

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

LUCIEN LIEBERMAN AND MARJORY MORRIS

Plaintiffs

AND:

BUSINESS DEVELOPMENT BANK OF CANADA

Defendant

(Brought pursuant to the *Class Proceedings Act*, RSBC 1996, c. 50)

NOTICE OF CERTIFICATION

**This notice may affect your rights.
Please read carefully.**

Introduction

On February 16, 2006 the Supreme Court of British Columbia certified this case as a class proceeding. You are receiving this notice because you may be a member of the class. Any questions about the case should be directed to the lawyers for the class as set out below.

This notice is not an expression of the Court's opinion regarding the merits of any claim or defence asserted in the class action. The only purpose of this notice is to inform you of the class action so that you may decide what steps to take in relation to it.

The class includes:

- (a) retired members, entitled to benefit payments from the Pension Plan for employees of the Defendant (the "Pension Plan") with respect to credited service prior to April 9, 1997;
- (b) surviving spouses entitled to receive post-retirement survivor benefits with respect to retired members' credited service prior to April 9, 1997;
- (c) deferred vested members, entitled to benefit payments from the Pension Plan with respect to credited service prior to April 9, 1997;

- (d) spouses, beneficiaries and/or estates who are entitled to pre-retirement or post-retirement survivor benefits due to a relationship with persons in paragraphs (a) or (c); and
- (e) the beneficiaries and/or estates of the above persons who died prior to any settlement or judgement in this action.

What is the Class Action About?

On April 26, 2004 the Plaintiffs started a class action against the Defendant. The Plaintiffs allege breach of fiduciary duty against the Defendant with regard to the Defendant's administration of the Pension Plan and Pension Fund. The Plaintiffs are seeking, on their own behalf and on behalf of the class, general, special and equitable damages, an accounting, cash distributions, interest and costs against the Defendant. Details of the claim are set out in the Statement of Claim which is available from Klein Lyons at the address set out below and on the Klein Lyons website at: www.kleinlyons.com.

The Court has appointed Lucien Lieberman as Representative Plaintiff.

British Columbia Residents - What Do I Need to Do?

If you resided in British Columbia on February 16, 2006, the date this class proceeding was certified, you are automatically included and do not need to do anything to be a class member in this class action. However, it is recommended that you contact class counsel so that you can be put on our mailing list for periodic updates on the status of the proceeding.

If you DO NOT want to participate, you must opt out of this action by signing and mailing the Court approved Opt Out Form to Klein Lyons postmarked no later than 60 days before the trial of this class proceeding. This form is also available from Klein Lyons at the address set out below and on the Klein Lyons website at: www.kleinlyons.com.

If you opt out of the class action, you should be aware that there are strictly enforced time limits within which you must take formal legal action to pursue your claim. The certification of this class action suspended the running of the limitation period from the time the action was filed, April 26, 2004. The limitation period will resume running against you if you opt out of the class action. By opting out of the class action, you will take full responsibility for obtaining legal advice about the limitation period and for taking all legal steps necessary to protect your claim.

All class members will be bound by the judgment of the Court on the common issues unless they have opted out of the class.

Non British Columbia Residents - Opting In to the Class Proceeding

If you were not residing in British Columbia on February 16, 2006, the date this class proceeding was certified, you must **OPT IN** to the class proceeding if you wish to join the class action and be a class member. You may opt in to the class action by signing and mailing the Court approved Opt In Form to Klein Lyons postmarked no later than ***60 days before the trial of this class proceeding***. If you do not opt in by delivering the Opt In Form, you will not be bound by the judgment nor will you be entitled to share in the benefits of the class action. By not opting in to the class action, you will take full responsibility for initiating a personal action against the defendant or for taking all legal steps necessary to protect your claim. This form is also available from Klein Lyons at the address set out below and on the Klein Lyons website at: www.kleinlyons.com.

How Will the Case Proceed?

Class actions have two stages. The first stage is the trial of the common issues. The court will set a date for the trial of the common issues. The common issues in this class action are:

1. Did the Defendant breach their fiduciary duties to the class members as alleged in paragraphs 36 and 37 of the Statement of Claim?
2. If the Defendant did breach their fiduciary duties to the class members, what relief should be granted to the class members?

The second stage of the class action deals with the issues individual to each class member. The court will determine what further steps class members need to take to prove entitlement to compensation, and in what amount.

The Representative Plaintiff will instruct the lawyers during the first stage of the class actions. If a class member wishes to participate in the proceedings directly, the class member may make an application to the Court. Each class member has the right to be separately represented by a lawyer of his or her own choice.

What are the Financial Consequences of the Class Proceeding?

Members of the classes will be entitled to the benefit of a successful judgment of the Court on the common issues. If the action is not successful on the common issues, no member of the class will be responsible to pay the costs of the Defendant. If the trial of the common issues is successful but a class member is not successful in proving that he or she has suffered any individual damages, that class member may be responsible to pay the costs of the defendant in the individual class member's damage claim.

The Representative Plaintiff has entered into a fee agreement with Class Counsel that provides for the firm to be paid 25% of any settlement or favourable judgment for legal services rendered after deduction of any disbursements incurred by Class Counsel in the litigation. The fees and disbursements will form a first charge in favour of Klein Lyons on any favourable settlement or judgment.

No member of the class will be responsible for the Plaintiffs' counsel legal fees or disbursements unless money is recovered in a settlement or judgment.

Who are the Lawyers for the Class?

The lawyers for the class are Klein Lyons:

Klein Lyons
Barristers & Solicitors
1100 – 1333 West Broadway
Vancouver, BC V6H 4C1
Telephone: (604) 874-7171
Facsimile: (604) 874-7180
Email: info@kleinlyons.com

How Do I Find Out More?

Any questions about the matters in this Notice should **NOT** be directed to the court. Class members who want to know more about the class actions can check Klein Lyons website at www.kleinlyons.com or contact Klein Lyons directly at the contact information above.