

SUPERIOR COURT
(CLASS ACTION)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N° : 500-06-000500-104

DATE : MARCH 14, 2012

IN THE PRESENCE OF: THE HONOURABLE ROBERT MONGEON, J.S.C.

VIRGINIA NELLES
Petitioner

vs.

ROYAL BANK OF CANADA
Respondent

JUDGMENT

[1] The Court having examined the Motion to Approve a Class Action Settlement Agreement and Transaction, to Permit the Amendment of the Amended Motion Introductory of Class Action Proceedings, to Approve the Payment of Legal Fees by The Class to Class Counsel and to Authorize the Reimbursement of Amounts Owed to the Fonds d'Aide aux Recours Collectifs, as well as the Exhibits and Affidavits in support thereof produced in the present Court record, and after having heard counsel for the parties and certain Class Members, renders the following Judgment:

[2] **GRANTS** the present Motion;

[3] **APPROVES** the Settlement and Transaction Agreement entered into by the parties on March 5, 2012 (Exhibit R-1), and orders the parties and the Claims Administrator to comply with the terms thereof;

[4] **DECLARES** that the Settlement Agreement is fair and reasonable and in the best interests of the Class members;

[5] **GRANTS** the Plaintiff's Motion to Amend the Amended Motion Introductory of Class Action Proceedings in accordance with the Re-Amended Motion Introductory of Class Action Proceedings set forth in Schedule in 3.1 of the Settlement Agreement;

[6] **DECLARES** that the claims of the Class members which have been added to the present Class Action in accordance with the Re-Amended Motion Introductory of Class Action Proceedings shall be bound by the final Judgment and Settlement Agreement unless they opt out thereof by filing a Notice with the Clerk of the Superior Court of Quebec, by registered mail, of their intention to opt out such claims from the Class Action by no later than May 14, 2012;

[7] **APPOINTS** Mr. Kevin Curran, BSc. BSc. B. Arch., as the Claims Administrator and orders Mr. Curran to abide by the terms of the Settlement Agreement;

[8] **APPROVES** the Proof of Claim form and instructions in respect of completing the Proof of Claim form set forth in Schedule 5.2.7 to the Settlement Agreement;

[9] **DECLARES** that the Claims Bar Date after which Class members may not file a Proof of Claim is June 15, 2012;

[10] **APPROVES** the form and content of the final Judgment Notice produced as Schedule 5.2.3 to the Settlement Agreement;

[11] **APPROVES** the payment to Class counsel of fees and costs by the Class in accordance with the Statement of Account (Exhibit R-4), to be paid out of the Settlement Proceeds;

[12] **APPROVES** the payment to the Fonds d'aide aux recours collectifs of the amount of Two Hundred Thousand Dollars (\$200,000.00), to be paid out of the Settlement Proceeds;

[13] **APPROVES** the payment to the Claims Administrator of the Settlement Administration Expenses set forth in the Settlement Agreement, to be paid out of the Settlement Proceeds, as defined in the Settlement Agreement;

[14] **ORDERS** collective recovery;

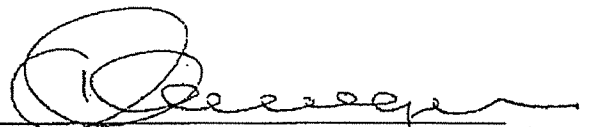
[15] **APPROVES** the distribution process set forth in the Settlement Agreement;

[16] **DECLARES** that the Plaintiff may grant the Release to the Released Parties on her own behalf, and in her quality as designated representative on behalf of the Class members who have not opted out of the Class Action, in accordance with sections 8 and 9 of the Settlement Agreement, declares that said Releases are binding on all Class members who have not or who do not validly opt out of the Class Action pursuant to Article 1007 C.C.P., and declares that the Defendant and its related, affiliated and associated parties are released in accordance with the terms of Section Nine (9) of the Settlement Agreement;

[17] **REMAINS** seized with issues that may arise within the present Class Action;

[18] **RESERVES** the rights of Barbara MacLeod, the Estate of the late Julianna MacLeod and the Estate of the late Dirk Dresselhuizen in respect of the matters raised by counsel on their behalf in a letter dated March 13, 2012 produced into the present Court record;

[19] **THE WHOLE** without costs.


ROBERT MONGEON, J.S.C. *js*

Me Neil Stein
Stein & Stein Inc.

Me Robert Kugler
Kugler Kandestin L.L.P.

Attorneys for Petitioner

Me Alexander L. De Zordo
Me Emmanuelle Rolland
Borden Ladner Gervais, LLP

Attorneys for Respondent

Date of hearing: March 14, 2012

MEMORANDUM OF AGREEMENT OF SETTLEMENT AND TRANSACTION ENTERED INTO AT MONTREAL, QUEBEC, EFFECTIVE THIS FIFTH (5TH) DAY OF MARCH, 2012 BY AND BETWEEN VIRGINIA NELLES (HEREIN REFERRED TO AS THE "PLAINTIFF"), ON HER OWN BEHALF AND IN HER QUALITY AS PLAINTIFF AND CLASS DESIGNATED REPRESENTATIVE FOR THE CLASS ACTION AUTHORIZED IN SUPERIOR COURT, DISTRICT OF MONTREAL, RECORD NUMBER 500-06-000500-104 AS SAME SHALL BE AMENDED AS HEREIN PROVIDED (THE "COURT PROCEEDINGS"), AND ROYAL BANK OF CANADA (HEREIN REFERRED TO AS THE "DEFENDANT").

WHEREAS:

- A. By Judgment dated July 14, 2010 of the Superior Court, District of Montreal (the "Court") in the Court Proceedings, Plaintiff was authorized to institute a Class Action against Defendant, and Plaintiff was ascribed the status of representative of the members of the Class therein described;
- B. By Motion Introductory of Class Action dated August 17, 2010 as amended (the "Class Action"), Plaintiff instituted a Class Action against Defendant claiming collective damages from the Defendant, as a result of capital losses sustained in respect of the operation of a bank account with Defendant opened in the name of Earl Jones In Trust ("EJ") and known as the Earl Jones In Trust Account number 00361-003-5266622 (the "EJ Trust Account") and which account was used by EJ to allegedly perpetrate a Ponzi scheme during the period therein described;
- C. The Class Action was originally instituted on behalf of all persons, and estates of deceased persons, trustees, es qualit  trusts and corporations (the "Initial Class Period Members" or "Initial Class") whose funds were deposited (the "Deposited Funds") to the EJ Trust Account during the period October 22, 1981 and August 28, 2008 (the "Initial Class Period") and who did not receive reimbursement of the total funds deposited therein;
- D. EJ was the sole shareholder, Director and Officer of a corporation known as Earl Jones Consultant and Administration Corporation (the "EJ Corp") which itself had an account with Defendant, account number 00361-003-1012350 (the "EJ Corporate Account");
- E. The balance of account held in the EJ Trust Account as at the end of August 28, 2008 (the "EJ Trust Account Balance") was transferred and deposited to the EJ Corporate Account and which account remained in operation until on or about July 29, 2009 when the said account was closed by Defendant (the "Extended Class Period" or the "Post-August 2008 Class Period");

- F. During the Extended Class Period, EJ also perpetrated a Ponzi scheme through the EJ Corporate Account, using the EJ Trust Account Balance transferred, thereto, as well as additional funds deposited to the EJ Corporate Account by or on behalf of Initial Class Members and others (the "Extended Class Members" or the "Post-August 2008 Class Members");
- G. EJ was declared bankrupt on August 10, 2009 in Superior Court, District of Montreal, Bankruptcy record number 500-11-037071-095 pursuant to Petition in Bankruptcy instituted on July 27, 2009 (the "EJ Initial Bankruptcy Event Date");
- H. EJ Corp was declared bankrupt on July 29, 2009 in Superior Court, District of Montreal, Bankruptcy record number 500-11-036947-097 pursuant to Petition in Bankruptcy instituted on July 10, 2009 (the "EJ Corp Initial Bankruptcy Event Date");
- I. EJ was charged criminally with various counts of fraud, theft, etc. related to the perpetration of an illegal Ponzi scheme as appears from Superior Court, District of Montreal record number 500-01-032683-093, and EJ pleaded guilty to various charges therein;
- J. For purposes of the present Settlement, the parties agree to make an amendment to the Class Action to add the Extended Class Members as part of the Initial Class (the Initial Class Members and the Extended Class Members being herein collectively referred to as the "Class" or "Class Members") and to modify the Initial Class Period to include the Extended Class Period (collectively herein referred to as the "Class Period"), the whole subject to Judgment of the Superior Court approving the present Settlement and Transaction, and granting the said amendments (the "Re-Amended Class Action");
- K. Accordingly upon approval of the Court, the Class will be described as follows;

All persons, and estates of deceased persons, trustees, es qualit  trusts and corporations whose funds were deposited to the Earl Jones In Trust Account (account number 00361-003-5266622) and/or, directly or indirectly, to the Earl Jones Consultant & Administration Corp. Account (account number 00361-003-1012350) (hereinafter, the "Accounts") at the Royal Bank of Canada, between the period October 22, 1981 and July 29, 2009, and who did not receive reimbursement of the total funds deposited therein.

- L. Defendant denies that it is liable for any of the claims as alleged in the Initial Class Action or the Re-Amended Class Action and believes that it has good and reasonable defences in respect of the merits of the said proceedings, and that in the event the claims as alleged in the Re-Amended Class Action are not settled and transacted as herein provided it intends to actively pursue these defences;

- M. The Plaintiff, various Class members, Counsel for Plaintiff and the Class ("Class Counsel"), representatives of the Defendant and counsel for Defendant ("Defendant's Counsel") have engaged in extensive arm's length settlement discussions and negotiations in respect of this settlement and transaction agreement (the "Settlement and Transaction Agreement"), and as a result of same, the parties, on a without admission of liability basis, have entered into this agreement embodying all of the terms and conditions of the settlement and transaction of the Re-Amended Class Action, the whole contingent upon and subject to Court approval hereof;
- N. Based on an analysis of the facts and the law, taking into account the burden, expenses and risks of litigation and uncertainties associated with trials and appeals, as well as the fair, cost effective and assured method of resolving the claims alleged in the Re-Amended Class Action, the Plaintiff and Class Counsel have concluded that the settlement and transaction herein concluded provides substantial benefits to the Class and is fair, reasonable , adequate and in the best interest of the Class;
- O. Defendant does not admit through the execution of this Settlement and Transaction Agreement any allegation(s) of fault, negligence or want of skill alleged or which could potentially be alleged in the Re-Amended Class Action and enters into the present agreement without admission of liability and solely for the purposes above stated.

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:

1. Preamble

- 1.1 The Preamble is true and correct and shall form an integral part hereof.

2. Settlement

- 2.1 Subject to the approval of the present Settlement and Transaction Agreement by the Court pursuant to Article 1025 of the *Code of Civil Procedure of Quebec* ("CCP") (herein referred to as the "Final Judgment") Defendant shall upon Final Judgment, set aside the sum of Seventeen Million Dollars (\$17,000,000.00) inclusive of all taxes, costs and legal fees, together with all interest to be accrued thereon as herein provided (the "Settlement Proceeds") to be deposited in an interest bearing term deposit of Defendant, in full and final settlement and in transaction of any and all claims, actions or demands made in the Re-Amended Class Action or which could have potentially been made therein, until the opt-out period provided for in the Final Judgment expires;

- 2.2 Once the opt-out period expires, the Settlement Proceeds (and accrued interest), subject to the possible adjustment due to opting-out of Class Members, will then be disbursed in Class Counsel's In Trust Account within 10 days of the expiry of the opt-out period;
- 2.3 Upon receipt of the Settlement Proceeds, Class Counsel shall disburse therefrom the fees, disbursements and taxes due and owing to the Fonds d'aide aux recours collectifs (if any) and Class Counsel, and the balance of the Settlement Proceeds (the "Net Settlement Proceeds") shall remain in Class Counsel's In Trust Account to be disbursed in accordance with the terms hereof by Class Counsel acting as the disbursing agent (the "Disbursing Agent"), upon receipt of instructions from the Claims Administrator hereinafter defined (the "Claims Administrator"). The Disbursing Agent shall invest the Settlement Proceeds in a distinct interest bearing trust term deposit with a Canadian Chartered Bank (the "Trust Funds") to be dealt with and distributed to the Class Members who have not opted out of the Class Action and/or Re-Amended Class Action pursuant to Article 1007 CCP and who have filed valid proofs of claim as hereinafter provided;

3. **Amendment of Class Action and Possible Adjustment of Settlement Proceeds**

- 3.1 Counsel for the Class shall forthwith after signature hereof, petition the Court to re-amend the Initial Class Action to include the Extended Class Members or the Post-August 2008 Class Members and to modify the Initial Class Period to the Extended Class Period or Post-August 2008 Class Period, the whole in accordance with the Re-Amended Motion Introductory of Class Action Proceedings and Motion to Re-Amend Class Action attached hereto as Schedule 3.1. Thereafter the Class and Class Period shall be described as follows:

All persons, and estates of deceased persons, trustees, es qualité trusts and corporations whose funds were deposited to the Earl Jones In Trust Account (account number 00361-003-5266622) and/or, directly or indirectly, to the Earl Jones Consultant & Administration Corp. Account (account number 00361-003-1012350) (hereinafter, the "Accounts") at the Royal Bank of Canada, between the period October 22, 1981 and July 29, 2009, and who did not receive reimbursement of the total funds deposited therein.

- 3.1.1 Defendant shall publish a Notice to Class Members of the Re-Amended Class Action, informing certain Class Members of the limited right to opt out thereunder for a period of thirty (30) days, pursuant to Article 1007 CCP, the whole in accordance with the terms of a notice to be approved by the Court;
- 3.2 In the event there are Class Members who have opted out of the Re-Amended Class Action, prior to the expiry of all delays pursuant to Article 1007 CCP, the Settlement Proceeds to be paid by Defendant, shall be subject to the following adjustments:

3.2.1 If the Aggregate Capital Losses of the Class Members who have opted out of the Re-Amended Class Action exceeds the sum of Five Hundred Thousand Dollars (\$500,000.00) in accordance with the calculations of the Defendant's internal forensic report as confirmed by the Class' forensic expert's report, then the Settlement Proceeds shall be adjusted by reducing therefrom Forty-Five Percent (45%) of the Aggregate Capital Losses of Class Members who have opted out of the Re-Amended Class Action;

3.2.2 There shall be no adjustment to the Settlement Proceeds in the event that the Aggregate Capital Losses suffered by the Class Members who have opted out of the Re-Amended Class Action, in accordance with the calculations of Defendant's internal forensic report as confirmed by the Class' forensic expert's report is Five Hundred Thousand Dollars (\$500,000.00) or less;

3.3 The term "Aggregate Capital Losses" for purposes of the present section shall mean on behalf of all Class Members who have opted out of the Re-Amended Class Action, the aggregate of all funds deposited by or to the credit of the said Class Members (without duplication) to the EJ Trust Account and EJ Corporate Account, less all funds withdrawn and paid directly or indirectly to or to the benefit of the said Class Members therefrom during the period October 22, 1981 to July 29, 2009, and shall not include any interest allegedly earned or accrued in respect of the funds deposited therein;

4. Best Efforts

4.1 The parties shall use their best efforts to effect and complete the terms and conditions of the Settlement and Transaction Agreement, and without limitation thereto, shall use their best efforts to obtain the approval of the Court for the Motion to Re-Amend the Motion Introductory of Class Action, and to approve the present Settlement and Transaction Agreement;

5. Motion to Amend and Motion for Approval

5.1 Promptly after execution of this Settlement and Transaction Agreement, the parties shall jointly advise the Court of same and obtain a date to present a Motion to Approve the Settlement and Transaction Agreement ("Motion to Approve"), as well as to Re-Amend the Motion Introductory of Class Action in accordance with the Motion to Re-Amend Class Action and the Re-Amended Motion Introductory of Class Action attached as Schedule 3.1

5.2 Plaintiff's Motion to Approve shall seek orders that, *inter alia*:

- 5.2.1 Approve this Settlement and Transaction Agreement;
- 5.2.2 Declare that the settlement and transaction provided for herein is fair and reasonable and in the best interests of the Class Members;
- 5.2.3 Approve the notice to the Class to be published after the Final Judgment, copy of which is annexed hereto as Schedule 5.2.3 (herein referred to as the "Judgment Notice");
- 5.2.4 Provide a claims bar date after which no Class Member shall be entitled to file a proof of claim in respect of the Settlement Proceeds (herein referred to as the "Claims Bar Date");
- 5.2.5 Authorize Plaintiff in her designated capacity on behalf of Class Members who have not opted out of the Re-Amended Class Action in accordance with article 1007 CCP, to enter into and grant the releases referred to in section Nine (9) hereof and seek a judgment declaring that the releases provided for herein are binding on all Class Members;
- 5.2.6 Declare that the Defendant and its related, affiliated and associated parties are released in accordance with the terms of Section Nine (9) hereof;
- 5.2.7 Approve the content and form of the Proof of Claim and instructions for completing same, copies of which are annexed as Schedule 5.2.7 hereto (herein collectively referred to as a "Proof(s) of Claim");
- 5.2.8 Approve the payment of amounts due to the Fonds d'aide aux recours collectifs, and approve the payment of amounts due to Class Counsel in accordance with the agreement entered into by Plaintiff and Class Counsel, a copy of which will be produced as an exhibit to the Motion to Approve.
- 5.2.9 Approve and declare such other matters as counsel to the parties may reasonably request to the extent not inconsistent with the terms of the present Settlement and Transaction Agreement.

6. **Allocation of Class Members' Pro Rata Share of Net Settlement Proceeds**

- 6.1 Upon the Final Judgment acquiring the authority of *res judicata*, the allocation of each Class Member's pro rata share of the Net Settlement Proceeds shall be determined and calculated as follows:
 - 6.1.1 Each Class Member shall file a Proof of Claim prior to the Claims Bar Date with the Claims Administrator hereinafter named calculating his/her/its

loss as defined in the description of the Class in the Re-Amended Class Action (the "Capital Loss");

- 6.1.2 The Claims Administrator shall as hereinafter provided analyze and determine the amount of the Capital Loss and admissibility of the Proof of Claim, using the information that he has compiled to date to determine the Capital Loss of the Class Members, and to the extent available by using the raw data, information and analysis prepared or relied upon by Class's forensic experts as well as Defendant's internal forensic experts and its external expert PricewaterhouseCoopers Inc. (collectively, the "Forensic Expertise Information"), it being understood that the Defendant will not provide communications governed by solicitor/client privilege or information that does not relate to the calculation of capital losses regarding any proof of claim filed;
- 6.2 The Defendant, Counsel for the Class and Counsel for Defendant undertake to cause their respective forensic experts to deliver their respective Forensic Expertise Information (it being understood Defendant's internal forensic material is limited to reasonably available numerical analysis) to the Claims Administrator as expeditiously as possible after Court approval hereof;
- 6.3 After paying all amounts to be paid as provided for herein, and in the event a balance remains undisbursed from the Net Settlement Proceeds (the "Balance"), subject to all rights and recourses of the Fonds d'aide aux recours collectifs, the Plaintiff shall propose and name a charity to which the Balance shall be paid, and shall thereafter petition the Court for its approval to pay the Balance to the said charity;

7. Administration of Settlement

- 7.1 Subject to Court approval, the parties agree that Mr. Kevin Curran, BSc. BSc. B. Arch. shall be appointed the Claims Administrator and Class Counsel shall be the Disbursing Agent. In performing his functions hereunder, the Claims Administrator shall act as an officer of the Court and without limitation the Claims Administrator shall:
- 7.1.1 If requested by Class Member(s) supply a copy of the Proof of Claim form via mail, telecopy or email.
- 7.1.2 Consider and determine the admissibility of the Proofs of Claim submitted and, if deemed necessary consult the Forensic Expertise Information and experts who prepared same to make the determination in accordance with the terms of the present Settlement and Transaction Agreement.

- 7.1.3 Require that the Disbursing Agent place the Net Settlement Proceeds in an interest-bearing trust term deposit with a Canadian Chartered Bank.
- 7.1.4 If requested assist the Class Member(s) in the preparation of their Proofs of Claim in order that they shall not be required to seek unwarranted professional services.
- 7.1.5 Provide a methodology to register Proofs of Claim and if required to communicate with all Class Member(s) in the most cost effective and efficient manner possible.
- 7.1.6 Provide the Disbursing Agent with the Claims Administrator's Report defined in Section 8.5 hereof and provide the Disbursing Agent with written instructions to disburse the Net Settlement Proceeds in accordance with same.
- 7.1.7 Maintain the accounting records for the admissibility of the Proofs of Claim, the Proofs of Claim and disbursement records for a period of seven (7) years from date hereof.
- 7.1.8 Provided that the Disbursing Agent has not acted in a grossly negligent manner or with wilful misconduct, nothing in this Settlement and Transaction Agreement shall make the Disbursing Agent responsible or liable on any matter for the sufficiency, correctness, genuineness or validity of any notice, direction, authorisation and/or any other document to be delivered pursuant to this agreement and accordingly, the Disbursing Agent shall be at liberty to accept any authorisations or directions of the Claims Administrator or any other documents provided by the Claims Administrator as to any statements of facts as conclusive evidence of the truth of such statements and the Disbursing Agent shall be in no way bound to call for further evidence or be responsible for any loss that may be occasioned by its failing to do so. For greater certainty, but subject to the Disbursing Agent not acting in a grossly negligent manner or with wilful misconduct, the Disbursing Agent shall be entitled to assume or rely upon the authority of the person making or signing such notice, direction, authorisation and/or document, the genuineness of the signatures thereto and the accuracy of the matter set out therein, with the right, but without the duty or obligation on the part of the Disbursing Agent, to inquire beyond the face of any such notice, direction, authorisation and/or document received by it. The Disbursing Agent shall perform only the duties expressly set forth herein. The duties of the Disbursing Agent hereunder are purely ministerial in nature and it shall not be liable for any error of judgment or for any act done or step taken or

omitted by it in good faith, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith.

7.1.9 In addition to, and without limiting any other protection of the Disbursing Agent hereunder or otherwise by law, the Claims Administrator shall defend, indemnify and hold the Disbursing Agent, and its partners, harmless from and against any and all liabilities, losses, claims, damages, penalties, actions, suits, demands, levies, costs, expenses and disbursements including any and all legal and adviser fees and disbursements of whatever kind or nature which may at any time be suffered by, imposed on, incurred by or asserted against the Disbursing Agent whether groundless or otherwise, howsoever arising from or out of any act or omission of the Disbursing Agent unless arising from the gross negligence or wilful misconduct on the part of the Disbursing Agent. Notwithstanding any other provision hereof, this indemnity shall survive the removal or resignation of the Disbursing Agent or termination of this agreement.

7.1.10 The Disbursing Agent shall not be liable for any action taken or omitted by it, or any action suffered by it to be taken or omitted, excepting only its own gross negligence or wilful misconduct.

7.1.11 In the event that:

- (a) any action is threatened or instituted against the Disbursing Agent;
- (b) any dispute arises or any action is threatened or instituted, concerning the entitlement of any person to the Net Settlement Proceeds, or any part thereof; or
- (c) if at any time the Disbursing Agent is uncertain as to its obligations hereunder,

the Disbursing Agent may apply to the Honourable Robert Mongeon, j.s.c. or such other court of competent jurisdiction in Quebec for clarification or direction with respect to its obligations hereunder, and in such event, or if any other person should apply to Justice Mongeon with respect to any matter affecting the obligations of the Disbursing Agent hereunder or otherwise relating to the Net Settlement Proceeds, or any part thereof, the Disbursing Agent may and is hereby authorised to release, deliver or otherwise deal with the Net Settlement Proceeds, or the balance thereof, in accordance with the directions, orders, judgments or decrees of such Court. If a judicial proceeding is instituted by the Disbursing Agent, it shall be entitled to its reasonable attorney's fees with respect thereto.

7.1.12 The parties hereto hereby acknowledge and agree that notwithstanding that the Disbursing Agent is acting as disbursing agent hereunder, the

Disbursing Agent shall be entitled to act or continue to act and shall not be disqualified from acting or continuing to act as legal counsel for Plaintiff and the Class both while it is acting as Disbursing Agent hereunder and thereafter. Notwithstanding its duties as Disbursing Agent, the parties agree that neither the Disbursing Agent's services hereunder, nor any provision hereof either express or implied, shall restrict or inhibit the Disbursing Agent in any way from acting as Plaintiff's legal counsel in any action, dispute, controversy, arbitration, suit or negotiation arising under this Settlement and Transaction Agreement or under any other agreement to which the parties hereto or any of them are a party or in any other manner or context whatsoever, whether or not directly or indirectly involving any of the parties hereto.

- 7.2 The costs of the Claims Administrator's administration of the Settlement and Transaction Agreement will be paid from the Net Settlement Proceeds (herein referred to as the "Settlement Administration Expenses"). Without limitation same shall include the fees and expenses of the Claims Administrator not to exceed \$150,000.00 plus reasonable disbursements and applicable taxes, the costs of an assistant to the Claims Administrator not to exceed \$25,000.00, the costs of telephone access to the Claims Administrator, and the costs of a dedicated web site established by the Claims Administrator if deemed necessary providing details of the transaction and settlement, the claims procedure, PDF downloading of the Final Judgment, the Settlement and Transaction Agreement, Final Judgment Notice, Proof of Claim forms, on line registration of Proofs of Claim, and any other matters or things deemed necessary or desirable by the Claims Administrator acting reasonably.
- 7.3 To participate in the Net Settlement Proceeds, a Class Member must remit to the Claims Administrator a signed Proof of Claim in the form approved by the Court together with the other genuine and sufficient documentation specified in the Proof of Claim form on or before the expiry of the Claims Bar Date (a person who has submitted a Proof of Claim being herein referred to as a "Claimant").
- 7.4 Within thirty (30) days of the Claims Bar Date, the Claims Administrator shall send written notification to the Claimant ("Notification No. 1") by mail or other reputable means that: (herein referred to as the "Claims Administrator Decision")
- 7.4.1 The Proof of Claim has been accepted as filed, and in such event indicating that payment of the Class Member's pro rata share of the Net Settlement Proceeds will be made upon payment to be made from the Net Settlement Proceeds, or

- 7.4.2 The Proof of Claim has been rejected and the reason for rejection and the right to a dispute resolution mechanism for the purpose of appealing the rejection decision, or
- 7.4.3 The Proof of Claim has not been accepted entirely and additional information or documentation is required to support the Proof of Claim. Details of the information or documentation required will be included with the notification. The Claimant will have Thirty (30) days from the date of Notification No. 1 to provide the additional information or documentation failing which (1) if the Proof of Claim has been rejected, the Proof of Claim shall be considered rejected for all legal purposes and the Claimant shall have no further rights to payment of the Class Member's pro rata share of the Net Settlement Proceeds; (2) if the Proof of Claim is not accepted in its entirety, then the Claims Administrator's decision of the Claimant's capital loss shall be considered as final and binding. Upon receipt of the additional information or documentation the Claims Administrator shall advise the Claimant if the Proof of Claim is (1) accepted, in which case the Claims Administrator shall instruct the Disbursing Agent to pay the Claimant's pro rata share of the Net Settlement Proceeds in accordance with the Claims Administrator's Report defined in Section 8.5 hereof, or (2) is rejected and/or is not accepted in its entirety and shall notify the Claimant in writing by registered mail within Ten (10) days of receipt of the additional information or documentation of its reasons ("Notification No. 2") and its right to the dispute resolution mechanism for the purpose of appealing the decision.

8. Dispute Resolution Mechanism for Claims Administrator Decision

- 8.1 Within Fourteen (14) days of the sending of Notification No. 2 by the Claims Administrator, but not thereafter, the Claimant may by registered mail or electronically in a manner established by the Claims Administrator, elect adjudication of the Claims Administrator Decision by the Honourable Mr. Justice Robert Mongeon (herein referred to as the "Referee") who shall act as sole and final arbitrator in respect of the determination as to the validity and/or value of the Claimant's Proof of Claim (herein referred to as the "Adjudication Process").
- 8.2 The Adjudication Process shall proceed by the Claims Administrator advising the Referee of the Claims Administrator's Decision, and the Claimant advising the Referee of the basis for his/her disagreeing with the Claims Administrator's Decision.
- 8.3 The Referee shall set any other rules or conditions as may be necessary to secure the speedy and inexpensive resolution of dispute(s) in writing, in person, or in such manner as the Referee determines to be appropriate. In the event of a

hearing in person same shall not exceed one day. The Parties to the Adjudication Process will be the Claimant and the Claims Administrator.

- 8.4 The Referee shall render his decision in writing within Seven (7) days of receiving all the information he requires and his decision shall be final and binding upon the Parties and the Claimant and without right of appeal or judicial review. The Referee shall send and distribute copy of his decision to the Claims Administrator and the Parties to the Adjudication Process.
- 8.5 Following the Adjudication Process in respect of all Claimants, the Claims Administrator shall prepare a report setting forth the pro rata share of the Net Settlement Proceeds owing to each Claimant, including those Claimants whose appeals have been accepted by the Referee (the "Claims Administrator's Report"). A copy of the Claims Administrator's Report shall be provided to Class Counsel/Disbursing Agent along with instructions to the Disbursing Agent to disburse the Net Settlement Proceeds to the Claimants in accordance with same.
- 8.6 Within two weeks following the Claims Administrator's Report or such other reasonable period as may be necessary in the sole discretion of the Disbursing Agent, the Disbursing Agent shall issue payment of the pro rata share of the Net Settlement Proceeds to each and every Claimant.

9. **Release**

- 9.1 After the Final Judgment acquires the status of *res judicata*, and upon the Effective Date hereinafter defined, and subject to the authorization of the Court herein provided:

9.1.1 The Plaintiff on her own behalf and in her quality as Class designated representative on behalf of the Class Members, as well as each individual Class Member upon receipt and distribution of the Settlement Funds, who have not opted out of the Class Action or Re-Amended Class Action pursuant to article 1007 CCP grant unto the Defendant and its parent(s), subsidiaries (including, without limitation, RBC Dominion Securities Inc.), affiliated and related persons, companies, partnerships, trusts, officers, directors, shareholders, partners, employees, representatives, agents, consultants and advisors (all such persons being hereinafter collectively referred to as the "Defendant Released Parties") as well as the Claims Administrator, and the Defendant Released Parties do grant unto the Plaintiff and the Class Members who have not opted out of the Class Action or the Re-Amended Class Action pursuant to article 1007 CCP, and the Claims Administrator for themselves and their predecessors, successors and assigns, a full and final and complete release and discharge of and from any and all claims, actions, suits, demands, causes of action,

costs and expenses which they ever had, may have had, now have or that their respective predecessors, successors and assigns can have or may have had individually or collectively or otherwise, for or by reason of, or in relation to (a) any fact, matter or transaction referred to in the Re-Amended Class Action and the claims settled and transacted herein, (b) all amounts claimed in the Re-Amended Class Action and (c) any conduct of Defendant and of the Defendant Released Parties in respect of the matters that were asserted in the Re-Amended Class Action and the Defence thereto.

9.1.2 Plaintiff on her own behalf and in her quality as Class designated representative on behalf of the Class Members who have not opted out of the Class Action or Re-Amended Class Action pursuant to Article 1007 CCP, does hereby represent and warrant to each of the Defendant Released Parties:

9.1.2.1 That upon approval by the Court of the Settlement and Transaction Agreement, and the said Judgment acquiring the status of *res judicata*, the present releases and discharges will be binding upon her and the Class Members who have not opted out of the Class Action or Re-Amended Class Action pursuant to Article 1007 CCP;

9.1.2.2 That in the event she asserts or any Class Member who has not opted out of the Class Action or the Re-Amended Class Action pursuant to Article 1007 CCP asserts, in relation to any claim or matter released herein, any claim against any other person, firm, partnership or corporation, who in turn may assert a claim for contribution, indemnity or any claim in warranty against any of the Defendant Released Parties, she or any Class Member(s) who assert such claim(s) does hereby renounce to the right to receive any further recovery in respect of same, directly or indirectly, from the Defendant Released Parties. Moreover, Plaintiff on her own behalf and in her quality as Class designated representative, as well as each individual Class Member, does hereby agree to renounce to his/her solidary claim, action or demand made against any of the Defendant Released Parties and any other party (the "Third Parties") such that he/she shall be entitled to claim and recover from the Third Party on a solidary basis, only those damages arising from the Third Party's liability for which he/she would not have a solidary recourse against any of the Defendant Released Parties;

- 9.2 Notwithstanding anything provided for herein, the following dispositions shall apply in respect of the Introductory Motion instituted prior to date hereof in Superior Court, District of Montreal record number 500-17-063616-117 (the "Macleod/RBC Dominion Securities Case"):
- 9.2.1 Plaintiff(s) in the Macleod/RBC Dominion Securities Case shall have the right (1) to participate in the Net Settlement Proceeds pursuant to the terms of the present Settlement and Transaction Agreement, in which case the Macleod/RBC Dominion Securities Case will be discontinued, each party paying its own costs and Plaintiff(s) therein will be bound by the terms and conditions of the present Agreement and, without limitation, by the terms and conditions of the releases and discharges herein granted, or (2) to continue with the Macleod/RBC Dominion Securities Case and pursuing any and all rights, claims and actions Plaintiff(s) thereunder may have against the Defendant Released Parties, in which case Plaintiff(s) shall not be entitled to participate in the Net Settlement Proceeds and the benefits of the present Settlement and Transaction Agreement (the "Withdrawal Right");
- 9.2.2 Plaintiffs in the Macleod/RBC Dominion Securities Case shall have a period of Fifteen (15) days from receipt of a written copy of the present Settlement and Transaction Agreement as approved by the Court from Defendant's Counsel to exercise the Withdrawal Right, same to be executed by way of written notice to Counsel for the Class and Defendant's Counsel that Plaintiff(s) thereunder are exercising their Withdrawal Right, and are continuing with the Macleod/RBC Dominion Securities Case: Withdrawal precludes Macleod from participating in any way whatsoever in the Net Settlement Proceeds provided for in the present Settlement and Transaction Agreement;
- 9.2.3 In the event that Plaintiffs in the MacLeod/ RBC Dominion Securities Case exercise the Withdrawal Right, there shall be no adjustment made to the Settlement Proceeds pursuant to Section 3 hereof;
- 9.4 Subject to the approval of the settlement set out herein and the present Settlement and Transaction Agreement by final judgment of the Court, the Defendant on its own behalf and on behalf of the Defendant Released Parties represents, warrants and undertakes that they will not institute, make or assert in respect of (1) the claims settled herein, (2) any claim(s) made in the Defence to the Class Action or Re-Amended Class Action or which could be made therein, or (3) any matter released herein, any claim, action, suit or demand against the Plaintiff and/or the Class Members who have not opted out of the Class Action or Re-Amended Class Action.

9.5 The effective date of the release and discharge provided for in this Settlement and Transaction Agreement (herein referred to as the "Effective Date") shall be the date on which the last of each of the following events has occurred:

9.5.1 The date upon which the Final Judgment approving the Settlement acquires the status of *res judicata*;

9.5.2 The date upon which Defendant shall have made and fulfilled all terms, conditions and payments provided for herein;

9.6 Except as provided for herein, this Settlement and Transaction Agreement does not settle, compromise, release or limit in any way whatsoever any claim, action or demand by a Class Member against any person other than the Defendant Released Parties;

10. Court Approval of Settlement

10.1 The present Settlement and Transaction Agreement is subject to approval of the Court as provided for in article 1025 CCP. In the event the Court does not approve same, or the Court approves the present Settlement and Transaction Agreement but such approval is revised or vacated or substantially modified on appeal, reconsideration or otherwise, and such order reversing or vacating or modifying the present Settlement and Transaction Agreement becomes final by lapse of time or otherwise, then this Settlement and Transaction Agreement shall be null and void and of no effect unless otherwise agreed to in writing by the Parties hereto (save in respect to section 10.2 hereof, which shall continue to apply);

10.2 In the event that the present Settlement and Transaction Agreement is rendered null and void for any reason (a) the Parties will be restored to their respective procedural positions prior to execution of the present Agreement (b) the present Agreement and the present settlement and transaction shall not be deemed to prejudice in any way the respective positions of the parties with respect to the Class Action and Re-Amended Class Action, and (c) neither the existence of the present Agreement nor its contents, including without limitation the settlement and transaction therein, shall be admissible in evidence or shall be referred to for any purpose in the Class Action or Re-Amended Class Action or in any other litigation or proceedings, and (d) the Re-Amended Class Action shall be without prejudice to any position that Plaintiff may later take to re-amend the Re-Amended Class Action to its pre-amended state, and to any position that any of the parties may later take on any issue in the Proceedings or any other litigation.

10.3 In the event that this Settlement and Transaction Agreement, or any material part thereof is not approved by the Court, or is approved in a materially modified form, either party hereto shall be entitled upon simple written notice to the other

to terminate the present Settlement and Transaction Agreement, whereupon and subject to section 10.2 hereof, the Parties agree to continue good faith negotiations in order to arrive at a mutually satisfactory settlement and transaction, and either party may require the other, for such purposes, to attend at a settlement conference before a Judge of the Superior Court, District of Montreal;

11. **Court Approval Hearing**

11.1 The Defendant shall give and publish notice to the Class Members in accordance with the requirements of article 1025 CCP including without limitation, the terms of this Settlement and Transaction Agreement and the date that the Court will hold a fairness hearing to approve the settlement and transaction provided for herein, by way of a single notice to be published in the same manner as the Defendant published Notice in respect of the Judgment Authorizing the institution of the Class Action, in the form of the notice attached as Schedule 11.1 (herein referred to as the "Settlement Notice") and in size and format acceptable to Class Counsel acting reasonably. The Settlement Notice shall clearly explain that a Class Member who has not opted out of the Class Action or Re-Amended Class Action pursuant to article 1007 CCP will upon the Effective Date have released and discharged the Defendant Released Parties from all right or cause of action in respect of the claims settled and transacted herein and allegations made in the Class Action and Re-Amended Class Action.

11.2 Promptly after execution of this Agreement, Plaintiff will serve upon Defendant's Counsel and present its Motion to Approve which shall provide for the distribution set forth herein (herein referred to as the "Final Judgment").

12. **Notice to the Class of Final Judgment and Claims Bar Date**

12.1 Forthwith after the Final Judgment acquires the authority of *res judicata* (i.e. final judgment no longer subject to appeal), Defendant pursuant to article 1030 CCP, shall forthwith:

12.1.1 Publish a notice setting out, inter alia, the tenor of this Settlement and Transaction Agreement and the claims administration process, by notices published once in the same manner as the Defendant published Notice in respect of the Judgment Authorizing the institution of the Class Action, the whole in content, size and format acceptable to Class Counsel acting reasonably (the "Judgment Notice").

12.2 Class Members shall have until 5.00 PM, Eastern Standard Time on the Claims Bar Date to file a Proof of Claim to participate in the present settlement and transaction, failing which any further claims hereunder will be barred. The

Parties will request that the Claims Bar Date be set at Sixty (60) days from the date of last publication of the Judgment Notice.

13. **Taxes and Interest**

13.1 All interest earned on the Settlement Proceeds shall be used to pay the Settlement Administration Expenses;

13.2 The Defendant shall have no responsibility to make any filings relating to the Settlement Proceeds and will have no responsibility to pay tax on any income earned by the Settlement Proceeds, or pay any taxes on the monies earned by the Settlement Proceeds, unless this Settlement and Transaction Agreement is terminated or not approved by the Court, in which case the interest earned on the Settlement Proceeds shall be paid to the Defendant who, in such case shall be responsible for payment of all taxes on such interest;

14. **Effect of Settlement**

14.1 Whether or not this Settlement and Transaction Agreement is terminated, this Agreement and anything contained herein, and any and all negotiations, documents, reports, discussions and proceedings associated with this Agreement, and any action taken to carry out the terms and conditions of this Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any law or statute, or of any fault, negligence, want of skill or wrongdoing or liability by any of the Defendant Released Parties, or the truth of any of the claims or allegations contained in the Proceedings, including without limitation, the Class Action and the Re-Amended Class Action or any other pleading filed by the Plaintiff;

15. **Schedules to this Agreement**

15.1 The Parties hereto have reviewed and approved the form and contents of the Schedules attached to the present Agreement;

16. **Representations and Warranties**

16.1 Subject to Court approval of this Settlement and Transaction Agreement and Court authorization of Plaintiff to grant the releases and discharges herein, the Plaintiff on the one hand personally and in her capacity as Class representative and the Defendant on the other hand, hereby represent and warrant to the other:

16.1.1 That she or it fully and completely understands and voluntarily accepts all of the terms and conditions of this Settlement and Transaction Agreement;

16.1.2 That she or it has entered into this Settlement and Transaction Agreement voluntarily, free of choice, without being induced to do so in any way by any statement made to her or it or their attorneys or anyone acting on her or its behalf;

16.1.3 That she or it has had adequate time and opportunity to obtain the advice of legal counsel and accordingly the rules of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in any interpretation of this Settlement and Transaction Agreement.

17. **Transaction**

17.1 The present Agreement shall constitute a contract of transaction within the meaning of article 2631 et seq. of the *Civil Code of Quebec* and the parties do hereby renounce to any errors of fact, of law and/or coloration.

17.2 The parties confirm that the Final Judgment shall constitute a final judgment of homologation of the transaction.

18. **Website**

18.1 Upon signature hereof, the Claims Administrator may establish, if he deems necessary, the creation and hosting of a website on the World Wide Web incorporating a site name of www.earljonesclassactionsettlement.com or such similar name as may be available, in which case the cost of same shall be funded from the Net Settlement Proceeds.

18.2 The website shall contain links to the following documentation:

18.2.1 The Class Action as Re-Amended

18.2.2 The Defense to the Class Action

18.2.3 This Settlement and Transaction Agreement

18.2.4 The Settlement Notices

18.2.5 The Motion for Approval and exhibits thereto

18.2.6 The Final Judgment

18.2.7 The Final Judgment Notice

18.2.8 The co-ordinates of the Claims Administrator

18.2.9 The co-ordinates of the Class Counsel and Counsel for Defendant

18.2.10 Proof of Claim forms and methodology to register same and to communicate with the Class Members and Claims Administrator

18.2.11 Such other matters as counsel acting reasonably may deem helpful and appropriate to implement the Settlement and Transaction Agreement and distribution of the Net Settlement Proceeds.

18.3 The website shall remain actively hosted for such period of time as the Claims Administrator deems reasonable.

19. **Translation**

19.1 The present Settlement and Transaction Agreement, as well as any and all Notices required will be drafted in English. Defendant shall be responsible for translating these documents into the French language only if requested by Class Members or required by the Court.

20. **Defendant to Have No Responsibility for Administration**

20.1 The Defendant Released Parties shall have no input, involvement or responsibility whatsoever with respect to the administration of this Settlement and Transaction Agreement, including without limitation, the administration of the claims administration process provided for in sections Seven (7) and Eight (8) hereof.

21. **Press Release**

21.1 The parties agree that upon signature hereof, they will agree upon the wording of a joint press release to be issued in English and French announcing to the public that the parties have agreed upon the terms of a settlement of the Re-Amended Class Action, which is subject to approval by the Court, the said release to acknowledge that the settlement is being made on a without admission of liability basis, and for purposes of creating good will between Defendant and its customers.

22. **General**

22.1 The covenants, representations and warranties of the parties shall survive the signing hereof.

22.2 All amounts referred to herein are Canadian currency.

22.3 The parties agree to do all acts and agree to sign all further documents necessary to give full force and effect to all provisions to this Agreement and any agreement arising there from.

22.4 This Agreement and any agreement arising there from shall be binding upon the parties hereto and their respective heirs, successors and permitted assigns.

22.5 This Agreement shall be interpreted and construed in accordance with the laws of the Province of Quebec and those of Canada applicable therein.

- 22.6 Any failure by any party at any time to insist upon the strict performance of any term, condition or covenant contained in this Agreement and any agreement arising there from shall not be deemed a waiver of her or its rights at any time thereafter to insist upon the strict performance thereof, or of any other term, condition or other covenant contained therein.
- 22.7 In the event any provision of this Agreement shall be or become illegal or unenforceable in whole or in part, the remaining provisions of this Agreement shall nevertheless be valid, binding and enforceable in accordance with their terms.
- 22.8 This Agreement and any agreements arising there from constitute the entire agreement between the parties and there are no other agreements, oral promises, conditions, representations, understandings, interpretations or terms of any kind or condition or inducements as to the execution hereof, or in effect between the parties hereto, and this Agreement supersedes any prior agreements between any or all of the parties hereto in respect hereof.
- 22.9 Unless there is something in the context inconsistent therewith, words importing the singular number shall include the plural and vice versa, and words importing the masculine gender shall include the feminine, and words importing persons shall include firms, associations and corporations and vice versa.
- 22.10 This Agreement may be executed in several counterparts each of which when so executed shall be deemed to be an original, and all of which together shall constitute one and the same agreement. In the event that no one counterpart shall be executed by each of the parties hereto, this Agreement shall nevertheless be properly executed if each of such parties shall have executed at least one counterpart, no one counterpart need bear the execution of each of them.
- 22.11 The parties hereto acknowledge having had this Agreement and its effects fully explained to them by legal counsel of their choice and confirm that they have understood such explanation.
- 22.12 Any notice, demand, consent, approval, information or other communication (herein referred to as a "Notice of Counsel") to be given or in connection with this Agreement shall be in writing and shall be given by personal delivery, telecopy or other electronic communication which results in a written or printed notice being given, addressed or sent as set out below or to such other address or electronic number as may from time to time be notified to the other parties.

If to Plaintiff or Class Counsel

c/o Stein & Stein Inc.

4101, Sherbrooke Street West
Montreal (Quebec) H3Z 1A7
Attention: Me Neil H. Stein
E-mail: nstein@steinandstein.com
Telecopy: 514-875-8218
Telephone: 514-866-9806

AND

c/o **Kugler Kandestin LLP**
1, Place Ville Marie, suite 2101
Montreal (Quebec) H3B 2C6
Attention : Me Robert Kugler
E-mail : rkugler@kugler-kandestin.com
Telecopy : 514-875-8424
Telephone : 514-878-2861

If to Defendant or Defendant's Counsel

c/o **Borden Ladner Gervais LLP**
1000, de la Gauchetière Ouest
Suite 900
Montreal (Quebec) H3B 5H4
Attention : Me Alexander L. De Zordo
E-mail : adezordo@blg.com
Telecopy: 514-954-1905
Telephone : 514-954-3191

Any notice to counsel if personally delivered, shall be deemed to have been validly and effectively given and received on the date of such delivery and if sent by telecopy or other electronic communication with confirmation of transmission, shall be deemed to have been validly and effectively given and received on the business day next following the day it was received.

- 22.14 The Court shall retain exclusive and continuing jurisdiction over the Re-Amended Class Action and the present Agreement. The parties hereto, and their counsel and Claims Administrator may apply to the Court for directions on notice to all parties to this Agreement.
- 22.15 The present Agreement and Schedules may as well be drafted in the French language and in the event of a difference between the two, the English version shall prevail.
- 22.16 The parties hereto acknowledge that they have required that this Agreement and Schedules thereto be drafted in the English language. / Les parties reconnaissent

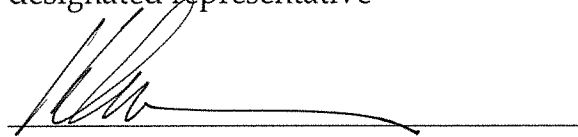
avoir exigé la rédaction dans la langue anglaise seulement de la présente convention ainsi que les annexes.

(Signature page to follow).

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO ON THE DATE AND AT THE PLACE FIRST HEREINABOVE WRITTEN.

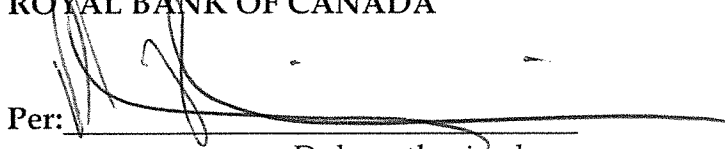


VIRGINIA NELLES, Plaintiff on her own behalf and in her quality as Class designated representative

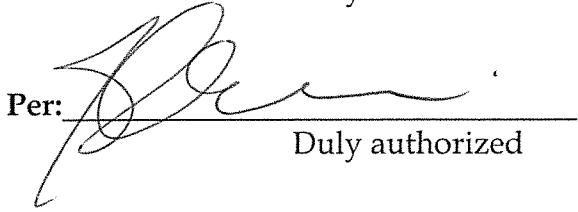


KEVIN CURRAN, Claims Administrator

ROYAL BANK OF CANADA



Per: _____
Duly authorized



Per: _____
Duly authorized

**Schedule 3.1
(Section 3.1)**

**RE-AMENDED MOTION INTRODUCTIVE OF
CLASS ACTION**

AND

MOTION TO RE-AMEND CLASS ACTION

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SUPERIOR COURT
(Class Action)

NO.: 500-06-000500-104

VIRGINIA NELLES

Plaintiff

-vs-

ROYAL BANK OF CANADA

Defendant

MOTION TO AMEND CLASS ACTION PROCEEDINGS
(Article 1016 C.C.P.)

**TO THE HONOURABLE MR. JUSTICE ROBERT MONGEON, THE PLAINTIFF
RESPECTFULLY SUBMITS THE FOLLOWING:**

1. By Judgment dated July 14, 2010, the Plaintiff was authorized to institute a class action against the Royal Bank of Canada, as appears from the Court record;
2. On or about August 17, 2010, the Plaintiff instituted a Motion Introductive of Class Action Proceedings against the Royal Bank of Canada, as appears from the Court record;
3. On or about October 27, 2010, the Plaintiff filed an Amended Motion Introductive of Class Action Proceedings, as appears from the Court record;
4. The class action lawsuit contains allegations referring to the operation of the Earl Jones In Trust Account at the Royal Bank of Canada, Beaconsfield Branch, as well as to the Earl Jones Consultant and Administration Corporation Account (the "Earl Jones Corporate Account") at the Royal Bank of Canada, as appears from the Court record;
5. The Earl Jones In Trust Account was operated until August 28, 2008, and the Earl Jones Corporate Account was operated until the end of July 2009;

6. The members of the class sustained damages as a result of the Ponzi scheme perpetrated by Earl Jones until he ceased business operations towards the end of July 2009;
7. On or about October 24, 2011, meetings took place between the parties, their quantum experts, their counsel and certain members of the class who head a committee referred to as the "Earl Jones Victims' Organizing Committee" (the "Committee"). During said meeting, proposals were made to settle the claims of all people or entities whose funds were deposited to the Earl Jones In Trust Account and/or, directly or indirectly, to the Earl Jones Corporate Account at the Royal Bank of Canada, Beaconsfield Branch (the "Accounts");
8. On or about October 30, 2011, the Plaintiff, her counsel, the Committee and in excess of seventy-five class members met to discuss the foregoing settlement proposals, and a decision was made to accept the settlement proposal;
9. In accordance with the settlement agreement of the parties, the Plaintiff is required to amend her class action lawsuit in order to clarify that the Class includes the claims of people and entities against the Royal Bank of Canada, whose funds were deposited, directly or indirectly, to the Accounts up until July 29, 2009, and who did not receive reimbursement of the total funds deposited therein;
10. Accordingly, the Plaintiff wishes to amend her class action proceeding in order to clarify the definition of the Class, and in order to amend certain allegations in connection with the clarified definition of the Class, the whole as appears more fully from a copy of the proposed Re-Amended Motion Introductory of Class Action Proceedings, produced herewith as Exhibit R-1;
11. The present amendment is made with a view to enable the parties to submit a settlement agreement for approval by the Court for the benefit of all people and/or entities whose funds were deposited, directly or indirectly, to the Accounts at the Royal Bank of Canada, and who did not receive reimbursement of the total amount of funds deposited therein. The present amendment is accordingly in the best interests of the parties and of the class members;
12. The present Motion is well-founded in fact and in law.

WHEREFORE, PLAINTIFF PRAYS FOR JUDGMENT OF THIS HONOURABLE COURT:

GRANTING the present Motion to Amend in accordance with the Re-Amended Motion Introductory of Class Action Proceedings produced as Exhibit R-1;

THE WHOLE without costs.

MONTREAL, March 5, 2012.

STEIN & STEIN INC.

KUGLER KANDESTIN, L.L.P.

ATTORNEYS FOR PLAINTIFF

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SUPERIOR COURT
(Class Action)

NO.: 500-06-000500-104

VIRGINIA NELLES

Plaintiff

-vs-

ROYAL BANK OF CANADA

Defendant

**RE-AMENDED MOTION INTRODUCTIVE
OF CLASS ACTION PROCEEDINGS**

THE PLAINTIFF RESPECTFULLY DECLARES:

I. INTRODUCTION

1. At all relevant times during the period from October 22, 1981 until July 29, 2009 (the "Period"), Earl Jones was a customer of the Royal Bank of Canada, Beaconsfield Branch;
2. At all relevant times between October 22, 1981 and August 28, 2008, Earl Jones maintained an account at the Royal Bank of Canada, Beaconsfield branch, namely the account "Earl Jones In Trust, number 00361-5266622" (the "Earl Jones In Trust Account"); at all relevant times between August 1, 2008 and the end of July 2009, Earl Jones maintained an account at the Royal Bank of Canada, Beaconsfield Branch, namely the account "Earl Jones Consultant and Administration Corporation" #00361-003-1012350 (the "Earl Jones Corporate Account"), (hereinafter, the Earl Jones In Trust Account and the Earl Jones Corporate Account shall be referred to as the "Accounts");
3. At all times during the Period, Earl Jones used the [...] Accounts at the Royal Bank of Canada to perpetrate a fraudulent Ponzi scheme. On January 15, 2010, Earl Jones pleaded guilty to the crimes of which he was accused [...];

4. By Judgment dated July 14, 2010, the Plaintiff was authorized to institute a class action against the Royal Bank of Canada on behalf of the following class, namely:

All persons, and estates of deceased persons, trustees, es qualité trusts and corporations whose funds were deposited to the Earl Jones In Trust Account at the Royal Bank of Canada, Beaconsfield Branch, between the period October 22, 1981 and August 28, 2008, and who did not receive reimbursement of the total funds deposited therein.

[...];

- 4.1. The Plaintiff now seeks to represent the following class, namely:

All persons, and estates of deceased persons, trustees, es qualité trusts and corporations whose funds were deposited to the Earl Jones In Trust Account (account #00361-003-5266622) and/or, directly or indirectly, to the Earl Jones Consultant & Administration Corp. Account (account #00361-003-1012350) (hereinafter, the "Accounts") at the Royal Bank of Canada, between the period October 22, 1981 and July 29, 2009, and who did not receive reimbursement of the total funds deposited therein.

(the "Class"):

5. The present class action seeks compensatory damages for the financial losses sustained by the Plaintiff and the members of the Class, as a result of the Royal Bank of Canada's negligence, and lack of prudence and vigilance in the operation of the [...] Accounts, as well as its willful blindness in facilitating the irregular and unlawful operation of the [...] Accounts during the Period;

II. THE PONZI SCHEME

6. At all relevant times, Earl Jones held himself out to be a businessman of the highest integrity who administered funds on behalf of third parties, including individuals, corporations, estates and trusts;
7. At all relevant times, Earl Jones represented to the members of the Class that the funds he administered on their behalf would be deposited in a trust account at the Royal Bank of Canada and would be invested to generate returns;
8. Throughout the Period, monies belonging to the members of the Class, including the Plaintiff, were deposited into the [...] Accounts at the Royal Bank of Canada;

9. Contrary to the representations made by Earl Jones to the members of the Class, Earl Jones never invested any of the funds that he collected in order to generate returns;
10. Instead, Earl Jones perpetrated a Ponzi scheme. Rather than investing the money that he collected from the members of the Class, Earl Jones deposited the money into the [...] Accounts at the Royal Bank of Canada, and then used said money to:
 - i) Make payments to certain members of the Class, which were ostensibly "returns", but which were in fact payments out of the very monies belonging to the Class members that had been deposited into the [...] Accounts in the first place;
 - ii) Withdraw substantial sums of money each and every year in order to live a life of luxury and to pay for his personal expenses and those of his family, such as mortgage payments and credit card bills, the whole as appears more fully from a Summary Report prepared by the Trustee in bankruptcy of Earl Jones and Earl Jones Consultant & Administration Corporation, a copy of which is produced herewith as **Exhibit P-1**;

III. THE LIABILITY OF THE ROYAL BANK OF CANADA

11. Earl Jones was able to use the [...] Accounts at the Royal Bank of Canada to perpetrate his Ponzi scheme for approximately 27 years;
12. Earl Jones would never have been able to perpetrate such a massive fraud were it not for the negligence, lack of prudence and vigilance, and willful blindness on the part of the Royal Bank of Canada, as set forth herein;
13. The Royal Bank of Canada knew from the outset of the Period that Earl Jones was an administrator of the property of others, and that all of the money deposited to the [...] Accounts belonged to third parties;
14. In Royal Bank of Canada's Sales Platform Profile, a copy of which is produced herewith as **Exhibit P-2**, Earl Jones was described as "administor (sic.) of estate";
15. The Royal Bank of Canada permitted Earl Jones to name and describe his account as "**Earl Jones In Trust**", the whole as appears more fully from a Royal Bank of Canada Client Profile of the Earl Jones In Trust Account printed on or about May 12, 1993, a copy of which is produced herewith as **Exhibit P-3**;

16. Throughout the Period, the Royal Bank of Canada and its authorized supplier continually provided cheques to Earl Jones containing the inscription "Earl Jones In Trust", knowing that such cheques would be issued to third parties, including the Plaintiff, who would understand, mistakenly, that the Earl Jones In Trust Account was a true "in trust" account. The Royal Bank of Canada accepted and honoured said cheques for payment throughout the Period;
17. In doing so, the Royal Bank of Canada facilitated Earl Jones in representing to the Class, including the Plaintiff, that their funds were being held in a true "in trust" account;
18. In fact, however, Earl Jones **and** the Royal Bank of Canada treated the Earl Jones In Trust Account as a **personal chequing account** belonging to Earl Jones;
19. Although the Royal Bank of Canada knew that the law prohibits an administrator of the property of others from commingling the funds being administered with personal funds, the Royal Bank of Canada knew that Earl Jones was using the funds in the Earl Jones In Trust Account as his **personal** funds, and the Royal Bank of Canada permitted and facilitated Earl Jones in doing so;
20. Furthermore, the Royal Bank of Canada attributed a VIP client status to Earl Jones, affording him numerous irregular and inappropriate privileges, which facilitated Earl Jones in perpetrating his Ponzi scheme. In particular,

A) Double-Endorsed Forged Cheques

- i) On numerous occasions throughout the Period, Earl Jones and his authorized representatives went to the Beaconsfield branch at the Royal Bank of Canada seeking to deposit cheques for substantial amounts of money into the [...] Accounts, which were **not** payable to Earl Jones or Earl Jones Consultant & Administration Corp.;
- ii) On the back of the foregoing cheques, there was an inscription stating "pay over to Earl Jones In Trust" or pay over to Earl Jones Consultant & Administration Corp., and the purported signature of the third party beneficiary of the cheque;
- iii) The Royal Bank of Canada blindly accepted the deposit of said cheques into the [...] Accounts, without ever making a single verification as to the authenticity of the "endorsement" on the back of the cheques;
- iv) The Royal Bank of Canada knew that once it accepted the deposit of such cheques into the [...] Accounts, Earl Jones, who was not the beneficiary of the cheques, would be able to use the money for his personal benefit and that of his family;

- v) By failing to make any verifications regarding the authenticity of "endorsements" on the back of cheques that Earl Jones sought to deposit into the [...] Accounts, the Royal Bank of Canada turned a blind eye to highly suspicious transactions which Earl Jones wished to make;
- vi) In fact, substantially all of the "endorsements" on the backs of the cheques were forgeries. A sample of cheques containing forged double endorsements which the Royal Bank of Canada accepted into the Earl Jones In Trust Account is produced herewith *en liasse* as **Exhibit P-4**;
- vii) If the Royal Bank of Canada had made elementary verifications as to the authenticity of the "endorsements", the Royal Bank of Canada would have easily uncovered that its customer was committing a crime of forging cheques, and the Royal Bank of Canada would have immediately put an end to the fraudulent scheme being perpetrated by Earl Jones, thereby preventing the losses sustained by the Class, including the Plaintiff;
- viii) By continually accepting the deposit of cheques containing forged "endorsements" into the [...] Accounts without first making any verifications, the Royal Bank of Canada committed a fault, and knowingly disregarded the numerous clear directives given by the Courts of the Province of Quebec to banks in general, and to the Royal Bank of Canada in particular, to verify the authenticity of endorsements on the backs of cheques before accepting same for deposit;
- ix) The Royal Bank of Canada accordingly failed to act in a reasonable, prudent and vigilant manner, and recklessly disregarded the interests of the members of the Class, including the Plaintiff;

B) Commingling of Funds, Debit Cards and Credit Cards

- i) At all times throughout the Period, the Royal Bank of Canada knew that the law prohibited an administrator of the property of others from commingling funds belonging to the administrator and to his clients;
- ii) Although the Royal Bank of Canada knew that the money deposited into the [...] Accounts belonged to third parties, and was to be administered by Earl Jones, by treating the Earl Jones In Trust Account as the personal account of Earl Jones, and the Earl Jones Corporate Account as if same did not contain trust funds, the Royal Bank of Canada facilitated Earl Jones in unlawfully using funds belonging to third parties, including the Plaintiff, for his personal benefit and that of his family;

- iii) In addition, the Royal Bank of Canada provided Earl Jones with debit cards and credit cards tied to the Earl Jones In Trust Account, enabling Earl Jones to withdraw cash, and to pay for personal expenses out of an account that the Royal Bank of Canada knew comprised funds belonging to third parties, including the Plaintiff;
 - iv) The Royal Bank of Canada therefore committed a fault in disregarding the fact that the [...] Accounts comprised money belonging to third parties, including the Plaintiff, and not to Earl Jones or his corporation personally;
 - v) As a result of the foregoing negligence on the part of the Royal Bank of Canada, Earl Jones was able to pay himself, or pay personal expenses, of approximately \$1 million per year during the Period (Exhibit P-1);
21. Not only was the Royal Bank of Canada negligent in facilitating the Ponzi scheme perpetrated by Earl Jones throughout the Period, the Royal Bank of Canada also turned a blind eye in 2001, after it specifically identified the irregular operation of the Earl Jones In Trust Account;
22. In particular, on or about November 7, 2001, an employee of the Royal Bank of Canada wrote a note summarizing the Earl Jones In Trust Account, a copy of which is produced herewith as **Exhibit P-5**, which states:
- “Mr. Jones returned my call. I offered him our ratelink essential package service because his fees are over \$150.00 every month. He is using this account for business purposes as an In Trust account, however, I told him this is not a formal trust account and he could get himself in trouble because this is just a personal account in his name alone, the In Trust does not mean anything in this case. He said his company is in the process of making big changes and he will look into it ...”
23. Notwithstanding the Royal Bank of Canada's identification of an irregular use of the Earl Jones In Trust Account, and notwithstanding that the note implies an imminent follow-up, the Royal Bank of Canada permitted Earl Jones to continue operating the Earl Jones In Trust Account in the identical irregular fashion, with the same irregular privileges, for approximately seven more years, without any follow up whatsoever;
24. As a result, from November 2001 until August 2008:
- i) Earl Jones continued perpetrating his Ponzi scheme;
 - ii) The Royal Bank of Canada continued to accept millions of dollars for deposit into the Earl Jones In Trust Account, including on the basis of forged endorsements on the backs of cheques that were never verified;

- iii) The Royal Bank of Canada continued to allow Earl Jones to use debit cards to withdraw cash from the Earl Jones In Trust Account; and,
 - iv) The Royal Bank of Canada continued to allow Earl Jones to use the money in the Earl Jones In Trust Account to pay for personal expenses;
25. In January 2008, the Royal Bank of Canada again raised questions about the Earl Jones In Trust Account. On January 24, 2008, the Royal Bank of Canada's Salvatore Micielli sent an e-mail, a copy of which is produced herewith as **Exhibit P-6**, stating:

"... The client has listed himself as self-employed and has no identification on file. The client has one CDN account and no other products with RBC. **Notes on the account indicate there was prior knowledge in 2001 that the client was operating business through the personal account**, the client was notified and stated that he would look into it.

A 90-day review was conducted on the account; at present time there has been activity which is consistent with the client operating a trust business account. The information on the account however may be encoded incorrectly, since all the information on the account points to it being a personal account rather than a lawyer's trust account. A KYC will be sent to determine this."

26. On July 23, 2008, Earl Jones wrote to the Royal Bank of Canada in reply to the suggested changes to the Earl Jones In Trust Account:

"It is most advantageous for me to operate an "In Trust Account". We understand the rules and regulations that you have given my assistant Debra Stewart and certainly will abide by them. It is my understanding that an "In Trust Account" can be operated, however, the account must be set up under a new account number for specific classifications in the records of the Royal Bank. I certainly will concur with this necessity and would ask that this change be made.

As for an account that we would require pertaining to, for example, our estates and our trusts that we administer to, I would like to know and set up the type of account that will allow us to deposit and withdraw transactions relating to the various trusts and estates that we have under our administration. In all cases, I am either a Trustee and/or Executor and/or officially appointed the administrator for the Trustees and/or the Executors.

Documentation is held at our office. One specific account would be required as we do at any one time administer to some twenty-five to thirty estates and have well over fifty trusts that we are administering to at any one time. Our Debra Stewart advised me that you felt a specific type of account could be opened, however, when depositing cheques payable to a specific estate, a special notation would have to be placed on the reverse side of the cheque.

We do receive cheques from our clients payable to themselves and we have commenced working with them to have these cheques made payable to Earl Jones In Trust and/or to the name of the new account that would be opened as requested above.”

A copy of this letter and the transmittals sent with same are produced herewith as **Exhibit P-7** *en liasse*;

27. Notwithstanding the foregoing, the Royal Bank of Canada did not end its relationship with Earl Jones at this time, and did not investigate further; the Royal Bank of Canada simply opened a **Business** Deposit Account in the name of Earl Jones Consultant & Administration Corporation, the account bearing number 00361-003-1012350, and herein described as the Earl Jones Corporate Account, which allowed Earl Jones to continue perpetrating his Ponzi scheme;
28. On August 28, 2008, at the request of the Royal Bank of Canada, Earl Jones simply transferred the money in the Earl Jones In Trust Account to the Earl Jones Corporate Account [...], permitting Earl Jones to continue the same “trust business”, only out of a different account. A copy of the Client Agreement dated July 24, 2008 and Certificate of Incorporation for Earl Jones Consultant & Administration Corporation of May 16, 1984 are produced herewith *en liasse* as **Exhibit P-8**. Copies of statements for both accounts from August 2008, together with the cheque drawn upon the Earl Jones In Trust Account, payable to Earl Jones Consultant & Administration Corporation, are produced herewith *en liasse* as **Exhibit P-9**;
- 28.1 As a direct result of the Royal Bank of Canada’s negligence and willful blindness, Earl Jones was able to perpetrate a Ponzi scheme which caused financial losses to all members of the Class, including a financial loss currently estimated to be approximately \$250,000.00 sustained by the Plaintiff personally;
29. Earl Jones Consultant and Administration Corporation and Earl Jones, personally, were declared bankrupt on July 29 and August 10, 2009, respectively;

IV. THE DAMAGES

30. Substantial amounts of money belonging to the members of the Class, including the Plaintiff, were deposited to the [...] Accounts, were never invested and were never fully reimbursed;
31. As appears from a preliminary report of the Trustee to the bankruptcy of Earl Jones, a copy of which is produced herewith as **Exhibit P-10**, the creditors of Earl Jones, including the Plaintiff and members of the Class, have filed proofs of claim totaling in excess of \$74,500,000.00;
32. The Trustee in bankruptcy to Earl Jones and to Earl Jones Consultant and Administration Corporation believes that the members of the Class will not receive any dividend;
33. The Royal Bank of Canada is liable to the members of the Class, collectively, for the sum of money deposited to the [...] Accounts which was not fully reimbursed to the members of the Class (the "Collective Loss");
34. The Collective Loss sustained by the Plaintiff and the members of the Class is estimated to be \$40,000,000.00, the whole subject to amendment following expertise;
35. The present Motion is well-founded in fact and in law;
36. The Plaintiff estimates that her share of the Collective Loss caused by the Royal Bank of Canada is approximately \$250,000.00, the whole as shall be proven at the next stage of the present Class Action, *le cas échéant*;
37. While the individual claim of the Class representative and of every other Class member only requires adjudication at the next stage of the present Class Action *le cas échéant*, the following documents pertaining specifically to the Plaintiff's personal claim are produced herewith, namely:
 - i) Statements provided to the Plaintiff by Earl Jones, indicating funds held in trust for her at the Royal Bank of Canada, produced herewith *en liasse* as **Exhibit P-11**;
 - ii) A letter dated June 6, 2007, prepared by Earl Jones, and signed by the Plaintiff, directing RBC Investments to remit to Earl Jones cheques payable to Virginia Nelles, produced herewith as **Exhibit P-12**;
 - iii) Five (5) cheques paid by Royal Trust to the Plaintiff, four (4) of which the Royal Bank of Canada blindly accepted for deposit into the Earl Jones In Trust Account, on the basis of forged endorsements, and one (1) of which the Royal Bank of Canada blindly accepted for deposit into the Earl Jones

Corporate Account [...], on the basis of *no endorsement whatsoever*, produced herewith *en liasse* as **Exhibit P-13**;

38. By letter dated October 8, 2009, a copy of which is produced herewith as **Exhibit P-14**, the Plaintiff and her brother requested reimbursement of funds which the Royal Bank of Canada unlawfully accepted for deposit into the [...] Accounts on the basis of forged endorsements, however the Royal Bank of Canada has refused and/or neglected to reimburse the Plaintiff;

WHEREFORE, PLAINTIFF PRAYS FOR JUDGMENT OF THIS HONOURABLE COURT:

- (A) **MAINTAINING** the Motion Introductive of Class Action Proceedings;
- (B) **CONDEMNING** the Royal Bank of Canada to pay damages in the amount of \$40,000,000.00, to compensate the Class for the Collective Loss, the whole with interest at the legal rate as well as the additional indemnity provided by law, to be calculated from and as of February 5, 2010;
- (C) **DECLARING** that the Royal Bank of Canada is liable for the costs of judicial and extrajudicial fees and disbursements, including fees for expertise incurred in the present matter for and in the name of the Plaintiff and the members of the Class;
- (D) **ORDERING** collective recovery of the total amount of the claims herein; in the event that the Final Judgment also provides for the individual liquidation of the claims of the members, the personal claim of the Plaintiff is \$250,000.00, plus interest at the legal rate as well as the additional indemnity provided by law, to be calculated from and as of February 5, 2010;
- (E) **ORDERING** that the claims of the members of the Class be the object of individual claims in accordance with Articles 1037 to 1040 C.C.P. or, if impractical or inefficient, order the Respondent to perform any remedial measures that this Honourable Court deems to be in the interests of the members of the Class;
- (F) **ORDERING** that the Royal Bank of Canada advise all members of the Class of the present Class Action Proceedings;
- (G) **CONDEMNING** the Royal Bank of Canada to any further relief as may be just and proper;

THE WHOLE with costs, including the costs of all exhibits, reports, expertise and publication of notices.

MONTREAL, March 5, 2012.

STEIN & STEIN INC.

KUGLER KANDESTIN, L.L.P.

ATTORNEYS FOR PLAINTIFF

**Schedule 5.2.3
(Section 5.2.3)**

FINAL JUDGMENT NOTICE

**NOTICE OF FINAL JUDGMENT OF THE RE-AMENDED CLASS ACTION IN THE
MATTER OF VIRGINIA NELLES VS. ROYAL BANK OF CANADA ("RBC"), SUPERIOR
COURT, PROVINCE OF QUEBEC, DISTRICT OF MONTREAL (THE "COURT")
FILE NUMBER 500-06-000500-104**

This notice may affect your rights. Please read carefully

TO: All persons, and estates of deceased persons, trustees, es qualité trusts and corporations whose funds were deposited to the Earl Jones In Trust Account number 00361-003-5266622 and/or, directly or indirectly, to the Earl Jones Consultant & Administration Corp. Account number 00361-003-1012350 (hereinafter, the "Accounts") at the Royal Bank of Canada, between the period October 22, 1981 and July 29, 2009, and who did not receive reimbursement of the total funds deposited therein.

THE PURPOSE OF THIS NOTICE

A class action lawsuit was commenced and re-amended on behalf of the Class before the Court in the above record. The Plaintiff, inter alia, claimed that RBC had certain liability in the operation of the above accounts, the said Bank Accounts being called the Earl Jones In Trust Account and the Earl Jones Consultant and Administration Corp. Account through which Earl Jones operated a Ponzi scheme during the period October 22, 1981 to July 29, 2009. The Class sought to recover damages from the RBC resulting from its alleged wrongdoing (the "Class Action"). The RBC has consistently denied all allegations of negligence and wrongdoing alleged in the Class Action.

An agreement of settlement and transaction of the Class Action dated March 5th, 2012 (the "Settlement") was reached on behalf of all members of the Class who, have not opted out of the Class Action as Re-Amended (the "Class Members") and Court approval of same was obtained by Judgment of the Honourable Mr. Justice Robert Mongeon, J.S.C. on the ____ day of March, 2012 (the "Final Judgment"). This notice is given pursuant to article 1030 of the *Code of Civil Procedure (Quebec)*.

DESCRIPTION OF CLASS AND TENOR OF FINAL JUDGMENT

This notice is only a summary of the description of the Class and terms of the Final Judgment. A copy of the entire Settlement is available at the website www.earljonesclassactionsettlement.com. The Class is described in the Notice to persons hereinabove stipulated. The Final Judgment approved the Settlement whereby the Class Action was settled and transacted. Pursuant to the Final Judgment RBC will pay the sum of \$17,000,000.00 CDN (the "Settlement Proceeds") in full and final settlement of all claims made in the Class Action, inclusive of all amounts due to the Fonds d'aide aux recours collectifs and fees, costs, and expenses due to Class Counsel.

Only Class Members who file a Proof of Claim with the Claims Administrator which is accepted will be paid their pro rata share of the Settlement Proceeds. Proof of Claim forms shall be sent to the last known address of Class Members and Class Members may also obtain Proof of Claim forms by visiting www.earljonesclassactionsettlement.com or by contacting the Claims Administrator.

Kevin Curran, BSc., BSc. B. Arch. shall act as the Claims Administrator. The Claims Administrator may be reached at

Tel: (760) 209-3039
Fax: (514) 697-6353
e-mail: pentasis.mac@mac.com

Following acceptance of a Proof of Claim by the Claims Administrator, the Class Member shall be paid his/her/its pro rata share of the net Settlement Proceeds in the manner set forth in the Settlement.

RELEASE

Any Class Member who has not opted out of the Class Action as provided for in Article 1007 et seq. of the *Code of Civil Procedure (Quebec)* shall release and discharge RBC and its parent(s), subsidiaries (including without limitation, RBC Dominion Securities Inc.), affiliated and related persons, companies, partnerships, trusts, officers, directors, shareholders, partners, employees, representatives, attorneys, agents, consultants and advisors upon the Effective Date as provided for in the Settlement for any and all claims, actions and demands they may have in respect of all claims made or which could have been made in the Class Action.

OPT OUT

Class Members with claims in respect of monies deposited to one or more of the Account(s) from and after August 28, 2008, who did not receive reimbursement of the total amount of said funds, shall have the right to opt such claims out of the present class action, by filing a Notice with the Clerk of the Superior Court of Quebec, by registered mail, no later than thirty (30) days from the date of the present Notice. Class Members who do not opt out within said thirty (30) day period shall be bound by the Final Judgment and the Settlement.

ADDITIONAL INFORMATION

Information about the Final Judgment is available at www.earljonesclassactionsettlement.com. Any questions about the Final Judgment should be directed to the Class Counsel:

Neil H. Stein Esq.
Stein & Stein Inc.
Barristers & Solicitors
4101, Sherbrooke St. W.
Montreal, Qc H3Z 1A7
Tel: 514-866-9806
Fax: 514-875-8218
E-mail : nstein@steinandstein.com

Robert Kugler Esq.
Kugler Kandestin LLP
Barristers & Solicitors
1, Place Ville Marie, suite 2101
Montreal, Qc H3B 2C6
Tel : 514-878-2861
Fax: 514-875-8424
E-mail: rkugler@kugler-kandestin.com

Class Members who consider it desirable or necessary to seek the advice and guidance of their own counsel do so at their own expenses.

INTERPRETATION

This notice contains a summary of some of the terms of the Final Judgment. If there is a conflict between the provisions of this notice and the terms of the Final Judgment, the Final Judgment shall prevail.

**Schedule 5.2.7
(Section 5.2.7)**

PROOF OF CLAIM FORM

PROOF OF CLAIM
 (Please print in block letters)

Capital Loss Claim Amount \$ _____

BOX 0

1. Claimant (Please check one)

BOX 1

- Individual Trustee Liquidator Administrator of Estate

(Please print in block letters)

Social Insurance Number _____ Estimated start date with Earl Jones (Mo/Yr) ____ / ____

2. Name and Address of Claimant (Please print in block letters)

BOX 2

Last Name _____

First Name _____ Middle Initial ____

Home Address _____

City _____ Prov/State _____ Postal/Zip Code _____

Country _____ Email _____

Home Phone (____) ____ - _____ Work Phone (____) ____ - _____

3. Description of Claim (Please check the block that applies for each question)

BOX 3

- | | Yes | No |
|--------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 1. Is your Claim associated with any other Estate?
Estate name(s) _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. If Yes, did the Estate file a Proof of Claim? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Did any other family members invest with Earl Jones? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Have these family members filed a Proof of Claim? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. If No, please explain _____
_____ | | |
| 6. Did you have "Private" Loans through Earl Jones to third parties? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Does your Claim include all debits/credits associated with these Loans? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. If No, please explain _____
_____ | | |
| 9. Did you have foreign currency transactions with Earl Jones? | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. If Yes, please state foreign currency _____ | | |
| 11. Does your Claim include all foreign currency transactions? | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. If Yes, are these transactions converted to CDN funds on transaction date? | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. If your Claim does not include all foreign currency transactions,
please explain _____
_____ | | |

4. Supporting Documentation Checklist (Please check the blocks that apply)

BOX 4

- Copies of cheques or transfers of funds to the Earl Jones In Trust Account and/or Earl Jones Consultant and Administration Corporation Account
- Copies of your personal bank statements evidencing deposits and withdrawals from the above accounts
- Copies of monthly statements, statements of assets/liabilities or other such documents from Earl Jones or Earl Jones Consultant and Administration Corporation indicating amount of deposits and withdrawals from the above accounts
- Copies of any other documents evidencing deposits and withdrawals from the above accounts

5. Capital Loss Spreadsheet (Please check the blocks that apply)

BOX 5

- Copy of Capital Loss spreadsheet(s) for each account held with Earl Jones
_____ Number of spreadsheets attached
 - Summary page with total Capital Loss from all accounts held with Earl Jones
 - Summary page NOT applicable (only one account held with Earl Jones)
1. Your Capital Loss spreadsheet amount must match the amount entered in BOX 0.
 2. Staple your Capital Loss spreadsheet to this Proof of Claim Cover Sheet.
 3. Sign & date your Capital Loss spreadsheet next to the amount of your Capital Loss.
 4. Initial and date each page of your Capital Loss spreadsheet.

6. Claimant Signature

BOX 6

If the Claims Administrator accepts the Proof of Claim, the Claims Administrator shall determine the amount of the benefit to which you may be entitled in accordance with the terms of the Settlement and Transaction Agreement. We inform you that as per this agreement, your acceptance of this amount will confirm that you are providing Royal Bank of Canada as well as any and all relate entities, including RBC Dominion Securities Inc. (collectively, "RBC"), with a full and final release and discharge from any and all claims, demands, actions or rights of action arising from matters related to Earl Jones and the Earl Jones Consultant and Administration Corporation as relate to RBC.

Date

Signature

Type or print Name

Note: If Claimant is other than an individual (ex. Trustee, liquidator, administrator of an estate) or if Claimant is not the person completing this form (ex. Tutor or curator to a person), the following must be provided.

Date

Signature of person completing Proof of Claim

Capacity of person signing Proof of Claim

- Authority to Act if Trustee, Liquidator, Estate Administrator, or Power of Attorney enclosed
- Photo Identification with signature enclosed

Type or print name and enclosed supporting documents

VIRGINIA NELLES VS. ROYAL BANK OF CANADA
500-06-000500-104, QUEBEC, SUPERIOR COURT (the "CLASS ACTION")
C/O KEVIN CURRAN, Claims Administrator

INSTRUCTIONS FOR COMPLETING
PROOF OF CLAIM

I. Eligibility

To be eligible for a **benefit** under the Settlement and Transaction Agreement in the above Court action, you **MUST** satisfy the following requirements:

- A. You **must** complete the Cover Sheet;
- B. You **must** complete a Capital Loss spreadsheet exclusive of calculation of interest in respect of the deposited funds
- C. You **must** provide sufficient Supporting Documentation to show that:
 - (i) Between October 22, 1981 and July 29, 2009 funds were deposited by you or on your behalf to the Earl Jones In Trust Account and/or the Earl Jones Consultant and Administration Corporation Account; **and**
 - (ii) you did not receive reimbursement of the total funds deposited therein exclusive of calculation of interest in respect of the deposited funds
- D. A **separate** Proof of Claim must be filed in respect of each depositor (i.e. you or your spouse, a beneficiary, trustee, a trust, a corporation, or an estate)
- E. You **must** send the fully completed and signed Proof of Claim and documents to the Claims Administrator. It must be postmarked on or before: _____

If the Claims Administrator accepts the Proof of Claim, the Claims Administrator shall determine the **amount** of the benefit to which you may be entitled in accordance with the terms of the Settlement and Transaction Agreement.

II. CLAIMS ADMINISTRATION SCHEDULE

The Claims Administration process follows a strict schedule. Your failure to respond within the prescribed time limits may result in your Proof of Claim being rejected in whole or in part by the Claims Administrator.

In the event your Proof of Claim is rejected in whole or in part, you may elect adjudication of the Claims Administrator's decision by the Court.

III. CLAIMS ADMINISTRATOR

It is your responsibility to keep a personal reference copy of your Proof of Claim for your use during the Claims Administration process. You must inform the Claims Administrator if your contact information changes during the Claims Administration process.

1) Submit ONE (1) COPY or your Capital Loss spreadsheet in Microsoft Excel format

By email only to:

KEVIN CURRAN, CLAIMS ADMINISTRATOR
pentasis.mac@mac.com

2) Submit ONE (1) COPY or your completed Proof of Claim

By mail or personal delivery to:

KEVIN CURRAN, CLAIMS ADMINISTRATOR
ADDRESS _____
CITY _____
PROVINCE, POSTAL CODE _____

Your proof of Claim Submittal by mail or personal delivery must consist of:

1. Proof of Claim (All Boxes completed, Claimant original signature and date)
2. Capital Loss spreadsheets (attached to Proof of Claim Cover Sheet)
3. Supporting Documents
Note: Provide all supporting documents with most recent date on top; do NOT comingle Supporting Documents, e.g., keep copies of Earl Jones Statements separate from copies of cheques or transfers of funds, separate from copies of your personal bank statements

Any questions may be directed to **KEVIN CURRAN, CLAIMS ADMINISTRATOR**

Email: pentasis.mac@mac.com
Phone: 760-209-3039

**Schedule 11.1
(Section 11.1)**

NOTICE OF FAIRNESS HEARING 1025 C.C.Q.

**NOTICE OF THE PROPOSED SETTLEMENT OF THE CLASS ACTION IN THE MATTER OF
VIRGINIA NELLES VS. RBC, SUPERIOR COURT, PROVINCE OF QUEBEC, DISTRICT OF MONTREAL
(THE "COURT"), FILE NUMBER 500-06-000500-104**

This notice may affect your rights. Please read carefully.

TO: All persons, and estates of deceased persons, trustees, es qualit  trusts and corporations whose funds were deposited to the Earl Jones In Trust Account number 00361-003-5266622 and/or, directly or indirectly, to the Earl Jones Consultant & Administration Corp. Account number 00361-003-1012350 (hereinafter, the "Accounts") at the Royal Bank of Canada, between the period October 22, 1981 and July 29, 2009, and who did not receive reimbursement of the total funds deposited therein.

THE PURPOSE OF THIS NOTICE

A class action lawsuit was commenced and re-amended on behalf of the Class before the Court in the above record. The Plaintiff, inter alia, claimed that RBC had certain liability in the operation of the above accounts, the said Bank Accounts being called the Earl Jones In Trust Account and the Earl Jones Consultant and Administration Corp. Account through which Earl Jones operated a Ponzi scheme during the period October 22, 1981 to July 29, 2009. The Class sought to recover damages from the RBC resulting from its alleged wrongdoing (the "Class Action"). The RBC has consistently denied all allegations of negligence and wrongdoing alleged in the Class Action.

An agreement of settlement and transaction of the Class Action (the "Settlement") dated March 5th, 2012 has been entered into by the parties, and the Court will be asked to approve the Settlement on behalf of all members of the Class who have not opted out of the Class Action (the "Class Members"). This notice is given pursuant to article 1025 of the *Code of Civil Procedure (Quebec)*.

THE APPROVAL HEARING

The Court will be asked to approve the Settlement on the ___day of March, 2012 at 9:00 a.m., in room _____ of the Courthouse, Montreal, located at 1, Notre Dame East (the "Approval Hearing"). Class Members who wish to object to or make representations in respect of the proposed Settlement must first send a letter to Class Counsel and Defendant's Counsel prior to the date of the Approval Hearing, indicating the following:

- 1) the person's name, address, telephone number, fax number and/or email address;
- 2) the fact that the person is a Class Member;
- 3) a brief description of the nature of and reasons for the objection to the proposed Settlement; and,
- 4) whether the person wishes to make representations, directly or through legal counsel, at the Approval Hearing.

The Court will consider the objections and/or representations of all persons who fulfill the foregoing conditions.

Class Members who do not object to or do not wish to make representations in respect of the proposed Settlement do not need to attend the Approval Hearing in order to be eligible to benefit from the Settlement if it is approved.

THE PROPOSED SETTLEMENT

This notice is only a summary of the terms of the Settlement. A copy of the entire proposed Settlement is available at the Website of the attorneys hereinafter indicated.

RBC will pay the sum of \$17,000,000.00 CDN (the "Settlement Proceeds") in full and final settlement of all claims made in the Class Action, inclusive of all amounts due to the Fonds d'aide aux recours collectifs and fees, costs, and expenses due to Class Counsel. If the proposed Settlement is approved, only Class Members who file a proof of claim which is accepted by the Claims Administrator will be paid their pro rata share of the Settlement Proceeds after deduction of applicable class counsel fees,

disbursements and taxes and all amounts due to the Fonds d'aide aux recours collectifs.

Kevin Curran, BSc., BSc. B. Arch. shall act as the Claims Administrator.

RELEASE

Any Class Member who has not opted out of the Class Action as provided for in article 1007 et seq. of the *Code of Civil Procedure (Quebec)* shall release and discharge RBC and its parent(s), subsidiaries (including without limitation, RBC Dominion Securities Inc.) affiliated and related persons, companies, partnerships, trusts, officers, directors, shareholders, partners, employees, representatives, agents, consultants and advisors, as provided for in the Settlement for any and all claims, actions and demands they may have in respect of all claims made or which could have been made in the Class Action.

ADDITIONAL INFORMATION

Any questions about the proposed Settlement should be directed to the Class Counsel:

Neil H. Stein Esq.
Stein & Stein Inc.
Barristers & Solicitors
4101, Sherbrooke St. W.
Montreal, Qc H3Z 1A7
Tel: 514-866-9806
Fax: 514-875-8218
E-mail:nstein@steinandstein.com

Robert Kugler Esq.
Kugler Kandestin LLP
Barristers & Solicitors
1, Place Ville Marie, # 2101
Montreal, Qc H3B 2C6
Tel : 514-878-2861
Fax: 514-875-8424
E-mail:rkugler@kugler-kandestin.com

Class Members who consider it desirable or necessary to seek the advice and guidance of their own counsel do so at their own expense.

INTERPRETATION

This notice is a summary of some of the terms and conditions of the Settlement. If there is a conflict between the provisions of this notice and the terms of the Settlement, the Settlement shall prevail.