



NO.
NEW WESTMINSTER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

PIETER F. DEKKER, TEUNTJE DEKKER,
DEKKER POULTRY LTD.

PLAINTIFFS

AND:

JOHN GLAZEMA,
GREG WALTON,
BC FARM & RANCH REALTY CORP.,
HENRY RAAP,
HENRY RAAP, CGA, INC.,
EVANCIC PERRAULT ROBERTSON,
MANNING ELLIOTT LLP,
EDWARD KAYE,
SLIMAN STANDER,
WATERSTONE GROUP LLP,
BLAKE BROMLEY,
JOHN BROMLEY,
BENEFIC LAW CORPORATION,
IAN WORLAND,
LEGACY ADVISORS LAW CORPORATION, DOING BUSINESS AS
LEGACY TAX AND TRUST LAWYERS AND THE SAID
LEGACY TAX AND TRUST LAWYERS

DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiffs for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff».

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff» and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff»,

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFFS

Part 1: STATEMENT OF FACTS

1. The Plaintiff, Pieter F. Dekker (hereinafter referred to as "Pieter Dekker"), is a businessman and resides at 1908 Salmon River Road, Salmon Arm, British Columbia.

2. The Plaintiff, Teuntje Dekker (hereinafter referred to as "Teuntje Dekker"), is a businesswoman and resides at 1908 Salmon River Road, Salmon Arm, British Columbia.
3. The Plaintiff, Dekker Poultry Ltd. (hereinafter referred to as "Dekker Poultry"), is a company duly incorporated pursuant to the laws of the Province of British Columbia having its registered and records office at 201 – 45793 Luckakuck Way, Chilliwack, British Columbia.
4. Pieter Dekker and Teuntje Dekker are husband and wife and at all times material to this claim they were farmers.
5. The Defendant, John Glazema (hereinafter referred to as "Glazema"), is a realtor and business consultant and has a business address at 34831 Delair Road, Abbotsford, British Columbia.
6. The Defendant, Greg Walton (hereinafter referred to as "Walton"), is a realtor and business consultant and has a business address at 34831 Delair Road, Abbotsford, British Columbia.
7. The Defendant, BC Farm And Ranch Realty Corp. (hereinafter referred to as "BC Farm and Ranch"), is a company incorporated pursuant to the laws of the Province of British Columbia having its registered and records office at 200 – 2296 McCallum Road, Abbotsford, British Columbia.
8. At all material times, Glazema was the President and a Director of BC Farm & Ranch and licensed realtor, and carried on business as a realtor and business advisor in the farm industry in British Columbia.
9. At all material times, Walton was a Director of BC Farm & Ranch and a licensed realtor, and carried on business as a realtor and business advisor in the farm industry in British Columbia.
10. The Defendant, Manning Elliott LLP (hereinafter referred to as "Manning Elliott LLP"), is an accounting firm having an office at 11th Floor – 1050 West Pender Street, Vancouver, British Columbia.

11. The Defendant, Evancic Perrault Robertson (hereinafter referred to as "EPR"), is an accounting firm and has a mailing address at 309 – 22230 North Avenue, Maple Ridge, BC, V2X 2L5.
12. The Defendant, Henry Raap (hereinafter referred to as "Raap"), is a certified general accountant and has a business address at Suite 201, 2001 McCallum Road, Abbotsford, British Columbia.
13. The Defendant, Henry Raap, CGA, Inc. ("Raap Inc."), was the professional services corporation that was used at all material times by Raap to deliver his professional services.
14. At all material times, Raap and/or Raap Inc., was a member of Manning Elliott LLP, or alternatively, of EPR.
15. The Defendant, Waterstone Group LLP, is a law firm and carries on business at 304 – 20338 – 65th Avenue, Langley, BC.
16. The Defendant Waterstone Group LLP was formerly known and carried on business as Paradigm Law Corporation ("Paradigm Law"). The name Paradigm Law Corporation was changed to Waterstone Group LLP on or about June 13, 2006.
17. Paradigm Law formerly was known as and carried on business under the firm name and style of Sliman Stander. On or about May 31, 2006, the firm of Sliman Stander was succeeded by Paradigm Law or alternatively, Sliman Stander merged with Paradigm Law. (reference herein to either the name Sliman, Stander, or to Paradigm Law Corporation shall include Waterstone Group LLP.
18. The Defendant, Edward Kaye (hereinafter referred to as "Kaye"), is a lawyer and a member of the Waterstone Group LLP, and has an address at 304 – 20338 – 65th Avenue, Langley, BC.
19. At all material times, Kaye practiced law with Sliman Stander, or alternatively, with the Waterstone Group LLP or under its firm name as it was known from time to time.

20. The Defendant, Legacy Advisors Law Corporation, is a company incorporated pursuant to the laws of the Province of British Columbia having a registered and records office at 510 – 609 Granville Street, Vancouver, British Columbia.
21. The Defendant, Legacy Tax and Trust Lawyers, is the firm name and style of the legal services business carried on at all material times by Legacy Advisors Law Corporation.
22. The Defendant, Ian Worland (hereinafter referred to as “Worland”), was at all material times a lawyer practicing law with the firm, Legacy Tax and Trust Lawyers, and has an address at 510 – 609 Granville Street, Vancouver, British Columbia.
23. The Defendant, Benefic Law Corporation (“hereinafter referred to as “Benefic”), is a company incorporated pursuant to the laws of the Province of British Columbia having its registered and records office at 1555 – 1500 West Georgia Street, Vancouver, British Columbia.
24. At all material times, Benefic carried on business as a legal services corporation.
25. The Defendant, Blake Bromley (hereinafter referred to as “Blake Bromley”), is a lawyer and carries on business in Vancouver, British Columbia, and has an address at 1555 - 1500 West Georgia Street, Vancouver, British Columbia.
26. The Defendant, John Bromley (hereinafter referred to as “John Bromley”) is a lawyer and carries on business in Vancouver, British Columbia, and has an address at 1555 - 1500 West Georgia Street, Vancouver, British Columbia.
27. At all material times, Blake Bromley was the President of Benefic and provided legal and consulting services for and on behalf of Benefic.
28. At all material times, John Bromley was employed by Benefic and provided legal services for and on behalf of Benefic.
29. On or about February 8, 2005, the Plaintiffs and/or Dekker Poultry entered into a listing agreement (the “Listing Agreement”) which provided that BC Farm & Ranch and Glazema and/or Walton were appointed agents for the Plaintiffs and/or Dekker Poultry to list, market

and sell the farm and farm property owned by Dekker Poultry inclusive of land and buildings, livestock, and BC Hatching Egg Quota from the BC Broiler Hatching Egg Commission and chicken quota from the BC Chicken Marketing Board.

30. At all material times up to around May 26, 2005, the Plaintiffs were the owners of all of the issued and outstanding shares of Dekker Poultry.

31. Between March 30, 2005 and May 26, 2005, the Plaintiffs and Dekker Poultry together with other parties, entered into a series of sales transactions, incidental to the sale of the Plaintiffs' interest in Dekker Poultry and the farm and farm property owned by Dekker Poultry (collectively referred to as the "Dekker Poultry Sale Transactions") including the following transactions:

- a) On about March 30, 2005, Dekker Poultry entered into an agreement to sell 15,000 BC hatching egg quota to one Les (the "Les Sale");
- b) On or about March 31, 2005, Dekker Poultry entered into an agreement to sell 5,400 BC hatching egg quota to one G & G Poultry Ltd. (the "G & G Sale");
- c) On or about March 31, 2005, Dekker Poultry entered into an agreement to sell chickens to one Regeir (the "Regeir Sale");
- d) On our about April 4, 2005, Dekker Poultry entered into an agreement to sell 3,050 BC hatching egg quota to one Toytel (the "Toytel Sale");
- e) On or about May 26, 2005, the Plaintiffs entered into an agreement with one Benefic Group Inc. ("Benefic Inc.") to sell their shares in the capital of Dekker Poultry to the Benefic Group Inc. as purchaser (the "Benefic Share Sale"). Subsequent to the Benefic Share Sale, Benefic Inc. sold all of the shares in Dekker Poultry to one or more charitable foundations, namely, to Gateway Benevolent Society ("Gateway"), to Essential Grace Foundation ("Essential Grace") and to Theanon Charitable Foundation ("Theanon");
- f) On or about May 30, 2005, Dekker Poultry gifted all of its assets to Gateway, Essential Grace and Theanon;

- g) On or about May 31, 2005, further sale transactions were entered into whereby the Plaintiffs agreed to purchase and Gateway, Essential Grace and Theanon agreed to sell land and buildings formerly owned by Dekker Poultry and the issued shares in Dekker Poultry were also transferred, sold or resold to the Plaintiffs;
 - h) On or about June 9, 2005, the Plaintiffs or Dekker Poultry or other parties sold the lands and buildings formerly owned by Dekker Poultry to a third party;
32. Particulars of the transactions enumerated in the immediately proceeding paragraph are well known to the Defendants and each of them.
33. The Plaintiffs each reported the disposition of their respective shares in Dekker Poultry in filing their returns of income for the 2005 taxation year and each of the Plaintiffs
- a) Reported a taxable capital gain of \$439,184; and
 - b) Claimed a capital gains exemption of \$250,000.00 in respect of that taxable capital gain;
34. The Minister of National Revenue (the "Minister") and/or Canada Revenue Agency audited the Dekker Poultry Sale Transactions (the "CRA Audit") and the Minister issued notices of reassessment to each of the Plaintiffs dated September 24, 2009, for the 2005, 2006 and 2007 taxation years and reassessed each of the Plaintiffs with respect to such years under the *Income Tax Act* and in particular, with the following reassessments (the "Reassessments"):
- a) in 2005, by removing the capital gain reported on the disposition of shares in Dekker Poultry and instead adding to income an amount of \$853,256 as a shareholder's appropriation (the "Shareholder's Appropriation") received by the Taxpayer from Dekker Poultry, taxable pursuant to section 15(1) of the *Income Tax Act*; and as a result,
 - b) disallowing a capital gains exemption claimed in respect of that reported taxable capital gain in 2005, and

- c) in 2006, 2007 and 2008, reducing the minimum tax carry forward balance from 2005 applied in those years.

35. According to the Reassessments, the Minister claimed that the following transactions enumerated herein in subparagraphs 31 (e, f, g, h) herein did not actually occur:

- a) The Benefic Share Sale;
- b) The subsequent sale of shares by Benefic Inc. to Gateway, Theanon, and Essential Grace;
- c) The gift of assets from Dekker Poultry to Gateway, Theanon and Essential Grace;
- d) The sale or resale of shares in Dekker Poultry to the Plaintiffs;
- e) The sale or resale of real estate by the Plaintiffs on June 9, 2005.

36. The Minister further claimed on the Reassessments that although the Plaintiffs owned Dekker Poultry, nevertheless,

- a) Dekker Poultry sold assets directly to third party purchasers, and
- b) The foregoing transactions described in paragraphs 29(e, f, g and h) herein (hereinafter referred to as the "Impugned Transactions") were sham transactions, had no legal substance and were legally ineffective.

37. As a result of the Reassessments, the Minister took the position that the foregoing Impugned Transactions should be ignored and any funds or assets received by the Plaintiffs from the sale of the assets of Dekker Poultry were actually appropriations from Dekker Poultry and taxable pursuant to Section 15(1) of the *Income Tax Act*.

38. Alternatively, the Minister took the position that if the foregoing Impugned Transactions did in fact occur, then the proceeds paid to the Plaintiffs for the shares of Dekker Poultry were a dividend and the Plaintiffs should be assessed a deemed dividend with the result that each of the Plaintiffs would be reassessed as having received a deemed dividend under Section 84.1 of the *Income Tax Act* in the sum of \$871,540.00;

39. As a result of the aforesaid CRA Audit and the Reassessments, the Plaintiffs, Pieter Dekker and Teuntje Dekker, have suffered loss, harm, damage and expense, the particulars of which are well known to the Defendants and each of them in to which the Plaintiffs shall refer at the trial or hearing of this action.

Part 2: RELIEF SOUGHT

1. Damages for breach of contract;
2. Damages for negligence;
3. Damages for breach of fiduciary duty;
4. An indemnity from and against all costs, expenses, and all fees, interest, penalties and damages arising from the Reassessments that the Plaintiffs have incurred or which they may incur in future or be required to pay as a result of the Reassessments and any incidental audit or any further reassessment by Canada Revenue Agency or the Minister of National Revenue in connection with the Dekker Poultry Sale Transactions and the Impugned Transactions referred to in this Notice of Claim.
5. Punitive, aggravated and exemplary damages;
6. An accounting of any and all commissions, fees or any other remuneration or benefits of any kind which the Defendants or any of them have received directly or indirectly in connection with or arising from the sale of the farm or farm business owned or operated by Dekker Poultry or the Dekker Poultry Sale Transactions referred to in this notice of claim or any of the related transactions including the "Impugned Transactions" and transactions ancillary thereto.
7. An Order for payment of the amount found to be due on the taking of such account;
8. Costs;
9. Interest; and
10. Such further and other relief as counsel may advise and this Honorable Court permit.

Part 3: LEGAL BASIS

1. At all material times, Glazema and Walton and BC Farm & Ranch acted as realtors and business advisors to the Plaintiffs. Glazema and Walton were privy to the Plaintiffs' personal and confidential financial and business affairs. To the knowledge of Glazema and Walton, the Plaintiffs reposed a high degree of trust and confidence in them. The Plaintiffs relied upon Glazema and Walton and BC Farm & Ranch to give them sound and prudent business, financial and planning advice in connection with the Dekker Poultry Sale Transactions including advice regarding the timing, price terms and manner of the sale of the business and assets of Dekker Poultry.
2. Glazema, Walton and BC Farm & Ranch stood in a fiduciary relationship with the Plaintiffs and owed the Plaintiffs a duty of loyalty, fidelity, confidence and utmost good faith.
3. In addition, Glazema, Walton and BC Farm & Ranch owed a duty to the Plaintiffs to exercise the degree of care required of competent and experienced realtors and business advisors specializing in the purchase and sale of farm businesses in the Lower Mainland of British Columbia in 2005. Further, the Defendants, Glazema and Walton, owed contractual duties to the Plaintiffs arising out of the aforesaid Listing Agreement.
4. Further and in particular, Glazema, Walton and BC Farm & Ranch owed a duty to the Plaintiffs with respect to the sale of Dekker Poultry to:
 - a. Give adequate advice to the Plaintiffs regarding the sale of Dekker Poultry and its assets including related egg and chicken quota and the Dekker Poultry Sale Transactions;
 - b. Give advice to the Plaintiff on the manner, timing and structure of the Dekker Poultry Sale Transactions;
 - c. Advise the Plaintiffs to obtain independent legal and tax advice regarding all aspects of the Dekker Poultry Sale Transactions from a competent solicitor and/or tax advisor;
 - d. Avoid any conflict of interest arising from any relationship between themselves and any other party to the Dekker Poultry Sale Transactions or between themselves and any advisors to such parties;
 - e. Disclose any interest or relationship any of them had with any party to the Dekker Poultry Sale Transactions or any advisor to such party;

- f. Disclose any facts and risks known to them which they knew or should have known would be material to the Plaintiffs as parties to the Dekker Poultry Farm Sale Transactions.
- 5. Glazema, Walton and BC Farm & Ranch negligently and in breach of their contractual and fiduciary duties to the Plaintiffs:
 - a. Failed to adequately explain or advise the Plaintiffs regarding the significance of the structuring or restructuring of the Dekker Poultry Farm Sale Transaction and the Impugned Transactions or of entering into such transactions;
 - b. Encouraged and induced the Plaintiffs to restructure the sale of their interests in Dekker Poultry and to enter into the Impugned Transactions;
 - c. Failed to disclose to the Plaintiffs the nature, extent or purpose, scope or significance of the sale of shares to a charitable foundation or of the Impugned Transactions generally;
 - d. Failed to disclose or explain the risks arising from or inherent in a tax avoidance plan involving a sale of shares to a charitable foundation or involving the Impugned Transactions, including the risk of the Minister issuing the Reassessments and the disallowance or rejection of the Plaintiffs' tax returns due to the Impugned Transactions;
 - e. Failed to ensure the Plaintiffs obtained adequate independent legal and accounting and tax advice regarding the Dekker Poultry Sale Transactions and in particular, the Impugned Transactions;
 - f. Failed to disclose their involvement in or relationship with one or more of the charitable foundations or other entities involved in the Impugned Transactions or with Blake Bromley, John Bromley, Worland, Legacy, Benefic Inc. or their advisors;
 - g. Allowed the genesis, nature and scope of the Impugned Transactions to remain secret or confidential to the plaintiffs.
- 6. At all material times, Raap was a Certified General Accountant and he and Raap Inc. offered business, accounting and tax advice. At all material times, Raap and/or Raap Inc. was a member of Manning Elliott, LLP, or alternatively, of EPR.
- 7. At all material times, Raap was the Accountant and advisor to the Plaintiffs and to Dekker Poultry in connection with all of the Dekker Poultry Sale Transactions.

8. In his capacity as accountant and professional advisor to the Plaintiffs, Raap and Raap Inc. were privy to confidential personal business and financial information of the Plaintiffs including:
 - a. Information regarding the assets and liabilities of the Plaintiffs;
 - b. The income, revenue and expenses of the Plaintiffs and of Dekker Poultry.
9. In his capacity as an accountant for the Plaintiffs, Raap and or Raap Inc. gave the Plaintiffs personal and corporate business, financial and tax advice, prepared and filed the annual tax returns for the Plaintiffs and Dekker Poultry.
10. To the knowledge of Raap and Manning Elliott LLP, and/or EPR, the Plaintiffs reposed a high degree of trust and confidence in them. The Plaintiffs relied upon Raap and Manning Elliott LLP and EPR to give them sound and prudent accounting financial and tax and planning advice in connection with the Dekker Poultry Sale Transactions including advice regarding the timing, structure, price and manner of those transactions.
11. In the circumstances, Raap and Raap Inc. and Manning Elliott LLP and/or EPR stood in a fiduciary relationship with the Plaintiffs and owed the Plaintiffs a fiduciary duty of loyalty, fidelity, confidence and utmost good faith.
12. Raap, Raap Inc. and Manning Elliott LLP and/or EPR also owed a duty of care to the Plaintiffs commensurate with the standard of care required of competent professional accountants and tax advisors acting in connection with the purchase and sale of a farm business in the Lower Mainland of British Columbia in 2005 including:
 - a. A duty to advise the Plaintiffs on the significance in a manner and structure sale of the business owned and operated by Dekker Poultry and all of the Dekker Poultry Sale Transactions;
 - b. A duty to advise on the financial and tax consequences of such sales;
 - c. A duty to advise the Plaintiffs on the significance and the consequences of the tax avoidance plan that was proposed to the Plaintiffs, including the Impugned Transactions, and the participation of charitable foundations in the Dekker Poultry Sale Transactions shares in Dekker Poultry and the risks of an audit and the risks and consequences of disallowance of one or more of the Impugned Transactions by Canada Revenue Agency;

- d. a duty to explain and disclose the genesis, nature and scope and identity of the parties to the Impugned Transactions and not allow them to be concealed from the plaintiffs;
- e. obtain such assurances, opinions or advance rulings regarding the Tax Avoidance Plan and the Impugned Transactions as was prudent and advisable for the benefit of the Plaintiffs, having regard to all the circumstances.

13. Raap negligently and in breach of his contractual and fiduciary duties to the Plaintiffs:

- a. Failed to adequately advise the Plaintiffs regarding the nature and structure and significance of the Dekker Poultry Sale Transactions;
- b. Failed to advise the Plaintiffs regarding the nature and significance of the tax avoidance plan which involved the Impugned Transactions;
- c. Failed to advise the Plaintiffs regarding the nature and significance of the Impugned Transactions and the risks incidental to them and the risks of audit and reassessment by Canada Revenue Agency;
- d. Failed to adequately disclose the nature and scope of the Impugned Transactions and the role or involvement of the other defendants, or alternatively, allowed such information to remain concealed from the Plaintiffs;
- e. Failed to disclose his involvement in or relationship with one or more of the charitable foundations or other entities involved in the Impugned Transactions or the role of Glazema, Walton, Blake Bromley, John Bromley, Legacy, Benefic, Worland or their advisors.

14. At all material times, Kaye carried on business as a lawyer practicing with the firm of Sliman Stander, subsequently known as the Waterstone Group LLP.

15. At all material times, Kaye was the solicitor for the Plaintiffs and solicitor for Dekker Poultry.

16. To the knowledge of Kaye and of Sliman Stander, the plaintiffs reposed a high degree of trust and confidence in them. The Plaintiffs relied upon Kaye and Sliman Stander and their successors to give them sound and prudent legal advice in connection with the Dekker Poultry Sale Transactions including advice regarding the timing, significance and manner of such transactions and of the ancillary transactions and of the transactions ancillary thereto.

17. In the circumstances, Kaye and Sliman Stander and the Waterstone Group LLP stood in a fiduciary relationship with the Plaintiffs and Dekker Poultry and owed them a duty of loyalty, fidelity, confidence and utmost good faith.
18. Further, Kaye and Sliman Stander owed the Plaintiffs a contractual and legal duty to provide legal advice commensurate with the standard required of an experienced solicitor practicing business law in the Fraser Valley of British Columbia and advising clients in commercial transactions including the sale of a poultry farm business.
19. In particular, Kaye and Sliman Stander owed the Plaintiffs a duty to :
 - a. advise them adequately concerning the sale of the Dekker Poultry farm business pursuant to the Dekker Poultry Sale Transactions;
 - b. advise the Plaintiff on the manner, timing and structure of the Dekker Poultry Sale Transactions ;
 - c. avoid any conflict of interest arising from any relationship between themselves and any other party to the Dekker Poultry Sale Transaction or any advisors to such parties;
 - d. disclose any interest or relationship they had with any other party to the Dekker Poultry Sale Transaction or with any advisor to such party;
 - e. disclose any facts and risks known to them which he knew or should have known would be material to the Plaintiffs in the Dekker Poultry Farm Sale Transactions;
 - f. advise on the significance and the consequences of the tax avoidance plan proposed to the Plaintiffs in connection with the Dekker Poultry Sale Transactions and in particular, the risks of an audit and the consequences of disallowance of one or more of the Impugned Transactions by Canada Revenue Agency;
 - g. explain and disclose the nature and scope of the Impugned Transactions and not allow them to be concealed from the plaintiffs;
 - h. obtain such assurances, opinions or advance rulings regarding the Tax Avoidance Plan and the Impugned Transactions as was prudent and advisable for the benefit of the Plaintiffs, having regard to all the circumstances.
20. Kaye and Sliman Stander negligently and in breach of their contractual and fiduciary duties to the Plaintiffs:
 - a. Failed to adequately advise the Plaintiffs regarding the nature of the Dekker Poultry Sale Transactions;

- b. Failed to advise the Plaintiffs regarding the nature, scope or significance of the tax avoidance plan proposed to the Plaintiffs and of the Impugned Transactions;
 - c. Failed to advise the Plaintiffs regarding the significance of the Impugned Transactions, including the risks incidental to them and the risks of audit and reassessment by Canada Revenue Agency;
 - d. Failed to adequately disclose the nature and scope, significance and purpose of the role or involvement of the other defendants, or alternatively, allowed them to remain concealed from the Plaintiffs;
 - e. Failed to discuss his involvement in or relationship with one or more of the charitable foundations or other entities involved in the Tax Avoidance Plan and the Impugned Transactions or with Blake Bromley, John Bromley, Legacy, Benefic Inc., or their advisors;
 - f. Failed to obtain such assurances, opinions or advance rulings regarding the Tax Avoidance Plan and the Impugned Transactions as was prudent and advisable for the benefit of the Plaintiffs, having regard to all the circumstances.
21. The defendants Benefic, Blake Bromley, John Bromley, Legacy and Worland (hereinafter referred to as the "Charity Advisors"), at all material times were acting as solicitors and tax advisors and held themselves out as experts in tax aspects of commercial transactions such as the Dekker Poultry Sale Transactions and in particular, in the use of charities or charitable foundations in such transactions to avoid or reduce taxation by plans or devices such as the Impugned Transactions.
22. The Charity Advisors advised the Plaintiffs and the other Defendants to restructure the sale of the Plaintiffs' interests in Dekker Poultry in such a way that the sale would be carried out by entering into the Impugned Transactions using charitable foundations as intermediaries or vehicles to carry out a tax avoidance plan that the Charity Advisors designed, created and promoted (the "Tax Avoidance Plan") .
23. The Dekker Poultry Sale Transactions, the Impugned Transactions and the Tax Avoidance Plan were planned, devised, created, promoted and implemented by the Charity Advisors with the assistance of the other Defendants.
24. The Charity Advisors and each of them:
- a. promoted the Tax Avoidance Plan and with the intention that the Plaintiffs should use and rely upon the Tax Avoidance Plan;
 - b. provided limited information about or alternatively, concealed particulars of the Tax Avoidance Plan and its implementation from the Plaintiffs and/or from some or all of the other Defendants for the purposes of inducing the Plaintiffs to use that plan;
 - c. knew that the Plaintiffs and the other Defendants would rely and did rely upon them and upon the Tax Avoidance Plan;

- d. had a duty to advise the Plaintiffs and the other Defendants of the risks inherent in the Tax Avoidance Plan and of the Impugned Transactions and the consequences of the CRA Audit and the Reassessments;
- e. caused details of the plan and the scope of the Tax Avoidance Plan and its significance, consequences and nature to be concealed from the Plaintiffs and from some or all of the other Defendants;

25. The Charity Advisors owed a fiduciary, legal and contractual duty of care to the Plaintiffs:

- a. To consider the individual position of the Plaintiffs in the Tax Avoidance Plan;
- b. To consider the risks incidental to the Dekker Poultry Sale Transactions and in particular, of the Impugned Transactions including the risks arising from the CRA Audit and the risks of the Reassessments;
- c. To advise the Plaintiffs and the other Defendants of the risks inherent in the Dekker Poultry Sale Transactions and in particular, the Impugned Transactions including the risks arising from or inherent in the use of a charitable foundation in the Dekker Poultry Sale Transactions, including risk of the CRA Audit and of the Reassessments;
- d. To adequately explain or make available the details, nature and significance of the Dekker Poultry Sale Transactions and in particular, of the Impugned Transactions to the Plaintiffs and to the other Defendants;
- e. To obtain such assurances, opinions or advance rulings regarding the Tax Avoidance Plan and the Impugned Transactions as was prudent and advisable for the benefit of the Plaintiffs;
- f. Alternatively, to advise the Plaintiffs and/or their advisors that the Dekker Poultry Sale Transactions and in particular, the Impugned Transactions and the Tax Avoidance Plan posed serious risks of the occurrence of the CRA Audit and Reassessments and the consequences of such risks ;
- g. Such other incidental and ancillary duties, the particulars of which the Plaintiffs will advise at the trial or hearing of this action.

26. The Plaintiffs say that the Charity Advisors breached their aforesaid duty of care and as a result, the Plaintiffs have suffered damages.

27. The Plaintiffs say that the manner in which the Dekker Poultry Sale Transactions and in particular, the Impugned Transactions was planned, promoted and implemented was negligent and in breach of the legal, contractual and fiduciary duty of the Charity Advisors.

28. The Charity Advisors negligently and in breach of their contractual and fiduciary duties to the Plaintiffs:

- a. Failed to adequately advise the Plaintiffs regarding the nature of the Dekker Poultry Sale Transactions;

- b. Failed to adequately advise the Plaintiffs and the other Defendants regarding the nature, scope and significance of the tax avoidance plan proposed to the Plaintiffs and of the Impugned Transactions;
- c. Failed to advise the Plaintiffs and the other Defendants regarding the significance and consequences of the tax avoidance plan proposed to the Plaintiffs and of the Impugned Transactions, including the risks incidental to them and the risks of audit and reassessment by Canada Revenue Agency;
- d. Failed to adequately disclose the nature, scope and significance of the Impugned Transactions and the role or involvement of the other defendants, or alternatively, allowed them to remain concealed from the Plaintiffs;
- e. Failed to obtain such assurances, opinions or advance rulings regarding the Tax Avoidance Plan and the Impugned Transactions as was prudent and advisable for the benefit of the Plaintiffs, having regard to all the circumstances.

Plaintiffs' address for service:

Brian F. Schreiber
McQuarrie Hunter LLP
Barristers & Solicitors
Suite 1500
13450 - 102nd Avenue
Surrey, BC, V3T 5X3
Phone: (604) 581-7001
Fax: (604) 581-7110

Fax number address for service (if any): as above

E-mail address for service (if any): bschreiber@mcquarrie.com

Place of trial: New Westminster, BC

The address of the registry is:

Law Courts, 651 Carnarvon Street,
New Westminster, BC, V3M 1C9

Date: March 14th, 2011.



BRIAN F. SCHREIBER

Signature of ☐ plaintiff ☒ lawyer for plaintiffs

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

The Plaintiffs claim for damages and indemnity for negligence, breach of contract and breach of fiduciary duty which caused adverse tax reassessments against the Plaintiffs.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:	
<input type="checkbox"/>	a motor vehicle accident
<input type="checkbox"/>	medical malpractice
<input type="checkbox"/>	another cause
A dispute concerning:	
<input type="checkbox"/>	contaminated sites
<input type="checkbox"/>	construction defects
<input type="checkbox"/>	real property (real estate)
<input type="checkbox"/>	personal property
<input type="checkbox"/>	the provision of goods or services or other general commercial matters
<input type="checkbox"/>	investment losses
<input type="checkbox"/>	the lending of money
<input type="checkbox"/>	an employment relationship
<input type="checkbox"/>	a will or other issues concerning the probate of an estate
<input checked="" type="checkbox"/>	a matter not listed here

Part 3: THIS CLAIM INVOLVES:

<input type="checkbox"/>	a class action
<input type="checkbox"/>	maritime law
<input type="checkbox"/>	aboriginal law
<input type="checkbox"/>	constitutional law
<input type="checkbox"/>	conflict of laws
<input checked="" type="checkbox"/>	none of the above
<input type="checkbox"/>	do not know

Part 4:

N/A