

# **NOTICE OF THE PROPOSED SETTLEMENT OF THE DONATION PROGRAM FOR MEDICAL SCIENCE AND TECHNOLOGY CLASS ACTION**

**Read this notice carefully as it may affect your rights.**

**This notice is directed to all persons and entities, excluding certain persons associated with the Defendants who participated in the Donation Program for Medical Science and Technology (“Program”) in at least one of the taxation years 2001, 2002 or 2003.**

On March 11, 2011, a proposed class action was commenced in Toronto (the "Action"). The Plaintiffs allege that Fraser Milner Casgrain LLP, BDO Dunwoody LLP and others (collectively, the “Defendants”) provided tax opinions used to promote leveraged charitable donations to the John McKellar Charitable Foundation.

The Action was certified as a class action on May 30, 2013. The period for a person to opt out of the Action expired on October 1, 2013. Those persons entitled to participate in the settlement are persons, other than Excluded Persons, who participated in the Program in at least one of the taxation years of 2001, 2002 or 2003 and did not opt out of the Action (“Class Members”).

The parties have reached a proposed settlement of the Action, without an admission of liability by the Defendants, subject to approval by the Court. This notice provides a summary of the proposed settlement.

## **THE TERMS OF THE PROPOSED SETTLEMENT**

The Defendants will pay \$37 million, in full and final settlement of all claims against the Defendants. The \$37 million, less the lawyers’ fees, disbursements and taxes, the costs of administration of the settlement and the amount owed to the Class Proceedings Fund will be distributed to the Class in accordance with a plan of allocation. The Settlement Agreement and the plan of allocation may be viewed at [www.strosbergco.com/class-actions/trinity](http://www.strosbergco.com/class-actions/trinity).

## **THE APPROVAL HEARING**

The Court will be asked to approve the proposed settlement and the lawyers’ fees, disbursements, expenses and taxes at a hearing to be held on May 15, 2019 at 10:00 a.m. at the courthouse located at 361 University Avenue, Toronto. The lawyers for the Class will ask the Court to approve legal fees of thirty (30) percent of \$37 million which is \$12,543,000 million, including taxes, plus disbursements of approximately \$430,000.00, plus taxes. Because the plaintiffs received financial support from the Class Proceedings Fund (“CPF”), the CPF is entitled to 10% of the net settlement fund, approximately \$2,400,000. The amount available for distribution to the Class Members is estimated to be \$21,627,000.

## **OBJECTIONS**

Class Members who do not oppose the proposed settlement are not required to appear at the hearing or take any other action at this time to indicate their desire to participate in the proposed settlement. Class Members who consider it desirable or necessary to seek the advice and guidance of their own lawyers may do so at their own expense.

At the approval hearing, the Court will consider an objection to the proposed settlement by a Class Member if the objection is submitted in writing, by prepaid mail or e-mail to: Gregory D. Wrigglesworth, Kirwin Partners LLP, 423 Pelissier Street, Windsor, Ontario, N9A 4L2, fax: 519-259-1568, email: [trinity@kirwinpartners.com](mailto:trinity@kirwinpartners.com), Attention: Trinity Class Action. Class Members who wish to object must do so before May 13, 2019.

A written objection can be submitted in English or French and must include the following information:

- (a) the objector's full name, current mailing address, telephone number, fax number and email address (as may be available);
- (b) a statement that the Class Member's income tax return for 2001, 2002 or 2003, as appropriate, was reassessed by the Canada Revenue Agency and the tax credit was denied;
- (c) a brief statement of the nature of and reasons for the objection; and
- (d) whether the objector intends to appear at the approval hearing in person or by counsel, and, if by counsel, the name, address, telephone number, fax number and email address of counsel.

## QUESTIONS

Questions for the lawyers for the Class may be directed to:

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**This notice has been approved by the Court. Questions regarding this notice should NOT be directed to the Court.**