

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO: 500-06-001058-201

SUPERIOR COURT
(Class Actions)

MARTIN BANOON, 


Applicant

-vs-

LUCKIN COFFEE INC. legal person having
its head office at Block A, Tefang Portman
Tower 17th Floor No. 81 Zhanhong Road
Siming District Xiamen, 361008, China

Defendant

APPLICATION FOR AUTHORIZATION OF A CLASS ACTION

**TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN
AND FOR THE DISTRICT OF MONTREAL, YOUR APPLICANT STATES:**

1. Applicant wishes to institute a class action on behalf of the following class of which he is a member, namely:

Class:

All persons and entities that acquired Luckin Coffee Inc.'s securities during the Class Period.

or any other Class to be determined by the Court;

I. THE DEFENDANT

2. The Defendant Luckin Coffee Inc. ("LCI") is a publicly traded corporation on the NASDAQ (stock symbol LK);
3. Its head office is in China;

II. THE ISSUE

4. On or around April 3rd 2020, a CNBC news article communicated herewith as **Exhibit P-1** reported the following:

It sounds outrageous: The chief operating officer of Luckin Coffee, the largest domestic coffee chain in the China, was accused by his own company of fabricating much of its reported sales in 2019.

Luckin also said that certain costs and expenses were substantially inflated and advised that investors shouldn't rely on previous financial statements for the nine months ended Sept. 30.

The company has only been public since May. To add insult to injury, Luckin sold 4.8 million shares of stock in a secondary stock offering in January at \$42 a share, raising over \$380 million in new capital.

The stock, which trades on Nasdaq, dropped more than 75% on Thursday.

5. In brief, LCI admitted to fabricating accounting that then led to a 75% decline in the company's stock on April 2nd, 2020 and LCI's chief operating officer stands accused of fabricating 2019 sales;

III. CONDITIONS REQUIRED TO AUTHORIZE THIS CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF

A) THE FACTS ALLEGED APPEAR TO JUSTIFY THE CONCLUSIONS SOUGHT:

6. On May 17, 2019, the Applicant purchased 50 shares of LCI for \$19.47 as it appears from **Exhibit P-2**;
7. At the time of his purchase the Applicant was unaware the LCI has fabricated its accounting and lied to the public and shareholders;
8. Applicant is entitled to and hereby does claim damages as a result of LCI misrepresentation on his behalf and on behalf of all class members;

B) THE CLAIMS OF THE MEMBERS OF THE CLASS RAISE IDENTICAL, SIMILAR OR RELATED ISSUES OF LAW OR FACT:

9. By reason of LCI's unlawful conduct, the Applicant and Class members have suffered a prejudice, which they wish to claim,

10. Individual questions, if any, pale by comparison to the common questions that are significant to the outcome of the present Application;
11. **The recourses of the Class members raise identical, similar or related questions of fact or law, namely:**
 - a) Are class members entitled to damages and in what amount?

C) THE COMPOSITION OF THE CLASS

12. The composition of the Class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings;
13. LCI is a multi-billion-dollar corporation trading on the NASDAQ;
14. There are likely tens of thousands of class members in the province;
15. Class members are very numerous and are dispersed across the province, across Canada and elsewhere;
16. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Class member to obtain mandates and to join them in one action;
17. In these circumstances, a class action is the only appropriate procedure for all of the members of the Class to effectively pursue their respective rights and have access to justice without overburdening the court system;

D) THE CLASS MEMBER REQUESTING TO BE APPOINTED AS REPRESENTATIVE PLAINTIFF IS IN A POSITION TO PROPERLY REPRESENT THE CLASS MEMBERS

18. The Applicant requests that he be appointed the status of representative plaintiff for the following main reasons:
 - a) He is a member of the Class and has a personal interest in seeking the conclusions that he proposes herein;
 - b) He is competent, in that he has the potential to be the mandatary of the action if it had proceeded under article 91 of the *Code of Civil Procedure*;
 - c) His interests are not antagonistic to those of other Class members;

IV. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

19. The action that the Applicant wishes to institute on behalf of the members of the Class is an action in damages;
20. The conclusions that the Applicant wishes to introduce by way of an originating

application are:

ALLOW the class action of the Plaintiff and the members of the Class against the Defendant;

CONDEMN the Defendant to pay the Plaintiff and the Class Members damages in an amount to be determined;

ORDER that the above condemnation be subject to collective recovery;

CONDEMN the Defendant to pay interest and the additional indemnity on the above sums according to law from the date of service of the Application to authorize a class action and **ORDER** that this condemnation be subject to collective recovery;

ORDER the Defendant to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

ORDER that the claims of individual Class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Defendant to bear the costs of the present action including the cost of exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

RENDER any other order that this Honourable Court shall determine;

21. The interests of justice favour that this Application be granted in accordance with its conclusions;

V. JURISDICTION

22. The Applicant suggests that this class action be exercised before the Superior Court of the province of Quebec, in the district of Montreal, because he resides in this district.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

AUTHORIZE the bringing of a class action in the form of an originating application in damages;

APPOINT the Applicant the status of representative plaintiff of the persons included in the Class herein described as:

Class:

All persons and entities that acquired Luckin Coffee Inc.'s securities during the Class Period.

or any other Class to be determined by the Court;

IDENTIFY the principle questions of fact and law to be treated collectively as the following:

- a) Are class members entitled to damages and in what amount?

IDENTIFY the conclusions sought by the class action to be instituted as being the following:

ALLOW the class action of the Plaintiff and the members of the Class against the Defendant;

CONDEMN the Defendant to pay the Plaintiff and the Class Members damages in an amount to be determined;

ORDER that the above condemnation be subject to collective recovery;

CONDEMN the Defendant to pay interest and the additional indemnity on the above sums according to law from the date of service of the Application to authorize a class action and **ORDER** that this condemnation be subject to collective recovery;

ORDER the Defendant to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

ORDER that the claims of individual Class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Defendant to bear the costs of the present action including the cost of exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

RENDER any other order that this Honourable Court shall determine;

DECLARE that all members of the Class that have not requested their exclusion, be bound by any judgement to be rendered on the class action to be instituted in the manner provided for by the law;

FIX the delay of exclusion at thirty (30) days from the date of the publication of the notice to the members, date upon which the members of the Class that have not exercised their means of exclusion will be bound by any judgement to be rendered herein;

ORDER the publication of a notice to the members of the Class in accordance with article 579 C.C.P. within sixty (60) days from the judgement to be rendered herein in the “News” sections of the Saturday editions of the Journal de Montréal and the Montreal Gazette;

ORDER that said notice be published on the Defendant’s website, Facebook page and Twitter account, in a conspicuous place, with a link stating “Notice of a Class Action”;

ORDER the Defendant to send an Abbreviated Notice by e-mail to each Class member, to their last known e-mail address, with the subject line “Notice of a Class Action”;

ORDER the Defendant and their representatives to supply class counsel, within thirty (30) days of the judgment rendered herein, all lists in their possession or under their control permitting to identify Class members, including their names, addresses, phone numbers and email addresses;

RENDER any other order that this Honourable Court shall determine;

THE WHOLE with costs including publication fees.

Montreal, April 14, 2020

(s) LPC Avocat Inc.

LPC AVOCAT INC.

Mtre Joey Zukran

Attorney for the Applicant

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SUMMONS
(ARTICLES 145 AND FOLLOWING C.C.P)

Filing of a judicial application

Take notice that the Applicant has filed this Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff in the office of the **Superior Court** in the judicial district of **Montreal**.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montreal situated at 1 Rue Notre-Dame E, Montréal, Quebec, H2Y 1B6, within 15 days of service of the Application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Applicant's lawyer or, if the Applicant is not represented, to the Applicant.

Failure to answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgement may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

Content of answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the Applicant in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Change of judicial district

You may ask the court to refer the originating Application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the plaintiff.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

Transfer of application to Small Claims Division

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

Calling to a case management conference

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

Exhibits supporting the application

In support of the Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff, the Applicant intends to use the following exhibits:

Exhibit P-1: CNBC article dated April 3, 2020;

Exhibit P-2: Applicant's purchase confirmation for LCI's shares on May 17, 2019.

These exhibits are available on request.

Notice of presentation of an application

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

Montreal, April 14, 2020

(s) LPC Avocat Inc.

LPC AVOCAT INC.

Mtre Joey Zukran

Attorney for the Applicant

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NOTICE OF PRESENTATION
(articles 146 and 574 al. 2 N.C.P.C.)

TO: LUCKIN COFFEE INC.
Block A, Tefang Portman Tower 17th Floor
No. 81 Zhanhong Road Siming
District Xiamen, 361008
China

Defendant

TAKE NOTICE that Applicant's *Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff* will be presented before the Superior Court at **1 Rue Notre-Dame E, Montréal, Quebec, H2Y 1B6**, on the date set by the coordinator of the Class Action chamber.

GOVERN YOURSELVES ACCORDINGLY.

Montreal, April 14, 2020

(s) LPC Avocat Inc.

LPC AVOCAT INC.

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MARTIN BANOON

Applicant

-vs.-

LUCKIN COFFEE INC.

Defendant

APPLICATION TO AUTHORIZE THE BRINGING OF
A CLASS ACTION AND TO APPOINT THE STATUS
OF REPRESENTATIVE PLAINTIFF
(ARTICLES 571 AND FOLLOWING C.C.P.)

ORIGINAL

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