

**SHAAE (2001) Master Limited Partnership (“MLP”)  
Tax Court of Canada Appeals 2009-2247(IT)G and 2009-2248(IT)G**

**Litigation Update December 21, 2016**

A case management conference was held at the Tax Court in Vancouver on December 9, 2016, before the case management judge, the Honourable Justice Pizzitelli. The Department of Justice (“Crown”) was represented by Mr. Carvalho, in person, and Mr. Hall and Mr. Nwachukwu, by telephone conference. Robert Grant, Q.C., and Anneke Driessen attended on behalf of Sentinel Hill.

The main issue was the further conduct of the legal proceedings, because the Crown lawyers had argued it is necessary for the Appellants to commence 72 additional appeals (for each of the remaining production limited partnerships) and list and produce all the documents for each of the underlying transactions in order to resolve the dispute. Counsel for Sentinel Hill, GLGM LLP, disagreed and provided submissions to the Court in response to Crown’s arguments.

With the assistance of the case management judge, the parties discussed the various options and came to the following agreement:

1. The parties will work towards an Agreed Statement of Facts, covering all the issues and all the transactions. Through this process, the parties will identify the facts they can agree on as well as the facts in dispute. The preparation of an Agreed Statement of Facts is not mandatory in legal proceedings and typically occurs, if at all, at a much later stage. GLGM welcomes this step, particularly as it should focus the issues in dispute and provide a foundation for a settlement conference.
2. GLGM will file one notice of appeal for the 72 production limited partnerships. The appeal will be held in abeyance for the time being. This means that any uncertainty over the Minister of National Revenue’s actions regarding the losses denied to the production limited partnerships will be eliminated and the Court will have jurisdiction to determine all of the tax consequences for the investors.

We agreed to complete a first draft of the Agreed Statement of Facts by the end of February, 2017.

Further updates will be posted as matters develop.