

COUR SUPÉRIEURE

(Action collective)

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE HULL

N° : 550-06-000026-113
550-06-000024-068

DATE : 5 novembre 2018

SOUS LA PRÉSIDENTE DE : L'HONORABLE MICHEL DÉZIEL, J.C.S.

550-06-000026-113

DAVID BROWN
Demandeur

c.
LLOYD'S UNDERWRITERS
et
SAMSON & ASSOCIÉS
Défenderesses

550-06-000024-068

DAVID BROWN
Demandeur

c.
FRANÇOIS ROY
et
MARC JÉMUS
et
B2B TRUST
et
DESJARDINS FINANCIAL SECURITY INVESTMENTS INC.
(OPTIFUND INVESTMENT INC.)
Défendeurs

JUGEMENT SUR LA DEMANDE EN APPROBATION D'UNE TRANSACTION
INTERVENUE ENTRE LE DEMANDEUR ET LA DÉFENDERESSE B2B BANQUE

[1] Le tribunal est saisi d'une demande en approbation d'une transaction conclue entre le demandeur David Brown et la défenderesse B2B Banque signée en octobre 2018 (le « Règlement »), pièce P-1.

[2] Ce Règlement, convenu sans admission de responsabilité par la défenderesse B2B Banque, intervient dans le cadre de deux actions collectives à l'encontre de plusieurs parties défenderesses.

[3] Des transactions ont déjà été approuvées à l'égard de trois des défenderesses (Whitney Canada inc., Whitney Information Network inc. et Samson et associés) et le Tribunal est saisi, dans une procédure distincte, d'une demande en approbation d'une autre transaction intervenue avec la défenderesse Placements Optifonds dans le cadre des mêmes actions collectives.

[4] Si la présente demande en approbation du Règlement est accueillie, de même que celle relative à la transaction intervenue avec Placements Optifonds, les actions collectives se poursuivront à l'encontre des trois parties défenderesses restantes, soit Lloyds Underwriters, Marc Jémus et François Roy.

[5] Dans le cadre de ce Règlement (pièce P-1), la défenderesse B2B Banque s'engage à payer au bénéfice des membres du groupe une somme de 2 000 000 \$ en capital, intérêts, indemnité additionnelle, frais judiciaires, honoraires, déboursés et les taxes applicables.

[6] De plus, la défenderesse B2B Banque convient de radier tous les soldes des prêts (tels que définis dans le Règlement) qu'elle a consentis aux membres du groupe, incluant les intérêts, les pénalités, les frais judiciaires et les déboursés, et qui sont plus amplement décrits dans l'Annexe A du Règlement, dont la version non caviardée a été produite sous pli confidentiel afin de préserver l'identité des membres du groupe qui y sont mentionnés.

[7] En considération de ces engagements de la défenderesse B2B Banque, le demandeur et les membres du groupe lui donnent quittance complète et finale de tout recours, de quelque nature qu'il soit, relié aux faits et allégations dont il est question dans les présentes actions collectives.

[8] Ce Règlement est conditionnel à son approbation par le tribunal comme le veut l'article 590 C.p.c.

[9] L'avocate représentant le Fonds d'aide aux actions collectives, absente lors de l'instruction, a avisé par écrit le Tribunal qu'elle ne s'oppose pas à cette demande.

[10] Un avis conforme à l'article 590 C.p.c. et approuvé par le Tribunal le 9 octobre 2018 a été communiqué aux membres du groupe afin de leur donner l'opportunité de faire valoir leurs prétentions à la Cour quant au Règlement.

[11] La distribution de cet avis par la poste et par courriel a permis de rejoindre la presque totalité des membres connus du demandeur et de ses avocats¹.

[12] Aucun membre ne s'est objecté à l'approbation du Règlement.

[13] Le demandeur a témoigné à l'effet qu'il était d'accord avec le Règlement proposé.

[14] Il a été consulté et a participé à toutes les étapes de la négociation du Règlement.

[15] Il a précisé que plusieurs membres du groupe sont âgés et à la retraite ou sur le point de l'être. Certains sont d'ailleurs décédés depuis le début des procédures.

[16] Les investissements perdus ont été faits entre 2001 et 2005 en prévision de leur retraite pour plusieurs d'entre eux.

[17] Le dossier dure depuis plus de 12 ans.

[18] Les membres du groupe que le demandeur a consultés sont d'accord avec le Règlement proposé.

[19] Les autres parties défenderesses ne s'opposent pas non plus à l'approbation du Règlement.

[20] Me Lortie, avocat de la défenderesse B2B Banque, porte à l'attention du Tribunal la décision de la Cour supérieure de l'Ontario *Dabbs c. Sun Life Assurance Co of Canada*² qui souligne que :

The standard for approval is not perfection. While class action settlements must be seriously scrutinized, all settlements are the product of compromise and fairness is not a standard of perfection. Reasonableness allows for a range of possible resolutions. A less than perfect settlement may be in the best interests of those affected by it when compared to the alternative of risks and costs of litigation.

¹ Déclaration assermentée de Maria Hernandez, Pièce P-2.

² 1998 CannLII 14855 (ON SC).

[21] Le nouveau Code de procédure civile favorise les modes privés de prévention et de règlement des différends³.

[22] Il est de la mission du Tribunal de favoriser la conciliation des parties⁴.

[23] Enfin, la règle de la proportionnalité milite en faveur de l'approbation du Règlement.

[24] Les critères applicables à l'analyse du caractère juste et raisonnable d'un Règlement sont généralement reconnus et ont été réitérés dans l'affaire *Krantz c. P.G.Q.*⁵ :

[24] Les Ententes doivent être approuvées par le tribunal en vertu de l'article 590 C.p.c., lequel reprend substantiellement le droit antérieur. Les critères pertinents sont les suivants :

- a) Les probabilités de succès du recours;
- b) La durée anticipée du litige;
- c) La bonne foi des parties;
- d) La recommandation des avocats et leur expérience;
- e) Les modalités de la transaction; et
- f) La nature et le nombre d'objections à la transaction.

[25] À la lumière de ces critères, le Tribunal est convaincu du caractère juste et raisonnable du Règlement intervenu.

POUR CES MOTIFS, LE TRIBUNAL :

[26] **ACCUEILLE** la Demande en approbation d'une transaction intervenue entre le demandeur et la défenderesse B2B Banque;

[27] **APPROUVE** le Règlement, pièce P-1;

[28] **ORDONNE** la mise sous scellé de la version non caviardée de l'Annexe A faisant partie du Règlement, pièce P-1;

[29] **ORDONNE** le recouvrement collectif des réclamations des membres;

³ Article 1 C.p.c.

⁴ Article 9 C.p.c.

⁵ 2017 QCCS 5115.

[30] **DÉCLARE** que le Règlement, pièce P-1, est juste, raisonnable et dans l'intérêt des membres du groupe;

[31] **DÉCLARE** que le Règlement, pièce P-1, dans son intégralité (y compris son préambule, ses définitions et son annexe) fait partie intégrante du jugement d'approbation;

[32] **DÉCLARE** que chaque membre du groupe est lié par le Règlement, pièce P-1;

[33] **DÉCLARE** que le Règlement, P-1, est une transaction au sens des articles 2631 et suivants du *Code civil du Québec*;

[34] **ORDONNE** aux parties de se conformer au Règlement, pièce P-1;

[35] **AUTORISE** les avocats du demandeur à retenir sur le montant du Règlement, une somme de 258,69 \$ à titre de frais d'expédition par poste des avis aux membres du groupe;

[36] **ORDONNE** aux avocats du demandeur de déposer le montant de deux millions de dollars (2 000 000 \$) prévu au Règlement dans le compte en fidéicommiss qu'ils détiennent auprès de la Caisse Desjardins de L'île des Sœurs – Verdun, après déduction de la somme de 258,69 \$ pour les frais d'expédition par poste des avis aux membres, et qu'il y soit détenu jusqu'à ce qu'un jugement intervienne pour en fixer les modalités de distribution;

[37] **DÉCLARE** que par le Règlement P-1, le demandeur et les membres du groupe renoncent expressément au bénéfice de la solidarité envers les parties défenderesses qui ne participent pas à l'entente, eu égard aux faits et gestes de la défenderesse B2B Banque et il est compris que par l'effet de ce jugement, tous les membres du groupe ne pourront plus réclamer, en aucune manière, des défendeurs non parties à l'entente, soit un paiement, soit une indemnité quelconque reliée à des dommages, qu'elle soit compensatoire, punitive, récursoire ou autre, attribuable à la défenderesse B2B Banque;

[38] **DÉCLARE** que tout recours en garantie ou autre mise en cause pour obtenir une contribution ou une indemnité de la défenderesse B2B Banque concernant les faits allégués dans la présente action pour lesquels cette dernière obtient quittance est irrecevable et non avenue dans le cadre de la présente action collective;

[39] **RÉSERVE** aux parties le droit de présenter toute autre demande d'ordonnance nécessaire à la mise en œuvre du présent Règlement, pièce P-1;

[40] **RÉSERVE** au Fonds d'aide aux actions collectives tous ses droits sur un éventuel reliquat;

[41] **LE TOUT** sans frais de justice.



MICHEL DÉZIEL, J.C.S.

Me Pierre Sylvestre, Ad. E.
Me Catherine Sylvestre
Sylvestre Painchaud et Associés, s.e.n.c.r.l.
Avocats du demandeur

Me Maud Rivard
Stein Monast s.e.n.c.r.l., Avocats
Avocats de la défenderesse Placements Optifonds

Me Jean Lortie
McCarthy Tétrault s.e.n.c.r.l., s.r.l.
Avocats de la défenderesse B2B Banque

Me Alexandre Limoges
Jurilis cabinet d'avocats
Avocats de la défenderesse Lloyd's Underwriters

Me William Desrochers (absent)
Me Caroline Simard (absente)
Simard Desrochers Avocats
Avocats du défendeur François Roy

Me Anthony Paul Robert (absent)
Anthony Paul Robert, Avocat
Avocats du défendeur Marc Jémus

Me Frikia Belogbi (absente)
Fonds d'aide aux actions collectives
Fonds d'aide aux actions collectives

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF GATINEAU

No: 550-06-000026-113

(Class Action)
SUPERIOR COURT

DAVID BROWN

Plaintiff

vs.

LLOYD'S UNDERWRITERS

Defendant

No: 550-06-000024-068

DAVID BROWN

Plaintiff

vs.

FRANÇOIS ROY

-and-

MARC JÉMUS

-and-

**B2B TRUST (now B2B BANK, successor of
B2B TRUST)**

-and-

**DESJARDINS FINANCIAL SECURITY
INVESTMENTS INC. (OPTIFUND
INVESTMENTS) also doing business as
OPTIFUND INVESTMENTS**

Defendants

**SETTLEMENT AGREEMENT BETWEEN THE PLAINTIFF AND
DEFENDANT B2B BANK ("B2B")**

PREAMBLE

WHEREAS on August 19, 2010, Michel Déziel J.C.S. authorized Plaintiff David Brown (hereinafter the "**Plaintiff**") to bring a class action suit against Whitney Canada Inc. and Desjardins Financial Security Investments Inc. in the Superior Court file bearing No. 550-06-000024-068 but dismissed Plaintiff's application against B2B;

WHEREAS on May 16, 2011, Michel Déziel, J.C.S. authorized Plaintiff to bring a class action suit against François Roy and Marc Jémus in the same file;

WHEREAS on the same date, Michel Déziel, J.C.S. approved a settlement between Plaintiff and Defendants Whitney Information Network Inc. and Whitney Canada Inc.;

WHEREAS on May 15, 2012, the Quebec Court of Appeal, reversing Justice Déziel's decision, authorized Plaintiff to bring a class action suit against B2B;

WHEREAS on May 29, 2013, François Rolland, J.C.S. authorized Plaintiff to bring a class action suit against Lloyd's Underwriters and Samson & Associés Inc. in the Superior Court file bearing No. 550-06-000026-113;

WHEREAS on July 5, 2016, Michel Déziel, J.C.S. approved a settlement between Plaintiff and Defendant Samson & Associés Inc.;

WHEREAS each authorized class action in the Superior Court files bearing No. 550-06-000024-068 and 550-06-000026-113 (hereinafter collectively referred as the "**Class Action Proceedings**") was brought on behalf of the same following class:

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 year 2001 to 2005 inclusively.

WHEREAS the Plaintiff seeks, in his conclusions, a joint and several condemnation against all defendants involved in the Class Action Proceedings;

WHEREAS B2B has always denied and still denies any wrongdoing in respect of the Class Action Proceedings;

WHEREAS the Plaintiff, Class Members and B2B (the "**Parties**") wish to and hereby do fully and finally resolve, without any admission of liability whatsoever, the Class Action Proceedings as per the terms and conditions of this settlement agreement (the "**Settlement Agreement**");

WHEREAS in consideration of the foregoing and of the complete and final release described in Section 4 below, the Parties have reached a full and final out of Court settlement of all claims arising out of the Class Action Proceedings against B2B whereby B2B agrees to pay to Class Members a global amount of CAD \$ 2,000,000, in capital, interest, indemnity, expenses, taxes, fees and costs and to write off the balance of the loans hereinafter described, interest, penalties, costs and legal fees included;

WHEREAS Plaintiff and B2B agree that the present Settlement Agreement is contingent upon the Superior Court of Québec approval of the settlement terms pursuant to article 590 of the Québec *Code of Civil Procedure*;

WHEREAS Plaintiff and Class Counsel agree that the terms of this Settlement Agreement are just, fair and equitable and in the best interest of Class Members;

WHEREAS the Parties wish to submit this Settlement Agreement to the Court for approval;

WHEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1 - PREAMBLE

1. The preamble forms an integral part of the Settlement Agreement;

SECTION 2 - DEFINITION

2. The following definitions apply to the Settlement Agreement:
 - 2.1 **Approval Date** means the date of the judgment approving the Settlement Agreement, as applicable;
 - 2.2 **Class Counsel** means the firm of Sylvestre, Painchaud et associés S.E.N.C.R.L., the attorneys for the Plaintiff and Class Members;
 - 2.3 **Class Members** mean 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 year 2001 to 2005 inclusively;
 - 2.4 **Court** means the Superior Court of Québec;
 - 2.5 **Loans** mean loans contracted by Class Members from B2B in relation to 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 year 2001 to 2005 inclusively;
 - 2.6 **Non-Settling Parties** mean the defendant Lloyds' Underwriters in the Class Action Proceeding, Superior Court file bearing No. 550-06-000026-113 and the defendants François Roy, Marc Jémus, Desjardins Financial Security Investments Inc., also doing business as Optifund Investments, in the Class Action Proceeding, Superior Court file bearing No. 550-06-000024-068;
 - 2.7 **Settlement Amount** means the amount of CAD \$ 2,000,000 in capital, interest, indemnity, expenses, taxes, fees and costs including Class Counsel fees and disbursements;

SECTION 3 - SETTLEMENT AMOUNT AND ADMINISTRATION EXPENSES

3.1 B2B agrees to:

- a) Pay the Settlement Amount to the benefit of the Plaintiff and the Class Members;
- b) Write off the balance of all Loans, interest, penalties, costs and legal fees included;

the whole in full and final settlement of the Class Action Proceedings against B2B, and as a collective recovery, including, without limitation, capital, interest, indemnity, expenses, taxes, fees and costs including Class Counsel fees and disbursements. B2B has provided a list of Class Members that have a balance to pay on a Loan, which list is attached as Schedule A to form an integral part of the Settlement Agreement. This list is indicative only of the amounts owed and it is understood that the total balance of the Loans, including all interest, penalties, costs and legal fees related to these Loans, will be written off subject to the notes appearing in the list. Furthermore, this list might not be exhaustive and any Class Member not on this list still having a Loan balance to pay to B2B will also have the benefit of this write off subject to review by B2B and the claim administrator.

- 3.2 A statement of account indicating a balance of \$ 0 for the Loans shall be sent by B2B directly to Class Counsel, within fifteen (15) business days of the final judgment approving the Settlement Agreement.
- 3.3 The Settlement Amount shall be payable within fifteen (15) business days of the final judgment approving the Settlement Agreement directly to Class Counsel to be deposited in its trust account.
- 3.4 The Parties understand and agree that B2B will neither pay any amount in addition to or other than the Settlement Amount nor any administration expenses for any reason whatsoever pursuant to or in furtherance of this Settlement Agreement.
- 3.5 Plaintiff and Class Counsel shall have complete discretion to submit the modalities of distribution of the Settlement Amount to the Class Members to the Court for approval, after deduction of Class Counsel's fees and costs as approved by the Court as well as the fees and costs of the claim administrator, plus all applicable taxes.
- 3.6 In no event shall B2B have any right to intervene or comment on these proposed modalities of distribution and/or on the fees and costs of Class

Counsel that will be submitted to the Court for approval and/or on the choice of the claim administrator and its fees and costs.

- 3.7 In no event shall B2B have any responsibility, financial obligations or liability whatsoever with respect to the distribution of the Settlement Amount to the Class Members including, without limiting the generality of the foregoing, either for the choice or for the fees and costs of the claim administrator.

SECTION 4 - RELEASE AND WAIVER OF SOLIDARITY

- 4.1 In consideration for the Settlement Amount and the Loans write offs described above, Plaintiff and Class Members settle the Class Action Proceedings against B2B in accordance with the terms of the Settlement Agreement, each Party paying their respective costs.

- 4.2 The Plaintiff and Class Members forever and absolutely release, acquit and discharge B2B and its principals, affiliates, delegates, subsidiaries, insurers, reinsurers, contractors, assigns, directors, shareholders, officers, attorneys, employers, employees, representatives, agents, consultants, advisors, managers and any other persons or entities who may engage B2B's liability in fact or in law with respect to any and all the facts alleged in the Class Action Proceedings from any and all claims, suits, demands or recourses that were or could have been presented by, on behalf of or through the intervention of Plaintiff or of any Class Member individually, collectively or otherwise, with respect to any and all causes of action deriving from or related to, directly or indirectly, any and all of the allegations or facts alleged in the Class Action Proceedings, including, without restricting the generality of the foregoing, from any and all claims of liability or for damages or for judicial costs, deriving from, directly or indirectly, the facts and circumstances alleged, directly or indirectly, in the proceedings, exhibits, examinations, undertakings and expert reports filed in or obtained in relation to the Class Action Proceedings.

- 4.3 It is further understood and agreed that the Plaintiff and Class Members expressly renounce and waive the benefit of solidarity (or, as the case may be, *in solidum* obligation) against B2B or any other person, including the Non-Settling Parties, with respect to any and all of the acts and/or omissions and/or facts alleged against B2B in the Class Action Proceedings and it is understood that by the effect of the judgment of the Court approving the Settlement Agreement, Plaintiff or any Class Member will not claim, in any manner whatsoever, from the Non-Settling Parties who are not a party to the Settlement Agreement, a claim for payment, indemnity and/or contribution and/or any other claim inclusive of, but not limited to, a claim for compensatory, punitive and/or recursory damages, allegedly caused by, or attributed to B2B. Without limiting the generality of the foregoing, Plaintiff and the Class Members expressly renounce taking any legal action or recourse against any party, person or entity with respect to any and all of the facts alleged in the Class Action Proceedings

which would or could claim any amount or right of action in warranty against B2B.

- 4.4 It is further understood and agreed that the judgment approving the Settlement Agreement will provide that the settlement has the effect of limiting the claims of the Plaintiff and Class Members solely to the consequences of the acts and/or omissions of the Non-Settling Parties who are not a party to the Settlement Agreement. Plaintiff and Class Members therefore expressly renounce to any action in warranty, third party proceeding, *mise en cause* and/or any interpleader to obtain a contribution or an indemnity from B2B in relation to any act or omission of B2B within the context of the Class Action Proceedings between the Plaintiff, Class Members and other Non-Settling Parties named in the Class Action Proceedings, or otherwise added by way of amendment.

SECTION 5 - SETTLEMENT APPROVAL AND IMPLEMENTATION

- 5.1 Within a reasonable period of time after signature of this Settlement Agreement, Class Counsel will first file a motion for the approval of the form, content, date and mode of publication of the notice contemplated by Article 590 of the *Code of Civil Procedure*.
- 5.2 The proposed French and English texts of this notice are found in Schedule B.
- 5.3 The Plaintiff and Class Counsel propose that the publication and/or transmission of notices regarding the approval hearing and the approval of the Settlement Agreement will be sent by Class Counsel in the form of a personalized notice sent by mail or e-mail to each Class Member, based on the list of Class Members known to Plaintiff and Class Counsel.
- 5.4 The settlement approval hearing date shall be determined by the Court.
- 5.5 In a reasonable period but not less than 10 days before the settlement approval hearing, Class Counsel will then file a motion for the approval of the Settlement Agreement.
- 5.6 In the event that the Settlement Agreement is not approved by final judgment of the Court, a notice to that effect will be sent to the Class Members in the same manner informing them of the Court's refusal.
- 5.7 It is understood and agreed that any and all costs pertaining to the publication or sending of the notices, if any, shall be paid out from the Settlement Amount should the Court approve the Settlement Agreement.
- 5.8 It is understood and agreed that all approved expenses pertaining to the procedural implementation of the Settlement Agreement, as described

hereinabove, will be the sole responsibility of the Plaintiff, Class Members and Class Counsel at no cost whatsoever to B2B.

5.9 B2B will support these two motions.

SECTION 6 - NO ADMISSION OF LIABILITY

- 6.1 The Parties agree that, whether or not the Settlement Agreement is approved, the Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions associated with the Settlement Agreement, and any action taken to carry out the Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute, rule or law, or of any wrongdoing or liability by B2B, or of the truth of any of the claims or allegations made in the Class Action Proceedings or any other proceeding.
- 6.2 All negotiations, statements made or agreements in principle executed between the Parties shall remain confidential and these as well as the Settlement Agreement shall be deemed to be without effect and without any admission or prejudice to the rights of the Parties.
- 6.3 The Parties further agree that neither the Settlement Agreement nor any document relating to it shall be offered in evidence in any action or proceeding in any court, agency or tribunal, except to seek Court approval of the Settlement Agreement or to give effect to and enforce its provisions or if required by order of the Court, regulatory bodies or other government agencies.
- 6.4 The Plaintiff and Class Members recognize that the Settlement Agreement, including payment of the Settlement Amount, is made without any admission of liability on the part of B2B and that its only purpose is to arrive at an amicable solution and, as such, avoid lengthy and costly proceedings.

SECTION 7 - SETTLEMENT AGREEMENT NOT APPROVED BY THE COURT

- 7.1 The Settlement Agreement is conditional upon the fulfillment of the conditions below:
- a) The Court approves the Settlement Agreement; and
 - b) The judgment approving the Settlement Agreement has become final.
- 7.2 If the Court does not approve the Settlement Agreement, the Settlement Agreement shall be deemed null and void and shall have no force or effect on the Parties. The Parties shall not be bound by its terms and will be reinstated in the respective positions they were in immediately before the negotiation of the Settlement Agreement.

SECTION 8 - MISCELLANEOUS

Headings etc.

- 8.1 In the Settlement Agreement the division into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of the Settlement Agreement.

Ongoing Jurisdiction

- 8.2 The Court shall retain exclusive jurisdiction over all matters relating to the interpretation, implementation and enforcement of the Settlement Agreement as it relates to the Class Action Proceedings.

Governing Law

- 8.3 The Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Quebec.

Entire Agreement

- 8.4 The Settlement Agreement constitutes the entire agreement between the Parties and supersedes any and all prior and contemporaneous understandings, undertakings, negotiations, representations, communications, promises, agreements, agreements in principle and memoranda of understanding in connection herewith.

Binding Effect

- 8.5 Once the Settlement Agreement is approved by final judgment of the Court, it shall be binding upon and inure to the benefit of the Parties, as well as their respective successors and assigns.
- 8.6 The release provided for herein is effective upon receipt by Class Counsel of the payment of the entire Settlement Amount.
- 8.7 The Plaintiff and Class Members waive their right to request, at a later date, the rescission of the Settlement Agreement for any cause whatsoever, including for reasons of errors of law or fact, and recognize that the Settlement Agreement covers all types of claims known or not at the date of the present.

Public declarations

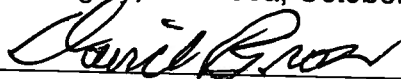
- 8.8 The Parties agree that no public statement shall be made regarding the Class Action Proceedings or its settlement which are in any way inconsistent with the terms of the Settlement Agreement.

Authorized Signatures

- 8.9 Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, the Settlement Agreement.
- 8.10 The Parties have agreed to draft the Settlement Agreement in English. *Les Parties ont convenu de rédiger la présente entente de règlement en anglais.*

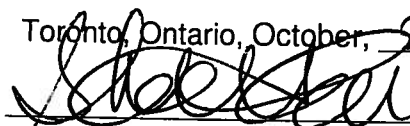
THE PARTIES HAVE EXECUTED THIS SETTLEMENT AGREEMENT:

Headingley, Manitoba, October, 29, 2018



DAVID BROWN
Petitioner/Plaintiff, Representative of Class
Members

Toronto, Ontario, October, 28, 2018



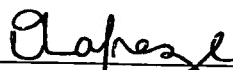
B2B BANK
Defendant

Montreal, Québec, October, 28, 2018



**SYLVESTRE, PAINCHAUD ET
ASSOCIÉS S.E.N.C.R.L.**
Class Counsel for the Class Members and
the Plaintiff David Brown

Toronto, Ontario, October, 25, 2018



B2B BANK
Defendant

Montreal, Québec, October, 29, 2018



MCCARTHY TÉTRAULT LLP
Attorneys for Defendant B2B Bank

Schedule A

B2B TRUST

SCHEDULE A - LIST OF RSP LOAN BALANCES*

Name	RSP Loan Balance	Accrued Interest (to 30-Sept-2018) to 30-Sept-2018)	RSP Loan (Interest accrued to 30-Sept-2018)
	\$	\$	\$
INVESTORS IN CLASS C SHARES			
1	(25,518)	(16,666)	(42,184)
2	(18,830)	(18,396)	(37,226)
3	(20,427)	(19,956)	(40,383)
4	N/A	N/A	N/A
5	N/A	N/A	N/A
6	(10,710)	(5,211)	(15,921)
7	(13,425)	(8,388)	(21,813)
8	(59,251)	(63,360)	(122,611)
Sub-total	(148,161)	(131,977)	(280,137)
INVESTORS IN CHARTRAND MORTGAGES ONLY			
9	(3,865)	(3,582)	(7,447)
10	(7,596)	(3,850)	(11,446)
11	(5,662)	(2,870)	(8,532)
Sub-total	(17,123)	(10,302)	(27,425)
IMPLICATED IN SCHEME			
12	(6,054)	(4,108)	(10,162)
13	(20,880)	(18,585)	(39,464)
Sub-total	(26,934)	(22,693)	(49,627)
PERSONAL BANKRUPTCY			
14	(15,156)	(18,717)	(33,873)
15	(3,308)	(3,610)	(6,918)
16	(17,765)	(33,610)	(51,375)
17	(22,203)	(39,843)	(62,046)
18	(23,232)	(26,130)	(49,362)
19	(9,687)	(10,026)	(19,713)
20	(34,006)	(33,331)	(67,337)
21	(12,983)	(8,728)	(21,711)
Sub-total	(138,340)	(173,994)	(312,335)
MUTUAL RELEASES			
22	(13,265)	(12,792)	(26,056)
23	(8,043)	(7,159)	(15,202)
Sub-total	(21,308)	(19,951)	(41,259)
SEPARATE LEGAL PROCEEDINGS			
24	(43,567)	(42,012)	(85,579)
25	(31,114)	(30,003)	(61,117)
Sub-total	(74,681)	(72,016)	(146,696)
Total	(426,546)	(430,933)	(857,479)

*This list was prepared on a without prejudice basis by B2B and regardless of whether Loans had already been written off by B2B in its accounting books by reason of mutual releases or of the insolvency, bankruptcy or any other financial difficulty of any borrower. It was prepared for the purposes of the Settlement Agreement and is only indicative in nature. No admission whatsoever on the part of B2B Trust can be drawn from this list. **A settlement agreement has already been reached in British-Columbia with respect to the claims and Loans of

agreement, B2B and the . have already fully and mutually released each other with respect to these actions and the l

Loans. The present Settlement Agreement neither interferes, replaces, supersedes, annuls nor cancels the settlement agreement reached in British Columbia. Without limiting the generality of the foregoing, no amount is therefore indicated for any of the Loans.

***In the case of l his right to benefit from the Settlement Agreement is conditional upon his acceptance and execution of a Consent Dismissal Order of B2B's claim filed against him in the Supreme Court of Saskatchewan with respect to a loan balance of \$13,425 in capital and of a mutual, complete and final release with respect to that court file.

****In the case of l the present Settlement Agreement is conditional upon their acceptance and execution of a Consent Dismissal Order of B2B's claim filed against them and of their counter claim against B2B in action Hfx No. 276915 in the Supreme Court of Nova Scotia and of a mutual, complete and final release with respect to that court file.

Schedule B

CANADA

SUPERIOR COURT
(class action)

PROVINCE OF QUÉBEC
DISTRICT OF GATINEAU

No: 550-06-000026-113

DAVID BROWN

Plaintiff

vs.

LLOYD'S UNDERWRITERS

Defendant

No: 550-06-000024-068

DAVID BROWN

Plaintiff

vs.

FRANÇOIS ROY

-and-

MARC JÉMUS

-and-

B2B TRUST (now B2B BANK)

-and-

**DESJARDINS FINANCIAL SECURITY
INVESTMENTS INC. (also doing business as
OPTIFUND INVESTMENTS)**

Defendants

NOTICE TO CLASS MEMBERS

To all members of the Class defined as follows:

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, in and/or through companies related to one of them, in the year 2001 to 2005 inclusively.

prêts et/ou des remboursements effectués par les membres sur leurs prêts, le cas échéant.

Une fois les règlements approuvés, un autre avis vous sera envoyé pour vous informer dans quel délai, de quelle manière et à qui votre réclamation devra être transmise.

Approbation du tribunal

Les deux règlements intervenus seront soumis pour approbation à la Cour le 29 octobre 2018 à _____, dans la salle _____ du Palais de justice de Gatineau, au 17 rue Laurier, Gatineau, Québec, J8X 4C1.

Lors de cette audience, tout membre du groupe qui le souhaite pourra être présent et se faire entendre par la Cour avant que celle-ci n'approuve ou ne rejette chacun des deux règlements.

Les membres désirant se faire entendre lors de cette audience devront en aviser par écrit les avocats de l'action collective à c.sylvestre@spavocats.ca et ce, au plus tard le 23 octobre 2018 à 17h00.

Au cas où la Cour n'approuverait pas l'un ou l'autre de ces règlements, un avis à cet effet sera transmis aux membres du groupe et ledit règlement sera considéré comme nul et non avenu.

L'action collective se poursuivra à l'encontre des défendeurs qui ne sont pas parties aux ententes mentionnées ci-dessus et tout montant additionnel qui pourrait être obtenu au terme de ces procédures sera distribué ultérieurement aux membres, après déduction des frais et honoraires approuvés par le tribunal.

Diffusion de l'information

Vous êtes invités à partager le présent avis avec les membres du groupe que vous connaissez afin de les inciter à transmettre aux avocats soussignés leur adresse courriel pour qu'ils reçoivent tout avis futur dans la présente action collective.

Le présent avis aux membres du groupe a été approuvé par la Cour.

Montréal, le

SYLVESTRE, PAINCHAUD ET ASSOCIÉS, S.E.N.C.R.L

Avocats du demandeur et des membres du groupe

Me Pierre Sylvestre Ad.E

p.sylvestre@spavocats.ca

Me Catherine Sylvestre

c.sylvestre@spavocats.ca

Me Gilles G. Krief

g.krief@spavocats.ca

CANADA

**PROVINCE DE QUÉBEC
DISTRICT DE GATINEAU**

No: 550-06-000026-113

COUR SUPÉRIEURE
(actions collectives)

DAVID BROWN

Demandeur

c.

LLOYD'S UNDERWRITERS

Défenderesses

No: 550-06-000024-068

DAVID BROWN

Demandeur

c.

FRANÇOIS ROY

-et-

MARC JÉMUS

-et-

B2B TRUST (désormais B2B BANQUE)

-et-

**DESJARDINS SÉCURITÉ FINANCIÈRE
INVESTISSEMENTS INC. (faisant également
affaires sous PLACEMENTS OPTIFONDS)**

Défendeurs

AVIS AUX MEMBRES DU GROUPE

À l'attention de tous les membres du groupe décrit comme suit :

Toutes les personnes physiques et les personnes morales de moins de cinquante (50) employés, qui ont souscrit aux différents investissements proposés par Marc Jémus, François Roy et/ou Robert Primeau, et/ou par leur biais, et/ou en utilisant des compagnies leur étant liées, pour la période de 2001 à 2005 inclusivement.

SOYEZ AVISÉS que deux règlements hors Cour sont intervenus dans cette action collective, d'une part, avec B2B Banque (« B2B ») et, d'autre part, avec Desjardins sécurité financière investissements inc. (Placements Optifonds).

Le Demandeur a consenti à ces règlements, considérant les risques inhérents à tout litige en action collective et considérant l'avantage de recevoir immédiatement un montant raisonnable à titre de règlement compte tenu des longs délais écoulés.

Règlement avec B2B

B2B a toujours nié et continue de nier toute responsabilité dans cette action collective. Néanmoins, sans aucune admission de sa part, B2B a consenti à verser la somme de 2 000 000 \$ en capital, intérêts, indemnités, dépenses, taxes, honoraires et frais, au bénéfice des membres du groupe, et ce, à titre de règlement total et final et en considération d'une quittance complète et finale pour tous les faits et responsabilités allégués contre elle dans l'action collective du dossier de cour numéro 550-06-000024-068.

De plus, B2B annulera le solde dû par les membres du groupe sur les prêts contractés par eux auprès de B2B en lien avec des investissements proposés par Marc Jémus, François Roy et/ou Robert Primeau, et/ou par leur biais, et/ou en utilisant des compagnies leur étant liées, pour la période de 2001 à 2005 inclusivement, incluant les intérêts, frais, pénalités et honoraires.

Règlement avec Placements Optifonds

Placements Optifonds a toujours nié et continue de nier toute responsabilité dans cette action collective. Néanmoins, sans aucune admission de sa part, Placements Optifonds a consenti à verser la somme de 700 000,00 \$ en capital, intérêts, indemnités, dépenses, taxes, honoraires et frais, au bénéfice des membres du groupe, et ce, à titre de règlement total et final et en considération d'une quittance complète et finale pour tous les faits et responsabilités allégués contre elle dans l'action collective du dossier de Cour numéro 50-06-000024-068.

Distribution des sommes aux membres du groupe

Le demandeur demandera à la Cour de l'autoriser à distribuer aux membres du groupe le montant total des règlements intervenus jusqu'à présent totalisant la somme de 3 400 000 \$, moins les honoraires et frais à être approuvés par la Cour.

Chaque membre désirant obtenir une indemnité devra soumettre une réclamation au gestionnaire des réclamations dans le délai et selon les modalités qui seront déterminées par le tribunal lors de l'audience prévue à la date et à l'endroit indiqué ci-après.

Si le montant à distribuer n'était pas suffisant pour couvrir la totalité des pertes des membres du groupe ayant présenté une réclamation, les fonds seront distribués au prorata des pertes de chacun, tenant compte notamment des radiations de

BE ADVISED that two separate settlements have been reached in the present case between Plaintiff and B2B Bank ("B2B"), on the one hand, and Desjardins Financial Security Investments Inc. (Optifund Investments), on the other hand.

The Plaintiff has agreed to the terms of these settlements given the inherent litigation risks of any Class action lawsuit and the advantage of immediately receiving a reasonable settlement amount, given the long delays.

B2B Settlement

B2B has always denied and still denies any wrongdoing in the present case. Nevertheless, without any admission on its part, B2B has agreed to pay an amount of \$ 2,000,000.00, including capital, interest, indemnity, expenses, taxes, fees and costs, for the benefit of the Class members, in full and final settlement of and in consideration of a complete and final release for all facts and liability alleged against it in the Class action proceeding in court file number **550-06-000024-068**.

In addition, B2B will write off the balance owed by Class Members on loans contracted by them from B2B in relation to 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 year 2001 to 2005 inclusively, interest, cost, penalties and legal fees included.

Optifund Investments Settlement

Optifund Investments has always denied and still denies any wrongdoing in the present case. Nevertheless, without any admission on its part, Optifund Investments has agreed to pay an amount of \$ 700,000.00, including capital, interest, indemnity, expenses, taxes, fees and costs, for the benefit of the Class members, in full and final settlement of and in consideration of a complete and final release for all facts and liability alleged against it in the Class action proceeding in court file number 550-06-000024-068.

Distribution of the settlements amounts to Class Members

Plaintiff intends to ask the Court to be authorized to distribute to Class Members the total amount of the settlement agreements reached up to now in this Class action, more precisely the amount of \$ 3,400,000.00, minus the fees and costs as yet to be approved by the Court.

To be eligible to get compensation, each Class Member will have to submit a claim to the claim administrator within the delay and in conformity with the modalities determined by the Court at the hearing scheduled on the date and place indicated below.

If the available amount for distribution is insufficient to cover the total loss of every Class member who has submitted a claim, the amount will be distributed on a *pro rata* basis, taking into account the total loss of each Class Member, the write off of the loans and/or the payments made by members on their loans, as the case may be.

Once the settlement is approved by the Court, another notice will be sent to inform the members in what delay, in what form and to whom the claims should be submitted.

Court's Approval

These settlements will be submitted to the Court for approval on October 29, 2018, at _____ in room _____ at the Gatineau Court House, 17, Laurier St., Gatineau, Québec, J8X 4C1.

At the approval hearing, any Class Member who wishes so is entitled to be present and be heard before the Court decides whether to approve the settlements or not.

Any Class Member who wishes to be heard has to inform Class Counsel of his intention by sending a written notice at c.sylvestre@spavocats.ca at the latest on October 23, 2018, at 5 pm.

In the event that the Court refuses to approve one settlement and/or the other, a notice to that effect will be sent to Class members and the said settlement will be deemed null and void.

The proceedings in the present Class action will continue against the defendants who are not part of the settlements mentioned above and any additional amount, if any, obtained as a result of these proceedings will be distributed to the Class members.

Disseminating the information

You are invited to share the present notice with the other members of the group that you know to invite them to give the undersigned attorneys their email address so they can receive directly future notices in the present Class action.

This notice to Class members has been approved by the Court.

Montréal, le

SYLVESTRE, PAINCHAUD ET ASSOCIÉS, S.E.N.C.R.L

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