

## SENTINEL HILL 1998 MASTER LIMITED PARTNERSHIP

### Litigation Update

March 12, 2014

As you were advised by counsel, David Davies of Thorsteinssons LLP, in an email, on October 15, 2013 the Crown finally made a settlement offer. However, counsel is of the view that offer could not be recommended. Mr. Davies expressed it (in part) as follows:

Finally, on October 15<sup>th</sup>, we received the settlement offer. It was, to say the least, disappointing. You may recall that the reassessments of your 1998 and 1999 taxation years disallowed approximately 93% of the deductions claimed. The October 15<sup>th</sup> offer reduced the disallowance from 93% down to 78%. However, this disallowance is still, in my view, far too high. The material terms of the offer are as follows:

- The allowable losses would be limited to 22% of the total allocated partnership losses (78% disallowed);
- Limited partners would be required to include half of the allowable losses in 1998/1999 as a taxable capital gain in 2008;
- There would be some as-yet-undetermined amount of accrued interest waived on the remaining outstanding taxes;
- The offer must be accepted by all limited partners.

In my view, there is much to gain and little to lose by proceeding to Court. **I recommend that limited partners reject the settlement offer.** (...)

In terms of moving forward, the Crown must still respond to some of the undertakings it gave during the examinations for discovery. We will thus either apply to set this matter down for trial or ask for a case management judge to do so. If another opportunity to continue settlement discussions presents itself as we proceed to trial we will pursue it; however, at this point, the Crown does not appear to be seriously interested in pursuing those discussions. (...)

While there are no outstanding responses from Mr. Strother (all the answers have been provided to Crown, on behalf of all the Appellants), there are still outstanding responses from the Crown on behalf of the Respondent. Despite having stated in a letter to the Tax Court's Registrar dated April 15, 2013 that "there are still outstanding answers and there will be extensive follow-up to the undertakings", there has been no follow-up whatsoever from the Crown.

Recently, the Tax Court Registry contacted counsel in order to schedule a settlement conference. Thorsteinssons LLP requested trial dates be scheduled at the same time. There have been no other developments.