

NO. L051875
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

LARRY PHILIP FONTAINE and others

Plaintiffs

AND:

THE ATTORNEY GENERAL OF CANADA and others

Brought under the Class Proceedings Act, R.S.B.C. 1996 c. 50

ORDER MADE AFTER APPLICATION

BEFORE THE)) TUESDAY, the 5th DAY
HONOURABLE))
MADAM JUSTICE)) OF JUNE, 2012
BROWN))

THE APPLICATION of Crawford Class Action Services in its capacity as Court Monitor (the "Monitor"), coming on for hearing at Vancouver on April 30, May 1-2, 9-11, 2012 and upon hearing L. Zivot and H. Drabinsky, counsel for the Monitor, C.A. Coughlan, counsel for the Attorney General of Canada, R. Millen and E. Kassaris, counsel for David Blott and Blott & Company, L. Brasil and W. Branch, counsel for Kelly Kristensen and Kim Deslandes, K. Mahoney, counsel for the Assembly of First Nations, C. Hofley and L. Fisher, counsel for the Chief Adjudicator Dan Ish, P. J Faulds Q.C., for the National Consortium, P. R. Grant, counsel for the Independent Counsel, J. Summers, Counsel for Merchant Law Group, D. Klein and J. Murray, counsel for BridgePoint Financial Services Inc., R. Kasting, counsel for Thom Denomme, Honour Walk Ltd., L. MacDonald Q.C. and G. Groome counsel for the Law Society of Alberta and R. Bennett and A. Thuan, Court Counsel.

AND: Judgment being reserved to this date

THIS COURT ORDERS and DIRECTS that:

1. The following persons be removed from further participation in the administration of the Indian Residential Schools Settlement Agreement dated May 8, 2006 and approved by this Honourable Court on December 15, 2006 (the "Settlement Agreement"), including but without limitation, they are prohibited from providing legal or other services to claimants or potential claimants in relation to Indian Residential School claims ("IRS"), which claims include those that would be adjudicated in the Independent Assessment Process ("IAP") administered by the Indian Residential Schools Adjudication Secretariat:

(a) David Blott, David Blott Professional Corporation and Blott & Company and any associated entity (collectively "Blott & Company");

(b) Thomas Denomme, Honour Walk Ltd., Residential School Healing Society of Canada and Hands Free Office Services Corp. and any other entity presently or at any time in the future associated or affiliated with any of the foregoing (collectively the "Denomme Associates"); and

(c) all officers and directors of each of the foregoing.

2. Notwithstanding paragraph 1 of this Order and the removal of Blott & Company and the Denomme Associates from participation in the administration of the Settlement Agreement:

(a) Blott & Company and the Denomme Associates are bound by the remaining applicable terms of this Order;

(b) any lawyer other than David Blott who is associated with Blott & Company, whether as employee, contractor or otherwise, personally or through a personal law corporation (collectively the "Blott Associates"), in the provision of legal services to Blott & Company IRS/IAP claimants (the "Blott Claimants"), including Kelly Kristensen and Kim Deslandes, may continue to participate in the administration of the Settlement Agreement, including providing legal services to claimants or potential claimants in relation to IRS claims, and including claims adjudicated in the IAP provided that any such representation or services are provided in affiliation with another law firm that can afford them supervision in accordance with appropriate IAP practice guidelines and procedures, as may be determined or directed by the Court or the Transition Coordinator.

3. Those Blott Associates who intend to continue representing claimants in the IRS/IAP process will, upon their attaining an affiliation with another law firm, advise the Transition Coordinator, the Chief Adjudicator and the Alberta Law Society of the details of that association.
4. The IRS/IAP practice of Blott & Company will be wound down. There will be a structured and orderly transition of Blott & Company IRS/IAP files to other qualified lawyers or law firms (collectively "Successor Counsel"), such transfers to be made with the consent of every Blott Claimant and under the supervision of this Court and to be overseen and co-ordinated by the appointment of the Honourable Ian Pitfield (the "Transition Coordinator") during the period of time that it takes to transition the Blott & Company IRS/IAP files to Successor Counsel (the "Transition") and such period following the Transition that may be required to complete all matters related to the Transition.
5. For the purposes of this Order reference to the Transition Coordinator, includes any agent, assistant and designated or appointed expert that the Transition Coordinator may choose to engage to assist him with the exercise of his powers and the discharge of his obligations under this Order.
6. For the purposes of this Order Blott Claimants include:
 - (a) an IRS/IAP claimant with a retainer agreement or solicitor/client relationship with Blott & Company or any of the Blott Associates; and
 - (b) those persons who have a DNQ Claim, an Unfiled Claim, an Estate Claim or a Transfer Claim that is or has material that is or was in the possession or control of Blott & Company, the Blott Associates or the Denomme Associates.
7. In furtherance of the Transition the Transition Coordinator will:
 - (a) establish a plan and program to expeditiously transfer the Blott Claimants' IRS/IAP files to Successor Counsel upon such terms, conditions and undertakings acceptable to the Transition Coordinator, such terms will include provisions that all Successor Counsel:
 - (i) whether members of the Law Society of Alberta or not, who receive Blott Claimant files from Blott & Company provide the following undertakings, compliance therewith being contingent upon receiving written assurances from the Law Society investigators that the Successor Counsel and any other persons

who may claim solicitor-client privilege may require that all or part of any proceedings under Part 3 or 4 of the *Legal Profession Act*, R.S.A. 2000, c. L-8 involving the said files be held in private and the public be refused access to the said files and the information in them:

1. should the Law Society of Alberta investigators require access to the Blott Claimant files, the Successor Counsel shall either enable the investigators to take the files away, make copies of them and return them within a reasonable time after receiving them, or shall within three weeks from a request or such further time as agreed to by the Law Society of Alberta, provide copies of the entirety of the Blott Claimant files to investigators (the "Cooperation Undertaking"); and
2. the Successor Counsel receiving the transferred files shall further undertake to obtain the Cooperation Undertaking from any other lawyers to whom they transfer any of the said files in the future; and

(ii) who are Successor Counsel to a Blott Claimant after April 12, 2012, whether by a change in representation initiated by the Blott Claimant, assisted or facilitated by the Transition Coordinator or otherwise are subject to the Transition Levy, as defined below;

(b) establish a plan and program to identify, evaluate and deal expeditiously with such of those Blott & Company IRS/IAP files that:

- (i) are considered or should be considered an IAP "expedited claim," including any claim scheduled for hearing prior to September 1, 2012;
- (ii) have been designated or determined by Blott & Company or any of the Denomme Associates as not qualifying for IRS/IAP consideration (a "DNQ Claim");
- (iii) concern claims or potential claims in the possession or control of any of Blott & Company, the Denomme Associates or the Blott Associates that have not been filed in the IAP process (an "Unfiled Claim");
- (iv) are with respect to claims involving the estate of a deceased claimant where that claim was not adjudicated (an "Estate Claim");
- (v) were purportedly transferred unilaterally to firms selected by Blott & Company and which are subject to the order of this Honourable Court made April 12, 2012 (a "Transfer Claim");
- (vi) any other claims that require special evaluation or treatment;

- (c) in establishing such plan and program the Transition Coordinator will to the extent he determines necessary practicable and advisable:
- (i) consult with Blott Claimants for the purpose of assisting them in the selection of appropriate Successor Counsel to represent Blott Claimants with respect to their claims;
 - (ii) assist Blott Claimants with respect to their entry into representation agreements with Successor Counsel for the representation in the IAP;
 - (iii) determine, and with the consent of the relevant Blott Claimant, appoint appropriate legal representation for claims that are to be heard during the Transition period including those claims where claimants are or may be represented by any of the Blott Associates;
- (d) have to approve any and all transfers of a Blott Claimant's file to Successor Counsel whether initiated as a result of the plans and programs established by the Transition Coordinator or by the Blott Claimant;
- (e) publicise the plan and program in such manner as he deems appropriate and in a manner that best ensures that Blott Claimants are notified of the appointment of the Transition Coordinator, his mandate and programs and processes, whether by meeting, direct contact, mail, newspaper placements or otherwise;
- (f) be at liberty to engage such experts and professionals or such other persons as he deems necessary or advisable respecting the exercise of his powers and performance of his obligations under this Order; and
- (g) take such steps as he deems appropriate to ensure that Blott Claimant files are completed expeditiously.

8. In the exercise of his powers and performance of his duties under this Order the Transition Coordinator will, to the extent he determines that it is necessary or advisable, engage, communicate, co-ordinate, consult and liaise with:

- (i) Blott Claimants;
- (ii) Blott & Company, its staff and the Blott Associates;
- (iii) the Monitor and Crawford Class Action Services on any such matters that may assist him in his role as Transition Coordinator, including but not limited to developing a notice program to inform Blott Claimants of the Transition program and process and having access to the information and facilities of the Monitor in aid of communicating with Blott Claimants, and in processing or otherwise dealing with the DNQ Claims, the Unfiled Claims, the Estate Claims and the

Transfer Claims in furtherance of having them filed with the Adjudication Secretariat;

(iv) the Chief Adjudicator and the Adjudication Secretariat on any such matters that may assist him in his role as Transition Coordinator, including but not limited to having access to the information and facilities of the Chief Adjudicator and the Adjudication Secretariat with respect to hearings, suitable counsel for representation of Blott Claimants, facilitation of appropriate retainer/representation agreements, counsel remuneration, and communications with Blott Claimants and in processing or otherwise dealing with the DNQ Claims, the Unfiled Claims, the Estate Claims and the Transfer Claims, and in furtherance of that assistance the Chief Adjudicator and/or the Adjudication Secretariat may disclose personal information to any Law Society, the Transition Coordinator, the Monitor and/or any Successor Counsel as required for the performance of their respective duties pursuant to this Order;

(v) the Government of Canada as represented by the Attorney General of Canada;

(vi) Mr. Paul McLaughlin and the Law Society of Alberta on any such matters that may assist him in his role as Transition Coordinator; and

(vii) the Assembly of First Nations; and

(viii) the National Consortium, Independent Counsel, the Merchant Law Group or any other person or organization.

9. Pending any further direction from or decision by the Transition Coordinator or further Order from this Court, Blott Associates may continue to represent those Blott Claimants whose hearings are scheduled during the Transition period and may appear at those hearings.

10. The Unfiled Claims, including the DNQ and Estate claims that are unfiled, in whatever form and whether in the possession of Blott & Company, the Blott Associates, the Denomme Associates or the Monitor, for the purpose of meeting the filing deadline of September 19, 2012 shall be deemed to have been submitted into the IAP adjudication system for the purpose of meeting that deadline upon receipt by Crawford Class Action Services, however, the receipt of any such claim shall not be construed as an admission of the claim into the IAP process until such time as the requirements of the Settlement Agreement IAP claim addendum have been satisfied.

11. The Transition Coordinator will with the assistance of the Monitor gather in and deliver all Unfiled Claims to Crawford Claims Services, and each of Blott & Company, the Blott

Associates and Denomme Associates will forthwith deliver up all Unfiled Claims and related materials and information in their possession or control to the Transition Coordinator.

12. Each of Blott & Company, the Blott Associates and the Denomme Associates and their respective employees, agents and affiliates will co-operate fully with the Transition Coordinator and will provide the Transition Coordinator with the assistance that is necessary to enable him to properly and adequately carry out his mandate under this Order, including:

(a) providing names and contact information for each Blott Claimant to the extent that information is known or practicably determinable by Blott & Company, the Blott Associates, the Denomme Associates and their respective employees, agents and affiliates;

(b) forthwith providing full and complete access to their respective files, books, records, data and databases, including data in electronic form, and other documents of every nature and kind concerning or relating to any Blott Claimant or potential claimant, and with respect to electronic documents or files such access shall include but is not limited to files and data bases associated with:

- (i) PCLaw;
- (ii) The Blottcore database;
- (iii) SmartThru Office;
- (iv) BOINC; and
- (v) Intuit;

(c) on or before June 22, 2012 delivering up any files, books, records, data and databases in their possession or control, including data in electronic form, and other documents of every nature and kind relating to any Blott Claimant or potential claimant and as requested by the Transition Coordinator;

(d) the obligations set out in subparagraphs 12(b) and (c) hereof apply to information in the possession or control of Blott & Company, the Blott Associates and the Denomme Associates respectively, located or formerly located at each and every location of Blott & Company, the Blott Associates and the Denomme Associates, including without limitation the following locations:

- (i) 117-1st Ave E, Cardston Alberta;
- (ii) 4724- 50th Ave, Wetaskiwin, Alberta;
- (iii) 12 Ermineskin Ave, Hobbema, Alberta;

- (iv) 315 Ave F South, Saskatoon Saskatchewan;
- (v) 2321 Rose Street, Regina, Saskatchewan;
- (vi) 106 Many Horses Drive, Redwood Meadows, Alberta;
- (vii) 36 Redwood Meadows Dr, Redwood Meadows, Alberta;
- (viii) 61 Stratford Place SW, Calgary, Alberta;
- (ix) 108, 10325 Bonaventure Drive SE, Calgary, Alberta;
- (x) 539 23 Ave NW, Calgary, Alberta;
- (xi) 2638-26A Street SW, Calgary, Alberta;
- (xii) 303, 6707 Elbow Drive SW, Calgary, Alberta;
- (xiii) 226 139-1331 Drive, West Priddis, Alberta;
- (xiv) #3 9837 44th Ave NW, Edmonton, Alberta; and
- (xv) 35 Highlands Terrace, Bragg Creek Alberta;

13. The Transition Coordinator will have access to the books, records, data and data bases, including data in electronic form, and other documents of every nature and kind notwithstanding the existence or any claim of privilege that could be asserted by a Blott Claimant, and any such access to information or communications by the Transition Coordinator that is or might be subject to a claim of privilege will not constitute a waiver of any such privilege for any other purpose.

14. The Transition Coordinator will provide Law Society of Alberta Investigators access to any documents or data obtained by him in carrying out his duties under this Order, which access will be provided subject to assurances from the Law Society Investigators that any other persons who may claim solicitor-client privilege may require that all or part of any proceedings under Part 3 or 4 of the *Legal Profession Act*, R.S.A. 2000, c. L-8 involving said documents or data be held in private and the public be refused access to said documents or data and the information in them.

15. To the extent that any contract or retainer between a Blott Claimant and Blott & Company or the Denomme Associates contains a “break fee”, that is, any charge, penalty or fee

for changing law firms or related to any other service provided by Blott & Company or the Denomme Associates they are not enforceable and no break fee will be paid to Blott & Company or the Denomme Associates or at all on the transfer of any Blott & Company file or in any other circumstance where there is a change in counsel with respect to a Blott Claimant.

16. Blott & Company and the Blott Associates will not assert any lien nor will any lien be recognized in respect of the work product of any solicitor.

17. Notwithstanding paragraph 16, Blott & Company shall be entitled to be paid for work done and disbursements incurred in connection with a Blott Claimant file as follows:

(a) for the DNQ Claims, the Estate Claims, and Unfiled Claims for which Blott and Company has not commenced the process of obtaining mandatory documents to support the claim, all of which will be transferred to Successor Counsel, there will be no fee allocation or disbursements paid to Blott & Company;

(b) for those Blott Claimant files which are transferred to Successor Counsel, including Unfiled Claims, with respect to which Blott & Company commenced but did not complete the process of obtaining the mandatory documents to support the claim, a maximum fee of \$500 as determined by the Transition Coordinator will be allocated to Blott & Company, plus disbursements;

(c) for those Blott Claimant files which are transferred to Successor Counsel, with respect to which Blott & Company filed the application and obtained all mandatory documents to support the claim, and whether or not a hearing has been set, a maximum fee of \$1500, as determined by the Transition Coordinator will be allocated to Blott & Company, plus disbursements;

(d) the fees payable in (b) and (c) herein as determined by the Transition Coordinator will only be due to Blott & Company in the event of there being a monetary award issued in respect of the relevant Blott Claimant's file, and only payable by Successor Counsel to Blott & Company following receipt of the total contingency fee award for that file by Successor Counsel;

(e) for those Blott Claimant files in which Blott & Company filed the application, obtained the necessary documents, and attended the hearing prior to June 30, 2012, Blott & Company will be entitled to the contingency fee as determined by the adjudicator plus disbursements and subject to the other provisos set out herein and any order of this Court ;

(f) after June 30, 2012, in the event that a Blott Claimant file is not complete, the Transition Coordinator may retain a Blott Associate or former Blott Associate, on terms to be negotiated, to complete the Blott Claimant file. In that event Blott & Company will be entitled to the contingency fee awarded by the adjudicator plus disbursements and less

the amount directed to be paid by the Transition Coordinator to the Blott Associate or former Blott Associate and subject to the other provisos set out herein and any orders of this Court. In such circumstances, payment for the services of the Blott Associate or former Blott Associate will be made from the funds held back by the Monitor pursuant to the prior orders of this Court, and subsequently accounted for to that holdback fund upon the making of any monetary award with respect to that Blott Claimant's file;

(g) any fees payable to a Blott Associate or former Blott Associate on account of their retainer with the Transition Coordinator will be paid by the Monitor upon obtaining the approval of such account by the Transition Coordinator and upon provision to the Transition Coordinator and the Monitor of the proper account and supporting documents. Such fees will be payable regardless of the outcome of the hearing; and

(h) after June 30, 2012, and in the event that a Blott Claimant file is transferred to Successor Counsel, then the fees payable to Blott & Company will be those as set out in paragraphs (b) and (c) above.

18. The quantum of the fees set out in paragraphs 17 (b) and (c) will be determined in the discretion of the Transition Coordinator on a *quantum meruit* basis and after receiving from Blott & Company the appropriate documentation. The documentation will include those time and other records contained in the pertinent databases. Such files and records will not be altered except in the ordinary course, and will be imaged forthwith to preserve their contents for the review of the Transition Coordinator.

19. For those Blott Claimant files in which Blott & Company completed the adjudication process, and the only remaining step is to complete a fee review, Blott & Company or Blott Associates may participate in the fee review, and 100% of the contingency fee awarded, plus disbursements, will be payable to Blott & Company, subject to the within provisos and other orders of the Court.

20. The determination of the amount of the fees in paragraphs 17(e) and (f) above will be in the discretion of the adjudicator and guided by and subject to the following:

- (i) the value of the work to the Blott Claimant; and
- (ii) no fees and disbursements paid or payable by Blott & Company to any of the Denomme Associates are compensable.

21. The total contingency fees awarded in respect of any Blott Claimant's file determined by the adjudicator will be subject to the Transition Levy.

22. Any fees and disbursements payable to Blott & Company will be subject to:
- (a) any holdback pursuant to the order made May 31, 2012 or any amendment thereto (the "May 2012 Order"); and
 - (b) any other order of this Honourable Court.
23. Disbursements will be paid to the counsel (Blott & Company or Successor Counsel) who incurred the disbursements pursuant to the provisions of the IAP (para. III (a) (vi), at page 7) and current practice. Any disagreements with Canada with respect to disbursements may be brought to the adjudicator pursuant to paragraph III (a) (vi) of the IAP.
24. In the event and to the extent that Successor Counsel receive payment from Canada in respect of fees and disbursements on a Blott Claimant file, and included in that payment is an amount that is payable to Blott & Company for its fees and disbursements in respect of the file, Successor Counsel shall hold that amount in trust and remit it to Blott & Company forthwith after the expiry of all appeal periods relevant to the file and subject to the provisos herein and any order of this Court.
25. No action of any kind will be commenced against the Transition Coordinator without leave of the Court first had and obtained, and all costs, expenses, disbursements and awards associated with such action will be paid from the fund established by this Order.
26. The fees and disbursements of the Transition Coordinator will be paid in first instance by Canada, provided that any interim or final account has been approved by the Court.
27. The fees and disbursements of the Transition Coordinator will be paid from a fund administered by the Monitor and established by the payment by Canada into such fund of 1.5/15 of the 15% contingency fee payable by Canada in respect of a Blott Claimant's award following the fee review (the "Transition Levy"), providing that such levy will be subject to adjustment upon application to the Court.
28. The accumulated amount so retained will be applied by Canada first to reimburse it for fees and disbursements paid to the Transition Coordinator or that may be ordered payable to Canada under any other order; and second, in the event there is a surplus, to Successor

Counsel on a pro rata basis by reference to the aggregate value of adjudicated awards for which they had carriage of the files.

29. Canada shall account in respect of the Transition Levy to the Court through its counsel Randy Bennett of Reuter, Scargall, Bennett LLP ("Court Counsel") upon the conclusion of the Transition, and Court Counsel shall provide a copy of such report to Blott & Company.

30. The Transition Coordinator will from time to time report to the Court through Court Counsel on the progress and the ultimate conclusion of the Transition and upon any such other matters as may be relevant to his appointment, and may as he sees fit seek any further directions of the Court with respect to this Order and/or his appointment as Transition Coordinator. In his concluding report, the Transition Coordinator will identify Successor Counsel retained by each Blott Claimant, to the extent known by the Transition Coordinator. A copy of the Transition Coordinator's concluding report shall be provided by Court Counsel to Blott & Company.

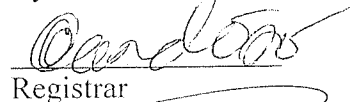
31. Endorsement of this Order by counsel appearing on this application, other than counsel for the applicant Monitor, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER.


Louis J. Zivot
Counsel for the Monitor



By the Court


Registrar

