

C A N A D A

COUR SUPÉRIEURE

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PROVINCE DE QUÉBEC  
DISTRICT DE MONTRÉAL

**SHEILA CALDER**

NO : 500-06-000435-087

Petitioner

-c-

**BANQUE ROYALE DU CANADA & ALS.**

Respondent

-et-

**RSM RICHTER INC. & AL.**

Mis-en-causes

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**RE-AMENDED MOTION FOR AUTHORISATION TO INSTITUTE  
CLASS ACTION PROCEEDINGS**

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**TO THE HONOURABLE MARC DE WEVER, J.C.S., PETITIONER SHEILA  
CALDER RESPECTFULLY SUBMITS THE FOLLOWING:**

**Petitioner and Class description**

1. Petitioner Sheila Calder seeks to obtain permission from this Honourable Court to institute a class action proceeding (...) for the benefit of all those persons comprised in the class hereinafter defined, of which Petitioner is also a member, namely:

"All Canadian retail investors who purchased one of the Olympus United Funds Corporation shares (formally First Horizon Holdings Ltd.) from June 27, 1999 to June 29, 2005, and who had outstanding shares in said corporations as of June 29, 2005".

2. The undersigned newly appointed attorneys are entirely redrafting this Motion in order to simplify it's understanding and legibility, and to take into account the results of ongoing investigations made by the Mis-en-causes and the Ontario Securities Commission (OSC);

3. References to the existing exhibits will be made, some of the *en liasse* exhibits will be sub-divided in lettered quotations for greater ease of reference, and new exhibits will be added;

4. With the same goal of ease of reading, and since the amendments are throughout, the following paragraphs will not be underlined;

### **The Norshield / Olympus Scheme**

5. Between June 1999 and June 2005, John Xanthoudakis (Xanthoudakis), through the *Norshield Financial Group* developed, marketed and operated the *Olympus investment structure*;

6. *Norshield Financial Group* was not an incorporated entity, but rather a brand name to which Xanthoudakis, managed to give a strong aura of performance and credibility in the years preceding its complete financial collapse;

7. The *Olympus investment structure* allowed the *Norshield Financial Group* to raise Canadian retail investors money, which flowed through the following entities :

**Olympus United Funds Corporation (Canada)**  
(formaly First Horizon Group)



**Olympus United Bank and Trust SCC (Barbades)**  
(formaly First Horizon Bank)



**Olympus Uninvest Ltd. (Bahamas)**  
(formaly Uninvest)



**Mosaic Composite Ltd. (Bahamas)**  
(formaly Norshiled Composite Ltd.)

8. In May 2005, the *Olympus investment structure* failed to meet redemption requests;

9. From that incapacity to meet redemptions, the *Norshield Financial Group* collapsed, as appears from the following paragraphs;

**The collapse of the *Norshield Financial Group***

10. The first *Norshield Financial Group* entity to be placed into insolvency proceedings was **Olympus Univest Ltd. (Univest)** which, on May 19, 2005, decided on its voluntary liquidation, the whole as appears from paragraph 1.1 of Exhibit R-21;

11. Univest's voluntary liquidation was followed, on June 29, 2005, by the following entities to be placed into receivership, the whole as appears from paragraphs 1 and 2 of Exhibit R-12B:

**Norshield Asset Management Ltd. (NAM)**

**Norshield Investment Partners Holdings Ltd.**

**Olympus United Funds Holdings Corporation**

**Olympus United Funds Corporation (Olympus Funds)**

**Olympus United Bank and Trust SCC (Olympus Bank)**

**Olympus United Group Inc.**

12. On September 9, 2005 and October 14, 2005, the two following entities were also placed into receivership, as appears from paragraph 3 of Exhibit R-12B:

**Norshield Capital Management Corporation**

**Honeybee Software Technologies Inc.  
(formerly Norshield Investment Corporation)**

13. Finally, on January 20, 2006, **Mosaic Composite Ltd (formally Norshield Composite Ltd.)** was placed in receivership as appears from paragraph 8 of Exhibit R-49A;

14. All of the companies described above are part of the *Norshield Financial Group*;

15. The Mis-en-causes, Massi and RSM Richter (RSM), are involved in each of these insolvency processes, either as Receivers, Joint Custodians or Joint Liquidators;

## **The Olympus scheme**

16. Between June 1999 to June 2005, the *Olympus investment structure* allowed *Norshield Financial Group* to raise tens of millions of dollars of Canadian retail investors money;

17. The flow of funds within the *Olympus investment structure* was described by the Mis-en-causes receivers in November 2005, by the chart which Plaintiff files in support of the present motion as Exhibit R-50;

18. When the *Olympus investment structure* collapsed, some 1 900 Canadian retail investors (the Class) were left with \$159 million of unredeemable shares of Olympus United Funds Corporation, the whole as appears from the Mis-en-causes' *Thirteenth Report of Receivers* filed as Exhibit R-51, at paragraph 16;

19. The *Olympus investment structure's* foundation was a basket of hedge funds created in the Bahamas in June 1999, by *Norshield Financial Group* and RBC;

## **The birth of a new financial product**

20. On June 8th, 1999, *Norshield Financial Group* signed with RBC Dominion Securities (acting for Royal Bank of Canada) a *Letter Agreement with respect to a structured call option transaction*, (Exhibit R-29);

21. The R-29 transaction provided that a specific entity within the *Norshield Financial Group* would be later identified as RBC's counterparty;

22. By way of the R-29 transaction, RBC was in fact extending a USD \$100 million margin loan to *Norshield Financial Group*;

23. This margin loan was granted with the specific goal of creating a basket of offshore hedge funds<sup>1</sup>;

24. Those \$100 million allowed *Norshield Financial Group* and RBC to attract qualified hedge fund managers that would not have otherwise been available for smaller amounts under management;

25. In order to gain access to the \$100 million margin loan. *Norshield Financial Group* paid a premium of USD \$15 million in cash (or 15% of the margin loan);

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<sup>1</sup> R-29, p.3, under the title Index.

26. The R-29 transaction conditions granted RBC the equivalent of a *real right with delivery* on 85 % of the basket of hedge funds created with the new \$100 million;

27. On June 29, 1999, an RBC Dominion Securities *Confidential client questionnaire* (R-31) was signed by which Norshield Composite Ltd. (later Mosaic Composite Ltd) was identified as the *Norshield Financial Group* entity to be RBC's counterparty;

28. The R-29 transaction was finalized on July 30, 1999 between RBC and Norshield Composite Ltd., as appears from the R-33 Norshield Composite board of directors resolution, the R-34 ISDA Master Agreement and the R-35 Confirmation of agreement ;

29. The R-35 Confirmation of agreement provided that RBC had authority over :

- the modification of the index of the basket of hedge funds (par. 9);
- the calculation of the value of the index (par. 13 (2));
- any assignment of the option (par. 13 (4));

30. The option mechanism also vested RBC with control over all essential aspects of the ongoing management of the basket of hedge funds;

31. Notably, R-29 provided that RBC itself would negotiate and sign the Investment Advisory Agreements with each of the managers of each of the new hedge funds (par. 3);

32. On August 7, 1999, RBC signed with one of those hedge funds managers an *Investment Management Agreement*, said agreement being filed as Exhibit R-52;

33. Another concrete example of RBC's power over the basket of hedge funds is an August 29, 2000 letter from RBC informing *Norshield Asset Management* of a change in composition of the Index, said letter being filed as Exhibit R-53;

34. As already mentioned, the basket of hedge funds created by the R-35 transaction was the foundation of the *Olympus investment structure*;

35. In fact, as the Mosaic basket of hedge funds was created by *Norshield Financial Group* and RBC in the Bahamas, so was created the *Olympus investment structure*;

\* \* \*

36. On June 27<sup>th</sup> 1999, Canadian retail investors were offered the *Horizon Group of Investment Funds* (later the *Olympus United Funds*), the whole as appears from Exhibits R-9A to R-9G;

37. The R-9 Offering Memorandums indicated that the retail investor's monies would be managed by *Olympus United Bank SCC* (Olympus Bank), a wholly owned Barbados subsidiary<sup>2</sup>;

38. But, contrary to the Offering Memorandums' representations, *Olympus Bank's* equity was in turn invested in *Olympus Uninvest Limited* (Olympus Uninvest);

39. *Olympus Uninvest* mingled the money with that of other institutional and private investors;

40. *Olympus Uninvest* then invested most of its equity in *Mosaic Composite Limited* (Mosaic), the "owner" of the basket of hedge funds created with the R-35 margin loan;

41. *Mosaic's* basket of hedge funds was the main asset on which was calculated the value of the *Olympus United Funds* shares<sup>3</sup>;

42. But the underlying debt attached to that basket of hedge funds was not taken into account in calculating the *Olympus United Funds* shares value;

43. Founding *Olympus United Funds* shares value on a heavily leveraged asset, without taking this asset's underlying debt into account, had the effect of grossly inflating the value at which Class members bought their shares of *Olympus United Funds*;

### ***The beginning of the end***

44. During the period between 2001 and 2005, *Olympus investment structure's* capital was dissipated through unexplained third-party payments to entities with close ties to Xanthoudakis<sup>4</sup>, those unexplained payment exceeded \$217 million;

45. During 2003 and 2004 an exceptionally high proportion of redemptions of *Olympus United Funds* shares occurred<sup>5</sup>;

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<sup>2</sup> R-9G, sections 1.2, 1.3, 2.2 and 2.4.

<sup>3</sup> R-12D, par. 146 ss.

<sup>4</sup> R-12D, par. 170 ss.

<sup>5</sup> R-12D, exhibit 4.

46. During those two years, whereas Canadian retail investors injected \$105 million to buy new shares at grossly inflated values, \$90 million went out to pay redemptions;

47. Each redemption, made at grossly inflated values, was done at the expense of the Class members;

\* \* \*

48. During that critical 2002-2004 period, the collaboration between RBC and Norshield intensified;

49. For one, the R-35 \$100 million margin loan was followed on June 28, 2002 by a second agreement which extended an extra \$33,33 million loan from RBC to Mosaic as appears from the R-39A Letter Agreement;

50. Then, during the thirteen months between September 2002 and October 2003, the R-39A margin loan was amended and augmented eight times by RBC to end up totaling \$245,33 million<sup>6</sup>;

51. On or before March 4, 2004, the R-35 and R-39A margin loans were merged, and on March 4, 2004, the merged loan was one more time augmented by RBC to end up totaling \$353,1 million<sup>7</sup>;

52. During that relatively short period, in consideration for those margin loan augmentations, RBC pocketed cash premiums of over \$38 million<sup>8</sup>;

53. Those \$38 million added to the \$15 million premium already pocketed by RBC from the original R-35 margin loan;

54. Thus, the total premiums generated by RBC from its lending activity to *Norshield Financial Group* amounted to \$53 million USD;

55. These margin loan augmentations had the effect of augmenting the assets under management in the underlying basket of hedge funds, which in turn artificially inflated the value of the *Olympus United Funds* shares;

56. During that period, most of *Olympus United Funds* share subscriptions were used to pay redemptions (ponzi scheme) and to make some \$217 million in unexplained payments to *Norshield Financial Group* related entities<sup>9</sup>;

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<sup>6</sup> R-39B.

<sup>7</sup> R-39C.

<sup>8</sup> The undersigned attorneys prepared an excel file detailing the options and their amendments, which is provided as exhibit R-39D for ease of reference.

<sup>9</sup> R-12D, par. 170 ss.

57. In the OSC decision concerning Xanthoudakis et al., filed as Exhibit R-54<sup>10</sup>, the Ontario securities commission (OSC) found that:

“207. (...) From 2001 to 2005, \$264.7 million were raised from the retail investors and \$139.3 million were invested in Olympus Bank and Olympus Uninvest level, with most of the difference apparently having been used for meeting redemptions from other investors.

(...)

235. We note that the Respondents were generally unable to account for investors’ funds. We heard evidence that the Receiver put forth considerable efforts to trace the movement of investor funds through the Norshield Investment Structure, but was not able to determine exactly where the funds went. (...)

(...)

292. The fact remains that because of the dissipation of investor funds at various points throughout the Norshield Investment Structure, only a small portion of investor funds made their way to the hedge fund managers. Massi testified that “[in] later years, most of the money never went down to the bank. It stayed at the fund level” (Hearing Transcript, November 4, 2008, p. 144). Consequently, the use of leverage was required in order to provide the hedge fund managers with sufficient funds and to ensure that a diverse set of assets could be achieved.”

58. Hence, not only did RBC directly participated in the creation of a fraudulent investment structure by providing its foundation, but it also participated in the ongoing illusion that the Class members’ money was safe and growing;

***The RBC Norshield collaboration: one step further***

59. In January 2004, RBC’s collaboration with *Norshield Financial Group* in relation to the *Olympus investment structure* went one step further;

60. On January 19<sup>th</sup> 2004, RBC presented to the Canadian public and investment professionals the *RBC Olympus United Uninvest Principal Protected Hedge Funds Linked Deposit Notes, Series 1*, as appears from RBC/Norshield *Financial Group* Press release, said press release being already filed as Exhibit R-41;

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<sup>10</sup> Dated March 8, 2010



61. In the R-41 press release, RBC and *Norshield Financial Group* mention that they :

*“ are proud to bring you the: Univest Principal Protected Hedge Funds Linked Deposit Notes, Series 1 ”*

62. Exhibit R-41 also taunts the merits of *Norshield Financial Group* as:

*“ Canada’s most successful and established Fund of Hedge Funds manager ”*

63. Those joint statements came at a time when, as already discussed, most of the new money entering the *Olympus investment structure* was never invested since it was almost all needed to pay redemption requests<sup>11</sup>;

64. The *RBC Olympus United Univest Principal Protected Hedge Funds Linked Deposit Notes, Series 1* was offered through an *Information Statement* filed as Exhibit R-55;

65. The first page of the R-55 *Information Statement* displays the RBC, *Norshield Financial Group* and *Olympus* logos on its front page;

66. The first page also designates *Olympus United Group inc.* as placement agent for the product;

67. Pages *iv* to *x* of R-55 identify *Norshield Asset Management (NAM)* as “basket manager”, said basket being a basket of hedge funds;

68. *NAM* was a *Norshield Financial Group* entity implicated at every level of the *Olympus investment structure*, as indicated by the *Mis-en-causes* in the R-50 chart;

69. Other concrete examples of *NAM*'s implication in the *Olympus investment structure* are:

- a) *NAM* was RBC's Advisor to the *Mosaic* basket of hedge funds (R-29 Letter Agreement);
- b) *NAM* was Portfolio Manager of the *Olympus United Funds* from at least 2002 (R-9D Offering memorandums and R-10 Portfolio Management Agreement);

\* \* \*

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<sup>11</sup> Exhibit 4 of R-12D;

70. Before offering the R-55 PPN, RBC did or had to have done a due diligence research of the *Olympus investment structure* and of *Norshield Financial Group*;

71. What's more, at that time, not only did RBC had *Know your clients* obligations, but they also had anti-laundering and anti-terrorist monitoring obligations;

72. During the years preceding the R-55 PPN:

- *Olympus United Funds* investor's money was not making its way down the *Olympus investment structure* but was being diverted by the hundreds of millions to *Norshield Financial Group* related entities;
- *Olympus United Funds* share redemptions became as high as subscriptions;
- *Norshield Financial Group's* indebtedness in the R-35/R-39A margin loan had grown exponentially;
- *Norshield Financial Group* was over-evaluating *Olympus United Funds* and *Univest* shares by as much as the amount due to RBC;

73. Nevertheless, ignoring all these alarming facts, RBC partnered with *Norshield Financial Group* in relation to the *Olympus investment structure*;

## **MS-II**

74. Between November 2004 and January 2005 *Mosaic* entered into a series of transactions with *Norshield Financial Group* related and other un-related entities, in order to generate liquidity and meet redemptions request<sup>12</sup>;

75. The R-35 / R-39A options were then assigned to *Univest Multi-Strategy Fund II, Ltd. (MS-II)*, a *Norshield Financial Group* related Cayman Island corporation, as appears from Exhibit R-43A;

76. RBC knew of this assignment, if only because it had to authorize it pursuant to the R-35 / R-39A option conditions<sup>13</sup>;

77. MS-II then sold some of its shares for \$15 million to two of the *Univest* funds (*Univest Convertible Arbitrage Fund Ltd.* and *Univest High Yield Fund Ltd.*), the whole as appears from Exhibit R-44A;

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<sup>12</sup> R-51, par. 26, 27.

<sup>13</sup> R-43A, p. 3.

78. A number of MS-II shares were also sold to a non related third party for a further \$30 million, the whole as appears from First report of the Olympus Uninvest Limited Liquidator, filed as Exhibit R-21, at par. 5.8;

79. These transactions were structured so that *Mosaic* could retain an economic interest in the fundamental basket of hedge funds, which allowed for the *Olympus investment structure* to keep misleadingly founding its value on *Mosaic's* heavily leveraged basket;

## Conclusions

80. Between 1999 and 2005 Xanthoudakis misused the *Norshield Financial Group* and the *Olympus investment structure* in order to defraud Class members of their investments;

81. As such, during that period, Xanthoudakis:

- a) diverted corporate assets contrary to the best interests of the Norshield companies ;
- b) caused the Norshield companies and the entire *Norshield Financial Group* to make speculative and improvident investments contrary to the best interests of the Norshield companies and contrary to the representations made in the public documents used to solicit investments in Canada;
- c) caused the Norshield companies to enter into commercially unreasonable transactions to their detriment;
- d) caused the Norshield Companies to engage in non-arm's length and sham transactions for the purpose of artificially inflating the value of the Norshield companies' assets and concealing their wrongful conduct;
- e) operated the Norshield companies in aid of their scheme to divert the assets of the Norshield companies; and
- f) used new investor subscriptions in the *Olympus investment structure* entirely to fund redemptions<sup>14</sup>.

The whole resulting in \$159 million damages to the Class members;

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<sup>14</sup> R-51, par. 54.

82. During that time:

- a) RBC participated in the creation of a financial product that was used to defraud the class members;
- b) RBC allowed this fraudulent structure to evolve, thrive, and survive until \$159 million were lost by Class members;
- c) RBC knew or ought to have known that the class members were being defrauded or at serious risk of losing their investments within that structure;
- d) RBC voluntarily blinded itself because of the financial benefits it derived from the fraudulent structure;
- e) RBC omitted to refrain from continuing its collaboration with *Norshield Financial Group*;
- f) RBC omitted to inform authorities of obvious risks and irregularities they knew or should have know about;
- g) RBC lent their credibility to the structure, first by providing hundreds of millions of dollars to the structure, and then by offering a financial product to the Canadian public which was directly based on the fraudulent structure;

83. Had RBC not participated in the creation and development of the fraudulent *Olympus investment structure*, the structure would have never come to be, and Class members would not have suffered their losses;

84. Had RBC refrained from continuing to collaborate with Xanthoudakis and *Norshield Finanacial Group* from the moment it knew or ought to know about the alarming irregularities within the *Olympus investment structure*, the structure would not have survived to cause the damages it caused by Class members;

85. Had RBC informed authorities of the alarming signs it knew or ought to know about the *Olympus investment structure*, the structure would not have survived to cause the damages it caused by Class members;

86. Had RBC not lent its credibility to *Norshield* by providing hundreds of millions of dollars to the *Olympus investment structure*, and then by offering a financial product to the Canadian public which was directly based on the fraudulent structure, the structure would not have survived to cause the damages it caused by Class members;

87. Consequently, Petitioner is well founded in fact and in law to seek a judgment in extra-contractual responsibility against Respondants;

\* \* \*

88. Petitioner invested in the *Olympus investment structure* on or about June 11, 2004;

89. As of June 24, 2004, Petitioner had a balance of 17 862.896 units of Olympus United Unvest II Fund, then represented to be worth \$11.964, for a total of \$213 711.69, the whole as appears from Exhibit 1;

90. On June 29, 2005, Petitioner still had the same number of outstanding shares in said Olympus fund;

\* \* \*

91. The Class is composed of about 1 900 members residing across the Canada;

92. The composition of the Class makes it impractical for its members to proceed under sections 59 or 67 of the Code of civil procedure;

93. Due to the high number of Class members and their diverse geographical location, it would be impracticable or even impossible to obtain an individual mandate from each of those members, or to undertake as many judicial actions as there are members;

\* \* \*

94. The common questions of fact and law for all Class members are:

- a) Did RBC participate in the creation of a financial product that was used to defraud the class members?
- b) Did RBC allow this fraudulent structure to evolve, strive, and survive until \$159 million were lost by Class members?
- c) Did RBC know or ought to have known that the class members were being defrauded or at serious risk of losing their investments within that structure?
- d) Did RBC voluntarily blind itself because of the financial benefits it derived from the fraudulent structure?

- e) Did RBC omit to refrain from continuing its collaboration with *Norshield Financial Group*?
- f) Did RBC omit to inform authorities of obvious risks and irregularities they knew or should have known about within *Norshield Financial Group* and the *Olympus investment structure*?
- g) Did RBC lend their credibility to *Norshield Financial Group* and the *Olympus investment structure*, first by providing hundreds of millions of dollars in financing, and then by offering a principal protected financial product to the Canadian public which was directly based on the fraudulent structure?
- h) Does a positive answer to one or more of the questions above equate to an extra-contractual fault on the part of RBC?
- i) If so, did RBC's fault(s) cause the loss incurred by Class members?

\* \* \*

95. The question specific to each member is the amount of their loss incurred from their investment in the *Olympus investment structure*.

\* \* \*

96. The conclusions sought are:

**GRANT** the present class action;

**CONDEMN** Respondents to pay to the Class members the balance in Canadian dollars attributed to their unredeemed shares of Olympus United Funds Corporation or its predecessor First Horizon Holdings Ltd. as of June 29, 2005, plus legal interest and the special indemnity provided by Article 1619 of the Civil Code of Quebec calculated from the first date of the service of the proceedings;

**ORDER** the collective recovery of the damages;

**CONDEMN** Respondents to costs including experts' fees.

\* \* \*

97. Petitioner seeks to have this Honourable Court confer upon her the status of representative member for the conduct of these class action proceedings;

98. Petitioner is capable of ensuring adequate representation of the members of the proposed class for the following reasons:

- a) She is actively interested in the present proceedings and is prepared to invest the necessary time and resources for the accomplishment of all the formalities and tasks incidental to the exercise of this class action;
- b) She already submitted to an out of court examination by Respondents' attorneys;
- c) She identified and retained the undersigned attorneys to replace the original attorney to the Class;
- d) She retained the services of knowledgeable and competent attorneys in the field of class actions;

\* \* \*

99. Petitioner proposes that the class action be instituted before the jurisdiction of the Superior Court of Quebec for the judicial district of Montreal for the following reasons::

- a) The Respondents have offices in Montreal;
- b) Xanthoudakis resides in Ville St-Laurent;
- c) The fraudulent scheme to which Respondents participated was orchestrated from Montreal;
- d) The Mis-en-causes are main witnesses and their head office is in Montreal;
- e) The undersigned attorneys have their offices in Montreal;

\* \* \*

100. The present motion for authorization is well founded in fact and in law.

WHEREFORE, PETITIONER PRAYS THIS HONOURABLE COURT TO:

**GRANT** the present motion;

**AUTHORISE** the exercise of the following class action:

An action in damages for extra-contractual liability

**GRANT** Petitioner the status of representative member in order to institute class action proceedings on behalf of those persons belonging to the following class:

"All Canadian retail investors who purchased one of the Olympus United Funds Corporation shares (formally First Horizon Holdings Ltd.) from June 27, 1999 to June 29, 2005, and who had outstanding shares in said corporations as of June 29, 2005".

**IDENTIFY** as follows the principal questions of fact and law to be dealt with on a collective basis:

- a) Did RBC participate in the creation of a financial product that was used to defraud the class members?
- b) Did RBC allow this fraudulent structure to evolve, strive, and survive until \$159 million were lost by Class members?
- c) Did RBC know or ought to have known that the class members were being defrauded or at serious risk of losing their investments within that structure?
- d) Did RBC voluntarily blind itself because of the financial benefits it derived from the fraudulent structure?
- e) Did RBC omit to refrain from continuing its collaboration with *Norshield Financial Group*?
- f) Did RBC omit to inform authorities of obvious risks and irregularities they knew or should have known about within *Norshield Financial Group* and the *Olympus investment structure*?
- g) Did RBC lend their credibility to *Norshield Financial Group* and the *Olympus investment structure*, first by providing hundreds of millions of dollars in financing, and then by offering a principal protected financial product to the Canadian public which was directly based on the fraudulent structure?
- h) Does a positive answer to one or more of the questions above equate to an extra-contractual fault on the part of RBC?
- i) If so, did RBC's fault(s) cause the loss incurred by Class members?



**IDENTIFY** as follows the class action conclusions sought:

**GRANT** the present class action;

**CONDEMN** Respondents to pay to the Class members the balance in Canadian dollars attributed to their unredeemed shares of Olympus United Funds Corporation or its predecessor First Horizon Holdings Ltd. as of June 29, 2005, plus legal interest and the special indemnity provided by Article 1619 of the Civil Code of Quebec calculated from the first date of the service of the proceedings;

**ORDER** the collective recovery of the damages;

**CONDEMN** Respondents to costs including experts' fees.

**DECLARE** that all members of the class shall be bound by the judgment to intervene with respect to the class action proceedings except where they have opted to be excluded as provided by law;

**ORDER** that every member shall benefit from a period of ninety (90) days from the judgment to intervene on the present motion in order to exercise any statutory right to be excluded from the class;

**ORDER** the Mis-en-causes to provide the Petitioner with a complete list of the known identities and coordinates of Class members;

**ORDER** the publication of a notice to the members in accordance with a national diffusion plan to be ordered by this Court;

**ORDER** that the said notice to members be published within a period of thirty (30) days from the judgment to intervene on the present motion;

**THE WHOLE** with costs, including experts' fees.

MONTREAL, JANUARY 31, 2012

(s) Sylvestre, Fafard, Painchaud

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**SYLVESTRE FAFARD PAINCHAUD**  
Attorneys for Plaintiff