

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

**MARCUS WIDE of Grant Thornton (British Virgin Islands) Limited, and HUGH
DICKSON, of Grant Thornton Specialist Services (Cayman) Ltd, acting together herein in
their capacities as joint liquidators of Stanford International Bank Limited**

Plaintiffs

- and -

THE TORONTO-DOMINION BANK

Defendant

SECOND AFFIDAVIT OF WILLIAM R. TACON

(Sworn April 20, 2015)

I, **WILLIAM R. TACON**, of the Town of Norbury, in the County of Shropshire, United Kingdom, MAKE OATH AND SAY:

1. As detailed in my first affidavit sworn December 15, 2014, I am a Fellow of the Institute of Chartered Accountants in England and Wales. My professional career has been devoted to insolvency and restructuring, including extensive information in the Caribbean. I have been retained by Bennett Jones LLP on behalf of the plaintiffs in this action, Marcus Wide and Hugh Dickson (the “**Joint Liquidators**”), acting in their capacities as joint liquidators of Stanford International Bank Limited. I have personal knowledge of the facts and matters to which I hereinafter depose.

2. I was retained by Bennett Jones LLP to assist the court on the motion brought by the defendant in this action, The Toronto-Dominion Bank, seeking a determination that the Joint Liquidators' claim is limitations barred.


3. Bennett Jones LLP has explained to me that as an expert, it is my duty to:

- (a) provide opinion evidence that is fair, objective and non-partisan;
- (b) provide evidence that is related only to matters that are within my area of expertise; and
- (c) provide any additional assistance as the court may reasonably require.

4. In this regard, I have sworn Form 53, "Acknowledgement of Expert's Duty", and it is attached as Exhibit "A" to my affidavit sworn December 15, 2014.

5. I have delivered a second expert report, which is attached as **Exhibit "A"** to this affidavit. This report sets out my opinions with respect to the supplementary questions that have been posed to me by Bennett Jones LLP. Attached as **Exhibit "B"** is a copy of the instructions I received from Bennett Jones LLP in connection with my second expert report.

SWORN before me at the City of Toronto,)
 in the Province of Ontario, Canada, this 20th)
 day of April, 2015.)



 A Commissioner, notary, etc.
NATHAN SHAHEEN



WILLIAM R. TACON

THIS IS EXHIBIT "A" REFERRED TO
IN THE AFFIDAVIT OF WILLIAM R. TACON
SWORN BEFORE ME, THIS
20TH DAY OF APRIL, 2015



A Commissioner, etc.

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

BETWEEN:

**MARCUS WIDE of Grant Thornton (British Virgin Islands) Limited, and HUGH DICKSON, of Grant
Thornton Specialist Services (Cayman) Ltd, acting together herein in their capacities as Joint
Liquidators of Stanford International Bank Limited**

Plaintiffs

- and -

THE TORONTO-DOMINION BANK

Defendant

Second Expert Report of William Richard Tacon, FCA

1. INTRODUCTION

- 1.1** I have been asked by Bennett Jones LLP to comment upon whether or not the Second Affidavit of Peter R Wiltshire sworn on 16 January 2015, with its voluminous exhibits, and also the Third Affidavit of Peter R Wiltshire sworn on 26 March 2015 would cause me to alter my opinions set out in my First Report attached to my Affidavit sworn on 15 December 2014.
- 1.2** I have also been asked to consider TD Bank's Reply Motion Record and whether or not it would cause me to alter my opinions set out in my First Report.

2. CONCLUSION

- 2.1** I have read Mr Wiltshire's Second Affidavit and reviewed the Exhibits. I did not consider it necessary to read all of the content of the Exhibits in detail. My brief review has clearly revealed the substance of the matters disclosed. I have read Mr Wiltshire's Third Affidavit.
- 2.2** I have read TD Bank's Reply motion Record.
- 2.3** My conclusion is that my opinions set out in my Report sworn on 15 December 2015 have not altered in light of all the new material presented to me. If anything, the material comprising Mr Wiltshire's Second Affidavit and Exhibits highlights the numerous challenges faced by the former office holders (and their lawyers) in identifying possible assets and actively pursuing their recovery and also, importantly, their attempts to reach an early and suitable working relationship with Mr Ralph Janvey.

3. OTHER MATTERS

- 3.1** I can confirm that the Form 53 "Acknowledgment of Expert's Duty" I signed on 14 December 2014 applies in respect of this Report.



William Richard Tacon

March 29, 2015

THIS IS EXHIBIT "B" REFERRED TO
IN THE AFFIDAVIT OF WILLIAM R. TACON
SWORN BEFORE ME, THIS
20TH DAY OF APRIL, 2015



A Commissioner, etc.

Lincoln Caylor
Partner
Direct Line: 416.777.6121
e-mail: caylorl@bennettjones.com

Maureen M. Ward
Partner
Direct Line: 416.777.4630
e-mail: wardm@bennettjones.com
Our file no.: 68029.1

March 27, 2015

Delivered by Email

Mr. William Tacon
c/o Winster Consultants Limited
2nd Floor Palm Grove House
Wickhams Cay 1
Road Town, Tortola
British Virgin Islands, VG1110

Re: Letter of Instructions - Stanford International Bank Limited v The Toronto-Dominion Bank, Court File No.: CV-12-9780-00CL

Dear Mr. Tacon:

We write in furtherance of your retainer as an expert for our clients, Marcus Wide and Hugh Dickson, in their capacities as the joint liquidators of Stanford International Bank Ltd. ("**SIB**") (the "**Joint Liquidators**"), who are the successors of Nigel Hamilton-Smith and Peter Wastell.

As you are aware, you swore an affidavit on December 15, 2014 in connection with the claim being pursued by the Joint Liquidators before the Ontario court against The Toronto-Dominion Bank ("**TD Bank**"). This affidavit attached your expert report dated December 15, 2014, which was prepared in response to various questions posed to you by the Joint Liquidators' counsel, Bennett Jones LLP.

This letter sets out further questions requiring your expert evidence and encloses further documents requiring your consideration.

Instructions For Your Second Report

The following sets out the preliminary requirements for your second report:

1. When preparing your report as an expert, your duty is to the Ontario court. It is the duty of an expert witness to help the court impartially on the matters relevant to his or her expertise. This duty overrides any obligation to the persons by whom he or she is instructed or paid.
2. Expert evidence presented to the court must be, and should be seen to be, the independent product of the expert uninfluenced as to form or content by the demands of the litigation. An expert witness must provide independent assistance to the court by way of objective, unbiased opinion in relation to matters within the witness' expertise.
3. Please prepare your report so that it complies with the laws of Ontario and is addressed to the court. You have been previously provided with copies of the relevant Ontario *Rules of Civil Procedure*, which set out your duty as an expert and requirements for your report. You have also signed Form 53 – "Acknowledgement of Expert's Duty". Please confirm that this form continues to apply in respect of this second report or, alternatively, sign and deliver this form again along with your second report.
4. We note that it is possible that you will be required to be cross-examined on your report.

Questions Requiring Expert Evidence

We previously provided to you a copy of the second affidavit of Peter R. Wiltshire sworn January 16, 2015 and the third affidavit of Peter R. Wiltshire sworn March 26, 2015. Please take these affidavits into account when answering the following question that we ask you to provide your opinion evidence on in relation to this matter:

1. Does the second affidavit of Peter R. Wiltshire sworn January 16, 2015 or the third affidavit of Peter R. Wiltshire sworn March 26, 2015 in any way change your conclusions stated in your report expert report dated December 15, 2014?
 - (a) If so, how?

Timing of Report

We should be grateful if you could submit your report to us as soon as practicable. Please let us know as soon as possible when you expect to be able to deliver your report.




March 27, 2015
Page Three

Should you have any queries regarding these instructions or your duties as an expert, please do not hesitate to contact us.

We look forward to receiving your report.

Yours truly,



Bennett Jones LLP

LC/MW

Enc.

cc: Marcus A. Wide
Martin Kenney
Ed Davis



Maureen Ward

From: Maureen Ward
Sent: 27 March 2015 2:39 PM
To: William Tacon
Cc: Lincoln Caylor; Nathan Shaheen
Subject: RE: SIB v TD Second Letter of Instruction [BJ-L.FID2639872]

Dear Mr. Tacon,

Thank you. Please also consider TD Bank's reply material in answering the question posed for your second report. These materials were sent to you by courier along with Mr. Wiltshire's second affidavit of January 15, 2015.

Thanks.

Best regards,

Maureen

-----Original Message-----

From: William Tacon [<mailto:wtacon@hotmail.com>]

Sent: 27 March 2015 10:54 AM

To: Maureen Ward

Cc: Lincoln Caylor; Nathan Shaheen; Marcus Wide; Martin Kenney; Edward Davis, Jr

Subject: Re: SIB v TD Second Letter of Instruction [BJ-L.FID2639872]

Good evening from Bhutan. As you see, I have Internet access and should have over the next few days. I will read this material shortly.

William Tacon

Sent from my iPad

MARCUS A. WIDE, et al.
Plaintiffs

v.

THE TORONTO-DOMINION BANK
Defendant

Court File No. CV-12-9780-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**SECOND AFFIDAVIT OF
WILLIAM R. TACON
(Sworn April 20, 2015)**

BENNETT JONES LLP
Barristers and Solicitors
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Lincoln Caylor (LSUC # 37030L)
Maureen M. Ward (LSUC #44065Q)
Nathan J. Shaheen (LSUC #60280U)

Tel: 416.777.6121/4630/7306
Fax: 416.863.1716

Lawyers for the plaintiffs