Court File No. CV-18-00611743-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

PETER ROSS

Plaintiff

- and -

RBC GLOBAL ASSET MANAGEMENT INC.
and RBC INVESTOR SERVICES TRUST

Defendants

Proceeding under the *Class Proceedings Act, 1992*

CONSOLIDATED MOTION RECORD OF THE PLAINTIFF
(VOLUME 3 OF 3)
(1) MOTION FOR DISMISS ORDER AND DISTRIBUTION ORDER
(2) MOTION FOR FEES, HONORARIUM AND FUNDING ORDER

August 27, 2026

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ONTARIO
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Defendants

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF PETER ROSS
(SWORN AUGUST 26, 2026)

I, Peter Ross, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY**:

1. I am the Plaintiff in this action ("**Action**"). Accordingly, I have personal knowledge of the matters to which I hereinafter depose. Where that knowledge is based on information I have obtained from others, I have so indicated and believe that information to be true.

2. In swearing this affidavit and serving and filing it on these motions, it is not my intention, nor is it the intention of my lawyers, Siskinds LLP ("**Siskinds**"), to waive solicitor-client privilege, litigation privilege or any other privilege of any kind, and in fact no such waiver has occurred.

3. I was appointed the representative plaintiff in this Action by Order of this Court dated July 25, 2024. I am also a class member under the class definition certified by the Court in the July 25, 2024 Order.

SETTLEMENT AGREEMENT AND DISTRIBUTION PROTOCOL

4. The parties held a two-day mediation in this Action on May 13-14, 2026. I attended the first day of the mediation and was in communication with my counsel during the second day of the mediation.

5. At the mediation, an agreement in principle was reached with RBC Global Asset Management Inc. and RBC Investor Services Trust (the "**Defendants**") to settle the Action for $45,000,000. I have contributed significant time and effort to help achieve this resolution for the benefit of the class members.

6. The formal Settlement Agreement was signed on June 19, 2026. I have reviewed the Settlement Agreement and discussed the terms of the settlement with Garett Hunter and Gigi Pao of Siskinds. I am not a lawyer, but I believe the terms of the Settlement Agreement are fair and reasonable. In particular, the settlement amount reflects a good result for class members from my point of view.

7. I understand that the Settlement Agreement must be approved by the Court. I have instructed my lawyers to seek Court approval of it.

8. I understand from speaking with Mr. Hunter and Ms. Pao that money will be distributed to class members from the settlement amount (after payment of counsel fees and disbursements and taxes on those fees and disbursements, claims administration expenses, the litigation funder's commission and any honorarium that the Court might award me).

9. A proposed Distribution Protocol has been developed to distribute the net settlement amount in a manner that reflects class members' relative losses in an efficient manner. I have reviewed the proposed Distribution Protocol with Mr. Hunter and Ms. Pao. I am not a lawyer or expert in these matters, but that approach seems fair.

10. In my view, people who have incurred trailing commission fees, like me and other class members, should be compensated where it is economical to do that, and with the settlement amount available I believe we will be able to do so.

11. I further understand that it is proposed that any money that may be left after payments to class members that is uneconomical to distribute directly to them will be paid to the Osgoode Hall Law School Investor Protection Clinic (if approved by this Court). This makes sense to me, and it is better than any money going back to the Defendants.

12. Even if the Settlement Agreement is not approved, I am prepared to continue acting as a representative plaintiff.

MY ONGOING INVOLVEMENT IN THE ACTION

13. Since November 2018, I have been in regular contact with Mr. O'Brien, Mr. Hunter, Ms. Pao and other Siskinds lawyers by phone, video-conference, email and in person. They have provided me with details regarding the status of the Action, steps taken and to be taken and the reasons for those steps, provided key documents, made recommendations to me, and sought my instructions in relation to material matters. I believe I have discharged my obligations as the representative plaintiff in this Action to date and will continue to do so.

14. I have been actively involved in the litigation. Among other things:

(a) I reviewed the Notice of Action, Statement of Claim and amendments to the Statement of Claim, and provided comments to my lawyers;

(b) I reviewed and commented on news releases issued about the litigation;

(c) I entered into a funding agreement with Claims Funding International, PLC and swore an affidavit in support of the motion for approval of that agreement;

(d) I shared and discussed ideas about the best strategy for the litigation with my lawyers;

(e) I swore an affidavit in support of the motion for certification of this Action as a class proceeding and provided them to my lawyers;

(f) I reviewed the proposed terms of the consent certification and stay order. I reviewed the certification and stay decisions;

(g) I searched for and collected and preserved my potentially relevant documents for the discovery process in the Action. I provided those documents to my lawyers for production to the Defendants in the Action;

(h) I reviewed and provided input on my mediation brief for the mediation held in May 2026;

(i) I considered and provided comments and instructions on the monetary range to be followed in settlement negotiations;

(j) I communicated with Siskinds and provided input and instructions for the mediation in the Action;

(k) I attended the first day of the mediation on May 13, 2026;

(l) I communicated with Siskinds throughout the second day of the mediation on May 14, 2026 and provided input and instructions;

(m) I kept informed about developments in the related class actions against discount brokers and against the fund trustees and managers on behalf of non-discount broker investors;

(n) I reviewed the Settlement Agreement and provided my comments to my lawyers;

(o) I reviewed the proposed Distribution Protocol with my lawyers and provided comments;

(p) I generally made myself available for discussions with Siskinds throughout this litigation; and

(q) I am making this affidavit in support of approval of the Settlement Agreement, counsel fees and disbursements, and other matters.

15. Since retaining Siskinds in November 2018, I have kept track of the time that I have devoted to the Action. As of the date of this affidavit, I have dedicated 61 hours to the prosecution of this Action on behalf of the class members.

RETAINER

16. On November 7, 2018, I retained Siskinds and Bates Barristers P.C. ("**Bates Barristers**") under a Contingency Fee Retainer Agreement to act as counsel in the Action.

17. In May 2020, Siskinds became the sole lawyers of record in this Action. I entered into an Amended Contingency Fee Retainer Agreement with Siskinds on or around July 13, 2020 to reflect that change. Other than amendments related to the change in lawyers, the Amended Contingency Fee Retainer Agreement is the same as my original Contingency Fee Retainer Agreement.

18. A partially redacted copy of my Amended Contingency Fee Retainer Agreement is attached as **Exhibit "A"** to this affidavit ("**Retainer**"). I am advised by Mr. Hunter and Ms. Pao of Siskinds and believe that certain parts of the Retainer attached to this affidavit have been redacted because they contain potentially sensitive information.

COUNSEL FEES AND DISBURSEMENTS

19. This lawsuit was done on a contingency ("no win, no fee") basis, and I knew that Siskinds would not be paid for fees and disbursements (beyond the limited disbursement funding provided by the litigation funder) unless the Action was successful. I would not have been able to retain Siskinds on an hourly fee basis for this case because the cost of doing so would far exceed my individual losses, which are approximately $1,700.

20. The contingency fee percentage provided for under the Retainer is 28% of the Settlement Amount. I understand from Mr. Hunter and Ms. Pao that Siskinds will request a fee of $12,600,000, which equates to 28% of the settlement amount of $45 million.

21. I understand from Mr. Hunter and Ms. Pao that a portion of the Court-approved fees will be paid to Bates Barristers. As I noted above, Bates Barristers was, until 2020, co-counsel with Siskinds for the class in the Action. I understand that the $12,600,000 fee request includes the amount payable to Bates Barristers.

22. I understand that the amount available for distribution to class members will be increased by the interest earned on the Settlement Amount after it is paid by the Defendants, and that Siskinds is not applying its contingency fee percentage to that additional amount (as it is entitled to do under the terms of our retainer).

23. I am advised by Mr. Hunter and Ms. Pao and believe that, as of August 18, 2026, disbursements of $158,203.50 (plus taxes) have been incurred by Siskinds for which reimbursement will be sought.

24. The fee and disbursement request is consistent with the terms of the Retainer I signed, and I support the approval of the fee and disbursement request.

SWORN BEFORE ME over video-teleconference in accordance with Ontario Regulation 431/20, with the deponent stated as being located in the City of Toronto, in the Province of Ontario, and the commissioner being located in the City of London, in the Province of Ontario, this 26th day of August, 2026.

Signed by:
Peter Ross
2BBDF6DBACEB410...
Peter Ross

Signed by:
Garett Hunter
FC760F59588E42E...
A Commissioner for taking Affidavits,
Garett Hunter

This is Exhibit "A" mentioned and referred to in the Affidavit of Peter Ross SWORN BEFORE ME remotely in accordance with O. Reg. 431/20 this 26th day of August, 2026. The affiant was located in the City of Toronto, in the Province of Ontario, while the commissioner, Garett Hunter, was located in the City of London, in the Province of Ontario.

Signed by:

Garett Hunter

EC760F5CE88E42E...

Garett Hunter, A Commissioner for Taking Oaths for the Province of Ontario

AMENDED CONTINGENCY FEE RETAINER AGREEMENT

BETWEEN:

PETER ROSS

herein called the "**Client**"

- and -

SISKINDS LLP

herein called "**Siskinds**" or "**Class Counsel**"

1. The Client hereby retains the services of Siskinds to investigate, and, if appropriate, prosecute a class proceeding pursuant to the Ontario *Class Proceedings Act, 1992* (the "***CPA***"). The class proceeding will be brought on the Client's behalf, as representative plaintiff, and on behalf of a class of persons with similar or related claims relating to trailing commissions paid in respect of mutual funds held through discount brokerages (the "**Class**") against RBC Global Asset Management Inc., RBC Investor Services Trust, and related or affiliated entities.

2. The Client has authorized Class Counsel to commence proceedings, on the Client's behalf, as representative plaintiff, and on behalf of the Class against the trustees and/or managers of the mutual funds of which the Client held units through his discount brokerage accounts and such other defendants as Class Counsel deems appropriate.

3. The Client understands that the *CPA* contemplates that a proposed class proceeding must be certified by the Court as a class proceeding in order that the proposed representative plaintiff(s) can represent the Class.

4. The Client authorizes Class Counsel, when acting on the Client's behalf as representative plaintiff, to take such actions and conduct the class proceeding as they consider appropriate. However, the Client retains the right to make all critical decisions regarding the conduct of the class proceeding, but always with a view to the best interests of the Class. If the Client makes a decision regarding the conduct of the class proceeding that Class Counsel do not consider to be in the best interests of the Class, Class Counsel will seek directions from the Ontario Superior Court of Justice (the "**Court**") on the issue.

5. The Client acknowledges that the amount of a reasonable settlement or judgment in this class proceeding will depend on a number of factors, including the amount of the trailing commissions paid to discount brokerages in respect of the defendants' mutual funds, the strength of the evidence that is obtained in the course of investigating and prosecuting the proceedings, and the defendants' capacity to pay.

Costs and Funding

6. At any step in the proceeding, the Court has the discretion to order a costs award on a partial or substantial indemnity scale. A costs award usually follows the party that is successful on that step of the proceeding. The Client understands that the payment of costs awards is subject to paragraphs 7 to 9 of this Retainer Agreement.

7. The Client and Class Counsel understand that in the event of an adverse costs award (*i.e.*, if the Court orders that the Client is required to pay some or all of the costs incurred by the defendants in this proceeding) while Class Counsel are counsel of record, Class Counsel (jointly and severally) will indemnify the Client against any such award and the Client will not personally have to satisfy such an award. In no circumstances will the Client be required to pay any funds, including costs awards, while Class Counsel are counsel of record.

8. The Client acknowledges and agrees that Class Counsel may, on the Client's behalf, obtain an indemnification against adverse costs and/or funding of disbursements from the Class Proceeding Fund or a third party litigation funder, and that the Class Proceedings Fund or the third party litigation funder might be entitled to a percentage of recovery obtained on behalf of the Class. The Client authorizes Class Counsel, in their discretion, to seek such indemnification and/or disbursement funding.

9. The Client acknowledges and agrees that, in the event of a favourable costs award (*i.e.*, if the Court orders that the defendants are required to pay some or all of the costs incurred by the Client and/or Class in this proceeding), Class Counsel can retain such costs awards to finance already incurred disbursements, ongoing disbursements incurred for the benefit of the Class and/or any future adverse costs award(s). The Client understands that, in the event that Class Counsel retains a costs award for these purposes, Class Counsel will account for this on any subsequent fee application. In the event that some or all of the costs award is not retained by Class Counsel in accordance with this provision, the costs award will be held in trust for the benefit of the Class, pending the direction of the Court.

Taxes and Disbursements

10. Harmonized Sales Tax ("**H.S.T.**"), currently at the rate of 13%, is payable on legal fees and disbursements. H.S.T. and any other taxes payable will be paid at the prevailing rate.

11. The Client has been advised and understands that disbursements will include the costs of obtaining financial reports, expert opinions and such items as postage, courier charges, long distance telephone charges, photocopies, fax charges, and all costs associated with the proceeding such as court filing fees, service of documents, court reporter fees and transcript costs, as well as other disbursements such as experts' fees to quantify economic losses, mediation costs, travel and accommodation costs, and other miscellaneous expenses, including the taxes thereon.

12. The Client understands that the *CPA* permits Class Counsel to charge interest on disbursements incurred, as totaled at the end of each six-month period following the date of this Retainer Agreement. Interest charged on disbursements will be calculated in accordance with the post-judgment interest rate set by the Ministry of the Attorney General,

as required under the *Courts of Justice Act* and the *Publication of Postjudgment and Prejudgment Interest Rates* regulation.

13. The Client confirms that Class Counsel are authorized to retain such experts as may be advisable to advance the proceeding.

Contingency Fee

14. The Client understands and agrees that the proceedings are to be pursued on a contingency basis such that legal fees, disbursements and applicable taxes will be payable only in the event of a success.

15. The Client understands that, under the *CPA*, "success" in a class proceeding includes:

    (a) judgment on the common issues in favour of some or all class members; and

    (b) a settlement, including a partial settlement with less than all named defendants where the proceeding is ongoing against non-settling defendants, that benefits one or more class members.

16. The Client understands that the legal fee will be calculated based on all benefits obtained for the Class by settlement, judgment or award, including, without limitation, settlement funds, damages award, reimbursement of trust funds, pre-judgment interest and/or post-judgment interest, plus interest earned on such benefits while held in trust (collectively, the "**Amount Recovered**"). The Amount Recovered does not include the defendants' contribution to costs.

17. It is the instruction of the Client and the intention of Class Counsel to apply for an order requiring the fees and disbursements, as calculated and determined herein, to be paid by the defendants or other proper entities or parties the court may order in order to protect the Class Members and other unitholders in the mutual funds involved in these actions from any adverse economic consequences from this class proceeding. In the event that the court does not make such an order, the provisions of this agreement shall nonetheless apply.

18. If for any reason, the Court orders amounts to be reimbursed to the mutual funds involved in these actions, the Client undertakes and agrees to consent to an order declaring that Class Counsel shall be entitled to a charge on the mutual funds involved in these actions with respect to fees and disbursements recoverable under this agreement pursuant to the *Solicitors Act*, RSO 1990, c S.15, section 34(1) and other applicable law.

19. The Client understands that legal fees will be charged on a percentage basis at the rate of thirty-three percent (33%) of the Amount Recovered, including a fee of 5% which shall compensate Class Counsel for assuming the indemnity described in paragraph 7.

20. In the event that outside funding or indemnification for adverse costs as contemplated by paragraph 8 herein is obtained, the contingency fee charged shall be reduced to twenty eight percent (28%) of the Amount Recovered.

21. In the event that no recovery is made in the litigation, the Client understands that the Client will not be indebted to Class Counsel for the fees, disbursements and applicable taxes incurred by Class Counsel in prosecuting this proceeding. In the event that a recovery is made in the proceeding, any fees, disbursements and applicable taxes incurred by Class Counsel will be paid solely from the recovery in the class proceeding.

22. The Client confirms that:

(a) The Client has been provided with options for retaining Class Counsel other than by way of a contingency fee agreement, including retaining Class Counsel by way of an hourly-rate retainer – the lawyers who will be working on this proceeding have hourly rates ranging from $175.00/hour to $700.00/hour, or higher;

(b) The Client has been advised that hourly rates may vary among solicitors and the Client can speak with other solicitors to compare rates;

(c) The Client has chosen to retain Class Counsel by way of a contingency fee agreement, as outlined in this Retainer Agreement;

(d) The Client understands that the work done in the class proceeding will be conducted by the retained firms, Class Counsel, and not by particular lawyers; and

(e) The Client understands that all usual protections and controls on retainer agreements between a solicitor and a client, as defined by the Law Society of Upper Canada and the common law, apply to this Retainer Agreement.

23. The Client understands that Class Counsel may associate with other law firms in Canada and/or the United States in the prosecution of this proceeding, including, without limitation, Siskinds' Quebec affiliate law firm, Siskinds Desmeules. The Client understands that no additional fees will be payable by the Class to such firms in respect of their assistance in the prosecution of this proceeding.

24. The Client has been advised and understands that Court proceedings are expensive and uncertain and that in spite of Class Counsel's efforts on the Client's behalf, there is no assurance or guarantee of the outcome, the length of time it may take, or the potential costs involved. All estimates of fees and disbursements the Client has been or may be given, whether orally or in writing, are estimates only.

Example Fee Calculation

25. In the event of a success, Class Counsel's fee will be calculated by multiplying the Amount Recovered by 33% (pursuant to paragraph 19 above), plus disbursements, interest on disbursements and applicable taxes. By way of example:

(a) If the proceeding settles for damages and prejudgment interest of [redacted] the defendants pay an additional [redacted] in partial indemnity costs, and Class Counsel have incurred [redacted] in disbursements, for which the interest is [redacted] Class Counsel's fee will be calculated as follows (assuming no outside funding or indemnity is obtained):

Class Counsel's fee ([redacted] x 33%)	[redacted]
H.S.T. on fee ([redacted] x 13%)	[redacted]
Disbursements	[redacted]
Interest on disbursements	[redacted]
H.S.T. on disbursements ([redacted] x 13%)	[redacted]
Total account	[redacted]

In this example the net recovery after the legal fee and H.S.T. thereon, plus disbursements and H.S.T. thereon, would be [redacted] calculated as follows:

Total settlement (inclusive of damages, pre-judgment interest, interest while held in trust, and defendant's contribution to costs)	[redacted]
Class Counsel's account	[redacted]
Net proceeds of settlement (to be distributed among class members)	[redacted]

Payment of Fees, Disbursements and Taxes

26. The Client understands that in the event of success, Class Counsel are entitled to be reimbursed for payments made in respect of disbursements or taxes during the course of the class proceeding, as a first charge on any funds received as a result of a judgment or settlement in the class proceeding.

27. The Client further understands that, if the class proceeding is successful, the legal fees, disbursements and applicable taxes of Class Counsel are subject to the approval of the Court. The Client understands that, in considering Class Counsel's fee request, the Court may consider, among other things, this Retainer Agreement, the results achieved in the proceeding, the risk assumed by Class Counsel in prosecuting the proceeding, and the time and expense incurred by Class Counsel in prosecuting the proceeding.

28. Class Counsel undertake to seek Court approval of legal fees, disbursements and taxes in accordance with the terms of this Retainer Agreement. If the Client is concerned that the fees sought for approval are not in compliance with this Retainer Agreement, the Client is entitled to raise this objection at the fee approval hearing.

29. The Client understands that Class Counsel will not recover more in fees than the Class recovers as damages or receives by way of settlement. Notwithstanding the foregoing, the Client understands that in the event of a success, subject to Court approval, Class Counsel

can retain settlement funds to finance already incurred disbursements, ongoing disbursements incurred for the benefit of the Class and/or any future adverse costs awards.

Payment of Settlement or Judgment Monies

30. The Client authorizes and directs that settlement funds or amounts awarded by judgment be payable to Class Counsel, In Trust, and that the funds will be applied to fees, H.S.T. and disbursements owing to Class Counsel, prior to the funds being distributed to the Class.

Discontinuance, Abandonment and Settlement of the Class Proceeding

31. The Client understands that, in accordance with the *CPA*, the discontinuance, abandonment and settlement of a class proceeding requires approval of the Court, on such terms as the Court considers appropriate.

Termination of Relationship

32. The Client understands that, if either the Client or Class Counsel wishes to terminate this relationship, the Client or Class Counsel will forthwith move before the Court for directions. The Client acknowledges that Class Counsel have incurred and will continue to incur significant time and financial risk in the prosecution of this proceeding. Accordingly, if the Client engages another solicitor to act in this proceeding or if the Client otherwise terminates this Retainer Agreement and the proceeding is successful, Class Counsel will be paid fees, disbursements, applicable taxes and interest in accordance with the terms of this Retainer Agreement. In the event of termination, the Client will consent to an order to remove Class Counsel as solicitors of record.

33. If the Client desires to withdraw as representative plaintiff in this action, the Client shall (i) notify Class Counsel of the same, in writing; and (ii) take reasonable steps to assist in securing a substitute representative plaintiff. Notwithstanding the foregoing, the Client cannot withdraw as representative plaintiff if doing so will or might harm the Class in any way. The Client understands that a Court order might be required in order to withdraw as representative plaintiff and, if so, the Client will take no steps to withdraw, other than seeking such an order, until such an order is finally granted.

Privacy & Protection of Information

34. The Client understands and agrees that, in having retained Class Counsel to provide the legal services described in this Retainer Agreement, the collection, use, retention, and disclosure of personal and other sensitive information may be required in order to fulfil those services and related obligations. The Client has read the Siskinds Privacy Policy respecting the management of personal and sensitive information and understands that such information will be used by Class Counsel for only the purposes set out in this Retainer Agreement and for no other purpose without express written consent pursuant to the Privacy Policy.

35. Regarding electronic transmission of personal information (i.e. email), the Client acknowledges that there is no method of transmitting or storing data that is completely

secure and that, notwithstanding the technological safeguards used by Class Counsel, all Internet transmissions are susceptible to possible loss, misrouting, interception and misuse. Notwithstanding the potential risk, the Client specifically consents to Class Counsel transmitting the Client's personal information electronically.

36. The Client understands that, as of July 1, 2014, legislation requires Class Counsel to obtain consent to send certain electronic communications. By initialing below, the Client specifically consents and agrees herein to receive electronic communications from Class Counsel, including, without limitation, emails regarding class actions, practice updates, newsletters, publications, event invitations or other information that may be of interest. Class Counsel are committed to sending only relevant and useful information to the Client. The Client understands that consent to receive these electronic communications may be withdrawn at any time by contacting Class Counsel at subscriptions@siskinds.com or by mail.

Initial: ______

Conflicts of Interest

37. The Client understands that because Siskinds is a large multi-disciplinary firm, it frequently represents clients that are competitors, customers or suppliers, or have other commercial, and at times legal, interests that are adverse to one another. It is possible that during or following the time Siskinds represents the Client, another existing or new client may have disputes with the Client that are unrelated to the matters that Siskinds is handling or has handled for the Client. The Client understands that Siskinds will represent the Client in this and future matters on the understanding that Siskinds represents other clients and may accept engagements from them on other matters that may be adverse to the Client. However, the Client understands that Siskinds will not act for another client against the Client's interests if the matter is substantially related to any matter in which Siskinds is representing the Client. If the foregoing conditions are satisfied, the Client agrees that Siskinds may undertake the adverse representation and that all conflict of interest issues will be deemed to have been waived by the Client.

Enforcement

38. This Retainer Agreement shall not confer any rights or remedies upon any person other than the parties hereto and their respective heirs, executors, successors and permitted assigns.

39. This agreement may be executed in counterparts, each of which when so executed and delivered shall be an original, but all such counterparts together constitute one and the same instrument.

40. The Client understands that this Retainer Agreement replaces any former agreement(s) that the Client may have previously executed (including the Contingency Fee Retainer Agreement entered into on or around November 7, 2018) and shall remain in full force and effect until cancelled in writing.

The Client accepts the terms and conditions as outlined herein, and acknowledges receipt of a copy of this Retainer Agreement.

DATED at Toronto, Ontario, this ____ day of ________, 2020

WITNESS

Name: Peter Ross
Address: 93 Lavinia Avenue, Apt 212
Toronto, ON M6S 3H9
Tel: 416-762-6419

DATED at Toronto, Ontario, this 13th day of July, 2020

WITNESS

Anthony O'Brien
Siskinds LLP
302 – 100 Lombard Street
Toronto, ON M5C 1M3
Tel: 416-594-4394

ROSS v. RBC GLOBAL ASSET MANAGEMENT INC. *et al.*

Court File No. CV-18-00611743-00CP

ONTARIO

SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF PETER ROSS
(SWORN AUGUST 26, 2026)

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Lawyers for the Plaintiff

TAB 5

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ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

PETER ROSS

Plaintiff

- and -

RBC GLOBAL ASSET MANAGEMENT INC.
and RBC INVESTOR SERVICES TRUST

Defendants

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF IVAN BOBANOVIC
(Affirmed August 26, 2026)

I, Ivan Bobanovic, of the City of London, in the Province of Ontario, AFFIRM:

INTRODUCTION

1. I am Vice-President at RicePoint Administration Inc., doing business as Verita Global ("**Verita**"), the proposed claims administrator for the settlement of this action. I have knowledge of the matters I depose to herein. Where that knowledge is based on information I have obtained from others, I have indicated the source of that information and believe it to be true.

2. For the purposes of affirming this affidavit, I have reviewed the Settlement Agreement dated June 19, 2026 ("**Settlement Agreement**") and the schedules thereto, including the Plan of Notice. I have also reviewed the proposed Distribution Protocol.

3. Capitalized terms not defined herein have the meaning given to those terms in the Settlement Agreement and the proposed Distribution Protocol.

4. I understand that this affidavit will be used in support of the Plaintiff's motion for orders, among others:

(a) appointing Verita as Administrator;

(b) approving the proposed Distribution Protocol;

(c) approving the form and content of the Claim Form and prescribing a process for Class Members to file claims for compensation; and

(d) approving the form, content and method of disseminating Second Notice.

5. In this affidavit, I record:

(a) background on Verita and its experience (Section A below);

(b) the steps Verita took to disseminate First Notice (Section B(i) below);

(c) the estimated costs of disseminating Second Notice (Section B(ii) below);

(d) my opinion on the efficacy of the proposed Distribution Protocol and Verita's ability to implement the proposed Distribution Protocol in accordance with its terms (Section C below);

(e) a description of the claims procedure and the ability of Verita to process the data provided by the Defendants (Section D below);

(f) Verita's management of the Settlement Amount and the Trust Account (Section E below); and

(g) my agreement on behalf of Verita to accept the appointment as Administrator (Section F below).

A. BACKGROUND ON VERITA AND ITS EXPERIENCE

7. Verita provides notice and administrative services for class action administrations in Canada. Its bilingual services include the design and implementation of notice plans, the processing of claims, acting as an escrow agent for settlement funds, calculating class member entitlements, distributing funds and, finally, reporting to the Court and class counsel on aspects of the administration.

8. In June 2024, three global legal service providers — Kurtzman Carson Consultants LLC (KCC), Gilardi & Co., and RicePoint Administration Inc. (“**RicePoint**”) — joined together under the newly-created Verita brand. Verita offers a comprehensive range of legal, fiduciary, and administrative services to professionals around the world. It brings together experts in class action administration, corporate restructuring, trustee and fiduciary services, and mass tort.

9. I have been with RicePoint (and now Verita) for 16 years: six years in a variety of roles managing notice and administration campaigns, four years as Director of Operations, and six years as Vice-President. In forming the opinions expressed below, I draw from my class action administration experience, as well as my educational experience. I have an Honors Specialization Bachelor of Arts Degree from Western University.

10. Over the last approximately 22 years, RicePoint (and now Verita) has administered over 200 settlements of varying size and complexity and distributed more than $5 billion in settlement funds. Those settlements related to securities, price-fixing, medical, consumer and employment matters.

11. Under my management and/or direction, Verita has also calculated class members' entitlement and distributed money to class members in securities and consumer class actions, including but not limited to:

(a) *Auto parts price fixing litigation* ($25.5 million) ("**Auto Parts Class Action**");

(b) *Marcantonio v TVI Pacific Inc.* ($2.1 million);

(c) *OMERS & McCann v CP Ships Ltd., et al.* ($12.8 million);

(d) *O'Neil v SunOpta Inc., et al*. ($11.25 million USD);

(e) *Metzler v Gildan Activewear Inc., et al.* ($22.5 million USD);

(f) *Devlin et al. v Canadian Superior Energy Inc., and Challenger Energy Corp., et al*. ($5.2 million USD);

(g) *Wheeler v. China National Petroleum Corp., et al.* ($9.99 million);

(h) *Nor-Dor Developments Limited v Redline Communications Group Inc., et al.* ($3.6 million);

(i) *McKenna v Gammon Gold Inc., et al.* ($13.25 million);

(j) *Dobbie v Arctic Glacier Income Fund et al.* ($13.75 million);

(k) *Sorensen v EasyHome Ltd., et al.* ($2.25 million);

(l) *Zaniewicz v Zungui Haixi Corp., et al.* ($10.85 million);

(m) *Haase v Reliq Health Technologies Inc., et al.* ($2.5 million);

(n) *Snelgrove v Cathay Forest Products Corp., et al.*;

(o) *Philpott v Stonehaven Exploration Ltd. (formerly Donnybrook Energy Inc.), et al.* ($5.5 million); and

(p) *Donohue v Baja Mining Corp., et al.* ($11 million).

12. Members of the Verita team who will be responsible for the administration of the proposed Settlement, including Kurt Elgie, have been responsible (jointly or working with others) for the administration, calculation of class member entitlement and distribution of money in several other securities and consumer class actions, including but not limited to:

(a) *The Trustees of the Drywall Acoustic Lathing and Insulation Local 675 Pension Fund v SNC-Lavalin Group Inc. et al.* ($110 million);

(b) *AFA Livförsäkringsaktiebolag et al. v Agnico Eagle Mines Limited et al.* ($17 million);

(c) *McDonald v Home Capital Group Inc., et al.* ($29.5 million);

(d) *Gérald Léveillé v Avantage Link Inc. (Jitec Inc.), et al.* ($9.85 million);

(e) *Paul Carter, F. Philip Wilhelmsen v. Asia Packaging Group Inc., et al.* ($1.39 million);

(f) *R. Charles Allen v Aspen Group Resources Corporation, et al.* ($3.285 million);

(g) *The Trustees of the Labourers' Pension Fund of Central and Eastern Canada, et al. v Ernst & Young LLP re Sino-Forest* ($117 million);

(h) *The Trustees of the Labourers' Pension Fund of Central and Eastern Canada, et al. v Credit Suisse Securities Canada, et al. re Sino-Forest* ($32.5 million);

(i) *The Trustees of the Labourers' Pension Fund of Central and Eastern Canada, et al. v BDO Limited re Sino-Forest* ($8.774 million); and

(j) *The Trustees of the Labourers' Pension Fund of Central and Eastern Canada, et al. v W Judson Martin, et al. re Sino-Forest* ($75 million).

B. NOTICE

i. First Notice

13. Verita caused First Notice to be disseminated as follows:

(a) on July 14, 2026, the short-form First Notice was issued as a news release nationwide across Canada NewsWire, in English and French;

(b) on July 18, 2026, the short-form First Notice was published in the business section of the national weekend edition of *The Globe and Mail*, in English;

(c) on July 18, 2026, the short-form First Notice was published in the business section of *La Presse*, in French;

(d) on July 14, 2026, the short-form First Notice was sent electronically to 13 Discount Brokers[1] in Canada with a cover letter requesting that they distribute the notice through their electronic message systems to the attention of clients who may be Class Members and post the notice on their news boards directed to the attention of their clients who may be Class Members;

[1] CI Direct Trading (formerly Virtual Brokers), Qtrade Direct Investing, HSBC InvestDirect, TD Direct Investing, BMO InvestorLine, CIBC Investor's Edge, RBC Direct Investing, Scotia iTRADE, Questrade, National Bank Direct Brokerage, Desjardins Online Brokerage, Laurentian Bank Discount Brokerage, Interactive Brokers.

(e) the Google banner ad was published for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, starting on July 14, 2026 and ending on August 12, 2026; and

(f) from July 14, 2026 to July 25, 2026, a sponsored news link was published on Stockhouse.

ii. Cost of Notice

14. The cost to disseminate First Notice was $21,198.38 (before taxes).

15. The Plan of Notice calls for Second Notice to be disseminated in the same manner as First Notice. I estimate that the cost of disseminating Second Notice under the Plan of Notice will be very similar to the cost of disseminating First Notice.

C. PROPOSED DISTRIBUTION PROTOCOL

16. My colleagues at Verita, Kurt Elgie and Lance Cavallo, and I reviewed the proposed Distribution Protocol and provided input to Garett Hunter and Gigi Pao of Siskinds on the content of the proposed Distribution Protocol.

17. Based on my experience, it is my view that the proposed Distribution Protocol will provide an efficient and effective methodology for distributing the Net Settlement Amount to Class Members. We have significant experience and expertise doing the types of calculations in the proposed Distribution Protocol, including in the related cases *Westwood v TD Asset Management Inc.* ("**TDAM Action**") and *Pozgaj v Canadian Imperial Bank of Commerce* (**"CIBC Action"**), which have very similar distribution protocols and claims processes. The proposed Distribution Protocol enables Claimants to rely on information provided by the Defendants (as described more fully below) and, if that information is not available for a Class Member, has flexible proof of

transaction requirements. The reliance on information provided by the Defendants and the flexible proof of transaction requirements will allow legitimate claims to be successfully made while providing reasonable assurance that illegitimate claims will be rejected.

18. I anticipate, subject to the occurrence of unforeseen events, that the first distribution of settlement funds to Class Members will occur by early to mid 2028 and a residual distribution (if any) will be made sometime thereafter.

D. THE CLAIMS PROCEDURE

19. Verita has prepared an online claims portal and paper claim form for Class Members to make claims for compensation from the Net Settlement Amount. The online claims portal will be available at https://www.trailingcommissionssettlement.ca. The online claims portal and paper claim form will be available to Class Members in both English and French. Class Members will be required to make a claim through the online claims portal unless they do not have internet access or have another good reason for being unable to submit an online form.

20. The online claims portal will provide two ways for Class Members to submit a claim for compensation. *First*, a streamlined claim process is available to Class Members where the Administrator has been provided with their Client Information (described below) by the Defendants. *Second*, there is a full claims process.

i. The Streamlined Claim Process

(i) Client Information

21. Under the terms of the Settlement Agreement, the Defendants are to provide the Administrator: "reasonably available data showing the trailing commissions paid to Discount Brokers in respect of the RBC Mutual Funds and the PH&N Mutual Funds held by Class Members

(or similar information that would permit the calculation of such trailing commissions), along with the name and available contact information for those Class Members" (s. 10.2(1)).

22. I understand from my review of the Settlement Agreement, proposed Distribution Protocol and discussion with Mr. Hunter and Ms. Pao and believe that the Client Information will allow the Administrator to calculate the Trailing Commissions Paid (pursuant to section 7 of the proposed Distribution Protocol) of a large number of Class Members from 2013 (and potentially earlier) to June 2022 based on the value of Class Members' holdings at the end of each month. I also understand that email addresses and/or mailing addresses are available for Class Members in the Client Information. I further understand that the data provided in the Client Information will be spread across different data files. Based on the above information and my experience with past administrations, I believe the Client Information will allow the streamlined claim process described in the proposed Distribution Protocol to be implemented.

23. I anticipate that processing the Client Information provided to the Administrator will require a substantial data management effort.

24. At Verita, we have an internal team that will complete the processing and management tasks. Our team of dedicated data experts have decades of collective experience handling millions of records across hundreds of cases. They excel at receiving, cleaning, and transforming complex source data into manageable formats tailored to each case's unique requirements.

25. We have engaged in similar large scale data management tasks in the context of complex settlement administrations. For example, Verita calculated the trailing commissions paid of approximately 628,000 class members in the TDAM Action using data spread across 109 separate data files. Verita also calculated the trailing commissions paid of approximately 167,000 class members in the CIBC Action using data spread across two separate data files. The Court-approved

distribution protocol in the TDAM Action and CIBC Action are very similar to the proposed Distribution Protocol in this Action.

26. Two other relatively recent examples include:

(a) *Auto Parts Class Action*: 50 million unique records from Original Equipment Manufacturers spread across approximately 50 separate data files; and

(b) *Desjardins data breach settlement:* approximately 4 million unique records for impacted users.

27. I am confident that we will be able to complete the data management and processing tasks required for this administration.

28. Verita has developed a comprehensive global information and cybersecurity framework aligned with the following certifications. These designations validate that an organization adheres to globally accepted standards of quality assurance and guarantee a certain standard of security. They include:

(a) *National Institute of Standards and Technology (NIST)*: a widely adopted framework with standards, guidelines, and best practices for managing cyber security risks;

(b) *ISO 27001*: information security standard created by the International Organization for Standardization (ISO), which provides a framework and guidelines for establishing, implementing and managing an information security management system ("**ISMS**"); and,

(c) *ISO 27002*: designed to work with ISO 27001, it provides the requirements for maintaining and improving an ISMS, focused on cybersecurity.

29. I also note that we have privacy measures in place in order to ensure the safety of the Class Member information, including, but not limited to:

(a) information and systems are only available to authorized people with a justified business need;

(b) information is not disclosed or modified without authorization;

(c) information is available when required by relevant business processes;

(d) applicable regulatory, legislative and client requirements are met;

(e) information security training is available to all employees;

(f) breaches of security and suspected weaknesses are reported, investigated, documented and resolved; and

(g) employees have access to relevant additional standards and guidelines that support this policy.

30. I also believe that, given the length of time for which data is available, some Class Members' contact information may no longer be current. Verita will submit the address records to a Canada Post-certified service provider to validate and standardize addresses against Canada Post's official database, correcting formatting errors, misspellings, and incomplete information. Verita will then run the addresses through National Change of Address (NCOA), which captures address changes filed with Canada Post within the past 12 months, returning updated addresses where moves have been registered.

(ii) The pre-populated online claim portal

31. Class Members will be able to rely on our determination of their Trailing Commissions Paid using a pre-populated online claim portal if the Client Information from the Defendants provides: (i) their address; and (ii) the information necessary to calculate their Trailing Commissions Paid.

32. To facilitate this process, we will use the contact information provided in the Client Information to send such Class Members a letter with a username and password to log on to the online claims portal we create. This letter will be sent, to the extent possible, by email at the same time Second Notice is first disseminated so that Class Members will have the maximum amount of time to make a claim (the date Second Notice is first disseminated triggers the start of the 180-day claims period). To the extent possible, we will email Class Members these letters. Sending the letters by email (when possible) is significantly more cost effective than using regular mail.

33. When a Class Member logs into the online portal using the username and password we send them, the online claims portal will be pre-populated with the Trailing Commissions Paid by the Class Member based on the information provided by the Defendants. The Class Member will be able to rely on that pre-populated information to submit a claim for compensation without any further supporting documentation. A Class Member may provide supplemental information using the full claims process described below if they disagree with the pre-populated Trailing Commissions Paid or want to expand their claim for a period not covered by their pre-populated information (subject to the limitations contained in the proposed Distribution Protocol).

34. That online portal will be similar to the online portal Verita created for the administrations of the TDAM Action and CIBC Action. Attached as **Exhibit "A"** are screen shots from a sample claim from the online portal for the TDAM Action's administration.

35. There are substantial benefits to the administration and to Class Members from the streamlined claim process, including that it will:

(a) increase the efficiency of the administration by limiting the number of claims that will require an eyes on review of supporting documentation;

(b) make the process for making a claim significantly easier for those Class Members who have pre-populated information that they are entitled to rely on;

(c) enable Class Members who no longer have records of their RBC Mutual Fund and/or PH&N Mutual Fund holdings to make a claim; and

(d) bring the fact of the Settlement Agreement and claims process to the attention of a substantial number of Class Members by sending them the letter with the username and password to make a claim for settlement benefits through the online claims portal.

36. Based on my experience at Verita, it is my view that the benefits described at paragraphs 36(b)-(d) will increase the number of Class Members that make a claim for compensation.

ii. The Full Claims Process

37. All other Class Members will be able to use the online portal to make a claim (or, if applicable, a paper version of the claim form). The full claims process will also be available to Class Members that want to supplement a streamlined claim and Class Members that object to the amount of the Trailing Commissions Paid set out in the streamlined claim process (and their objection, if accepted, would result in the increase of their Trailing Commissions Paid by $500 based on the information provided by the Class Member).

38. Class Members using the full claims process will be required to provide the information requested in the claim form and to provide documentation to support their claim. Supporting documentation can include brokerage account statements, holdings summaries, transaction records or other similar documentation. We will take a flexible approach to the proof of claim requirements.

39. Attached hereto as **Exhibit "B"** is a copy of the paper claim form for the full claim process. The full claim process in the online claim portal will replicate the paper claim form. It will have the same informational requirements and similar instructions for Class Members.

E. THE SETTLEMENT AMOUNT AND THE TRUST ACCOUNT

40. I understand that under the terms of the Settlement Agreement the Trust Account will be transferred to the control of Verita, if it is appointed as Administrator, within 10 days of Class Counsel's receipt of the settlement amount from the Defendants. In accordance with the Settlement Agreement, the Settlement Amount will be invested pursuant to the terms of the Settlement Agreement. The interest earned will accrue to the benefit of Class Members.

F. VERITA'S AGREEMENT TO ACT AS THE ADMINISTRATOR

41. Subject to approval of the Court, I confirm that Verita consents to its appointment as Administrator.

Sworn remotely by Ivan Bobanovic as stated being located in the City of London, in the Province of Ontario, before me at the City of London, in the Province of Ontario on August 26, 2026, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.	
Garett Hunter Commissioner for Taking Affidavits, Garett M. Hunter	**Ivan Bobanovic**

This is Exhibit “A” mentioned and referred to in Affidavit of Ivan Bobanovic AFFIRMED BEFORE ME remotely in accordance with O. Reg. 431/20, this 26th day of August, 2026. Both the affiant and the commissioner, Garett Hunter, were located in the City of London, Province of Ontario.

Garett Hunter

A Commissioner for taking affidavits in
the Province of Ontario,
Garett Hunter (LSO#: 71800D)

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CLAIM FORM

Please Log In

If you received correspondence from us, you can locate your Claim ID and PIN above your name as demonstrated in the below example:

*Claim ID: [redacted]22

*PIN: [redacted]6

Next

*Required

If you received correspondence from us, you can locate your Claim ID and PIN above your name as demonstrated in the below example:

TD Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

Claim Number: 12345678
PIN: 123456
Web Address: www.trailingcommissionssettlement.ca

Notice of Approved Settlement and Commencement of Claim-Filing Process

Dear Claimant:

The Ontario Superior Court of Justice approved a class action settlement with TD Asset Management Inc. for C$70.25 million to resolve the claims asserted on behalf of all persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to September 11, 2024, units of a TD mutual fund trust through a discount broker ("Class").

CLAIM FORM

TD MUTUAL FUNDS CLASS ACTION

Province of Ontario / Superior Court of Justice Court File No. CV-18-595380-00CP

GENERAL INSTRUCTIONS – PLEASE READ CAREFULLY

1. This online claim form is directed to Class Members. Class Members are all persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to September 11, 2024, units of a TD Mutual Fund through a discount broker, except for the Excluded Persons.
2. For information on how your entitlement to compensation is calculated, please see the Distribution Protocol and Guide to the Distribution Protocol available at www.TrailingCommissionsSettlement.ca.
3. If you are NOT a member of the Class, as defined in paragraph 1 above, PLEASE DO NOT submit a Claim Form.
4. To make a claim for compensation from the Settlement in the above-noted action, you must complete the Claim Form. If you fail to file a properly completed Claim Form, your claim may be rejected, and you may be precluded from any recovery from the compensation fund created in connection with the Settlement.
5. NOTE: The Defendant, TD Asset Management Inc., stopped paying trailing commissions to Discount Brokers on June 1, 2022. Accordingly, compensation will only be paid with respect to TD Mutual Fund units held on or before May 31, 2022.
6. Submission of a Claim Form does not assure that you will share in the Net Settlement Amount.
7. For questions about this Claim Form, or if you require assistance, please contact the Administrator, Verita Global Inc., at 1-866-644-0550 or info@TrailingCommissionsSettlement.ca.

KEY DEFINITIONS

1. "TD Mutual Funds" means all mutual fund trusts (including, without limitation, all series of units thereof) of which TD Asset Management Inc. ("Defendant") is trustee or was trustee at any time on or prior to September 11, 2024 (but only in respect of the period during which the Defendant is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.
2. "Excluded Persons" means
   a. the Defendant; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of the Defendant; the past and present members of the independent review committee of each TD Mutual Fund; or
   b. any person who validly opted out of the class action.
3. "Discount Broker" means an entity providing "order-execution only services". Examples of Discount Brokers are BMO InvestorLine, CIBC Investor's Edge, National Bank Direct Brokerage, RBC Direct Investing, Scotia iTRADE, TD Direct Investing, CI Direct Trading, Qtrade, Desjardins Online Brokerage, HSBC InvestDirect, Laurentian Bank Discount Brokerage, Wealthsimple, Questrade, and Interactive Brokers. They may have had different names in the past.

CLAIMANT IDENTIFICATION

Use the part in the following form entitled "Claimant Identification" to identify each individual or business who held TD Mutual Fund units through a Discount Broker that are the subject of this claim. THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNER(S) OR THE LEGAL REPRESENTATIVE OF SUCH OWNERS.

CLAIM FORM

1. Claim Forms must be submitted to the Administrator.
2. If you agree with the Trailing Commissions Paid amount from the Defendant's data set out below, you are not required to provide supporting documentation and you can ignore items 3 to 6 that follow.
3. Only if you disagree with the Trailing Commissions Paid amount from the Defendant's data set out below, or you wish to make a claim for a period of time not covered by the Trailing Commissions Paid amount set out below, you must provide details on the aggregate market value of all TD Mutual Fund units held in monthly, quarterly, semi-annual or annual increments by identifying the end period date and the aggregate market value of all TD Mutual fund units held by the Claimant through a Discount Broker. Failure to report all required details may result in the rejection of a Claimant's claim. This information from item 3 will be used to calculate Claimants' Trailing Commissions Paid. The Net Settlement Amount will be distributed to Authorized Claimants based on the amount of his, her or its Trailing Commissions Paid as a proportion of the total amount of Trailing Commissions Paid of all Authorized Claimants.
4. Please list the aggregate market values separately and in chronological order by statement date.
5. Brokerage account statements, Holdings Summaries, or other similar alternative documentation evidencing a Claimant's mutual fund units must be submitted with the Claim Form. Failure to submit supporting documentation acceptable to the Administrator may result in the rejection of your claim.
6. The information required by the Administrator is the minimum amount of information necessary to process the claims. The Administrator may request additional information as required to efficiently and reliably calculate Claimants' potential claim. In some cases, where the Administrator cannot perform compensation calculations accurately or at a reasonable cost to the Class with the information provided by a Claimant, the Administrator may conditionally accept the claim pending receipt of additional information.

CLAIMANT INFORMATION

*First Name / Company Name (as you would like the name(s) to appear on the cheque, if eligible for payment)

[redacted]

Last Name

[redacted]

*Primary Address

[redacted]

Primary Address Continued

[redacted]

*City

MONTREAL

*Province

Quebec

*Postal Code

[redacted]

*Country

CANADA

Telephone Number

*Email Address

During this online process you will have the opportunity to upload your supporting documentation. Required documentation may be uploaded in .jpg, .jpeg, .tif, .tiff, .gif, .png, and .pdf format only. The maximum file size per document is 10 MB. Alternatively, if your documentation is not in the correct format or is too large to upload, at the end of the submission process, you will have the option to print a transmittal letter which can be used to submit your documentation by mail to the Claims Administrator.

You must respond to all questions when submitting your Claim Form. Incomplete Claim Forms will not be accepted. You must select "Submit Claim" when you reach the end of the online process, or your information will not be saved. The online claim form does not require a signature; the "Submit Claim" button acts as a signature. Once you have submitted a Claim Form, you will not be able to use the "Back" button to review or amend your claim.

Exiting before submitting the claim will cause any information you have entered to be lost!

When you select "Submit Claim", a confirmation page containing your claim number will be automatically generated and you will be sent a confirmation email. Your Claim Form has not been accepted until you see the confirmation page. You will be able to print and keep the confirmation page for your records. Your claim number is your proof of submitting your claim. If you do not print the confirmation page before exiting the screen, you will not be able to go back and retrieve it. Your confirmation page also contains important instructions, such as how to submit your supporting documentation in the event you were not able to upload it electronically.

If you wish to file multiple Claim Forms using the online submission process, you must complete and submit each claim separately. Once you have selected "Submit Claim" for a Claim Form, select "File Claim" to begin your next submission.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE INFORMATION. I WISH TO CONTINUE WITH THE ONLINE CLAIM FILING PROCESS. I UNDERSTAND I MUST COMPLETE THE PROCESS AND RECEIVE A CLAIM NUMBER IN ORDER FOR MY CLAIM TO BE CONSIDERED PROPERLY SUBMITTED. I ALSO UNDERSTAND THAT I SHOULD PRINT AND MAINTAIN THE CONFIRMATION PAGE OF MY ONLINE SUBMISSION FOR MY RECORDS.

SCHEDULE OF TRAILING COMMISSIONS PAID

$1167.57

This figure represents the Trailing Commissions Paid during the period as calculated or derived from the data provided by the Defendant. This is the amount on which your claim for a proportionate share of the Net Settlement Amount will be based.

If you choose to disagree with this number, please note that the additional trailing commissions claimed must exceed **$500** and you will be required to provide supporting documentation for the commissions that have been paid.

If you agree with the amount provided, you will not be required to upload documentation or provide any further information on the amount of your Trailing Commissions Paid.

Account	Time Period of Commissions Paid
[redacted]79T	2020/11-2022/04
[redacted]79X	2002/11-2020/11

As previously noted, the information above was provided by the Defendant.

Do you agree with the above Trailing Commissions Paid?
○ **I agree** ○ **I disagree**

Payment Details

Approved claims will be paid via e-Transfer.

☐ **I cannot accept Interac e-Transfer.**
IMPORTANT: If you bank with CIBC or Simplii and do not have Interac e-transfer Autodeposit turned on, you should check the above box to receive a cheque. CIBC/Simplii customers have experienced difficulties with manually depositing Interac e-transfers.

Instructions on Depositing your e-Transfer (if applicable):

Unless you have Autodeposit setup for Interac e-Transfers, your security answer will be your birth month and will be required when collecting your e-Transfer. Your e-Transfer will be sent to the email entered above. Please enter your birth month below:

Select

☐ Verify you are human CLOUDFLARE Privacy • Terms

Declaration

* ☐ **I (we) declare that the information on this Claim Form is true, correct and complete to the best of my (our) knowledge, information and belief.**
* ☐ **I (we) declare that I (we) have disclosed all of my (our) holdings of TD Mutual Fund units for the time periods required by this Claim Form.**
* ☐ **I (we) also declare that I (we) am (are) not an Excluded Person(s) as defined in the General Instructions.**
* ☐ **I (we) acknowledge and agree that the Administrator may disclose all information relating to my (our) claim to the Courts and counsel to the parties in the Action, as may be necessary.**

Agree and Submit

*Required

This is Exhibit "B" mentioned and referred to in Affidavit of Ivan Bobanovic AFFIRMED BEFORE ME remotely in accordance with O. Reg. 431/20, this 26th day of August, 2026. Both the affiant and the commissioner, Garett Hunter, were located in the City of London, Province of Ontario.

Garett Hunter

A Commissioner for taking affidavits in
the Province of Ontario,
Garett Hunter (LSO#: 71800D)

RBC and PH&N MUTUAL FUNDS CLASS ACTION

CLAIM FORM

I. GENERAL INSTRUCTIONS – PLEASE READ CAREFULLY

1. **This Claim Form is directed to the following Class or Class Members: All persons, wherever they may reside or be domiciled, who held or hold, from December 28, 2003 to July 25, 2024, units of an RBC Mutual Fund or a PH&N Mutual Fund through a Discount Broker, except for the Excluded Persons ("Class" and "Class Members").**
2. For information on how your entitlement to compensation is calculated, please see the Distribution Protocol and Guide to the Distribution Protocol available at www.TrailingCommissionsSettlement.ca.
3. If you are NOT a member of the Class, as defined in paragraph 1 above, PLEASE DO NOT submit a Claim Form.
4. To make a claim for compensation from the Settlement in the above-noted action, you must complete the Claim Form. If you fail to file a properly completed Claim Form, your claim may be rejected and you may be precluded from any recovery from the compensation fund created in connection with the Settlement.
5. NOTE: The Defendants stopped paying trailing commissions to Discount Brokers on June 1, 2022. Accordingly, compensation will only be paid with respect to RBC and/or PH&N Mutual Fund units held on or before May 31, 2022.
6. Submission of a Claim Form does not ensure that you will share in the compensation fund.
7. For questions about this Claim Form, or if you require assistance, please contact the Claims Administrator, Verita Global, at 1-888-808-1348 or RBC@TrailingCommissionsSettlement.ca.
8. MAIL YOUR COMPLETED AND SIGNED CLAIM FORM POSTMARKED ON OR BEFORE **[DATE],** ADDRESSED TO THE ADMINISTRATOR:

RBC and PH&N Mutual Funds Discount Broker
Trailing Commissions Settlement (RTBQ)
c/o Verita Global, LLC
P.O. Box 3355
London, ON N6A 4K3

II. KEY DEFINITIONS

1. "RBC Mutual Funds" means all mutual fund trusts (including, without limitation, all series of units thereof) of which RBC Global Asset Management Inc. ("RBC GAM") is trustee, was trustee or may be trustee at any time prior to approval of the Settlement Agreement (as defined below) (but only in respect of the period during which RBC GAM was trustee), including, for greater certainty, (i) those mutual funds that have been or may be terminated, (ii) those mutual funds that have been or may be merged into other mutual funds, and (iii) those mutual funds that have undergone or may undergo name changes.
2. "PH&N Mutual Funds" means all mutual fund trusts (including, without limitation, all series of units thereof) of which RBC Investor Services Trust ("RBC IS") is trustee, was trustee or may be trustee at any time prior to approval of the Settlement Agreement (as defined below) (but only in respect of the period during which RBC IS was trustee), including, for greater certainty, (i) those mutual funds that have been or may be terminated, (ii) those mutual funds that have been or may be merged into other mutual funds, and (iii) those mutual funds that have undergone or may undergo name changes.
3. "Excluded Persons" means RBC GAM and RBC IS (together, the "Defendants"); the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the Defendants; and the past and present members of the independent review committee of the RBC Mutual Funds or the PH&N Mutual Funds; and any person who validly opted out of the class action.
4. "Discount Broker" means entities providing order execution only services, including, for example, TD Direct Investing, BMO InvestorLine, CIBC Investor's Edge, National Bank Direct Brokerage, RBC Direct Investing, Scotia iTRADE, CI Direct Trading, Qtrade, Desjardins Online Brokerage, HSBC InvestDirect, Laurentian Bank Discount Brokerage, Wealthsimple, and Interactive Brokers.
5. "Trailing Commissions Paid" means the amount of trailing commissions paid by the Defendants to a Discount Broker in respect of the RBC Mutual Fund units and/or PH&N Mutual Fund units held by a Claimant, determined pursuant to paragraph 7 of the Distribution Protocol, which forms the basis upon which each Authorized Claimant's proportionate share of the Net Settlement Amount is determined.

III. CLAIMANT IDENTIFICATION

Use Part I of this form entitled “Claimant Identification” to identify each individual or business who held RBC and/or PH&N Mutual Fund units through a Discount Broker that are the subject of this claim. THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNER(S) OR THE LEGAL REPRESENTATIVE OF SUCH OWNERS.

IV. CLAIM FORM

1. Claim Forms must be submitted to the Administrator.
2. Claimants are only required to provide the aggregate market value of their RBC Mutual Fund units and/or PH&N Mutual Fund units in annual increments by identifying the end period date and the aggregate market value of all RBC Mutual Fund units and/or PH&N Mutual Fund units held by the Claimant through a Discount Broker. A Claimant can elect to provide details in more frequent intervals. If a Claimant elects to provide information over a shorter time interval, the Administrator will use the information available over the shortest time interval to calculate the Claimant’s Trailing Commissions Paid (e.g. using monthly first, then quarterly, then at six-month intervals, then annually).
3. Please list the aggregate market values separately and in chronological order by statement date.
4. Brokerage account statements, Holdings Summaries, or other similar alternative documentation evidencing a Claimant’s mutual fund units must be submitted with the Claim Form. Failure to submit supporting documentation acceptable to the Administrator may result in the rejection of your claim.
5. The information required by the Administrator is the minimum amount of information necessary to process the claims. The Administrator may request additional information as required to efficiently and reliably calculate Claimants’ potential claim. In some cases, where the Administrator cannot perform compensation calculations accurately or at a reasonable cost to the Class with the information provided by a Claimant, the Administrator may conditionally accept the claim pending receipt of additional information.

Official Office Use Only

Must Be Postmarked No Later Than Date

RCTQ

RBC AND PH&N MUTUAL FUNDS CLASS ACTION

No. CV-18-00611743-00CP

CLAIM FORM

Please Type or Print in the Boxes Below.
Do NOT use Red Ink, Pencil, or Staples
Must use Black or Blue Ink or your claim may be deemed deficient.

PART I. CLAIMANT IDENTIFICATION

Payee Name (as you would like the name(s) to appear on the cheque, if eligible for payment)

Payee Name (cont'd)

Payee Name (cont'd)

Telephone Number (Primary Daytime) — —

Telephone Number (Alternate) — —

Email Address

MAILING INFORMATION

Address

Address (cont'd)

City

Province

Postal Code

Province/State

Postal Code/ZIP Code

Foreign Country Name/Abbreviation

FOR CLAIMS PROCESSING ONLY	OB	CB	ATP KE	BE DR	EM ME	ND OP	MM / DD / YYYY	FOR CLAIMS PROCESSING ONLY

PART II. SCHEDULE OF TRANSACTIONS IN RBC AND PH&N MUTUAL FUNDS CLASS ACTION

Please provide details on the aggregate market value of all RBC Mutual Fund units and/or PH&N Mutual Fund units held in annual increments from the beginning of your ownership through May 31, 2022. Claimants may choose to provide details in more frequent intervals (i.e., monthly, quarterly or semi-annually if preferred). If a Claimant elects to provide information over a shorter time interval, the Administrator will use the information available over the shortest time interval to calculate the Claimant's Trailing Commissions Paid (e.g. using monthly first, then quarterly, then at six-month intervals, then annually).

Mutual Fund type:	Account Number for the Mutual Fund(s) Holdings:	Period Ending Date:
○ RBC ○ PH&N		MM / DD / YY
Interval of Holding (Annually, Semi-Annually, Quarterly, Monthly):	**Aggregate Market Value of the Mutual Funds as of the Period Ending Date:**	**Currency:**
	$. 00	○ CAD ○ USD
	Proof Provided? ○ Y ○ N	

Mutual Fund type:	Account Number for the Mutual Fund(s) Holdings:	Period Ending Date:
○ RBC ○ PH&N		MM / DD / YY
Interval of Holding (Annually, Semi-Annually, Quarterly, Monthly):	**Aggregate Market Value of the Mutual Funds as of the Period Ending Date:**	**Currency:**
	$. 00	○ CAD ○ USD
	Proof Provided? ○ Y ○ N	

Mutual Fund type:	Account Number for the Mutual Fund(s) Holdings:	Period Ending Date:
○ RBC ○ PH&N		MM / DD / YY
Interval of Holding (Annually, Semi-Annually, Quarterly, Monthly):	**Aggregate Market Value of the Mutual Funds as of the Period Ending Date:**	**Currency:**
	$. 00	○ CAD ○ USD
	Proof Provided? ○ Y ○ N	

Mutual Fund type:	Account Number for the Mutual Fund(s) Holdings:	Period Ending Date:
○ RBC ○ PH&N		MM / DD / YY
Interval of Holding (Annually, Semi-Annually, Quarterly, Monthly):	**Aggregate Market Value of the Mutual Funds as of the Period Ending Date:**	**Currency:**
	$. 00	○ CAD ○ USD
	Proof Provided? ○ Y ○ N	

If you need more space or need to add additional accounts, please add additional pages in the same format.

YOU MUST READ AND SIGN THE DECLARATION ON PAGE 6. FAILURE TO SIGN THE DECLARATION MAY RESULT IN A DELAY IN PROCESSING OR THE REJECTION OF YOUR CLAIM.

PAYMENT DETAILS

Approved claims will be paid via e-Transfer

○ **I cannot accept Interac e-Transfer**

IMPORTANT: **If you bank with CIBC or Simplii and do not have Interac e-Transfer Autodeposit turned on, you should fill in the above circle to receive a cheque. CIBC/Simplii customers have experienced difficulties with manually depositing Interac e-Transfers.**

Instructions on Depositing your e-Transfer (if applicable):

Unless you have Autodeposit set up for Interac e-Transfers, your security answer will be your birth month and will be required when collecting your e-Transfer. Your e-Transfer will be sent to the email address entered above.

Please enter your birth month below:

○ January	○ July
○ February	○ August
○ March	○ September
○ April	○ October
○ May	○ November
○ June	○ December

PART III. DECLARATION

I (we) declare that the information on this Claim Form is true, correct and complete to the best of my (our) knowledge, information and belief.

I (we) declare that I (we) have disclosed all of my (our) holdings of RBC Mutual Fund and/or PH&N Mutual Fund units for the time periods required by this Claim Form.

I (we) also declare that I (we) am (are) not an Excluded Person(s) as defined in the General Instructions.

I (we) acknowledge and agree that the Administrator may disclose all information relating to my (our) claim to the Court and counsel to the parties in the Action, as may be necessary.

Executed this ________________ day of ____________________________ in ____
(Month/Year) (City/State/Province/Country)

______________________________	______________________________
(Sign your name here)	(Sign your name here)
______________________________	______________________________
(Type or print your name here)	(Type or print your name here)
______________________________	______________________________
(Capacity of person(s) signing, e.g., Claimant)	(Capacity of person(s) signing, e.g., Claimant)
Proof of Authority to File Enclosed? ○ Yes ○ No	Proof of Authority to File Enclosed? ○ Yes ○ No

ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME.
THANK YOU FOR YOUR PATIENCE.

Reminder Checklist:

1. Please sign the above declaration.
2. Remember to attach supporting documentation, if available.
3. Do not send original share certificates; we may not be able to send them back.
4. Keep a copy of your Claim Form and all supporting documentation for your records.
5. For confirmation of receipt of your claim, please contact the Claims Administrator 60 days after submission. Please note claimants are encouraged (where possible) to file via the online claim filing portal available at www.trailingcommissionssettlement.ca as it provides immediate confirmation of receipt.
6. If you move, you are required to send the Administrator your new address. Failure to notify the Claims Administrator of a new address may result in your settlement benefits not being received by you.

Privacy Statement

All personal information provided by or on behalf of the Claimant to the Administrator will be handled in accordance with applicable privacy laws and the Administrator's privacy policies available at www.veritaglobal.com. Such information will be used for the purposes of administering the Settlement Agreement, including evaluation by the Administrator of the Claimant's eligibility for compensation under the Settlement Agreement. Personal information provided by the Claimant will not be disclosed without further express written consent of the Claimant, except to Class Counsel; to appropriate persons to the extent necessary to process claims or provide benefits under the Settlement Agreement; as otherwise expressly provided in the Settlement Agreement; pursuant to court order, or as otherwise permitted or required by law; as may be reasonably necessary in order to enforce, or for Class Counsel to exercise their respective rights (including appeal rights) under the Settlement Agreement; or to the immediate family members, counsel, accountants and/or financial advisors of the Claimant (each of whom the Claimant shall instruct to maintain and honour the confidentiality of such information).

ROSS v. RBC GLOBAL ASSET MANAGEMENT INC. *et al.*

Court File No. CV-18-00611743-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF IVAN BOBANOVIC
(AFFIRMED AUGUST 26, 2026)

Siskinds LLP
Barristers & Solicitors
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London, ON N6B 3L1

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Fax: 519.672.6065

Lawyers for the Plaintiff

TAB 6

Court File No. CV-18-00611743-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

PETER ROSS

Plaintiff

- and -

RBC GLOBAL ASSET MANAGEMENT INC.
and RBC INVESTOR SERVICES TRUST

Defendants

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF GIGI PAO
(Affirmed June 23, 2026)

I, Gigi Pao, of the City of Vancouver, in the Province of British Columbia, AFFIRM:

1. I am an associate at the law firm of Siskinds LLP ("**Siskinds**"). Siskinds is counsel for the Plaintiff in this action ("**Action**"), and as such I have personal knowledge of the facts and matters deposed to in this affidavit. Where facts are not within my personal knowledge, I have stated the source of the information upon which my statements are based, and I believe the information to be true.

2. In making this affidavit, it is not my intention to waive solicitor-client privilege, litigation privilege or any other privilege of any kind.

3. Where I use the term "we" and its derivatives in this affidavit, I am referring, collectively, to the members of the Siskinds team with carriage of this matter.

4. Unless otherwise stated or the context otherwise indicates, capitalized terms used in this affidavit have the meanings assigned to them in the Settlement Agreement between the Plaintiff and the Defendants dated June 19, 2026 ("**Settlement Agreement**"), which is attached as Schedule 1 to the First Order, which in turn is attached as Schedule A to the Notice of Motion.

NATURE OF THE MOTION

5. A settlement has been reached between the Plaintiff and Defendants in this Action. I make this affidavit in support of the Plaintiff's motion for orders, among others:

(a) approving the form and content, and method for disseminating, First Notice; and

(b) approving the procedure for Class Members to file objections to, or comments on, the Settlement Agreement, the Distribution Protocol, or the request for Class Counsel Fees and Class Counsel Disbursements.

BACKGROUND

The Action

6. On December 28, 2018, this Action was initiated by Notice of Action. The Statement of Claim was filed on January 25, 2019. The current iteration of the Plaintiff's Statement of Claim is the Second Fresh as Amended Statement of Claim filed on September 24, 2024. Attached hereto as **Exhibit "A"** is a copy of the Second Fresh as Amended Statement of Claim.

7. The Plaintiff and Class Members are unitholders of the RBC Mutual Funds and PH&N Mutual Funds, which are structured as trusts. They held their RBC Mutual Funds and PH&N Mutual Funds through Discount Brokers. A Discount Broker provides "order execution only" services. They are often referred to as "DIY" or "online" brokers. Discount Brokers are prohibited from providing investment recommendations and advice.

8. The Defendant, RBC Global Asset Management Inc. ("**RBC GAM**"), is and was at all material times the trustee of the RBC Mutual Funds and manager of the RBC Mutual Funds and PH&N Mutual Funds. The Defendant, RBC Investor Services Trust ("**RBC IS**"), is and was at all material times the trustee of the PH&N Mutual Funds.

9. The Plaintiff alleges that the Defendants improperly paid trailing commissions to Discount Brokers on the Plaintiff and Class Members' behalf for services and advice that were never provided. The Plaintiff asserts that the Defendants' improper payment of trailing commissions to Discount Brokers was, *inter alia*, a breach of trust, fiduciary duty and contract. He also asserts claims under section 130 of the *Securities Act* for misrepresentations in the Defendants' Fund Fact Documents, and under section 23.1 of the *Trustee Act* for the disallowance of improper trust expenses.

10. The Plaintiff seeks to recover the trailing commissions he alleges were improperly paid, along with any investment returns or interest flowing from the payment of those trailing commissions.

11. The Defendants have at all times denied and continue to deny these allegations.

The Certification Motion

12. On September 2, 2021, the Plaintiff delivered his notice of motion for certification of this Action as a class proceeding on behalf of the Class Members.

13. The certification motion was ultimately unopposed by the Defendants.

14. By Order dated July 25, 2024, the Honourable Justice Akbarali certified the Action as a class proceeding ("**Certification Order**"). Attached hereto as **Exhibit "B"** is a copy of the Certification Order.

15. Notice of certification was disseminated and the period for Class Members to opt out of this Action expired as of November 12, 2024. No opt outs were received.

Litigation Funding

16. The Plaintiff brought an uncontested motion for approval of a third-party litigation funding agreement ("**Funding Agreement**") with Claims Funding International, PLC ("**Funder**"). The Honourable Justice Belobaba approved the Funding Agreement by Order dated October 21, 2019.

Related Litigation

(a) The 2018 Actions

17. Siskinds is also counsel for the plaintiffs in *Westwood v TD Asset Management Inc.*, CV-18-595380-00CP ("**TDAM Action**"), *Pozgaj v. Canadian Imperial Bank of Commerce et al.*, Court File No. CV-18-00605345-00CP ("**CIBC Action**"), *Sage v. 1832 Asset Management L.P.*, Court File No. CV-18-600380-00CP, *Gilani v. BMO Investments Inc.*, Court File No. CV-18-611748-00CP, *Pozgaj v. Mackenzie Financial Corporation et al.*, Court File No. CV-18-610311-00CP, and *Pozgaj v. National Bank Investments Inc. et al.*, Court File No. CV-18-611745-00CP (collectively, the "**2018 Actions**").

18. The 2018 Actions, like this Action, are or were brought on behalf of mutual fund unitholders who held their units through a Discount Broker. The plaintiffs in the 2018 Actions advance (or, in the case of the TDAM Action and CIBC Action, advanced) claims that the defendants in their respective cases improperly paid trailing commission to Discount Brokers for services and advice that were never provided.

19. All the 2018 Actions are ongoing except for the TDAM Action and CIBC Action, which were settled in September 2024 and August 2025 respectively. The settlement of the TDAM

Action was approved by Order of the Honourable Justice Akbarali on December 10, 2024. The settlement of the CIBC Action was approved by Order of the Honourable Justice Leiper on November 5, 2025.

(b) The DeJong Action

20. On December 7, 2022, a related class proceeding was filed against the Defendants, styled *DeJong v. RBC Global Asset Management Inc. et al.*, CV-22-691343-00CP ("**DeJong Action**"). It is brought on behalf of investors who held RBC Mutual Fund and PH&N Mutual Fund units through a full-service broker or other non-Discount Broker channel. The DeJong Action targets the same trailing commission payments as the Action. However, the DeJong Action seeks to recover the losses flowing from those trailing commission payments that are alleged to have been suffered by individuals who held RBC Mutual Funds and PH&N Mutual Funds outside the Discount Broker channel.

21. Due to the overlap between this Action and the DeJong Action, the Plaintiff sought an order to temporarily stay the DeJong Action until the resolution of the common issues in this Action, the settlement of claims being asserted in this Action or the DeJong Action, or the dismissal, discontinuance or abandonment of this Action. By Order dated August 1, 2023, Justice Akbarali granted the temporary stay.

(c) The Frayce and Wallace Actions

22. On March 27, 2020, a related proposed class action was filed against RBC Direct Investing Inc. and other defendants, styled *Frayce v. BMO Investor Line Inc. et al*., Court File No. CV-20-638868-00CP ("**Frayce Action**"). The Frayce Action sought recovery from Discount Brokers for

trailing commissions paid to them. RBC Direct Investing Inc. is a related corporate entity to the Defendants in this Action.

23. On August 22, 2022, the Ontario Superior Court of Justice (the "**Superior Court**") ordered on consent of the parties that the Frayce Action be discontinued as against RBC DI and severed into a separate proceeding against RBC DI only, *Wallace v. RBC Direct Investing Inc.*, Court File No.: CV-22-00687827-00CP ("**Wallace Action**").

24. On January 20, 2023, the Superior Court dismissed the plaintiffs' motion for certification in the Frayce Action.

25. On January 24, 2024, the Ontario Divisional Court dismissed the plaintiffs' appeal from the denial of certification.

26. On September 2, 2025, the Superior Court issued an order on consent discontinuing the Wallace Action, without costs.

THE SETTLEMENT AGREEMENT

27. Pursuant to the terms of the Settlement Agreement, the Defendants have agreed to pay $45 million to resolve the Action, without admission of liability. A compensation fund will be established and administered by a professional administrator to pay claims from Class Members pursuant to a scheme to be established in a Distribution Protocol. The Settlement Agreement also provides that the Defendants will provide reasonably available information to facilitate the distribution of the compensation fund. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses.

28. The Settlement Agreement is subject to approval by this Court. If the Settlement Agreement is approved, the claims of all Class Members asserted or that could have been asserted

in the Action will be fully and finally released, and the Action will be dismissed. The settlement is not an admission of liability, wrongdoing or fault on the part of the Defendants, who continue to deny the allegations against them.

29. The Settlement Agreement sets out a comprehensive scheme for implementing the settlement. Under the terms of the Settlement Agreement, the Plaintiff will first seek approval of an objection procedure and the form and manner of dissemination of the First Notice. If this Court grants the orders sought, then notice will be published. The form of notice is attached to the Settlement Agreement. The Settlement Agreement also establishes a process for Class Members to object.

30. Following the publication of notice, a second hearing will be held seeking approval of the Settlement Agreement, the Distribution Protocol for purposes of distributing the Net Settlement Amount, and the form and manner of dissemination of the Second Notice.

31. At the second hearing, approval of Class Counsel Fees and Class Counsel Disbursements, an interim commission for the Funder and an honorarium to the Plaintiff will also be sought. Approval of the Settlement Agreement is not dependent on approval of Siskinds' fees and disbursements, the honorarium or the Distribution Protocol.

FIRST NOTICE

32. The Plan of Notice provides for notice to be provided in two-stages. Approval of the first stage of the Plan of Notice is being sought on this motion. The parties have agreed on the form and content of the versions of the First Notice. The short-form, long-form, Google ad banner and Stockhouse news link versions of First Notice and the Plan of Notice are attached as Schedules 2, 3, 4, 5 and 6, respectively, to the First Order, which in turn is attached to the Notice of Motion for

this motion. The forms of notices are similar to the content of the first notice in the CIBC Action and TDAM Action that were approved by this Court. Attached hereto as **Exhibit "C"** is a copy of the Order of Justice Akbarali dated October 1, 2024 in the TDAM Action. Attached hereto as **Exhibit "D"** is a copy of the Order of Justice Leiper dated September 3, 2025 in the CIBC Action.

33. The First Notice provides notice of:

  (a) the Settlement Agreement;

  (b) the proposed Distribution Protocol;

  (c) the request for Class Counsel Fees and Class Counsel Disbursements;

  (d) the pendency of the settlement approval hearing; and

  (e) the right to comment on, or object to, the Settlement Agreement, the Distribution Protocol, or the request for Class Counsel Fees and Class Counsel Disbursements.

34. The First Notice will be disseminated as follows:

  (a) Short-form notice:

    (i) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French;

    (ii) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French);

    (iii) disseminated as a news release in Canada across Canada NewsWire (in English and French);

(iv) published once in the business section of the national weekend edition of *The Globe and Mail*, in English;

(v) published once in the business section of *La Presse*, in French;

(vi) sent electronically and/or in paper form to Discount Brokers in Canada with a cover letter requesting that they distribute the notice through their electronic message systems to the attention of their clients who may be Class Members and post the notice on their news boards directed to the attention of their clients who may be Class Members; and

(vii) filed by the Defendants as a news release on SEDAR;

(b) Long-form notice:

(i) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French; and

(ii) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French);

(c) Google banner ad: published for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, for no less than 30 days and no more than 35 days; and

(d) Stockhouse news link: published as a 12-day sponsored news link.

35. Siskinds has obtained a quote for disseminating First Notice in accordance with the Plan of Notice from Verita Global, an entity with substantial experience in providing notice in the class action context and in administering class action settlements. Verita Global has provided a quote of

approximately $26,000 (before taxes) to disseminate First Notice, which is reasonable and proportionate in light of the size of the settlement amount and the importance of notifying Class Members of the items referenced at paragraph 31.

36. The contemplated manner of disseminating the First Notice is robust and is consistent with the manner of providing notice in many other similar cases. It is very similar to the method for disseminating notice of certification in this Action, as set out in the Certification Order. It is also virtually identical to the method of disseminating first notice in the context of the settlements of the TDAM Action and the CIBC Action. In my experience, the combination of direct and indirect methods of providing notice should cause the First Notice to come to the attention of a significant portion of the Class.

37. Approval of the second stage of the Plan of Notice will be sought alongside the motion to approve the Settlement Agreement.

38. The appointment of a claims administrator in the best interests of the Class will be sought alongside the motion to approve the Settlement Agreement.

OBJECTION PROCEDURE

39. It is proposed in the First Order that any Class Member who wishes to file an objection to, or comment on, the Settlement Agreement, Distribution Protocol, or the request for Class Counsel Fees and Class Counsel Disbursements shall deliver a written statement to Siskinds to be received or postmarked on or before the date that is 21 calendar days prior to the settlement approval hearing, which is August 18, 2026 based on the currently scheduled date for the settlement approval motion of September 8, 2026.

40. To facilitate the objection procedure, the proposed Distribution Protocol and a summary of the basis upon which we recommend the Settlement and Distribution Protocol will be posted on our website on or before July 28, 2026.

Affirmed remotely by Gigi Pao of the City of Vancouver, in the Province of British Columbia, before me at the City of Toronto, in the Province of Ontario on June 23, 2026, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.	
Donna Lynn McEvoy, A Commissioner, etc. Province of Ontario, for Siskinds LLP Barristers and Solicitors Expires: December 6, 2028	**Gigi Pao**

This is Exhibit "A" mentioned and referred to in the Affidavit of Gigi Pao AFFIRMED BEFORE ME remotely in accordance with O. Reg. 431/20 this 23rd day of June, 2026. The affiant was located in the City of Vancouver, in the Province of British Columbia, while the commissioner, Donna Lynn McEvoy, was located in the Town of Whitby, in the Province of Ontario.

Donna Lynn McEvoy, A Commissioner, etc.
Province of Ontario,
for Siskinds LLP Barristers and Solicitors
Expires: December 6, 2028

AMENDED THIS Sep 24, 2024 PURSUANT TO
MODIFIÉ CE CONFORMÉMENT À
RULE/LA RÈGLE 26.02 (C)
THE ORDER OF Justice Akbarali
L'ORDONNANCE DU
DATED July 25, 2024
H. Mary...
REGISTRAR GREFFIER
SUPERIOR COURT OF JUSTICE COUR SUPÉRIEURE DE JUSTICE

Court File No. CV-18-00611743-00CP

ONTARIO

SUPERIOR COURT OF JUSTICE

~~BETWEEN:~~

PETER ROSS

Plaintiff

- and -

RBC GLOBAL ASSET MANAGEMENT INC.
and RBC INVESTOR SERVICES TRUST

Defendants

Proceeding under the *Class Proceedings Act, 1992*

SECOND FRESH AS AMENDED STATEMENT OF CLAIM

Notice of action issued on December 28, 2018

CURRENCY AND DEFINITIONS

1. Unless otherwise stated, all dollar amounts stated herein are in Canadian dollars.

2. In this Second Fresh as Amended Statement of Claim, in addition to the terms that are defined elsewhere herein, the following definitions apply:

(a) "**BMO InvestorLine**" means BMO InvestorLine Inc., an indirect subsidiary of the Bank of Montreal, or such other discount brokerage business operated, directly or indirectly, by the Bank of Montreal from time to time;

(b) "***CJA***" means the *Courts of Justice Act*, RSO 1990, c C-43, as amended;

(c) "**Class**" and "**Class Members**" means, collectively, all persons, wherever they may reside or be domiciled, who held or hold, from December 28, 2003 to July 25, 2024, units of a **RBC Mutual Fund** or a **PH&N Mutual Fund** through a **Discount Broker**, except for the **Excluded Persons**;

(d) "***CPA***" means the *Class Proceedings Act, 1992*, SO 1992, c 6, as amended;

(e) "**CSA**" means the Canadian Securities Administrators;

(f) "**Current PH&N DOT**" means the Amended and Restated Master Trust Agreement between **RBC GAM** and **RBC IS** dated June 29, 2021, including all Regulations or Supplements thereto, as amended and supplemented from time to time;

(g) "**Current RBC Funds DOT**" means the Amended and Restated Master Declaration of Trust by **RBC GAM** dated June 26, 2020, including all Regulations or Supplements thereto, as amended and supplemented from time to time;

(h) "**Current RBC Private Pools DOT**" means the Eighth Amended and Restated Declaration of Trust by **RBC GAM** dated September 5, 2017, including all Regulations or Supplements thereto, as amended and supplemented from time to time;

(i) "**Defendants**" means, together, **RBC GAM** and **RBC IS**;

(j) "**Discount Brokers**" means entities providing "order-execution only services" as defined in Rule 3200 of the **IIROC Rules** or entities performing a function similar to "order-execution only services" prior to the introduction of that definition in Rule 3200 of the **IIROC Rules**, including (without limitation) **RBC Direct Investing**;

(k) "**Excluded Persons**" means the **Defendants**; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the **Defendants**; and the past and present members of the independent review committee of the **RBC Mutual Funds** or the **PH&N Mutual Funds**;

(l) "**Form 81-101F1**" means Form 81-101F1 – *Contents of Simplified Prospectus*, as amended;

(m) "**Form 81-101F2**" means Form 81-101F2 – *Contents of Annual Information Form*, as amended;

(n) "**Form 81-101F3**" means Form 81-101F3 – *Contents of Fund Facts Document*, as amended;

(o) "**Fund Facts Document**" means a fund facts document as referred to in **NI 81-101** and **Form 81-101F3**;

(p) "**IIROC**" means the Investment Industry Regulatory Organization of Canada;

(q) "**IIROC Rules**" means the **IIROC** Dealer Member Rules, as amended;

(r) "**NI 81-101**" means National Instrument 81-101 – *Mutual Fund Prospectus Disclosure*, as amended;

(s) "**NI 81-107**" means National Instrument 81-107 – *Independent Review Committee for Investment Funds*, as amended;

(t) "***OSA***" means the *Securities Act*, RSO 1990, c S.5, as amended;

(u) "**Other Canadian Securities Legislation**" means, collectively, the *Securities Act*, RSA 2000, c S-4; the *Securities Act*, RSBC 1996, c 418; *The Securities Act*, CCSM c S50; the *Securities Act*, SNB 2004, c S-5.5; the *Securities Act*, RSNL 1990, c S-13; the *Securities Act*, SNWT 2008, c 10; the *Securities Act*, RSNS 1989, c 418; the *Securities Act*, S Nu 2008, c 12; the *Securities Act*, RSPEI 1988, c S-3.1; the *Securities Act*, RSQ, c V-1.1; *The Securities Act, 1988*, SS 1988-89, c S-42.2; and the *Securities Act*, SY 2007, c 16, all as amended;

(v) "**PH&N Mutual Funds**" means all mutual fund trusts (including, without limitation, all series of units thereof) of which **RBC IS** is trustee, was trustee or may be trustee at any time prior to the conclusion of the trial of the common issues in this proceeding (but only in respect of the period during which **RBC IS** is trustee, was trustee or may be trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been or may be terminated, (ii) those mutual funds that have been or may be merged into other mutual funds, and (iii) those mutual funds that have undergone or may undergo name changes;

(w) “**PH&N Trust Instruments**” means, collectively, all declarations of trust or similar trust instruments that govern, have governed or may govern the **PH&N Mutual Funds**, including, without limitation, the **Current PH&N DOT**;

(x) “**Plaintiff**” means the Plaintiff, Peter Ross;

(y) “**RBC Direct Investing**” means RBC Direct Investing Inc.;

(z) “**RBC GAM**” means the Defendant, RBC Global Asset Management Inc. (and including all predecessor amalgamating entities, including, without limitation, each of RBC Asset Management Inc. and Phillips, Hager & North Investment Management Ltd. prior to their amalgamation on or around November 1, 2010 to form RBC Global Asset Management Inc.);

(aa) “**RBC IS**” means the Defendant, RBC Investor Services Trust;

(bb) “**RBC Mutual Funds**” means all mutual fund trusts (including, without limitation, all series of units thereof) of which **RBC GAM** is trustee, was trustee or may be trustee at any time prior to the conclusion of the trial of the common issues in this proceeding (but only in respect of the period during which **RBC GAM** is trustee, was trustee or may be trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been or may be terminated, (ii) those mutual funds that have been or may be merged into other mutual funds, and (iii) those mutual funds that have undergone or may undergo name changes;

(cc) “**RBC Trust Instruments**” means, collectively, all declarations of trust or similar trust instruments that govern, have governed or may govern the **RBC Mutual Funds**, including, without limitation, the **Current RBC Funds DOT** and the **Current RBC Private Pools DOT**;

(dd) “**Royal Bank**” means the Royal Bank of Canada;

(ee) “**Simplified Prospectus**” means a simplified prospectus as referred to in **NI 81-101** and **Form 81-101F1**;

(ff) “***Trustee Act***” means the *Trustee Act*, RSO 1990, c T.23, as amended; and

(gg) “**Unearned Management Fees**” means, in respect of management fees that have been paid or may be paid out of the assets of the **RBC Mutual Funds** or the **PH&N Mutual Funds**, the portion of those management fees that has been paid or may be paid to **Discount Brokers** as trailing commissions, and any taxes relating to those trailing commissions.

RELIEF SOUGHT

3. The Plaintiff claims on his own behalf and on behalf of the other Class Members:

(a) an order certifying this action as a class proceeding pursuant to the *CPA* and appointing the Plaintiff as the representative plaintiff for the Class;

(b) a declaration that the Defendants committed breaches of trust and/or breached their fiduciary duties to the Plaintiff and the other Class Members;

(c) a declaration that RBC GAM is liable to the Plaintiff and the other Class Members for breach of contract;

(d) a declaration that the Defendants made one or more misrepresentations within the meaning of the *OSA* (and, if necessary, the Other Canadian Securities Legislation), and that the Defendants are liable to the Plaintiff and the other Class Members pursuant to section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation);

(e) an order requiring the Defendants to account to the Plaintiff and the other Class Members for the Unearned Management Fees;

(f) damages and/or equitable compensation in the sum of $200 million (or such other sum as this Court finds appropriate at the trial of the common issues or at a reference or references) to restore the Plaintiff and the other Class Members to the position they would have been in had the Unearned Management Fees not been paid;

(g) if necessary, an order compelling the Defendants to compensate the Plaintiff and the other Class Members in respect of the Unearned Management Fees by means of litigation trusts to be established pursuant to the *CPA*;

(h) an order disallowing the payment of the Unearned Management Fees as expenses pursuant to section 23.1 of the *Trustee Act* (and, if necessary, the equivalent provisions of comparable Canadian legislation) and requiring the Defendants to repay the expenses to the Plaintiff and the other Class Members or to the RBC Mutual Funds and the PH&N Mutual Funds;

(i) an interim and permanent order prohibiting the Defendants from seeking or obtaining indemnity or reimbursement from the assets of the RBC Mutual Funds and the PH&N Mutual Funds in respect of monetary relief paid or payable to the Plaintiff and the other Class Members in this action or their costs and expenses of this action;

(j) an order directing a reference or giving such other directions as may be necessary to determine issues not determined at the trial of the common issues;

(k) an equitable rate of interest on all sums found due and owing to the Plaintiff and the other Class Members to compensate them for the diminution in the value of their units of the RBC Mutual Funds and the PH&N Mutual Funds resulting from payment of the Unearned Management Fees;

(l) pre-judgment and post-judgment interest pursuant to the *CJA*;

(m) costs of this action on a substantial indemnity basis or in an amount that provides full indemnity;

(n) pursuant to section 26(9) of the *CPA*, the costs of notice and of administering the plan of distribution of the recovery in this action plus applicable taxes; and

(o) such further and other relief as this Honourable Court may deem just.

OVERVIEW

4. This class proceeding arises out of the payment of excessive, inflated and/or unearned management fees to RBC GAM in respect of the RBC Mutual Funds and the PH&N Mutual Funds. The management fees are excessive, inflated and/or unearned because unearned trailing commissions earmarked for payment to Discount Brokers are included in, or embedded into, those management fees.

5. RBC GAM is the trustee and manager of the RBC Mutual Funds. RBC GAM is also the manager of the PH&N Mutual Funds. RBC IS is the trustee of the PH&N Mutual Funds.

6. The Class Members are persons who hold or held units of a RBC Mutual Fund or a PH&N Mutual Fund through a Discount Broker, as distinct from other distribution channels through which RBC Mutual Funds and PH&N Mutual Funds are sold to investors. Discount Brokers are also commonly referred to as "order-execution only", "DIY" and "online" brokers. Under the IIROC Rules, Discount Brokers are prohibited from providing investment advice to investors.

7. The RBC Mutual Funds and the PH&N Mutual Funds are trusts governed by the RBC Trust Instruments and the PH&N Trust Instruments. The assets of the RBC Mutual Funds and the PH&N Mutual Funds are trust property that the Defendants, as trustees and/or fiduciaries, have undertaken to hold for the exclusive benefit of the beneficiaries, being the Class Members and the other unitholders of the RBC Mutual Funds and the PH&N Mutual Funds. The Defendants have a duty to preserve the trust property and maximize the value of units of the RBC Mutual Funds and the PH&N Mutual Funds.

8. RBC GAM receives management fees out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds. The management fees are excessive, inflated and/or unearned because a portion — described herein as the Unearned Management Fees — is collected by RBC GAM for the purpose of paying trailing commissions to Discount Brokers. RBC GAM has paid, and continues to pay, trailing commissions to Discount Brokers through which the Class Members held or hold the RBC Mutual Funds and the PH&N Mutual Funds.

9. The purpose of a trailing commission on a mutual fund is to compensate the dealer (through whom the mutual fund is sold) for providing their client with ongoing investment advice about the client's investment in the mutual fund in respect of which the trailing commission is paid. As Discount Brokers do not and cannot provide investment advice to investors, the payment of trailing commissions to Discount Brokers in respect of the RBC Mutual Funds and the PH&N Mutual Funds is improper, unreasonable and unjustified. Consequently, the payment by RBC GAM (in respect of the RBC Mutual Funds) and RBC IS (in respect of the PH&N Mutual Funds) of the Unearned Management Fees on account of those trailing commissions, and their receipt by RBC GAM (in respect of the RBC Mutual Funds and the PH&N Mutual Funds), is improper, unreasonable and unjustified.

10. Since 2011, the Fund Facts Documents that the Defendants have prepared and filed with securities regulators to permit the sale of units of the RBC Mutual Funds and the PH&N Mutual Funds have acknowledged the purpose of trailing commissions as compensation for advice. The Fund Facts Documents have stated that trailing commissions are paid to dealers for the "services and advice" provided by those dealers to their clients. In 2020, the Fund Facts Documents for Series D units of certain RBC Mutual Funds and PH&N Mutual

Funds (which are only sold through Discount Brokers) were amended to refer to "advice and/or services" rather than "services and advice", and to state that "[w]hen trailing commissions are paid to discount brokerage firms, they are for services and not for investment advice." The Defendants continue to represent that trailing commissions are paid for "services and advice" in Fund Facts Documents for other series of the RBC Mutual Funds and PH&N Mutual Funds that are held through Discount Brokers. By making those amendments to the Fund Facts Documents, the Defendants have acknowledged that the reference to "services and advice" in the Fund Facts Documents is and was false, misleading and/or inaccurate in respect of RBC Mutual Funds and PH&N Mutual Funds held through Discount Brokers.

11. The term "services and advice" refers to a dealer providing ongoing advice to a client with respect to the client's investment in the RBC Mutual Fund or the PH&N Mutual Fund in respect of which the trailing commission is paid, and services that are specifically connected with that advice, namely determining the suitability for the client of the investment in that RBC Mutual Fund or PH&N Mutual Fund in light of the personal circumstances of the client (including the client's other investment holdings). However, Discount Brokers do not and cannot provide investment advice to clients and they do not provide suitability determinations for their clients. Accordingly, the payment of trailing commissions to Discount Brokers in respect of the RBC Mutual Funds and the PH&N Mutual Funds is improper, unreasonable and unjustified. Consequently, the payment by RBC GAM (in respect of the RBC Mutual Funds) and RBC IS (in respect of the PH&N Mutual Funds) of the Unearned Management Fees on account of those trailing

commissions, and their receipt by RBC GAM (in respect of the RBC Mutual Funds and the PH&N Mutual Funds), is improper, unreasonable and unjustified.

12. The reality is that trailing commissions function as sales commissions paid on an ongoing basis by the Defendants to Discount Brokers in consideration for services provided by the Discount Brokers to the Defendants, not services provided by the Discount Brokers to the Class Members. The trailing commissions incentivize the Discount Brokers to offer for sale, or provide "shelf space" for, RBC Mutual Funds and PH&N Mutual Funds on their trading platforms. This is to the detriment of the Class Members (who suffer reduced investment returns), while accruing to the benefit of: the Defendants (which receive increased management fees as the assets of the RBC Mutual Funds and the PH&N Mutual Funds grow through new investment capital); the Defendants' affiliate, RBC Direct Investing, and other Discount Brokers (which receive the trailing commissions); and the Defendant's ultimate parent company, Royal Bank (which enjoys the benefits flowing to the Defendants and RBC Direct Investing). The Defendants misused trust property belonging to the Class Members for the purpose of benefiting themselves, their affiliates and others.

13. Further or in the alternative, the payment of trailing commissions to Discount Brokers cannot be justified on the basis of purported "services" because, among other things:

(a) the Defendants do not impose an obligation on Discount Brokers to provide particular services to Class Members in respect of the RBC Mutual Funds and PH&N Mutual Funds in consideration for the trailing commissions;

(b) the Defendants do not conduct any auditing or inquiries, or any adequate auditing or inquiries, into whether Discount Brokers are providing particular services to Class Members in respect of the RBC Mutual Funds and PH&N Mutual Funds; and

(c) the Defendants do not conduct any auditing or inquiries, or any adequate auditing or inquiries, into whether Discount Brokers use or apply the trailing commissions for the purpose of providing particular services to Class Members in respect of the RBC Mutual Funds and PH&N Mutual Funds.

14. In fact, Discount Brokers do not provide Class Members with any services that are specific to the RBC Mutual Funds and PH&N Mutual Funds in respect of which the trailing commissions are paid and that are provided on an ongoing basis. The services provided by Discount Brokers to their clients (such as research and educational tools) are provided regardless of whether the clients hold RBC Mutual Funds and PH&N Mutual Funds. Those general services available to all Discount Broker clients do not justify the payment of trailing commissions to Discount Brokers in respect of RBC Mutual Funds and PH&N Mutual Funds. Accordingly, the payment of trailing commissions to Discount Brokers on account of "services" is improper, unreasonable and unjustified. Consequently, the payment by RBC GAM (in respect of the RBC Mutual Funds) and RBC IS (in respect of the PH&N Mutual Funds) of the Unearned Management Fees on account of those trailing commissions, and their receipt by RBC GAM (in respect of the RBC Mutual Funds and the PH&N Mutual Funds), is improper, unreasonable and unjustified.

15. The Unearned Management Fees represent significant sums of money and are paid on a continuous basis. The wasting of the assets of the RBC Mutual Funds and the PH&N Mutual Funds by the payment of the Unearned Management Fees has unjustly enriched

RBC GAM and decreased the value of the units of the RBC Mutual Funds and the PH&N Mutual Funds held by the Class Members. The Class Members have suffered, and continue to suffer, significant loss and damage as a result of the Defendants' acts and omissions pleaded herein.

THE PARTIES

The Plaintiff

16. The Plaintiff is an individual residing in Toronto, Ontario.

17. The Plaintiff has held units of the Phillips, Hager & North High Yield Bond Fund – Series D (RBF1280), a PH&N Mutual Fund, in an account with BMO InvestorLine, a Discount Broker, since on or around November 4, 2009.

18. The Plaintiff previously held units of the RBC Canadian Dividend Fund – Series A (RBF266), a RBC Mutual Fund, in an account with BMO InvestorLine, a Discount Broker, from on or around April 12, 2006 until on or around August 27, 2010.

The Class

19. The Class on whose behalf this proceeding is brought is comprised of all persons, wherever they may reside or be domiciled, who held or hold, from December 28, 2003 to July 25, 2024, units of a RBC Mutual Fund or a PH&N Mutual Fund through a Discount Broker, except for the Excluded Persons.

The Defendant, RBC GAM

20. RBC GAM is a corporation incorporated under the laws of Canada.

21. RBC GAM is, and was at all material times, the manager of the RBC Mutual Funds and the PH&N Mutual Funds, as well as the trustee of the RBC Mutual Funds.

22. RBC GAM is an indirect wholly-owned subsidiary of Royal Bank.

23. RBC GAM is, and was at all material times, an "investment fund manager" as defined in the *OSA*. As an investment fund manager, RBC GAM is, and was at all material times, subject to the duty under section 116 of the *OSA* and/or section 2.1 of NI 81-107 to (a) exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the RBC Mutual Funds and the PH&N Mutual Funds, and (b) exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

The Defendant, RBC IS

24. RBC IS is a trust company incorporated under the laws of Canada.

25. RBC IS is, and was at all material times, the trustee of the PH&N Mutual Funds.

26. RBC IS was named "RBC Dexia Investor Services Trust" until on or around July 27, 2012.

27. RBC IS is an indirect wholly-owned subsidiary of Royal Bank.

THE RBC MUTUAL FUNDS

28. Each of the RBC Mutual Funds is or was a trust governed by the terms of one of the RBC Trust Instruments.

29. Each of the RBC Mutual Funds is or was an "investment fund" and a "mutual fund" as those terms are defined in the *OSA*.

30. Each of the RBC Mutual Funds is or was a reporting issuer in Ontario and in all other provinces of Canada.

31. To the best of the Plaintiff's knowledge, the RBC Mutual Funds as of December 28, 2018 are listed in **Schedule "A"** hereto.

THE PH&N MUTUAL FUNDS

32. Each of the PH&N Mutual Funds is or was a trust governed by the terms of one of the PH&N Trust Instruments.

33. Each of the PH&N Mutual Funds is or was an "investment fund" and a "mutual fund" as those terms are defined in the *OSA*.

34. Each of the PH&N Mutual Funds is or was a reporting issuer in Ontario and in all other provinces of Canada.

35. To the best of the Plaintiff's knowledge, the PH&N Mutual Funds as of December 28, 2018 are listed in **Schedule "B"** hereto.

THE RBC TRUST INSTRUMENTS

36. The RBC Mutual Funds are currently governed by the Current RBC Funds DOT and the Current RBC Private Pools DOT.

37. Under each of the RBC Trust Instruments, RBC GAM holds in trust all property of the RBC Mutual Funds for the benefit of the unitholders of the RBC Mutual Funds.

38. Pursuant to Article XVIII, section 1 of the Current RBC Funds DOT and section 11.1 of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as trustee of the RBC Mutual Funds,

is and was at all material times required to act honestly and in good faith, and in the best interests of the RBC Mutual Funds, and to exercise the care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances.

39. Pursuant to Article XVIII, section 1 of the Current RBC Funds DOT and section 9.6 of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as manager of the RBC Mutual Funds, is and was at all material times required to act honestly and in good faith, and in the best interests of the RBC Mutual Funds, and to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

40. Pursuant to Article XVIII, section 1 of the Current RBC Funds DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as manager of the applicable RBC Mutual Funds, is and was at all material times responsible for any loss that arises out of its failure to discharge its responsibilities as manager in accordance with the standard of care.

41. Pursuant to section 11.1 of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as trustee, is and was at all material times responsible for any loss that arises out of its failure, or the failure of any person or company retained by the trustee, to discharge the trustee's responsibilities to the applicable RBC Mutual Funds.

42. Pursuant to Article V, section 5 of the Current RBC Funds DOT and sections 9.4, 12.1, 12.2 and 12.3 of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), the trustee may delegate or

transfer to the manager such of its rights and responsibilities relating to management and administration of the RBC Mutual Funds and their assets as it deems to be appropriate.

43. Pursuant to Article XVI, section 1 and Article V, section 8 of the Current RBC Funds DOT and section 14.1(a) of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), the trustee receives management fees, and may direct that all or a portion of the management fees that would otherwise be paid to the trustee be paid directly to the manager instead.

44. RBC GAM receives management fees out of the assets of the RBC Mutual Funds. The management fees are calculated as a percentage of the series net asset value of each RBC Mutual Fund (which management fees are calculated daily and are payable monthly).

45. The payment of management fees to RBC GAM out of the assets of the RBC Mutual Funds reduces the net asset value of the RBC Mutual Funds, which in turn reduces the value of unitholders' units of the RBC Mutual Funds. As stated in one or more Simplified Prospectuses disseminated by the Defendants in respect of the RBC Mutual Funds, management fees are among the fees and expenses that are paid by the RBC Mutual Funds and they "lower the fund's return" and "reduce the value of your investment." Similarly, as stated in one or more Fund Facts Documents disseminated by the Defendants in respect of the RBC Mutual Funds, fund expenses, including management fees, "affect you because they reduce the fund's returns."

46. As stated in Article VIII, section 11, and Schedule B, Article II, section 1 and Schedule C, Article II, section 1 of the Current RBC Funds DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as trustee, may agree

with a unitholder to a reduction in the management fee payable by the RBC Mutual Funds in the form of a "Management Fee Distribution".

47. RBC GAM may also waive or absorb a portion of its management fees in respect of the RBC Mutual Funds.

48. Article II, section 1(g) of the Current RBC Funds DOT and section 3.5(f) of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times) allow for the redesignation or reclassification of units of one series of a RBC Mutual Fund as units of another series of the same RBC Mutual Fund.

THE PH&N TRUST INSTRUMENTS

49. The PH&N Mutual Funds are currently governed by the Current PH&N DOT.

50. Under each of the PH&N Trust Instruments, RBC IS holds in trust all property of the PH&N Mutual Funds for the benefit of the unitholders of the PH&N Mutual Funds.

51. Pursuant to section 9.1 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), RBC IS, as trustee of the PH&N Mutual Funds, is and was at all material times required to exercise its powers and discharge its duties honestly and in good faith, and to exercise the degree of care, diligence and skill that a reasonably prudent Canadian trust company would exercise in comparable circumstances.

52. Pursuant to section 10.1 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), RBC GAM, as manager of the PH&N Mutual Funds, is and was at all material times required to exercise its powers and discharge its duties honestly, in good faith and in the best interests of the PH&N Mutual

Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent investment management company would exercise in comparable circumstances.

53. Pursuant to section 7.1 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), RBC GAM, as manager, has full authority and responsibility and the exclusive power to manage the business and affairs of the PH&N Mutual Funds.

54. Pursuant to section 8.2 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), RBC GAM is entitled to receive a management fee from the property of each PH&N Mutual Fund "equal to or up to" the annual percentage rate set out in Schedule "A" of the Current PH&N DOT.

55. Pursuant to section 6.5(e) of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), the management fees paid to RBC GAM must meet the standard of "reasonable expenses and compensation".

56. RBC GAM receives management fees out of the assets of the PH&N Mutual Funds. The management fees are calculated as a percentage of the series net asset value of the applicable series of each PH&N Mutual Fund (which management fees are calculated daily and are payable monthly).

57. The payment of management fees to RBC GAM out of the assets of the PH&N Mutual Funds reduces the net asset value of the PH&N Mutual Funds, which in turn reduces the value of unitholders' units of the PH&N Mutual Funds. As stated in one or more Simplified Prospectuses disseminated by the Defendants in respect of the PH&N Mutual Funds, management fees are among the fees and expenses that are paid by the PH&N Mutual

Funds and they "lower the Fund's returns" and "reduce the value of your investment in the Funds." Similarly, as stated in one or more Fund Facts Documents disseminated by the Defendants in respect of the PH&N Mutual Funds, fund expenses, including management fees, "affect you because they reduce the fund's returns."

58. Section 16.11 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times) provides for RBC GAM to reimburse all or a portion of the management fee paid by the PH&N Mutual Funds to the manager, and the amount of any reimbursement must be distributed to the unitholder as a "Management Fee Distribution".

59. As stated in section 8.2 of the Current PH&N DOT, RBC GAM may waive all or a portion of its management fees.

60. Section 3.3 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times) allows for the redesignation or reclassification of units of one series of a PH&N Mutual Fund as units of another series of the same PH&N Mutual Fund.

TRAILING COMMISSIONS AND DISCOUNT BROKERS

61. RBC GAM has paid and continues to pay a portion of the management fees that it receives out of the assets of the RBC Mutual Funds and PH&N Mutual Funds to dealers, including Discount Brokers, as trailing commissions. The quantum of the trailing commission payable to a dealer is determined as a percentage of the value of the units of the RBC Mutual Funds or the PH&N Mutual Funds held by the dealer's clients (which trailing commission is paid monthly or quarterly).

62. The payment of management fees, within which the trailing commissions payable to Discount Brokers are embedded, depletes the assets of the RBC Mutual Funds and PH&N Mutual Funds and reduces the value of the Class Members' units of those RBC Mutual Funds and PH&N Mutual Funds and thereby diminishes their return on investment in the RBC Mutual Funds and PH&N Mutual Funds.

63. Among other dealers, the RBC Mutual Funds and PH&N Mutual Funds are sold through Discount Brokers. Discount Brokers are entities that provide order execution only services to investors. They are regulated by IIROC as "Dealer Members". Under the IIROC Rules, Discount Brokers apply to IIROC for approval to offer an "order-execution only service", which is defined as "the acceptance and execution of orders from customers for trades that the Dealer Member has not recommended and for which the Dealer Member takes no responsibility as to the appropriateness or suitability of orders accepted or account positions held." Such approval provides Discount Brokers with an exemption from compliance with IIROC Rules that impose requirements to assess the suitability of a client's orders and account positions. Accordingly, as a condition of the approval provided by IIROC to Discount Brokers to operate their discount brokerage businesses, Discount Brokers are prohibited from providing investment recommendations or advice to clients.

64. One of the Discount Brokers through which the RBC Mutual Funds and the PH&N Mutual Funds are sold is RBC Direct Investing, which is an indirect wholly-owned subsidiary of Royal Bank. Each of RBC GAM and RBC IS is also an indirect wholly-owned subsidiary of Royal Bank. RBC Direct Investing, RBC GAM and RBC IS are all affiliates of each other. Some of the Unearned Management Fees have been paid to RBC Direct Investing, which is to the ultimate benefit of Royal Bank.

65. The Defendants knew, or ought to have known, that the Unearned Management Fees were being paid to Discount Brokers as trailing commissions, thereby reducing the value of the Class Members' units, in circumstances where those trailing commissions were not earned by the Discount Brokers because they are not providing services and advice to the Class Members.

66. The Simplified Prospectuses issued by the Defendants to permit the offering of units of the RBC Mutual Funds and PH&N Mutual Funds set out the maximum annual percentage rates for trailing commissions payable in respect of certain of the RBC Mutual Funds and PH&N Mutual Funds. Class Members are entitled to expect that the Defendants will comply with their duties to the Class Members and will not pay the maximum rate of trailing commission both to dealers that provide full advisory services to their clients and to Discount Brokers who provide no services or advice to their clients. Yet, the trailing commissions paid by the Class Members on each series of the RBC Mutual Funds and the PH&N Mutual Funds are identical to the trailing commissions paid on those same series by investors who hold their RBC Mutual Funds or PH&N Mutual Funds through a full-service account.

67. The Defendants never disclosed to the Plaintiff the dollar amount of the trailing commissions paid to the Plaintiff's Discount Broker in respect of the units of the PH&N Mutual Fund held by the Plaintiff.

68. The Defendants continue the practice of paying trailing commissions to Discount Brokers in respect of the RBC Mutual Funds and the PH&N Mutual Funds despite criticism of the practice and the imminent prohibition of the practice by regulators.

69. On January 10, 2017, the CSA released CSA Consultation Paper 81-408 – *Consultation on the Option of Discontinuing Embedded Commissions*, which addresses issues relating to mutual fund fees, including the payment of trailing commissions to dealers. In relation to the Canadian mutual fund industry generally, CSA Consultation Paper 81-408 states that, as at December 2015, "data suggests that $25 billion of the total $30 billion held in mutual funds in the [discount broker] channel (83%) remains in the full trailing commission paying fund series". It concludes that "[t]he majority of DIY investors investing in mutual funds pay full trailing commission despite not receiving advice" and "many DIY mutual fund investors in the online/discount brokerage channel indirectly pay for services they do not receive."

70. In a press release issued on May 8, 2017 entitled "Limit Series A Sales to Channels that Permit Advice: IFIC", the Investment Funds Institute of Canada, which styles itself as the "voice of Canada's investment funds industry", called on regulators to ensure that mutual funds that carry a trailing commission are not sold through the Discount Broker channel. The press release stated that:

> The Investment Funds Institute of Canada (IFIC) is calling on regulators to establish rules to ensure that mutual funds carrying an embedded advisor fee are sold only in channels where advice is permitted.
>
> "Investors who buy funds directly, for example through a discount broker, should be confident that they are not inadvertently overpaying by selecting a series that includes fees for services that are not available through that platform," says Paul C. Bourque, Q.C., IFIC's president and CEO.
>
> Series A mutual funds bundle an advice fee within the product. Most companies already provide other series of funds with no or nominal trailer fees that investors can purchase if they are do-it-yourself investors or want to pay for advice separately. The industry's proposal would advance the goal of ensuring that low-trailer or no-trailer funds are available to these types of investors in a more uniform and transparent way.
>
> "IFIC members believe that consumers should be able to choose for themselves the products, services and payment methods that best meet their needs and preferences,"

> Bourque stated. "Today's proposal would help to achieve a goal that the industry shares with our regulators: to ensure that fees are aligned with the services that investors receive. It reflects the industry's commitment to provide Canadian consumers with real and meaningful investment choices."

71. On April 9, 2018, IIROC released its final guidance regarding order-execution only services offered by Discount Brokers. In Notice of Implementation 18-0075 dated April 9, 2018, IIROC stated that Discount Brokers face a conflict of interest by making available on their platforms mutual funds that pay a trailing commission for ongoing advice (*e.g.* Series A mutual funds). The Notice of Implementation stated:

> We acknowledge that funds that pay an ongoing trailing commission to registrants (often described as a payment for advice and services provided to the investor by the registrant), and are made available by OEO firms (e.g., a Series A fund), raise a conflict of interest. Under our rules, a Dealer Member must address conflicts of interest considering the best interests of the client or clients.
>
> In the Guidance, we indicate that OEO firms should consider how they will address any compensation-related conflicts when deciding which series (or series equivalent in the case of a PTF) of a fund to make (or not make) available on their platforms. We recognize that many OEO firms have already implemented practices to address this conflict.
>
> We expect that OEO firms will make available, whenever possible, funds that do not pay a trailing commission for ongoing advice (often referred to as a Series D fund).
>
> When a Series D fund is not available (e.g., because a fund family does not offer that type of series) and an OEO firm makes available another series that pays a trailing commission, we also expect the firm to address the conflict by rebating to the client the portion of the trailing commission for ongoing advice, or taking other similar steps.
>
> A large majority of the publically available funds include a trailing commission. Management of the conflicts of interest relating to trailing commissions by OEO firms allows investors continued access to the widest possible range of investments.

72. On June 21, 2018, the CSA released CSA Staff Notice 81-330 – *Status Report on Consultation on Embedded Commissions and Next Steps*, in which the CSA announced its intention to publish rule changes that will prohibit the payment of trailing commissions to, and the solicitation and acceptance of trailing commissions by, dealers who do not make a suitability determination (*e.g.* Discount Brokers) in connection with the distribution of prospectus qualified mutual fund securities. The CSA stated in Staff Notice 81-330 that:

> In our view, the fees paid by a vast majority of DIY investors in this channel [i.e. the discount brokerage channel] do not appear to align with the execution-only nature of the services they receive. We also observe no justifiable rationale for the practice of paying discount brokerage dealers an ongoing trailing commission for the sale of a mutual fund. For example, other securities including most ETFs are commonly purchased and sold by way of an upfront transaction fee. This ongoing payment may therefore be viewed as one that incentivizes the distribution of mutual funds that pay such an ongoing fee over those that do not (i.e. a payment for shelf space), giving rise to a conflict of interest. This is especially the case when the discount brokerage receives the same trailing commission as that of full-service dealers (which rate is typically intended to compensate full service dealers for the costs associated with providing investment advice). Moreover, in our view this fee also limits investor awareness and understanding of the fees associated with the purchase of such products in the discount brokerage channel.

73. Further to the announcement by the CSA on June 21, 2018, on September 13, 2018 the CSA published proposed amendments to securities regulatory instruments that will, when the amendments come into force, prohibit the payment of trailing commissions by fund organizations (which includes mutual fund managers) to dealers who do not make a suitability determination, such as order-execution-only dealers (i.e. Discount Brokers). The proposed amendments will prohibit the payment of mutual fund trailing commissions to Discount Brokers in any amount. The CSA stated that fund organizations will need to make available to Discount Brokers a class or series of securities of a mutual fund that does not pay a trailing commission, which will result in a corresponding reduction in the rate of the management fee charged on that class or series. Existing holdings of mutual funds will also need to be switched to the class or series of securities of the mutual fund that does not pay a trailing commission. The CSA also commented that the prohibition on the payment of trailing commissions by fund organizations to Discount Brokers will eliminate "a longstanding conflict between IFMs [investment fund managers] (who have been reluctant to offer non trailing commission-paying fund series in this channel), online/discount brokerages (who have been satisfied to accept full trailing commission-paying funds), and DIY investors."

74. On September 17, 2020, the CSA published for adoption final amendments to applicable securities regulatory instruments to prohibit the payment of trailing commissions (of any amount) by fund managers, including the Defendants, to dealers who do not make a suitability determination, including Discount Brokers. The prohibition on the payment of trailing commissions to Discount Brokers will come into force on June 1, 2022.

75. As alluded to in the above-noted press release of the Investment Funds Institute of Canada, some mutual fund families offer a series of their funds, typically called Series D, that is sold only through Discount Brokers. Series D (or similar discount series) pay a lower management fee than traditional retail series (e.g. Series A) because they include a reduced trailing commission to partially reflect the fact that "services and advice" are not being provided to investors through a Discount Broker.

76. Since 2020, the Fund Facts Documents that the Defendant has prepared and filed to permit the sale of Series D units of certain RBC Mutual Funds and PH&N Mutual Funds (which are only sold through Discount Brokers) acknowledge that advice is not provided to investors in those funds through Discount Brokers by stating that trailing commissions are paid for "advice <u>and/or</u> services" (not "services and advice") provided by Discount Brokers to investors, and that "[w]hen trailing commissions are paid to discount brokerage firms, they are for services and not for investment advice."

77. While the Defendants currently offer Series D units on most of the RBC Mutual Funds and PH&N Mutual Funds, other series of the RBC Mutual Funds and PH&N Mutual Funds that carry a higher trailing commission have been held, and continue to be held, by Class Members through Discount Brokers. When the Defendants introduced Series D units of

the RBC Mutual Funds and the PH&N Mutual Funds, it failed to advise, permit and/or cause the Class Members to switch their existing units into Series D units.

78. In any event, the payment of any trailing commissions to Discount Brokers in respect of the RBC Mutual Funds or the PH&N Mutual Funds, including on Series D units of the RBC Mutual Funds or the PH&N Mutual Funds, was in breach of the Defendants' duties to the Class Members, as pleaded herein.

RIGHTS OF ACTION

Breach of Fiduciary Duty

79. As trustee of each of the RBC Mutual Funds, RBC GAM is and was at all material times in a fiduciary relationship with the Class Members who hold or held RBC Mutual Funds and owes, or owed at the material times, fiduciary duties to those Class Members.

80. As trustee of each of the PH&N Mutual Funds, RBC IS is and was at all material times in a fiduciary relationship with the Class Members who hold or held PH&N Mutual Funds and owes, or owed at the material times, fiduciary duties to those Class Members. As stated in one or more Simplified Prospectuses disseminated by the Defendants in respect of the PH&N Mutual Funds: "As trustee, RBC Investor Services Trust ("RBC IS") holds title to securities owned by each Fund on behalf of its unitholders with responsibility to act in the best interest of unitholders."

81. As manager of the RBC Mutual Funds and the PH&N Mutual Funds, RBC GAM is, and was at all material times, a trustee *de son tort* of the RBC Mutual Funds and PH&N Mutual Funds. Pursuant to the RBC Trust Instruments and the PH&N Trust Instruments, RBC GAM at all material times undertook full responsibility for the administration of the day-

to-day business and affairs of each RBC Mutual Fund and PH&N Mutual Fund. To carry out that responsibility as manager, RBC GAM has possession and/or control of the property of the RBC Mutual Funds and the PH&N Mutual Funds and administers that property. As trustee *de son tort* of each of the RBC Mutual Funds and PH&N Mutual Funds, RBC GAM is, and was at all material times, in a fiduciary relationship with the Class Members and owes, or owed at the material times, fiduciary duties to the Class Members. As a trustee *de son tort* of the RBC Mutual Funds and PH&N Mutual Funds, RBC GAM also has or had an obligation to abide by the duties and obligations of the trustee set out in the RBC Trust Instruments and the PH&N Trust Instruments.

82. Further or in the alternative, as manager of each of the RBC Mutual Funds and the PH&N Mutual Funds, RBC GAM has significant discretion, power or control in relation to the business and affairs of the RBC Mutual Funds and PH&N Mutual Funds and the assets of the RBC Mutual Funds and the PH&N Mutual Funds. RBC GAM can unilaterally exercise that discretion, power or control so as to affect the Class Members' legal or substantial practical interests, including the Class Members' financial interests arising from their ownership of units of the RBC Mutual Funds and the PH&N Mutual Funds, the value of which is tied to the value of the assets of the RBC Mutual Funds and the PH&N Mutual Funds. The Class Members are particularly vulnerable to RBC GAM holding that discretion, power or control as manager of the RBC Mutual Funds and the PH&N Mutual Funds.

83. RBC GAM as manager has expressly or impliedly undertaken to act in the best interests of the Class Members, including as follows:

(a) by the standard of care binding on RBC GAM as manager under the RBC Trust Instruments, the PH&N Trust Instruments, and section 116 of the *OSA* and/or section 2.1 of NI 81-107;

(b) RBC GAM is a signatory to the United Nations-supported Principles for Responsible Investment, pursuant to which RBC GAM signed a declaration in which it acknowledged its "duty to act in the best long-term interests of our beneficiaries" and affirmed its "fiduciary role" and "fiduciary responsibilities";

(c) by its public pronouncements, including as follows:

(i) in a publication addressing RBC GAM's approach to responsible investment, RBC GAM states that one of its "core values" is to "[p]ut our clients' interests first" and acknowledges its fiduciary duty to clients; and

(ii) in RBC GAM's transparency report on the United Nations-supported Principles for Responsible Investment, RBC GAM states that: "We have a fiduciary duty to our clients to act in their best interests."

84. Accordingly, as manager of each of the RBC Mutual Funds and the PH&N Mutual Funds, RBC GAM is, and was at all material times, in a fiduciary relationship with the Class Members and owes, or owed at the material times, fiduciary duties to the Class Members.

85. By their acts and omissions, the Defendants have breached their fiduciary duty to the Class Members. The Defendants' breaches include (without limitation):

(a) paying and/or receiving the Unearned Management Fees out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds;

(b) failing to preserve the property of the RBC Mutual Funds and the PH&N Mutual Funds;

(c) failing to maximize the value of the units of the RBC Mutual Funds and the PH&N Mutual Funds;

(d) paying the Unearned Management Fees to the Discount Brokers for no purpose;

(e) failing to ascertain the nature of any services being provided by Discount Brokers to the Class Members and to ascribe a reasonable value to those services, to ensure that the assets of the RBC Mutual Funds and the PH&N Mutual Funds are being used for proper purposes and in a reasonable amount;

(f) failing to impose an obligation on Discount Brokers to provide particular services to Class Members in consideration for the trailing commissions;

(g) failing to conduct any auditing or inquiries, or any adequate auditing or inquiries, into whether Discount Brokers are providing particular services to Class Members in respect of the RBC Mutual Funds and the PH&N Mutual Funds;

(h) failing to conduct any auditing or inquiries, or any adequate auditing or inquiries, into whether Discount Brokers use or apply the trailing commissions for the purpose of providing particular services to Class Members in respect of the RBC Mutual Funds and the PH&N Mutual Funds;

(i) permitting series of units of the RBC Mutual Funds and the PH&N Mutual Funds carrying a trailing commission to be acquired and/or held through Discount Brokers;

(j) failing to create and make available to Class Members through Discount Brokers a series of units of the RBC Mutual Funds and the PH&N Mutual Funds that carries no trailing commission;

(k) failing to advise, permit and/or cause Class Members to re-designate or reclassify their units of the RBC Mutual Funds and the PH&N Mutual Funds into a series of units that carries no trailing commission;

(l) in the alternative to paragraphs 85(i) to 85(k):

  (i) permitting non-Series D (or similar discount series) units of the RBC Mutual Funds and the PH&N Mutual Funds to be acquired and/or held through Discount Brokers;

  (ii) failing to create and make available to Class Members through Discount Brokers Series D (or similar discount series) units of all of the RBC Mutual Funds and the PH&N Mutual Funds; and

  (iii) failing to advise, permit and/or cause Class Members to re-designate or reclassify their non-Series D units of the RBC Mutual Funds and the PH&N Mutual Funds into Series D (or similar discount series) units of the RBC Mutual Funds and PH&N Mutual Funds;

(m) RBC GAM acting in a conflict of interest by simultaneously acting as both the trustee and the manager of the RBC Mutual Funds, and thus paying the Unearned Management Fees to itself and negotiating the management fees with itself;

(n) acting in a conflict of interest by paying trailing commissions to Discount Brokers for the Defendants' own benefit, effectively as a marketing expense to secure access to the Discount Brokers' clients, resulting in increased management fees for RBC GAM as the assets of the RBC Mutual Funds and the PH&N Mutual Funds grow through new investment capital from the Discount Broker platforms;

(o) acting in a conflict of interest by failing to make available to Class Members holding RBC Mutual Funds and PH&N Mutual Funds through Discount Brokers a series of the RBC Mutual Funds and PH&N Mutual Funds that pays no trailing commission, or alternatively a reduced trailing commission, because of a concern that it would adversely affect the distribution of RBC Mutual Funds and PH&N Mutual Funds through the full-service or advisory distribution channels and thereby reduce RBC GAM's management fees;

(p) acting in a conflict of interest by receiving a portion of the Unearned Management Fees for the purpose of paying such amount to RBC Direct Investing (an indirect wholly-owned subsidiary of Royal Bank), for the ultimate benefit of Royal Bank, when such amount could have been retained in the RBC Mutual Funds or the PH&N Mutual Funds for the benefit of Class Members;

(q) failing to pay and/or accept a management fee reduced by the amount of the Unearned Management Fees and distributing (rebating) that amount to the Class Members as a "management fee distribution";

(r) failing to waive payment of the Unearned Management Fees; and

(s) RBC GAM and/or RBC IS, as trustee, failing to adequately supervise RBC GAM, as manager of the RBC Mutual Funds and the PH&N Mutual Funds, and failing to prevent and/or rectify the misconduct of RBC GAM, as manager of the RBC Mutual Funds and the PH&N Mutual Funds, as particularized herein, in breach of the manager's standard of care set out in the RBC Trust Instruments, the PH&N Trust Instruments, and section 116 of the *OSA* and/or section 2.1 of NI 81-107.

86. The Plaintiff and the other Class Members have suffered loss and damage as a result of the Defendants' breach of fiduciary duty as particularized herein.

Breach of Trust

87. Under the RBC Trust Instruments and the PH&N Trust Instruments, RBC GAM and RBC IS, as trustees of the RBC Mutual Funds and PH&N Mutual Funds, respectively, have and had at all material times a duty to exercise their powers and discharge their duties honestly, in good faith and in the best interests of each RBC Mutual Fund and PH&N Mutual Fund, and to exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances.

88. The duty under the RBC Trust Instruments and the PH&N Trust Instruments is a duty to act honestly, in good faith and in the best interests of the Class Members and the other unitholders of the RBC Mutual Funds and the PH&N Mutual Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances. That duty is enforceable by the Class Members and breaches of that duty are actionable by the Class Members.

89. Alternatively, the duty under the RBC Trust Instruments and the PH&N Trust Instruments includes a duty to act honestly, in good faith and in the best interests of the Class Members and the other unitholders of the RBC Mutual Funds and the PH&N Mutual Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances. That duty is enforceable by the Class Members and breaches of that duty are actionable by the Class Members.

90. Alternatively, the duty under the RBC Trust Instruments and the PH&N Trust Instruments is a duty to act honestly, in good faith and in the best interests of the RBC Mutual Funds and the PH&N Mutual Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances. The RBC Mutual Funds and the PH&N Mutual Funds are trust relationships between RBC GAM and RBC IS, respectively, and the unitholders in respect of property held for the benefit of the unitholders. Any breach of the duty to the RBC Mutual Funds and the PH&N Mutual Funds causes direct loss and damage to the Class Members and the other unitholders of the RBC Mutual Funds and PH&N Mutual Funds. That duty is enforceable by the Class Members and breaches of that duty are actionable by the Class Members.

91. By their acts and omissions, including (without limitation) the acts and omissions set out in paragraph 85 hereof, RBC GAM and RBC IS, as trustees of the RBC Mutual Funds and the PH&N Mutual Funds, respectively, have breached their duty under the RBC Trust Instruments and the PH&N Trust Instruments and committed breaches of trust.

92. The RBC Mutual Funds and PH&N Mutual Funds, the Plaintiff and the other Class Members have suffered loss and damage as a result of the Defendants' breaches of trust as particularized herein.

Breach of Contract

93. Pursuant to Article XVIII, section 1 of the Current RBC Funds DOT, section 9.6 of the Current RBC Private Pools DOT and section 10.1 of the Current PH&N DOT (and the equivalent provisions of other RBC Trust Instruments and PH&N Trust Instruments applicable at material times), RBC GAM, as manager of the RBC Mutual Funds and PH&N Mutual Funds, is and was at all material times required to exercise its powers and discharge its duties honestly, in good faith and in the best interests of the RBC Mutual Funds and PH&N Mutual Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

94. RBC GAM, as manager of the RBC Mutual Funds and the PH&N Mutual Funds, is a party to the RBC Trust Instruments and the PH&N Trust Instruments, along with the trustees and the unitholders. The RBC Trust Instruments and the PH&N Trust Instruments impose obligations and duties on RBC GAM and confer rights and benefits on RBC GAM. RBC GAM, as manager, accepted those obligations and duties in consideration for the rights and benefits.

95. Under the Current RBC Funds DOT (and the other RBC Trust Instruments applicable at material times), RBC GAM "shall act as the trustee and manager of each of the RBC Funds, upon and subject to the conditions contained herein", and it "does hereby declare that it continues to act as trustee and manager [...] upon and subject to the express terms, conditions and trusts of this Master Declaration of Trust". Further, RBC GAM, as trustee, "may enter into an agreement with a manager or a manager may be made a party to this Master Declaration of Trust in order to provide for the manager's responsibilities, authority and compensation." RBC GAM has not entered into a separate agreement relating to the

RBC Mutual Funds governed by the Current RBC Funds DOT. RBC GAM, as manager, is a party to the Current RBC Funds DOT (and the other RBC Trust Instruments applicable at material times) in order to provide for its responsibilities, authority and compensation.

96. RBC GAM, in its capacity as manager of the PH&N Mutual Funds, signed the Current PH&N DOT as a party thereto.

97. By it acts and omissions, including (without limitation) the acts and omissions set out in paragraph 85 hereof, RBC GAM has breached the standard of care set out in the Current RBC Funds DOT, the Current RBC Private Pools DOT and the Current PH&N DOT (and the equivalent provisions of other RBC Trust Instruments and PH&N Trust Instruments applicable at material times) and is liable for the loss to the Class Members that has arisen out of its breach of the standard of care.

98. The Plaintiff and the other Class Members have suffered loss and damage as a result of RBC GAM's acts or omissions.

Disallowance of Improper Expenses under Section 23.1 of the Trustee Act

99. The Unearned Management Fees are expenses paid by RBC GAM and RBC IS from the trust property of the RBC Mutual Funds and the PH&N Mutual Funds.

100. The expenses are not properly incurred in carrying out the trust because they are on account of trailing commissions paid or payable to Discount Brokers, and such trailing commissions are not properly paid or payable to Discount Brokers because the Discount Brokers do not provide services or advice to the Class Members.

101. The payment of the expenses ought to be disallowed pursuant to section 23.1(2) of the *Trustee Act* (and, if necessary, the equivalent provisions of comparable Canadian legislation).

Prospectus Misrepresentation

102. The Plaintiff asserts the right of action for prospectus misrepresentation in section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation) on his own behalf and on behalf of the Class Members.

103. The Defendants have prepared, filed and disseminated Simplified Prospectuses and, since January 1, 2011, Fund Facts Documents, to permit the continuous offering to the public of units of the RBC Mutual Funds and the PH&N Mutual Funds.

104. The Fund Facts Documents are incorporated by reference into the relevant Simplified Prospectuses and form part of those Simplified Prospectuses.

105. Pursuant to section 56(1) of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation), the Simplified Prospectuses are and were required to provide full, true and plain disclosure of all material facts relating to the securities issued or proposed to be distributed under the Simplified Prospectuses.

106. The Simplified Prospectuses are prospectuses for the purposes of section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation).

107. The Fund Facts Documents prepared, filed and disseminated by the Defendants in respect of the RBC Mutual Funds and the PH&N Mutual Funds (other than Fund Facts Documents for Series D units of certain RBC Mutual Funds and PH&N Mutual Funds since 2020)

have contained at all material times a common statement that trailing commissions are paid to dealers for the "services and advice" provided by those dealers to their clients.

108. That common statement is a misrepresentation within the meaning of the *OSA* (and, if necessary, the Other Canadian Securities Legislation). It falsely represents that trailing commissions are only paid to dealers that provide services and advice to investors, whereas in fact trailing commissions are also paid to Discount Brokers even though they do not provide services or advice to their clients. The statement is, and was at all material times, material to the Class Members.

109. In 2020, the Fund Facts Documents for Series D units of certain RBC Mutual Funds and PH&N Mutual Funds (which are only sold through Discount Brokers) were amended to refer to "advice <u>and/or</u> services" rather than "services and advice", and to state that "[w]hen trailing commissions are paid to discount brokerage firms, they are for services and not for investment advice." The Defendants continue to represent that trailing commissions are paid for "services and advice" in Fund Facts Documents for other series of the RBC Mutual Funds and PH&N Mutual Funds that are held through Discount Brokers. By making those amendments to the Fund Facts Documents, the Defendants have acknowledged that the reference to "services and advice" in the Fund Facts Documents is and was false, misleading and/or inaccurate in respect of RBC Mutual Funds and PH&N Mutual Funds held through Discount Brokers.

110. The Defendants certified and signed the Simplified Prospectuses as required by NI 81-101 and Form 81-101F2, and are liable pursuant to section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation).

111. The offering of units of the RBC Mutual Funds and PH&N Mutual Funds to which the Simplified Prospectuses and Fund Facts Documents related constituted distributions of the units in Ontario and/or distributions of units from Ontario to persons outside of Ontario. The offering was governed by the *OSA* and its subsidiary instruments and regulations, and was carried out under Ontario securities laws.

112. The Plaintiff and the other Class Members have suffered loss and damage as a result of the Defendants' acts and omissions as particularized herein.

DAMAGE SUFFERED BY THE CLASS MEMBERS

113. The RBC Mutual Funds and the PH&N Mutual Funds, the Plaintiff and the other Class Members have suffered loss and damage as a result of the Defendants' acts and omissions particularized herein.

114. As a result of the payment of the Unearned Management Fees out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds, the value of the assets of the RBC Mutual Funds and PH&N Mutual Funds has been significantly reduced.

115. As a result of the payment of the Unearned Management Fees out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds, there has been a significant reduction in the value of the units of the RBC Mutual Funds and the PH&N Mutual Funds held by the Class Members and/or the value of the distributions received by the Class Members on their units of the RBC Mutual Funds and the PH&N Mutual Funds (whether received in cash or reinvested in additional units).

116. The Plaintiff and the other Class Members have also suffered loss and damage as a result of the loss of opportunity to earn a reasonable return on investment if the Unearned

Management Fees had not been paid out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds.

117. The Plaintiff and the other Class Members who continue to hold units of the RBC Mutual Funds and the PH&N Mutual Funds are suffering ongoing loss and damage as a result of the Defendants' acts and omissions particularized herein.

118. The Defendants knew, or ought to have known, that as a result of its acts and omissions particularized herein, the Class Members would suffer loss and damage.

REAL AND SUBSTANTIAL CONNECTION WITH ONTARIO

119. The Plaintiff pleads that this action has a real and substantial connection with Ontario because, among other things:

(a) the Plaintiff is resident in Ontario;

(b) the Defendants are domiciled in Ontario;

(c) the Defendants carry on business in Ontario;

(d) each of the RBC Mutual Funds and PH&N Mutual Funds is, or was at material times, a reporting issuer in Ontario;

(e) the Simplified Prospectuses and Fund Facts Documents referred to herein were disseminated in Ontario;

(f) a substantial portion of the Class Members reside in Ontario; and

(g) a substantial portion of the damages sustained by the Class were sustained by persons and entities domiciled in Ontario.

RELEVANT LEGISLATION

120. The Plaintiff pleads and relies on the *CJA*, the *CPA*, the *Trustee Act* (and, if necessary, the equivalent provisions of comparable Canadian legislation), and the *OSA* (and, if necessary, the Other Canadian Securities Legislation).

PLACE OF TRIAL

121. The Plaintiff proposes that this action be tried in the City of Toronto, in the Province of Ontario, as a proceeding under the *CPA*.

January 25, 2019

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SCHEDULE "A"
RBC MUTUAL FUNDS

1. RBC Canadian T-Bill Fund
2. RBC Canadian Money Market Fund
3. RBC Premium Money Market Fund
4. RBC $U.S. Money Market Fund
5. RBC Premium $U.S. Money Market Fund
6. RBC Canadian Short-Term Income Fund
7. RBC $U.S. Short-Term Corporate Bond Fund
8. RBC Monthly Income Bond Fund
9. RBC Bond Fund
10. RBC Canadian Bond Index Fund
11. RBC Canadian Government Bond Index Fund
12. RBC Vision Bond Fund
13. RBC Global Bond Fund
14. RBC Global Bond & Currency Fund
15. RBC $U.S. Investment Grade Corporate Bond Fund
16. RBC Global Corporate Bond Fund
17. RBC High Yield Bond Fund
18. RBC $U.S. High Yield Bond Fund
19. RBC Global High Yield Bond Fund
20. RBC Strategic Income Bond Fund
21. RBC $U.S. Strategic Income Bond Fund
22. RBC Emerging Markets Foreign Exchange Fund
23. RBC Emerging Markets Bond Fund
24. RBC Emerging Markets Bond Fund (CAD Hedged)
25. BlueBay Global Monthly Income Bond Fund
26. BlueBay Global Sovereign Bond Fund (Canada)

27. BlueBay Global Investment Grade Corporate Bond Fund (Canada
28. BlueBay European High Yield Bond Fund (Canada)
29. BlueBay Emerging Markets Bond Fund (Canada)
30. BlueBay Emerging Markets Local Currency Bond Fund (Canada)
31. BlueBay Emerging Markets Corporate Bond Fund
32. BlueBay Global Convertible Bond Fund (Canada)
33. BlueBay $U.S. Global Convertible Bond Fund (Canada)
34. RBC Conservative Bond Pool
35. RBC Core Bond Pool
36. RBC Core Plus Bond Pool
37. RBC Managed Payout Solution
38. RBC Managed Payout Solution - Enhanced
39. RBC Managed Payout Solution – Enhanced Plus
40. RBC Monthly Income Fund
41. RBC U.S. Monthly Income Fund
42. RBC Balanced Fund
43. RBC Global Balanced Fund
44. RBC Vision Balanced Fund
45. RBC Conservative Growth & Income Fund
46. RBC Balanced Growth & Income Fund
47. RBC Global Growth & Income Fund
48. RBC Retirement Income Solution
49. RBC Retirement 2020 Portfolio
50. RBC Retirement 2025 Portfolio
51. RBC Retirement 2030 Portfolio
52. RBC Retirement 2035 Portfolio
53. RBC Retirement 2040 Portfolio
54. RBC Retirement 2045 Portfolio

55. RBC Retirement 2050 Portfolio
56. RBC Select Very Conservative Portfolio
57. RBC Select Conservative Portfolio
58. RBC Select Balanced Portfolio
59. RBC Select Growth Portfolio
60. RBC Select Aggressive Growth Portfolio
61. RBC Select Choices Conservative Portfolio
62. RBC Select Choices Balanced Portfolio
63. RBC Select Choices Growth Portfolio
64. RBC Select Choices Aggressive Growth Portfolio
65. RBC Target 2020 Education Fund
66. RBC Target 2025 Education Fund
67. RBC Target 2030 Education Fund
68. RBC Target 2035 Education Fund
69. RBC Canadian Dividend Fund
70. RBC Canadian Equity Fund
71. RBC QUBE Low Volatility Canadian Equity Fund
72. RBC Trend Canadian Equity Fund
73. RBC Vision Canadian Equity Fund
74. RBC Canadian Index Fund
75. RBC O'Shaughnessy Canadian Equity Fund
76. RBC O'Shaughnessy All-Canadian Equity Fund
77. RBC Canadian Equity Income Fund
78. RBC Canadian Small & Mid-Cap Resources Fund
79. RBC North American Value Fund
80. RBC North American Growth Fund
81. RBC U.S. Dividend Fund
82. RBC U.S. Dividend Currency Neutral Fund

83. RBC U.S. Equity Fund
84. RBC U.S. Equity Currency Neutral Fund
85. RBC U.S. Index Fund
86. RBC U.S. Index Currency Neutral Fund
87. RBC QUBE U.S. Equity Fund
88. RBC QUBE Low Volatility U.S. Equity Fund
89. RBC QUBE Low Volatility U.S. Equity Currency Neutral Fund
90. RBC U.S. Equity Value Fund
91. RBC O'Shaughnessy U.S. Value Fund (Unhedged)
92. RBC O'Shaughnessy U.S. Value Fund
93. RBC U.S. Mid-Cap Growth Equity Fund
94. RBC U.S. Mid-Cap Growth Equity Currency Neutral Fund
95. RBC U.S. Mid-Cap Value Equity Fund
96. RBC U.S. Small-Cap Core Equity Fund
97. RBC U.S. Small-Cap Value Equity Fund
98. RBC O'Shaughnessy U.S. Growth Fund
99. RBC O'Shaughnessy U.S. Growth Fund II
100. RBC Life Science and Technology Fund
101. RBC International Dividend Growth Fund
102. RBC International Equity Fund
103. RBC International Equity Currency Neutral Fund
104. RBC International Index Currency Neutral Fund
105. RBC O'Shaughnessy International Equity Fund
106. RBC European Dividend Fund
107. RBC European Equity Fund
108. RBC European Mid-Cap Equity Fund
109. RBC Asian Equity Fund
110. RBC Asia Pacific ex-Japan Equity Fund

111. RBC Japanese Equity Fund
112. RBC Emerging Markets Multi-Strategy Equity Fund
113. RBC Emerging Markets Dividend Fund
114. RBC Emerging Markets Equity Fund
115. RBC Emerging Markets Small-Cap Equity Fund
116. RBC Global Dividend Growth Fund
117. RBC Global Dividend Growth Currency Neutral Fund
118. RBC Global Equity Fund
119. RBC Global Equity Focus Fund
120. RBC Global Equity Focus Currency Neutral Fund
121. RBC QUBE Global Equity Fund
122. RBC QUBE Low Volatility Global Equity Fund
123. RBC QUBE Low Volatility Global Equity Currency Neutral Fund
124. RBC Vision Global Equity Fund
125. RBC Vision Fossil Fuel Free Global Equity Fund
126. RBC O'Shaughnessy Global Equity Fund
127. RBC QUBE Low Volatility All Country World Equity Fund
128. RBC Global Energy Fund
129. RBC Global Precious Metals Fund
130. RBC Global Resources Fund
131. RBC Global Technology Fund
132. RBC Private Short-Term Income Pool
133. RBC Private Canadian Corporate Bond Pool
134. RBC Private Income Pool
135. RBC Private Canadian Dividend Pool
136. RBC Private Canadian Growth and Income Equity Pool
137. RBC Private Canadian Equity Pool
138. RBC Private Canadian Growth Equity Pool

139. RBC Private Canadian Mid-Cap Equity Pool

140. RBC Private U.S. Large-Cap Value Equity Pool

141. RBC Private U.S. Large-Cap Value Equity

142. Currency Neutral Pool

143. RBC Private U.S. Growth Equity Pool

144. RBC Private U.S. Large-Cap Core Equity Pool

145. RBC Private U.S. Large-Cap Core Equity

146. Currency Neutral Pool

147. RBC Private U.S. Small-Cap Equity Pool

148. RBC Private EAFE Equity Pool

149. RBC Private Overseas Equity Pool

150. RBC Private World Equity Pool

SCHEDULE "B"
PH&N MUTUAL FUNDS

1. Phillips, Hager & North U.S. Equity Fund
2. Phillips, Hager & North Canadian Equity Plus Pension Trust
3. Phillips, Hager & North Bond Fund
4. Phillips, Hager & North Canadian Equity Fund
5. Phillips, Hager & North Dividend Income Fund
6. Phillips, Hager & North U.S. Pooled Pension Fund
7. Phillips, Hager & North Vintage Fund
8. Phillips, Hager & North Canadian Money Market Fund
9. Phillips, Hager & North Canadian Growth Fund
10. Phillips, Hager & North Balanced Pension Trust
11. Phillips, Hager & North $U.S. Money Market Fund
12. Phillips, Hager & North Balanced Fund
13. Phillips, Hager & North U.S. Growth Fund
14. Phillips, Hager & North Short Term Bond & Mortgage Fund
15. Phillips, Hager & North Small Float Fund
16. Phillips, Hager & North Institutional S.T.I.F.
17. Phillips, Hager & North Canadian Equity Pension Trust
18. Phillips, Hager & North Long Bond Pension Trust
19. Phillips, Hager & North High Yield Bond Fund
20. Phillips, Hager & North High Grade Corporate Bond Fund
21. Phillips, Hager & North Investment Grade Corporate Bond Trust
22. Phillips, Hager & North Total Return Bond Fund
23. Phillips, Hager & North Global Equity Fund
24. Phillips, Hager & North Overseas Equity Fund
25. Phillips, Hager & North Overseas Equity Pension Trust
26. Phillips, Hager & North Mortgage Pension Trust

27. Phillips, Hager & North U.S. Dividend Income Fund
28. Phillips, Hager & North Community Values Bond Fund
29. Phillips, Hager & North Community Values Balanced Fund
30. Phillips, Hager & North Community Values Canadian Equity Fund
31. Phillips, Hager & North Community Values Global Equity Fund
32. Phillips, Hager & North Income Equity Pension Trust
33. Phillips, Hager & North Canadian Income Fund
34. Phillips, Hager & North PRisM – Short
35. Phillips, Hager & North N PRisM – Mid
36. Phillips, Hager & North PRisM – Long
37. Phillips, Hager & North Long Mortgage Pension Trust
38. Phillips, Hager & North Long Investment Grade Corporate Bond Trust
39. Phillips, Hager & North Currency-Hedged U.S. Equity Fund
40. Phillips, Hager & North Currency-Hedged Overseas Equity Fund
41. BonaVista Global Balanced Fund
42. BonaVista Canadian Equity Value Fund
43. Phillips, Hager & North Foreign Bond Fund
44. Phillips, Hager & North PRisM Balanced Fund
45. Phillips, Hager & North Enhanced Total Return Bond Fund
46. Phillips, Hager & North Inflation-Linked Bond Fund
47. Phillips, Hager & North Monthly Income Fund
48. Phillips, Hager & North Canadian Equity Value Fund
49. Phillips, Hager & North U.S. Multi-Style All-Cap Equity Fund
50. Phillips, Hager & North LifeTime 2015 Fund
51. Phillips, Hager & North LifeTime 2020 Fund
52. Phillips, Hager & North LifeTime 2025 Fund
53. Phillips, Hager & North LifeTime 2030 Fund
54. Phillips, Hager & North LifeTime 2035 Fund

55. Phillips, Hager & North LifeTime 2040 Fund
56. Phillips, Hager & North LifeTime 2045 Fund
57. Phillips, Hager & North LifeTime 2050 Fund
58. Phillips, Hager & North LifeTime 2055 Fund
59. Phillips, Hager & North Canadian Equity Underlying Fund
60. Phillips, Hager & North Canadian Equity Underlying Fund II
61. Phillips, Hager & North Short Inflation-linked Bond Fund
62. Phillips, Hager & North Long Inflation-linked Bond Fund
63. Phillips, Hager & North Institutional Gold & Precious Metals Fund
64. Phillips, Hager & North Conservative Equity Income Fund

ROSS v. RBC GLOBAL ASSET MANAGEMENT INC. *et al.*

Court File No. CV-18-00611743-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

SECOND FRESH AS AMENDED STATEMENT OF CLAIM

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Lawyers for the Plaintiff

This is Exhibit "B" mentioned and referred to in the Affidavit of Gigi Pao AFFIRMED BEFORE ME remotely in accordance with O. Reg. 431/20 this 23rd day of June, 2026. The affiant was located in the City of Vancouver, in the Province of British Columbia, while the commissioner, Donna Lynn McEvoy, was located in the Town of Whitby, in the Province of Ontario.

Donna Lynn McEvoy, A Commissioner, etc.
Province of Ontario,
for Siskinds LLP Barristers and Solicitors
Expires: December 6, 2028

Court File No. CV-18-00611743-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	THURSDAY, THE 25th DAY
	)	
JUSTICE AKBARALI	)	OF JULY, 2024

BETWEEN:

PETER ROSS

Plaintiff

- and -

RBC GLOBAL ASSET MANAGEMENT INC. and RBC INVESTOR SERVICES TRUST

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER
(CERTIFICATION, NOTICE AND OPT-OUT)

THIS MOTION, by the Plaintiff for an order certifying this action as a class proceeding pursuant to the *Class Proceedings Act, 1992*, SO 1992, c 6 ("***CPA***") and approving the certification notice, the notice plan, setting the opt-out process and deadline, and appointing RicePoint Administration Inc. ("**RicePoint**") as notice and opt-out administrator was heard this day in writing;

ON READING the materials filed by the Plaintiff;

AND ON BEING ADVISED that the Defendants do not oppose the Order and that RicePoint consents to being appointed as notice and opt-out administrator;

1. **THIS COURT ORDERS** that for the purposes of this order, except to the extent that they are modified in this order, the definitions set out in the proposed Second Fresh as Amended

Statement of Claim ("**Claim**"), attached hereto as **Schedule "A"**, apply to and are incorporated into this order.

2. **THIS COURT ORDERS** that the within action is certified as a class proceeding pursuant to the *CPA* as against the Defendants, subject to the provisions of this order.

3. **THIS COURT ORDERS** that the Class is defined as:

> All persons, wherever they may reside or be domiciled, who held or hold, from December 28, 2003 to the date this Order is issued, units of an RBC Mutual Fund or a PH&N Mutual Fund through a Discount Broker, except for the Excluded Persons*.
>
> * Excluded Persons means the Defendants; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the Defendants; and the past and present members of the independent review committee of the RBC Mutual Funds or the PH&N Mutual Funds.

4. **THIS COURT ORDERS** that the following issues are certified as common issues for the Class and shall be determined in accordance with the stay order dated August 1, 2023 made in *DeJong v RBC Global Asset Management Inc. et al.*, Court File No. CV-22-00691343-00CP:

Breach of Fiduciary Duty

(a) Did RBC GAM, as the trustee of the RBC Mutual Funds, owe a fiduciary duty? If so, to whom was the duty owed and what was the scope of that duty?

(b) Did RBC IS, as the trustee of the PH&N Mutual Funds, owe a fiduciary duty? If so, to whom was the duty owed and what was the scope of that duty?

(c) Did RBC GAM, as the manager of the RBC Mutual Funds and the PH&N Mutual Funds, owe a fiduciary duty? If so, to whom was the duty owed and what was the scope of that duty?

(d) If the answer to the first question in (a), (b) and/or (c) is yes, did the relevant Defendant breach its fiduciary duty? If so, when and how?

(e) Do the responses to (a), (b), (c) and/or (d) vary depending on the mutual fund product or series at issue? If so, how?

(f) Do the responses to (a), (b), (c) and/or (d) vary depending on the time in issue? If so, how?

Breach of Trust

(g) Did RBC GAM, as the trustee of the RBC Mutual Funds, breach the RBC Trust Instruments? If so, when and how, and what was the scope of the relevant duties or obligations under the RBC Trust Instruments?

(h) Did RBC IS, as the trustee of the PH&N Mutual Funds, breach the PH&N Trust Instruments? If so, when and how, and what was the scope of the relevant duties or obligations under the PH&N Trust Instruments?

(i) Do the responses to (g) and/or (h) vary depending on the mutual fund product or series at issue? If so, how?

(j) Do the responses to (g) and/or (h) vary depending on the time in issue? If so, how?

Breach of Contract

(k) Did RBC GAM, as the manager of the RBC Mutual Funds and PH&N Mutual Funds, breach the RBC Trust Instruments and the PH&N Trust Instruments? If so, when and how, and what was the scope of the relevant duties or obligations under the RBC Trust Instruments and the PH&N Trust Instruments?

(l) Do the responses to (k) vary depending on the mutual fund product or series at issue? If so, how?

(m) Do the responses to (k) vary depending on the time in issue? If so, how?

Section 23.1 of the Trustee Act

(n) Should the payment of the Unearned Management Fees by RBC GAM or RBC IS be disallowed as an expense pursuant to section 23.1 of the *Trustee Act*?

Prospectus Misrepresentation

(o) Did the Fund Facts Documents, and the Simplified Prospectuses which incorporate the Fund Facts Documents, contain a misrepresentation within the meaning of the *OSA* (and, as applicable, the Other Canadian Securities Legislation)?

(p) If the answer to (o) is yes, are the Defendants, or either of them, liable to the Class Members pursuant to section 130 of the *OSA* (and, as applicable, the Other Canadian Securities Legislation)?

Remedies

(q) If breach of trust is established in the answers to common issues (g) to (j), are the Defendants, or either of them, liable to account to the Class Members?

(r) If the Defendants are found liable on any claims asserted by the Class Members, as set out in (a) to (q) above, what remedies, including damages and/or equitable remedies, are the Class Members entitled to receive?

(s) How should recoveries under each type of remedy be measured?

(t) Can the amount of any monetary relief be determined on an aggregate basis? If so, what is the amount and what is the appropriate method or procedure for distributing that amount to the Class Members?

Interest

(u) Should the Defendants be ordered to pay an equitable rate of interest and/or pre-judgment and post-judgment interest pursuant to the *CJA*? If so, what is the appropriate measure or amount of such interest?

Administration and Distribution

(v) Should the Defendants pay the costs of administering and distributing the recovery? If so, what amount should the Defendants pay?

5. **THIS COURT ORDERS** that Peter Ross is appointed as the representative plaintiff for the Class.

6. **THIS COURT ORDERS** that the relief sought by the Class is as set out in paragraph 3 of the Claim.

7. **THIS COURT ORDERS** that the nature of the claims asserted on behalf of the Class are relief arising out of or under: (i) breach of trust; (ii) breach of fiduciary duty; (iii) breach of contract; (iv) section 23.1 of the *Trustee Act*; and (v) section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation).

8. **THIS COURT ORDERS** that the litigation plan attached hereto as **Schedule "B"** is hereby approved.

9. **THIS COURT ORDERS** that any other class proceeding in Ontario relating to the subject matter of this action is hereby stayed, except for:

(a) *Frayce et al. v BMO InvestorLine Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-20-00638868-00CP;

(b) *Frayce v BMO InvestorLine Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-20-00634551-00CP; and

(c) *Ciardullo v. 1832 Asset Management L.P. et al.*, Court File No. CV-22-684723-00CP, *Ciardullo et al. v. 1832 Asset Management L.P. et al.*, Court File No. CV-22-685386-00CP, *Yeats v. 1832 Asset Management L.P.*, Court File No. CV- 22-690373-00CP, *Woodard v. Canadian Imperial Bank of Commerce et al.*, Court File No. CV-22- 690374-00CP, *Yeats v. BMO Investments Inc.*, Court File No. CV-22-690519- 00CP, *DeJong v. RBC Global Asset Management Inc. et al.*, Court File No. CV-22-691343- 00CP, *Aggarwal v. TD Asset Management Inc.*, Court File No. CV-22-691344-00CP, and *Aizic v. Natcan Trust Company et al.*, Court File No. CV-23-00697428-00CP (collectively, the "**2022 Actions**"), subject to the temporary stay orders granted by this Court on August 1, 2023 in the 2022 Actions and any further orders subsequently made in the 2022 Actions.

10. **THIS COURT ORDERS** that no other class proceeding relating to the subject matter of this action may be commenced in Ontario without leave of the Court.

11. **THIS COURT ORDERS** that RicePoint is hereby appointed as the notice and opt-out administrator and will perform the duties and responsibilities set out herein, and any other related duty or responsibility.

12. **THIS COURT ORDERS** that the long-form notice, short-form notice and internet banner, substantially in the form attached hereto as **Schedules "C", "D"** and **"E"**, respectively, are hereby approved.

13. **THIS COURT ORDERS** that the notices shall be published and disseminated by RicePoint (or Siskinds LLP ("**Class Counsel**") with respect to paragraphs 13(b)(i) and (ii) below or the Defendants with respect to paragraph 13(a)(v) below) substantially in the following manner:

(a) Short-form notice:

(i) disseminated as a news release in Canada across Canada NewsWire (in English and French);

(ii) published once in the business section of the national weekend edition of *The Globe and Mail*, in English;

(iii) published once in the business section of *La Presse*, in French;

(iv) sent electronically and/or in paper form to Discount Brokers in Canada with a cover letter requesting that they post the notice on their electronic message/news boards;

(v) filed by the Defendants as a news release on SEDAR;

(b) Long-form notice:

(i) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French;

(ii) provided by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the action;

(c) Internet banner:

(i) published as a 12-day sponsored news link on Stockhouse;

(ii) published as a Google banner ad for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, over 30 days.

14. **THIS COURT ORDERS** that the opt-out form ("**Opt-Out Form**"), substantially in the form attached as Appendix "A" to the long-form notice, is hereby approved.

15. **THIS COURT ORDERS** that:

(a) a person may opt out of this class proceeding by sending (by mail or courier) a fully completed Opt-Out Form in accordance with the instructions set out in the long-form notice to be postmarked on or before the date that is ninety (90) days after the day on which the short-form notice is first published ("**Opt-Out Deadline**");

(b) no person may opt out of this class proceeding after the Opt-Out Deadline; and

(c) a person who validly opts out of the class proceeding in accordance with this Order shall not be a Class Member on and after the date that such person opts out of the class proceeding.

16. **THIS COURT ORDERS** that the costs of disseminating notice and receiving Opt-Out Forms shall be paid by the Plaintiff.

17. **THIS COURT ORDERS** that there shall be no costs of this motion.

The Honourable Justice Akbarali

SCHEDULE "A"
PROPOSED SECOND FRESH AS AMENDED STATEMENT OF CLAIM

Court File No. CV-18-00611743-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N :

PETER ROSS

Plaintiff

\- and -

RBC GLOBAL ASSET MANAGEMENT INC.
and RBC INVESTOR SERVICES TRUST

Defendants

Proceeding under the *Class Proceedings Act, 1992*

SECOND FRESH AS AMENDED STATEMENT OF CLAIM

Notice of action issued on December 28, 2018

CURRENCY AND DEFINITIONS

1. Unless otherwise stated, all dollar amounts stated herein are in Canadian dollars.

2. In this Second Fresh as Amended Statement of Claim, in addition to the terms that are defined elsewhere herein, the following definitions apply:

(a) "**BMO InvestorLine**" means BMO InvestorLine Inc., an indirect subsidiary of the Bank of Montreal, or such other discount brokerage business operated, directly or indirectly, by the Bank of Montreal from time to time;

(b) "***CJA***" means the *Courts of Justice Act*, RSO 1990, c C-43, as amended;

(c) "**Class**" and "**Class Members**" means, collectively, all persons, wherever they may reside or be domiciled, who held or hold, from December 28, 2003 to the date this Order is issued, units of a **RBC Mutual Fund** or a **PH&N Mutual Fund** through a **Discount Broker**, except for the **Excluded Persons**;

(d) "***CPA***" means the *Class Proceedings Act, 1992*, SO 1992, c 6, as amended;

(e) "**CSA**" means the Canadian Securities Administrators;

(f) "**Current PH&N DOT**" means the Amended and Restated Master Trust Agreement between **RBC GAM** and **RBC IS** dated June 29, 2021, including all Regulations or Supplements thereto, as amended and supplemented from time to time;

(g) "**Current RBC Funds DOT**" means the Amended and Restated Master Declaration of Trust by **RBC GAM** dated June 26, 2020, including all Regulations or Supplements thereto, as amended and supplemented from time to time;

(h) "**Current RBC Private Pools DOT**" means the Eighth Amended and Restated Declaration of Trust by **RBC GAM** dated September 5, 2017, including all Regulations or Supplements thereto, as amended and supplemented from time to time;

(i) "**Defendants**" means, together, **RBC GAM** and **RBC IS**;

(j) "**Discount Brokers**" means entities providing "order-execution only services" as defined in Rule 3200 of the **IIROC Rules** or entities performing a function similar to "order-execution only services" prior to the introduction of that definition in Rule 3200 of the **IIROC Rules**, including (without limitation) **RBC Direct Investing**;

(k) "**Excluded Persons**" means the **Defendants**; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the **Defendants**; and the past and present members of the independent review committee of the **RBC Mutual Funds** or the **PH&N Mutual Funds**;

(l) "**Form 81-101F1**" means Form 81-101F1 – *Contents of Simplified Prospectus*, as amended;

(m) "**Form 81-101F2**" means Form 81-101F2 – *Contents of Annual Information Form*, as amended;

(n) "**Form 81-101F3**" means Form 81-101F3 – *Contents of Fund Facts Document*, as amended;

(o) "**Fund Facts Document**" means a fund facts document as referred to in **NI 81-101** and **Form 81-101F3**;

(p) "**IIROC**" means the Investment Industry Regulatory Organization of Canada;

(q) "**IIROC Rules**" means the **IIROC** Dealer Member Rules, as amended;

(r) "**NI 81-101**" means National Instrument 81-101 – *Mutual Fund Prospectus Disclosure*, as amended;

(s) "**NI 81-107**" means National Instrument 81-107 – *Independent Review Committee for Investment Funds*, as amended;

(t) "***OSA***" means the *Securities Act*, RSO 1990, c S.5, as amended;

(u) "**Other Canadian Securities Legislation**" means, collectively, the *Securities Act*, RSA 2000, c S-4; the *Securities Act*, RSBC 1996, c 418; *The Securities Act*, CCSM c S50; the *Securities Act*, SNB 2004, c S-5.5; the *Securities Act*, RSNL 1990, c S-13; the *Securities Act*, SNWT 2008, c 10; the *Securities Act*, RSNS 1989, c 418; the *Securities Act*, S Nu 2008, c 12; the *Securities Act*, RSPEI 1988, c S-3.1; the *Securities Act*, RSQ, c V-1.1; *The Securities Act, 1988*, SS 1988-89, c S-42.2; and the *Securities Act*, SY 2007, c 16, all as amended;

(v) "**PH&N Mutual Funds**" means all mutual fund trusts (including, without limitation, all series of units thereof) of which **RBC IS** is trustee, was trustee or may be trustee at any time prior to the conclusion of the trial of the common issues in this proceeding (but only in respect of the period during which **RBC IS** is trustee, was trustee or may be trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been or may be terminated, (ii) those mutual funds that have been or may be merged into other mutual funds, and (iii) those mutual funds that have undergone or may undergo name changes;

(w) "**PH&N Trust Instruments**" means, collectively, all declarations of trust or similar trust instruments that govern, have governed or may govern the **PH&N Mutual Funds**, including, without limitation, the **Current PH&N DOT**;

(x) "**Plaintiff**" means the Plaintiff, Peter Ross;

(y) "**RBC Direct Investing**" means RBC Direct Investing Inc.;

(z) "**RBC GAM**" means the Defendant, RBC Global Asset Management Inc. (and including all predecessor amalgamating entities, including, without limitation, each of RBC Asset Management Inc. and Phillips, Hager & North Investment Management Ltd. prior to their amalgamation on or around November 1, 2010 to form RBC Global Asset Management Inc.);

(aa) "**RBC IS**" means the Defendant, RBC Investor Services Trust;

(bb) "**RBC Mutual Funds**" means all mutual fund trusts (including, without limitation, all series of units thereof) of which **RBC GAM** is trustee, was trustee or may be trustee at any time prior to the conclusion of the trial of the common issues in this proceeding (but only in respect of the period during which **RBC GAM** is trustee, was trustee or may be trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been or may be terminated, (ii) those mutual funds that have been or may be merged into other mutual funds, and (iii) those mutual funds that have undergone or may undergo name changes;

(cc) "**RBC Trust Instruments**" means, collectively, all declarations of trust or similar trust instruments that govern, have governed or may govern the **RBC Mutual Funds**, including, without limitation, the **Current RBC Funds DOT** and the **Current RBC Private Pools DOT**;

(dd) "**Royal Bank**" means the Royal Bank of Canada;

(ee) "**Simplified Prospectus**" means a simplified prospectus as referred to in **NI 81-101** and **Form 81-101F1**;

(ff) "***Trustee Act***" means the *Trustee Act*, RSO 1990, c T.23, as amended; and

(gg) "**Unearned Management Fees**" means, in respect of management fees that have been paid or may be paid out of the assets of the **RBC Mutual Funds** or the **PH&N Mutual Funds**, the portion of those management fees that has been paid or may be paid to **Discount Brokers** as trailing commissions, and any taxes relating to those trailing commissions.

RELIEF SOUGHT

3. The Plaintiff claims on his own behalf and on behalf of the other Class Members:

(a) an order certifying this action as a class proceeding pursuant to the *CPA* and appointing the Plaintiff as the representative plaintiff for the Class;

(b) a declaration that the Defendants committed breaches of trust and/or breached their fiduciary duties to the Plaintiff and the other Class Members;

(c) a declaration that RBC GAM is liable to the Plaintiff and the other Class Members for breach of contract;

(d) a declaration that the Defendants made one or more misrepresentations within the meaning of the *OSA* (and, if necessary, the Other Canadian Securities Legislation), and that the Defendants are liable to the Plaintiff and the other Class Members pursuant to section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation);

(e) an order requiring the Defendants to account to the Plaintiff and the other Class Members for the Unearned Management Fees;

(f) damages and/or equitable compensation in the sum of $200 million (or such other sum as this Court finds appropriate at the trial of the common issues or at a reference or references) to restore the Plaintiff and the other Class Members to the position they would have been in had the Unearned Management Fees not been paid;

(g) if necessary, an order compelling the Defendants to compensate the Plaintiff and the other Class Members in respect of the Unearned Management Fees by means of litigation trusts to be established pursuant to the *CPA*;

(h) an order disallowing the payment of the Unearned Management Fees as expenses pursuant to section 23.1 of the *Trustee Act* (and, if necessary, the equivalent provisions of comparable Canadian legislation) and requiring the Defendants to repay the expenses to the Plaintiff and the other Class Members or to the RBC Mutual Funds and the PH&N Mutual Funds;

(i) an interim and permanent order prohibiting the Defendants from seeking or obtaining indemnity or reimbursement from the assets of the RBC Mutual Funds and the PH&N Mutual Funds in respect of monetary relief paid or payable to the Plaintiff and the other Class Members in this action or their costs and expenses of this action;

(j) an order directing a reference or giving such other directions as may be necessary to determine issues not determined at the trial of the common issues;

(k) an equitable rate of interest on all sums found due and owing to the Plaintiff and the other Class Members to compensate them for the diminution in the value of their units of the RBC Mutual Funds and the PH&N Mutual Funds resulting from payment of the Unearned Management Fees;

(l) pre-judgment and post-judgment interest pursuant to the *CJA*;

(m) costs of this action on a substantial indemnity basis or in an amount that provides full indemnity;

(n) pursuant to section 26(9) of the *CPA*, the costs of notice and of administering the plan of distribution of the recovery in this action plus applicable taxes; and

(o) such further and other relief as this Honourable Court may deem just.

OVERVIEW

4. This class proceeding arises out of the payment of excessive, inflated and/or unearned management fees to RBC GAM in respect of the RBC Mutual Funds and the PH&N Mutual Funds. The management fees are excessive, inflated and/or unearned because unearned trailing commissions earmarked for payment to Discount Brokers are included in, or embedded into, those management fees.

5. RBC GAM is the trustee and manager of the RBC Mutual Funds. RBC GAM is also the manager of the PH&N Mutual Funds. RBC IS is the trustee of the PH&N Mutual Funds.

6. The Class Members are persons who hold or held units of a RBC Mutual Fund or a PH&N Mutual Fund through a Discount Broker, as distinct from other distribution channels through which RBC Mutual Funds and PH&N Mutual Funds are sold to investors. Discount Brokers are also commonly referred to as "order-execution only", "DIY" and "online" brokers. Under the IIROC Rules, Discount Brokers are prohibited from providing investment advice to investors.

7. The RBC Mutual Funds and the PH&N Mutual Funds are trusts governed by the RBC Trust Instruments and the PH&N Trust Instruments. The assets of the RBC Mutual Funds and the PH&N Mutual Funds are trust property that the Defendants, as trustees and/or fiduciaries, have undertaken to hold for the exclusive benefit of the beneficiaries, being the Class Members and the other unitholders of the RBC Mutual Funds and the PH&N Mutual Funds. The Defendants have a duty to preserve the trust property and maximize the value of units of the RBC Mutual Funds and the PH&N Mutual Funds.

8. RBC GAM receives management fees out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds. The management fees are excessive, inflated and/or unearned because a portion — described herein as the Unearned Management Fees — is collected by RBC GAM for the purpose of paying trailing commissions to Discount Brokers. RBC GAM has paid, and continues to pay, trailing commissions to Discount Brokers through which the Class Members held or hold the RBC Mutual Funds and the PH&N Mutual Funds.

9. The purpose of a trailing commission on a mutual fund is to compensate the dealer (through whom the mutual fund is sold) for providing their client with ongoing investment advice about the client's investment in the mutual fund in respect of which the trailing commission is paid. As Discount Brokers do not and cannot provide investment advice to investors, the payment of trailing commissions to Discount Brokers in respect of the RBC Mutual Funds and the PH&N Mutual Funds is improper, unreasonable and unjustified. Consequently, the payment by RBC GAM (in respect of the RBC Mutual Funds) and RBC IS (in respect of the PH&N Mutual Funds) of the Unearned Management Fees on account of those trailing commissions, and their receipt by RBC GAM (in respect of the RBC Mutual Funds and the PH&N Mutual Funds), is improper, unreasonable and unjustified.

10. Since 2011, the Fund Facts Documents that the Defendants have prepared and filed with securities regulators to permit the sale of units of the RBC Mutual Funds and the PH&N Mutual Funds have acknowledged the purpose of trailing commissions as compensation for advice. The Fund Facts Documents have stated that trailing commissions are paid to dealers for the "services and advice" provided by those dealers to their clients. In 2020, the Fund Facts Documents for Series D units of certain RBC Mutual Funds and PH&N Mutual

Funds (which are only sold through Discount Brokers) were amended to refer to "advice and/or services" rather than "services and advice", and to state that "[w]hen trailing commissions are paid to discount brokerage firms, they are for services and not for investment advice." The Defendants continue to represent that trailing commissions are paid for "services and advice" in Fund Facts Documents for other series of the RBC Mutual Funds and PH&N Mutual Funds that are held through Discount Brokers. By making those amendments to the Fund Facts Documents, the Defendants have acknowledged that the reference to "services and advice" in the Fund Facts Documents is and was false, misleading and/or inaccurate in respect of RBC Mutual Funds and PH&N Mutual Funds held through Discount Brokers.

11. The term "services and advice" refers to a dealer providing ongoing advice to a client with respect to the client's investment in the RBC Mutual Fund or the PH&N Mutual Fund in respect of which the trailing commission is paid, and services that are specifically connected with that advice, namely determining the suitability for the client of the investment in that RBC Mutual Fund or PH&N Mutual Fund in light of the personal circumstances of the client (including the client's other investment holdings). However, Discount Brokers do not and cannot provide investment advice to clients and they do not provide suitability determinations for their clients. Accordingly, the payment of trailing commissions to Discount Brokers in respect of the RBC Mutual Funds and the PH&N Mutual Funds is improper, unreasonable and unjustified. Consequently, the payment by RBC GAM (in respect of the RBC Mutual Funds) and RBC IS (in respect of the PH&N Mutual Funds) of the Unearned Management Fees on account of those trailing

commissions, and their receipt by RBC GAM (in respect of the RBC Mutual Funds and the PH&N Mutual Funds), is improper, unreasonable and unjustified.

12. The reality is that trailing commissions function as sales commissions paid on an ongoing basis by the Defendants to Discount Brokers in consideration for services provided by the Discount Brokers to the Defendants, not services provided by the Discount Brokers to the Class Members. The trailing commissions incentivize the Discount Brokers to offer for sale, or provide "shelf space" for, RBC Mutual Funds and PH&N Mutual Funds on their trading platforms. This is to the detriment of the Class Members (who suffer reduced investment returns), while accruing to the benefit of: the Defendants (which receive increased management fees as the assets of the RBC Mutual Funds and the PH&N Mutual Funds grow through new investment capital); the Defendants' affiliate, RBC Direct Investing, and other Discount Brokers (which receive the trailing commissions); and the Defendant's ultimate parent company, Royal Bank (which enjoys the benefits flowing to the Defendants and RBC Direct Investing). The Defendants misused trust property belonging to the Class Members for the purpose of benefiting themselves, their affiliates and others.

13. Further or in the alternative, the payment of trailing commissions to Discount Brokers cannot be justified on the basis of purported "services" because, among other things:

(a) the Defendants do not impose an obligation on Discount Brokers to provide particular services to Class Members in respect of the RBC Mutual Funds and PH&N Mutual Funds in consideration for the trailing commissions;

(b) the Defendants do not conduct any auditing or inquiries, or any adequate auditing or inquiries, into whether Discount Brokers are providing particular services to Class Members in respect of the RBC Mutual Funds and PH&N Mutual Funds; and

(c) the Defendants do not conduct any auditing or inquiries, or any adequate auditing or inquiries, into whether Discount Brokers use or apply the trailing commissions for the purpose of providing particular services to Class Members in respect of the RBC Mutual Funds and PH&N Mutual Funds.

14. In fact, Discount Brokers do not provide Class Members with any services that are specific to the RBC Mutual Funds and PH&N Mutual Funds in respect of which the trailing commissions are paid and that are provided on an ongoing basis. The services provided by Discount Brokers to their clients (such as research and educational tools) are provided regardless of whether the clients hold RBC Mutual Funds and PH&N Mutual Funds. Those general services available to all Discount Broker clients do not justify the payment of trailing commissions to Discount Brokers in respect of RBC Mutual Funds and PH&N Mutual Funds. Accordingly, the payment of trailing commissions to Discount Brokers on account of "services" is improper, unreasonable and unjustified. Consequently, the payment by RBC GAM (in respect of the RBC Mutual Funds) and RBC IS (in respect of the PH&N Mutual Funds) of the Unearned Management Fees on account of those trailing commissions, and their receipt by RBC GAM (in respect of the RBC Mutual Funds and the PH&N Mutual Funds), is improper, unreasonable and unjustified.

15. The Unearned Management Fees represent significant sums of money and are paid on a continuous basis. The wasting of the assets of the RBC Mutual Funds and the PH&N Mutual Funds by the payment of the Unearned Management Fees has unjustly enriched

RBC GAM and decreased the value of the units of the RBC Mutual Funds and the PH&N Mutual Funds held by the Class Members. The Class Members have suffered, and continue to suffer, significant loss and damage as a result of the Defendants' acts and omissions pleaded herein.

THE PARTIES

The Plaintiff

16. The Plaintiff is an individual residing in Toronto, Ontario.

17. The Plaintiff has held units of the Phillips, Hager & North High Yield Bond Fund – Series D (RBF1280), a PH&N Mutual Fund, in an account with BMO InvestorLine, a Discount Broker, since on or around November 4, 2009.

18. The Plaintiff previously held units of the RBC Canadian Dividend Fund – Series A (RBF266), a RBC Mutual Fund, in an account with BMO InvestorLine, a Discount Broker, from on or around April 12, 2006 until on or around August 27, 2010.

The Class

19. The proposed Class on whose behalf this proceeding is brought is comprised of all persons, wherever they may reside or be domiciled, who held or hold, from December 28, 2003 to the date this Order is issued, units of a RBC Mutual Fund or a PH&N Mutual Fund through a Discount Broker, except for the Excluded Persons.

The Defendant, RBC GAM

20. RBC GAM is a corporation incorporated under the laws of Canada.

21. RBC GAM is, and was at all material times, the manager of the RBC Mutual Funds and the PH&N Mutual Funds, as well as the trustee of the RBC Mutual Funds.

22. RBC GAM is an indirect wholly-owned subsidiary of Royal Bank.

23. RBC GAM is, and was at all material times, an "investment fund manager" as defined in the *OSA*. As an investment fund manager, RBC GAM is, and was at all material times, subject to the duty under section 116 of the *OSA* and/or section 2.1 of NI 81-107 to (a) exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the RBC Mutual Funds and the PH&N Mutual Funds, and (b) exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

The Defendant, RBC IS

24. RBC IS is a trust company incorporated under the laws of Canada.

25. RBC IS is, and was at all material times, the trustee of the PH&N Mutual Funds.

26. RBC IS was named "RBC Dexia Investor Services Trust" until on or around July 27, 2012.

27. RBC IS is an indirect wholly-owned subsidiary of Royal Bank.

THE RBC MUTUAL FUNDS

28. Each of the RBC Mutual Funds is or was a trust governed by the terms of one of the RBC Trust Instruments.

29. Each of the RBC Mutual Funds is or was an "investment fund" and a "mutual fund" as those terms are defined in the *OSA*.

30. Each of the RBC Mutual Funds is or was a reporting issuer in Ontario and in all other provinces of Canada.

31. To the best of the Plaintiff's knowledge, the RBC Mutual Funds as of December 28, 2018 are listed in **Schedule "A"** hereto.

THE PH&N MUTUAL FUNDS

32. Each of the PH&N Mutual Funds is or was a trust governed by the terms of one of the PH&N Trust Instruments.

33. Each of the PH&N Mutual Funds is or was an "investment fund" and a "mutual fund" as those terms are defined in the *OSA*.

34. Each of the PH&N Mutual Funds is or was a reporting issuer in Ontario and in all other provinces of Canada.

35. To the best of the Plaintiff's knowledge, the PH&N Mutual Funds as of December 28, 2018 are listed in **Schedule "B"** hereto.

THE RBC TRUST INSTRUMENTS

36. The RBC Mutual Funds are currently governed by the Current RBC Funds DOT and the Current RBC Private Pools DOT.

37. Under each of the RBC Trust Instruments, RBC GAM holds in trust all property of the RBC Mutual Funds for the benefit of the unitholders of the RBC Mutual Funds.

38. Pursuant to Article XVIII, section 1 of the Current RBC Funds DOT and section 11.1 of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as trustee of the RBC Mutual Funds,

is and was at all material times required to act honestly and in good faith, and in the best interests of the RBC Mutual Funds, and to exercise the care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances.

39. Pursuant to Article XVIII, section 1 of the Current RBC Funds DOT and section 9.6 of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as manager of the RBC Mutual Funds, is and was at all material times required to act honestly and in good faith, and in the best interests of the RBC Mutual Funds, and to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

40. Pursuant to Article XVIII, section 1 of the Current RBC Funds DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as manager of the applicable RBC Mutual Funds, is and was at all material times responsible for any loss that arises out of its failure to discharge its responsibilities as manager in accordance with the standard of care.

41. Pursuant to section 11.1 of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as trustee, is and was at all material times responsible for any loss that arises out of its failure, or the failure of any person or company retained by the trustee, to discharge the trustee's responsibilities to the applicable RBC Mutual Funds.

42. Pursuant to Article V, section 5 of the Current RBC Funds DOT and sections 9.4, 12.1, 12.2 and 12.3 of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), the trustee may delegate or

transfer to the manager such of its rights and responsibilities relating to management and administration of the RBC Mutual Funds and their assets as it deems to be appropriate.

43. Pursuant to Article XVI, section 1 and Article V, section 8 of the Current RBC Funds DOT and section 14.1(a) of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), the trustee receives management fees, and may direct that all or a portion of the management fees that would otherwise be paid to the trustee be paid directly to the manager instead.

44. RBC GAM receives management fees out of the assets of the RBC Mutual Funds. The management fees are calculated as a percentage of the series net asset value of each RBC Mutual Fund (which management fees are calculated daily and are payable monthly).

45. The payment of management fees to RBC GAM out of the assets of the RBC Mutual Funds reduces the net asset value of the RBC Mutual Funds, which in turn reduces the value of unitholders' units of the RBC Mutual Funds. As stated in one or more Simplified Prospectuses disseminated by the Defendants in respect of the RBC Mutual Funds, management fees are among the fees and expenses that are paid by the RBC Mutual Funds and they "lower the fund's return" and "reduce the value of your investment." Similarly, as stated in one or more Fund Facts Documents disseminated by the Defendants in respect of the RBC Mutual Funds, fund expenses, including management fees, "affect you because they reduce the fund's returns."

46. As stated in Article VIII, section 11, and Schedule B, Article II, section 1 and Schedule C, Article II, section 1 of the Current RBC Funds DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as trustee, may agree

with a unitholder to a reduction in the management fee payable by the RBC Mutual Funds in the form of a "Management Fee Distribution".

47. RBC GAM may also waive or absorb a portion of its management fees in respect of the RBC Mutual Funds.

48. Article II, section 1(g) of the Current RBC Funds DOT and section 3.5(f) of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times) allow for the redesignation or reclassification of units of one series of a RBC Mutual Fund as units of another series of the same RBC Mutual Fund.

THE PH&N TRUST INSTRUMENTS

49. The PH&N Mutual Funds are currently governed by the Current PH&N DOT.

50. Under each of the PH&N Trust Instruments, RBC IS holds in trust all property of the PH&N Mutual Funds for the benefit of the unitholders of the PH&N Mutual Funds.

51. Pursuant to section 9.1 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), RBC IS, as trustee of the PH&N Mutual Funds, is and was at all material times required to exercise its powers and discharge its duties honestly and in good faith, and to exercise the degree of care, diligence and skill that a reasonably prudent Canadian trust company would exercise in comparable circumstances.

52. Pursuant to section 10.1 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), RBC GAM, as manager of the PH&N Mutual Funds, is and was at all material times required to exercise its powers and discharge its duties honestly, in good faith and in the best interests of the PH&N Mutual

Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent investment management company would exercise in comparable circumstances.

53. Pursuant to section 7.1 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), RBC GAM, as manager, has full authority and responsibility and the exclusive power to manage the business and affairs of the PH&N Mutual Funds.

54. Pursuant to section 8.2 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), RBC GAM is entitled to receive a management fee from the property of each PH&N Mutual Fund "equal to or up to" the annual percentage rate set out in Schedule "A" of the Current PH&N DOT.

55. Pursuant to section 6.5(e) of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), the management fees paid to RBC GAM must meet the standard of "reasonable expenses and compensation".

56. RBC GAM receives management fees out of the assets of the PH&N Mutual Funds. The management fees are calculated as a percentage of the series net asset value of the applicable series of each PH&N Mutual Fund (which management fees are calculated daily and are payable monthly).

57. The payment of management fees to RBC GAM out of the assets of the PH&N Mutual Funds reduces the net asset value of the PH&N Mutual Funds, which in turn reduces the value of unitholders' units of the PH&N Mutual Funds. As stated in one or more Simplified Prospectuses disseminated by the Defendants in respect of the PH&N Mutual Funds, management fees are among the fees and expenses that are paid by the PH&N Mutual

Funds and they "lower the Fund's returns" and "reduce the value of your investment in the Funds." Similarly, as stated in one or more Fund Facts Documents disseminated by the Defendants in respect of the PH&N Mutual Funds, fund expenses, including management fees, "affect you because they reduce the fund's returns."

58. Section 16.11 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times) provides for RBC GAM to reimburse all or a portion of the management fee paid by the PH&N Mutual Funds to the manager, and the amount of any reimbursement must be distributed to the unitholder as a "Management Fee Distribution".

59. As stated in section 8.2 of the Current PH&N DOT, RBC GAM may waive all or a portion of its management fees.

60. Section 3.3 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times) allows for the redesignation or reclassification of units of one series of a PH&N Mutual Fund as units of another series of the same PH&N Mutual Fund.

TRAILING COMMISSIONS AND DISCOUNT BROKERS

61. RBC GAM has paid and continues to pay a portion of the management fees that it receives out of the assets of the RBC Mutual Funds and PH&N Mutual Funds to dealers, including Discount Brokers, as trailing commissions. The quantum of the trailing commission payable to a dealer is determined as a percentage of the value of the units of the RBC Mutual Funds or the PH&N Mutual Funds held by the dealer's clients (which trailing commission is paid monthly or quarterly).

62. The payment of management fees, within which the trailing commissions payable to Discount Brokers are embedded, depletes the assets of the RBC Mutual Funds and PH&N Mutual Funds and reduces the value of the Class Members' units of those RBC Mutual Funds and PH&N Mutual Funds and thereby diminishes their return on investment in the RBC Mutual Funds and PH&N Mutual Funds.

63. Among other dealers, the RBC Mutual Funds and PH&N Mutual Funds are sold through Discount Brokers. Discount Brokers are entities that provide order execution only services to investors. They are regulated by IIROC as "Dealer Members". Under the IIROC Rules, Discount Brokers apply to IIROC for approval to offer an "order-execution only service", which is defined as "the acceptance and execution of orders from customers for trades that the Dealer Member has not recommended and for which the Dealer Member takes no responsibility as to the appropriateness or suitability of orders accepted or account positions held." Such approval provides Discount Brokers with an exemption from compliance with IIROC Rules that impose requirements to assess the suitability of a client's orders and account positions. Accordingly, as a condition of the approval provided by IIROC to Discount Brokers to operate their discount brokerage businesses, Discount Brokers are prohibited from providing investment recommendations or advice to clients.

64. One of the Discount Brokers through which the RBC Mutual Funds and the PH&N Mutual Funds are sold is RBC Direct Investing, which is an indirect wholly-owned subsidiary of Royal Bank. Each of RBC GAM and RBC IS is also an indirect wholly-owned subsidiary of Royal Bank. RBC Direct Investing, RBC GAM and RBC IS are all affiliates of each other. Some of the Unearned Management Fees have been paid to RBC Direct Investing, which is to the ultimate benefit of Royal Bank.

65. The Defendants knew, or ought to have known, that the Unearned Management Fees were being paid to Discount Brokers as trailing commissions, thereby reducing the value of the Class Members' units, in circumstances where those trailing commissions were not earned by the Discount Brokers because they are not providing services and advice to the Class Members.

66. The Simplified Prospectuses issued by the Defendants to permit the offering of units of the RBC Mutual Funds and PH&N Mutual Funds set out the maximum annual percentage rates for trailing commissions payable in respect of certain of the RBC Mutual Funds and PH&N Mutual Funds. Class Members are entitled to expect that the Defendants will comply with their duties to the Class Members and will not pay the maximum rate of trailing commission both to dealers that provide full advisory services to their clients and to Discount Brokers who provide no services or advice to their clients. Yet, the trailing commissions paid by the Class Members on each series of the RBC Mutual Funds and the PH&N Mutual Funds are identical to the trailing commissions paid on those same series by investors who hold their RBC Mutual Funds or PH&N Mutual Funds through a full-service account.

67. The Defendants never disclosed to the Plaintiff the dollar amount of the trailing commissions paid to the Plaintiff's Discount Broker in respect of the units of the PH&N Mutual Fund held by the Plaintiff.

68. The Defendants continue the practice of paying trailing commissions to Discount Brokers in respect of the RBC Mutual Funds and the PH&N Mutual Funds despite criticism of the practice and the imminent prohibition of the practice by regulators.

69. On January 10, 2017, the CSA released CSA Consultation Paper 81-408 – *Consultation on the Option of Discontinuing Embedded Commissions*, which addresses issues relating to mutual fund fees, including the payment of trailing commissions to dealers. In relation to the Canadian mutual fund industry generally, CSA Consultation Paper 81-408 states that, as at December 2015, "data suggests that $25 billion of the total $30 billion held in mutual funds in the [discount broker] channel (83%) remains in the full trailing commission paying fund series". It concludes that "[t]he majority of DIY investors investing in mutual funds pay full trailing commission despite not receiving advice" and "many DIY mutual fund investors in the online/discount brokerage channel indirectly pay for services they do not receive."

70. In a press release issued on May 8, 2017 entitled "Limit Series A Sales to Channels that Permit Advice: IFIC", the Investment Funds Institute of Canada, which styles itself as the "voice of Canada's investment funds industry", called on regulators to ensure that mutual funds that carry a trailing commission are not sold through the Discount Broker channel. The press release stated that:

> The Investment Funds Institute of Canada (IFIC) is calling on regulators to establish rules to ensure that mutual funds carrying an embedded advisor fee are sold only in channels where advice is permitted.
>
> "Investors who buy funds directly, for example through a discount broker, should be confident that they are not inadvertently overpaying by selecting a series that includes fees for services that are not available through that platform," says Paul C. Bourque, Q.C., IFIC's president and CEO.
>
> Series A mutual funds bundle an advice fee within the product. Most companies already provide other series of funds with no or nominal trailer fees that investors can purchase if they are do-it-yourself investors or want to pay for advice separately. The industry's proposal would advance the goal of ensuring that low-trailer or no-trailer funds are available to these types of investors in a more uniform and transparent way.
>
> "IFIC members believe that consumers should be able to choose for themselves the products, services and payment methods that best meet their needs and preferences,"

> Bourque stated. "Today's proposal would help to achieve a goal that the industry shares with our regulators: to ensure that fees are aligned with the services that investors receive. It reflects the industry's commitment to provide Canadian consumers with real and meaningful investment choices."

71. On April 9, 2018, IIROC released its final guidance regarding order-execution only services offered by Discount Brokers. In Notice of Implementation 18-0075 dated April 9, 2018, IIROC stated that Discount Brokers face a conflict of interest by making available on their platforms mutual funds that pay a trailing commission for ongoing advice (*e.g.* Series A mutual funds). The Notice of Implementation stated:

> We acknowledge that funds that pay an ongoing trailing commission to registrants (often described as a payment for advice and services provided to the investor by the registrant), and are made available by OEO firms (e.g., a Series A fund), raise a conflict of interest. Under our rules, a Dealer Member must address conflicts of interest considering the best interests of the client or clients.
>
> In the Guidance, we indicate that OEO firms should consider how they will address any compensation-related conflicts when deciding which series (or series equivalent in the case of a PTF) of a fund to make (or not make) available on their platforms. We recognize that many OEO firms have already implemented practices to address this conflict.
>
> We expect that OEO firms will make available, whenever possible, funds that do not pay a trailing commission for ongoing advice (often referred to as a Series D fund).
>
> When a Series D fund is not available (e.g., because a fund family does not offer that type of series) and an OEO firm makes available another series that pays a trailing commission, we also expect the firm to address the conflict by rebating to the client the portion of the trailing commission for ongoing advice, or taking other similar steps.
>
> A large majority of the publically available funds include a trailing commission. Management of the conflicts of interest relating to trailing commissions by OEO firms allows investors continued access to the widest possible range of investments.

72. On June 21, 2018, the CSA released CSA Staff Notice 81-330 – *Status Report on Consultation on Embedded Commissions and Next Steps*, in which the CSA announced its intention to publish rule changes that will prohibit the payment of trailing commissions to, and the solicitation and acceptance of trailing commissions by, dealers who do not make a suitability determination (*e.g.* Discount Brokers) in connection with the distribution of prospectus qualified mutual fund securities. The CSA stated in Staff Notice 81-330 that:

> In our view, the fees paid by a vast majority of DIY investors in this channel [i.e. the discount brokerage channel] do not appear to align with the execution-only nature of the services they receive. We also observe no justifiable rationale for the practice of paying discount brokerage dealers an ongoing trailing commission for the sale of a mutual fund. For example, other securities including most ETFs are commonly purchased and sold by way of an upfront transaction fee. This ongoing payment may therefore be viewed as one that incentivizes the distribution of mutual funds that pay such an ongoing fee over those that do not (i.e. a payment for shelf space), giving rise to a conflict of interest. This is especially the case when the discount brokerage receives the same trailing commission as that of full-service dealers (which rate is typically intended to compensate full service dealers for the costs associated with providing investment advice). Moreover, in our view this fee also limits investor awareness and understanding of the fees associated with the purchase of such products in the discount brokerage channel.

73. Further to the announcement by the CSA on June 21, 2018, on September 13, 2018 the CSA published proposed amendments to securities regulatory instruments that will, when the amendments come into force, prohibit the payment of trailing commissions by fund organizations (which includes mutual fund managers) to dealers who do not make a suitability determination, such as order-execution-only dealers (i.e. Discount Brokers). The proposed amendments will prohibit the payment of mutual fund trailing commissions to Discount Brokers in any amount. The CSA stated that fund organizations will need to make available to Discount Brokers a class or series of securities of a mutual fund that does not pay a trailing commission, which will result in a corresponding reduction in the rate of the management fee charged on that class or series. Existing holdings of mutual funds will also need to be switched to the class or series of securities of the mutual fund that does not pay a trailing commission. The CSA also commented that the prohibition on the payment of trailing commissions by fund organizations to Discount Brokers will eliminate "a longstanding conflict between IFMs [investment fund managers] (who have been reluctant to offer non trailing commission-paying fund series in this channel), online/discount brokerages (who have been satisfied to accept full trailing commission-paying funds), and DIY investors."

74. On September 17, 2020, the CSA published for adoption final amendments to applicable securities regulatory instruments to prohibit the payment of trailing commissions (of any amount) by fund managers, including the Defendants, to dealers who do not make a suitability determination, including Discount Brokers. The prohibition on the payment of trailing commissions to Discount Brokers will come into force on June 1, 2022.

75. As alluded to in the above-noted press release of the Investment Funds Institute of Canada, some mutual fund families offer a series of their funds, typically called Series D, that is sold only through Discount Brokers. Series D (or similar discount series) pay a lower management fee than traditional retail series (e.g. Series A) because they include a reduced trailing commission to partially reflect the fact that "services and advice" are not being provided to investors through a Discount Broker.

76. Since 2020, the Fund Facts Documents that the Defendant has prepared and filed to permit the sale of Series D units of certain RBC Mutual Funds and PH&N Mutual Funds (which are only sold through Discount Brokers) acknowledge that advice is not provided to investors in those funds through Discount Brokers by stating that trailing commissions are paid for "advice <u>and/or</u> services" (not "services and advice") provided by Discount Brokers to investors, and that "[w]hen trailing commissions are paid to discount brokerage firms, they are for services and not for investment advice."

77. While the Defendants currently offer Series D units on most of the RBC Mutual Funds and PH&N Mutual Funds, other series of the RBC Mutual Funds and PH&N Mutual Funds that carry a higher trailing commission have been held, and continue to be held, by Class Members through Discount Brokers. When the Defendants introduced Series D units of

the RBC Mutual Funds and the PH&N Mutual Funds, it failed to advise, permit and/or cause the Class Members to switch their existing units into Series D units.

78. In any event, the payment of any trailing commissions to Discount Brokers in respect of the RBC Mutual Funds or the PH&N Mutual Funds, including on Series D units of the RBC Mutual Funds or the PH&N Mutual Funds, was in breach of the Defendants' duties to the Class Members, as pleaded herein.

RIGHTS OF ACTION

Breach of Fiduciary Duty

79. As trustee of each of the RBC Mutual Funds, RBC GAM is and was at all material times in a fiduciary relationship with the Class Members who hold or held RBC Mutual Funds and owes, or owed at the material times, fiduciary duties to those Class Members.

80. As trustee of each of the PH&N Mutual Funds, RBC IS is and was at all material times in a fiduciary relationship with the Class Members who hold or held PH&N Mutual Funds and owes, or owed at the material times, fiduciary duties to those Class Members. As stated in one or more Simplified Prospectuses disseminated by the Defendants in respect of the PH&N Mutual Funds: "As trustee, RBC Investor Services Trust ("RBC IS") holds title to securities owned by each Fund on behalf of its unitholders with responsibility to act in the best interest of unitholders."

81. As manager of the RBC Mutual Funds and the PH&N Mutual Funds, RBC GAM is, and was at all material times, a trustee *de son tort* of the RBC Mutual Funds and PH&N Mutual Funds. Pursuant to the RBC Trust Instruments and the PH&N Trust Instruments, RBC GAM at all material times undertook full responsibility for the administration of the day-

to-day business and affairs of each RBC Mutual Fund and PH&N Mutual Fund. To carry out that responsibility as manager, RBC GAM has possession and/or control of the property of the RBC Mutual Funds and the PH&N Mutual Funds and administers that property. As trustee *de son tort* of each of the RBC Mutual Funds and PH&N Mutual Funds, RBC GAM is, and was at all material times, in a fiduciary relationship with the Class Members and owes, or owed at the material times, fiduciary duties to the Class Members. As a trustee *de son tort* of the RBC Mutual Funds and PH&N Mutual Funds, RBC GAM also has or had an obligation to abide by the duties and obligations of the trustee set out in the RBC Trust Instruments and the PH&N Trust Instruments.

82. Further or in the alternative, as manager of each of the RBC Mutual Funds and the PH&N Mutual Funds, RBC GAM has significant discretion, power or control in relation to the business and affairs of the RBC Mutual Funds and PH&N Mutual Funds and the assets of the RBC Mutual Funds and the PH&N Mutual Funds. RBC GAM can unilaterally exercise that discretion, power or control so as to affect the Class Members' legal or substantial practical interests, including the Class Members' financial interests arising from their ownership of units of the RBC Mutual Funds and the PH&N Mutual Funds, the value of which is tied to the value of the assets of the RBC Mutual Funds and the PH&N Mutual Funds. The Class Members are particularly vulnerable to RBC GAM holding that discretion, power or control as manager of the RBC Mutual Funds and the PH&N Mutual Funds.

83. RBC GAM as manager has expressly or impliedly undertaken to act in the best interests of the Class Members, including as follows:

(a) by the standard of care binding on RBC GAM as manager under the RBC Trust Instruments, the PH&N Trust Instruments, and section 116 of the *OSA* and/or section 2.1 of NI 81-107;

(b) RBC GAM is a signatory to the United Nations-supported Principles for Responsible Investment, pursuant to which RBC GAM signed a declaration in which it acknowledged its "duty to act in the best long-term interests of our beneficiaries" and affirmed its "fiduciary role" and "fiduciary responsibilities";

(c) by its public pronouncements, including as follows:

(i) in a publication addressing RBC GAM's approach to responsible investment, RBC GAM states that one of its "core values" is to "[p]ut our clients' interests first" and acknowledges its fiduciary duty to clients; and

(ii) in RBC GAM's transparency report on the United Nations-supported Principles for Responsible Investment, RBC GAM states that: "We have a fiduciary duty to our clients to act in their best interests."

84. Accordingly, as manager of each of the RBC Mutual Funds and the PH&N Mutual Funds, RBC GAM is, and was at all material times, in a fiduciary relationship with the Class Members and owes, or owed at the material times, fiduciary duties to the Class Members.

85. By their acts and omissions, the Defendants have breached their fiduciary duty to the Class Members. The Defendants' breaches include (without limitation):

(a) paying and/or receiving the Unearned Management Fees out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds;

(b) failing to preserve the property of the RBC Mutual Funds and the PH&N Mutual Funds;

(c) failing to maximize the value of the units of the RBC Mutual Funds and the PH&N Mutual Funds;

(d) paying the Unearned Management Fees to the Discount Brokers for no purpose;

(e) failing to ascertain the nature of any services being provided by Discount Brokers to the Class Members and to ascribe a reasonable value to those services, to ensure that the assets of the RBC Mutual Funds and the PH&N Mutual Funds are being used for proper purposes and in a reasonable amount;

(f) failing to impose an obligation on Discount Brokers to provide particular services to Class Members in consideration for the trailing commissions;

(g) failing to conduct any auditing or inquiries, or any adequate auditing or inquiries, into whether Discount Brokers are providing particular services to Class Members in respect of the RBC Mutual Funds and the PH&N Mutual Funds;

(h) failing to conduct any auditing or inquiries, or any adequate auditing or inquiries, into whether Discount Brokers use or apply the trailing commissions for the purpose of providing particular services to Class Members in respect of the RBC Mutual Funds and the PH&N Mutual Funds;

(i) permitting series of units of the RBC Mutual Funds and the PH&N Mutual Funds carrying a trailing commission to be acquired and/or held through Discount Brokers;

(j) failing to create and make available to Class Members through Discount Brokers a series of units of the RBC Mutual Funds and the PH&N Mutual Funds that carries no trailing commission;

(k) failing to advise, permit and/or cause Class Members to re-designate or reclassify their units of the RBC Mutual Funds and the PH&N Mutual Funds into a series of units that carries no trailing commission;

(l) in the alternative to paragraphs 85(i) to 85(k):

  (i) permitting non-Series D (or similar discount series) units of the RBC Mutual Funds and the PH&N Mutual Funds to be acquired and/or held through Discount Brokers;

  (ii) failing to create and make available to Class Members through Discount Brokers Series D (or similar discount series) units of all of the RBC Mutual Funds and the PH&N Mutual Funds; and

  (iii) failing to advise, permit and/or cause Class Members to re-designate or reclassify their non-Series D units of the RBC Mutual Funds and the PH&N Mutual Funds into Series D (or similar discount series) units of the RBC Mutual Funds and PH&N Mutual Funds;

(m) RBC GAM acting in a conflict of interest by simultaneously acting as both the trustee and the manager of the RBC Mutual Funds, and thus paying the Unearned Management Fees to itself and negotiating the management fees with itself;

(n) acting in a conflict of interest by paying trailing commissions to Discount Brokers for the Defendants' own benefit, effectively as a marketing expense to secure access to the Discount Brokers' clients, resulting in increased management fees for RBC GAM as the assets of the RBC Mutual Funds and the PH&N Mutual Funds grow through new investment capital from the Discount Broker platforms;

(o) acting in a conflict of interest by failing to make available to Class Members holding RBC Mutual Funds and PH&N Mutual Funds through Discount Brokers a series of the RBC Mutual Funds and PH&N Mutual Funds that pays no trailing commission, or alternatively a reduced trailing commission, because of a concern that it would adversely affect the distribution of RBC Mutual Funds and PH&N Mutual Funds through the full-service or advisory distribution channels and thereby reduce RBC GAM's management fees;

(p) acting in a conflict of interest by receiving a portion of the Unearned Management Fees for the purpose of paying such amount to RBC Direct Investing (an indirect wholly-owned subsidiary of Royal Bank), for the ultimate benefit of Royal Bank, when such amount could have been retained in the RBC Mutual Funds or the PH&N Mutual Funds for the benefit of Class Members;

(q) failing to pay and/or accept a management fee reduced by the amount of the Unearned Management Fees and distributing (rebating) that amount to the Class Members as a "management fee distribution";

(r) failing to waive payment of the Unearned Management Fees; and

(s) RBC GAM and/or RBC IS, as trustee, failing to adequately supervise RBC GAM, as manager of the RBC Mutual Funds and the PH&N Mutual Funds, and failing to prevent and/or rectify the misconduct of RBC GAM, as manager of the RBC Mutual Funds and the PH&N Mutual Funds, as particularized herein, in breach of the manager's standard of care set out in the RBC Trust Instruments, the PH&N Trust Instruments, and section 116 of the *OSA* and/or section 2.1 of NI 81-107.

86. The Plaintiff and the other Class Members have suffered loss and damage as a result of the Defendants' breach of fiduciary duty as particularized herein.

Breach of Trust

87. Under the RBC Trust Instruments and the PH&N Trust Instruments, RBC GAM and RBC IS, as trustees of the RBC Mutual Funds and PH&N Mutual Funds, respectively, have and had at all material times a duty to exercise their powers and discharge their duties honestly, in good faith and in the best interests of each RBC Mutual Fund and PH&N Mutual Fund, and to exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances.

88. The duty under the RBC Trust Instruments and the PH&N Trust Instruments is a duty to act honestly, in good faith and in the best interests of the Class Members and the other unitholders of the RBC Mutual Funds and the PH&N Mutual Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances. That duty is enforceable by the Class Members and breaches of that duty are actionable by the Class Members.

89. Alternatively, the duty under the RBC Trust Instruments and the PH&N Trust Instruments includes a duty to act honestly, in good faith and in the best interests of the Class Members and the other unitholders of the RBC Mutual Funds and the PH&N Mutual Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances. That duty is enforceable by the Class Members and breaches of that duty are actionable by the Class Members.

90. Alternatively, the duty under the RBC Trust Instruments and the PH&N Trust Instruments is a duty to act honestly, in good faith and in the best interests of the RBC Mutual Funds and the PH&N Mutual Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances. The RBC Mutual Funds and the PH&N Mutual Funds are trust relationships between RBC GAM and RBC IS, respectively, and the unitholders in respect of property held for the benefit of the unitholders. Any breach of the duty to the RBC Mutual Funds and the PH&N Mutual Funds causes direct loss and damage to the Class Members and the other unitholders of the RBC Mutual Funds and PH&N Mutual Funds. That duty is enforceable by the Class Members and breaches of that duty are actionable by the Class Members.

91. By their acts and omissions, including (without limitation) the acts and omissions set out in paragraph 85 hereof, RBC GAM and RBC IS, as trustees of the RBC Mutual Funds and the PH&N Mutual Funds, respectively, have breached their duty under the RBC Trust Instruments and the PH&N Trust Instruments and committed breaches of trust.

92. The RBC Mutual Funds and PH&N Mutual Funds, the Plaintiff and the other Class Members have suffered loss and damage as a result of the Defendants' breaches of trust as particularized herein.

Breach of Contract

93. Pursuant to Article XVIII, section 1 of the Current RBC Funds DOT, section 9.6 of the Current RBC Private Pools DOT and section 10.1 of the Current PH&N DOT (and the equivalent provisions of other RBC Trust Instruments and PH&N Trust Instruments applicable at material times), RBC GAM, as manager of the RBC Mutual Funds and PH&N Mutual Funds, is and was at all material times required to exercise its powers and discharge its duties honestly, in good faith and in the best interests of the RBC Mutual Funds and PH&N Mutual Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

94. RBC GAM, as manager of the RBC Mutual Funds and the PH&N Mutual Funds, is a party to the RBC Trust Instruments and the PH&N Trust Instruments, along with the trustees and the unitholders. The RBC Trust Instruments and the PH&N Trust Instruments impose obligations and duties on RBC GAM and confer rights and benefits on RBC GAM. RBC GAM, as manager, accepted those obligations and duties in consideration for the rights and benefits.

95. Under the Current RBC Funds DOT (and the other RBC Trust Instruments applicable at material times), RBC GAM "shall act as the trustee and manager of each of the RBC Funds, upon and subject to the conditions contained herein", and it "does hereby declare that it continues to act as trustee and manager [...] upon and subject to the express terms, conditions and trusts of this Master Declaration of Trust". Further, RBC GAM, as trustee, "may enter into an agreement with a manager or a manager may be made a party to this Master Declaration of Trust in order to provide for the manager's responsibilities, authority and compensation." RBC GAM has not entered into a separate agreement relating to the

RBC Mutual Funds governed by the Current RBC Funds DOT. RBC GAM, as manager, is a party to the Current RBC Funds DOT (and the other RBC Trust Instruments applicable at material times) in order to provide for its responsibilities, authority and compensation.

96. RBC GAM, in its capacity as manager of the PH&N Mutual Funds, signed the Current PH&N DOT as a party thereto.

97. By it acts and omissions, including (without limitation) the acts and omissions set out in paragraph 85 hereof, RBC GAM has breached the standard of care set out in the Current RBC Funds DOT, the Current RBC Private Pools DOT and the Current PH&N DOT (and the equivalent provisions of other RBC Trust Instruments and PH&N Trust Instruments applicable at material times) and is liable for the loss to the Class Members that has arisen out of its breach of the standard of care.

98. The Plaintiff and the other Class Members have suffered loss and damage as a result of RBC GAM's acts or omissions.

Disallowance of Improper Expenses under Section 23.1 of the Trustee Act

99. The Unearned Management Fees are expenses paid by RBC GAM and RBC IS from the trust property of the RBC Mutual Funds and the PH&N Mutual Funds.

100. The expenses are not properly incurred in carrying out the trust because they are on account of trailing commissions paid or payable to Discount Brokers, and such trailing commissions are not properly paid or payable to Discount Brokers because the Discount Brokers do not provide services or advice to the Class Members.

101. The payment of the expenses ought to be disallowed pursuant to section 23.1(2) of the *Trustee Act* (and, if necessary, the equivalent provisions of comparable Canadian legislation).

Prospectus Misrepresentation

102. The Plaintiff asserts the right of action for prospectus misrepresentation in section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation) on his own behalf and on behalf of the Class Members.

103. The Defendants have prepared, filed and disseminated Simplified Prospectuses and, since January 1, 2011, Fund Facts Documents, to permit the continuous offering to the public of units of the RBC Mutual Funds and the PH&N Mutual Funds.

104. The Fund Facts Documents are incorporated by reference into the relevant Simplified Prospectuses and form part of those Simplified Prospectuses.

105. Pursuant to section 56(1) of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation), the Simplified Prospectuses are and were required to provide full, true and plain disclosure of all material facts relating to the securities issued or proposed to be distributed under the Simplified Prospectuses.

106. The Simplified Prospectuses are prospectuses for the purposes of section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation).

107. The Fund Facts Documents prepared, filed and disseminated by the Defendants in respect of the RBC Mutual Funds and the PH&N Mutual Funds (other than Fund Facts Documents for Series D units of certain RBC Mutual Funds and PH&N Mutual Funds since 2020)

have contained at all material times a common statement that trailing commissions are paid to dealers for the "services and advice" provided by those dealers to their clients.

108. That common statement is a misrepresentation within the meaning of the *OSA* (and, if necessary, the Other Canadian Securities Legislation). It falsely represents that trailing commissions are only paid to dealers that provide services and advice to investors, whereas in fact trailing commissions are also paid to Discount Brokers even though they do not provide services or advice to their clients. The statement is, and was at all material times, material to the Class Members.

109. In 2020, the Fund Facts Documents for Series D units of certain RBC Mutual Funds and PH&N Mutual Funds (which are only sold through Discount Brokers) were amended to refer to "advice <u>and/or</u> services" rather than "services and advice", and to state that "[w]hen trailing commissions are paid to discount brokerage firms, they are for services and not for investment advice." The Defendants continue to represent that trailing commissions are paid for "services and advice" in Fund Facts Documents for other series of the RBC Mutual Funds and PH&N Mutual Funds that are held through Discount Brokers. By making those amendments to the Fund Facts Documents, the Defendants have acknowledged that the reference to "services and advice" in the Fund Facts Documents is and was false, misleading and/or inaccurate in respect of RBC Mutual Funds and PH&N Mutual Funds held through Discount Brokers.

110. The Defendants certified and signed the Simplified Prospectuses as required by NI 81-101 and Form 81-101F2, and are liable pursuant to section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation).

111. The offering of units of the RBC Mutual Funds and PH&N Mutual Funds to which the Simplified Prospectuses and Fund Facts Documents related constituted distributions of the units in Ontario and/or distributions of units from Ontario to persons outside of Ontario. The offering was governed by the *OSA* and its subsidiary instruments and regulations, and was carried out under Ontario securities laws.

112. The Plaintiff and the other Class Members have suffered loss and damage as a result of the Defendants' acts and omissions as particularized herein.

DAMAGE SUFFERED BY THE CLASS MEMBERS

113. The RBC Mutual Funds and the PH&N Mutual Funds, the Plaintiff and the other Class Members have suffered loss and damage as a result of the Defendants' acts and omissions particularized herein.

114. As a result of the payment of the Unearned Management Fees out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds, the value of the assets of the RBC Mutual Funds and PH&N Mutual Funds has been significantly reduced.

115. As a result of the payment of the Unearned Management Fees out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds, there has been a significant reduction in the value of the units of the RBC Mutual Funds and the PH&N Mutual Funds held by the Class Members and/or the value of the distributions received by the Class Members on their units of the RBC Mutual Funds and the PH&N Mutual Funds (whether received in cash or reinvested in additional units).

116. The Plaintiff and the other Class Members have also suffered loss and damage as a result of the loss of opportunity to earn a reasonable return on investment if the Unearned

Management Fees had not been paid out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds.

117. The Plaintiff and the other Class Members who continue to hold units of the RBC Mutual Funds and the PH&N Mutual Funds are suffering ongoing loss and damage as a result of the Defendants' acts and omissions particularized herein.

118. The Defendants knew, or ought to have known, that as a result of its acts and omissions particularized herein, the Class Members would suffer loss and damage.

REAL AND SUBSTANTIAL CONNECTION WITH ONTARIO

119. The Plaintiff pleads that this action has a real and substantial connection with Ontario because, among other things:

(a) the Plaintiff is resident in Ontario;

(b) the Defendants are domiciled in Ontario;

(c) the Defendants carry on business in Ontario;

(d) each of the RBC Mutual Funds and PH&N Mutual Funds is, or was at material times, a reporting issuer in Ontario;

(e) the Simplified Prospectuses and Fund Facts Documents referred to herein were disseminated in Ontario;

(f) a substantial portion of the Class Members reside in Ontario; and

(g) a substantial portion of the damages sustained by the Class were sustained by persons and entities domiciled in Ontario.

RELEVANT LEGISLATION

120. The Plaintiff pleads and relies on the *CJA*, the *CPA*, the *Trustee Act* (and, if necessary, the equivalent provisions of comparable Canadian legislation), and the *OSA* (and, if necessary, the Other Canadian Securities Legislation).

PLACE OF TRIAL

121. The Plaintiff proposes that this action be tried in the City of Toronto, in the Province of Ontario, as a proceeding under the *CPA*.

January 25, 2019

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Lawyers for the Plaintiff

SCHEDULE "A"
RBC MUTUAL FUNDS

1. RBC Canadian T-Bill Fund
2. RBC Canadian Money Market Fund
3. RBC Premium Money Market Fund
4. RBC $U.S. Money Market Fund
5. RBC Premium $U.S. Money Market Fund
6. RBC Canadian Short-Term Income Fund
7. RBC $U.S. Short-Term Corporate Bond Fund
8. RBC Monthly Income Bond Fund
9. RBC Bond Fund
10. RBC Canadian Bond Index Fund
11. RBC Canadian Government Bond Index Fund
12. RBC Vision Bond Fund
13. RBC Global Bond Fund
14. RBC Global Bond & Currency Fund
15. RBC $U.S. Investment Grade Corporate Bond Fund
16. RBC Global Corporate Bond Fund
17. RBC High Yield Bond Fund
18. RBC $U.S. High Yield Bond Fund
19. RBC Global High Yield Bond Fund
20. RBC Strategic Income Bond Fund
21. RBC $U.S. Strategic Income Bond Fund
22. RBC Emerging Markets Foreign Exchange Fund
23. RBC Emerging Markets Bond Fund
24. RBC Emerging Markets Bond Fund (CAD Hedged)
25. BlueBay Global Monthly Income Bond Fund
26. BlueBay Global Sovereign Bond Fund (Canada)

27. BlueBay Global Investment Grade Corporate Bond Fund (Canada

28. BlueBay European High Yield Bond Fund (Canada)

29. BlueBay Emerging Markets Bond Fund (Canada)

30. BlueBay Emerging Markets Local Currency Bond Fund (Canada)

31. BlueBay Emerging Markets Corporate Bond Fund

32. BlueBay Global Convertible Bond Fund (Canada)

33. BlueBay $U.S. Global Convertible Bond Fund (Canada)

34. RBC Conservative Bond Pool

35. RBC Core Bond Pool

36. RBC Core Plus Bond Pool

37. RBC Managed Payout Solution

38. RBC Managed Payout Solution - Enhanced

39. RBC Managed Payout Solution – Enhanced Plus

40. RBC Monthly Income Fund

41. RBC U.S. Monthly Income Fund

42. RBC Balanced Fund

43. RBC Global Balanced Fund

44. RBC Vision Balanced Fund

45. RBC Conservative Growth & Income Fund

46. RBC Balanced Growth & Income Fund

47. RBC Global Growth & Income Fund

48. RBC Retirement Income Solution

49. RBC Retirement 2020 Portfolio

50. RBC Retirement 2025 Portfolio

51. RBC Retirement 2030 Portfolio

52. RBC Retirement 2035 Portfolio

53. RBC Retirement 2040 Portfolio

54. RBC Retirement 2045 Portfolio

55. RBC Retirement 2050 Portfolio
56. RBC Select Very Conservative Portfolio
57. RBC Select Conservative Portfolio
58. RBC Select Balanced Portfolio
59. RBC Select Growth Portfolio
60. RBC Select Aggressive Growth Portfolio
61. RBC Select Choices Conservative Portfolio
62. RBC Select Choices Balanced Portfolio
63. RBC Select Choices Growth Portfolio
64. RBC Select Choices Aggressive Growth Portfolio
65. RBC Target 2020 Education Fund
66. RBC Target 2025 Education Fund
67. RBC Target 2030 Education Fund
68. RBC Target 2035 Education Fund
69. RBC Canadian Dividend Fund
70. RBC Canadian Equity Fund
71. RBC QUBE Low Volatility Canadian Equity Fund
72. RBC Trend Canadian Equity Fund
73. RBC Vision Canadian Equity Fund
74. RBC Canadian Index Fund
75. RBC O'Shaughnessy Canadian Equity Fund
76. RBC O'Shaughnessy All-Canadian Equity Fund
77. RBC Canadian Equity Income Fund
78. RBC Canadian Small & Mid-Cap Resources Fund
79. RBC North American Value Fund
80. RBC North American Growth Fund
81. RBC U.S. Dividend Fund
82. RBC U.S. Dividend Currency Neutral Fund

83. RBC U.S. Equity Fund
84. RBC U.S. Equity Currency Neutral Fund
85. RBC U.S. Index Fund
86. RBC U.S. Index Currency Neutral Fund
87. RBC QUBE U.S. Equity Fund
88. RBC QUBE Low Volatility U.S. Equity Fund
89. RBC QUBE Low Volatility U.S. Equity Currency Neutral Fund
90. RBC U.S. Equity Value Fund
91. RBC O'Shaughnessy U.S. Value Fund (Unhedged)
92. RBC O'Shaughnessy U.S. Value Fund
93. RBC U.S. Mid-Cap Growth Equity Fund
94. RBC U.S. Mid-Cap Growth Equity Currency Neutral Fund
95. RBC U.S. Mid-Cap Value Equity Fund
96. RBC U.S. Small-Cap Core Equity Fund
97. RBC U.S. Small-Cap Value Equity Fund
98. RBC O'Shaughnessy U.S. Growth Fund
99. RBC O'Shaughnessy U.S. Growth Fund II
100. RBC Life Science and Technology Fund
101. RBC International Dividend Growth Fund
102. RBC International Equity Fund
103. RBC International Equity Currency Neutral Fund
104. RBC International Index Currency Neutral Fund
105. RBC O'Shaughnessy International Equity Fund
106. RBC European Dividend Fund
107. RBC European Equity Fund
108. RBC European Mid-Cap Equity Fund
109. RBC Asian Equity Fund
110. RBC Asia Pacific ex-Japan Equity Fund

111. RBC Japanese Equity Fund
112. RBC Emerging Markets Multi-Strategy Equity Fund
113. RBC Emerging Markets Dividend Fund
114. RBC Emerging Markets Equity Fund
115. RBC Emerging Markets Small-Cap Equity Fund
116. RBC Global Dividend Growth Fund
117. RBC Global Dividend Growth Currency Neutral Fund
118. RBC Global Equity Fund
119. RBC Global Equity Focus Fund
120. RBC Global Equity Focus Currency Neutral Fund
121. RBC QUBE Global Equity Fund
122. RBC QUBE Low Volatility Global Equity Fund
123. RBC QUBE Low Volatility Global Equity Currency Neutral Fund
124. RBC Vision Global Equity Fund
125. RBC Vision Fossil Fuel Free Global Equity Fund
126. RBC O'Shaughnessy Global Equity Fund
127. RBC QUBE Low Volatility All Country World Equity Fund
128. RBC Global Energy Fund
129. RBC Global Precious Metals Fund
130. RBC Global Resources Fund
131. RBC Global Technology Fund
132. RBC Private Short-Term Income Pool
133. RBC Private Canadian Corporate Bond Pool
134. RBC Private Income Pool
135. RBC Private Canadian Dividend Pool
136. RBC Private Canadian Growth and Income Equity Pool
137. RBC Private Canadian Equity Pool
138. RBC Private Canadian Growth Equity Pool

139. RBC Private Canadian Mid-Cap Equity Pool

140. RBC Private U.S. Large-Cap Value Equity Pool

141. RBC Private U.S. Large-Cap Value Equity

142. Currency Neutral Pool

143. RBC Private U.S. Growth Equity Pool

144. RBC Private U.S. Large-Cap Core Equity Pool

145. RBC Private U.S. Large-Cap Core Equity

146. Currency Neutral Pool

147. RBC Private U.S. Small-Cap Equity Pool

148. RBC Private EAFE Equity Pool

149. RBC Private Overseas Equity Pool

150. RBC Private World Equity Pool

SCHEDULE "B"
PH&N MUTUAL FUNDS

1. Phillips, Hager & North U.S. Equity Fund
2. Phillips, Hager & North Canadian Equity Plus Pension Trust
3. Phillips, Hager & North Bond Fund
4. Phillips, Hager & North Canadian Equity Fund
5. Phillips, Hager & North Dividend Income Fund
6. Phillips, Hager & North U.S. Pooled Pension Fund
7. Phillips, Hager & North Vintage Fund
8. Phillips, Hager & North Canadian Money Market Fund
9. Phillips, Hager & North Canadian Growth Fund
10. Phillips, Hager & North Balanced Pension Trust
11. Phillips, Hager & North $U.S. Money Market Fund
12. Phillips, Hager & North Balanced Fund
13. Phillips, Hager & North U.S. Growth Fund
14. Phillips, Hager & North Short Term Bond & Mortgage Fund
15. Phillips, Hager & North Small Float Fund
16. Phillips, Hager & North Institutional S.T.I.F.
17. Phillips, Hager & North Canadian Equity Pension Trust
18. Phillips, Hager & North Long Bond Pension Trust
19. Phillips, Hager & North High Yield Bond Fund
20. Phillips, Hager & North High Grade Corporate Bond Fund
21. Phillips, Hager & North Investment Grade Corporate Bond Trust
22. Phillips, Hager & North Total Return Bond Fund
23. Phillips, Hager & North Global Equity Fund
24. Phillips, Hager & North Overseas Equity Fund
25. Phillips, Hager & North Overseas Equity Pension Trust
26. Phillips, Hager & North Mortgage Pension Trust

27. Phillips, Hager & North U.S. Dividend Income Fund
28. Phillips, Hager & North Community Values Bond Fund
29. Phillips, Hager & North Community Values Balanced Fund
30. Phillips, Hager & North Community Values Canadian Equity Fund
31. Phillips, Hager & North Community Values Global Equity Fund
32. Phillips, Hager & North Income Equity Pension Trust
33. Phillips, Hager & North Canadian Income Fund
34. Phillips, Hager & North PRisM – Short
35. Phillips, Hager & North N PRisM – Mid
36. Phillips, Hager & North PRisM – Long
37. Phillips, Hager & North Long Mortgage Pension Trust
38. Phillips, Hager & North Long Investment Grade Corporate Bond Trust
39. Phillips, Hager & North Currency-Hedged U.S. Equity Fund
40. Phillips, Hager & North Currency-Hedged Overseas Equity Fund
41. BonaVista Global Balanced Fund
42. BonaVista Canadian Equity Value Fund
43. Phillips, Hager & North Foreign Bond Fund
44. Phillips, Hager & North PRisM Balanced Fund
45. Phillips, Hager & North Enhanced Total Return Bond Fund
46. Phillips, Hager & North Inflation-Linked Bond Fund
47. Phillips, Hager & North Monthly Income Fund
48. Phillips, Hager & North Canadian Equity Value Fund
49. Phillips, Hager & North U.S. Multi-Style All-Cap Equity Fund
50. Phillips, Hager & North LifeTime 2015 Fund
51. Phillips, Hager & North LifeTime 2020 Fund
52. Phillips, Hager & North LifeTime 2025 Fund
53. Phillips, Hager & North LifeTime 2030 Fund
54. Phillips, Hager & North LifeTime 2035 Fund

55. Phillips, Hager & North LifeTime 2040 Fund
56. Phillips, Hager & North LifeTime 2045 Fund
57. Phillips, Hager & North LifeTime 2050 Fund
58. Phillips, Hager & North LifeTime 2055 Fund
59. Phillips, Hager & North Canadian Equity Underlying Fund
60. Phillips, Hager & North Canadian Equity Underlying Fund II
61. Phillips, Hager & North Short Inflation-linked Bond Fund
62. Phillips, Hager & North Long Inflation-linked Bond Fund
63. Phillips, Hager & North Institutional Gold & Precious Metals Fund
64. Phillips, Hager & North Conservative Equity Income Fund

ROSS v. RBC GLOBAL ASSET MANAGEMENT INC. *et al.*

Court File No. CV-18-00611743-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

SECOND FRESH AS AMENDED STATEMENT OF CLAIM

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SCHEDULE "B"
LITIGATION PLAN

Court File No. CV-18-00611743-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

PETER ROSS

Plaintiff

- and -

RBC GLOBAL ASSET MANAGEMENT INC.
and RBC INVESTOR SERVICES TRUST

Defendants

Proceeding under the *Class Proceedings Act, 1992*

LITIGATION PLAN

Pursuant to section 5(1)(e)(ii) of the *Class Proceedings Act, 1992* ("***CPA***"), the Plaintiff proposes that this Litigation Plan be followed with respect to these proceedings, subject to the Court's approval.

INTERPRETATION

1. This Litigation Plan is subject to, and should be read in conjunction with, the stay order of Justice Akbarali dated August 1, 2023 made in the action styled *DeJong v RBC Global Asset Management Inc. et al.*, Court File No. CV-22-00691343-00CP ("**2022 Action**").

DEFINED TERMS

2. Capitalized terms that are not defined in this litigation plan ("**Plan**") have the meanings attributed to them in the proposed Second Fresh as Amended Statement of Claim.

REPORTING AND COMMUNICATION

3. Siskinds LLP ("**Class Counsel**") has posted information about the nature and status of this action on its website, https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/ ("**Website**"). That information will be updated regularly. Copies of important, publicly available court documents, court decisions, notices, documentation, and other information relating to the action are or will be accessible on the Website.

4. The Website also contains a communication webpage, a feature that permits putative Class Members to submit inquiries to Class Counsel, which are sent directly to a designated member of the Class Counsel team, who will promptly respond.

DOCUMENT MANAGEMENT

5. Class Counsel will use data management systems to organize, code, and manage the documents produced by the Defendants and all relevant documents in the Plaintiff's possession. The agreement of the Defendants' counsel will be sought to facilitate the electronic exchange of documents. Once the volume of documents to be produced in this action is determined, Class Counsel may retain the services of a third-party document management firm for assistance.

6. Kalloghlian Myers LLP, as counsel to the plaintiff in the 2022 Action, shall, on a go-forward basis until the stay is lifted in the 2022 Action, provided that the 2022 Action has not been settled, discontinued or finally dismissed, be provided with a copy of all affidavits of documents, productions, transcripts of examination for discovery, motion materials, and transcripts of cross-examinations in this proceeding, with Kalloghlian Myers LLP and the plaintiff in the 2022 Action being subject to the deemed undertaking rule and only

permitted to use any such materials for purposes of observing the progress of the 2018 Action and preserving the rights of the plaintiff in the 2022 Action.

LITIGATION SCHEDULE

7. The Plaintiff has brought a motion seeking certification of the action as a class proceeding pursuant to the *CPA* ("**Certification Motion**").

8. Following disposition of the Certification Motion, absent agreement among counsel, the Plaintiff will ask the Court to set a litigation schedule for the remaining steps in the action.

9. From time to time, the Plaintiff or the Defendant may ask that the litigation schedule be amended.

RESOURCES AND EXPERTISE

10. The Plaintiff has retained Class Counsel as his counsel in this action. Class Counsel has the experience, resources and expertise to prosecute this action on behalf of the Class.

MEDIATION

11. The Plaintiff will participate in a mediation if the Defendants are prepared to do so. If the parties reach a proposed settlement of the action and the court approves the settlement, this Plan will require amendment.

NOTICE OF CERTIFICATION AND OPT OUT PROCEDURE

12. Notice of certification ("**Certification Notice**") will be circulated to advise Class Members, among other things, that:

(a) the Court certified the action as a class proceeding;

(b) a person may only opt out of the class proceeding by sending a written opt out election to the recipient designated by the Court, before a date and time fixed by the Court;

(c) a person may not opt out of the class proceeding after the date fixed by the Court; and

(d) if the common issues are resolved in favour of the Class, claimants may be required to register, file a claim and submit documentation to a designated person in order to be entitled to any compensation.

13. The Certification Notice, in a form approved by the Court, will be distributed and published in the following manner:

(a) posted by Class Counsel on the Website, in English and French;

(b) provided by Class Counsel to any person who requests it;

(c) posted by the Defendants on SEDAR;

(d) disseminated as a press release in Canada across Canada Newswire (in English and French);

(e) published once in the business section of the national edition of *The Globe and Mail*, in English;

(f) published once in the business section of *La Presse*, in French;

(g) published as an internet Google banner ad for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, over 30 days; and

(h) sent electronically and/or in paper form to appropriate broker/dealers in Canada, with a cover letter requesting that they bring the Certification Notice to the attention of their clients who may be Class Members.

14. The Plaintiff will appoint an independent person to receive the opt out notices and report to the court the names and addresses of the persons who opt out by the date fixed by the court.

15. The Plaintiff will pay the costs in the first instance, reserving the right to seek recovery of these costs from the Defendants by order of the judge presiding at the common issues trial.

REFINEMENT OF COMMON ISSUES

16. Following the completion of discovery, the parties may seek an amendment of the order certifying this action to deal with any necessary refinements to the common issues.

TRIAL OR SUMMARY JUDGMENT ON THE COMMON ISSUES

17. The common issues will be determined in two phases in accordance with the stay order dated August 1, 2023 made in the 2022 Action.

18. If appropriate, the Plaintiff or Defendant may seek summary judgment on one or more of the common issues.

19. After the final resolution of the phase one common issues in the 2018 Action, the Plaintiff, the plaintiff in the 2022 Action and the Defendant shall convene a case conference or pre-trial conference to obtain directions on the conduct of the second phase of the common issues trial.

20. The Plaintiff will ask the Court to hold the hearing on the merits (whether a motion for summary judgment or common issues trial) no later than one (1) year after the completion

of the examinations for discovery and the production of information required by undertakings and any motions.

INDIVIDUAL CLASS MEMBER PARTICIPATION AFTER JUDGMENT ON THE COMMON ISSUES

21. Once the common issues have been determined, the parties will bring a motion to the Court for directions as to the process to be employed to determine any individual issues that remain.

MOTION FOR DIRECTIONS

22. Class Counsel and the Defendants may apply at any time to the court for directions.

CLASS COUNSEL'S FEES AND THE COSTS OF ADMINISTRATION

23. After the trial of the common issues or summary judgment, the Plaintiff will ask the court to approve an agreement respecting fees and disbursements between him and Class Counsel. To the extent that the approved Class Counsel's fees, disbursements and applicable taxes are not completely paid by the costs recovered from the Defendants, the Plaintiff will ask the court to order that the unpaid balance be a first charge on any recovery either by way of aggregate or individual assessment.

24. If the court awards damages in the aggregate, Class Counsel will ask the court to order payment of their fees, disbursements and applicable taxes as a first charge on the aggregate amount.

25. If the court does not award damages in the aggregate and requires the Class Members to prove their damages through individual assessments, Class Counsel will ask the court to order payment of their fees, disbursements and applicable taxes as a first charge on the awards made at individual assessments.

FURTHER ORDERS CONCERNING THIS PLAN

26. This Plan may be amended from time to time by directions given at case conferences or by further order of the Court.

EFFECT OF THIS PLAN

27. This Plan shall be binding on all Class Members who do not opt out in accordance with the procedure directed by the Court whether or not they make a claim under the Plan.

SCHEDULE "C"
LONG-FORM NOTICE

RBC AND PH&N MUTUAL FUNDS CLASS ACTION
REGARDING TRAILING COMMISSIONS PAID TO DISCOUNT BROKERS

NOTICE OF CERTIFICATION AND OPT-OUT DEADLINE

Read this notice carefully as it may affect your legal rights

This notice is to certain investors in the units of RBC Mutual Funds and PH&N Mutual Funds other than certain persons and entities associated with the defendants, further described below.

THE CERTIFICATION ORDER

By Order dated [date], the Ontario Superior Court of Justice ("**Court**") has certified *Peter Ross v RBC Global Asset Management Inc. and RBC Investor Services Trust*, File No. CV-18-00611743-00CP ("**Class Action**") as a class proceeding pursuant to the Ontario *Class Proceedings Act, 1992*. The Court has appointed Peter Ross as the representative plaintiff for the class defined as follows ("**Class**" and "**Class Members**"):

> All persons, wherever they may reside or be domiciled, who held or hold, from December 28, 2003 to [date of certification order] in this proceeding units of a RBC Mutual Fund or a PH&N Mutual Fund through a Discount Broker, except for the Excluded Persons.

The Class Action pertains to RBC Mutual Funds and PH&N Mutual Funds organized as trusts. RBC Mutual Funds are defined as:

> All mutual fund trusts (including, without limitation, all series of units thereof) of which RBC Global Asset Management Inc. ("**RBC GAM**") is trustee, was trustee or may be trustee at any time prior to the conclusion of the trial of the common issues in this proceeding (but only in respect of the period during CIBC Trust is trustee, was trustee or may be trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been or may be terminated, (ii) those mutual funds that have been or may be merged into other mutual funds, and (iii) those mutual funds that have undergone or may undergo name changes.

PH&N Mutual Funds are defined as:

> All mutual fund trusts (including, without limitation, all series of units thereof) of which RBC Investor Services Trust ("**RBC IS**") is trustee, was trustee or may be trustee prior to the conclusion of the trial of the common issues in this proceeding (but only in respect of the period during which RBC IS is trustee, was trustee or may be trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been or may be terminated, (ii) those mutual funds that have been or may be merged into other mutual funds, and (iii) those mutual funds that have undergone or may undergo name changes.

Excluded from the Class are RBC GAM and RBC IS ("**Defendants**"); the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the Defendants; and the past and present members of the independent review committee of the RBC Mutual Funds or the PH&N Mutual Funds.

Certification is a procedural matter that defines the form of the class action. The merits of the claims in the action, and the allegations of fact on which the claims are based, have not been finally determined by the Court. The Defendants dispute the claims asserted against them.

The Class Action will now proceed to trial as a class action. The Court has identified the issues that will be dealt with collectively. The Class Action will proceed in Toronto, Ontario.

THE NATURE OF THE CLAIMS ASSERTED

It is alleged that the Defendants paid trailing commissions, out of the RBC Mutual Fund assets and PH&N Mutual Fund assets, to Discount Brokers. The RBC Mutual Funds and PH&N Mutual Funds are trusts governed by trust instruments. The Defendants are the trustee or manager of the RBC Mutual Funds and the PH&N Mutual Funds. It is alleged that the Defendants breached their trust, fiduciary and contractual duties because the trailing commissions paid to Discount Brokers are excessive, inflated and/or unearned.

It is further alleged that the Defendants made misrepresentations about the nature of the trailing commission payments in the fund facts documents they have prepared and filed with securities regulators to permit the sale of units of the RBC Mutual Funds and PH&N Mutual Funds.

On behalf of the Class, the Class Action asserts claims under section 130 of the Ontario *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Canadian provinces and territories. Additionally, the Class Action advances claims under section 23.1 of the *Trustee Act*, and for breach of trust, breach of fiduciary duty and breach of contract.

If you wish to pursue other claims against the Defendants relating to the matters at issue in the Class Action, you should immediately seek independent legal advice.

DO NOTHING IF YOU WANT TO PARTICIPATE IN THE CLASS ACTION

Class Members who want to participate in the Class Action are automatically included and do not have to do anything at this time.

YOU MUST OPT OUT IF YOU DO NOT WANT TO BE BOUND BY THE CLASS ACTION

Each Class Member who does not validly opt out of the Class Action will be bound by the terms of any judgment or settlement, whether favourable or not, and will not be allowed to prosecute an independent action.

Class Members who do not want to be bound by the outcome of the Class Action must "opt out," meaning that they must exclude themselves from the Class Action in accordance with the following procedure.

If you wish to opt out of the Class Action, you must complete, sign and return (by mail or courier) the opt-out form provided at Appendix "A" hereto to RicePoint Administration Inc.

In order for your opt-out to be valid, your complete and signed opt-out form must be postmarked by no later than [DATE].

A Class Member who opts out will not be entitled to participate in the Class Action.

CLASS COUNSEL AND LEGAL FEES

The representative plaintiff and the Class are represented by Siskinds LLP ("**Class Counsel**"). Class Counsel are conducting the Class Action on a contingent fee basis.

In the event of success, Class Counsel will make a motion to the Court for approval of their fees and disbursements to be paid from the funds recovered in the Class Action.

A Class Member will not be required to pay any costs in the event that the Class Action is unsuccessful.

Class Members have the right to seek intervenor status in the Class Action. A Class Member who intervenes in the Class Action may be required to pay legal costs arising from the Class Action.

ADDITIONAL INFORMATION

This notice has been approved by the Ontario Superior Court of Justice. The Court offices cannot answer any questions about the matters in this notice. The Orders of the Court and other information are available on Class Counsel's website at https://www.siskinds.com/class-action/mutual-fund-trailing-commissions.

Questions relating to the Class Action may be directed to Class Counsel:

Gigi Pao
Siskinds LLP
275 Dundas Street, Unit 1
London, ON, Canada N6B 3L1
Tel: 226-636-1615
Email: gigi.pao@siskinds.com

If you require assistance in the French language, please contact Class Counsel using the contact details above and we will direct your inquiry to an appropriate person.

The publication of this notice was authorized by the Ontario Superior Court of Justice

APPENDIX "A"
OPT-OUT FORM
RBC AND PH&N MUTUAL FUNDS CLASS ACTION

Complete and return this Opt-Out Form by no later than [DATE], ONLY IF YOU DO NOT WISH TO PARTICIPATE IN THE CLASS ACTION. It must be postmarked by no later than [DATE].

Name:
Organization and title (if applicable):
Phone number:
Fax number:
Email:
Address:

Please provide the below information on the RBC Mutual Fund or PH&N Mutual Fund units that you hold or held through a Discount Broker. Please use additional paper if necessary.

Name of the RBC Mutual Fund(s) or PH&N Mutual Fund(s) Currently or Previously Held	Fund Code	Date of Acquisition	Date of Disposition (if applicable)	Current Number of Units (if applicable)

(PLEASE CIRCLE THE APPROPRIATE LANGUAGE)

I believe that **I am / the organization that I represent is** a member of the Class in the Class Action.

I believe that **I am not / the organization that I represent is not** amongst the persons and entities excluded from the Class Action.

I understand that by opting out of the Class Action, **I will not be eligible / the organization that I represent will not be eligible** for any benefit that may be available to the Class upon resolution of this matter, if and when such resolution may occur.

I, ______________________________ (print your full name), **OPT OUT FROM THE CLASS ACTION** and wish to be excluded from this class action.

I wish to opt out from this class action for the following reason(s) (*optional*):

____
____
____
____
____.

I, ______________________________ (print your full name), **CERTIFY** that the information provided herein is complete and true.

______________________ Date

______________________ Signature

In order to validly opt out, you must complete and send this Opt-Out Form by no later than [DATE] to:

[Administrator contact details, including mail and courier details]

SCHEDULE “D”
SHORT-FORM NOTICE

DRAFT TEXT (subject to design)

RBC AND PH&N MUTUAL FUNDS CLASS ACTION
REGARDING TRAILING COMMISSIONS PAID TO DISCOUNT BROKERS

NOTICE OF CERTIFICATION AND OPT-OUT DEADLINE

HAVE YOU HELD UNITS OF

AN RBC OR PH&N MUTUAL FUND

THROUGH A DISCOUNT BROKER?

The Superior Court of Justice of Ontario has certified a class action which permits a defined group of investors (the "Class") to pursue claims against RBC Global Asset Management Inc. and RBC Investor Services Trust ("Defendants"). It is alleged that the Defendants paid excessive, inflated, and/or unearned trailing commissions to Discount Brokers out of the assets of the RBC and PH&N Mutual Fund trusts. The class action claims monetary damages on behalf of the Class. The allegations made in the class action have not been proven and are contested by the Defendants.

If you wish to participate in the class action, DO NOTHING.

If you do not wish to participate in the class action, be bound by or receive any benefits from it, you must opt out by sending the opt-out form to RicePoint Administration Inc. by [DATE].

To obtain a copy of the opt-out form or for other important information regarding the class action:

1. Visit https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/
2. Call toll-free 1 800 461 6166 ext 1615 (North America)
3. Call 416 594 4390 (Outside North America)

The publication of this notice was authorized by the Superior Court of Justice of the Province of Ontario

SCHEDULE "E"
INTERNET BANNER

Have you held units of an RBC or PH&N mutual fund through a discount brokerage?

You may be included in a class action certified by the Ontario Superior Court of Justice.

Click to learn your legal rights, including how to opt-out of the class action.

https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/

ROSS v. RBC GLOBAL ASSET MANAGEMENT INC. *et al.*

Court File No. CV-18-00611743-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

ORDER
(CERTIFICATION, NOTICE AND OPT-OUT)

Siskinds LLP
275 Dundas Street, Unit 1
London, ON N6B 3L1

Michael G. Robb (LSO#: 45787G)
Garett M. Hunter (LSO#: 71800D)
Gigi Pao (LSO#: 80151M)
Tel: 519-660-7872
Fax: 519-660-7873

Siskinds LLP
65 Queen Street West, Suite 1155
Toronto, ON M5H 2M5

Anthony O'Brien (LSO#: 56129U)
Tel: 416-594-4394
Fax: 416-594-4395

Lawyers for the Plaintiff

This is Exhibit "C" mentioned and referred to in the Affidavit of Gigi Pao AFFIRMED BEFORE ME remotely in accordance with O. Reg. 431/20 this 23rd day of June, 2026. The affiant was located in the City of Vancouver, in the Province of British Columbia, while the commissioner, Donna Lynn McEvoy, was located in the Town of Whitby, in the Province of Ontario.

Donna Lynn McEvoy, A Commissioner, etc.
Province of Ontario,
for Siskinds LLP Barristers and Solicitors
Expires: December 6, 2028

Court File No. CV-18-595380-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	Tuesday, the 1st day
	)	
JUSTICE JASMINE T. AKBARALI	)	of October, 2024

BETWEEN:

PETER WESTWOOD

Plaintiff

- and -

TD ASSET MANAGEMENT INC.

Defendant

SUPERIOR COURT OF JUSTICE
COUR SUPÉRIEURE DE JUSTICE
JUSTITIA

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for an Order, among other things, amending the class definition in the Action, approving the notices of settlement approval hearing and the method of dissemination of the notices, and setting a supplemental opt-out process and deadline, was heard on September 27, 2024 at 10:00 am EST.

ON READING the materials filed, including the settlement agreement between the Plaintiff and the Defendant dated September 11, 2024 attached to this Order as **Schedule 1** ("**Settlement Agreement**"), and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendant;

AND ON BEING ADVISED that the Defendant consents to this Order;

October 2, 2024.

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.

3. **THIS COURT ORDERS** that this Order shall be set aside, declared null and void and of no force and effect on subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

4. **THIS COURT ORDERS** that the class definition set out in paragraph 3 of the certification Order of the Honourable Justice Belobaba dated February 27, 2020 is amended, for settlement purposes, to the following ("**Class**" or "**Class Member**"):

> All persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to September 11, 2024, units of a TD Mutual Fund through a Discount Broker, except for the Excluded Persons.
>
> "Excluded Persons" means: (a) the Defendant; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of the Defendant; the past and present members of the independent review committee of each TD Mutual Fund; (b) any Person who would otherwise be a Class Member but who validly excluded themselves from the Action in accordance with the Order of the Honourable Justice Belobaba dated December 14, 2021 providing for certification notice and an opt-out process; or (c) any Person who would otherwise be a Class Member and who held units of a TD Mutual Fund through a Discount Broker for the first time on or after April 9, 2022 but who validly excludes themselves from the Action in accordance with this Order.

5. **THIS COURT ORDERS** that the short-form, long-form and internet banner notices of settlement approval hearing ("**First Notice**") are hereby approved substantially in the forms attached hereto respectively as **Schedule 2**, **Schedule 3** and **Schedule 4**.

6. **THIS COURT ORDERS** that the plan of dissemination for the First Notice ("**Plan of Notice**") is hereby approved in the form attached hereto as **Schedule 5**, and that the First Notice shall be disseminated in accordance with the Plan of Notice.

7. **THIS COURT ORDERS** that those Class Members who held units of a TD Mutual Fund through a Discount Broker for the first time on or after April 9, 2022 ("**Eligible Supplemental Opt-Out Party**" or "**Eligible Supplemental Opt-Out Parties**") may opt out of this action in accordance with this Order.

8. **THIS COURT ORDERS** that the supplemental opt-out form ("**Supplemental Opt-Out Form**"), substantially in the form attached as Appendix "A" to the long-form First Notice, is hereby approved.

9. **THIS COURT ORDERS** that the deadline for Eligible Supplemental Opt-Out Parties to opt out of the action ("**Supplemental Opt-Out Deadline**") is the date that is sixty (60) days after the day on which the First Notice is first published.

10. **THIS COURT ORDERS** that any Eligible Supplemental Opt-Out Party who opts out of this class proceeding by the Supplemental Opt-Out Deadline, by complying with the instructions set out in the long-form First Notice and fully completing a Supplemental Opt-Out Form, shall not be a Class Member on and after the date that such person opts out of the class proceeding.

11. **THIS COURT ORDERS** that, subject only to the opt-out right provided to Eligible Supplemental Opt-Out Parties in accordance with paragraphs 7 to 10 of this Order, the period for Class Members to opt out of this action expired as of April 8, 2022.

12. **THIS COURT ORDERS** that Class Members who wish to file with the Court an objection to, or comment on, the settlement, the Distribution Protocol, or the request for approval of

Class Counsel Fees and Class Counsel Disbursements shall deliver a written statement to Class Counsel, at the address indicated in the First Notice, no later than 21 calendar days prior to the hearing of the settlement approval motion.

The Honourable Justice Akbarali

SCHEDULE 1
SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT

Made as of September 11, 2024

Between

PETER WESTWOOD

(“**Plaintiff**”)

and

TD ASSET MANAGEMENT INC.

(“**Defendant**”)

SETTLEMENT AGREEMENT
TABLE OF CONTENTS

RECITALS

A. WHEREAS the Action was commenced by the original plaintiff, Gary Stenzler, in Ontario on April 6, 2018;

B. WHEREAS the Plaintiff, Peter Westwood, was added as the plaintiff in the Action in substitution for Mr. Stenzler in accordance with the Order of the Honourable Justice Belobaba dated February 5, 2021;

C. WHEREAS Class Members were provided an opportunity to opt out of the Action, the deadline for Class Members to opt out of the Action expired on April 8, 2022, and there were no opt-outs from the Action;

D. WHEREAS the Action alleges, among other things, that the Defendant paid trailing commissions out of the assets of the TD Mutual Funds to Discount Brokers, and that the Defendant breached its duties as a trustee and fiduciary because the trailing commissions paid to Discount Brokers were excessive, inflated and/or unearned, and further that the Defendant made misrepresentations about the nature of the trailing commission payments;

E. WHEREAS the Defendant has denied and continues to deny each and all of the claims and allegations of wrongdoing made by the Plaintiff in the Action, including any and all allegations that the Plaintiff and/or the Class Members have suffered any harm or damage whatsoever, and all claims and allegations of wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Action, or otherwise;

F. WHEREAS the Plaintiff, Class Counsel and the Defendant agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Releasees or evidence of the truth of any of the Plaintiff's allegations against the Releasees, which allegations are expressly denied by the Defendant;

G. WHEREAS the Plaintiff and Class Counsel have concluded, after due investigation and after carefully considering the relevant circumstances, including, without limitation, the claims asserted in the Action, the legal and factual defences thereto, and the applicable law, that: (1) it is in the best interests of the Class to enter into this Settlement Agreement in order to avoid the uncertainties of litigation and to ensure that the benefits reflected herein, including the amount to be paid by the Defendant under this Settlement Agreement, are obtained for the Class; and (2) the settlement set forth in this Settlement Agreement is fair, reasonable, and in the best interests of the Class;

H. WHEREAS the Defendant is entering into this Settlement Agreement in order to achieve a final resolution of all claims asserted or which could have been asserted against the Releasees by the Plaintiff and the Class in the Action, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;

I. WHEREAS counsel for the Defendant and Class Counsel have engaged in arm's-length settlement discussions and negotiations, resulting in this Settlement Agreement;

J. WHEREAS as a result of these settlement discussions and negotiations, the Defendant and the Plaintiff have entered into this Settlement Agreement, which embodies all of the terms and conditions of the settlement between the Defendant and the Plaintiff, both individually and on behalf of the Class, subject to approval of the Court;

K. WHEREAS the Plaintiff and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiff's claims, having regard to the burdens and expense in prosecuting the Action, including the risks and uncertainties associated with trials and appeals, and having regard to the value of the Settlement Agreement, the Plaintiff and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiff and the Class;

L. WHEREAS the Parties therefore wish to and hereby finally resolve, without admission of liability, the Action against the Defendant;

M. WHEREAS the Parties intend to provide a supplemental opt-out right to those Class Members who held units of a TD Mutual Fund through a Discount Broker for the first time on or after April 9, 2022;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Action be settled and dismissed with prejudice, all without costs as to the Plaintiff, the Class or the Defendant, subject to the approval of the Court, on the following terms and conditions:

SECTION 1 - DEFINITIONS

For the purposes of this Settlement Agreement only, including the recitals and schedules hereto:

(1) ***2022 Actions*** means, collectively, *Aggarwal v TD Asset Management Inc.*, Ontario Superior Court of Justice, Court File No. CV-22-691344-00CP, *Ciardullo v. 1832 Asset Management L.P. et al.*, Ontario Superior Court of Justice, Court File No. CV-22-684723-00CP, *Ciardullo et al. v. 1832 Asset Management L.P. et al.*, Ontario Superior Court of Justice, Court File No. CV-22-685386-00CP, *Yeats v. 1832 Asset Management L.P.*, Ontario Superior Court of Justice, Court File No. CV-22-690373-00CP, *Woodard v. Canadian Imperial Bank of Commerce et al.*, Ontario Superior Court of Justice, Court File No. CV-22-690374-00CP, *Yeats v. BMO Investments Inc.*, Ontario Superior Court of Justice, Court File No. CV-22-690519-00CP, *DeJong v. RBC Global Asset Management Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-22-691343-00CP, and *Aizic v. Natcan Trust Company et al.*, Ontario Superior Court of Justice, Court File No. CV-23-00697428-00CP.

(2) ***Action*** means *Westwood v TD Asset Management Inc.*, Ontario Superior Court of Justice, Court File No. CV-18-595380-00CP.

(3) ***Administration Expenses*** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiff, Class Counsel or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices, but excluding Class Counsel Fees and Class Counsel Disbursements.

(4) ***Administrator*** means the third party professional firm and any employees of such firm, selected at arm's-length by Class Counsel, and appointed by the Court to facilitate dissemination of notices, receive and review claims and administer the Settlement Amount in accordance with the Distribution Protocol, and report to the Parties and the Court on the administration of the Settlement.

(5) ***Adverse Decision*** has the meaning given to such term in Section 13.1(1)(a).

(6) ***Class*** means all persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to the Date of Execution, units of a TD Mutual Fund through a Discount Broker, except for the Excluded Persons.

(7) ***Class Counsel*** means Siskinds LLP.

(8) ***Class Counsel Disbursements*** means the disbursements, administration expenses, and applicable taxes incurred by Class Counsel and Bates Barristers P.C. in the prosecution of the Action, as well as any adverse costs awards issued against the Plaintiff in the Action.

(9) ***Class Counsel Fees*** means the fees of Class Counsel and Bates Barristers P.C., and any applicable taxes or charges thereon, including any amounts payable as a result of the Settlement Agreement by Class Counsel or the Class Members to any other body or Person.

(10) ***Class Member*** means a member of the Class.

(11) ***Court*** means the Ontario Superior Court of Justice.

(12) ***Date of Execution*** means the date on the cover page hereof as of which the Parties have executed this Settlement Agreement.

(13) ***Defendant*** means TD Asset Management Inc.

(14) ***Defendant Claims*** means claims, including Unknown Claims, that any Releasee may have against a Releasor or Class Counsel relating to the institution, prosecution, or settlement of the Action.

(15) ***Discount Broker Actions*** means, collectively, *Frayce et al. v. BMO InvestorLine Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-20-638868-00CP, *Frayce v. BMO InvestorLine Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-20-634551-00CP, and *Michaud et al. v BBS Securities Inc. et al.*, Supreme Court of British Columbia, Court File No. VLC-S-1912710.

(16) ***Discount Brokers*** means entities providing "order-execution only services" as defined in Rule 3200 of the IIROC Dealer Member Rules or entities performing a function similar to "order-execution only services" prior to the introduction of that definition in Rule 3200 of the IIROC

Dealer Member Rules, including (without limitation) TD Direct Investing, a division of TD Waterhouse Canada Inc., a subsidiary of The Toronto-Dominion Bank, or such other discount brokerage business operated by The Toronto-Dominion Bank from time to time.

(17) ***Dismiss Order*** has the meaning given to such term in Section 2.3(1).

(18) ***Distribution Order*** has the meaning given to such term in Section 2.3(1).

(19) ***Distribution Protocol*** means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as approved by the Court.

(20) ***Effective Date*** means the date on which the Dismiss Order has become a Final Order.

(21) ***Excluded Persons*** means:

(a) the Defendant; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of the Defendant; the past and present members of the independent review committee of each TD Mutual Fund;

(b) any Person who would otherwise be a Class Member but who validly excluded themselves from the Action in accordance with the Order of the Honourable Justice Belobaba dated December 14, 2021 providing for certification notice and an opt-out process; or

(c) any Person who would otherwise be a Class Member and who held units of a TD Mutual Fund through a Discount Broker for the first time on or after April 9, 2022 but who validly excludes themselves from the Action in accordance with the First Order.

(22) ***Final Order*** means an order of the Court from which no appeal lies or in respect of which any right of appeal has expired without the initiation of proceedings in respect of that appeal such as the delivery of a notice of motion for leave to appeal or a notice of appeal.

(23) ***First Notice*** means the short-form, long-form and internet banner notices of the pendency of the motion for the Dismiss Order and the Distribution Order substantially in the forms attached as **Schedule E**, **Schedule F** and **Schedule G** hereto or as fixed by the Court.

(24) ***First Order*** has the meaning given to such term in Section 2.2(1).

(25) ***Funder*** means Claims Funding International, PLC.

(26) ***Funder's Security*** means the amounts paid into Court by the Funder as security for its obligations pursuant to the Funding Order.

(27) ***Funding Agreement*** means the agreement entered into on March 29, 2019 between the original plaintiff in the Action, Gary Stenzler, and the Funder for the provision of, among other things, an indemnity against adverse costs in exchange for the payment of the Funding Commission and subsequently approved by the Court pursuant to the Funding Order.

(28) ***Funding Commission*** means the amount to be paid to the Funder pursuant to the Funding Agreement.

(29) ***Funding Order*** means the Order of the Honourable Justice Belobaba dated June 20, 2019 approving the Funding Agreement.

(30) ***Implementation Date*** means the date on which both the Dismiss Order and the Distribution Order have become Final Orders.

(31) ***Material Adverse Litigation Event*** has the meaning given to such term in Section 13.1(1)(a).

(32) ***Other 2018 Actions*** means, collectively, *Sage v. 1832 Asset Management L.P.*, Ontario Superior Court of Justice, Court File No. CV-18-600380-00CP, *Gilani v. BMO Investments Inc.*, Ontario Superior Court of Justice, Court File No. CV-18-611748-00CP, *Pozgaj v. Canadian Imperial Bank of Commerce et al.*, Ontario Superior Court of Justice, Court File No. CV-18-605345-00CP, *Pozgaj v. Mackenzie Financial Corporation et al.*, Ontario Superior Court of Justice, Court File No. CV-18-610311-00CP, *Pozgaj v. National Bank Investments Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-18-611745-00CP, and *Ross v. RBC Global*

Asset Management Inc. et al., Ontario Superior Court of Justice, Court File No. CV-18-611743-00CP.

(33) ***Net Settlement Amount*** means the amount available in the Trust Account for distribution pursuant to the Distribution Protocol after payment of all Class Counsel Fees, Class Counsel Disbursements, Administration Expenses, the Funding Commission and any other amounts approved by the Court.

(34) ***Parties*** means the Defendant, the Plaintiff and, where necessary, the Class Members.

(35) ***Person*** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.

(36) ***Plaintiff*** means Peter Westwood.

(37) ***Plan of Notice*** means the plan for disseminating the First Notice and the Second Notice to the Class substantially in the form attached as **Schedule D** hereto or as fixed by the Court.

(38) ***Released Claims*** mean any and all manner of claims, including Unknown Claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, setoffs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, lawyers' fees, disgorgement, restitution and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several, and solidarily in the Province of Quebec), known or unknown, suspected or unsuspected, asserted or unasserted, arising from or relating in any way to any conduct alleged or that could have been alleged in and arising from the factual predicate of the Action, or any amended complaint or pleading therein, from the beginning of time until the Effective Date, which shall be deemed to include but not be limited to any concerns relating to trailing commissions paid by the Defendant to Discount Brokers in respect of the TD Mutual Funds.

(39) ***Releasees*** means, jointly and severally, individually and collectively, the Defendant and each of its past, present and future, direct and indirect parents (including holding companies), owners, subsidiaries, divisions, predecessors, successors, affiliates, associates (as defined in the *Canada Business Corporations Act*, RSC 1985, c C-44), partners, insurers, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and each of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, legal or other representatives, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing; but excluding TD Waterhouse Canada Inc.

(40) ***Releasors*** means, jointly and severally, individually and collectively, the Plaintiff and the Class Members and their respective parents, subsidiaries, affiliates, predecessors, successors, heirs, executors, administrators, insurers, assigns, beneficiaries, trustees, agents and legal or other representatives.

(41) ***Second Notice*** means the short-form, long-form and internet banner notices of the Dismiss Order and the Distribution Order substantially in the forms attached as **Schedule H**, **Schedule I** and **Schedule J** hereto or as fixed by the Court.

(42) ***Settlement*** means the settlement of the Action on the terms provided in this Settlement Agreement.

(43) ***Settlement Agreement*** means this agreement, including the recitals and schedules.

(44) ***Settlement Amount*** means seventy million two hundred and fifty thousand Canadian dollars (C$70,250,000).

(45) ***Subsequent Settlement*** has the meaning given to such term in Section 13.1(1)(b).

(46) ***Subsequent Settlement Amount*** has the meaning given to such term in Section 13.1(1)(c).

(47) ***TD Mutual Funds*** means all mutual fund trusts (including, without limitation, all series of units thereof) of which the Defendant is trustee or was trustee at any time on or prior to the Date of Execution (but only in respect of the period during which the Defendant is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated,

(ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

(48) ***Termination Notice*** has the meaning given to such term in Section 6.1(1).

(49) ***Trust Account*** means a guaranteed investment product, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, SC 1991, c 46) held at a Canadian financial institution under the control of Class Counsel or the Administrator, once appointed, for the benefit of the Class Members, as provided for in this Settlement Agreement.

(50) ***Unknown Claims*** means any and all Released Claims against the Releasees which Releasors do not know or suspect to exist in his, her, or its favour as of the Effective Date, and any Defendant Claims against Releasors which Releasees do not know or suspect to exist in his, her, or its favour as of the Effective Date, which if known by the Releasors or Releasees might have affected his, her, or its decision(s) with respect to the settlement. The Releasors and Releasees may hereafter discover facts other than or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims and Defendant Claims. Nevertheless, the Plaintiff and the Releasees shall expressly, fully, finally, and forever settle and release, and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Dismiss Order (when it becomes a Final Order) shall have, fully, finally, and forever settled and released, any and all Released Claims and Defendant Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. The Plaintiff and the Releasees acknowledge, and Class Members shall be deemed to have acknowledged, that the inclusion of Unknown Claims in the definition of Released Claims and Defendant Claims was separately bargained for and was a key element of the Settlement Agreement.

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined.

SECTION 2 – APPROVAL AND NOTICE PROCESS

2.1 Commercially Reasonable Efforts

(1) The Parties shall use their commercially reasonable efforts to implement this Settlement Agreement and to secure the prompt, complete and final dismissal with prejudice of the Action.

2.2 Motion for First Order

(1) The Plaintiff shall file a motion before the Court, as soon as practicable after the Date of Execution, for an order substantially in the form attached as **Schedule A** (“**First Order**”).

(2) The Defendant will consent to the issuance of the First Order.

(3) As soon as practicable following entry of the First Order, Class Counsel shall cause the First Notice to be published and distributed in accordance with the Plan of Notice and the direction of the Court. The costs of publishing and distributing the First Notice shall be paid from the Trust Account as and when incurred.

2.3 Motion for Dismiss Order and Distribution Order

(1) The Plaintiff shall file a motion before the Court for orders substantially in the form attached as **Schedule B** (“**Dismiss Order**”) and **Schedule C** (“**Distribution Order**”) as soon as practicable after:

(a) the First Order has been granted; and

(b) the notices described in Section 2.2(3) have been published.

(2) The Defendant will consent to the issuance of the Dismiss Order. The Defendant will not oppose the issuance of the Distribution Order.

(3) At the motion for the Dismiss Order and the Distribution Order, Class Counsel shall propose for approval by the Court the Distribution Protocol or such other plan for distributing the Net Settlement Amount to the Class as Class Counsel may advise. The Distribution Protocol is the responsibility of Class Counsel and the Defendant has no involvement in its design. Accordingly, the approval of the Distribution Protocol shall be considered separately from the approval of the

Settlement and is not a condition of the approval of the Settlement itself and the dismissal of the Action as against the Defendant without costs and with prejudice in accordance with the Dismiss Order.

(4) The Defendant will take no position or make any submission to the Court concerning the Distribution Protocol, except as requested or required by the Court.

(5) The Plaintiff may make any amendments to the Distribution Protocol, the Distribution Order, the Second Notice or the Plan of Notice as it relates to the Second Notice requested or directed by the Court.

(6) As soon as practicable following the Implementation Date, Class Counsel and the Administrator shall cause the Second Notice to be published and disseminated in accordance with the Plan of Notice as approved by the Court. The costs of publishing the Second Notice shall be paid from the Trust Account as and when incurred.

2.4 Pre-Motion Confidentiality

(1) Until the motion required by Section 2.2 is brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior consent of counsel for the Defendant and Class Counsel, as the case may be, except as required for the purposes of financial reporting, the preparation of financial records (including tax returns and financial statements), pursuant to regulatory requirements as necessary to give effect to its terms, or as otherwise required by law.

SECTION 3 – SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

(1) The Defendant shall pay the Settlement Amount to Class Counsel by November 8, 2024 for deposit into the Trust Account.

(2) Payment of the amount specified in Section 3.1(1) shall be made by wire transfer. At least ten (10) days prior to the Settlement Amount becoming due, Class Counsel will provide, in writing, the following information necessary to complete the wire transfers: name of bank, address of bank,

ABA number, SWIFT number, name of beneficiary, beneficiary's bank account number, beneficiary's address, and bank contact details.

(3) The Settlement Amount and other consideration to be provided in accordance with the terms of this Settlement Agreement shall be provided in full satisfaction of the Released Claims against the Releasees.

(4) The Settlement Amount shall be all-inclusive of all amounts, including interest, taxes and costs.

(5) The Releasees shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement or the Action, including, but not limited to, legal fees, judicial costs, taxes or costs of notice.

(6) Class Counsel shall maintain the Trust Account as provided for in this Settlement Agreement.

(7) Class Counsel shall not pay out all or any part of the monies in the Trust Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Court obtained after notice to the Parties.

(8) Within thirty (30) days of the Effective Date, Class Counsel shall transfer control of the Trust Account to the Administrator, but before doing so Class Counsel may deduct and retain from the monies in the Trust Account the Class Counsel Fees and the Class Counsel Disbursements approved by the Court.

3.2 Taxes and Interest

(1) Except as hereinafter provided, all interest earned on the Settlement Amount in the Trust Account shall accrue to the benefit of the Class and shall become and remain part of the Trust Account.

(2) Subject to Section 3.2(3), all taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be the responsibility of the Class. The Administrator shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account, including

any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Trust Account.

(3) The Defendant shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned on the Settlement Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement is terminated, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Defendant who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by the Administrator.

SECTION 4 – NO REVERSION

4.1 No Reversion

(1) Unless this Settlement Agreement is terminated as provided herein, the Defendant shall not be entitled to the repayment from the Plaintiff of any portion of the Settlement Amount or any interest earned on the Settlement Amount in the Trust Account. In the event this Settlement Agreement is terminated, the Defendant shall be entitled to the repayment only to the extent of and in accordance with Section 6.3(1).

SECTION 5 – OPTING-OUT

5.1 Opt-Outs

(2) An opt-out right was provided by the Order of the Honourable Justice Belobaba dated December 14, 2021. The opt-out deadline expired on April 8, 2022 pursuant to that Order. The Parties acknowledge and confirm that RicePoint Administration Inc., the notice and opt-out administrator appointed by the Court pursuant to the Order of the Honourable Justice Belobaba dated December 14, 2021, confirmed that no Person opted out of the Action.

(3) A supplemental opt-out right will be provided to those Class Members who held units of a TD Mutual Fund through a Discount Broker for the first time on or after April 9, 2022, as set out in the First Order.

(4) The Plaintiff, through Class Counsel, expressly waived his right to opt out of the Action.

SECTION 6 – TERMINATION OF SETTLEMENT AGREEMENT

6.1 Right of Termination

(1) The Plaintiff and the Defendant shall, in their respective discretions, have the right to terminate the settlement set forth in this Settlement Agreement by providing written notice of their election to do so ("**Termination Notice**") to the other Party hereto within thirty (30) days of the date on which:

(a) the Court declines to dismiss the Action against the Defendant;

(b) the Court declines to approve this Settlement Agreement or any material part hereof;

(c) the Court approves this Settlement Agreement in a materially modified form;

(d) the Court issues a settlement approval order that is not substantially in the form attached to this Settlement Agreement as **Schedule B**, and such order becomes a Final Order; or

(e) the Dismiss Order is reversed on appeal and the reversal becomes a Final Order.

(2) Except as provided for in Section 6.4, if the Settlement Agreement is terminated, the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.

(3) Any order, ruling or determination made by the Court with respect to the Distribution Order, Class Counsel Fees or Class Counsel Disbursements, or the Distribution Protocol, shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

6.2 If Settlement Agreement is Terminated

(1) If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason:

(a) no motion to approve this Settlement Agreement, which has not been decided, shall proceed; and

(b) any order approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and the Parties shall be estopped from asserting otherwise.

6.3 Return of Settlement Amount Following Termination

(1) If the Settlement Agreement is terminated, Class Counsel, within thirty (30) business days of the written notice advising that the Settlement Agreement has been terminated in accordance with its terms, shall return to the Defendant the amount the Defendant has paid to Class Counsel, plus all accrued interest thereon and less any costs incurred with respect to the notices required by Section 2.2(3), and any costs of translation required by Section 14.12, such costs in total not to exceed one hundred and fifty thousand Canadian dollars (CAD $150,000).

6.4 Survival of Provisions After Termination

(1) If this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the provisions of Sections 3.2(2), 3.2(3), 6.1, 6.2, 6.3, 6.4, 9.1 and 9.2 (the "**Surviving Provisions**"), and the recitals, definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The recitals, definitions and Schedules shall survive only for the limited purpose of the interpretation of the Surviving Provisions within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

SECTION 7 – RELEASES AND DISMISSALS

7.1 Release of Releasees

(1) The obligations incurred pursuant to this Settlement Agreement shall be in full and final disposition of: (i) the Action against the Defendant; and (ii) any and all Released Claims as against all Releasees.

(2) Upon the Effective Date, subject to Section 7.2, each of the Releasors: (i) shall be deemed to have, and by operation of the Dismiss Order, shall have, fully, finally, and forever waived, released, relinquished, and discharged all Released Claims that the Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have or hereafter can, shall or may have against the Releasees, regardless of whether such Releasor executes and delivers a proof of claim and release form; (ii) shall forever be enjoined from prosecuting in any forum any Released Claim against any of the Releasees; and (iii) agrees and covenants not to sue any of the Releasees on the basis of any Released Claims or to assist any third party in commencing or maintaining any suit against any Releasee related in any way to any Released Claims.

7.2 Covenant Not To Sue

(1) Upon the Effective Date, and notwithstanding Section 7.1, for any Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasors do not release the Releasees but instead covenant and undertake not to make any claim in any way or to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

7.3 No Further Claims

(1) Upon the Effective Date, the Releasors shall not then or thereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim. For the avoidance of doubt, this Section 7.3(1) does not apply to the Other 2018 Actions, the 2022 Actions, or the Discount Broker Actions. For greater certainty and without limiting the generality of the foregoing,

the Releasors shall not assert or pursue a Released Claim against any Releasee under the laws of any foreign jurisdiction. .

7.4 Dismissal of the Action

(1) Upon the Effective Date, the Action shall be dismissed with prejudice and without costs as against the Defendant.

7.5 Releases a Material Term

(1) The releases contemplated in this Section shall be considered a material term of the Settlement Agreement and the failure of the Court to approve the releases contemplated herein shall give rise to a right of termination pursuant to Section 6.1 of the Settlement Agreement.

SECTION 8 – CLAIMS AGAINST OTHER ENTITIES

8.1 Claims Against Other Entities Reserved

(1) Except as provided herein, this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by the Releasors against any Person other than the Releasees.

SECTION 9 – EFFECT OF SETTLEMENT

9.1 No Admission of Liability

(1) The Plaintiff and the Releasees expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason. Further, whether or not the Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasees or any one of them, or of the truth of any of the claims or allegations contained in the Action, or any other pleading filed by the Plaintiff.

9.2 Agreement Not Evidence

(1) The Parties agree that, whether or not it is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, as necessary in any insurance-related proceeding, or as otherwise required by law.

9.3 No Further Litigation

(1) Neither Class Counsel, nor anyone currently or hereafter employed by or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any Person which relates to or arises from the Released Claims. Moreover, these Persons may not divulge to anyone for any purpose any information obtained in the course of the Action or the negotiation and preparation of this Settlement Agreement, except to the extent such information is otherwise publicly available or unless ordered to do so by a court. For the avoidance of doubt, this Section 9.3(1) does not apply to the Other 2018 Actions, the 2022 Actions, or the Discount Broker Actions.

SECTION 10 – ADMINISTRATION AND IMPLEMENTATION

10.1 Appointment of the Administrator

(1) By order of the Court, the Administrator will be appointed to serve until such time as the Net Settlement Amount is distributed in accordance with this Settlement Agreement and the Distribution Protocol, on the terms and conditions and with the powers, rights, duties and responsibilities set out in this Settlement Agreement and in the Distribution Protocol.

10.2 Information and Assistance from the Defendant

(1) By order of the Court in the Distribution Order, the Defendant will deliver, or will cause to be delivered, to Class Counsel an electronic copy of the account-level or customer-level data

that the Defendant prepared for the purposes of mediation in the Action, along with the name, email address and mailing address corresponding to each account or customer identified in that data. Class Counsel shall provide this data to the Administrator upon its appointment by the Court to be used only for the purpose of Section 10.2(2).

(2) Class Counsel and the Administrator may use the information obtained under Section 10.2(1) for the purpose of administering and implementing this Settlement Agreement, the Plan of Notice and the Distribution Protocol, but Class Counsel and the Administrator shall otherwise keep confidential the information obtained under Section 10.2(1).

(3) For greater certainty, any information obtained or created in the administration of this Settlement Agreement is confidential and, except as required by law, shall be used and disclosed only for the purpose of distributing notices and the administration of this Settlement Agreement and the Distribution Protocol.

10.3 No Responsibility for Administration or Fees

(1) The Defendant shall not have any responsibility, financial obligations or liability whatsoever with respect to the investment, distribution or administration of monies in the Trust Account, including, but not limited to, Administration Expenses, Class Counsel Fees and Class Counsel Expenses.

SECTION 11 – CLASS COUNSEL FEES, CLASS COUNSEL DISBURSEMENTS AND ADMINISTRATION EXPENSES

11.1 Class Counsel Fees, Class Counsel Disbursements and Administration Expenses

(1) The Defendant shall not be liable for any fees, disbursements or taxes of any of Class Counsel's, the Plaintiff's or Class Members' respective lawyers, experts, advisors, agents, or representatives.

(2) Class Counsel shall pay the costs of the notices required by Sections 2.2(3) and 2.3(6) and any costs of translation required by Section 14.12 from the Trust Account, as they become due. The Releasees shall not have any responsibility for the costs of the notices or translation.

(3) Class Counsel may seek the Court's approval to pay Class Counsel Fees and Class Counsel Disbursements contemporaneous with seeking approval of this Settlement Agreement. Class Counsel Fees and Class Counsel Disbursements shall be reimbursed and paid solely out of the Trust Account after the Effective Date. No Class Counsel Fees or Class Counsel Disbursements shall be paid from the Trust Account prior to the Effective Date.

(4) Except as provided herein, Administration Expenses may only be paid out of the Trust Account after the Effective Date.

(5) The Defendant shall not be liable for any fees, disbursements or taxes of any of the lawyers, experts, advisors, agents, or representatives retained by Class Counsel, the Plaintiff or the Class Members, or any lien of any Person on any payment to any Class Member from the Settlement Amount.

SECTION 12 – FUNDING AND HONORARIUM

12.1 Funding and Honorarium

(1) Immediately following the motion for the Dismiss Order and the Distribution Order, Class Counsel may seek orders from the Court relating to the payment of the Funding Commission or the payment of an honorarium to the Plaintiff.

(2) Class Counsel are not precluded from making additional motions to the Court relating to the payment of the Funding Commission or the payment of an honorarium to the Plaintiff.

(3) The Defendant acknowledges that it is not party to any motion concerning the payment of the Funding Commission or the payment of an honorarium to the Plaintiff, it will have no involvement in any such motion, and it will not take any position or make any submissions to the Court concerning any such motion, except as requested and required by the Court.

(4) Any order or proceeding relating to payment of the Funding Commission or the payment of an honorarium to the Plaintiff, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Settlement Agreement or affect or delay the Effective Date and the settlement of this Action provided herein.

12.2 Release of the Funder's Security

(1) After the Effective Date, the Parties shall cooperate in taking all reasonably required steps to secure the prompt payment out of Court to the Funder of the Funder's Security.

SECTION 13 – SUBSEQUENT SETTLEMENTS OF OTHER 2018 ACTIONS

13.1 Definitions

(1) For the purposes of sections 13.1 and 13.2 hereof:

(a) "**Material Adverse Litigation Event**" means an event that has a material adverse effect on the quantum of potential recovery and/or overall likelihood of success against the defendant(s) in the Other 2018 Action in which there is a Subsequent Settlement and meets the following criteria. This event would only occur if there is a decision of a Court in any of the Other 2018 Actions ("**Adverse Decision**") or a change in the financial circumstances of the defendant(s) in the applicable Other 2018 Action that would cause Class Counsel, acting reasonably and in good faith, to materially alter its assessment of its client's position in settlement negotiations with the defendant(s) and (a) has a material adverse effect upon the quantum of potential recovery and/or overall likelihood of success and/or enforcement against the defendant(s), or (b) has the effect of materially decreasing the valuation of the applicable Other 2018 Action. An "Adverse Decision" might include, but is not limited to, a judgment dismissing a motion for certification in the applicable Other 2018 Action, a judgment that materially reduces the size of the class relative to the class proposed in the applicable Other 2018 Action, a judgment that materially reduces the class period relative to the proposed class period in the applicable Other 2018 Action, and a judgment dismissing (in whole or in part) the applicable Other 2018 Action.

(b) "**Subsequent Settlement**" means any settlement of any of the Other 2018 Actions; and

(c) "**Subsequent Settlement Amount**" means the amount that the defendant(s) in any of the Other 2018 Actions agrees to pay pursuant to a Subsequent Settlement.

13.2 Obligations in the Event of a Subsequent Settlement

(1) Class Counsel acknowledges its professional obligations and that it intends to maximize the recovery of damages alleged in the Other 2018 Actions. As such, Class Counsel will endeavour to, acting reasonably and in good faith, negotiate terms in any Subsequent Settlement that are at least as favourable to the class members in the Other 2018 Actions than the settlement in this Settlement Agreement.

(2) As soon as and in the event that such disclosure is permitted pursuant to the terms of a Subsequent Settlement, Class Counsel shall advise the Defendant in writing of the Subsequent Settlement and the Subsequent Settlement Amount. Class Counsel shall also advise the Defendant in writing whether in Class Counsel's opinion, acting reasonably and in good faith, the Subsequent Settlement is at least as favourable to the class members in the Other 2018 Action than the settlement set forth in this Settlement Agreement is to the Class Members, having regard to the following factors:

(a) the Subsequent Settlement Amount, compared to the Settlement Amount under this Settlement Agreement;

(b) the percentage equal to the Subsequent Settlement Amount as a percentage of Class Counsel's estimate, acting reasonably and in good faith, of the amount of the trailing commissions paid to Discount Brokers by the defendant(s) in the applicable Other 2018 Action, compared to the percentage equal to the Settlement Amount as a percentage of Class Counsel's estimate, acting reasonably and in good faith, of the amount of the trailing commissions paid to Discount Brokers by the Defendant;

(c) differences in the facts of the applicable Other 2018 Action and this Action that in Class Counsel's opinion, acting reasonably and in good faith, affected the quantum of potential recovery or overall likelihood of success of the claims of the class members in the applicable Other 2018 Action, compared to the quantum of potential recovery or overall likelihood of success of the claims of the Class Members in this Action;

(d) whether in Class Counsel's opinion, acting reasonably and in good faith, a Material Adverse Litigation Event has occurred; and

(e) any other factor that in Class Counsel's opinion, acting reasonably and in good faith, affected the quantum of potential recovery or overall likelihood of success of the claims of the class members in the applicable Other 2018 Action, compared to the quantum of potential recovery or overall likelihood of success of the claims of the Class Members in this Action.

(3) The Defendant acknowledges and understands that the quantification of the trailing commissions paid to Discount Brokers by the Defendant or the defendant(s) in the applicable Other 2018 Action under Section 13.2(2)(b) may not be able to be precisely and accurately determined because of, among other things, incomplete or insufficient data. In such circumstances, Class Counsel's estimate, acting reasonably, in good faith and relying on expert evidence, of the amount of the trailing commissions paid to Discount Brokers shall be accepted by the Defendant as a reasonable estimation of the trailing commissions for the purposes of sections 13.1 and 13.2.

(4) In advising the Defendant under Section 13.2(2), Class Counsel, acting reasonably and in good faith, shall provide the Defendant with a written summary of the factors considered by Class Counsel under Sections 13.2(2)(a) to 13.2(2)(e), subject to any legal privilege owed to its client(s) in the applicable Other 2018 Action or confidentiality obligations to the defendant(s) in the applicable Other 2018 Action.

(5) On the motion for Court approval of a Subsequent Settlement, Class Counsel shall include in the evidence filed in support of the motion a statement as to whether in Class Counsel's opinion, acting reasonably and in good faith, the Subsequent Settlement is at least as favourable to the class members in the applicable Other 2018 Action than the settlement set forth in this Settlement Agreement is to the Class Members, having regard to the factors set out in Sections 13.2(2)(a) to 13.2(2)(e).

(6) None of the provisions of this Section 13 shall be interpreted to impose any obligation on Class Counsel to (i) disclose any information which it would not otherwise be legally permitted to disclose in the course of seeking approval of a Subsequent Settlement, (ii) waive any settlement, litigation, solicitor-client or other privilege absent the requisite permission or instructions to do so, or (iii) do anything in the Other 2018 Actions other than comply with its professional obligations and seek to maximize the recovery of damages alleged in those proceedings.

(7) Other than what is expressly provided in this section, this section and this Settlement Agreement confer no rights of standing to the Defendant in respect of the Other 2018 Actions.

SECTION 14 – MISCELLANEOUS

14.1 Motions for Directions

(1) Class Counsel or the Defendant may apply to the Court for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.

(2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties.

14.2 Releasees Have No Liability for Administration

(1) The Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement.

14.3 Headings, etc.

(1) In this Settlement Agreement:

(a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and

(b) the terms "this Settlement Agreement," "hereof," "hereunder," "herein," and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

14.4 Computation of Time

(1) In the computation of time in this Settlement Agreement, except where a contrary intention appears,

(a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and

(b) only in the case where the time for doing an act expires on a holiday as "holiday" is defined in the *Rules of Civil Procedure*, RRO 1990, Reg 194, the act may be done on the next day that is not a holiday.

14.5 Ongoing Jurisdiction

(1) The Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Action, the Parties and the Class Members to interpret and enforce the terms, conditions and obligations under this Settlement Agreement, the First Order, the Dismiss Order and the Distribution Order.

14.6 Governing Law

(1) This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.

14.7 Entire Agreement

(1) This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

14.8 Amendments

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all of the Parties, and any such modification or amendment must be approved by the Court.

14.9 Binding Effect

(1) This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiff, the Class Members, the Defendant, the Releasors, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made by the Plaintiff shall be binding upon all Releasors and each and every covenant and agreement made by the Defendant shall be binding upon all of the Releasees.

14.10 Counterparts

(1) This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or PDF signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

14.11 Negotiated Agreement

(1) This Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

14.12 Language

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais.* Nevertheless, if required to by the Court, Class Counsel and/or a translation firm selected by Class Counsel shall prepare a French translation of the Settlement Agreement, the cost of which shall be paid from the Settlement Amount. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

14.13 Recitals

(1) The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

14.14 Schedules

(1) The schedules annexed hereto form part of this Settlement Agreement.

14.15 Acknowledgements

(1) Each of the Parties hereby affirms and acknowledges that:

(a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;

(b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;

(c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and

(d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

14.16 Authorized Signatures

(1) Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified above their respective signatures and their law firms.

14.17 Notice

(1) Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication or document shall be provided by email, facsimile or letter by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

For the Plaintiff and for Class Counsel:

Anthony O'Brien
Siskinds LLP
65 Queen Street West, Suite 1155
Toronto, ON M5H 2M5
Tel: 416-594-4394
Fax: 519-672-6065
Email: anthony.obrien@siskinds.com

For the Defendant:

Shane D'Souza
McCarthy Tétrault LLP
Suite 5300, TD Bank Tower
Toronto ON M5K 1E6
Tel: 416-601-8196
Fax: 416-868-0673
Email: sdsouza@mccarthy.ca

14.18 Date of Execution

(1) The Parties have executed this Settlement Agreement as of the date on the cover page.

PETER WESTWOOD on his own behalf and on behalf of the Class, by his counsel:

Name of Authorized Signatory: ____________________

Signature of Authorized Signatory: ____________________
Siskinds LLP

TD ASSET MANAGEMENT INC.:

Name of Authorized Signatory: Tim WIGGAN

Signature of Authorized Signatory: ____________________
Tim Wiggan, TD Bank Group

PETER WESTWOOD on his own behalf and on behalf of the Class, by his counsel:

Name of Authorized Signatory: Anthony O'Brien

Signature of Authorized Signatory: Signed by: Anthony O'Brien 866D01A5EFE14CD...
Siskinds LLP

TD ASSET MANAGEMENT INC.:

Name of Authorized Signatory: ______________________

Signature of Authorized Signatory: ______________________
Tim Wiggan, TD Bank Group

SCHEDULE A
FIRST ORDER

Court File No. CV-18-595380-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	________________, the ________day
	)	
JUSTICE JASMINE T. AKBARALI	)	of ____________________, ________

BETWEEN:

PETER WESTWOOD

Plaintiff

- and -

TD ASSET MANAGEMENT INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for an Order, among other things, amending the class definition in the Action, approving the notices of settlement approval hearing and the method of dissemination of the notices, and setting a supplemental opt-out process and deadline, was heard on [*insert*] at [*insert*].

ON READING the materials filed, including the settlement agreement between the Plaintiff and the Defendant dated [*insert*] attached to this Order as **Schedule 1** ("**Settlement Agreement**"), and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendant;

AND ON BEING ADVISED that the Defendant consents to this Order;

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.

3. **THIS COURT ORDERS** that this Order shall be set aside, declared null and void and of no force and effect on subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

4. **THIS COURT ORDERS** that the class definition set out in paragraph 3 of the certification Order of the Honourable Justice Belobaba dated February 27, 2020 is amended, for settlement purposes, to the following ("**Class**" or "**Class Member**"):

> All persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to [*insert Date of Execution*], units of a TD Mutual Fund through a Discount Broker, except for the Excluded Persons.
>
> "Excluded Persons" means: (a) the Defendant; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of the Defendant; the past and present members of the independent review committee of each TD Mutual Fund; (b) any Person who would otherwise be a Class Member but who validly excluded themselves from the Action in accordance with the Order of the Honourable Justice Belobaba dated December 14, 2021 providing for certification notice and an opt-out process; or (c) any Person who would otherwise be a Class Member and who held units of a TD Mutual Fund through a Discount Broker for the first time on or after April 9, 2022 but who validly excludes themselves from the Action in accordance with this Order.

5. **THIS COURT ORDERS** that the short-form, long-form and internet banner notices of settlement approval hearing ("**First Notice**") are hereby approved substantially in the forms attached hereto respectively as **Schedule 2**, **Schedule 3** and **Schedule 4**.

6. **THIS COURT ORDERS** that the plan of dissemination for the First Notice ("**Plan of Notice**") is hereby approved in the form attached hereto as **Schedule 5**, and that the First Notice shall be disseminated in accordance with the Plan of Notice.

7. **THIS COURT ORDERS** that those Class Members who held units of a TD Mutual Fund through a Discount Broker for the first time on or after April 9, 2022 ("**Eligible Supplemental Opt-Out Party**" or "**Eligible Supplemental Opt-Out Parties**") may opt out of this action in accordance with this Order.

8. **THIS COURT ORDERS** that the supplemental opt-out form ("**Supplemental Opt-Out Form**"), substantially in the form attached as Appendix "A" to the long-form First Notice, is hereby approved.

9. **THIS COURT ORDERS** that the deadline for Eligible Supplemental Opt-Out Parties to opt out of the action ("**Supplemental Opt-Out Deadline**") is the date that is sixty (60) days after the day on which the First Notice is first published.

10. **THIS COURT ORDERS** that any Eligible Supplemental Opt-Out Party who opts out of this class proceeding by the Supplemental Opt-Out Deadline, by complying with the instructions set out in the long-form First Notice and fully completing a Supplemental Opt-Out Form, shall not be a Class Member on and after the date that such person opts out of the class proceeding.

11. **THIS COURT ORDERS** that, subject only to the opt-out right provided to Eligible Supplemental Opt-Out Parties in accordance with paragraphs 7 to 10 of this Order, the period for Class Members to opt out of this action expired as of April 8, 2022.

12. **THIS COURT ORDERS** that Class Members who wish to file with the Court an objection to, or comment on, the settlement, the Distribution Protocol or the request for approval of

Class Counsel Fees and Class Counsel Disbursements shall deliver a written statement to Class Counsel, at the address indicated in the First Notice, no later than 21 calendar days prior to the hearing of the settlement approval motion.

The Honourable Justice Akbarali

SCHEDULE B
DISMISS ORDER

Court File No. CV-18-595380-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	__________________, the ________day
	)	
JUSTICE JASMINE T. AKBARALI	)	of ______________________, ________

BETWEEN:

PETER WESTWOOD

Plaintiff

\- and -

TD ASSET MANAGEMENT INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for an Order, among other things, approving the settlement between the Plaintiff and the Defendant and dismissing this action as against the Defendant, was heard on [*insert*] at [*insert*].

ON READING the materials filed, including the settlement agreement between the Plaintiff and the Defendant dated [*insert*] attached to this Order as **Schedule 1** (**"Settlement Agreement"**), and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendant;

AND ON BEING ADVISED that the deadline for objecting to the Settlement Agreement has passed and there have been [*insert*] written objections to the Settlement Agreement;

AND ON BEING ADVISED that the Defendant consents to this Order;

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.

3. **THIS COURT ORDERS** that this Order shall be set aside, declared null and void and of no force and effect on subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

4. **THIS COURT ORDERS** that this Order, including the Settlement Agreement, is binding upon each Class Member including those Persons who are minors or mentally incapable and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of the Action.

5. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Class.

6. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to section 29 of the *Class Proceedings Act, 1992* and shall be implemented and enforced in accordance with its terms.

7. **THIS COURT ORDERS** that, upon the Effective Date, subject to paragraph 8, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.

8. **THIS COURT ORDERS** that the use of the terms "Releasors" and "Released Claims" in this Order does not constitute a release of claims by those Class Members who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors.

9. **THIS COURT ORDERS** that, upon the Effective Date, each Class Member who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors, covenants and undertakes not to make any claim in any way nor to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

10. **THIS COURT ORDERS** that, upon the Effective Date, each Releasor shall not now or hereafter institute, continue, maintain, intervene in or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any proceeding, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim. For the avoidance of doubt, this does not apply to the Other 2018 Actions, the 2022 Actions, or the Discount Broker Actions.

11. **THIS COURT ORDERS** that for purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Defendant attorns to the jurisdiction of this Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement and this Order.

12. **THIS COURT ORDERS** that no Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement or with respect to the Distribution Protocol, including administration, investment, or distribution of the Trust Account.

13. **THIS COURT ORDERS** that, upon the Effective Date, the Action is hereby dismissed as against the Defendant, without costs and with prejudice.

____

The Honourable Justice Akbarali

SCHEDULE C
DISTRIBUTION ORDER

Court File No. CV-18-595380-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	________________, the ______day
	)	
JUSTICE JASMINE T. AKBARALI	)	of ____________________, ________

BETWEEN:

PETER WESTWOOD

Plaintiff

\- and -

TD ASSET MANAGEMENT INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for an Order, among other things, approving the notices of settlement approval and the method of dissemination of the notices, approving the Distribution Protocol, and approving the claims process, was heard on [*insert*] at [*insert*].

ON READING the materials filed, including the settlement agreement between the Plaintiff and the Defendant dated [*insert*] attached to this Order as **Schedule 1** (**"Settlement Agreement"**), and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendant;

AND ON BEING ADVISED that the deadline for objecting to the Distribution Protocol has passed and there have been [*insert*] written objections to the Settlement Agreement;

AND ON BEING ADVISED that the Defendant does not oppose this Order;

AND ON BEING ADVISED that [*insert*] consents to being appointed as the Administrator;

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.

3. **THIS COURT ORDERS** that this Order shall be set aside, declared null and void and of no force and effect on subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

4. **THIS COURT ORDERS** that the short-form, long-form and internet banner notices of settlement approval ("**Second Notice**") are hereby approved substantially in the forms attached hereto respectively as **Schedule 2**, **Schedule 3** and **Schedule 4**.

5. **THIS COURT ORDERS** that the plan of dissemination for the Second Notice ("**Plan of Notice**") is hereby approved in the form attached hereto as **Schedule 5**, and that the Second Notice shall be disseminated in accordance with the Plan of Notice.

6. **THIS COURT ORDERS** that the Distribution Protocol, substantially in the form attached hereto as **Schedule 6**, is approved for the purposes of distributing the Net Settlement Amount.

7. **THIS COURT ORDERS** that the form and content of the claim form ("**Claim Form**"), substantially in the form attached hereto as **Schedule 7**, is approved.

8. **THIS COURT ORDERS** that [*insert*] is appointed as the Administrator.

9. **THIS COURT ORDERS** that to be entitled to participate in a distribution from the Net Settlement Amount, a Class Member must:

(a) submit a properly completed Claim Form to the Administrator, using the online claim portal established by the Administrator or by submitting a paper Claim Form by mail or courier to the Administrator, postmarked or received by the Administrator on or before 11:59pm Toronto (Eastern) time on the date that is one hundred and eighty (180) calendar days after the date on which any part of Part 2 of the Plan of Notice is first completed ("**Claims Bar Deadline**");

(b) submit, together with the Claim Form, any supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Administrator; and

(c) otherwise comply with the instructions set out in the Claim Form.

10. **THIS COURT ORDERS** that the Defendant shall forthwith deliver, or cause to be delivered, to Class Counsel the data required under section 10.2(1) of the Settlement Agreement.

The Honourable Justice Akbarali

SCHEDULE D
PLAN OF NOTICE

PLAN OF NOTICE

Unless otherwise modified herein, the definitions set out in the Settlement Agreement dated August [*insert*], 2024 apply.

Part 1: First Notice will be disseminated (or caused to be disseminated) by Class Counsel as follows:

1. Short-form notice (substantially in the form attached as **Schedule E** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French;

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French);

   (c) disseminated as a news release in Canada across Canada NewsWire (in English and French);

   (d) published once in the business section of the national weekend edition of *The Globe and Mail*, in English;

   (e) published once in the business section of *La Presse*, in French;

   (f) sent electronically and/or in paper form to Discount Brokers in Canada with a cover letter requesting that they distribute the notice through their electronic message systems to the attention of their clients who may be Class Members and post the notice on their news boards directed to the attention of their clients who may be Class Members; and

   (g) filed by the Defendant as a news release on SEDAR.

2. Long-form notice (substantially in the form attached as **Schedule F** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French; and

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French).

3. Internet banner (substantially in the form attached as **Schedule G** to the Settlement Agreement):

   (a) published as a Google banner ad for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, no less than 30 days and no more than 35 days; and

(b) published as a 12-day sponsored news link on Stockhouse.

Part 2: Second Notice will be disseminated by Class Counsel and the Administrator as follows:

1. Short-form notice (substantially in the form attached as **Schedule H** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French;

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French);

   (c) disseminated as a news release in Canada across Canada NewsWire (in English and French);

   (d) published once in the business section of the national weekend edition of *The Globe and Mail*, in English;

   (e) published once in the business section of *La Presse*, in French;

   (f) sent electronically and/or in paper form to Discount Brokers in Canada with a cover letter requesting that they distribute the notice through their electronic message systems to the attention of their clients who may be Class Members and post the notice on their news boards directed to the attention of their clients who may be Class Members; and

   (g) filed by the Defendant as a news release on SEDAR.

2. Long-form notice (substantially in the form attached as **Schedule I** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French; and

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French).

3. Internet banner (substantially in the form attached as **Schedule J** to the Settlement Agreement):

   (a) published as a Google banner ad for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, over 30 days; and

   (b) published as a 12-day sponsored news link on Stockhouse.

SCHEDULE E
SHORT-FORM FIRST NOTICE

DRAFT TEXT (subject to design)

TD Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

Notice of Proposed Settlement and Supplemental Opt-Out Deadline for Certain Class Members

Have you held units of a TD mutual fund through a discount broker?

A class action settlement has been reached with TD Asset Management Inc. for C$70.25 million to resolve the claims asserted on behalf of all persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to [*insert Date of Execution*], units of a TD mutual fund trust through a discount broker ("Class").

The settlement is subject to approval by the Ontario Superior Court of Justice. A settlement approval hearing has been set for [*insert*]. At that same hearing, the Court will also consider a motion to approve Class Counsel's fees, which will not exceed [*insert*], plus reimbursement for expenses incurred by Class Counsel in the litigation, plus taxes on the fees and disbursements.

If you wish to object to the settlement, Class Counsel's fees and disbursements, or the Distribution Protocol that sets out the manner in which the net settlement funds will be distributed among eligible Class Members, you must do so by [*insert*].

If you are a Class Member who held units of a TD Mutual Fund through a Discount Broker <u>for the first time on or after April 9, 2022</u> (meaning you never held units of a TD Mutual Fund through a Discount Broker on or before April 9, 2022), and you do <u>not</u> want to be part of the class action and be bound by the terms of the settlement, you must opt out by submitting a supplemental opt-out form by [*insert opt-out deadline*].

For other Class Members (meaning you held units of a TD Mutual Fund through a Discount Broker on or before April 8, 2022, regardless of whether you continued to hold those units after April 8, 2022), your opt-out period expired on April 8, 2022 and there is no further right to opt out of the class action.

For important information regarding the class action, to determine if you are a member of the Class, to obtain a copy of the supplemental opt-out form, to object, and to understand your legal rights:

- View the long-form notice at <u>https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/</u>
- Call Class Counsel at [*insert*] or toll-free [*insert*]

This settlement is only for the benefit of persons who held units of a TD mutual fund trust through a discount broker. If you held units of a TD mutual fund other than through a discount broker (e.g. through an investment advisor), there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

The publication of this notice was authorized by the Superior Court of Justice of the Province of Ontario

SCHEDULE F
LONG-FORM FIRST NOTICE

DRAFT TEXT (subject to design)

TD Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

Notice of Proposed Settlement and Supplemental Opt-Out Deadline

Read this notice carefully as it may affect your legal rights

THIS NOTICE IS TO:

All persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to [*insert Date of Execution*], units of a TD Mutual Fund through a discount broker, except for the Excluded Persons ("**Class**" and "**Class Members**").

In the above class definition:

"**TD Mutual Funds**" means all mutual fund trusts (including, without limitation, all series of units thereof) of which TD Asset Management Inc. ("**Defendant**") is trustee or was trustee at any time on or prior to [*insert Date of Execution*] (but only in respect of the period during which the Defendant is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

"**Excluded Persons**" means the Defendant; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of the Defendant; the past and present members of the independent review committee of each TD Mutual Fund; and any person who validly opted or opts out of the class action.

Examples of discount brokers are BMO InvestorLine, CIBC Investor's Edge, National Bank Direct Brokerage, RBC Direct Investing, Scotia iTRADE, TD Direct Investing, CI Direct Trading, Qtrade, Desjardins Online Brokerage, HSBC InvestDirect, Laurentian Bank Discount Brokerage, Wealthsimple, Questrade, and Interactive Brokers. They may have had different names in the past.

A settlement ("**Settlement**") has been reached in the class action in the Ontario Superior Court of Justice against the Defendant ("**Action**"). This notice contains important details about the Settlement.

IMPORTANT DEADLINES

Objection Deadline (to object to the Settlement, Class Counsel's fee request or the Distribution Protocol): **[*insert*]**

Supplemental Opt-Out Deadline (for those Class Members who held units of a TD Mutual Fund through a Discount Broker for the first time on or after April 9, 2022 to exclude themselves from the Action and the settlement): **[*insert*]**

IMPORTANT NOTE ABOUT SEPARATE SETTLEMENT FOR NON-DISCOUNT BROKER HOLDERS OF TD MUTUAL FUNDS

This settlement is only for the benefit of persons who held units of a TD mutual fund trust through a discount broker. If you held units of a TD mutual fund other than through a discount broker (e.g. through an investment advisor), there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

THE NATURE OF THE CLAIMS ASSERTED

It is alleged that the Defendant paid trailing commissions, out of the TD Mutual Fund assets, to discount brokers. The TD Mutual Funds are trusts governed by trust instruments. The Defendant is both trustee and manager of the TD Mutual Funds. It is alleged that the Defendant breached its duties as a trustee and fiduciary because the trailing commissions paid to discount brokers are excessive, inflated and/or unearned.

It is further alleged that the Defendant made misrepresentations about the nature of the trailing commission payments.

The Defendant has denied these allegations and continues to deny all allegations.

On behalf of the Class, the Action asserts claims under section 130 of the Ontario *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Canadian provinces and territories. Additionally, the Action advances claims under section 23.1 of the *Trustee Act*, and for breach of trust and fiduciary duty.

THE CERTIFICATION ORDER

By Orders dated February 27, 2020 and February 5, 2021, the Ontario Superior Court of Justice ("**Court**") certified the Action as a class proceeding under the Ontario *Class Proceedings Act, 1992*. The Court appointed the plaintiff, Peter Westwood, as the representative plaintiff for the Class ("**Plaintiff**").

By Order dated [*insert*], the class definition was amended to the definition noted above.

THE SETTLEMENT

On [*insert*], the Plaintiff and the Defendant executed a Settlement Agreement ("**Settlement Agreement**"), which is subject to approval by the Court. The Settlement Agreement provides for the payment of C$70,250,000 ("**Settlement Amount**") in consideration of the full and final settlement of the claims of Class Members.

The Settlement Agreement provides that if approved by the Court, the claims of Class Members asserted or that could have been asserted in the Action will be fully and finally released, and the Action will be dismissed.

The Settlement Agreement is not an admission of liability, wrongdoing, or fault on the part of the Defendant, which has denied, and continues to deny, the allegations against it.

SETTLEMENT APPROVAL HEARING

The Settlement Agreement is conditional on approval by the Court. The Settlement Agreement will be approved if the Court determines that it is fair and reasonable and in the best interests of the Class Members to approve it.

The Court will hear a motion for approval of the Settlement on [*insert*] at [*insert*].

CLASS COUNSEL'S FEES AND OTHER EXPENSES

The Plaintiff and the Class are represented by Siskinds LLP ("**Class Counsel**"). Class Counsel are conducting the Action on a contingent fee basis. On [*insert*], Class Counsel will make a motion to the Court for approval of their fees and the fees of Bates Barristers P.C., which in the aggregate will not exceed [*insert*], plus reimbursement for expenses incurred in the litigation in the maximum amount of [*insert*], plus applicable taxes on the fees and expenses.

A funding agreement between the Plaintiff and Claims Funding International, PLC ("**Funder**") was previously approved by the Court on June 20, 2019. Amounts owing to the Funder will be deducted from the amounts to be distributed to the Class Members before the actual distribution.

On [*insert*], Class Counsel will also seek the Court's approval for the payment of an honorarium to the Plaintiff in the maximum amount of [*insert*]. Class Counsel will be requesting that the honorarium be deducted directly from the Settlement Amount.

The fees of the claims administrator, together with any other costs relating to approval, notification, implementation and administration of the Settlement ("**Administration Expenses**"), will also be paid from the Settlement Amount.

CLASS MEMBERS' ENTITLEMENT TO COMPENSATION

If the Settlement Agreement is approved by the Court, the Settlement Amount, after deduction of Class Counsel's fees and expenses, amounts payable to the Funder, any approved honorarium for the Plaintiff and Administration Expenses ("**Net Settlement Amount**") will be distributed to Class Members who file valid and timely claims in accordance with the Distribution Protocol.

On [*insert*], the Plaintiff will seek the Court's approval of the Distribution Protocol and a process by which Class Members can claim compensation from the Net Settlement Amount.

The proposed Distribution Protocol will provide that in order to determine the individual entitlements of Class Members who make claims, the losses of each claimant will be calculated in accordance with the Distribution Protocol. Once the notional losses of all Class Members who have filed valid claims have been calculated, the Net Settlement Amount will be allocated to those Class Members in proportion to their percentage of the total notional losses calculated for all valid claims filed. Because the Net Settlement Amount will be distributed *pro rata*, it is not possible to estimate the individual recovery of any individual Class Member until all the claims have been received and reviewed.

The approval of the Settlement Agreement is not contingent on the approval of the Distribution Protocol. The Court may still approve the Settlement Agreement even if it does not approve the Distribution Protocol or approves amendments to the Distribution Protocol.

PARTICIPATION IN THE APPROVAL MOTION

The following material will be posted on Class Counsel's website dedicated to the Action (https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/) on or before the dates set out below:

1. the Settlement Agreement (posted prior to or at the time of the publication of this notice);

2. the proposed Distribution Protocol (posted by [*6 weeks prior to settlement approval hearing*]); and

3. a summary of the basis upon which Class Counsel recommends the Settlement and Distribution Protocol (posted by [*6 weeks prior to settlement approval hearing*]).

Class Members who wish to comment on, or make an objection to, the approval of the Settlement Agreement, the Distribution Protocol or the fees and disbursements of Class Counsel shall deliver (by email, mail or courier) a written submission to Class Counsel, to be postmarked or received no later than **[*insert*]**, at the following email address or mailing address:

Zohra Bhimani
Siskinds LLP
275 Dundas Street, Unit 1, P.O. Box 2520, London, ON N6B 3L1
Tel: 226-330-0409
Email: zohra.bhimani@siskinds.com

Any objections delivered by that date will be filed with the Court.

Class Members may attend at the hearing whether or not they deliver an objection. Class Members who wish to have a lawyer speak on their behalf at the hearing may retain one to do so at their own expense.

SUPPLEMENTAL OPT-OUT RIGHT FOR CERTAIN CLASS MEMBERS

If you are a Class Member who held units of a TD Mutual Fund through a Discount Broker for the first time on or after April 9, 2022 (meaning you never held units of a TD Mutual Fund through a Discount Broker on or before April 9, 2022), and you do not want to be bound by the outcome of the Action, including the terms of the Settlement if approved, you must "opt out", meaning that you must exclude yourself from the Action in accordance with the following procedure.

Such class Members who do not opt out will (i) be entitled to participate in the Settlement; (ii) be bound by the terms of the Settlement; and (iii) not be permitted to bring other legal proceedings in relation to the matters alleged in the Action against the Defendant, or any person released by the approved Settlement. Conversely, if you opt out of the Action, you will not be able to make a claim to receive compensation from the Settlement Amount but will maintain the right to pursue your own claim against the Defendant relating to the matters alleged in the Action.

If you wish to opt out of the Action, you must complete, sign and return (by email, mail or courier) the supplemental opt-out form provided at Appendix "A" hereto to Class Counsel.

In order for your opt-out to be valid, your complete and signed supplemental opt-out form must be postmarked or received by Class Counsel by no later than **[*insert*]**.

For other Class Members (meaning you held units of a TD Mutual Fund through a Discount Broker on or before April 8, 2022, regardless of whether you continued to hold those units after April 8, 2022), your opt-out period expired on April 8, 2022 and there is no further right to opt out of the Action.

ADDITIONAL INFORMATION

This notice has been approved by the Ontario Superior Court of Justice. The Court offices cannot answer any questions about the matters in this notice. The Orders of the Court and other information in both languages are available on Class Counsel's website at https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/.

Questions relating to the Action may be directed to Class Counsel using the contact details above.

Si vous avez besoin d'aide en français, veuillez contacter les avocats du groupe en utilisant les coordonnées ci-dessus et nous dirigerons votre demande vers une personne appropriée.

The publication of this notice was authorized by the Ontario Superior Court of Justice

DRAFT TEXT – SUBJECT TO DESIGN

APPENDIX "A"

SUPPLEMENTAL OPT-OUT FORM
TD MUTUAL FUNDS CLASS ACTION

This Supplemental Opt-Out Form is only for Class Members who held units of a TD Mutual Fund through a Discount Broker **for the first time on or after April 9, 2022** (meaning you never held units of a TD Mutual Fund through a Discount Broker on or before April 9, 2022).

If you are such a person, complete and return this Supplemental Opt-Out Form by no later than [DATE], **only if you do not wish to participate in the class action, including the settlement if approved**.

It must be postmarked or received by Class Counsel by no later than [DATE].

Name:
Organization and title (if applicable):
Phone number:
Fax number:
Email:
Address:

Please provide the below information on the TD Mutual Fund units that you hold or held through a Discount Broker. Please use additional paper if necessary.

Name of the TD Mutual Fund(s) Currently or Previously Held	Fund Code	Date of Acquisition	Date of Disposition (if applicable)	Current Number of Units (if applicable)

(PLEASE CIRCLE THE APPROPRIATE LANGUAGE)

I believe that **I am / the organization that I represent is** a member of the Class in the Action.

I believe that **I am not / the organization that I represent is not** amongst the persons and entities excluded from the Action.

I understand that by opting out of the Action, **I <u>will not</u> be eligible / the organization that I represent <u>will not</u> be eligible** for any benefit that may be available to the Class upon resolution of this matter, if and when such resolution may occur.

I, ______________________________ (print your full name), **OPT OUT FROM THE ACTION** and wish to be excluded from this class action.

I wish to opt out from this class action for the following reason(s) (*optional*):

____
____
____
____
____.

I, ______________________________ (print your full name), **CERTIFY** that the information provided herein is complete and true.

______________________ ______________________

Date Signature

In order to validly opt out, you must complete and send this Supplemental Opt-Out Form by <u>no later than [DATE]</u> to:

Zohra Bhimani
Siskinds LLP
275 Dundas Street, Unit 1, P.O. Box 2520, London, ON N6B 3L1
Email: zohra.bhimani@siskinds.com

SCHEDULE G
INTERNET BANNER FIRST NOTICE

DRAFT TEXT (subject to design)

Have you held units of a TD mutual fund through a discount broker?

You may be affected by a proposed class action settlement.

Click to learn your legal rights.

[*Link to https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/*]

SCHEDULE H
SHORT-FORM SECOND NOTICE

DRAFT TEXT (subject to design)

TD Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

Notice of Approved Settlement and Commencement of Claim-Filing Process

Have you held units of a TD mutual fund through a discount broker?

The Ontario Superior Court of Justice approved a class action settlement with TD Asset Management Inc. for C$70.25 million to resolve the claims asserted on behalf of all persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to [*insert Date of Execution*], units of a TD mutual fund trust through a discount broker ("Class").

This settlement is not an admission of liability or wrongdoing by the Defendant. It is an efficient compromise between the parties of their disputed positions.

To be eligible to obtain compensation from the settlement, Class Members must submit a Claim Form to the Administrator at [*insert Administrator website*] by [*insert*].

For important information regarding the class action, to determine if you are a member of the Class, and to learn how to make a claim for compensation:

- View the long-form notice at [*insert Administrator website*]
- Contact the Administrator at:

[*insert Administrator contact details*]

This settlement is only for the benefit of persons who held units of a TD mutual fund trust through a discount broker. If you held units of a TD mutual fund other than through a discount broker (e.g. through an investment advisor), there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

The publication of this notice was authorized by the Superior Court of Justice of the Province of Ontario

SCHEDULE I

LONG-FORM SECOND NOTICE

DRAFT TEXT (subject to design)

[*NTD: The language of the notice regarding claims for compensation is subject to settling the terms of the proposed Distribution Protocol, as the notice language will need to line up with the terms of the proposed Distribution Protocol.*]

TD Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

Notice of Approved Settlement and Commencement of Claim-Filing Process

Read this notice carefully as it may affect your legal rights

THIS NOTICE IS TO:

All persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to [*insert Date of Execution*], units of a TD Mutual Fund through a discount broker, except for the Excluded Persons ("**Class**" and "**Class Members**").

In the above class definition:

"**TD Mutual Funds**" means all mutual fund trusts (including, without limitation, all series of units thereof) of which TD Asset Management Inc. ("**Defendant**") is trustee or was trustee at any time on or prior to [*insert Date of Execution*] (but only in respect of the period during which the Defendant is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

"**Excluded Persons**" means the Defendant; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of the Defendant; the past and present members of the independent review committee of each TD Mutual Fund; and any person who previously opted out of the class action.

Examples of discount brokers are BMO InvestorLine, CIBC Investor's Edge, National Bank Direct Brokerage, RBC Direct Investing, Scotia iTRADE, TD Direct Investing, CI Direct Trading, Qtrade, Desjardins Online Brokerage, HSBC InvestDirect, Laurentian Bank Discount Brokerage, Wealthsimple, Questrade, and Interactive Brokers. They may have had different names in the past.

A settlement ("**Settlement**") has been reached in the class action against the Defendant ("**Action**"). The Ontario Superior Court of Justice ("**Court**") has approved the Settlement. This notice contains important details about the Settlement and how to submit a claim for compensation from the Settlement.

IMPORTANT DEADLINE TO FILE CLAIM FOR COMPENSATION

Claims Bar Deadline (to file a claim for compensation): **[*insert*]**

IMPORTANT NOTE ABOUT SEPARATE SETTLEMENT FOR NON-DISCOUNT BROKER HOLDERS OF TD MUTUAL FUNDS

This settlement is only for the benefit of persons who held units of a TD mutual fund trust through a discount broker. If you held units of a TD mutual fund other than through a discount broker (e.g. through an investment advisor), there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

THE NATURE OF THE CLAIMS ASSERTED

It is alleged that the Defendant paid trailing commissions, out of the TD Mutual Fund assets, to discount brokers. The TD Mutual Funds are trusts governed by trust instruments. The Defendant is both trustee and manager of the TD Mutual Funds. It is alleged that the Defendant breached its duties as a trustee and fiduciary because the trailing commissions paid to discount brokers are excessive, inflated and/or unearned.

It is further alleged that the Defendant made misrepresentations about the nature of the trailing commission payments.

The Defendant has denied these allegations and continues to deny all allegations.

On behalf of the Class, the Action asserts claims under section 130 of the Ontario *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Canadian provinces and territories. Additionally, the Action advances claims under section 23.1 of the *Trustee Act*, and for breach of trust and fiduciary duty.

SETTLEMENT APPROVAL, FEE APPROVAL AND OTHER MATTERS

On [*insert*], the Court approved the Settlement. The Settlement provides for the payment of C$70,250,000 ("**Settlement Amount**") in consideration of the full and final settlement of the claims of Class Members.

The Settlement Agreement provides that the claims of Class Members (who did not opt out) asserted or that could have been asserted in the Action will be fully and finally released, and the Action will be dismissed.

The Settlement Agreement is not an admission of liability, wrongdoing or fault on the part of the Defendant, which has denied, and continues to deny, the allegations against it.

The Court awarded Siskinds LLP ("**Class Counsel**") and Bates Barristers P.C. total legal fees in the amount of [*insert*], plus disbursements of [*insert*], plus applicable taxes on the fees and expenses. As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. The approved fees and disbursements will be deducted from the Settlement Amount before it is distributed to Class Members.

A funding agreement between the Plaintiff and Claims Funding International, PLC ("**Funder**") was previously approved by the Court on June 20, 2019. Amounts owing to the Funder will be deducted from the amounts to be distributed to the Class Members before the actual distribution.

The Court also approved the payment of an honorarium to the Plaintiff in the amount of [*insert*]. The honorarium will be deducted from the Settlement Amount before it is distributed to Class Members.

Expenses incurred or payable relating to approval, notification, implementation and administration of the Settlement ("**Administration Expenses**") will also be paid from the Settlement Amount before it is distributed to Class Members.

The Settlement Amount includes all legal fees, the Funder's commission, taxes and administrative expenses.

CLAIMS ADMINISTRATOR

The Court has appointed [*insert*] as the claims administrator for the Settlement ("**Administrator**"). The Administrator will, among other things: (i) receive and process claims for compensation from the Settlement; (ii) determine Class Members' eligibility for and entitlement to compensation pursuant to the Distribution Protocol; (iii) communicate with Class Members regarding claims for compensation; and (iv) manage and distribute the Settlement Amount in accordance with the Settlement Agreement and the orders of the Court.

The Administrator can be contacted at:

[*insert Administrator full contact details*]

CLASS MEMBERS' ENTITLEMENT TO COMPENSATION

The Settlement Amount, after deduction of Class Counsel's fees and expenses, amounts payable to the Funder, the approved honorarium for the Plaintiff and Administration Expenses ("**Net Settlement Amount**") will be distributed to Class Members in accordance with the Distribution Protocol approved by the Court.

Class Members will be eligible for compensation if they submit a completed Claim Form, including any supporting documentation, with the Administrator, and their claim satisfies the criteria set out in the Distribution Protocol.

To be eligible for compensation, Class Members must submit their Claim Form **no later than [*insert*]** ("**Claims Bar Deadline**").

The most efficient way to file a claim is to visit the Administrator's website at [*insert*] and file an online claim. The website provides step by step instructions on how to file a claim. In order to verify claims, the Administrator will require supporting documentation, including brokerage statements or confirmations evidencing the claimed transactions. Accordingly, Class Members should visit the Administrator's site as soon as possible so that they have time to obtain the required documentation prior to the Claims Bar Deadline.

While online claims are recommended and preferred, the Administrator will also accept Claim Forms filed by mail or courier. To obtain a copy of the Claim Form, Class Members may contact the Administrator to have one sent by email or regular mail. Claim Forms sent by mail or courier should be sent to the Administrator using the contact details above.

If you have questions about how to complete or file a Claim Form, the documentation required to support a claim, or whether you are a Class Member, please contact the Administrator.

ADDITIONAL INFORMATION

This notice has been approved by the Ontario Superior Court of Justice. The Court offices cannot answer any questions about the matters in this notice. The Orders of the Court and other information in both languages are available on the Administrator's website at [*insert*].

Questions relating to the Action may be directed to the Administrator using the contact details above or Class Counsel:

Zohra Bhimani
Siskinds LLP
275 Dundas Street, Unit 1, P.O. Box 2520, London, ON N6B 3L1
Tel: 226-330-0409
Email: zohra.bhimani@siskinds.com

Si vous avez besoin d'aide en français, veuillez contacter les avocats du groupe en utilisant les coordonnées ci-dessus et nous dirigerons votre demande vers une personne appropriée.

The publication of this notice was authorized by the Ontario Superior Court of Justice

SCHEDULE J
INTERNET BANNER SECOND NOTICE

DRAFT TEXT (subject to design)

Have you held units of a TD mutual fund
through a discount broker?

You may be eligible to obtain compensation
from a class action settlement.

Click to learn your legal rights.

[*Link to Administrator website*]

SCHEDULE 2

SHORT-FORM FIRST NOTICE

DRAFT TEXT (subject to design)

TD Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

Notice of Proposed Settlement and Supplemental Opt-Out Deadline for Certain Class Members

Have you held units of a TD mutual fund through a discount broker?

A class action settlement has been reached with TD Asset Management Inc. for C$70.25 million to resolve the claims asserted on behalf of all persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to [*insert Date of Execution*], units of a TD mutual fund trust through a discount broker ("Class").

The settlement is subject to approval by the Ontario Superior Court of Justice. A settlement approval hearing has been set for [*insert*]. At that same hearing, the Court will also consider a motion to approve Class Counsel's fees, which will not exceed [*insert*], plus reimbursement for expenses incurred by Class Counsel in the litigation, plus taxes on the fees and disbursements.

If you wish to object to the settlement, Class Counsel's fees and disbursements, or the Distribution Protocol that sets out the manner in which the net settlement funds will be distributed among eligible Class Members, you should do so by [*insert*].

If you are a Class Member who held units of a TD Mutual Fund through a Discount Broker for the first time on or after April 9, 2022 (meaning you never held units of a TD Mutual Fund through a Discount Broker on or before April 9, 2022), and you do not want to be part of the class action and be bound by the terms of the settlement, you must opt out by submitting a supplemental opt-out form by [*insert opt-out deadline*].

For other Class Members (meaning you held units of a TD Mutual Fund through a Discount Broker on or before April 8, 2022, regardless of whether you continued to hold those units after April 8, 2022), your opt-out period expired on April 8, 2022 and there is no further right to opt out of the class action.

For important information regarding the class action, to determine if you are a member of the Class, to obtain a copy of the supplemental opt-out form, to object, and to understand your legal rights:

- View the long-form notice at https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/
- Call Class Counsel at [*insert*] or toll-free [*insert*]

This settlement is only for the benefit of persons who held units of a TD mutual fund trust through a discount broker. If you held units of a TD mutual fund other than through a discount broker (e.g. through an investment advisor), there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

The publication of this notice was authorized by the Superior Court of Justice of the Province of Ontario

SCHEDULE 3

LONG-FORM FIRST NOTICE

DRAFT TEXT (subject to design)

TD Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

Notice of Proposed Settlement and Supplemental Opt-Out Deadline

Read this notice carefully as it may affect your legal rights

THIS NOTICE IS TO:

All persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to [*insert Date of Execution*], units of a TD Mutual Fund through a discount broker, except for the Excluded Persons ("**Class**" and "**Class Members**").

In the above class definition:

"**TD Mutual Funds**" means all mutual fund trusts (including, without limitation, all series of units thereof) of which TD Asset Management Inc. ("**Defendant**") is trustee or was trustee at any time on or prior to [*insert Date of Execution*] (but only in respect of the period during which the Defendant is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

"**Excluded Persons**" means the Defendant; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of the Defendant; the past and present members of the independent review committee of each TD Mutual Fund; and any person who validly opted or opts out of the class action.

Examples of discount brokers are BMO InvestorLine, CIBC Investor's Edge, National Bank Direct Brokerage, RBC Direct Investing, Scotia iTRADE, TD Direct Investing, CI Direct Trading, Qtrade, Desjardins Online Brokerage, HSBC InvestDirect, Laurentian Bank Discount Brokerage, Wealthsimple, Questrade, and Interactive Brokers. They may have had different names in the past.

A settlement ("**Settlement**") has been reached in the class action in the Ontario Superior Court of Justice against the Defendant ("**Action**"). This notice contains important details about the Settlement.

IMPORTANT DEADLINES

Objection Deadline (to object to the Settlement, Class Counsel's fee request or the Distribution Protocol you should do so by): **[*insert*]**

Supplemental Opt-Out Deadline (for those Class Members who held units of a TD Mutual Fund through a Discount Broker for the first time on or after April 9, 2022 to exclude themselves from the Action and the settlement): **[*insert*]**

IMPORTANT NOTE ABOUT SEPARATE SETTLEMENT FOR NON-DISCOUNT BROKER HOLDERS OF TD MUTUAL FUNDS

This settlement is only for the benefit of persons who held units of a TD mutual fund trust through a discount broker. If you held units of a TD mutual fund other than through a discount broker (e.g. through an investment advisor), there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

THE NATURE OF THE CLAIMS ASSERTED

It is alleged that the Defendant paid trailing commissions, out of the TD Mutual Fund assets, to discount brokers. The TD Mutual Funds are trusts governed by trust instruments. The Defendant is both trustee and manager of the TD Mutual Funds. It is alleged that the Defendant breached its duties as a trustee and fiduciary because the trailing commissions paid to discount brokers are excessive, inflated and/or unearned.

It is further alleged that the Defendant made misrepresentations about the nature of the trailing commission payments.

The Defendant has denied these allegations and continues to deny all allegations.

On behalf of the Class, the Action asserts claims under section 130 of the Ontario *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Canadian provinces and territories. Additionally, the Action advances claims under section 23.1 of the *Trustee Act*, and for breach of trust and fiduciary duty.

THE CERTIFICATION ORDER

By Orders dated February 27, 2020 and February 5, 2021, the Ontario Superior Court of Justice ("**Court**") certified the Action as a class proceeding under the Ontario *Class Proceedings Act, 1992*. The Court appointed the plaintiff, Peter Westwood, as the representative plaintiff for the Class ("**Plaintiff**").

By Order dated [*insert*], the class definition was amended to the definition noted above.

THE SETTLEMENT

On [*insert*], the Plaintiff and the Defendant executed a Settlement Agreement ("**Settlement Agreement**"), which is subject to approval by the Court. The Settlement Agreement provides for the payment of C$70,250,000 ("**Settlement Amount**") in consideration of the full and final settlement of the claims of Class Members.

The Settlement Agreement provides that if approved by the Court, the claims of Class Members asserted or that could have been asserted in the Action will be fully and finally released, and the Action will be dismissed.

The Settlement Agreement is not an admission of liability, wrongdoing, or fault on the part of the Defendant, which has denied, and continues to deny, the allegations against it.

SETTLEMENT APPROVAL HEARING

The Settlement Agreement is conditional on approval by the Court. The Settlement Agreement will be approved if the Court determines that it is fair and reasonable and in the best interests of the Class Members to approve it.

The Court will hear a motion for approval of the Settlement on [*insert*] at [*insert*]. The hearing will be held by videoconference and a Zoom link will be made available on Class Counsel's website at https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/. Class Members may also request the link by emailing Class Counsel at zohra.bhimani@siskinds.com.

CLASS COUNSEL'S FEES AND OTHER EXPENSES

The Plaintiff and the Class are represented by Siskinds LLP ("**Class Counsel**"). Class Counsel are conducting the Action on a contingent fee basis. On [*insert*], Class Counsel will make a motion to the Court for approval of their fees, and the fees of Bates Barristers P.C., which in the aggregate will not exceed [*insert*], plus reimbursement for expenses incurred in the litigation in the maximum amount of [*insert*], plus applicable taxes on the fees and expenses.

A funding agreement between the Plaintiff and Claims Funding International, PLC ("**Funder**") was previously approved by the Court on June 20, 2019. Amounts owing to the Funder will be deducted from the amounts to be distributed to the Class Members before the actual distribution.

On [*insert*], Class Counsel will also seek the Court's approval for the payment of an honorarium to the Plaintiff in the maximum amount of [*insert*]. Class Counsel will be requesting that the honorarium be deducted directly from the Settlement Amount.

The fees of the claims administrator, together with any other costs relating to approval, notification, implementation and administration of the Settlement ("**Administration Expenses**"), will also be paid from the Settlement Amount.

CLASS MEMBERS' ENTITLEMENT TO COMPENSATION

If the Settlement Agreement is approved by the Court, the Settlement Amount, after deduction of Class Counsel's fees and expenses, amounts payable to the Funder, any approved honorarium for the Plaintiff and Administration Expenses ("**Net Settlement Amount**") will be distributed to Class Members who file valid and timely claims in accordance with the Distribution Protocol.

On [*insert*], the Plaintiff will seek the Court's approval of the Distribution Protocol and a process by which Class Members can claim compensation from the Net Settlement Amount.

The proposed Distribution Protocol will provide that in order to determine the individual entitlements of Class Members who make claims, the losses of each claimant will be calculated in accordance with the Distribution Protocol. Once the notional losses of all Class Members who have filed valid claims have been calculated, the Net Settlement Amount will be allocated to those Class Members in proportion to their percentage of the total notional losses calculated for all valid claims filed. Because the Net Settlement Amount will be distributed *pro rata*, it is not possible to estimate the individual recovery of any individual Class Member until all the claims have been received and reviewed.

The approval of the Settlement Agreement is not contingent on the approval of the Distribution Protocol. The Court may still approve the Settlement Agreement even if it does not approve the Distribution Protocol or approves amendments to the Distribution Protocol.

PARTICIPATION IN THE APPROVAL MOTION

The following material will be posted on Class Counsel's website dedicated to the Action (https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/) on or before the dates set out below:

1. the Settlement Agreement (posted prior to or at the time of the publication of this notice);

2. the proposed Distribution Protocol (posted by [*6 weeks prior to settlement approval hearing*]); and

3. a summary of the basis upon which Class Counsel recommends the Settlement and Distribution Protocol (posted by [*6 weeks prior to settlement approval hearing*]).

Class Members who wish to comment on, or make an objection to, the approval of the Settlement Agreement, the Distribution Protocol, the honorarium, or the fees and disbursements of Class Counsel should deliver (by email, mail or courier) a written submission to Class Counsel, to be postmarked or received no later than **[*insert*]**, at the following email address or mailing address:

Zohra Bhimani
Siskinds LLP
275 Dundas Street, Unit 1, P.O. Box 2520, London, ON N6B 3L1
Tel: 226-330-0409
Email: zohra.bhimani@siskinds.com

Any objections delivered by that date will be filed with the Court.

Class Members may attend at the hearing whether or not they deliver an objection. Class Members who wish to have a lawyer speak on their behalf at the hearing may retain one to do so at their own expense.

SUPPLEMENTAL OPT-OUT RIGHT FOR CERTAIN CLASS MEMBERS

If you are a Class Member who held units of a TD Mutual Fund through a Discount Broker for the first time on or after April 9, 2022 (meaning you never held units of a TD Mutual Fund through a Discount Broker on or before April 9, 2022), and you do not want to be bound by the outcome of the Action, including the terms of the Settlement if approved, you must "opt out", meaning that you must exclude yourself from the Action in accordance with the following procedure.

Such Class Members who do not opt out will (i) be entitled to participate in the Settlement; (ii) be bound by the terms of the Settlement; and (iii) not be permitted to bring other legal proceedings in relation to the matters alleged in the Action against the Defendant, or any person released by the approved Settlement. Conversely, if you opt out of the Action, you will not be able to make a claim to receive compensation from the Settlement Amount but will maintain the right to pursue your own claim against the Defendant relating to the matters alleged in the Action subject to applicable limitation periods.

If you wish to opt out of the Action, you must complete, sign and return (by email, mail or courier) the supplemental opt-out form provided at Appendix "A" hereto to Class Counsel.

In order for your opt-out to be valid, your complete and signed supplemental opt-out form must be postmarked or received by Class Counsel by no later than ***[insert]***.

For other Class Members (meaning you held units of a TD Mutual Fund through a Discount Broker on or before April 8, 2022, regardless of whether you continued to hold those units after April 8, 2022), your opt-out period expired on April 8, 2022 and there is no further right to opt out of the Action.

ADDITIONAL INFORMATION

This notice has been approved by the Ontario Superior Court of Justice. The Court offices cannot answer any questions about the matters in this notice. The Orders of the Court and other information in both languages are available on Class Counsel's website at https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/.

Questions relating to the Action may be directed to Class Counsel using the contact details above.

Si vous avez besoin d'aide en français, veuillez contacter les avocats du groupe en utilisant les coordonnées ci-dessus et nous dirigerons votre demande vers une personne appropriée.

The publication of this notice was authorized by the Ontario Superior Court of Justice

DRAFT TEXT – SUBJECT TO DESIGN

APPENDIX "A"

SUPPLEMENTAL OPT-OUT FORM
TD MUTUAL FUNDS CLASS ACTION

This Supplemental Opt-Out Form is only for Class Members who held units of a TD Mutual Fund through a Discount Broker **for the first time on or after April 9, 2022** (meaning you never held units of a TD Mutual Fund through a Discount Broker on or before April 9, 2022).

If you are such a person, complete and return this Supplemental Opt-Out Form by no later than [DATE], **only if you do not wish to participate in the class action, including the settlement if approved**.

It must be postmarked or received by Class Counsel by no later than [DATE].

Name:
Organization and title (if applicable):
Phone number:
Fax number:
Email:
Address:

Please provide the below information on the TD Mutual Fund units that you hold or held through a Discount Broker. Please use additional paper if necessary.

Name of the TD Mutual Fund(s) Currently or Previously Held	Fund Code	Date of Acquisition	Date of Disposition (if applicable)	Current Number of Units (if applicable)

(PLEASE CIRCLE THE APPROPRIATE LANGUAGE)

I believe that **I am / the organization that I represent is** a member of the Class in the Action.

I believe that **I am not / the organization that I represent is not** amongst the persons and entities excluded from the Action.

I understand that by opting out of the Action, **I <u>will not</u> be eligible / the organization that I represent <u>will not</u> be eligible** for any benefit that may be available to the Class upon resolution of this matter, if and when such resolution may occur.

I, ________________________________ (print your full name), **OPT OUT FROM THE ACTION** and wish to be excluded from this class action.

I wish to opt out from this class action for the following reason(s) (*optional*):

____
____
____
____
____.

I, ________________________________ (print your full name), **CERTIFY** that the information provided herein is complete and true.

______________________ Date

______________________ Signature

In order to validly opt out, you must complete and send this Supplemental Opt-Out Form by <u>no later than [DATE]</u> to:

Zohra Bhimani
Siskinds LLP
275 Dundas Street, Unit 1, P.O. Box 2520, London, ON N6B 3L1
Email: zohra.bhimani@siskinds.com

SCHEDULE 4

INTERNET BANNER FIRST NOTICE

DRAFT TEXT (subject to design)

Have you held units of a TD mutual fund through a discount broker?

You may be affected by a proposed class action settlement.

Click to learn your legal rights.

[*Link to* *https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/*]

SCHEDULE 5
PLAN OF NOTICE

PLAN OF NOTICE

Unless otherwise modified herein, the definitions set out in the Settlement Agreement dated September 11, 2024 apply.

Part 1: First Notice will be disseminated (or caused to be disseminated) by Class Counsel as follows:

1. Short-form notice (substantially in the form attached as **Schedule E** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/,in English and French;

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French);

   (c) disseminated as a news release in Canada across Canada NewsWire (in English and French);

   (d) published once in the business section of the national weekend edition of *The Globe and Mail*, in English;

   (e) published once in the business section of *La Presse*, in French;

   (f) sent electronically and/or in paper form to Discount Brokers in Canada with a cover letter requesting that they distribute the notice through their electronic message systems to the attention of their clients who may be Class Members and post the notice on their news boards directed to the attention of their clients who may be Class Members; and

   (g) filed by the Defendant as a news release on SEDAR.

2. Long-form notice (substantially in the form attached as **Schedule F** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French; and

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French).

3. Internet banner (substantially in the form attached as **Schedule G** to the Settlement Agreement):

   (a) published as a Google banner ad for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, no less than 30 days and no more than 35 days; and

(b) published as a 12-day sponsored news link on Stockhouse.

Part 2: Second Notice will be disseminated by Class Counsel and the Administrator as follows:

1. Short-form notice (substantially in the form attached as **Schedule H** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French;

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French);

   (c) disseminated as a news release in Canada across Canada NewsWire (in English and French);

   (d) published once in the business section of the national weekend edition of *The Globe and Mail*, in English;

   (e) published once in the business section of *La Presse*, in French;

   (f) sent electronically and/or in paper form to Discount Brokers in Canada with a cover letter requesting that they distribute the notice through their electronic message systems to the attention of their clients who may be Class Members and post the notice on their news boards directed to the attention of their clients who may be Class Members; and

   (g) filed by the Defendant as a news release on SEDAR.

2. Long-form notice (substantially in the form attached as **Schedule I** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French; and

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French).

3. Internet banner (substantially in the form attached as **Schedule J** to the Settlement Agreement):

   (a) published as a Google banner ad for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, over 30 days; and

   (b) published as a 12-day sponsored news link on Stockhouse.

WESTWOOD v. TD ASSET MANAGEMENT INC.

Court File No. CV-18-595380-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

ORDER
(MOTION FOR SETTLEMENT PRE-APPROVAL ORDERS)

Siskinds LLP
Barristers & Solicitors
275 Dundas Street, Unit 1
P.O. Box 2520
London, ON N6B 3L1

Michael G. Robb (LSO#: 45787G)
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Anthony O'Brien (LSO#: 56129U)
Tel: 416.594.4394
Fax: 416.362.2610

Lawyers for the Plaintiff

This is Exhibit "D" mentioned and referred to in the Affidavit of Gigi Pao AFFIRMED BEFORE ME remotely in accordance with O. Reg. 431/20 this 23rd day of June, 2026. The affiant was located in the City of Vancouver, in the Province of British Columbia, while the commissioner, Donna Lynn McEvoy, was located in the Town of Whitby, in the Province of Ontario.

Donna Lynn McEvoy, A Commissioner, etc.
Province of Ontario,
for Siskinds LLP Barristers and Solicitors
Expires: December 6, 2028

Court File No. CV-18-00605345-00CP

ONTARIO

SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	Wednesday the 3rd_day
	)	
JUSTICE JANET LEIPER	)	of September, 2025

BETWEEN:

STEPHEN POZGAJ

Plaintiff

- and -

CANADIAN IMPERIAL BANK OF COMMERCE
and CIBC TRUST CORPORATION

Defendants

SUPERIOR COURT OF JUSTICE
COUR SUPÉRIEURE DE JUSTICE
Entered on September 3rd, 2025

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for an Order, among other things, amending the class definition in the Action, approving the notices of settlement approval hearing and the method of dissemination of the notices, and setting a supplemental opt-out process and deadline, was heard on September 2, 2025 at 9:30am.

ON READING the materials filed, including the settlement agreement between the Plaintiff and the Defendants dated August 20, 2025 attached to this Order as **Schedule 1** ("**Settlement Agreement**"), and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendants;

AND ON BEING ADVISED that the Defendants consent to this Order;

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.

3. **THIS COURT ORDERS** that this Order shall be set aside, declared null and void and of no force and effect on subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

4. **THIS COURT ORDERS** that the class definition set out in paragraph 3 of the certification Order of the Honourable Justice Akbarali dated January 25, 2024 is amended, for settlement purposes, to the following ("**Class**" or "**Class Member**"):

> All persons, wherever they may reside or be domiciled, who held or hold units of a CIBC Mutual Fund or a Renaissance Mutual Fund through a Discount Broker, except for the Excluded Persons, from September 18, 2003 to January 25, 2024.
>
> "Excluded Persons" means: (a) the Defendants and CAM; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the Defendants and CAM; and the past and present members of the independent review committee of each CIBC Mutual Fund and each Renaissance Mutual Fund; (b) any Person who would otherwise be a Class Member but who validly excluded themselves from the Action in accordance with the Order of the Honourable Justice Akbarali dated January 25, 2024 providing for certification notice and an opt-out process; or (c) any Person who would otherwise be a Class Member and who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if they did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), but who validly excludes themselves from the Action in accordance with this Order.

5. **THIS COURT ORDERS** that the short-form, long-form, Google ad banner and Stockhouse news link notices of settlement approval hearing ("**First Notice**") are hereby

approved substantially in the forms attached hereto respectively as **Schedule 2**, **Schedule 3**, **Schedule 4** and **Schedule 5**.

6. **THIS COURT ORDERS** that the plan of dissemination for the First Notice ("**Plan of Notice**") is hereby approved in the form attached hereto as **Schedule 6**, and that the First Notice shall be disseminated in accordance with the Plan of Notice.

7. **THIS COURT ORDERS** that those Class Members who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if they did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period) ("**Eligible Supplemental Opt-Out Party**" or "**Eligible Supplemental Opt-Out Parties**") may opt out of this action in accordance with this Order.

8. **THIS COURT ORDERS** that the supplemental opt-out form ("**Supplemental Opt-Out Form**"), substantially in the form attached as Appendix "A" to the long-form First Notice, is hereby approved.

9. **THIS COURT ORDERS** that the deadline for Eligible Supplemental Opt-Out Parties to opt out of the action ("**Supplemental Opt-Out Deadline**") is the date that is forty-five (45) days after the day on which the First Notice is first published.

10. **THIS COURT ORDERS** that any Eligible Supplemental Opt-Out Party who opts out of this class proceeding by the Supplemental Opt-Out Deadline, by complying with the instructions set out in the long-form First Notice and fully completing a Supplemental Opt-Out Form, shall not be a Class Member on and after the date that such person opts out of the class proceeding.

11. **THIS COURT ORDERS** that, subject only to the opt-out right provided to Eligible Supplemental Opt-Out Parties in accordance with paragraphs 7 to 10 of this Order, the period for Class Members to opt out of this action expired as of May 26, 2024.

12. **THIS COURT ORDERS** that Class Members who wish to file with the Court an objection to, or comment on, the settlement, the Distribution Protocol, or the request for approval of Class Counsel Fees and Class Counsel Disbursements shall deliver a written statement to Class Counsel, at the address indicated in the First Notice, no later than 21 calendar days prior to the hearing of the settlement approval motion.

J Leiper

The Honourable Justice Leiper

SCHEDULE 1
SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT

Made as of August 20, 2025

Between

STEPHEN POZGAJ

(“**Plaintiff**”)

and

CANADIAN IMPERIAL BANK OF COMMERCE and CIBC TRUST CORPORATION

(“**Defendants**”)

SETTLEMENT AGREEMENT

TABLE OF CONTENTS

RECITALS

A. WHEREAS the Action was commenced by the plaintiff, Stephen Pozgaj, in Ontario on September 18, 2018;

B. WHEREAS Class Members were provided an opportunity to opt out of the Action, the deadline for Class Members to opt out of the Action expired on May 26, 2024, and there were no opt-outs from the Action;

C. WHEREAS the Action alleges, among other things, that the Defendants paid trailing commissions out of the assets of the CIBC Mutual Funds to Discount Brokers, and that the Defendants breached their duties as trustees and fiduciaries because the trailing commissions paid to Discount Brokers were excessive, inflated and/or unearned, and further that the Defendants made misrepresentations about the nature of the trailing commission payments;

D. WHEREAS the Defendants have denied and continue to deny each and all of the claims and allegations of wrongdoing made by the Plaintiff in the Action, including any and all allegations that the Plaintiff and/or the Class Members have suffered any harm or damage whatsoever, and all claims and allegations of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Action, or otherwise;

E. WHEREAS the Plaintiff, Class Counsel and the Defendants agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Releasees or evidence of the truth of any of the Plaintiff's allegations against the Releasees, which allegations are expressly denied by the Defendants;

F. WHEREAS the Plaintiff and Class Counsel have concluded, after due investigation and after carefully considering the relevant circumstances, including, without limitation, the claims asserted in the Action, the legal and factual defences thereto, and the applicable law, that: (1) it is in the best interests of the Class to enter into this Settlement Agreement in order to avoid the uncertainties of litigation and to ensure that the benefits reflected herein, including the amount to be paid by the Defendants under this Settlement Agreement, are obtained for the Class; and (2) the settlement set forth in this Settlement Agreement is fair, reasonable, and in the best interests of the Class;

G. WHEREAS the Defendants are entering into this Settlement Agreement in order to achieve a final resolution of all claims asserted or which could have been asserted against the Releasees by the Plaintiff and the Class in the Action, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;

H. WHEREAS counsel for the Defendants and Class Counsel have engaged in arm's-length settlement discussions and negotiations, resulting in this Settlement Agreement;

I. WHEREAS as a result of these settlement discussions and negotiations, the Defendants and the Plaintiff have entered into this Settlement Agreement, which embodies all of the terms and conditions of the settlement between the Defendants and the Plaintiff, both individually and on behalf of the Class, subject to approval of the Court;

J. WHEREAS the Plaintiff and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiff's claims, having regard to the burdens and expense in prosecuting the Action, including the risks and uncertainties associated with trials and appeals, and having regard to the value of the Settlement Agreement, the Plaintiff and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiff and the Class;

K. WHEREAS the Parties therefore wish to and hereby finally resolve, without admission of liability, the Action against the Defendants;

L. WHEREAS the Parties intend to provide a supplemental opt-out right to those Class Members who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if they did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period);

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Action be settled and dismissed with prejudice, all without costs as to the Plaintiff, the Class or the Defendants, subject to the approval of the Court, on the following terms and conditions:

SECTION 1 - DEFINITIONS

For the purposes of this Settlement Agreement only, including the recitals and schedules hereto:

(1) ***2022 Actions*** means, collectively, *Ciardullo v. 1832 Asset Management L.P. et al.*, Ontario Superior Court of Justice, Court File No. CV-22-684723-00CP, *Ciardullo et al. v. 1832 Asset Management L.P. et al.*, Ontario Superior Court of Justice, Court File No. CV-22-685386-00CP, *Yeats v. 1832 Asset Management L.P.*, Ontario Superior Court of Justice, Court File No. CV-22-690373-00CP, *Woodard v. Canadian Imperial Bank of Commerce et al.*, Ontario Superior Court of Justice, Court File No. CV-22-690374-00CP, *Yeats v. BMO Investments Inc.*, Ontario Superior Court of Justice, Court File No. CV-22-690519-00CP, *DeJong v. RBC Global Asset Management Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-22-691343-00CP, and *Aizic v. Natcan Trust Company et al.*, Ontario Superior Court of Justice, Court File No. CV-23-00697428-00CP.

(2) ***Action*** means *Pozgaj v Canadian Imperial Bank of Commerce et al*, Ontario Superior Court of Justice, Court File No. CV-18-00605345-00CP.

(3) ***Administration Expenses*** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiff, Class Counsel or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices, but excluding Class Counsel Fees and Class Counsel Disbursements.

(4) ***Administrator*** means the third party professional firm and any employees of such firm, selected at arm's-length by Class Counsel, and appointed by the Court to facilitate dissemination of notices, receive and review claims and administer the Settlement Amount in accordance with the Distribution Protocol, and report to the Parties and the Court on the administration of the Settlement.

(5) ***CAM*** means CIBC Asset Management Inc.

(6) ***CIBC*** means the Defendant, Canadian Imperial Bank of Commerce.

(7) ***CIBC Mutual Funds*** means all mutual fund trusts (including, without limitation, all series of units thereof) of which CIBC Trust is trustee or was trustee at any time from September 18,

2003 to January 25, 2024 (but only in respect of the period during which CIBC Trust is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

(8) ***CIBC Trust*** means the Defendant, CIBC Trust Corporation.

(9) ***Class*** means all persons, wherever they may reside or be domiciled, who held or hold, units of a CIBC Mutual Fund or a Renaissance Mutual Fund through a Discount Broker, except for the Excluded Persons, from September 18, 2003 to January 25, 2024.

(10) ***Class Counsel*** means Siskinds LLP.

(11) ***Class Counsel Disbursements*** means the disbursements, administration expenses, and applicable taxes incurred by Class Counsel and Bates Barristers P.C. in the prosecution of the Action, as well as any adverse costs awards issued against the Plaintiff in the Action.

(12) ***Class Counsel Fees*** means the fees of Class Counsel and Bates Barristers P.C., and any applicable taxes or charges thereon, including any amounts payable as a result of the Settlement Agreement by Class Counsel or the Class Members to any other body or Person.

(13) ***Class Member*** means a member of the Class.

(14) ***Court*** means the Ontario Superior Court of Justice.

(15) ***Date of Execution*** means the date on the cover page hereof as of which the Parties have executed this Settlement Agreement.

(16) ***Defendant Claims*** means claims, including Unknown Claims, that any Releasee may have against a Releasor or Class Counsel relating to the institution, prosecution, or settlement of the Action.

(17) ***Defendants*** means, together, CIBC and CIBC Trust.

(18) ***Discount Brokers*** means entities that are "order execution only account" service providers under the Investment Dealer and Partially Consolidated Rules of the Canadian Investment Regulatory Organization, or providing "order-execution only services" as defined in Rule 3200 of

the former IIROC Dealer Member Rules, or entities performing a function similar to "order-execution only services" prior to the introduction of that definition in Rule 3200 of the former IIROC Dealer Member Rules, including (without limitation) CIBC Investor's Edge, a division of CIBC Investor Services Inc., a subsidiary of CIBC, or such other discount brokerage business operated by CIBC from time to time.

(19) ***Dismiss Order*** has the meaning given to such term in Section 2.3(1).

(20) ***Distribution Order*** has the meaning given to such term in Section 2.3(1).

(21) ***Distribution Protocol*** means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as approved by the Court.

(22) ***Effective Date*** means the date on which the Dismiss Order has become a Final Order.

(23) ***Excluded Persons*** means:

(a) the Defendants and CAM; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the Defendants and CAM; and the past and present members of the independent review committee of each CIBC Mutual Fund and each Renaissance Mutual Fund;

(b) any Person who would otherwise be a Class Member but who validly excluded themselves from the Action in accordance with the Order of the Honourable Justice Akbarali dated January 25, 2024 providing for certification notice and an opt-out process; or

(c) any Person who would otherwise be a Class Member and who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if they did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), but who validly excludes themselves from the Action in accordance with the First Order.

(24) ***Final Order*** means an order of the Court from which no appeal lies or in respect of which any right of appeal has expired without the initiation of proceedings in respect of that appeal such as the delivery of a notice of motion for leave to appeal or a notice of appeal.

(25) ***First Notice*** means the short-form, long-form, Google ad banner and Stockhouse news link notices of the supplemental opt-out right and pendency of the motion for the Dismiss Order and the Distribution Order substantially in the forms attached as **Schedule E**, **Schedule F**, **Schedule G** and **Schedule H** hereto or as fixed by the Court.

(26) ***First Order*** has the meaning given to such term in Section 2.2(1).

(27) ***Funder*** means Claims Funding International, PLC.

(28) ***Funder's Security*** means the amounts paid into Court by the Funder as security for its obligations pursuant to the Funding Order.

(29) ***Funding Agreement*** means the agreement entered into on April 30, 2019 between the Plaintiff and the Funder for the provision of, among other things, an indemnity against adverse costs in exchange for the payment of the Funding Commission and subsequently approved by the Court pursuant to the Funding Order.

(30) ***Funding Commission*** means the amount to be paid to the Funder pursuant to the Funding Agreement.

(31) ***Funding Order*** means the Order of the Honourable Justice Belobaba dated October 28, 2019 approving the Funding Agreement.

(32) ***Implementation Date*** means the date on which both the Dismiss Order and the Distribution Order have become Final Orders.

(33) ***Other 2018 Actions*** means, collectively, *Sage v. 1832 Asset Management L.P.*, Ontario Superior Court of Justice, Court File No. CV-18-600380-00CP, *Gilani v. BMO Investments Inc.*, Ontario Superior Court of Justice, Court File No. CV-18-611748-00CP, *Pozgaj v. Mackenzie Financial Corporation et al.*, Ontario Superior Court of Justice, Court File No. CV-18-610311-00CP, *Pozgaj v. National Bank Investments Inc. et al.*, Ontario Superior Court of Justice, Court

File No. CV-18-611745-00CP, and *Ross v. RBC Global Asset Management Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-18-611743-00CP.

(34) ***Net Settlement Amount*** means the amount available in the Trust Account for distribution pursuant to the Distribution Protocol after payment of all Class Counsel Fees, Class Counsel Disbursements, Administration Expenses, the Funding Commission and any other amounts approved by the Court.

(35) ***Parties*** means the Defendants, the Plaintiff and, where necessary, the Class Members.

(36) ***Person*** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.

(37) ***Plaintiff*** means Stephen Pozgaj.

(38) ***Plan of Notice*** means the plan for disseminating the First Notice and the Second Notice to the Class substantially in the form attached as **Schedule D** hereto or as fixed by the Court.

(39) ***Released Claims*** mean any and all manner of claims, including Unknown Claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, setoffs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, lawyers' fees, disgorgement, restitution and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several, and solidarily in the Province of Quebec), known or unknown, suspected or unsuspected, asserted or unasserted, arising from or relating in any way to any conduct alleged or that could have been alleged in and arising from the factual predicate of the Action, or any amended complaint or pleading therein, from the beginning of time until the Effective Date, which shall be deemed to include but not be limited to any concerns relating to trailing commissions paid by the Defendants and CAM to Discount Brokers in respect of the CIBC Mutual Funds and Renaissance Mutual Funds.

(40) ***Releasees*** means, jointly and severally, individually and collectively, the Defendants, CAM and each of their past, present and future, direct and indirect parents (including holding companies), owners, subsidiaries, divisions, predecessors, successors, affiliates, associates (as defined in the *Canada Business Corporations Act*, RSC 1985, c C-44), partners, insurers, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and each of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, legal or other representatives, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing.

(41) ***Releasors*** means, jointly and severally, individually and collectively, the Plaintiff and the Class Members and their respective parents, subsidiaries, affiliates, predecessors, successors, heirs, executors, administrators, insurers, assigns, beneficiaries, trustees, agents and legal or other representatives.

(42) ***Renaissance Mutual Funds*** means all mutual fund trusts (including, without limitation, all series of units thereof) of which CAM is trustee or was trustee at any time from September 18, 2003 to January 25, 2024 (but only in respect of the period during which CAM is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

(43) ***Second Notice*** means the short-form, long-form, Google ad banner and Stockhouse news link notices of the Dismiss Order and the Distribution Order substantially in the forms attached as **Schedule I**, **Schedule J, Schedule K** and **Schedule L** hereto or as fixed by the Court.

(44) ***Settlement*** means the settlement of the Action on the terms provided in this Settlement Agreement.

(45) ***Settlement Agreement*** means this agreement, including the recitals and schedules.

(46) ***Settlement Amount*** means twenty-six million Canadian dollars (C$26,000,000.00).

(47) ***Termination Notice*** has the meaning given to such term in Section 6.1(1).

(48) ***Trust Account*** means a guaranteed investment product, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, SC 1991, c 46) held at a Canadian financial institution under the control of Class Counsel or the Administrator, once appointed, for the benefit of the Class Members, as provided for in this Settlement Agreement.

(49) ***Unknown Claims*** means any and all Released Claims against the Releasees which Releasors do not know or suspect to exist in his, her, or its favour as of the Effective Date, and any Defendant Claims against Releasors which Releasees do not know or suspect to exist in his, her, or its favour as of the Effective Date, which if known by the Releasors or Releasees might have affected his, her, or its decision(s) with respect to the settlement. The Releasors and Releasees may hereafter discover facts other than or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims and Defendant Claims. Nevertheless, the Plaintiff and the Releasees shall expressly, fully, finally, and forever settle and release, and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Dismiss Order (when it becomes a Final Order) shall have, fully, finally, and forever settled and released, any and all Released Claims and Defendant Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. The Plaintiff and the Releasees acknowledge, and Class Members shall be deemed to have acknowledged, that the inclusion of Unknown Claims in the definition of Released Claims and Defendant Claims was separately bargained for and was a key element of the Settlement Agreement.

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined.

SECTION 2 – APPROVAL AND NOTICE PROCESS

2.1 Commercially Reasonable Efforts

(1) The Parties shall use their commercially reasonable efforts to implement this Settlement Agreement and to secure the prompt, complete and final dismissal with prejudice of the Action.

2.2 Motion for First Order

(1) The Plaintiff shall file a motion before the Court, as soon as practicable after the Date of Execution, for an order substantially in the form attached as **Schedule A** (“**First Order**”).

(2) The Defendants will consent to the issuance of the First Order.

(3) As soon as practicable following entry of the First Order, Class Counsel shall cause the First Notice to be published and distributed in accordance with the Plan of Notice and the direction of the Court. The costs of publishing and distributing the First Notice shall be paid from the Trust Account as and when incurred.

2.3 Motion for Dismiss Order and Distribution Order

(1) The Plaintiff shall file a motion before the Court for orders substantially in the form attached as **Schedule B** (“**Dismiss Order**”) and **Schedule C** (“**Distribution Order**”) as soon as practicable after:

(a) the First Order has been granted; and

(b) the notices described in Section 2.2(3) have been published.

(2) The Defendants will consent to the issuance of the Dismiss Order. The Defendants will not oppose the issuance of the Distribution Order.

(3) At the motion for the Dismiss Order and the Distribution Order, Class Counsel shall propose for approval by the Court the Distribution Protocol or such other plan for distributing the Net Settlement Amount to the Class as Class Counsel may advise. The Distribution Protocol is the responsibility of Class Counsel and the Defendants have no involvement in its design. Accordingly, the approval of the Distribution Protocol shall be considered separately from the approval of the Settlement and is not a condition of the approval of the Settlement itself and the dismissal of the Action as against the Defendants without costs and with prejudice in accordance with the Dismiss Order.

(4) The Defendants will take no position or make any submission to the Court concerning the Distribution Protocol, except as requested or required by the Court.

(5) The Plaintiff may make any amendments to the Distribution Protocol, the Distribution Order, the Second Notice or the Plan of Notice as it relates to the Second Notice requested or directed by the Court.

(6) As soon as practicable following the Implementation Date, Class Counsel and the Administrator shall cause the Second Notice to be published and disseminated in accordance with the Plan of Notice as approved by the Court. The costs of publishing the Second Notice shall be paid from the Trust Account as and when incurred.

SECTION 3 – SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

(1) Within thirty (30) calendar days of the Date of Execution, the Defendants shall pay the Settlement Amount to Class Counsel for deposit into the Trust Account.

(2) Payment of the amount specified in Section 3.1(1) shall be made by wire transfer. At least ten (10) days prior to the Settlement Amount becoming due, Class Counsel will provide, in writing, the following information necessary to complete the wire transfers: name of bank, address of bank, ABA number, SWIFT number, name of beneficiary, beneficiary's bank account number, beneficiary's address, and bank contact details.

(3) The Settlement Amount and other consideration to be provided in accordance with the terms of this Settlement Agreement shall be provided in full satisfaction of the Released Claims against the Releasees.

(4) The Settlement Amount shall be all-inclusive of all amounts, including interest, taxes and costs.

(5) The Releasees shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement or the Action, including, but not limited to, legal fees, judicial costs, taxes or costs of notice.

(6) Class Counsel shall maintain the Trust Account as provided for in this Settlement Agreement.

(7) Class Counsel shall not pay out all or any part of the monies in the Trust Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Court obtained after notice to the Parties.

(8) Within thirty (30) days of the Effective Date, Class Counsel shall transfer control of the Trust Account to the Administrator, but before doing so Class Counsel may deduct and retain from the monies in the Trust Account the Class Counsel Fees and the Class Counsel Disbursements approved by the Court.

3.2 Taxes and Interest

(1) Except as hereinafter provided, all interest earned on the Settlement Amount in the Trust Account shall accrue to the benefit of the Class and shall become and remain part of the Trust Account.

(2) Subject to Section 3.2(3), all taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be the responsibility of the Class. The Administrator shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Trust Account.

(3) The Defendants shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned on the Settlement Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement is terminated, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Defendants who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by the Administrator.

SECTION 4 – NO REVERSION

4.1 No Reversion

(1) Unless this Settlement Agreement is terminated as provided herein, the Defendants shall

not be entitled to the repayment from the Plaintiff of any portion of the Settlement Amount or any interest earned on the Settlement Amount in the Trust Account. In the event this Settlement Agreement is terminated, the Defendants shall be entitled to the repayment only to the extent of and in accordance with Section 6.3(1).

SECTION 5 – OPTING-OUT

5.1 Opt-Outs

(2) An opt-out right was provided by the Order of the Honourable Justice Akbarali dated January 25, 2024. The opt-out deadline expired on May 26, 2024 pursuant to that Order. The Parties acknowledge and confirm that RicePoint Administration Inc., the notice and opt-out administrator appointed by the Court pursuant to the Order of the Honourable Justice Akbarali dated January 25, 2024, confirmed that no Person opted out of the Action.

(3) A supplemental opt-out right will be provided to those Class Members who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if they did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), as set out in the First Order.

(4) The Plaintiff, through Class Counsel, expressly waived his right to opt out of the Action.

SECTION 6 – TERMINATION OF SETTLEMENT AGREEMENT

6.1 Right of Termination

(1) The Plaintiff and the Defendants shall, in their respective discretions, have the right to terminate the settlement set forth in this Settlement Agreement by providing written notice of their election to do so ("**Termination Notice**") to the other Party hereto within thirty (30) days of the date on which:

(a) the Court declines to dismiss the Action against the Defendants;

(b) the Court declines to approve this Settlement Agreement or any material part hereof;

(c) the Court approves this Settlement Agreement in a materially modified form;

(d) the Court issues a settlement approval order that is not substantially in the form attached to this Settlement Agreement as **Schedule B**, and such order becomes a Final Order; or

(e) the Dismiss Order is reversed on appeal and the reversal becomes a Final Order.

(2) Except as provided for in Section 6.4, if the Settlement Agreement is terminated, the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.

(3) Any order, ruling or determination made by the Court with respect to the Distribution Order, Class Counsel Fees or Class Counsel Disbursements, or the Distribution Protocol, shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

6.2 If Settlement Agreement is Terminated

(1) If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason:

(a) no motion to approve this Settlement Agreement, which has not been decided, shall proceed; and

(b) any order approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and the Parties shall be estopped from asserting otherwise.

6.3 Return of Settlement Amount Following Termination

(1) If the Settlement Agreement is terminated, Class Counsel, within thirty (30) business days of the written notice advising that the Settlement Agreement has been terminated in accordance with its terms, shall return to the Defendants the amount the Defendants have paid to Class Counsel, plus all accrued interest thereon and less any costs incurred with respect to the notices required by Section 2.2(3), and any costs of translation required by Section 15.12, such costs in total not to exceed one hundred and fifty thousand Canadian dollars (CAD $150,000).

6.4 Survival of Provisions After Termination

(1) If this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the provisions of Sections 3.2(2), 3.2(3), 6.1, 6.2, 6.3, 6.4, 9.1 and 9.2 (the "**Surviving Provisions**"), and the recitals, definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The recitals, definitions and Schedules shall survive only for the limited purpose of the interpretation of the Surviving Provisions within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

SECTION 7 – RELEASES AND DISMISSALS

7.1 Release of Releasees

(1) The obligations incurred pursuant to this Settlement Agreement shall be in full and final disposition of: (i) the Action against the Defendants; and (ii) any and all Released Claims as against all Releasees.

(2) Upon the Effective Date, subject to Section 7.2, each of the Releasors: (i) shall be deemed to have, and by operation of the Dismiss Order, shall have, fully, finally, and forever waived, released, relinquished, and discharged all Released Claims that the Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have or hereafter can, shall or may have against the Releasees, regardless of whether such Releasor executes and delivers a proof of claim and release form; (ii) shall forever be enjoined from prosecuting in any forum any Released Claim against any of the Releasees; and (iii) agrees and covenants not to sue any of the Releasees on the basis of any Released Claims or to assist any third party in commencing or maintaining any suit against any Releasee related in any way to any Released Claims.

7.2 Covenant Not To Sue

(1) Upon the Effective Date, and notwithstanding Section 7.1, for any Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasors do not release the Releasees but instead covenant and undertake not to make any

claim in any way or to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

7.3 No Further Claims

(1) Upon the Effective Date, the Releasors shall not then or thereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim. For the avoidance of doubt, this Section 7.3(1) does not apply to the Other 2018 Actions or the 2022 Actions. For greater certainty and without limiting the generality of the foregoing, the Releasors shall not assert or pursue a Released Claim against any Releasee under the laws of any foreign jurisdiction.

7.4 Dismissal of the Action

(1) Upon the Effective Date, the Action shall be dismissed with prejudice and without costs as against the Defendants.

7.5 Releases a Material Term

(1) The releases contemplated in this Section shall be considered a material term of the Settlement Agreement and the failure of the Court to approve the releases contemplated herein shall give rise to a right of termination pursuant to Section 6.1 of the Settlement Agreement.

SECTION 8 – CLAIMS AGAINST OTHER ENTITIES

8.1 Claims Against Other Entities Reserved

(1) Except as provided herein, this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by the Releasors against any Person other than the Releasees.

SECTION 9 – EFFECT OF SETTLEMENT

9.1 No Admission of Liability

(1) The Plaintiff and the Releasees expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason. Further, whether or not the Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasees or any one of them, or of the truth of any of the claims or allegations contained in the Action, or any other pleading filed by the Plaintiff.

9.2 Agreement Not Evidence

(1) The Parties agree that, whether or not it is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, as necessary in any insurance-related proceeding, or as otherwise required by law.

9.3 No Further Litigation

(1) Neither Class Counsel, nor anyone currently or hereafter employed by or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any Person which relates to or arises from the Released Claims. Moreover, these Persons may not divulge to anyone for any purpose any information obtained in the course of the Action or the negotiation and preparation of this Settlement Agreement, except to the extent such information is otherwise publicly available or unless ordered to do so by a court. For the avoidance of doubt, this Section 9.3(1) does not apply to the Other 2018 Actions or the 2022 Actions.

SECTION 10 – ADMINISTRATION AND IMPLEMENTATION

10.1 Appointment of the Administrator

(1) By order of the Court, the Administrator will be appointed to serve until such time as the Net Settlement Amount is distributed in accordance with this Settlement Agreement and the Distribution Protocol, on the terms and conditions and with the powers, rights, duties and responsibilities set out in this Settlement Agreement and in the Distribution Protocol.

10.2 Information and Assistance from the Defendants

(1) By order of the Court in the Distribution Order, the Defendants will deliver, or will cause to be delivered, to the Administrator an electronic copy of reasonably available account-level or customer-level data showing the trailing commissions paid to Discount Brokers in respect of the CIBC Mutual Funds and the Renaissance Mutual Funds held by Class Members (or similar information that would permit the calculation of such trailing commissions), along with the name and available contact information for those Class Members.

(2) The Administrator may use the information obtained under Section 10.2(1) for the purpose of administering and implementing this Settlement Agreement, the Plan of Notice and the Distribution Protocol, but the Administrator shall otherwise keep confidential the information obtained under Section 10.2(1).

(3) For greater certainty, any information obtained or created in the administration of this Settlement Agreement is confidential and, except as required by law, shall be used and disclosed only for the purpose of distributing notices and the administration of this Settlement Agreement and the Distribution Protocol.

10.3 No Responsibility for Administration or Fees

(1) The Defendants shall not have any responsibility, financial obligations or liability whatsoever with respect to the investment, distribution or administration of monies in the Trust Account, including, but not limited to, Administration Expenses, Class Counsel Fees and Class Counsel Disbursements.

SECTION 11 – CLASS COUNSEL FEES, CLASS COUNSEL DISBURSEMENTS AND ADMINISTRATION EXPENSES

11.1 Class Counsel Fees, Class Counsel Disbursements and Administration Expenses

(1) The Defendants shall not be liable for any fees, disbursements or taxes of any of Class Counsel's, the Plaintiff's or Class Members' respective lawyers, experts, advisors, agents, or representatives.

(2) Class Counsel shall pay the costs of the notices required by Sections 2.2(3) and 2.3(6) and any costs of translation required by Section 15.12 from the Trust Account, as they become due. The Releasees shall not have any responsibility for the costs of the notices or translation.

(3) Class Counsel may seek the Court's approval to pay Class Counsel Fees and Class Counsel Disbursements contemporaneous with seeking approval of this Settlement Agreement. Class Counsel Fees and Class Counsel Disbursements shall be reimbursed and paid solely out of the Trust Account after the Effective Date. No Class Counsel Fees or Class Counsel Disbursements shall be paid from the Trust Account prior to the Effective Date.

(4) Except as provided herein, Administration Expenses may only be paid out of the Trust Account after the Effective Date.

(5) The Defendants shall not be liable for any fees, disbursements or taxes of any of the lawyers, experts, advisors, agents, or representatives retained by Class Counsel, the Plaintiff or the Class Members, or any lien of any Person on any payment to any Class Member from the Settlement Amount.

SECTION 12 – FUNDING AND HONORARIUM

12.1 Funding and Honorarium

(1) Immediately following the motion for the Dismiss Order and the Distribution Order, Class Counsel may seek orders from the Court relating to the payment of the Funding Commission or the payment of an honorarium to the Plaintiff.

(2) Class Counsel are not precluded from making additional motions to the Court relating to the payment of the Funding Commission or the payment of an honorarium to the Plaintiff.

(3) The Defendants acknowledge that they are not parties to any motion concerning the payment of the Funding Commission or the payment of an honorarium to the Plaintiff, they will have no involvement in any such motion, and they will not take any position or make any submissions to the Court concerning any such motion, except as requested and required by the Court.

(4) Any order or proceeding relating to payment of the Funding Commission or the payment of an honorarium to the Plaintiff, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Settlement Agreement or affect or delay the Effective Date and the settlement of this Action provided herein.

12.2 Release of the Funder's Security

(1) After the Effective Date, the Parties shall cooperate in taking all reasonably required steps to secure the prompt payment out of Court to the Funder of the Funder's Security.

SECTION 13 – SUBSEQUENT SETTLEMENTS OF OTHER 2018 ACTIONS

13.1 Definitions

(1) For the purposes of sections 13.1 and 13.2 hereof:

(a) "**Material Adverse Litigation Event**" means an event that has a material adverse effect on the quantum of potential recovery and/or overall likelihood of success against the defendant(s) in the Other 2018 Action in which there is a Subsequent Settlement and meets the following criteria. This event would only occur if there is a decision of a Court in any of the Other 2018 Actions ("**Adverse Decision**") or a change in the financial circumstances of the defendant(s) in the applicable Other 2018 Action that would cause Class Counsel, acting reasonably and in good faith, to materially alter its assessment of its client's position in settlement negotiations with the defendant(s) and (a) has a material adverse effect upon the quantum of potential recovery and/or overall likelihood of success and/or enforcement against the defendant(s), or (b) has the effect of materially decreasing the valuation of the applicable Other 2018 Action. An "Adverse Decision" might include, but is not limited to, a judgment dismissing a motion for certification in the applicable Other 2018 Action, a judgment that materially reduces the size of the class relative to the class proposed in the applicable Other 2018 Action, a judgment that materially reduces the class period relative to the proposed class period in the applicable Other 2018 Action, and a judgment dismissing (in whole or in part) the applicable Other 2018 Action;

(b) "**Subsequent Settlement**" means any settlement of any of the Other 2018 Actions; and

(c) "**Subsequent Settlement Amount**" means the amount that the defendant(s) in any of the Other 2018 Actions agrees to pay pursuant to a Subsequent Settlement.

13.2 Obligations in the Event of a Subsequent Settlement

(1) Class Counsel acknowledges its professional obligations and that it intends to maximize the recovery of damages alleged in the Other 2018 Actions. As such, Class Counsel will endeavour to, acting reasonably and in good faith, negotiate terms in any Subsequent Settlement that are at least as favourable to the class members in the Other 2018 Actions as the settlement in this Settlement Agreement.

(2) As soon as possible and in the event that such disclosure is permitted pursuant to the terms of a Subsequent Settlement, Class Counsel shall advise the Defendants in writing of the Subsequent Settlement and the Subsequent Settlement Amount. Class Counsel shall also advise the Defendants in writing whether in Class Counsel's opinion, acting reasonably and in good faith, the Subsequent Settlement is at least as favourable to the class members in the Other 2018 Action as the settlement set forth in this Settlement Agreement is to the Class Members, having regard to the following factors:

(a) the Subsequent Settlement Amount, compared to the Settlement Amount under this Settlement Agreement;

(b) the percentage equal to the Subsequent Settlement Amount as a percentage of Class Counsel's estimate, acting reasonably and in good faith, of the amount of the trailing commissions paid to Discount Brokers by the defendant(s) in the applicable Other 2018 Action, compared to the percentage equal to the Settlement Amount as a percentage of Class Counsel's estimate, acting reasonably and in good faith, of the amount of the trailing commissions paid to Discount Brokers by the Defendants;

(c) differences in the facts of the applicable Other 2018 Action and this Action that in Class Counsel's opinion, acting reasonably and in good faith, affected the quantum of potential recovery or overall likelihood of success of the claims of the class members in the applicable Other 2018 Action, compared to the quantum of potential recovery or overall likelihood of success of the claims of the Class Members in this Action;

(d) whether in Class Counsel's opinion, acting reasonably and in good faith, a Material Adverse Litigation Event has occurred; and

(e) any other factor that in Class Counsel's opinion, acting reasonably and in good faith, affected the quantum of potential recovery or overall likelihood of success of the claims of the class members in the applicable Other 2018 Action, compared to the quantum of potential recovery or overall likelihood of success of the claims of the Class Members in this Action.

(3) The Defendants acknowledge and understand that the quantification of the trailing commissions paid to Discount Brokers by the Defendants or the defendant(s) in the applicable Other 2018 Action under Section 13.2(2)(b) may not be able to be precisely and accurately determined because of, among other things, incomplete or insufficient data. In such circumstances, Class Counsel's estimate, acting reasonably, in good faith and relying on expert evidence, of the amount of the trailing commissions paid to Discount Brokers shall be accepted by the Defendants as a reasonable estimation of the trailing commissions for the purposes of Sections 13.1 and 13.2.

(4) In advising the Defendants under Section 13.2(2), Class Counsel, acting reasonably and in good faith, shall provide the Defendants with a written summary of the factors considered by Class Counsel under Sections 13.2(2)(a) to 13.2(2)(e), subject to any legal privilege owed to its client(s) in the applicable Other 2018 Action or confidentiality obligations to the defendant(s) in the applicable Other 2018 Action.

(5) On the motion for Court approval of a Subsequent Settlement, Class Counsel shall include in the evidence filed in support of the motion a statement as to whether in Class Counsel's opinion,

acting reasonably and in good faith, the Subsequent Settlement is at least as favourable to the class members in the applicable Other 2018 Action as the settlement set forth in this Settlement Agreement is to the Class Members, having regard to the factors set out in Sections 13.2(2)(a) to 13.2(2)(e).

(6) None of the provisions of this Section 13 shall be interpreted to impose any obligation on Class Counsel to (i) disclose any information which it would not otherwise be legally permitted to disclose in the course of seeking approval of a Subsequent Settlement, (ii) waive any settlement, litigation, solicitor-client or other privilege absent the requisite permission or instructions to do so, or (iii) do anything in the Other 2018 Actions other than comply with its professional obligations and seek to maximize the recovery of damages alleged in those proceedings.

(7) Other than what is expressly provided in this section, this section and this Settlement Agreement confer no rights of standing to the Defendants in respect of the Other 2018 Actions.

SECTION 14 – CONFIDENTIALITY AND NON-DISPARAGEMENT

14.1 Pre-Motion Confidentiality

(1) Until the motion required by Section 2.2 is brought, the Parties shall keep the fact of the Settlement and all of the terms of the Settlement Agreement strictly confidential and shall not disclose them to anyone, issue any press releases or make any other public statements, including to the media regarding the Settlement, except as follows:

(a) as required for the purposes of financial reporting or the preparation of financial records (including tax returns and financial statements) pursuant to regulatory requirements as necessary to give effect to the terms of the Settlement;

(b) as required by law or regulation;

(c) in the case of the Defendants, as part of their disclosure in their quarterly or annual Management's Discussion & Analysis;

(d) as the Parties agree otherwise;

(e) by Class Counsel to the Plaintiff, the Plaintiff's experts and the Funder;

(f) by any of the Parties to Kalloghlian Myers LLP, counsel for the plaintiff in *Woodard v. Canadian Imperial Bank of Commerce et al.*, Ontario Superior Court of Justice, Court File No. CV-22-690374-00CP; or

(g) by Class Counsel for purposes of soliciting an Administrator,

on condition that any disclosure to the individuals or entities referred to in (e) or (g) above be made on condition that those individuals or entities are advised that such information as disclosed is to remain strictly confidential prior to the bringing of the motion required by Section 2.2.

14.2 Post-Motion Confidentiality and Non-Disparagement

(1) After the motion required by Section 2.2 is brought, the Parties agree that, except as otherwise required to obtain approval of the Settlement, to seek and comply with the First Order, the Dismiss Order and the Distribution Order, and to seek and comply with the orders contemplated by Sections 11 and 12, that:

(a) the Parties shall not issue any press releases or make any other public statements, including to the media, regarding the Settlement, except those that are:

(i) the First Notice and the Second Notice;

(ii) required by law or regulation;

(iii) statements or communications by Class Counsel to the Class Members (which the Parties acknowledge are privileged) informing them about the Settlement, the proposed distribution process and the reasonableness of the Settlement, which are made in circumstances in which they may reasonably be expected to be viewed, reviewed or received by the general public beyond the Class Members, including informing the Class Members or answering inquiries from the Class Members by way of virtual town hall meetings or internet available recordings (or other similar more public means). Such statements or communications shall accord with subsection 14.2(1)(d) below, and Class Counsel shall share in advance with the Defendants (through their counsel) for their review and approval a copy of any such statements or communications, including any slides or slide deck to be presented at a town hall, to ensure that the content is fair, balanced, accurate and free from disparagement; provided, however, that information posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/ shall comply with subsection 14.2(1)(d) below but Class Counsel shall not be required to share in advance with the Defendants (through their counsel) for their review and approval a copy of such information; or

(iv) in response to media inquiries directed to either of the Parties (or their counsel), in which case the Parties (and their counsel) shall act in good faith to agree in advance on responses that accord with subsection 14.2(1)(d) below. With respect to any unanticipated media inquiry, or any anticipated media inquiry in respect of which the Parties did not agree to a response in advance, the Parties (or their counsel) may refer the inquirer to the public court file, or to the First Notice or the Second Notice, or answer the inquiry in accordance with subsection 14.2(1)(d) below.

(b) For the avoidance of doubt, subsection 14.2(1)(a) does not apply to emails, telephone calls and similar communications between Class Counsel and individual Class Members about the Settlement.

(c) Notwithstanding anything to the contrary set out above, the Parties shall not make any public statements, comments or any communications of any kind about any negotiations or information exchanged as part of the settlement process, except:

(i) as may be required for the Parties to comply with any order of the Court;

(ii) as may be required under any applicable law or regulation;

(iii) as may be agreed by counsel for the Parties in seeking the approval of the Settlement (or Class Counsel Fees or Class Counsel Disbursements) or the dismissal of the Action; or

(iv) as may be required for Class Counsel and their client in *Westwood v TD Asset Management Inc.*, Ontario Superior Court of Justice, Court File No. CV-18-595380-00CP to comply with section 13 of the Settlement Agreement dated September 11, 2024 in that action. To the extent any such disclosure is made, it shall be made on the condition that TDAM is advised that such information as disclosed is to remain strictly confidential. Class Counsel shall share in advance with counsel for the Defendants a copy of the proposed written disclosure to TDAM.

(d) The Parties shall act in good faith to ensure that any public statements, comments or communications regarding the Action or the Settlement are balanced, fair, accurate and free from disparagement.

SECTION 15 – MISCELLANEOUS

15.1 Motions for Directions

(1) Class Counsel or the Defendants may apply to the Court for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.

(2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties.

15.2 Releasees Have No Liability for Administration

(1) The Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement.

15.3 Headings, etc.

(1) In this Settlement Agreement:

(a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and

(b) the terms "this Settlement Agreement," "hereof," "hereunder," "herein," and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

15.4 Computation of Time

(1) In the computation of time in this Settlement Agreement, except where a contrary intention appears,

(a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and

(b) only in the case where the time for doing an act expires on a holiday as "holiday" is defined in the *Rules of Civil Procedure*, RRO 1990, Reg 194, the act may be done on the next day that is not a holiday.

15.5 Ongoing Jurisdiction

(1) The Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Action, the Parties and the Class Members to interpret and enforce the terms, conditions and obligations under this Settlement Agreement, the First Order, the Dismiss Order and the Distribution Order.

15.6 Governing Law

(1) This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.

15.7 Entire Agreement

(1) This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or

representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

15.8 Amendments

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all of the Parties, and any such modification or amendment must be approved by the Court.

15.9 Binding Effect

(1) This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiff, the Class Members, the Defendants, the Releasors, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made by the Plaintiff shall be binding upon all Releasors and each and every covenant and agreement made by the Defendants shall be binding upon all of the Releasees.

15.10 Counterparts

(1) This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or PDF signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

15.11 Negotiated Agreement

(1) This Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

15.12 Language

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais.* Nevertheless, if required to by the Court, Class Counsel and/or a translation firm selected by Class Counsel shall prepare a French translation of the Settlement Agreement, the cost of which shall be paid from the Settlement Amount. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

15.13 Recitals

(1) The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

15.14 Schedules

(1) The schedules annexed hereto form part of this Settlement Agreement.

15.15 Acknowledgements

(1) Each of the Parties hereby affirms and acknowledges that:

(a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;

(b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;

(c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and

(d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

15.16 Authorized Signatures

(1) Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified above their respective signatures and their law firms.

15.17 Notice

(1) Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication or document shall be provided by email, facsimile or letter by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

For the Plaintiff and for Class Counsel:

Anthony O'Brien
Siskinds LLP
65 Queen Street West, Suite 400
Toronto, ON M5H 2M5
Tel: 416-594-4394
Fax: 519-672-6065
Email: anthony.obrien@siskinds.com

For the Defendants:

Gillian Dingle
Torys LLP
79 Wellington Street West, 30th Floor
Box 270, TD South Tower
Toronto ON M5K 1N2
Tel: 416-865-8229
Fax: 416-865-7380
Email: gdingle@torys.com

15.18 Date of Execution

(1) The Parties have executed this Settlement Agreement as of the date on the cover page.

STEPHEN POZGAJ on his own behalf and on behalf of the Class, by his counsel:

Name of Authorized Signatory: Anthony O'Brien

Signature of Authorized Signatory: Anthony O'Brien

Siskinds LLP

CANADIAN IMPERIAL BANK OF COMMERCE and CIBC TRUST CORPORATION by their counsel:

Name of Authorized Signatory: Gillian Dingle

Signature of Authorized Signatory:

Torys LLP

SCHEDULE A
FIRST ORDER

Court File No. CV-18-00605345-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	_________________, the ________day
	)	
JUSTICE JANET LEIPER	)	of ____________________, ________

BETWEEN:

STEPHEN POZGAJ

Plaintiff

- and -

CANADIAN IMPERIAL BANK OF COMMERCE
and CIBC TRUST CORPORATION

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for an Order, among other things, amending the class definition in the Action, approving the notices of settlement approval hearing and the method of dissemination of the notices, and setting a supplemental opt-out process and deadline, was heard on [*insert*] at [*insert*].

ON READING the materials filed, including the settlement agreement between the Plaintiff and the Defendants dated [*insert*] attached to this Order as **Schedule 1** (“**Settlement Agreement**”), and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendants;

AND ON BEING ADVISED that the Defendants consent to this Order;

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.

3. **THIS COURT ORDERS** that this Order shall be set aside, declared null and void and of no force and effect on subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

4. **THIS COURT ORDERS** that the class definition set out in paragraph 3 of the certification Order of the Honourable Justice Akbarali dated January 25, 2024 is amended, for settlement purposes, to the following ("**Class**" or "**Class Member**"):

> All persons, wherever they may reside or be domiciled, who held or hold units of a CIBC Mutual Fund or a Renaissance Mutual Fund through a Discount Broker, except for the Excluded Persons, from September 18, 2003 to January 25, 2024.
>
> "Excluded Persons" means: (a) the Defendants and CAM; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the Defendants and CAM; and the past and present members of the independent review committee of each CIBC Mutual Fund and each Renaissance Mutual Fund; (b) any Person who would otherwise be a Class Member but who validly excluded themselves from the Action in accordance with the Order of the Honourable Justice Akbarali dated January 25, 2024 providing for certification notice and an opt-out process; or (c) any Person who would otherwise be a Class Member and who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if they did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), but who validly excludes themselves from the Action in accordance with this Order.

5. **THIS COURT ORDERS** that the short-form, long-form, Google ad banner and Stockhouse news link notices of settlement approval hearing ("**First Notice**") are hereby

approved substantially in the forms attached hereto respectively as **Schedule 2**, **Schedule 3**, **Schedule 4** and **Schedule 5**.

6. **THIS COURT ORDERS** that the plan of dissemination for the First Notice ("**Plan of Notice**") is hereby approved in the form attached hereto as **Schedule 6**, and that the First Notice shall be disseminated in accordance with the Plan of Notice.

7. **THIS COURT ORDERS** that those Class Members who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if they did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period) ("**Eligible Supplemental Opt-Out Party**" or "**Eligible Supplemental Opt-Out Parties**") may opt out of this action in accordance with this Order.

8. **THIS COURT ORDERS** that the supplemental opt-out form ("**Supplemental Opt-Out Form**"), substantially in the form attached as Appendix "A" to the long-form First Notice, is hereby approved.

9. **THIS COURT ORDERS** that the deadline for Eligible Supplemental Opt-Out Parties to opt out of the action ("**Supplemental Opt-Out Deadline**") is the date that is forty-five (45) days after the day on which the First Notice is first published.

10. **THIS COURT ORDERS** that any Eligible Supplemental Opt-Out Party who opts out of this class proceeding by the Supplemental Opt-Out Deadline, by complying with the instructions set out in the long-form First Notice and fully completing a Supplemental Opt-Out Form, shall not be a Class Member on and after the date that such person opts out of the class proceeding.

11. **THIS COURT ORDERS** that, subject only to the opt-out right provided to Eligible Supplemental Opt-Out Parties in accordance with paragraphs 7 to 10 of this Order, the period for Class Members to opt out of this action expired as of May 26, 2024.

12. **THIS COURT ORDERS** that Class Members who wish to file with the Court an objection to, or comment on, the settlement, the Distribution Protocol or the request for approval of Class Counsel Fees and Class Counsel Disbursements shall deliver a written statement to Class Counsel, at the address indicated in the First Notice, no later than 21 calendar days prior to the hearing of the settlement approval motion.

The Honourable Justice Leiper

SCHEDULE B
DISMISS ORDER

Court File No. CV-18-00605345-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	__________________, the _______ day
	)	
JUSTICE JANET LEIPER	)	of ______________________, _______

BETWEEN:

STEPHEN POZGAJ

Plaintiff

- and -

CANADIAN IMPERIAL BANK OF COMMERCE
and CIBC TRUST CORPORATION

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for an Order, among other things, approving the settlement between the Plaintiff and the Defendants and dismissing this action as against the Defendants, was heard on [*insert*] at [*insert*].

ON READING the materials filed, including the settlement agreement between the Plaintiff and the Defendants dated [*insert*] attached to this Order as **Schedule 1** ("**Settlement Agreement**"), and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendants;

AND ON BEING ADVISED that the deadline for objecting to the Settlement Agreement has passed and there have been [*insert*] written objections to the Settlement Agreement;

AND ON BEING ADVISED that the Defendants consent to this Order;

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.

3. **THIS COURT ORDERS** that this Order shall be set aside, declared null and void and of no force and effect on subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

4. **THIS COURT ORDERS** that this Order, including the Settlement Agreement, is binding upon each Class Member including those Persons who are minors or mentally incapable and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of the Action.

5. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Class.

6. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to section 29 of the *Class Proceedings Act, 1992* and shall be implemented and enforced in accordance with its terms.

7. **THIS COURT ORDERS** that, upon the Effective Date, subject to paragraph 8, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.

8. **THIS COURT ORDERS** that the use of the terms "Releasors" and "Released Claims" in this Order does not constitute a release of claims by those Class Members who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors.

9. **THIS COURT ORDERS** that, upon the Effective Date, each Class Member who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors, covenants and undertakes not to make any claim in any way nor to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

10. **THIS COURT ORDERS** that, upon the Effective Date, each Releasor shall not now or hereafter institute, continue, maintain, intervene in or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any proceeding, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim. For the avoidance of doubt, this does not apply to the Other 2018 Actions or the 2022 Actions.

11. **THIS COURT ORDERS** that for purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Defendants attorn to the jurisdiction of this Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement and this Order.

12. **THIS COURT ORDERS** that no Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement or with respect to the Distribution Protocol, including administration, investment, or distribution of the Trust Account.

13. **THIS COURT ORDERS** that, upon the Effective Date, the Action is hereby dismissed as against the Defendants, without costs and with prejudice.

____

The Honourable Justice Leiper

SCHEDULE C
DISTRIBUTION ORDER

Court File No. CV-18-00605345-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	________________, the _______ day
	)	
JUSTICE JANET LEIPER	)	of ____________________, _______

BETWEEN:

STEPHEN POZGAJ

Plaintiff

- and -

CANADIAN IMPERIAL BANK OF COMMERCE
and CIBC TRUST CORPORATION

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff for an Order, among other things, approving the notices of settlement approval and the method of dissemination of the notices, approving the Distribution Protocol, and approving the claims process, was heard on [*insert*] at [*insert*].

ON READING the materials filed, including the settlement agreement between the Plaintiff and the Defendants dated [*insert*] attached to this Order as **Schedule 1** (**"Settlement Agreement"**), and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendants;

AND ON BEING ADVISED that the deadline for objecting to the Distribution Protocol has passed and there have been [*insert*] written objections to the Settlement Agreement;

AND ON BEING ADVISED that the Defendants do not oppose this Order;

AND ON BEING ADVISED that [*insert*] consents to being appointed as the Administrator;

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.

2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.

3. **THIS COURT ORDERS** that this Order shall be set aside, declared null and void and of no force and effect on subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.

4. **THIS COURT ORDERS** that the short-form, long-form, Google ad banner and Stockhouse news link notices of settlement approval ("**Second Notice**") are hereby approved substantially in the forms attached hereto respectively as **Schedule 2**, **Schedule 3**, **Schedule 4** and **Schedule 5**.

5. **THIS COURT ORDERS** that the plan of dissemination for the Second Notice ("**Plan of Notice**") is hereby approved in the form attached hereto as **Schedule 6**, and that the Second Notice shall be disseminated in accordance with the Plan of Notice.

6. **THIS COURT ORDERS** that the Distribution Protocol, substantially in the form attached hereto as **Schedule 7**, is approved for the purposes of distributing the Net Settlement Amount.

7. **THIS COURT ORDERS** that the form and content of the claim form (“**Claim Form**”), substantially in the form attached hereto as **Schedule 8**, is approved.

8. **THIS COURT ORDERS** that [*insert*] is appointed as the Administrator.

9. **THIS COURT ORDERS** that to be entitled to participate in a distribution from the Net Settlement Amount, a Class Member must:

   (a) submit a properly completed Claim Form to the Administrator, using the online claim portal established by the Administrator or by submitting a paper Claim Form by mail or courier to the Administrator, postmarked or received by the Administrator on or before 11:59pm Toronto (Eastern) time on the date that is one hundred and eighty (180) calendar days after the date on which any part of Part 2 of the Plan of Notice is first completed (“**Claims Bar Deadline**”);

   (b) submit, together with the Claim Form, any supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Administrator; and

   (c) otherwise comply with the instructions set out in the Claim Form.

10. **THIS COURT ORDERS** that the Defendants shall forthwith deliver, or cause to be delivered, to Class Counsel the data required under section 10.2(1) of the Settlement Agreement.

____

The Honourable Justice Leiper

SCHEDULE D
PLAN OF NOTICE

PLAN OF NOTICE

Unless otherwise modified herein, the definitions set out in the Settlement Agreement dated [*insert*], 2025 apply.

Part 1: First Notice will be disseminated (or caused to be disseminated) by Class Counsel as follows:

1. Short-form notice (substantially in the form attached as **Schedule E** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French;

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French);

   (c) disseminated as a news release in Canada across Canada NewsWire (in English and French);

   (d) published once in the business section of the national weekend edition of *The Globe and Mail*, in English;

   (e) published once in the business section of *La Presse*, in French;

   (f) sent electronically and/or in paper form to Discount Brokers in Canada with a cover letter requesting that they distribute the notice through their electronic message systems to the attention of their clients who may be Class Members and post the notice on their news boards directed to the attention of their clients who may be Class Members; and

   (g) filed by the Defendants as a news release on SEDAR.

2. Long-form notice (substantially in the form attached as **Schedule F** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French; and

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French).

3. Google banner ad (substantially in the form attached as **Schedule G** to the Settlement Agreement) published for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, for no less than 30 days and no more than 35 days.

4. Stockhouse news link (substantially in the form attached as **Schedule H** to the Settlement Agreement) published as a 12-day sponsored news link.

Part 2: Second Notice will be disseminated by Class Counsel and the Administrator as follows:

1. Short-form notice (substantially in the form attached as **Schedule I** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French;

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French);

   (c) disseminated as a news release in Canada across Canada NewsWire (in English and French);

   (d) published once in the business section of the national weekend edition of *The Globe and Mail*, in English;

   (e) published once in the business section of *La Presse*, in French;

   (f) sent electronically and/or in paper form to Discount Brokers in Canada with a cover letter requesting that they distribute the notice through their electronic message systems to the attention of their clients who may be Class Members and post the notice on their news boards directed to the attention of their clients who may be Class Members; and

   (g) filed by the Defendants as a news release on SEDAR.

2. Long-form notice (substantially in the form attached as **Schedule J** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French; and

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French).

3. Google banner ad (substantially in the form attached as **Schedule K** to the Settlement Agreement) published for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, for no less than 30 days and no more than 35 days.

4. Stockhouse news link (substantially in the form attached as **Schedule L** to the Settlement Agreement) published as a 12-day sponsored news link.

SCHEDULE E
SHORT-FORM FIRST NOTICE

DRAFT TEXT (subject to design)

CIBC Mutual Funds and Renaissance Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

Notice of Proposed Settlement and Supplemental Opt-Out Deadline for Certain Class Members

Have you held units of a CIBC Mutual Fund or Renaissance Mutual Fund through a discount broker?

A class action settlement has been reached with Canadian Imperial Bank of Commerce and CIBC Trust Corporation for C$26 million to resolve the claims asserted on behalf of all persons, wherever they may reside or be domiciled, who held or hold units of a CIBC Mutual Fund trust or a Renaissance Mutual Fund trust through a discount broker from September 18, 2003 to January 25, 2024 ("Class").

The settlement is subject to approval by the Ontario Superior Court of Justice. A settlement approval hearing has been set for [*insert*]. At that same hearing, the Court will also consider a motion to approve Class Counsel's fees, which will not exceed [*insert*], plus reimbursement for expenses incurred by Class Counsel in the litigation, plus taxes on the fees and disbursements.

If you wish to object to the settlement, Class Counsel's fees and disbursements, or the Distribution Protocol that sets out the manner in which the net settlement funds will be distributed among eligible Class Members, you must do so by [*insert*].

If you are a Class Member who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if you did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), and you do not want to be part of the class action and be bound by the terms of the settlement, you must opt out by submitting a supplemental opt-out form by [*insert opt-out deadline*].

For other Class Members (meaning you held units of a CIBC Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024, regardless of whether you held units of a Renaissance Mutual Fund during that period), your opt-out period expired on May 26, 2024 and there is no further right to opt out of the class action.

For important information regarding the class action, to determine if you are a member of the Class, to obtain a copy of the supplemental opt-out form, to object, and to understand your legal rights:

- View the long-form notice at https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/
- Call Class Counsel at [*insert*] or toll-free [*insert*]

This settlement is only for the benefit of persons who held units of a CIBC Mutual Fund trust or a Renaissance Mutual Fund trust through a discount broker. If you held units of a CIBC Mutual Fund or a Renaissance Mutual Fund other than through a discount broker (e.g. through an investment advisor), there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

The publication of this notice was authorized by the Superior Court of Justice of the Province of Ontario

SCHEDULE F
LONG-FORM FIRST NOTICE

DRAFT TEXT (subject to design)

CIBC Mutual Funds and Renaissance Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

Notice of Proposed Settlement and Supplemental Opt-Out Deadline

Read this notice carefully as it may affect your legal rights

THIS NOTICE IS TO:

All persons, wherever they may reside or be domiciled, who held or hold units of a CIBC Mutual Fund or a Renaissance Mutual Fund through a discount broker, except for the Excluded Persons, from September 18, 2003 to January 25, 2024 ("**Class**" and "**Class Members**").

In the above class definition:

"**CIBC Mutual Funds**" means all mutual fund trusts (including, without limitation, all series of units thereof) of which CIBC Trust Corporation ("**CIBC Trust**") is trustee or was trustee at any time from September 18, 2003 to January 25, 2024 (but only in respect of the period during which CIBC Trust is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

"Renaissance Mutual Funds" means all mutual fund trusts (including, without limitation, all series of units thereof) of which CIBC Asset Management Inc. ("**CAM**") is trustee or was trustee at any time from September 18, 2003 to January 25, 2024 (but only in respect of the period during which CAM is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

"**Excluded Persons**" means Canadian Imperial Bank of Commerce ("**CIBC**"), CIBC Trust (together, "**Defendants**"), and CAM; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the Defendants and CAM; the past and present members of the independent review committee of each CIBC Mutual Fund and each Renaissance Mutual Fund; and any person who validly opted out or opts out of the class action.

Examples of discount brokers are BMO InvestorLine, CIBC Investor's Edge, National Bank Direct Brokerage, RBC Direct Investing, Scotia iTRADE, TD Direct Investing, CI Direct Trading, Qtrade, Desjardins Online Brokerage, HSBC InvestDirect, Laurentian Bank Discount Brokerage, Wealthsimple, Questrade, and Interactive Brokers. They may have had different names in the past.

A settlement ("**Settlement**") has been reached in the class action in the Ontario Superior Court of Justice against the Defendants ("**Action**"). This notice contains important details about the Settlement.

IMPORTANT DEADLINES

Objection Deadline (to object to the Settlement, Class Counsel's fee request or the Distribution Protocol): ***[insert]***

Supplemental Opt-Out Deadline (for those Class Members who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if they did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), to exclude themselves from the Action and the settlement): **[*insert*]**

IMPORTANT NOTE ABOUT SEPARATE SETTLEMENT FOR NON-DISCOUNT BROKER HOLDERS OF CIBC MUTUAL FUNDS AND RENAISSANCE MUTUAL FUNDS

This settlement is only for the benefit of persons who held units of a CIBC Mutual Fund trust or a Renaissance Mutual Fund trust through a discount broker. If you held units of a CIBC Mutual Fund or a Renaissance Mutual Fund other than through a discount broker (e.g. through an investment advisor), there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

THE NATURE OF THE CLAIMS ASSERTED

It is alleged that the Defendants paid trailing commissions, out of the management fees paid out of the CIBC Mutual Fund and Renaissance Mutual Fund assets, to discount brokers. The CIBC Mutual Funds and Renaissance Mutual Funds are trusts governed by trust instruments. CIBC Trust is the trustee of the CIBC Mutual Funds. CIBC is the manager of the CIBC Mutual Funds. CAM is the trustee and manager of the Renaissance Mutual Funds. It is alleged that the Defendants breached their duties as trustees and fiduciaries because the trailing commissions paid to discount brokers are excessive, inflated and/or unearned.

It is further alleged that the Defendants made misrepresentations about the nature of the trailing commission payments.

The Defendants have denied these allegations and continues to deny all allegations.

On behalf of the Class, the Action asserts claims under section 130 of the Ontario *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Canadian provinces and territories. Additionally, the Action advances claims under section 23.1 of the *Trustee Act*, and for breach of trust, fiduciary duty and contract.

THE CERTIFICATION ORDER

By Order dated January 25, 2024, the Ontario Superior Court of Justice ("**Court**") certified the Action as a class proceeding under the Ontario *Class Proceedings Act, 1992*. The Court appointed the plaintiff, Stephen Pozgaj, as the representative plaintiff for the Class ("**Plaintiff**").

By Order dated [*insert*], the class definition was amended to the definition noted above.

THE SETTLEMENT

On [*insert*], the Plaintiff and the Defendants executed a Settlement Agreement ("**Settlement Agreement**"), which is subject to approval by the Court. The Settlement Agreement provides for the payment of C$26,000,000 ("**Settlement Amount**") in consideration of the full and final settlement of the claims of Class Members.

The Settlement Agreement provides that if approved by the Court, the claims of Class Members asserted or that could have been asserted in the Action will be fully and finally released, and the Action will be dismissed.

The Settlement Agreement is not an admission of liability, wrongdoing, or fault on the part of the Defendants, which have denied, and continue to deny, the allegations against them.

SETTLEMENT APPROVAL HEARING

The Settlement Agreement is conditional on approval by the Court. The Settlement Agreement will be approved if the Court determines that it is fair and reasonable and in the best interests of the Class Members to approve it.

The Court will hear a motion for approval of the Settlement on [*insert*] at [*insert*].

CLASS COUNSEL'S FEES AND OTHER EXPENSES

The Plaintiff and the Class are represented by Siskinds LLP ("**Class Counsel**"). Class Counsel are conducting the Action on a contingent fee basis. On [*insert*], Class Counsel will make a motion to the Court for approval of their fees and the fees of Bates Barristers P.C., which in the aggregate will not exceed [*insert*], plus reimbursement for expenses incurred in the litigation in the maximum amount of [*insert*], plus applicable taxes on the fees and expenses.

A funding agreement between the Plaintiff and Claims Funding International, PLC ("**Funder**") was previously approved by the Court on October 28, 2019. Amounts owing to the Funder will be deducted from the amounts to be distributed to the Class Members before the actual distribution.

On [*insert*], Class Counsel will also seek the Court's approval for the payment of an honorarium to the Plaintiff in the maximum amount of [*insert*]. Class Counsel will be requesting that the honorarium be deducted directly from the Settlement Amount.

The fees of the claims administrator, together with any other costs relating to approval, notification, implementation and administration of the Settlement ("**Administration Expenses**"), will also be paid from the Settlement Amount.

CLASS MEMBERS' ENTITLEMENT TO COMPENSATION

If the Settlement Agreement is approved by the Court, the Settlement Amount, after deduction of Class Counsel's fees and expenses, amounts payable to the Funder, any approved honorarium for the Plaintiff and Administration Expenses ("**Net Settlement Amount**") will be distributed to Class Members who file valid and timely claims in accordance with the Distribution Protocol.

On [*insert*], the Plaintiff will seek the Court's approval of the Distribution Protocol and a process by which Class Members can claim compensation from the Net Settlement Amount.

The proposed Distribution Protocol will provide that in order to determine the individual entitlements of Class Members who make claims, the losses of each claimant will be calculated in accordance with the Distribution Protocol. Once the notional losses of all Class Members who have filed valid claims have been calculated, the Net Settlement Amount will be allocated to those Class Members in proportion to their percentage of the total notional losses calculated for all valid claims filed. Because the Net Settlement Amount will be distributed *pro rata*, it is not possible to estimate the individual recovery of any individual Class Member until all the claims have been received and reviewed.

The approval of the Settlement Agreement is not contingent on the approval of the Distribution Protocol. The Court may still approve the Settlement Agreement even if it does not approve the Distribution Protocol or approves amendments to the Distribution Protocol.

PARTICIPATION IN THE APPROVAL MOTION

The following material will be posted on Class Counsel's website dedicated to the Action (https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/) on or before the dates set out below:

1. the Settlement Agreement (posted prior to or at the time of the publication of this notice);

2. the proposed Distribution Protocol (posted by [*6 weeks prior to settlement approval hearing*]); and

3. a summary of the basis upon which Class Counsel recommends the Settlement and Distribution Protocol (posted by [*6 weeks prior to settlement approval hearing*]).

Class Members who wish to comment on, or make an objection to, the approval of the Settlement Agreement, the Distribution Protocol or the fees and disbursements of Class Counsel shall deliver (by email, mail or courier) a written submission to Class Counsel, to be postmarked or received no later than **[*insert*]**, at the following email address or mailing address:

Gigi Pao
Siskinds LLP
275 Dundas Street, Unit 1, P.O. Box 2520, London, ON N6B 3L1
Tel: 226-330-0409
Email: gigi.pao@siskinds.com

Any objections delivered by that date will be filed with the Court.

Class Members may attend at the hearing whether or not they deliver an objection. Class Members who wish to have a lawyer speak on their behalf at the hearing may retain one to do so at their own expense.

SUPPLEMENTAL OPT-OUT RIGHT FOR CERTAIN CLASS MEMBERS

If you are a Class Member who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if you did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), and you do <u>not</u> want to be bound by the outcome of the Action, including the terms of the Settlement if approved, you must "opt out", meaning that you must exclude yourself from the Action in accordance with the following procedure.

Such Class Members who do not opt out will (i) be entitled to participate in the Settlement; (ii) be bound by the terms of the Settlement; and (iii) not be permitted to bring other legal proceedings in relation to the matters alleged in the Action against the Defendants, or any person released by the approved Settlement. Conversely, if you opt out of the Action, you will not be able to make a claim to receive compensation from the Settlement Amount but will maintain the right to pursue your own claim against the Defendants relating to the matters alleged in the Action.

If you wish to opt out of the Action, you must complete, sign and return (by email, mail or courier) the supplemental opt-out form provided at Appendix "A" hereto to Class Counsel.

In order for your opt-out to be valid, your complete and signed supplemental opt-out form must be postmarked or received by Class Counsel by no later than **[*insert*]**.

For other Class Members (meaning you held units of a CIBC Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024, regardless of whether you held units of a Renaissance Mutual Fund during that period), your opt-out period expired on May 26, 2024 and there is no further right to opt out of the class action.

ADDITIONAL INFORMATION

This notice has been approved by the Ontario Superior Court of Justice. The Court offices cannot answer any questions about the matters in this notice. The Orders of the Court and other information in both languages are available on Class Counsel's website at https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/.

Questions relating to the Action may be directed to Class Counsel using the contact details above.

Si vous avez besoin d'aide en français, veuillez contacter les avocats du groupe en utilisant les coordonnées ci-dessus et nous dirigerons votre demande vers une personne appropriée.

The publication of this notice was authorized by the Ontario Superior Court of Justice

DRAFT TEXT – SUBJECT TO DESIGN

APPENDIX "A"

SUPPLEMENTAL OPT-OUT FORM
CIBC MUTUAL FUNDS and RENASSIANCE MUTUAL FUNDS CLASS ACTION

This Supplemental Opt-Out Form is only for Class Members who held units of a Renaissance Mutual Fund (but only if they did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), through a Discount Broker from September 18, 2003 to January 25, 2024.

If you are such a person, complete and return this Supplemental Opt-Out Form by no later than [DATE], **only if you do not wish to participate in the class action, including the settlement if approved**.

It must be postmarked or received by Class Counsel by no later than [DATE].

Name:
Organization and title (if applicable):
Phone number:
Fax number:
Email:
Address:

Please provide the below information on the Renaissance Mutual Fund units that you hold or held through a Discount Broker. Please use additional paper if necessary.

Name of the Renaissance Mutual Fund(s)	Fund Code	Date of Acquisition	Number of Units Acquired	Date of Final Disposition (if applicable)

(PLEASE CIRCLE THE APPROPRIATE LANGUAGE)

I believe that **I am / the organization that I represent is** a member of the Class in the Action.

I believe that **I am not / the organization that I represent is not** amongst the persons and entities excluded from the Action.

I understand that by opting out of the Action, **I <u>will not</u> be eligible / the organization that I represent <u>will not</u> be eligible** for any benefit that may be available to the Class upon resolution of this matter, if and when such resolution may occur.

I, ____ (print your full name), **OPT OUT FROM THE ACTION** and wish to be excluded from this class action.

I wish to opt out from this class action for the following reason(s) (*optional*):

____
____
____
____
____
________________.

I, ____ (print your full name), **CERTIFY** that the information provided herein is complete and true.

__________________________ ________________________________

Date Signature

In order to validly opt out, you must complete and send this Supplemental Opt-Out Form by <u>no later than [DATE]</u> to:

Gigi Pao
Siskinds LLP
275 Dundas Street, Unit 1, P.O. Box 2520, London, ON N6B 3L1
Email: gigi.pao@siskinds.com

SCHEDULE G
GOOGLE BANNER AD (FIRST NOTICE)

DRAFT TEXT (subject to design)

Have you held units of a CIBC Mutual Fund or Renaissance Mutual Fund through a discount broker?

You may be affected by a proposed class action settlement.

Click to learn your legal rights.

[*Link to https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/*]

SCHEDULE H

STOCKHOUSE NEWS LINK (FIRST NOTICE)

DRAFT TEXT (SUBJECT TO DESIGN)

Have you held units of a CIBC or Renaissance Mutual Fund through a discount broker? Learn more here.

SCHEDULE I
SHORT-FORM SECOND NOTICE

DRAFT TEXT (subject to design)

CIBC Mutual Funds and Renaissance Mutual Fund Class Action Regarding Trailing Commissions Paid to Discount Brokers

Notice of Approved Settlement and Commencement of Claim-Filing Process

Have you held units of a CIBC Mutual Fund or Renaissance Mutual Fund through a discount broker?

The Ontario Superior Court of Justice approved a class action settlement with Canadian Imperial Bank of Commerce and CIBC Trust Corporation for C$26 million to resolve the claims asserted on behalf of all persons, wherever they may reside or be domiciled, who held or hold units of a CIBC Mutual Fund trust or a Renaissance Mutual Fund trust through a discount broker from September 18, 2003 to January 25, 2024 ("Class")

This settlement is not an admission of liability or wrongdoing by the Defendants. It is an efficient compromise between the parties of their disputed positions.

To be eligible to obtain compensation from the settlement, Class Members must submit a Claim Form to the Administrator at [*insert Administrator website*] by [*insert*].

For important information regarding the class action, to determine if you are a member of the Class, and to learn how to make a claim for compensation:

- View the long-form notice at [*insert Administrator website*]
- Contact the Administrator at:

[*insert Administrator contact details*]

This settlement is only for the benefit of persons who held units of a CIBC Mutual Fund or a Renaissance Mutual Fund trust through a discount broker. If you held units of a CIBC Mutual Fund or a Renaissance Mutual Fund other than through a discount broker (e.g. through an investment advisor), there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

The publication of this notice was authorized by the Superior Court of Justice of the Province of Ontario

SCHEDULE J
LONG-FORM SECOND NOTICE

DRAFT TEXT (subject to design)

[*NTD: The language of the notice regarding claims for compensation is subject to settling the terms of the proposed Distribution Protocol, as the notice language will need to line up with the terms of the proposed Distribution Protocol.*]

CIBC Mutual Funds and Renaissance Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

Notice of Approved Settlement and Commencement of Claim-Filing Process

Read this notice carefully as it may affect your legal rights

THIS NOTICE IS TO:

All persons, wherever they may reside or be domiciled, who held or hold units of a CIBC Mutual Fund or a Renaissance Mutual Fund through a discount broker, except for the Excluded Persons, from September 18, 2003 to January 25, 2024 ("**Class**" and "**Class Members**").

In the above class definition:

"**CIBC Mutual Funds**" means all mutual fund trusts (including, without limitation, all series of units thereof) of which CIBC Trust Corporation ("**CIBC Trust**") is trustee or was trustee at any time from September 18, 2003 to January 25, 2024 (but only in respect of the period during which CIBC Trust is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

"Renaissance Mutual Funds" means all mutual fund trusts (including, without limitation, all series of units thereof) of which CIBC Asset Management Inc. ("**CAM**") is trustee or was trustee at any time from September 18, 2003 to January 25, 2024 (but only in respect of the period during which CAM is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

"**Excluded Persons**" means Canadian Imperial Bank of Commerce ("**CIBC**"), CIBC Trust (together, "**Defendants**"), and CAM; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the Defendants and CAM; the past and present members of the independent review committee of each CIBC Mutual Fund and each Renaissance Mutual Fund; and any person who validly opted out of the class action.

Examples of discount brokers are BMO InvestorLine, CIBC Investor's Edge, National Bank Direct Brokerage, RBC Direct Investing, Scotia iTRADE, TD Direct Investing, CI Direct Trading, Qtrade, Desjardins Online Brokerage, HSBC InvestDirect, Laurentian Bank Discount Brokerage, Wealthsimple, Questrade, and Interactive Brokers. They may have had different names in the past.

A settlement ("**Settlement**") has been reached in the class action against the Defendants ("**Action**"). The Ontario Superior Court of Justice ("**Court**") has approved the Settlement. This notice contains important details about the Settlement and how to submit a claim for compensation from the Settlement.

IMPORTANT DEADLINE TO FILE CLAIM FOR COMPENSATION

Claims Bar Deadline (to file a claim for compensation): ***[insert]***

IMPORTANT NOTE ABOUT SEPARATE SETTLEMENT FOR NON-DISCOUNT BROKER HOLDERS OF CIBC MUTUAL FUNDS AND RENAISSANCE MUTUAL FUNDS

This settlement is only for the benefit of persons who held units of a CIBC Mutual Fund trust or a Renaissance Mutual Fund trust through a discount broker. If you held units of a CIBC Mutual Fund or a Renaissance Mutual Fund other than through a discount broker (e.g. through an investment advisor), there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

THE NATURE OF THE CLAIMS ASSERTED

It is alleged that the Defendants paid trailing commissions, out of the management fees paid out of the CIBC Mutual Fund and Renaissance Mutual Fund assets, to discount brokers. The CIBC Mutual Funds and Renaissance Mutual Funds are trusts governed by trust instruments. CIBC Trust is the trustee of the CIBC Mutual Funds. CIBC is the manager of the CIBC Mutual Funds. CAM is the trustee and manager of the Renaissance Mutual Funds. It is alleged that the Defendants breached their duties as trustees and fiduciaries because the trailing commissions paid to discount brokers are excessive, inflated and/or unearned.

It is further alleged that the Defendants made misrepresentations about the nature of the trailing commission payments.

The Defendants has denied these allegations and continues to deny all allegations.

On behalf of the Class, the Action asserts claims under section 130 of the Ontario *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Canadian provinces and territories. Additionally, the Action advances claims under section 23.1 of the *Trustee Act*, and for breach of trust, fiduciary duty and contract.

SETTLEMENT APPROVAL, FEE APPROVAL AND OTHER MATTERS

On [*insert*], the Court approved the Settlement. The Settlement provides for the payment of C$26,000,000 ("**Settlement Amount**") in consideration of the full and final settlement of the claims of Class Members.

The Settlement Agreement provides that the claims of Class Members (who did not opt out) asserted or that could have been asserted in the Action will be fully and finally released, and the Action will be dismissed.

The Settlement Agreement is not an admission of liability, wrongdoing or fault on the part of the Defendants, which have denied, and continue to deny, the allegations against them.

The Court awarded Siskinds LLP ("**Class Counsel**") and Bates Barristers P.C. total legal fees in the amount of [*insert*], plus disbursements of [*insert*], plus applicable taxes on the fees and expenses. As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. The approved fees and disbursements will be deducted from the Settlement Amount before it is distributed to Class Members.

A funding agreement between the Plaintiff and Claims Funding International, PLC ("**Funder**") was previously approved by the Court on October 28, 2019. Amounts owing to the Funder will be deducted from the amounts to be distributed to the Class Members before the actual distribution.

The Court also approved the payment of an honorarium to the Plaintiff in the amount of [*insert*]. The honorarium will be deducted from the Settlement Amount before it is distributed to Class Members.

Expenses incurred or payable relating to approval, notification, implementation and administration of the Settlement ("**Administration Expenses**") will also be paid from the Settlement Amount before it is distributed to Class Members.

The Settlement Amount includes all legal fees, the Funder's commission, taxes and administrative expenses.

CLAIMS ADMINISTRATOR

The Court has appointed [*insert*] as the claims administrator for the Settlement ("**Administrator**"). The Administrator will, among other things: (i) receive and process claims for compensation from the Settlement; (ii) determine Class Members' eligibility for and entitlement to compensation pursuant to the Distribution Protocol; (iii) communicate with Class Members regarding claims for compensation; and (iv) manage and distribute the Settlement Amount in accordance with the Settlement Agreement and the orders of the Court.

The Administrator can be contacted at:

[*insert Administrator full contact details*]

CLASS MEMBERS' ENTITLEMENT TO COMPENSATION

The Settlement Amount, after deduction of Class Counsel's fees and expenses, amounts payable to the Funder, the approved honorarium for the Plaintiff and Administration Expenses ("**Net Settlement Amount**") will be distributed to Class Members in accordance with the Distribution Protocol approved by the Court.

Class Members will be eligible for compensation if they submit a completed Claim Form, including any supporting documentation, with the Administrator, and their claim satisfies the criteria set out in the Distribution Protocol.

To be eligible for compensation, Class Members must submit their Claim Form **no later than [*insert*]** ("**Claims Bar Deadline**").

The most efficient way to file a claim is to visit the Administrator's website at [*insert*] and file an online claim. The website provides step by step instructions on how to file a claim. In order to verify claims, the Administrator will require supporting documentation, including brokerage statements or confirmations evidencing the claimed transactions. Accordingly, Class Members should visit the Administrator's site as soon as possible so that they have time to obtain the required documentation prior to the Claims Bar Deadline.

While online claims are recommended and preferred, the Administrator will also accept Claim Forms filed by mail or courier. To obtain a copy of the Claim Form, Class Members may contact the Administrator to have one sent by email or regular mail. Claim Forms sent by mail or courier should be sent to the Administrator using the contact details above.

If you have questions about how to complete or file a Claim Form, the documentation required to support a claim, or whether you are a Class Member, please contact the Administrator.

ADDITIONAL INFORMATION

This notice has been approved by the Ontario Superior Court of Justice. The Court offices cannot answer any questions about the matters in this notice. The Orders of the Court and other information in both languages are available on the Administrator's website at [*insert*].

Questions relating to the Action may be directed to the Administrator using the contact details above or Class Counsel:

Gigi Pao
Siskinds LLP
275 Dundas Street, Unit 1, P.O. Box 2520, London, ON N6B 3L1
Tel: 226-330-0409
Email: gigi.pao@siskinds.com

Si vous avez besoin d'aide en français, veuillez contacter les avocats du groupe en utilisant les coordonnées ci-dessus et nous dirigerons votre demande vers une personne appropriée.

The publication of this notice was authorized by the Ontario Superior Court of Justice

SCHEDULE K
GOOGLE BANNER AD (SECOND NOTICE)

DRAFT TEXT (subject to design)

Have you held units of a CIBC Mutual Fund
or Renaissance Mutual Fund through a
discount broker?

You may be eligible to obtain compensation
from a class action settlement.

Click to learn your legal rights.

[*Link to Administrator website*]

SCHEDULE L

STOCKHOUSE NEWS LINK (SECOND NOTICE)

DRAFT TEXT (SUBJECT TO DESIGN)

Have you held units of a CIBC or Renaissance Mutual Fund through a discount broker? Learn more here.

SCHEDULE 2
SHORT-FORM FIRST NOTICE

DRAFT TEXT (subject to design)

CIBC Mutual Funds and Renaissance Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

Notice of Proposed Settlement and Supplemental Opt-Out Deadline for Certain Class Members

Have you held units of a CIBC Mutual Fund or Renaissance Mutual Fund through a discount broker?

A class action settlement has been reached with Canadian Imperial Bank of Commerce and CIBC Trust Corporation for C$26 million to resolve the claims asserted on behalf of all persons, wherever they may reside or be domiciled, who held or hold units of a CIBC Mutual Fund trust or a Renaissance Mutual Fund trust through a discount broker from September 18, 2003 to January 25, 2024 ("Class").

The settlement is subject to approval by the Ontario Superior Court of Justice. A settlement approval hearing has been set for [*insert*]. At that same hearing, the Court will also consider a motion to approve Class Counsel's fees, which will not exceed [*insert*], plus reimbursement for expenses incurred by Class Counsel in the litigation, plus taxes on the fees and disbursements.

If you wish to object to the settlement, Class Counsel's fees and disbursements, or the Distribution Protocol that sets out the manner in which the net settlement funds will be distributed among eligible Class Members, you must do so by [*insert*].

If you are a Class Member who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if you did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), and you do <u>not</u> want to be part of the class action and be bound by the terms of the settlement, you must opt out by submitting a supplemental opt-out form by [*insert opt-out deadline*].

For other Class Members (meaning you held units of a CIBC Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024, regardless of whether you held units of a Renaissance Mutual Fund during that period), your opt-out period expired on May 26, 2024 and there is no further right to opt out of the class action.

For important information regarding the class action, to determine if you are a member of the Class, to obtain a copy of the supplemental opt-out form, to object, and to understand your legal rights:

- View the long-form notice at https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/
- Call Class Counsel at [*insert*] or toll-free [*insert*]

This settlement is only for the benefit of persons who held units of a CIBC Mutual Fund trust or a Renaissance Mutual Fund trust through a discount broker. If you held units of a CIBC Mutual Fund or a Renaissance Mutual Fund other than through a discount broker (e.g. through an investment advisor), there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

The publication of this notice was authorized by the Superior Court of Justice of the Province of Ontario

SCHEDULE 3

LONG-FORM FIRST NOTICE

DRAFT TEXT (subject to design)

CIBC Mutual Funds and Renaissance Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

Notice of Proposed Settlement and Supplemental Opt-Out Deadline

Read this notice carefully as it may affect your legal rights

THIS NOTICE IS TO:

All persons, wherever they may reside or be domiciled, who held or hold units of a CIBC Mutual Fund or a Renaissance Mutual Fund through a discount broker, except for the Excluded Persons, from September 18, 2003 to January 25, 2024 ("**Class**" and "**Class Members**").

In the above class definition:

"**CIBC Mutual Funds**" means all mutual fund trusts (including, without limitation, all series of units thereof) of which CIBC Trust Corporation ("**CIBC Trust**") is trustee or was trustee at any time from September 18, 2003 to January 25, 2024 (but only in respect of the period during which CIBC Trust is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

"Renaissance Mutual Funds" means all mutual fund trusts (including, without limitation, all series of units thereof) of which CIBC Asset Management Inc. ("**CAM**") is trustee or was trustee at any time from September 18, 2003 to January 25, 2024 (but only in respect of the period during which CAM is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

"**Excluded Persons**" means Canadian Imperial Bank of Commerce ("**CIBC**"), CIBC Trust (together, "**Defendants**"), and CAM; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the Defendants and CAM; the past and present members of the independent review committee of each CIBC Mutual Fund and each Renaissance Mutual Fund; and any person who validly opted out or opts out of the class action.

Examples of discount brokers are BMO InvestorLine, CIBC Investor's Edge, National Bank Direct Brokerage, RBC Direct Investing, Scotia iTRADE, TD Direct Investing, CI Direct Trading, Qtrade, Desjardins Online Brokerage, HSBC InvestDirect, Laurentian Bank Discount Brokerage, Wealthsimple, Questrade, and Interactive Brokers. They may have had different names in the past.

A settlement ("**Settlement**") has been reached in the class action in the Ontario Superior Court of Justice against the Defendants ("**Action**"). This notice contains important details about the Settlement.

IMPORTANT DEADLINES

Objection Deadline (to object to the Settlement, Class Counsel's fee request or the Distribution Protocol): ***[insert]***

Supplemental Opt-Out Deadline (for those Class Members who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if they did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), to exclude themselves from the Action and the settlement): ***[insert]***

IMPORTANT NOTE ABOUT SEPARATE SETTLEMENT FOR NON-DISCOUNT BROKER HOLDERS OF CIBC MUTUAL FUNDS AND RENAISSANCE MUTUAL FUNDS

This settlement is only for the benefit of persons who held units of a CIBC Mutual Fund trust or a Renaissance Mutual Fund trust through a discount broker. If you held units of a CIBC Mutual Fund or a Renaissance Mutual Fund other than through a discount broker (e.g. through an investment advisor), there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

THE NATURE OF THE CLAIMS ASSERTED

It is alleged that the Defendants paid trailing commissions, out of the management fees paid out of the CIBC Mutual Fund and Renaissance Mutual Fund assets, to discount brokers. The CIBC Mutual Funds and Renaissance Mutual Funds are trusts governed by trust instruments. CIBC Trust is the trustee of the CIBC Mutual Funds. CIBC is the manager of the CIBC Mutual Funds. CAM is the trustee and manager of the Renaissance Mutual Funds. It is alleged that the Defendants breached their duties as trustees and fiduciaries because the trailing commissions paid to discount brokers are excessive, inflated and/or unearned.

It is further alleged that the Defendants made misrepresentations about the nature of the trailing commission payments.

The Defendants have denied these allegations and continues to deny all allegations.

On behalf of the Class, the Action asserts claims under section 130 of the Ontario *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Canadian provinces and territories. Additionally, the Action advances claims under section 23.1 of the *Trustee Act*, and for breach of trust, fiduciary duty and contract.

THE CERTIFICATION ORDER

By Order dated January 25, 2024, the Ontario Superior Court of Justice ("**Court**") certified the Action as a class proceeding under the Ontario *Class Proceedings Act, 1992*. The Court appointed the plaintiff, Stephen Pozgaj, as the representative plaintiff for the Class ("**Plaintiff**").

By Order dated [*insert*], the class definition was amended to the definition noted above.

THE SETTLEMENT

On [*insert*], the Plaintiff and the Defendants executed a Settlement Agreement ("**Settlement Agreement**"), which is subject to approval by the Court. The Settlement Agreement provides for the payment of C$26,000,000 ("**Settlement Amount**") in consideration of the full and final settlement of the claims of Class Members.

The Settlement Agreement provides that if approved by the Court, the claims of Class Members asserted or that could have been asserted in the Action will be fully and finally released, and the Action will be dismissed.

The Settlement Agreement is not an admission of liability, wrongdoing, or fault on the part of the Defendants, which have denied, and continue to deny, the allegations against them.

SETTLEMENT APPROVAL HEARING

The Settlement Agreement is conditional on approval by the Court. The Settlement Agreement will be approved if the Court determines that it is fair and reasonable and in the best interests of the Class Members to approve it.

The Court will hear a motion for approval of the Settlement on [*insert*] at [*insert*].

CLASS COUNSEL'S FEES AND OTHER EXPENSES

The Plaintiff and the Class are represented by Siskinds LLP ("**Class Counsel**"). Class Counsel are conducting the Action on a contingent fee basis. On [*insert*], Class Counsel will make a motion to the Court for approval of their fees and the fees of Bates Barristers P.C., which in the aggregate will not exceed [*insert*], plus reimbursement for expenses incurred in the litigation in the maximum amount of [*insert*], plus applicable taxes on the fees and expenses.

A funding agreement between the Plaintiff and Claims Funding International, PLC ("**Funder**") was previously approved by the Court on October 28, 2019. Amounts owing to the Funder will be deducted from the amounts to be distributed to the Class Members before the actual distribution.

On [*insert*], Class Counsel will also seek the Court's approval for the payment of an honorarium to the Plaintiff in the maximum amount of [*insert*]. Class Counsel will be requesting that the honorarium be deducted directly from the Settlement Amount.

The fees of the claims administrator, together with any other costs relating to approval, notification, implementation and administration of the Settlement ("**Administration Expenses**"), will also be paid from the Settlement Amount.

CLASS MEMBERS' ENTITLEMENT TO COMPENSATION

If the Settlement Agreement is approved by the Court, the Settlement Amount, after deduction of Class Counsel's fees and expenses, amounts payable to the Funder, any approved honorarium for the Plaintiff and Administration Expenses ("**Net Settlement Amount**") will be distributed to Class Members who file valid and timely claims in accordance with the Distribution Protocol.

On [*insert*], the Plaintiff will seek the Court's approval of the Distribution Protocol and a process by which Class Members can claim compensation from the Net Settlement Amount.

The proposed Distribution Protocol will provide that in order to determine the individual entitlements of Class Members who make claims, the losses of each claimant will be calculated in accordance with the Distribution Protocol. Once the notional losses of all Class Members who have filed valid claims have been calculated, the Net Settlement Amount will be allocated to those Class Members in proportion to their percentage of the total notional losses calculated for all valid claims filed. Because the Net Settlement Amount will be distributed *pro rata*, it is not possible to estimate the individual recovery of any individual Class Member until all the claims have been received and reviewed.

The approval of the Settlement Agreement is not contingent on the approval of the Distribution Protocol. The Court may still approve the Settlement Agreement even if it does not approve the Distribution Protocol or approves amendments to the Distribution Protocol.

PARTICIPATION IN THE APPROVAL MOTION

The following material will be posted on Class Counsel's website dedicated to the Action (https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/) on or before the dates set out below:

1. the Settlement Agreement (posted prior to or at the time of the publication of this notice);

2. the proposed Distribution Protocol (posted by [*6 weeks prior to settlement approval hearing*]); and

3. a summary of the basis upon which Class Counsel recommends the Settlement and Distribution Protocol (posted by [*6 weeks prior to settlement approval hearing*]).

Class Members who wish to comment on, or make an objection to, the approval of the Settlement Agreement, the Distribution Protocol or the fees and disbursements of Class Counsel shall deliver (by email, mail or courier) a written submission to Class Counsel, to be postmarked or received no later than **[*insert*]**, at the following email address or mailing address:

Gigi Pao
Siskinds LLP
275 Dundas Street, Unit 1, P.O. Box 2520, London, ON N6B 3L1
Tel: 226-330-0409
Email: gigi.pao@siskinds.com

Any objections delivered by that date will be filed with the Court.

Class Members may attend at the hearing whether or not they deliver an objection. Class Members who wish to have a lawyer speak on their behalf at the hearing may retain one to do so at their own expense.

SUPPLEMENTAL OPT-OUT RIGHT FOR CERTAIN CLASS MEMBERS

If you are a Class Member who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if you did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), and you do not want to be bound by the outcome of the Action, including the terms of the Settlement if approved, you must "opt out", meaning that you must exclude yourself from the Action in accordance with the following procedure.

Such Class Members who do not opt out will (i) be entitled to participate in the Settlement; (ii) be bound by the terms of the Settlement; and (iii) not be permitted to bring other legal proceedings in relation to the matters alleged in the Action against the Defendants, or any person released by the approved Settlement. Conversely, if you opt out of the Action, you will not be able to make a claim to receive compensation from the Settlement Amount but will maintain the right to pursue your own claim against the Defendants relating to the matters alleged in the Action.

If you wish to opt out of the Action, you must complete, sign and return (by email, mail or courier) the supplemental opt-out form provided at Appendix "A" hereto to Class Counsel.

In order for your opt-out to be valid, your complete and signed supplemental opt-out form must be postmarked or received by Class Counsel by no later than **[*insert*]**.

For other Class Members (meaning you held units of a CIBC Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024, regardless of whether you held units of a Renaissance Mutual Fund during that period), your opt-out period expired on May 26, 2024 and there is no further right to opt out of the class action.

ADDITIONAL INFORMATION

This notice has been approved by the Ontario Superior Court of Justice. The Court offices cannot answer any questions about the matters in this notice. The Orders of the Court and other information in both languages are available on Class Counsel's website at https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/.

Questions relating to the Action may be directed to Class Counsel using the contact details above.

Si vous avez besoin d'aide en français, veuillez contacter les avocats du groupe en utilisant les coordonnées ci-dessus et nous dirigerons votre demande vers une personne appropriée.

The publication of this notice was authorized by the Ontario Superior Court of Justice

DRAFT TEXT – SUBJECT TO DESIGN

APPENDIX "A"

SUPPLEMENTAL OPT-OUT FORM
CIBC MUTUAL FUNDS and RENASSIANCE MUTUAL FUNDS CLASS ACTION

This Supplemental Opt-Out Form is only for Class Members who held units of a Renaissance Mutual Fund (but only if they did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), through a Discount Broker from September 18, 2003 to January 25, 2024.

If you are such a person, complete and return this Supplemental Opt-Out Form by no later than [DATE], **only if you do not wish to participate in the class action, including the settlement if approved**.

It must be postmarked or received by Class Counsel by no later than [DATE].

Name:
Organization and title (if applicable):
Phone number:
Fax number:
Email:
Address:

Please provide the below information on the Renaissance Mutual Fund units that you hold or held through a Discount Broker. Please use additional paper if necessary.

Name of the Renaissance Mutual Fund(s)	Fund Code	Date of Acquisition	Number of Units Acquired	Date of Final Disposition (if applicable)

(PLEASE CIRCLE THE APPROPRIATE LANGUAGE)

I believe that **I am / the organization that I represent is** a member of the Class in the Action.

I believe that **I am not / the organization that I represent is not** amongst the persons and entities excluded from the Action.

I understand that by opting out of the Action, **I will not be eligible / the organization that I represent will not be eligible** for any benefit that may be available to the Class upon resolution of this matter, if and when such resolution may occur.

I, ____________________________________(print your full name), **OPT OUT FROM THE ACTION** and wish to be excluded from this class action.

I wish to opt out from this class action for the following reason(s) (*optional*):

____
____
____
____
____.

I, ____________________________________(print your full name), **CERTIFY** that the information provided herein is complete and true.

_______________________   ____________________________
Date   Signature

In order to validly opt out, you must complete and send this Supplemental Opt-Out Form by no later than [DATE] to:

Gigi Pao
Siskinds LLP
275 Dundas Street, Unit 1, P.O. Box 2520, London, ON N6B 3L1
Email: gigi.pao@siskinds.com

SCHEDULE 4
GOOGLE BANNER AD (FIRST NOTICE)

DRAFT TEXT (subject to design)

Have you held units of a CIBC Mutual Fund or Renaissance Mutual Fund through a discount broker?

You may be affected by a proposed class action settlement.

Click to learn your legal rights.

[*Link to https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/*]

SCHEDULE 5

STOCKHOUSE NEWS LINK (FIRST NOTICE)

DRAFT TEXT (SUBJECT TO DESIGN)

Have you held units of a CIBC or Renaissance Mutual Fund through a discount broker? Learn more here.

SCHEDULE 6
PLAN OF NOTICE

PLAN OF NOTICE

Unless otherwise modified herein, the definitions set out in the Settlement Agreement dated August 20, 2025 apply.

Part 1: First Notice will be disseminated (or caused to be disseminated) by Class Counsel as follows:

1. Short-form notice (substantially in the form attached as **Schedule E** to the Settlement Agreement):

    (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French;

    (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French);

    (c) disseminated as a news release in Canada across Canada NewsWire (in English and French);

    (d) published once in the business section of the national weekend edition of *The Globe and Mail*, in English;

    (e) published once in the business section of *La Presse*, in French;

    (f) sent electronically and/or in paper form to Discount Brokers in Canada with a cover letter requesting that they distribute the notice through their electronic message systems to the attention of their clients who may be Class Members and post the notice on their news boards directed to the attention of their clients who may be Class Members; and

    (g) filed by the Defendants as a news release on SEDAR.

2. Long-form notice (substantially in the form attached as **Schedule F** to the Settlement Agreement):

    (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French; and

    (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French).

3. Google banner ad (substantially in the form attached as **Schedule G** to the Settlement Agreement) published for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, for no less than 30 days and no more than 35 days.

4. Stockhouse news link (substantially in the form attached as **Schedule H** to the Settlement Agreement) published as a 12-day sponsored news link.

Part 2: Second Notice will be disseminated by Class Counsel and the Administrator as follows:

1. Short-form notice (substantially in the form attached as **Schedule I** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French;

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French);

   (c) disseminated as a news release in Canada across Canada NewsWire (in English and French);

   (d) published once in the business section of the national weekend edition of *The Globe and Mail*, in English;

   (e) published once in the business section of *La Presse*, in French;

   (f) sent electronically and/or in paper form to Discount Brokers in Canada with a cover letter requesting that they distribute the notice through their electronic message systems to the attention of their clients who may be Class Members and post the notice on their news boards directed to the attention of their clients who may be Class Members; and

   (g) filed by the Defendants as a news release on SEDAR.

2. Long-form notice (substantially in the form attached as **Schedule J** to the Settlement Agreement):

   (a) posted by Class Counsel on https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/, in English and French; and

   (b) provided (by email, if possible) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French).

3. Google banner ad (substantially in the form attached as **Schedule K** to the Settlement Agreement) published for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, for no less than 30 days and no more than 35 days.

4. Stockhouse news link (substantially in the form attached as **Schedule L** to the Settlement Agreement) published as a 12-day sponsored news link.

POZGAJ v. CANADIAN IMPERIAL BANK OF COMMERCE et al.

Court File No. CV-18-00605345-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

ORDER
(SETTLEMENT PRE-APPROVAL ORDERS)

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ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

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AFFIDAVIT OF GIGI PAO
(Affirmed June 23, 2026)

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ROSS v. RBC GLOBAL ASSET MANAGEMENT INC. *et al.*

Court File No. CV-18-00611743-00CP

ONTARIO
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MOTION RECORD OF THE PLAINTIFF
VOLUME 3 OF 3

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