

# ATHLETIC TRUST OF CANADA TIMESHARE PROGRAM CLASS ACTION

## NOTICE OF SETTLEMENT APPROVAL

**TO: ALL CLASS MEMBERS IN *LIPSON V. CASSELS BROCK AND BLACKWELL LLP***  
**COURT FILE NO.: CV-09-376511-00CPA1**

In reasons for decision released on February 14, 2023, the \$8.25 million settlement of this proceeding was approved by the Ontario Superior Court of Justice as being fair, reasonable, and in the best interests of the Class Members.

The agreement to settle this matter does not imply any liability, wrongdoing, or fault on the part of Cassels Brock and Blackwell LLP (“Cassels”). None of the allegations against Cassels have been proven and Cassels expressly denies any liability, wrongdoing, or fault.

For more information about this class action and the approved settlement, please visit: [www.timesharesettlement.ca](http://www.timesharesettlement.ca).

### **History of this Class Proceeding**

As set out in the Settlement Hearing Notice published in December 2022, Jeffrey Lipson was appointed to act as the Representative Plaintiff for the following Class:

All individuals who applied and were accepted to be beneficiaries of the Athletic Trust in 2000, 2001, 2002 and/or 2003 and received Timeshare Weeks from the Athletic Trust and donated them, together with a cash donation, to one or more of the RCAAAs (the “Class Members”).

The Class was notified of the certification of this Class Action in 2014 and 2015 and given the opportunity to exclude themselves (opt out) from this Class Action. Anyone remaining in this Class Action following the close of the opt-out period agreed to be bound by any decision at trial or Court-approved settlement in this proceeding.

In this Action, the Plaintiff alleged that Cassels was, among other things, negligent in the preparation of its legal opinions relating to the Athletic Trust Timeshare Program, pursuant to which Class Members acquired and donated Timeshare Weeks to athletic charities (the “Program”).

The lawsuit claimed general compensatory damages and special damages for accounting, legal and other professional fees as well as the expenses for prosecuting this action.

Following several years of litigation, including the completion of an extensive discovery process, the exchange of various expert reports, preparations for a contested 30-day trial to start in January 2023 and a mediation before a retired judge, the Parties reached the settlement summarized below. The settlement was approved by the Court on February 14, 2023.

### **The Approved Settlement**

The \$8.25 million Settlement Fund includes all compensation to the Class Members for any potential damages arising from their participation in the Athletic Trust Tax Reduction Program, legal fees and related disbursements (including taxes), the costs of administration and distribution of money to Class Members, a contribution to the legal expenses incurred by the Plaintiff and certain Class Members before Roy O’Connor LLP took carriage of this action (as discussed further below), and a 10% statutory levy (as discussed further below) to the Class Proceedings Fund. In exchange for its \$8.25 million payment, Cassels will receive a full release of all claims and potential claims that Class Members may have against Cassels for any sort of alleged or perceived damages.

The compensation paid to Class Members will be paid from the amount of money remaining after deducting the Court-approved legal fees and disbursements (including taxes), as well as the costs of administering and distributing the money to Class Members, from the \$8.25 million (the “Net Settlement Fund”). The money to be distributed to the Class Members from the Net Settlement Fund is intended to reimburse them for some of their cash donations to the charities under the Program. In general terms, the settlement will be paid out of the Net Settlement Fund in two stages following the approval of the settlement. The first stage payments will be based on the Class Members’ *pro rata* or proportionate cash donation made to the Athletic Trust Program. The second stage of payments will distribute the remaining balance or residue of funds to the Class Members who cashed their cheques in the first stage of payments.

Enclosed with the copies of this Notice delivered directly to individual Class Members will be a letter from RicePoint Administration Inc., the Court-appointed Settlement Administrator, regarding any information located in the Parties’ records in respect of your individual donations to charities under the Program. This information will be used to determine your share of the Net Settlement Fund. Do nothing if this donation information is correct. Please contact the Settlement Administrator as instructed in the enclosed letter if the information is incorrect or if the enclosed letter indicates that there

is no information available as to your donation(s). **Responses must be received by May 15, 2023 in order to be considered for payment by the Settlement Administrator. Responses received after that date will not be considered by the Settlement Administrator.**

Class Members entitled to compensation will subsequently receive another letter from the Settlement Administrator, enclosing a cheque for their share of the Net Settlement Fund.

### **Updating Class Member Contact Information**

In order to communicate with you better and in order to be able to mail you a cheque for your share of the Net Settlement Fund, Class Members are requested to confirm or update their contact information by sending an email to the Settlement Administrator at [timesharesttlement@ricepoint.com](mailto:timesharesttlement@ricepoint.com) or through the change of address link or portal at: [www.timesharesttlement.ca](http://www.timesharesttlement.ca).

### **Class Counsel's Motion for Fee Approval**

The law firm of **Roy O'Connor LLP** is Class Counsel and represents the members of this Class in this action. Roy O'Connor LLP can be reached at: [www.royoconnor.ca](http://www.royoconnor.ca).

As set out above, Class Members do not have to personally pay Class Counsel for the work that they have done or for the disbursements that they have carried over the years since this case began. The Representative Plaintiff entered into a contingency fee agreement with Class Counsel at the outset of the case, providing that Class Counsel are to be paid only in the event of a successful settlement or trial judgment. As provided for in that contingency fee agreement, the Court approved legal fees of 25% of the Settlement Fund, after the deduction of \$543,860.34, disbursements, and taxes, for a total fee of \$2,176,984.46.

In this case, the Plaintiff has received financial support from the Class Proceedings Fund (the "Fund"), which is a body created by statute and designed to allow access to the courts through class actions in Ontario. The Fund agreed to reimburse the Plaintiff for some disbursements incurred in pursuing this action. The Fund would also have been responsible for costs that may have been awarded against the Plaintiff in this case. In exchange, the Fund is entitled to recover, from any Court award or settlement in favour of the Class Members, the amounts it has reimbursed the Plaintiff for disbursements as well as 10% of any amounts payable to Class Members.

### **Interpretation**

This notice contains only a general summary of some of the terms of the Settlement Agreement. A full copy of the Settlement Agreement, the Reasons of the Court approving the settlement and the related Court Order can be found at: [www.timesharesttlement.ca](http://www.timesharesttlement.ca).

### **More Information**

For more information about the class proceeding lawsuit, you may contact the Court-appointed Settlement Administrator at:

**By Mail:**

Timeshare Settlement  
c/o RicePoint Administration Inc.  
P.O. 3355  
London, ON N6A 4K3

**By Email:**

[timesharesttlement@ricepoint.com](mailto:timesharesttlement@ricepoint.com)

**By Phone:**

1-877-813-9448

**PLEASE DO NOT CALL CASSELS, THE COURTHOUSE, OR THE REGISTRAR OF THE COURT ABOUT THIS ACTION. THEY WILL NOT BE ABLE TO ANSWER YOUR QUESTIONS ABOUT THE LAWSUIT.**

This Notice is published pursuant to the Ontario *Class Proceedings Act, 1992* and was approved by the Court.