.
189. Actually, they have diverted part of the money invested by the members for their personal profit and the benefit of their relatives.
190. In acting with fraud, false representations, lies, bad management, Jémus, Roy and Primeau have caused the members of the group to lose all or important part of the money they have invested through them, which the members are entitled to claim from them.

**The liabilities of the Firms Optifund, IForum Securities Inc. and IForum Financial Services Inc.**

191. Optifund is a subsidiary of Desjardins Financial Security Investment Inc., as appears from the relevant extract of *Le registre des entreprises (CIDREQ)*, deposited at exhibit P-63.

192. Optifund, IForum Securities Inc. and IForum Financial Services Inc. are three Firms duly registered with the *Autorité des marchés financiers* and authorized to act whether as brokers in securities and/or providers of financial services.
193. The role and the involvement of Optifund, IForum Securities and IForum Financial Services, with respect to the members of the group, are more fully described at paragraphs 66 to 68, and 84 to 115 of this motion.
194. It appears from these allegations that these three Firms have shown the outmost negligence and disregard toward their clients, the members of the group, thus making possible the execution of the scheme set up by Jémus, Roy and Primeau with the result of depriving the members of their property and investments.
195. Generally, Optifund, IForum Securities Inc. and IForum Financial Services Inc., their managers, employees and agents, have totally failed to fulfill their obligations as Firms representing ordinary investors, thus causing the members of the group to lose their money in adventurous and fraudulent investments.
196. These Firms have clearly failed to meet their first obligation generally described as the «*know your client*» rule.
197. Actually, they never made any effort to meet each of the members of the group while pretending acting as their representative Firm; they had no knowledge of their financial capacity and their understanding of the investments they were about to make; they totally abstained from giving them adequate advices as it was their duty to do so.
198. Furthermore, and without restricting the generality of the terms used above, these Firms and their managers have exercised no control over the activities and representations of their employees and agents in their dealings with the members of the group.
199. These Firms and their managers have let their employees and agents make deals on behalf of the members of the group for which they were not qualified, even though these Firms were qualified.
200. These Firms and their managers have let their employees and agents sell securities while these employees and agents were in conflict of interests.
201. In accepting to act as intermediary between the members of the group and B2B Trust, they were granting credibility and seriousness to the



investments proposed by Jémus, Roy and Primeau while they never ascertained the value and the soundness of these investments.

202. These three Firms have always let the members of the group believe that the investments proposed were admissible for tax deductions.
203. Therefore Optifund, IForum Securities Inc. and IForum Financial Services Inc. are jointly liable with the others defendants in both class actions to pay damages to the members of the group.

### **The liability of the Defendant Lloyd's Underwriters**

204. As already mentioned at paragraphs 117 and 118 above, Lloyd's was the insurer of IForum Financial Services Inc. and is responsible for the errors and negligence of this company which have caused damages to the members of the group.
205. These errors and the negligence of IForum Financial Services Inc. have happened while this Firm was rendering professional services to the members of the group for which the Firm was insured.
206. The errors and negligence of IForum Financial Services Inc. are more fully described about at paragraphs 84 to 115.
207. Pursuant to the terms of the policy and to the regulation applying to such a policy, the insurance coverage extended for a period of five years following the expiration of the policy in 2006.
208. In May 15, 2008, the motion for authorization to exercise a Class Action bearing number 550-06-000024-068, was served on Lloyd's and have disclosed the claims of the members of the group against IForum Financial Services Inc.; copy of the minutes of the service of the motion to Lloyd's is deposited as exhibit **P-64**.
209. Therefore, Lloyd's is jointly liable with others defendants in both class action to pay damages to the members of the group who have been represented by IForum Financial Services Inc.

### **The liability of Samson et Associés Inc.**

210. The role and involvement of Samson et Associés Inc. and of their employee Serge Lafortune, with regard to the members of the group, are more fully described at paragraphs 74, 77 to 83 of this motion.

211. Generally, Samson et Associés Inc. and his employee Lafortune have contributed, by their negligence and their failure to observe their professional duties, to cause financial losses to the members of the group.
212. Samson et Associés Inc. is responsible for the acts and omissions of its employee and/or agent Serge Lafortune.
213. Samson et Associés Inc. has demonstrated a serious lack of supervision of its employee and/or agent Serge Lafortune.
214. Lafortune has accepted a mandate that he was clearly not competent to fulfill.
215. Lafortune did not respect the basic rules applicable for the evaluation of the fair market value of the shares of Jémus, Roy and Primeau's companies; he never even tried to determine such value, being satisfied to reproduce year after year the value of \$1.00 mentioned to him initially by Jémus, Roy and Primeau.
216. The certificates that he has accepted to prepare and to sign were erroneous as to the value of the shares and as to their admissibility for tax deductions.
217. These deceptive documents have been used to reassure the members of the group as to the validity of their investments.
218. Therefore, Samson et Associés Inc. is jointly liable with the others defendants in both files to pay damages to the members of the group.

### **The liability of B2B Trust**

219. The role and involvement of B2B Trust with regard to the members of the group are more fully described above at paragraphs 25 to 28, 54, 65 to 68, 112 to 116 and 176.
220. As alleged, most of the members of the group, if not all of them, have transferred their RRSP accounts from another institution to B2B Trust and many of them have also contracted loans from B2B Trust.
221. As alleged also, all these transfers of RRSPs accounts to B2B Trust were proceeded through Jémus, Roy and Primeau.

222. In the same manner, the investments made by B2B Trust out of the funds transferred to and borrowed from this institution, were made following the instructions of Jémus, Roy and Primeau, for the purchase of the shares of their companies and in the real estate ventures they had proposed, and this even though these instructions were pretended to come from Jémus and other persons supposedly acting as representatives attached to duly registered Firms.
223. B2B Trust is a subsidiary of Laurentian Bank of Canada as appears from an extract of *Le registre des entreprises (CIDREQ)*, deposited as exhibit **P-65**.
224. B2B Trust is a financial institution constituted under the *Trust and Loan Companies Act* (S.C., 1991, c. 45) and is entitled to detain individual retirement plans, notably self-directed RRSPs and to provide services for the administration thereof;
225. In opening RRSPs accounts for the members of the group, B2B Trust was acting as a depositary, custodian and administrator of their funds and thus assuming the responsibilities of a trustee.
226. This clearly appears from a document signed by Plaintiff in January 2003, titled *Application for retirement plan*, and which contains a *Declaration of trust* stating that "As long as the Plan is accepted for registration, it shall constitute an irrevocable trust..." and, at paragraph 6, that "The final responsibility for the administration of the Plan rests on the trustee"; this Form is deposited as exhibit P-55;
227. In addition to the opening of their RRSPs accounts, B2B Trust had executed other services for the members of the group, as the registration of their plans with the tax authorities, the inscription under its own name of the investments made with the funds, the qualification of these investments for tax deduction and the issuance of the receipts for income tax purposes.
228. The variety of services and fees charged for these services in relation with the administration of Self-directed Registered Plans are shown in a document from B2B Trust, with the title *Fee Schedule*, deposited as exhibit **P-66**.
229. B2B Trust had the obligations to act with prudence and reasonable diligence as a trustee and guardian of the funds of the members of the group, who is charged with the administration of the property of others.
230. Furthermore, in accepting to make non-commercial loans to ordinary investors, B2B Trust was assuming the obligations of adequately inform and advise the members of the group with respect to the investments

they were about to make, obligations that B2B Trust has clearly not fulfilled.

231. Given these circumstances, B2B Trust has totally deceived the confidence and trust that the members of the group, as ordinary investors, were justified to have toward a financial institution.
232. Despite the irregularity of several transactions, the important number of transactions made through a limited number of individuals and the companies they controlled, the numerous questions and complaints of several members of the group, the absence of any revenue coming from these investments, the total amount of these investments and the obvious suspiciousness of the pattern of these investments, B2B Trust never made any verification, acted with blindness and with total failure to fulfill its fundamental obligations.
233. Any other reasonable trust company would have noticed signs of a potentially fraudulent *modus operandi* and would have refused to act in such circumstances and would have advised the members of the group.
234. In reason of its negligence, failure to meet the basic obligations of a trustee and of a provider of financial services, its blindness, lack of verification of the seriousness of the investments and their admissibility for tax deductions, B2B Trust has contributed to cause financial losses to the members of the group and is consequently jointly liable with others defendants in both class actions to pay the damages.

**THEREFORE, PLAINTIFF PRAYS THE COURT:**

**GRANT** Plaintiff's Class Action against each of the Defendants in favor of all the members of the group, described as follow:

*Description of the Group*

*All those natural persons, and legal persons with less than fifty (50) employees, who have made various investments proposed to them by Marc Jémus, François Roy and/or Robert Primeau, and/or through them, and/or in or through companies related to one of them, in the years 2001 to 2005 inclusively.*

**CONDEMN** the Defendants in both files 550-06-000024-068 and 550-06-000026-113, jointly, to pay to Plaintiff the sum of 40,181.55\$, the whole with

interests and the additional indemnity pursuant to article 1619 of the Civil Code of Québec, calculated from the date of service of the first motion to exercise the Class Action, that is from May, 31, 2006;

**OR**, in case the Court declares the nullity of the loan granted to Plaintiff by B2B Trust, **REDUCE** the above mentioned claimed amount consequently;

**CONDEMN** the Defendants, jointly and in the same manner than for Plaintiff, to pay to each members of the group their claims as they will be ascertained following the claims process as established by the Court;

**CONDEMN** the Defendants in both files 550-06-000024-068 and 550-06-000026-113, jointly, to pay to Plaintiff and each member of the group the amounts of income taxes claimed from them in reason of the disqualification of their investments in their RRSPs, plus the interests and penalties;

**CONDEMN** the Defendants in both files 550-06-000024-068 and 550-06-000026-113, jointly, to pay to Plaintiff and each member of the group an amount of \$50,000 as damages for troubles, inconveniences and loss of opportunities, under reserve that this amount could be completed according the evidence, the whole with interests and additional indemnity pursuant to article 1619 of the Civil Code of Québec, calculated from the date of service of the first motion to exercise the Class Action, that is from May, 31, 2006;

**CONDEMN** the Defendants in both files 550-06-000024-068 and 550-06-000026-113, jointly, to pay such other amounts and grant the members of the group such further relief payments as the Court may determine as being just and proper;

**ORDER** the collective recovery of the damages according to article 1031 of the Code of Civil Procedure;

**ORDER** that a notice to the members of the group be published in the *Globe and Mail* and *Le Droit*;

**THE WHOLE** with costs, including the costs of all exhibits, experts, expert's reports and publication notices.

Montreal, November 1<sup>st</sup> 2013

  
\_\_\_\_\_  
**SYLVESTRE FAFARD PAINCHAUD, S.E.N.C.R.L.**  
Attorneys for the Plaintiff

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF HULL

**NOTICE OF PRESENTATION**

**TO:**

**Me Jo-Anne Demers**  
**Me Attieha Rebecca Chamaa**  
CLYDE & Cie Canada  
630, boul. René-Lévesque Ouest,  
bureau 1700  
Montréal (Québec) H3B 1S6

**Me Marc Champagne**  
JURILIS, Cabinet d'avocats  
La Tour CIBC  
1155, boul. René Lévesque Ouest,  
bureau 2660  
Montréal (Québec) H3B 4S5

**TAKE NOTICE** that the Plaintiff will present the **Motion to institute proceedings** in the Court sitting in practice division of Hull Courthouse located at 17, rue Laurier, Gatineau, Quebec at a date and time to be determined by the Court.

GOVERN YOURSELF ACCORDINGLY.

Montréal, November 1<sup>st</sup> 2013

  
SYLVESTRE, FAFARD, PAINCHAUD, S.E.N.C.R.L.  
Attorneys for the Plaintiff

  
SYLVESTRE FAFARD PAINCHAUD  
AVOCATS

**SIGNIFICATION PAR TÉLÉCOPIEUR**

**DESTINATAIRES**

**Me Jo-Ann Demers**  
**Me Attieha Rebecca Chamaa**  
CLYDE & CIE CANADA

Télécopieur : 514-843-6110

**Me Marc Champagne**  
JURILIS

Télécopieur : 514-288-8124

**OBJET**

Nom des parties : **David Brown –c- Lloyd’s Underwriters –et- Samson & Associés Inc.**  
C.S.H. no : **550-06-000026-113**

Nature du document : **MOTION TO INSTITUTE PROCEEDINGS**

Date de transmission : 1<sup>er</sup> novembre 2013

Nombre de pages incluant le présent bordereau : 32

**EXPÉDITEUR**

**Sylvestre Fafard Painchaud**  
**Me Pierre Sylvestre**  
**Me Catherine Sylvestre**  
**Me Gilles G. Krief**

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SYLVESTRE FAFARD PAINCHAUD  
AVOCATS

### SIGNIFICATION PAR TÉLÉCOPIEUR

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Nom des parties : David Brown -c- Lloyd's Underwriters -et- Samson & Associés Inc.  
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002	11/01/13 14:30	5142888124#005	0°04'31"	FAX	OK	Normal 200x100/Activé



No: 550-06-000026-113

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SUPERIOR COURT  
(Class Action)  
DISTRICT OF HULL

---

**DAVID BROWN**  
Plaintiff

v.

**LLOYD'S UNDERWRITERS**  
-and-  
**SAMSON & ASSOCIÉS INC.**  
Defendants

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**MOTION TO INSTITUTE PROCEEDINGS**

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ORIGINAL

N/D : 15418PS18

BS0962

Me Pierre Sylvestre  
Me Catherine Sylvestre  
Me Gilles G. Krief

**SYLVESTRE, FAFARD, PAINCHAUD**  
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