

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

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

All persons, wherever they may reside or be domiciled, who held or hold, from December 28, 2003 to the date this Order is issued, units of an RBC Mutual Fund or a PH&N Mutual Fund through a Discount Broker, except for the Excluded Persons*.

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

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

Breach of Fiduciary Duty

- (a) Did RBC GAM, as the trustee of the RBC Mutual Funds, owe a fiduciary duty? If so, to whom was the duty owed and what was the scope of that duty?
- (b) Did RBC IS, as the trustee of the PH&N Mutual Funds, owe a fiduciary duty? If so, to whom was the duty owed and what was the scope of that duty?
- (c) Did RBC GAM, as the manager of the RBC Mutual Funds and the PH&N Mutual Funds, owe a fiduciary duty? If so, to whom was the duty owed and what was the scope of that duty?
- (d) If the answer to the first question in (a), (b) and/or (c) is yes, did the relevant Defendant breach its fiduciary duty? If so, when and how?
- (e) Do the responses to (a), (b), (c) and/or (d) vary depending on the mutual fund product or series at issue? If so, how?

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

Breach of Trust

- (g) Did RBC GAM, as the trustee of the RBC Mutual Funds, breach the RBC Trust Instruments? If so, when and how, and what was the scope of the relevant duties or obligations under the RBC Trust Instruments?
- (h) Did RBC IS, as the trustee of the PH&N Mutual Funds, breach the PH&N Trust Instruments? If so, when and how, and what was the scope of the relevant duties or obligations under the PH&N Trust Instruments?
- (i) Do the responses to (g) and/or (h) vary depending on the mutual fund product or series at issue? If so, how?
- (j) Do the responses to (g) and/or (h) vary depending on the time in issue? If so, how?

Breach of Contract

- (k) Did RBC GAM, as the manager of the RBC Mutual Funds and PH&N Mutual Funds, breach the RBC Trust Instruments and the PH&N Trust Instruments? If so, when and how, and what was the scope of the relevant duties or obligations under the RBC Trust Instruments and the PH&N Trust Instruments?
- (l) Do the responses to (k) vary depending on the mutual fund product or series at issue? If so, how?
- (m) Do the responses to (k) vary depending on the time in issue? If so, how?

Section 23.1 of the Trustee Act

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

Prospectus Misrepresentation

- (o) Did the Fund Facts Documents, and the Simplified Prospectuses which incorporate the Fund Facts Documents, contain a misrepresentation within the meaning of the *OSA* (and, as applicable, the Other Canadian Securities Legislation)?
- (p) If the answer to (o) is yes, are the Defendants, or either of them, liable to the Class Members pursuant to section 130 of the *OSA* (and, as applicable, the Other Canadian Securities Legislation)?

Remedies

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

- (r) If the Defendants are found liable on any claims asserted by the Class Members, as set out in (a) to (q) above, what remedies, including damages and/or equitable remedies, are the Class Members entitled to receive?
- (s) How should recoveries under each type of remedy be measured?
- (t) Can the amount of any monetary relief be determined on an aggregate basis? If so, what is the amount and what is the appropriate method or procedure for distributing that amount to the Class Members?

Interest

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

Administration and Distribution

- (v) Should the Defendants pay the costs of administering and distributing the recovery? If so, what amount should the Defendants pay?
5. **THIS COURT ORDERS** that Peter Ross is appointed as the representative plaintiff for the Class.
 6. **THIS COURT ORDERS** that the relief sought by the Class is as set out in paragraph 3 of the Claim.
 7. **THIS COURT ORDERS** that the nature of the claims asserted on behalf of the Class are relief arising out of or under: (i) breach of trust; (ii) breach of fiduciary duty; (iii) breach of contract; (iv) section 23.1 of the *Trustee Act*; and (v) section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation).
 8. **THIS COURT ORDERS** that the litigation plan attached hereto as **Schedule “B”** is hereby approved.

9. **THIS COURT ORDERS** that any other class proceeding in Ontario relating to the subject matter of this action is hereby stayed, except for:
- (a) *Frayce et al. v BMO InvestorLine Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-20-00638868-00CP;
 - (b) *Frayce v BMO InvestorLine Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-20-00634551-00CP; and
 - (c) *Ciardullo v. 1832 Asset Management L.P. et al.*, Court File No. CV-22-684723-00CP, *Ciardullo et al. v. 1832 Asset Management L.P. et al.*, Court File No. CV-22-685386-00CP, *Yeats v. 1832 Asset Management L.P.*, Court File No. CV-22-690373-00CP, *Woodard v. Canadian Imperial Bank of Commerce et al.*, Court File No. CV-22-690374-00CP, *Yeats v. BMO Investments Inc.*, Court File No. CV-22-690519-00CP, *DeJong v. RBC Global Asset Management Inc. et al.*, Court File No. CV-22-691343-00CP, *Aggarwal v. TD Asset Management Inc.*, Court File No. CV-22-691344-00CP, and *Aizic v. Natcan Trust Company et al.*, Court File No. CV-23-00697428-00CP (collectively, the “**2022 Actions**”), subject to the temporary stay orders granted by this Court on August 1, 2023 in the 2022 Actions and any further orders subsequently made in the 2022 Actions.
10. **THIS COURT ORDERS** that no other class proceeding relating to the subject matter of this action may be commenced in Ontario without leave of the Court.
11. **THIS COURT ORDERS** that RicePoint is hereby appointed as the notice and opt-out administrator and will perform the duties and responsibilities set out herein, and any other related duty or responsibility.

12. **THIS COURT ORDERS** that the long-form notice, short-form notice and internet banner, substantially in the form attached hereto as **Schedules “C”, “D” and “E”**, respectively, are hereby approved.
13. **THIS COURT ORDERS** that the notices shall be published and disseminated by RicePoint (or Siskinds LLP (“**Class Counsel**”) with respect to paragraphs 13(b)(i) and (ii) below or the Defendants with respect to paragraph 13(a)(v) below) substantially in the following manner:
 - (a) Short-form notice:
 - (i) disseminated as a news release in Canada across Canada NewsWire (in English and French);
 - (ii) published once in the business section of the national weekend edition of *The Globe and Mail*, in English;
 - (iii) published once in the business section of *La Presse*, in French;
 - (iv) sent electronically and/or in paper form to Discount Brokers in Canada with a cover letter requesting that they post the notice on their electronic message/news boards;
 - (v) filed by the Defendants as a news release on SEDAR;
 - (b) Long-form notice:
 - (i) posted by Class Counsel on <https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/>, in English and French;

- (ii) provided by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the action;
- (c) Internet banner:
 - (i) published as a 12-day sponsored news link on Stockhouse;
 - (ii) published as a Google banner ad for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, over 30 days.
- 14. **THIS COURT ORDERS** that the opt-out form (“**Opt-Out Form**”), substantially in the form attached as Appendix “A” to the long-form notice, is hereby approved.
- 15. **THIS COURT ORDERS** that:
 - (a) a person may opt out of this class proceeding by sending (by mail or courier) a fully completed Opt-Out Form in accordance with the instructions set out in the long-form notice to be postmarked on or before the date that is ninety (90) days after the day on which the short-form notice is first published (“**Opt-Out Deadline**”);
 - (b) no person may opt out of this class proceeding after the Opt-Out Deadline; and
 - (c) a person who validly opts out of the class proceeding in accordance with this Order shall not be a Class Member on and after the date that such person opts out of the class proceeding.
- 16. **THIS COURT ORDERS** that the costs of disseminating notice and receiving Opt-Out Forms shall be paid by the Plaintiff.

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



The Honourable Justice Akbarali

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

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

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

PETER ROSS

Plaintiff

- and -

RBC GLOBAL ASSET MANAGEMENT INC.
and RBC INVESTOR SERVICES TRUST

Defendants

Proceeding under the *Class Proceedings Act, 1992*

SECOND FRESH AS AMENDED STATEMENT OF CLAIM

Notice of action issued on December 28, 2018

CURRENCY AND DEFINITIONS

1. Unless otherwise stated, all dollar amounts stated herein are in Canadian dollars.
2. In this Second Fresh as Amended Statement of Claim, in addition to the terms that are defined elsewhere herein, the following definitions apply:
 - (a) “**BMO InvestorLine**” means BMO InvestorLine Inc., an indirect subsidiary of the Bank of Montreal, or such other discount brokerage business operated, directly or indirectly, by the Bank of Montreal from time to time;
 - (b) “**CJA**” means the *Courts of Justice Act*, RSO 1990, c C-43, as amended;
 - (c) “**Class**” and “**Class Members**” means, collectively, all persons, wherever they may reside or be domiciled, who held or hold, from December 28, 2003 to the date this Order is issued, units of a **RBC Mutual Fund** or a **PH&N Mutual Fund** through a **Discount Broker**, except for the **Excluded Persons**;
 - (d) “**CPA**” means the *Class Proceedings Act, 1992*, SO 1992, c 6, as amended;
 - (e) “**CSA**” means the Canadian Securities Administrators;
 - (f) “**Current PH&N DOT**” means the Amended and Restated Master Trust Agreement between **RBC GAM** and **RBC IS** dated June 29, 2021, including all Regulations or Supplements thereto, as amended and supplemented from time to time;
 - (g) “**Current RBC Funds DOT**” means the Amended and Restated Master Declaration of Trust by **RBC GAM** dated June 26, 2020, including all Regulations or Supplements thereto, as amended and supplemented from time to time;
 - (h) “**Current RBC Private Pools DOT**” means the Eighth Amended and Restated Declaration of Trust by **RBC GAM** dated September 5, 2017, including all Regulations or Supplements thereto, as amended and supplemented from time to time;
 - (i) “**Defendants**” means, together, **RBC GAM** and **RBC IS**;
 - (j) “**Discount Brokers**” means entities providing “order-execution only services” as defined in Rule 3200 of the **IIROC Rules** or entities performing a function similar to “order-execution only services” prior to the introduction of that definition in Rule 3200 of the **IIROC Rules**, including (without limitation) **RBC Direct Investing**;

- (k) “**Excluded Persons**” means the **Defendants**; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the **Defendants**; and the past and present members of the independent review committee of the **RBC Mutual Funds** or the **PH&N Mutual Funds**;
- (l) “**Form 81-101F1**” means Form 81-101F1 – *Contents of Simplified Prospectus*, as amended;
- (m) “**Form 81-101F2**” means Form 81-101F2 – *Contents of Annual Information Form*, as amended;
- (n) “**Form 81-101F3**” means Form 81-101F3 – *Contents of Fund Facts Document*, as amended;
- (o) “**Fund Facts Document**” means a fund facts document as referred to in **NI 81-101** and **Form 81-101F3**;
- (p) “**IIROC**” means the Investment Industry Regulatory Organization of Canada;
- (q) “**IIROC Rules**” means the **IIROC Dealer Member Rules**, as amended;
- (r) “**NI 81-101**” means National Instrument 81-101 – *Mutual Fund Prospectus Disclosure*, as amended;
- (s) “**NI 81-107**” means National Instrument 81-107 – *Independent Review Committee for Investment Funds*, as amended;
- (t) “**OSA**” means the *Securities Act*, RSO 1990, c S.5, as amended;
- (u) “**Other Canadian Securities Legislation**” means, collectively, the *Securities Act*, RSA 2000, c S-4; the *Securities Act*, RSBC 1996, c 418; *The Securities Act*, CCSM c S50; the *Securities Act*, SNB 2004, c S-5.5; the *Securities Act*, RSNL 1990, c S-13; the *Securities Act*, SNWT 2008, c 10; the *Securities Act*, RSNS 1989, c 418; the *Securities Act*, S Nu 2008, c 12; the *Securities Act*, RSPEI 1988, c S-3.1; the *Securities Act*, RSQ, c V-1.1; *The Securities Act, 1988*, SS 1988-89, c S-42.2; and the *Securities Act*, SY 2007, c 16, all as amended;
- (v) “**PH&N Mutual Funds**” means all mutual fund trusts (including, without limitation, all series of units thereof) of which **RBC IS** is trustee, was trustee or may be trustee at any time prior to the conclusion of the trial of the common issues in this proceeding (but only in respect of the period during which **RBC IS** is trustee, was trustee or may be trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been or may be terminated, (ii) those mutual funds that have been or may be merged into other mutual funds, and (iii) those mutual funds that have undergone or may undergo name changes;

- (w) “**PH&N Trust Instruments**” means, collectively, all declarations of trust or similar trust instruments that govern, have governed or may govern the **PH&N Mutual Funds**, including, without limitation, the **Current PH&N DOT**;
- (x) “**Plaintiff**” means the Plaintiff, Peter Ross;
- (y) “**RBC Direct Investing**” means RBC Direct Investing Inc.;
- (z) “**RBC GAM**” means the Defendant, RBC Global Asset Management Inc. (and including all predecessor amalgamating entities, including, without limitation, each of RBC Asset Management Inc. and Phillips, Hager & North Investment Management Ltd. prior to their amalgamation on or around November 1, 2010 to form RBC Global Asset Management Inc.);
- (aa) “**RBC IS**” means the Defendant, RBC Investor Services Trust;
- (bb) “**RBC Mutual Funds**” means all mutual fund trusts (including, without limitation, all series of units thereof) of which **RBC GAM** is trustee, was trustee or may be trustee at any time prior to the conclusion of the trial of the common issues in this proceeding (but only in respect of the period during which **RBC GAM** is trustee, was trustee or may be trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been or may be terminated, (ii) those mutual funds that have been or may be merged into other mutual funds, and (iii) those mutual funds that have undergone or may undergo name changes;
- (cc) “**RBC Trust Instruments**” means, collectively, all declarations of trust or similar trust instruments that govern, have governed or may govern the **RBC Mutual Funds**, including, without limitation, the **Current RBC Funds DOT** and the **Current RBC Private Pools DOT**;
- (dd) “**Royal Bank**” means the Royal Bank of Canada;
- (ee) “**Simplified Prospectus**” means a simplified prospectus as referred to in **NI 81-101** and **Form 81-101F1**;
- (ff) “*Trustee Act*” means the *Trustee Act*, RSO 1990, c T.23, as amended; and
- (gg) “**Unearned Management Fees**” means, in respect of management fees that have been paid or may be paid out of the assets of the **RBC Mutual Funds** or the **PH&N Mutual Funds**, the portion of those management fees that has been paid or may be paid to **Discount Brokers** as trailing commissions, and any taxes relating to those trailing commissions.

RELIEF SOUGHT

3. The Plaintiff claims on his own behalf and on behalf of the other Class Members:
 - (a) an order certifying this action as a class proceeding pursuant to the *CPA* and appointing the Plaintiff as the representative plaintiff for the Class;
 - (b) a declaration that the Defendants committed breaches of trust and/or breached their fiduciary duties to the Plaintiff and the other Class Members;
 - (c) a declaration that RBC GAM is liable to the Plaintiff and the other Class Members for breach of contract;
 - (d) a declaration that the Defendants made one or more misrepresentations within the meaning of the *OSA* (and, if necessary, the Other Canadian Securities Legislation), and that the Defendants are liable to the Plaintiff and the other Class Members pursuant to section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation);
 - (e) an order requiring the Defendants to account to the Plaintiff and the other Class Members for the Unearned Management Fees;
 - (f) damages and/or equitable compensation in the sum of \$200 million (or such other sum as this Court finds appropriate at the trial of the common issues or at a reference or references) to restore the Plaintiff and the other Class Members to the position they would have been in had the Unearned Management Fees not been paid;
 - (g) if necessary, an order compelling the Defendants to compensate the Plaintiff and the other Class Members in respect of the Unearned Management Fees by means of litigation trusts to be established pursuant to the *CPA*;

- (h) an order disallowing the payment of the Unearned Management Fees as expenses pursuant to section 23.1 of the *Trustee Act* (and, if necessary, the equivalent provisions of comparable Canadian legislation) and requiring the Defendants to repay the expenses to the Plaintiff and the other Class Members or to the RBC Mutual Funds and the PH&N Mutual Funds;
- (i) an interim and permanent order prohibiting the Defendants from seeking or obtaining indemnity or reimbursement from the assets of the RBC Mutual Funds and the PH&N Mutual Funds in respect of monetary relief paid or payable to the Plaintiff and the other Class Members in this action or their costs and expenses of this action;
- (j) an order directing a reference or giving such other directions as may be necessary to determine issues not determined at the trial of the common issues;
- (k) an equitable rate of interest on all sums found due and owing to the Plaintiff and the other Class Members to compensate them for the diminution in the value of their units of the RBC Mutual Funds and the PH&N Mutual Funds resulting from payment of the Unearned Management Fees;
- (l) pre-judgment and post-judgment interest pursuant to the *CJA*;
- (m) costs of this action on a substantial indemnity basis or in an amount that provides full indemnity;
- (n) pursuant to section 26(9) of the *CPA*, the costs of notice and of administering the plan of distribution of the recovery in this action plus applicable taxes; and
- (o) such further and other relief as this Honourable Court may deem just.

OVERVIEW

4. This class proceeding arises out of the payment of excessive, inflated and/or unearned management fees to RBC GAM in respect of the RBC Mutual Funds and the PH&N Mutual Funds. The management fees are excessive, inflated and/or unearned because unearned trailing commissions earmarked for payment to Discount Brokers are included in, or embedded into, those management fees.
5. RBC GAM is the trustee and manager of the RBC Mutual Funds. RBC GAM is also the manager of the PH&N Mutual Funds. RBC IS is the trustee of the PH&N Mutual Funds.
6. The Class Members are persons who hold or held units of a RBC Mutual Fund or a PH&N Mutual Fund through a Discount Broker, as distinct from other distribution channels through which RBC Mutual Funds and PH&N Mutual Funds are sold to investors. Discount Brokers are also commonly referred to as “order-execution only”, “DIY” and “online” brokers. Under the IIROC Rules, Discount Brokers are prohibited from providing investment advice to investors.
7. The RBC Mutual Funds and the PH&N Mutual Funds are trusts governed by the RBC Trust Instruments and the PH&N Trust Instruments. The assets of the RBC Mutual Funds and the PH&N Mutual Funds are trust property that the Defendants, as trustees and/or fiduciaries, have undertaken to hold for the exclusive benefit of the beneficiaries, being the Class Members and the other unitholders of the RBC Mutual Funds and the PH&N Mutual Funds. The Defendants have a duty to preserve the trust property and maximize the value of units of the RBC Mutual Funds and the PH&N Mutual Funds.

8. RBC GAM receives management fees out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds. The management fees are excessive, inflated and/or unearned because a portion — described herein as the Unearned Management Fees — is collected by RBC GAM for the purpose of paying trailing commissions to Discount Brokers. RBC GAM has paid, and continues to pay, trailing commissions to Discount Brokers through which the Class Members held or hold the RBC Mutual Funds and the PH&N Mutual Funds.
9. The purpose of a trailing commission on a mutual fund is to compensate the dealer (through whom the mutual fund is sold) for providing their client with ongoing investment advice about the client's investment in the mutual fund in respect of which the trailing commission is paid. As Discount Brokers do not and cannot provide investment advice to investors, the payment of trailing commissions to Discount Brokers in respect of the RBC Mutual Funds and the PH&N Mutual Funds is improper, unreasonable and unjustified. Consequently, the payment by RBC GAM (in respect of the RBC Mutual Funds) and RBC IS (in respect of the PH&N Mutual Funds) of the Unearned Management Fees on account of those trailing commissions, and their receipt by RBC GAM (in respect of the RBC Mutual Funds and the PH&N Mutual Funds), is improper, unreasonable and unjustified.
10. Since 2011, the Fund Facts Documents that the Defendants have prepared and filed with securities regulators to permit the sale of units of the RBC Mutual Funds and the PH&N Mutual Funds have acknowledged the purpose of trailing commissions as compensation for advice. The Fund Facts Documents have stated that trailing commissions are paid to dealers for the "services and advice" provided by those dealers to their clients. In 2020, the Fund Facts Documents for Series D units of certain RBC Mutual Funds and PH&N Mutual

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

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

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

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

- (b) the Defendants do not conduct any auditing or inquiries, or any adequate auditing or inquiries, into whether Discount Brokers are providing particular services to Class Members in respect of the RBC Mutual Funds and PH&N Mutual Funds; and
 - (c) the Defendants do not conduct any auditing or inquiries, or any adequate auditing or inquiries, into whether Discount Brokers use or apply the trailing commissions for the purpose of providing particular services to Class Members in respect of the RBC Mutual Funds and PH&N Mutual Funds.
14. In fact, Discount Brokers do not provide Class Members with any services that are specific to the RBC Mutual Funds and PH&N Mutual Funds in respect of which the trailing commissions are paid and that are provided on an ongoing basis. The services provided by Discount Brokers to their clients (such as research and educational tools) are provided regardless of whether the clients hold RBC Mutual Funds and PH&N Mutual Funds. Those general services available to all Discount Broker clients do not justify the payment of trailing commissions to Discount Brokers in respect of RBC Mutual Funds and PH&N Mutual Funds. Accordingly, the payment of trailing commissions to Discount Brokers on account of “services” is improper, unreasonable and unjustified. Consequently, the payment by RBC GAM (in respect of the RBC Mutual Funds) and RBC IS (in respect of the PH&N Mutual Funds) of the Unearned Management Fees on account of those trailing commissions, and their receipt by RBC GAM (in respect of the RBC Mutual Funds and the PH&N Mutual Funds), is improper, unreasonable and unjustified.
15. The Unearned Management Fees represent significant sums of money and are paid on a continuous basis. The wasting of the assets of the RBC Mutual Funds and the PH&N Mutual Funds by the payment of the Unearned Management Fees has unjustly enriched

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

THE PARTIES

The Plaintiff

16. The Plaintiff is an individual residing in Toronto, Ontario.
17. The Plaintiff has held units of the Phillips, Hager & North High Yield Bond Fund – Series D (RBF1280), a PH&N Mutual Fund, in an account with BMO InvestorLine, a Discount Broker, since on or around November 4, 2009.
18. The Plaintiff previously held units of the RBC Canadian Dividend Fund – Series A (RBF266), a RBC Mutual Fund, in an account with BMO InvestorLine, a Discount Broker, from on or around April 12, 2006 until on or around August 27, 2010.

The Class

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

The Defendant, RBC GAM

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

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

The Defendant, RBC IS

24. RBC IS is a trust company incorporated under the laws of Canada.
25. RBC IS is, and was at all material times, the trustee of the PH&N Mutual Funds.
26. RBC IS was named “RBC Dexia Investor Services Trust” until on or around July 27, 2012.
27. RBC IS is an indirect wholly-owned subsidiary of Royal Bank.

THE RBC MUTUAL FUNDS

28. Each of the RBC Mutual Funds is or was a trust governed by the terms of one of the RBC Trust Instruments.
29. Each of the RBC Mutual Funds is or was an “investment fund” and a “mutual fund” as those terms are defined in the *OSA*.

30. Each of the RBC Mutual Funds is or was a reporting issuer in Ontario and in all other provinces of Canada.
31. To the best of the Plaintiff's knowledge, the RBC Mutual Funds as of December 28, 2018 are listed in **Schedule "A"** hereto.

THE PH&N MUTUAL FUNDS

32. Each of the PH&N Mutual Funds is or was a trust governed by the terms of one of the PH&N Trust Instruments.
33. Each of the PH&N Mutual Funds is or was an "investment fund" and a "mutual fund" as those terms are defined in the *OSA*.
34. Each of the PH&N Mutual Funds is or was a reporting issuer in Ontario and in all other provinces of Canada.
35. To the best of the Plaintiff's knowledge, the PH&N Mutual Funds as of December 28, 2018 are listed in **Schedule "B"** hereto.

THE RBC TRUST INSTRUMENTS

36. The RBC Mutual Funds are currently governed by the Current RBC Funds DOT and the Current RBC Private Pools DOT.
37. Under each of the RBC Trust Instruments, RBC GAM holds in trust all property of the RBC Mutual Funds for the benefit of the unitholders of the RBC Mutual Funds.
38. Pursuant to Article XVIII, section 1 of the Current RBC Funds DOT and section 11.1 of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as trustee of the RBC Mutual Funds,

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

39. Pursuant to Article XVIII, section 1 of the Current RBC Funds DOT and section 9.6 of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as manager of the RBC Mutual Funds, is and was at all material times required to act honestly and in good faith, and in the best interests of the RBC Mutual Funds, and to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.
40. Pursuant to Article XVIII, section 1 of the Current RBC Funds DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as manager of the applicable RBC Mutual Funds, is and was at all material times responsible for any loss that arises out of its failure to discharge its responsibilities as manager in accordance with the standard of care.
41. Pursuant to section 11.1 of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as trustee, is and was at all material times responsible for any loss that arises out of its failure, or the failure of any person or company retained by the trustee, to discharge the trustee's responsibilities to the applicable RBC Mutual Funds.
42. Pursuant to Article V, section 5 of the Current RBC Funds DOT and sections 9.4, 12.1, 12.2 and 12.3 of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), the trustee may delegate or

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

43. Pursuant to Article XVI, section 1 and Article V, section 8 of the Current RBC Funds DOT and section 14.1(a) of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), the trustee receives management fees, and may direct that all or a portion of the management fees that would otherwise be paid to the trustee be paid directly to the manager instead.
44. RBC GAM receives management fees out of the assets of the RBC Mutual Funds. The management fees are calculated as a percentage of the series net asset value of each RBC Mutual Fund (which management fees are calculated daily and are payable monthly).
45. The payment of management fees to RBC GAM out of the assets of the RBC Mutual Funds reduces the net asset value of the RBC Mutual Funds, which in turn reduces the value of unitholders' units of the RBC Mutual Funds. As stated in one or more Simplified Prospectuses disseminated by the Defendants in respect of the RBC Mutual Funds, management fees are among the fees and expenses that are paid by the RBC Mutual Funds and they "lower the fund's return" and "reduce the value of your investment." Similarly, as stated in one or more Fund Facts Documents disseminated by the Defendants in respect of the RBC Mutual Funds, fund expenses, including management fees, "affect you because they reduce the fund's returns."
46. As stated in Article VIII, section 11, and Schedule B, Article II, section 1 and Schedule C, Article II, section 1 of the Current RBC Funds DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times), RBC GAM, as trustee, may agree

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

47. RBC GAM may also waive or absorb a portion of its management fees in respect of the RBC Mutual Funds.
48. Article II, section 1(g) of the Current RBC Funds DOT and section 3.5(f) of the Current RBC Private Pools DOT (and the equivalent provisions of other RBC Trust Instruments applicable at material times) allow for the redesignation or reclassification of units of one series of a RBC Mutual Fund as units of another series of the same RBC Mutual Fund.

THE PH&N TRUST INSTRUMENTS

49. The PH&N Mutual Funds are currently governed by the Current PH&N DOT.
50. Under each of the PH&N Trust Instruments, RBC IS holds in trust all property of the PH&N Mutual Funds for the benefit of the unitholders of the PH&N Mutual Funds.
51. Pursuant to section 9.1 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), RBC IS, as trustee of the PH&N Mutual Funds, is and was at all material times required to exercise its powers and discharge its duties honestly and in good faith, and to exercise the degree of care, diligence and skill that a reasonably prudent Canadian trust company would exercise in comparable circumstances.
52. Pursuant to section 10.1 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), RBC GAM, as manager of the PH&N Mutual Funds, is and was at all material times required to exercise its powers and discharge its duties honestly, in good faith and in the best interests of the PH&N Mutual

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

53. Pursuant to section 7.1 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), RBC GAM, as manager, has full authority and responsibility and the exclusive power to manage the business and affairs of the PH&N Mutual Funds.
54. Pursuant to section 8.2 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), RBC GAM is entitled to receive a management fee from the property of each PH&N Mutual Fund “equal to or up to” the annual percentage rate set out in Schedule “A” of the Current PH&N DOT.
55. Pursuant to section 6.5(e) of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times), the management fees paid to RBC GAM must meet the standard of “reasonable expenses and compensation”.
56. RBC GAM receives management fees out of the assets of the PH&N Mutual Funds. The management fees are calculated as a percentage of the series net asset value of the applicable series of each PH&N Mutual Fund (which management fees are calculated daily and are payable monthly).
57. The payment of management fees to RBC GAM out of the assets of the PH&N Mutual Funds reduces the net asset value of the PH&N Mutual Funds, which in turn reduces the value of unitholders’ units of the PH&N Mutual Funds. As stated in one or more Simplified Prospectuses disseminated by the Defendants in respect of the PH&N Mutual Funds, management fees are among the fees and expenses that are paid by the PH&N Mutual

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

58. Section 16.11 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times) provides for RBC GAM to reimburse all or a portion of the management fee paid by the PH&N Mutual Funds to the manager, and the amount of any reimbursement must be distributed to the unitholder as a “Management Fee Distribution”.
59. As stated in section 8.2 of the Current PH&N DOT, RBC GAM may waive all or a portion of its management fees.
60. Section 3.3 of the Current PH&N DOT (and the equivalent provisions of other PH&N Trust Instruments applicable at material times) allows for the redesignation or reclassification of units of one series of a PH&N Mutual Fund as units of another series of the same PH&N Mutual Fund.

TRAILING COMMISSIONS AND DISCOUNT BROKERS

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

62. The payment of management fees, within which the trailing commissions payable to Discount Brokers are embedded, depletes the assets of the RBC Mutual Funds and PH&N Mutual Funds and reduces the value of the Class Members' units of those RBC Mutual Funds and PH&N Mutual Funds and thereby diminishes their return on investment in the RBC Mutual Funds and PH&N Mutual Funds.
63. Among other dealers, the RBC Mutual Funds and PH&N Mutual Funds are sold through Discount Brokers. Discount Brokers are entities that provide order execution only services to investors. They are regulated by IIROC as "Dealer Members". Under the IIROC Rules, Discount Brokers apply to IIROC for approval to offer an "order-execution only service", which is defined as "the acceptance and execution of orders from customers for trades that the Dealer Member has not recommended and for which the Dealer Member takes no responsibility as to the appropriateness or suitability of orders accepted or account positions held." Such approval provides Discount Brokers with an exemption from compliance with IIROC Rules that impose requirements to assess the suitability of a client's orders and account positions. Accordingly, as a condition of the approval provided by IIROC to Discount Brokers to operate their discount brokerage businesses, Discount Brokers are prohibited from providing investment recommendations or advice to clients.
64. One of the Discount Brokers through which the RBC Mutual Funds and the PH&N Mutual Funds are sold is RBC Direct Investing, which is an indirect wholly-owned subsidiary of Royal Bank. Each of RBC GAM and RBC IS is also an indirect wholly-owned subsidiary of Royal Bank. RBC Direct Investing, RBC GAM and RBC IS are all affiliates of each other. Some of the Unearned Management Fees have been paid to RBC Direct Investing, which is to the ultimate benefit of Royal Bank.

65. The Defendants knew, or ought to have known, that the Unearned Management Fees were being paid to Discount Brokers as trailing commissions, thereby reducing the value of the Class Members' units, in circumstances where those trailing commissions were not earned by the Discount Brokers because they are not providing services and advice to the Class Members.
66. The Simplified Prospectuses issued by the Defendants to permit the offering of units of the RBC Mutual Funds and PH&N Mutual Funds set out the maximum annual percentage rates for trailing commissions payable in respect of certain of the RBC Mutual Funds and PH&N Mutual Funds. Class Members are entitled to expect that the Defendants will comply with their duties to the Class Members and will not pay the maximum rate of trailing commission both to dealers that provide full advisory services to their clients and to Discount Brokers who provide no services or advice to their clients. Yet, the trailing commissions paid by the Class Members on each series of the RBC Mutual Funds and the PH&N Mutual Funds are identical to the trailing commissions paid on those same series by investors who hold their RBC Mutual Funds or PH&N Mutual Funds through a full-service account.
67. The Defendants never disclosed to the Plaintiff the dollar amount of the trailing commissions paid to the Plaintiff's Discount Broker in respect of the units of the PH&N Mutual Fund held by the Plaintiff.
68. The Defendants continue the practice of paying trailing commissions to Discount Brokers in respect of the RBC Mutual Funds and the PH&N Mutual Funds despite criticism of the practice and the imminent prohibition of the practice by regulators.

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

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

The press release stated that:

The Investment Funds Institute of Canada (IFIC) is calling on regulators to establish rules to ensure that mutual funds carrying an embedded advisor fee are sold only in channels where advice is permitted.

“Investors who buy funds directly, for example through a discount broker, should be confident that they are not inadvertently overpaying by selecting a series that includes fees for services that are not available through that platform,” says Paul C. Bourque, Q.C., IFIC’s president and CEO.

Series A mutual funds bundle an advice fee within the product. Most companies already provide other series of funds with no or nominal trailer fees that investors can purchase if they are do-it-yourself investors or want to pay for advice separately. The industry’s proposal would advance the goal of ensuring that low-trailer or no-trailer funds are available to these types of investors in a more uniform and transparent way.

“IFIC members believe that consumers should be able to choose for themselves the products, services and payment methods that best meet their needs and preferences,”

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

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

We acknowledge that funds that pay an ongoing trailing commission to registrants (often described as a payment for advice and services provided to the investor by the registrant), and are made available by OEO firms (e.g., a Series A fund), raise a conflict of interest. Under our rules, a Dealer Member must address conflicts of interest considering the best interests of the client or clients.

In the Guidance, we indicate that OEO firms should consider how they will address any compensation-related conflicts when deciding which series (or series equivalent in the case of a PTF) of a fund to make (or not make) available on their platforms. We recognize that many OEO firms have already implemented practices to address this conflict.

We expect that OEO firms will make available, whenever possible, funds that do not pay a trailing commission for ongoing advice (often referred to as a Series D fund).

When a Series D fund is not available (e.g., because a fund family does not offer that type of series) and an OEO firm makes available another series that pays a trailing commission, we also expect the firm to address the conflict by rebating to the client the portion of the trailing commission for ongoing advice, or taking other similar steps.

A large majority of the publically available funds include a trailing commission. Management of the conflicts of interest relating to trailing commissions by OEO firms allows investors continued access to the widest possible range of investments.

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

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

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

74. On September 17, 2020, the CSA published for adoption final amendments to applicable securities regulatory instruments to prohibit the payment of trailing commissions (of any amount) by fund managers, including the Defendants, to dealers who do not make a suitability determination, including Discount Brokers. The prohibition on the payment of trailing commissions to Discount Brokers will come into force on June 1, 2022.
75. As alluded to in the above-noted press release of the Investment Funds Institute of Canada, some mutual fund families offer a series of their funds, typically called Series D, that is sold only through Discount Brokers. Series D (or similar discount series) pay a lower management fee than traditional retail series (e.g. Series A) because they include a reduced trailing commission to partially reflect the fact that “services and advice” are not being provided to investors through a Discount Broker.
76. Since 2020, the Fund Facts Documents that the Defendant has prepared and filed to permit the sale of Series D units of certain RBC Mutual Funds and PH&N Mutual Funds (which are only sold through Discount Brokers) acknowledge that advice is not provided to investors in those funds through Discount Brokers by stating that trailing commissions are paid for “advice and/or services” (not “services and advice”) provided by Discount Brokers to investors, and that “[w]hen trailing commissions are paid to discount brokerage firms, they are for services and not for investment advice.”
77. While the Defendants currently offer Series D units on most of the RBC Mutual Funds and PH&N Mutual Funds, other series of the RBC Mutual Funds and PH&N Mutual Funds that carry a higher trailing commission have been held, and continue to be held, by Class Members through Discount Brokers. When the Defendants introduced Series D units of

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

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

RIGHTS OF ACTION

Breach of Fiduciary Duty

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

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

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

83. RBC GAM as manager has expressly or impliedly undertaken to act in the best interests of the Class Members, including as follows:
- (a) by the standard of care binding on RBC GAM as manager under the RBC Trust Instruments, the PH&N Trust Instruments, and section 116 of the *OSA* and/or section 2.1 of NI 81-107;
 - (b) RBC GAM is a signatory to the United Nations-supported Principles for Responsible Investment, pursuant to which RBC GAM signed a declaration in which it acknowledged its “duty to act in the best long-term interests of our beneficiaries” and affirmed its “fiduciary role” and “fiduciary responsibilities”;
 - (c) by its public pronouncements, including as follows:
 - (i) in a publication addressing RBC GAM’s approach to responsible investment, RBC GAM states that one of its “core values” is to “[p]ut our clients’ interests first” and acknowledges its fiduciary duty to clients; and
 - (ii) in RBC GAM’s transparency report on the United Nations-supported Principles for Responsible Investment, RBC GAM states that: “We have a fiduciary duty to our clients to act in their best interests.”
84. Accordingly, as manager of each of the RBC Mutual Funds and the PH&N Mutual Funds, RBC GAM is, and was at all material times, in a fiduciary relationship with the Class Members and owes, or owed at the material times, fiduciary duties to the Class Members.

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

- (a) paying and/or receiving the Unearned Management Fees out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds;
- (b) failing to preserve the property of the RBC Mutual Funds and the PH&N Mutual Funds;
- (c) failing to maximize the value of the units of the RBC Mutual Funds and the PH&N Mutual Funds;
- (d) paying the Unearned Management Fees to the Discount Brokers for no purpose;
- (e) failing to ascertain the nature of any services being provided by Discount Brokers to the Class Members and to ascribe a reasonable value to those services, to ensure that the assets of the RBC Mutual Funds and the PH&N Mutual Funds are being used for proper purposes and in a reasonable amount;
- (f) failing to impose an obligation on Discount Brokers to provide particular services to Class Members in consideration for the trailing commissions;
- (g) failing to conduct any auditing or inquiries, or any adequate auditing or inquiries, into whether Discount Brokers are providing particular services to Class Members in respect of the RBC Mutual Funds and the PH&N Mutual Funds;
- (h) failing to conduct any auditing or inquiries, or any adequate auditing or inquiries, into whether Discount Brokers use or apply the trailing commissions for the purpose of providing particular services to Class Members in respect of the RBC Mutual Funds and the PH&N Mutual Funds;

- (i) permitting series of units of the RBC Mutual Funds and the PH&N Mutual Funds carrying a trailing commission to be acquired and/or held through Discount Brokers;
- (j) failing to create and make available to Class Members through Discount Brokers a series of units of the RBC Mutual Funds and the PH&N Mutual Funds that carries no trailing commission;
- (k) failing to advise, permit and/or cause Class Members to re-designate or reclassify their units of the RBC Mutual Funds and the PH&N Mutual Funds into a series of units that carries no trailing commission;
- (l) in the alternative to paragraphs 85(i) to 85(k):
 - (i) permitting non-Series D (or similar discount series) units of the RBC Mutual Funds and the PH&N Mutual Funds to be acquired and/or held through Discount Brokers;
 - (ii) failing to create and make available to Class Members through Discount Brokers Series D (or similar discount series) units of all of the RBC Mutual Funds and the PH&N Mutual Funds; and
 - (iii) failing to advise, permit and/or cause Class Members to re-designate or reclassify their non-Series D units of the RBC Mutual Funds and the PH&N Mutual Funds into Series D (or similar discount series) units of the RBC Mutual Funds and PH&N Mutual Funds;

- (m) RBC GAM acting in a conflict of interest by simultaneously acting as both the trustee and the manager of the RBC Mutual Funds, and thus paying the Unearned Management Fees to itself and negotiating the management fees with itself;
- (n) acting in a conflict of interest by paying trailing commissions to Discount Brokers for the Defendants' own benefit, effectively as a marketing expense to secure access to the Discount Brokers' clients, resulting in increased management fees for RBC GAM as the assets of the RBC Mutual Funds and the PH&N Mutual Funds grow through new investment capital from the Discount Broker platforms;
- (o) acting in a conflict of interest by failing to make available to Class Members holding RBC Mutual Funds and PH&N Mutual Funds through Discount Brokers a series of the RBC Mutual Funds and PH&N Mutual Funds that pays no trailing commission, or alternatively a reduced trailing commission, because of a concern that it would adversely affect the distribution of RBC Mutual Funds and PH&N Mutual Funds through the full-service or advisory distribution channels and thereby reduce RBC GAM's management fees;
- (p) acting in a conflict of interest by receiving a portion of the Unearned Management Fees for the purpose of paying such amount to RBC Direct Investing (an indirect wholly-owned subsidiary of Royal Bank), for the ultimate benefit of Royal Bank, when such amount could have been retained in the RBC Mutual Funds or the PH&N Mutual Funds for the benefit of Class Members;
- (q) failing to pay and/or accept a management fee reduced by the amount of the Unearned Management Fees and distributing (rebating) that amount to the Class Members as a "management fee distribution";

- (r) failing to waive payment of the Unearned Management Fees; and
 - (s) RBC GAM and/or RBC IS, as trustee, failing to adequately supervise RBC GAM, as manager of the RBC Mutual Funds and the PH&N Mutual Funds, and failing to prevent and/or rectify the misconduct of RBC GAM, as manager of the RBC Mutual Funds and the PH&N Mutual Funds, as particularized herein, in breach of the manager's standard of care set out in the RBC Trust Instruments, the PH&N Trust Instruments, and section 116 of the *OSA* and/or section 2.1 of NI 81-107.
86. The Plaintiff and the other Class Members have suffered loss and damage as a result of the Defendants' breach of fiduciary duty as particularized herein.

Breach of Trust

87. Under the RBC Trust Instruments and the PH&N Trust Instruments, RBC GAM and RBC IS, as trustees of the RBC Mutual Funds and PH&N Mutual Funds, respectively, have and had at all material times a duty to exercise their powers and discharge their duties honestly, in good faith and in the best interests of each RBC Mutual Fund and PH&N Mutual Fund, and to exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances.
88. The duty under the RBC Trust Instruments and the PH&N Trust Instruments is a duty to act honestly, in good faith and in the best interests of the Class Members and the other unitholders of the RBC Mutual Funds and the PH&N Mutual Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances. That duty is enforceable by the Class Members and breaches of that duty are actionable by the Class Members.

89. Alternatively, the duty under the RBC Trust Instruments and the PH&N Trust Instruments includes a duty to act honestly, in good faith and in the best interests of the Class Members and the other unitholders of the RBC Mutual Funds and the PH&N Mutual Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances. That duty is enforceable by the Class Members and breaches of that duty are actionable by the Class Members.
90. Alternatively, the duty under the RBC Trust Instruments and the PH&N Trust Instruments is a duty to act honestly, in good faith and in the best interests of the RBC Mutual Funds and the PH&N Mutual Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances. The RBC Mutual Funds and the PH&N Mutual Funds are trust relationships between RBC GAM and RBC IS, respectively, and the unitholders in respect of property held for the benefit of the unitholders. Any breach of the duty to the RBC Mutual Funds and the PH&N Mutual Funds causes direct loss and damage to the Class Members and the other unitholders of the RBC Mutual Funds and PH&N Mutual Funds. That duty is enforceable by the Class Members and breaches of that duty are actionable by the Class Members.
91. By their acts and omissions, including (without limitation) the acts and omissions set out in paragraph 85 hereof, RBC GAM and RBC IS, as trustees of the RBC Mutual Funds and the PH&N Mutual Funds, respectively, have breached their duty under the RBC Trust Instruments and the PH&N Trust Instruments and committed breaches of trust.
92. The RBC Mutual Funds and PH&N Mutual Funds, the Plaintiff and the other Class Members have suffered loss and damage as a result of the Defendants' breaches of trust as particularized herein.

Breach of Contract

93. Pursuant to Article XVIII, section 1 of the Current RBC Funds DOT, section 9.6 of the Current RBC Private Pools DOT and section 10.1 of the Current PH&N DOT (and the equivalent provisions of other RBC Trust Instruments and PH&N Trust Instruments applicable at material times), RBC GAM, as manager of the RBC Mutual Funds and PH&N Mutual Funds, is and was at all material times required to exercise its powers and discharge its duties honestly, in good faith and in the best interests of the RBC Mutual Funds and PH&N Mutual Funds, and to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.
94. RBC GAM, as manager of the RBC Mutual Funds and the PH&N Mutual Funds, is a party to the RBC Trust Instruments and the PH&N Trust Instruments, along with the trustees and the unitholders. The RBC Trust Instruments and the PH&N Trust Instruments impose obligations and duties on RBC GAM and confer rights and benefits on RBC GAM. RBC GAM, as manager, accepted those obligations and duties in consideration for the rights and benefits.
95. Under the Current RBC Funds DOT (and the other RBC Trust Instruments applicable at material times), RBC GAM “shall act as the trustee and manager of each of the RBC Funds, upon and subject to the conditions contained herein”, and it “does hereby declare that it continues to act as trustee and manager [...] upon and subject to the express terms, conditions and trusts of this Master Declaration of Trust”. Further, RBC GAM, as trustee, “may enter into an agreement with a manager or a manager may be made a party to this Master Declaration of Trust in order to provide for the manager’s responsibilities, authority and compensation.” RBC GAM has not entered into a separate agreement relating to the

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

96. RBC GAM, in its capacity as manager of the PH&N Mutual Funds, signed the Current PH&N DOT as a party thereto.
97. By its acts and omissions, including (without limitation) the acts and omissions set out in paragraph 85 hereof, RBC GAM has breached the standard of care set out in the Current RBC Funds DOT, the Current RBC Private Pools DOT and the Current PH&N DOT (and the equivalent provisions of other RBC Trust Instruments and PH&N Trust Instruments applicable at material times) and is liable for the loss to the Class Members that has arisen out of its breach of the standard of care.
98. The Plaintiff and the other Class Members have suffered loss and damage as a result of RBC GAM's acts or omissions.

Disallowance of Improper Expenses under Section 23.1 of the Trustee Act

99. The Unearned Management Fees are expenses paid by RBC GAM and RBC IS from the trust property of the RBC Mutual Funds and the PH&N Mutual Funds.
100. The expenses are not properly incurred in carrying out the trust because they are on account of trailing commissions paid or payable to Discount Brokers, and such trailing commissions are not properly paid or payable to Discount Brokers because the Discount Brokers do not provide services or advice to the Class Members.

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

Prospectus Misrepresentation

102. The Plaintiff asserts the right of action for prospectus misrepresentation in section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation) on his own behalf and on behalf of the Class Members.
103. The Defendants have prepared, filed and disseminated Simplified Prospectuses and, since January 1, 2011, Fund Facts Documents, to permit the continuous offering to the public of units of the RBC Mutual Funds and the PH&N Mutual Funds.
104. The Fund Facts Documents are incorporated by reference into the relevant Simplified Prospectuses and form part of those Simplified Prospectuses.
105. Pursuant to section 56(1) of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation), the Simplified Prospectuses are and were required to provide full, true and plain disclosure of all material facts relating to the securities issued or proposed to be distributed under the Simplified Prospectuses.
106. The Simplified Prospectuses are prospectuses for the purposes of section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation).
107. The Fund Facts Documents prepared, filed and disseminated by the Defendants in respect of the RBC Mutual Funds and the PH&N Mutual Funds (other than Fund Facts Documents for Series D units of certain RBC Mutual Funds and PH&N Mutual Funds since 2020)

- have contained at all material times a common statement that trailing commissions are paid to dealers for the “services and advice” provided by those dealers to their clients.
108. That common statement is a misrepresentation within the meaning of the *OSA* (and, if necessary, the Other Canadian Securities Legislation). It falsely represents that trailing commissions are only paid to dealers that provide services and advice to investors, whereas in fact trailing commissions are also paid to Discount Brokers even though they do not provide services or advice to their clients. The statement is, and was at all material times, material to the Class Members.
109. In 2020, the Fund Facts Documents for Series D units of certain RBC Mutual Funds and PH&N Mutual Funds (which are only sold through Discount Brokers) were amended to refer to “advice and/or services” rather than “services and advice”, and to state that “[w]hen trailing commissions are paid to discount brokerage firms, they are for services and not for investment advice.” The Defendants continue to represent that trailing commissions are paid for “services and advice” in Fund Facts Documents for other series of the RBC Mutual Funds and PH&N Mutual Funds that are held through Discount Brokers. By making those amendments to the Fund Facts Documents, the Defendants have acknowledged that the reference to “services and advice” in the Fund Facts Documents is and was false, misleading and/or inaccurate in respect of RBC Mutual Funds and PH&N Mutual Funds held through Discount Brokers.
110. The Defendants certified and signed the Simplified Prospectuses as required by NI 81-101 and Form 81-101F2, and are liable pursuant to section 130 of the *OSA* (and, if necessary, the equivalent provisions of the Other Canadian Securities Legislation).

111. The offering of units of the RBC Mutual Funds and PH&N Mutual Funds to which the Simplified Prospectuses and Fund Facts Documents related constituted distributions of the units in Ontario and/or distributions of units from Ontario to persons outside of Ontario. The offering was governed by the *OSA* and its subsidiary instruments and regulations, and was carried out under Ontario securities laws.
112. The Plaintiff and the other Class Members have suffered loss and damage as a result of the Defendants' acts and omissions as particularized herein.

DAMAGE SUFFERED BY THE CLASS MEMBERS

113. The RBC Mutual Funds and the PH&N Mutual Funds, the Plaintiff and the other Class Members have suffered loss and damage as a result of the Defendants' acts and omissions particularized herein.
114. As a result of the payment of the Unearned Management Fees out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds, the value of the assets of the RBC Mutual Funds and PH&N Mutual Funds has been significantly reduced.
115. As a result of the payment of the Unearned Management Fees out of the assets of the RBC Mutual Funds and the PH&N Mutual Funds, there has been a significant reduction in the value of the units of the RBC Mutual Funds and the PH&N Mutual Funds held by the Class Members and/or the value of the distributions received by the Class Members on their units of the RBC Mutual Funds and the PH&N Mutual Funds (whether received in cash or reinvested in additional units).
116. The Plaintiff and the other Class Members have also suffered loss and damage as a result of the loss of opportunity to earn a reasonable return on investment if the Unearned

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

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

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

REAL AND SUBSTANTIAL CONNECTION WITH ONTARIO

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

- (a) the Plaintiff is resident in Ontario;
- (b) the Defendants are domiciled in Ontario;
- (c) the Defendants carry on business in Ontario;
- (d) each of the RBC Mutual Funds and PH&N Mutual Funds is, or was at material times, a reporting issuer in Ontario;
- (e) the Simplified Prospectuses and Fund Facts Documents referred to herein were disseminated in Ontario;
- (f) a substantial portion of the Class Members reside in Ontario; and
- (g) a substantial portion of the damages sustained by the Class were sustained by persons and entities domiciled in Ontario.

RELEVANT LEGISLATION

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

PLACE OF TRIAL

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

January 25, 2019

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Lawyers for the Plaintiff

SCHEDULE "A"
RBC MUTUAL FUNDS

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

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

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

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

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

139. RBC Private Canadian Mid-Cap Equity Pool
140. RBC Private U.S. Large-Cap Value Equity Pool
141. RBC Private U.S. Large-Cap Value Equity
142. Currency Neutral Pool
143. RBC Private U.S. Growth Equity Pool
144. RBC Private U.S. Large-Cap Core Equity Pool
145. RBC Private U.S. Large-Cap Core Equity
146. Currency Neutral Pool
147. RBC Private U.S. Small-Cap Equity Pool
148. RBC Private EAFE Equity Pool
149. RBC Private Overseas Equity Pool
150. RBC Private World Equity Pool

SCHEDULE "B"
PH&N MUTUAL FUNDS

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

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

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

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

**SECOND FRESH AS AMENDED STATEMENT OF
CLAIM**

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SCHEDULE "B"
LITIGATION PLAN

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

PETER ROSS

Plaintiff

- and -

RBC GLOBAL ASSET MANAGEMENT INC.
and RBC INVESTOR SERVICES TRUST

Defendants

Proceeding under the *Class Proceedings Act, 1992*

LITIGATION PLAN

Pursuant to section 5(1)(e)(ii) of the *Class Proceedings Act, 1992* (“**CPA**”), the Plaintiff proposes that this Litigation Plan be followed with respect to these proceedings, subject to the Court’s approval.

INTERPRETATION

1. This Litigation Plan is subject to, and should be read in conjunction with, the stay order of Justice Akbarali dated August 1, 2023 made in the action styled *DeJong v RBC Global Asset Management Inc. et al.*, Court File No. CV-22-00691343-00CP (“**2022 Action**”).

DEFINED TERMS

2. Capitalized terms that are not defined in this litigation plan (“**Plan**”) have the meanings attributed to them in the proposed Second Fresh as Amended Statement of Claim.

REPORTING AND COMMUNICATION

3. Siskinds LLP (“**Class Counsel**”) has posted information about the nature and status of this action on its website, <https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/> (“**Website**”). That information will be updated regularly. Copies of important, publicly available court documents, court decisions, notices, documentation, and other information relating to the action are or will be accessible on the Website.
4. The Website also contains a communication webpage, a feature that permits putative Class Members to submit inquiries to Class Counsel, which are sent directly to a designated member of the Class Counsel team, who will promptly respond.

DOCUMENT MANAGEMENT

5. Class Counsel will use data management systems to organize, code, and manage the documents produced by the Defendants and all relevant documents in the Plaintiff’s possession. The agreement of the Defendants’ counsel will be sought to facilitate the electronic exchange of documents. Once the volume of documents to be produced in this action is determined, Class Counsel may retain the services of a third-party document management firm for assistance.
6. Kalloghlian Myers LLP, as counsel to the plaintiff in the 2022 Action, shall, on a go-forward basis until the stay is lifted in the 2022 Action, provided that the 2022 Action has not been settled, discontinued or finally dismissed, be provided with a copy of all affidavits of documents, productions, transcripts of examination for discovery, motion materials, and transcripts of cross-examinations in this proceeding, with Kalloghlian Myers LLP and the plaintiff in the 2022 Action being subject to the deemed undertaking rule and only

permitted to use any such materials for purposes of observing the progress of the 2018 Action and preserving the rights of the plaintiff in the 2022 Action.

LITIGATION SCHEDULE

7. The Plaintiff has brought a motion seeking certification of the action as a class proceeding pursuant to the *CPA* (“**Certification Motion**”).
8. Following disposition of the Certification Motion, absent agreement among counsel, the Plaintiff will ask the Court to set a litigation schedule for the remaining steps in the action.
9. From time to time, the Plaintiff or the Defendant may ask that the litigation schedule be amended.

RESOURCES AND EXPERTISE

10. The Plaintiff has retained Class Counsel as his counsel in this action. Class Counsel has the experience, resources and expertise to prosecute this action on behalf of the Class.

MEDIATION

11. The Plaintiff will participate in a mediation if the Defendants are prepared to do so. If the parties reach a proposed settlement of the action and the court approves the settlement, this Plan will require amendment.

NOTICE OF CERTIFICATION AND OPT OUT PROCEDURE

12. Notice of certification (“**Certification Notice**”) will be circulated to advise Class Members, among other things, that:
 - (a) the Court certified the action as a class proceeding;

- (b) a person may only opt out of the class proceeding by sending a written opt out election to the recipient designated by the Court, before a date and time fixed by the Court;
 - (c) a person may not opt out of the class proceeding after the date fixed by the Court; and
 - (d) if the common issues are resolved in favour of the Class, claimants may be required to register, file a claim and submit documentation to a designated person in order to be entitled to any compensation.
13. The Certification Notice, in a form approved by the Court, will be distributed and published in the following manner:
- (a) posted by Class Counsel on the Website, in English and French;
 - (b) provided by Class Counsel to any person who requests it;
 - (c) posted by the Defendants on SEDAR;
 - (d) disseminated as a press release in Canada across Canada Newswire (in English and French);
 - (e) published once in the business section of the national edition of *The Globe and Mail*, in English;
 - (f) published once in the business section of *La Presse*, in French;
 - (g) published as an internet Google banner ad for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, over 30 days; and

- (h) sent electronically and/or in paper form to appropriate broker/dealers in Canada, with a cover letter requesting that they bring the Certification Notice to the attention of their clients who may be Class Members.
- 14. The Plaintiff will appoint an independent person to receive the opt out notices and report to the court the names and addresses of the persons who opt out by the date fixed by the court.
- 15. The Plaintiff will pay the costs in the first instance, reserving the right to seek recovery of these costs from the Defendants by order of the judge presiding at the common issues trial.

REFINEMENT OF COMMON ISSUES

- 16. Following the completion of discovery, the parties may seek an amendment of the order certifying this action to deal with any necessary refinements to the common issues.

TRIAL OR SUMMARY JUDGMENT ON THE COMMON ISSUES

- 17. The common issues will be determined in two phases in accordance with the stay order dated August 1, 2023 made in the 2022 Action.
- 18. If appropriate, the Plaintiff or Defendant may seek summary judgment on one or more of the common issues.
- 19. After the final resolution of the phase one common issues in the 2018 Action, the Plaintiff, the plaintiff in the 2022 Action and the Defendant shall convene a case conference or pre-trial conference to obtain directions on the conduct of the second phase of the common issues trial.
- 20. The Plaintiff will ask the Court to hold the hearing on the merits (whether a motion for summary judgment or common issues trial) no later than one (1) year after the completion

of the examinations for discovery and the production of information required by undertakings and any motions.

INDIVIDUAL CLASS MEMBER PARTICIPATION AFTER JUDGMENT ON THE COMMON ISSUES

21. Once the common issues have been determined, the parties will bring a motion to the Court for directions as to the process to be employed to determine any individual issues that remain.

MOTION FOR DIRECTIONS

22. Class Counsel and the Defendants may apply at any time to the court for directions.

CLASS COUNSEL'S FEES AND THE COSTS OF ADMINISTRATION

23. After the trial of the common issues or summary judgment, the Plaintiff will ask the court to approve an agreement respecting fees and disbursements between him and Class Counsel. To the extent that the approved Class Counsel's fees, disbursements and applicable taxes are not completely paid by the costs recovered from the Defendants, the Plaintiff will ask the court to order that the unpaid balance be a first charge on any recovery either by way of aggregate or individual assessment.
24. If the court awards damages in the aggregate, Class Counsel will ask the court to order payment of their fees, disbursements and applicable taxes as a first charge on the aggregate amount.
25. If the court does not award damages in the aggregate and requires the Class Members to prove their damages through individual assessments, Class Counsel will ask the court to order payment of their fees, disbursements and applicable taxes as a first charge on the awards made at individual assessments.

FURTHER ORDERS CONCERNING THIS PLAN

26. This Plan may be amended from time to time by directions given at case conferences or by further order of the Court.

EFFECT OF THIS PLAN

27. This Plan shall be binding on all Class Members who do not opt out in accordance with the procedure directed by the Court whether or not they make a claim under the Plan.

SCHEDULE "C"
LONG-FORM NOTICE

**RBC AND PH&N MUTUAL FUNDS CLASS ACTION
REGARDING TRAILING COMMISSIONS PAID TO DISCOUNT BROKERS**

NOTICE OF CERTIFICATION AND OPT-OUT DEADLINE

Read this notice carefully as it may affect your legal rights

This notice is to certain investors in the units of RBC Mutual Funds and PH&N Mutual Funds other than certain persons and entities associated with the defendants, further described below.

THE CERTIFICATION ORDER

By Order dated [date], the Ontario Superior Court of Justice ("**Court**") has certified *Peter Ross v RBC Global Asset Management Inc. and RBC Investor Services Trust*, File No. CV-18-00611743-00CP ("**Class Action**") as a class proceeding pursuant to the Ontario *Class Proceedings Act, 1992*. The Court has appointed Peter Ross as the representative plaintiff for the class defined as follows ("**Class**" and "**Class Members**"):

All persons, wherever they may reside or be domiciled, who held or hold, from December 28, 2003 to [date of certification order] in this proceeding units of a RBC Mutual Fund or a PH&N Mutual Fund through a Discount Broker, except for the Excluded Persons.

The Class Action pertains to RBC Mutual Funds and PH&N Mutual Funds organized as trusts. RBC Mutual Funds are defined as:

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

PH&N Mutual Funds are defined as:

All mutual fund trusts (including, without limitation, all series of units thereof) of

which RBC Investor Services Trust ("**RBC IS**") is trustee, was trustee or may be trustee prior to the conclusion of the trial of the common issues in this proceeding (but only in respect of the period during which RBC IS is trustee, was trustee or may be trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been or may be terminated, (ii) those mutual funds that have been or may be merged into other mutual funds, and (iii) those mutual funds that have undergone or may undergo name changes.

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

Certification is a procedural matter that defines the form of the class action. The merits of the claims in the action, and the allegations of fact on which the claims are based, have not been finally determined by the Court. The Defendants dispute the claims asserted against them.

The Class Action will now proceed to trial as a class action. The Court has identified the issues that will be dealt with collectively. The Class Action will proceed in Toronto, Ontario.

THE NATURE OF THE CLAIMS ASSERTED

It is alleged that the Defendants paid trailing commissions, out of the RBC Mutual Fund assets and PH&N Mutual Fund assets, to Discount Brokers. The RBC Mutual Funds and PH&N Mutual Funds are trusts governed by trust instruments. The Defendants are the trustee or manager of the RBC Mutual Funds and the PH&N Mutual Funds. It is alleged that the Defendants breached their trust, fiduciary and contractual duties because the trailing commissions paid to Discount Brokers are excessive, inflated and/or unearned.

It is further alleged that the Defendants made misrepresentations about the nature of the trailing commission payments in the fund facts documents they have prepared and filed with securities regulators to permit the sale of units of the RBC Mutual Funds and PH&N Mutual Funds.

On behalf of the Class, the Class Action asserts claims under section 130 of the Ontario *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Canadian provinces and territories. Additionally, the Class Action advances claims under section 23.1 of the *Trustee Act*, and for breach of trust, breach of fiduciary duty and breach of contract.

If you wish to pursue other claims against the Defendants relating to the matters at issue in the Class Action, you should immediately seek independent legal advice.

DO NOTHING IF YOU WANT TO PARTICIPATE IN THE CLASS ACTION

Class Members who want to participate in the Class Action are automatically included and do not have to do anything at this time.

YOU MUST OPT OUT IF YOU DO NOT WANT TO BE BOUND BY THE CLASS ACTION

Each Class Member who does not validly opt out of the Class Action will be bound by the terms of any judgment or settlement, whether favourable or not, and will not be allowed to prosecute an independent action.

Class Members who do not want to be bound by the outcome of the Class Action must "opt out," meaning that they must exclude themselves from the Class Action in accordance with the following procedure.

If you wish to opt out of the Class Action, you must complete, sign and return (by mail or courier) the opt-out form provided at Appendix "A" hereto to RicePoint Administration Inc.

In order for your opt-out to be valid, your complete and signed opt-out form must be postmarked by no later than [DATE].

A Class Member who opts out will not be entitled to participate in the Class Action.

CLASS COUNSEL AND LEGAL FEES

The representative plaintiff and the Class are represented by Siskinds LLP ("**Class Counsel**"). Class Counsel are conducting the Class Action on a contingent fee basis.

In the event of success, Class Counsel will make a motion to the Court for approval of their fees and disbursements to be paid from the funds recovered in the Class Action.

A Class Member will not be required to pay any costs in the event that the Class Action is unsuccessful.

Class Members have the right to seek intervenor status in the Class Action. A Class Member who intervenes in the Class Action may be required to pay legal costs arising from the Class Action.

ADDITIONAL INFORMATION

This notice has been approved by the Ontario Superior Court of Justice. The Court offices cannot answer any questions about the matters in this notice. The Orders of the Court and other information are available on Class Counsel's website at <https://www.siskinds.com/class-action/mutual-fund-trailing-commissions>.

Questions relating to the Class Action may be directed to Class Counsel:

Gigi Pao
Siskinds LLP
275 Dundas Street, Unit 1
London, ON, Canada N6B 3L1
Tel: 226-636-1615
Email: gigi.pao@siskinds.com

If you require assistance in the French language, please contact Class Counsel using the contact details above and we will direct your inquiry to an appropriate person.

The publication of this notice was authorized by the Ontario Superior Court of Justice

(PLEASE CIRCLE THE APPROPRIATE LANGUAGE)

I believe that **I am / the organization that I represent is** a member of the Class in the Class Action.

I believe that **I am not / the organization that I represent is not** amongst the persons and entities excluded from the Class Action.

I understand that by opting out of the Class Action, I **will not be eligible / the organization that I represent will not be eligible** for any benefit that may be available to the Class upon resolution of this matter, if and when such resolution may occur.

I, _____ (print your full name), **OPT OUT FROM THE CLASS ACTION** and wish to be excluded from this class action.

I wish to opt out from this class action for the following reason(s) (optional):

I, _____ (print your full name), **CERTIFY** that the information provided herein is complete and true.

Date

Signature

In order to validly opt out, you must complete and send this Opt-Out Form by no later than [DATE] to:

[Administrator contact details, including mail and courier details]

SCHEDULE "D"
SHORT-FORM NOTICE

DRAFT TEXT (subject to design)

**RBC AND PH&N MUTUAL FUNDS CLASS ACTION
REGARDING TRAILING COMMISSIONS PAID TO DISCOUNT BROKERS
NOTICE OF CERTIFICATION AND OPT-OUT DEADLINE**

**HAVE YOU HELD UNITS OF
AN RBC OR PH&N MUTUAL FUND
THROUGH A DISCOUNT BROKER?**

The Superior Court of Justice of Ontario has certified a class action which permits a defined group of investors (the "Class") to pursue claims against RBC Global Asset Management Inc. and RBC Investor Services Trust ("Defendants"). It is alleged that the Defendants paid excessive, inflated, and/or unearned trailing commissions to Discount Brokers out of the assets of the RBC and PH&N Mutual Fund trusts. The class action claims monetary damages on behalf of the Class. The allegations made in the class action have not been proven and are contested by the Defendants.

If you wish to participate in the class action, **DO NOTHING.**

If you do not wish to participate in the class action, be bound by or receive any benefits from it, you must opt out by sending the opt-out form to RicePoint Administration Inc. by [DATE].

To obtain a copy of the opt-out form or for other important information regarding the class action:

1. Visit <https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/>
2. Call toll-free 1 800 461 6166 ext 1615 (North America)
3. Call 416 594 4390 (Outside North America)

***The publication of this notice was authorized by
the Superior Court of Justice of the Province of Ontario***

SCHEDULE "E"
INTERNET BANNER

Have you held units of an RBC or PH&N mutual fund through a discount brokerage?

You may be included in a class action certified by the Ontario Superior Court of Justice.

Click to learn your legal rights, including how to opt-out of the class action.

<https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/>

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto
Proceeding under the *Class Proceedings Act, 1992*

**ORDER
(CERTIFICATION, NOTICE AND OPT-OUT)**

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