

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO: 500-06-000932-182

(Class Action)
SUPERIOR COURT

QING WANG, domiciled at [REDACTED]
[REDACTED]

Applicant

-vs-

C.S.T. CONSULTANTS INC., legal person
having its head office at 2235 Sheppard
Avenue East, Suite 1600, Toronto, Ontario,
M2J 5B8

and

**CANADIAN SCHOLARSHIP TRUST
FOUNDATION**, legal person having its head
office at 2235 Sheppard Avenue East, Suite
1600, Toronto, Ontario, M2J 5B8

and

HERITAGE EDUCATION FUNDS INC., legal
person having its head office at 2005
Sheppard Avenue East, Suite 700, Toronto,
Ontario, M2J 5B4

and

HERITAGE EDUCATIONAL FOUNDATION,
legal person having its head office at 2005
Sheppard Avenue East, Suite 700, Toronto,
Ontario, M2J 5B4

and

UNIVERSITAS MANAGEMENT INC., legal
person having its head office at 1035 Wilfrid-
Pelletier Avenue, Suite 500, Quebec City,
district of Quebec, G1W 0C5

and

UNIVERSITAS FOUNDATION OF CANADA, legal person having its head office at 1035 Wilfrid-Pelletier Avenue, Suite 500, Quebec City, district of Quebec, G1W 0C5,

and

CHILDREN'S EDUCATION FUNDS INC., legal person having its head office at 3221 North Service Road, Burlington, Ontario, L7N 3G2

and

CHILDREN'S EDUCATIONAL FOUNDATION OF CANADA, legal person having its head office at 3221 North Service Road, Burlington, Ontario, L7N 3G2

and

GLOBAL RESP CORPORATION, legal person having its head office at 100 Mural Street, Suite 201, Richmond Hill, Ontario, L4B 1J3

and

GLOBAL EDUCATIONAL TRUST FOUNDATION, legal person having its head office at 100 Mural Street, Suite 201, Richmond Hill, Ontario, L4B 1J3

and

KNOWLEDGE FIRST FINANCIAL INC. (personally and in continuance of proceedings for HERITAGE EDUCATION FUNDS INC.), legal person having its head office at 50 Burnhamthorpe Road West, Suite 1000, Mississauga, Ontario, L5B 4A5

and

KNOWLEDGE FIRST FOUNDATION, legal person having its head office at 50 Burnhamthorpe Road West, Suite 1000,

**AMENDED APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION
AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF**
(ARTICLE 571 AND FOLLOWING C.C.P.)

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

I. GENERAL PRESENTATION

A) THE ACTION

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

Class:

All persons residing in Quebec who, at any time since July 19th, 2013 (the "**Class Period**"), had a contract with any of the Defendants in which they were a subscriber and/or contributor (either primary or joint) for a Registered Education Savings Plan ("**RESP**"), and who were charged a fee (referred to as "**Enrolment Fee**", "**Sales Charge**" and/or "**Membership Fee**"), including the commissions of the distributor and its salesmen, exceeding \$200.00 per plan;

(hereinafter referred to as the "**Class**")

Subclass:

All persons residing in Quebec: (1) who at any time since June 15th, 2015 (the "**Subclass Period**"), had a contract with any of the Defendants in which they were a subscriber and/or contributor (either primary or joint) for an RESP, (2) who cancelled their RESP as of that date and (3) lost more than 20% of their contributions on account of Enrolment Fees, Sales Charges or Membership Fees;

(hereinafter referred to as the "**Subclass**")

or any other group or subgroups to be determined by the Court;

B) BRIEF OVERVIEW ON RESPS

2. An RESP is a contract, between an individual (the “**Subscriber**”) and a person or organization (the “**Promoter**” and/or “**Distributor**”), for an education savings account that is registered with the Government of Canada, Applicant disclosing a publication by the Canada Revenue Agency titled *Registered Education Savings Plans*, **Exhibit P-1**;
3. The Canada Revenue Agency registers the education savings plan contract as an RESP, and lifetime limits are set by Canada’s *Income Tax Act* on the amount that can be contributed for each beneficiary;
4. Under the RESP contract, the Subscriber names one or more beneficiaries (the future student(s)) and agrees to make contributions for them, and the Promoter agrees to pay educational assistance payments (“**EAPs**”) to the beneficiaries when it comes time to pay for the post-secondary education of the beneficiaries;
5. Canadians can contribute up to \$50,000.00 per child into an RESP and the federal government, as well as some provincial governments will match a certain percentage of the amounts contributed;
6. Anyone can contribute into an RESP for any child (it does not have to be the child's parent necessarily);
7. Children who are beneficiaries of an RESP account will receive the Canada Education Savings Grant (“**CESG**”), which is money that the federal Government adds to the child’s RESP to help their savings grow;
8. The basic CESG provides 20% on every dollar contributed, up to a maximum of \$500.00 on an annual contribution of \$2,500, or up to the first \$5,000 in contributions, if sufficient carry forward room exists;
9. Depending on the child’s primary caregiver’s net family income, he/she may also be eligible to receive the Additional Canada Education Savings Grant (A-CESG), which adds an additional 10 % or 20 % to the first \$500.00 put into the RESP each year;
10. This CESG is available up until the end of the calendar year in which a child turns 17;
11. Lower income families are also eligible to receive the Canadian Learning Bond (“**CLB**”), which is \$500.00 offered by the Government of Canada to help and to encourage saving for a child’s post-secondary education (the child could also receive \$100.00 per year in CLB until the child turns 15, up to a maximum of \$2,000.00);
12. In addition to the CESG and CLB, Quebec, Saskatchewan, British Columbia and Alberta have education savings incentives whereby the provincial governments

will also add money to a RESP;

13. The Quebec Education Savings Incentive (“**QESI**”) was established in 2007 to encourage Quebec families to save more for the post-secondary education of their children and grandchildren, beginning in their infancy;
14. The QESI is a refundable tax credit that is paid directly by the province of Quebec into an RESP;
15. The basic QESI provides 10% on every dollar contributed, up to a maximum of \$250.00 on an annual contribution of \$2,500.00 (as of 2008, any rights accumulated during previous years can be added to the basic amount, up to \$250.00 per year, but could never exceed \$500.00 per year);

C) GROUP PLAN RESPS

16. There are two types of RESP promoters: (i) financial institutions such as banks, credit unions and investment firms; and (ii) group plan scholarship providers;
17. The present Application concerns only group plan scholarship providers;
18. The Defendants engage in the business of distributing, promoting and the sponsoring of group RESP and/or scholarship plans (“**Group Plan(s)**”);
19. Group Plan RESPs are a collection of individual contracts administered for a group of beneficiaries born in the same year;
20. As Group Plan “**Promoters**”, Defendants C.S.T. Consultants Inc., Heritage Education Funds Inc. (on September 7, 2018, counsel for this Defendant informed the Court that on August 28, 2018, Heritage Education Funds Inc. and Knowledge First Financial Inc. merged into Knowledge First Financial Inc. and that the latter – already named as a Defendant herein – continues the proceedings in place of the former), Universitas Management Inc., Children’s Education Funds Inc., Global RESP Corporation and Knowledge First Financial Inc. respectively market, distribute and sell Group Plans to **Subscribers**;
21. As Group Plan “**Sponsors**”, Defendants Canadian Scholarship Trust Foundation, Heritage Educational Foundation, Universitas Foundation of Canada, Children’s Educational Foundation of Canada, Global Educational Trust Foundation and Knowledge First Foundation enter into their respective education savings plan agreements with Subscribers and provide governance oversight by supervising the administration of their respective plans;
22. Defendants operate their respective Group Plans by pooling the individual contributions of each Subscriber with those of other contributors/Subscribers;
23. Defendants generate an important part of their revenue by charging Class members front-ended “**Sales Charges**” (previously referred to in some

prospectuses as “**Enrolment Fees**” and/or “**Membership Fees**”) based on the number of “**Units**” purchased by Subscribers (hereinafter the “**Fees**” or “**Sales Charges**”);

24. A Unit is a share of income available for distribution at maturity (i.e. when the beneficiary can first enroll in a post-secondary program, typically in the year that he/she turns 18);
25. Subscribers to the Defendants’ Group Plans can sign up for one or more Units;
26. The Unit is the basis for contribution schedules, Sales Charges, Enrolment Fees and/or Membership Fees, as well as for the distribution of investment income;
27. At maturity, investment income is transferred to a separate pool of funds to be distributed across all Units held by qualifying beneficiaries within the same cohort;
28. In a pooled Group Plan, the interest that is left behind from cancelled RESPs, plus a portion of the Sales Charges from cancelled plans, gets paid out with the matured plans (this excess interest and sales charges is also called “attrition”);

D) THE ISSUE AND CAUSES OF ACTION

i) The Enrolment Fees charged by the Defendants in excess of \$200 per plan are illegal pursuant to subsection 1.1(7) of Regulation 15

29. Subsection 1.1 (7) of *Regulation no. 15 Respecting Conditions Precedent to Acceptance of Scholarship or Educational Plan Prospectuses*, c. V-1.1, r. 44, s. 331.1, which came into force in Quebec on September 19th, 2005 (hereinafter “**Regulation no. 15**” or “**National Policy 15**”), provides:

1.1. The sale of contracts or plans commonly referred to as "scholarship plans" or "scholarship agreements" **must be subject to the following conditions** before the prospectus will be acceptable for filing:

[...]

(7) The fees charged, including the commissions of the distributor and its salesmen, **must not exceed \$200 per plan**. The first \$100 paid under the plan may be applied against this fee and the balance may be deducted at a maximum rate of 50% of each of the further contributions.

30. In their respective prospectuses, that are provided to Class members when they open an RESP, each of the Defendants undertakes to comply with *Regulation no. 15*, but in reality, they do not and the Sales Charges, Enrolment Fees and/or Membership Fees charged to Class members by Defendants, including the

commissions of the Distributor and its salesmen, exceed \$200.00 per plan;

30.1 During the authorization hearing in Mr. Segalovich’s class action, the Defendants argued that Regulation 15 is no longer applicable and had been “swept away” (Segalovich c. CST Consultants Inc. (CSTI), 2018 QCCS 6122, para. 15), which contradicts the statements made by the Defendants in their respective prospectuses that Regulation 15 is complied with (because they charge \$200 per unit and not \$200 per plan);

30.2 Regulation 15 was never abrogated and is in force. Additionally, the Defendants still declare in each of their respective prospectuses, up until today, that they comply with Regulation 15. As such, the Enrolment Fees or Sales Charges charged by the Defendants in excess of \$200 per plan are illegal pursuant to subsection 1.1(7) of Regulation 15 and pursuant to the Defendants’ own undertakings;

ii) Subsidiarily, the amount of Sales Charges forfeited in proportion to the total contributions made to an RESP is abusive (art. 1437 C.C.Q.) and this abuse can only be analyzed at the time of cancellation

31. Unlike financial institutions, Defendants charge Class members front-ended Sales Charges, Enrolment Fees and/or Membership Fees (referred to herein collectively as “Sales Charges” for ease of reading);

32. Sales Charges can often cost Subscribers upwards of **several thousand dollars per plan** (Applicant paid Enrolment Fees / Sales Charges of **\$6,525.20** for one child and **\$5,194.80** for the other, as detailed herein at paragraph 70);

33. In addition and subsidiarily to the first cause of action, it is submitted that the Sales Charges, Enrolment Fees and/or Membership Fees charged to Class members by Defendants are also abusive under 1437 CCQ (ranging from several hundred to several thousand dollars per plan). The reason that they are abusive is because when class members cancel early into the life of the RESP, the Sales Charges represent a forfeiture of as high as 100% of their contributions;

33.1 It is therefore apparent that the Sales Charges (or “forfeiture”) will depend on the time of the last payment and will vary from **100% in the first 11 months to around 10% at the end of a 17-year term**. The Defendants admit that this is the case at the following pages of their respective prospectuses (the situation is the same throughout the Subclass period and until present):

Defendant	Prospectus	Page
CST Defendants	Exhibit P-11	p. 21 (or 25-PDF)
Heritage Defendants	Exhibit P-5	p. 23 (or 28-PDF)
Universitas Defendants	Exhibit P-4	p. 28 (or 27-PDF)
Children’s Defendants	Exhibit P-6	p. 37 (or 41-PDF)

Global Defendants	Exhibit P-7	p. 27
Knowledge First Defendants	Exhibit P-8	p. 18

- 33.2 The Applicant submits that the clause allowing for Sales Charges ranging from 100% to 20% (and perhaps less depending on the Defendants' costs) of total contributions made to an RESP is grossly disproportionate and an abusive clause within the meaning of article 1437 C.C.Q.;
- 33.3 The Sales Charges and fees charged by the Defendants are not regulated or fixed by any law or regulation. The Defendants will try to argue that Form 41-101F3, which came into force on May 31, 2013, allows them to charge \$200 per unit (and thus charge significantly higher than \$200 per plan), which is not the case because examples are not laws;
- 33.4 The only things that Form 41-101F3 mentions concerning Sales Charges is the following hypothetical **example** in the context of a calculation:
- ... For example, if a scholarship plan calculates its sales charge as \$200/unit, and the total cost per unit for a subscriber can range from \$1000 to \$5000 (based on the different options available to subscribers), the percentage range of the sales charge disclosed in the table would be 4% (200/5000) to 20% (200/1000) ...
- 33.5 First, a regulator does not regulate implicitly by way of examples. If *Regulation 15* did not apply voluntarily, then there would be no regulation that regulates fees and certainly an example in a calculation is not a norm creating rights or obligations. Since there is no specific norm, we must revert to the general rules of the *Civil Code*, specifically article 1437 that prohibits abusive clauses;
- 33.6 Second, the purpose of Form 41-101F3 was not to regulate or change the rules concerning fees or to “sweep away” *Regulation 15*. According to the Ontario Securities Commission, the purpose of Form 41-101F3 was to provide “investors with more meaningful and effective prospectus disclosure”, Applicant disclosing **Exhibit P-28**;
- 33.7 Third, according to Queen’s University Law Professor and RESP specialist Gail E. Henderson, Defendants CST, Heritage, Children’s and Knowledge First still fail to comply with all of the disclosure requirements of Form 41-101F3, Applicant disclosing the article titled “*Group RESPs: The Intersection of Government Support for Education Savings and Securities Regulation*” as **Exhibit P-29** (see pages 74 and 75-PDF);
34. The fact that authorities in Quebec regulated that the fees charged for the sale of RESPs (i.e. contracts or plans commonly referred to as “scholarship plans” or “scholarship agreements”) including the commissions of the distributor and its salesmen, must not exceed \$200.00 per plan, indicates that a clause providing for charges above \$200.00 per plan is excessive and unreasonably detrimental

to the consumer and/or the adhering party and is thus an abusive clause. Form 41-101F3 certainly does not supersede article 1437 C.C.Q.;

35. In August 2008, a report was prepared for Human Resources and Social Development Canada (renamed the Department of Employment and Social Development Canada in 2013), titled *Review of Registered Education Savings Plan Industry Practices* (hereinafter the “**HRSDC Report**”), for the purpose of identifying policies, practices and contractual arrangements that may impede, deter or harm an individual’s ability to save and access funds for a child’s post-secondary education, Applicant disclosing the HRSDC Report as **Exhibit P-2**;
36. The HRSDC Report, Exhibit P-2, sheds light on the characteristics of Group Plans which it likens to a “tontine” (see pages 12-13 of the Report):
37. The HRSDC Report also provides an overview of the practices of Group Plan providers, which can be summarized as follows (page 20):

Organisational structure

Scholarship plans are provided by foundations or trusts, i.e., not-for-profit corporations without share capital. The foundation or trust is the “manager” of the group plan. The “distributor” of the plan is a for-profit operating company that markets the plan, and to which the administration of the plan is delegated. At all five group scholarship providers, the distributor is closely linked to the trust. In three cases, the trust owns the distributor...

Marketing

Group scholarship providers market their products proactively in a variety of ways. While advertising through the major media and newspapers is generally considered too expensive, group scholarship providers do market in a myriad of other ways including: participation in trade shows; exhibits and kiosks in malls and shopping centres; contests for a free RESP; placing flyers in doctors’ offices; or through advertisements in community newspapers – all targeting families with young children. All providers have web sites. Flyers and prospectuses can be downloaded from some sites; some providers only mail prospectuses. One plan comes with Air Miles.

Many contacts are made by referrals or word of mouth. Sales representatives tend to ask clients if neighbours or friends might be interested. **Ultimately, group scholarship providers sell their product by offering to come to the home** of a potential client to provide one or more information

sessions...

The sales force

Group plans are marketed by **sales representatives who are paid a commission per new plan**. Sales representatives tend to be self-employed and are supervised by a manager at the group scholarship trust. The representatives are licensed by the provincial regulatory authorities. They receive training, typically of about one-week in duration, by the Trust. In recent years, provincial securities regulators have imposed training requirements and set limits on the number of sales representatives per manager. In Quebec, sales representatives are required to take ongoing training in order to keep their professional licence.

Presentation to the client

Generally, the sales people present the key features of their plan and promote it on the basis of advantageous tax treatment and subsidies as well as the enhancements of returns group plans provide. How the particular risks attached to group plans are presented is less clear. Prospectuses provide some information about risks and gains as a result of requirements imposed by provincial regulators. "Know Your Client (KYC)" forms are filled out as required by regulators, and some providers have established guidelines for the amount of contributions in relation to income customers can sign up for.

As required by provincial securities regulations, customers have the right to walk away from their new RESP during the 60 days after signing, with full return of contributions and enrolment fees but not the small insurance fee.

The RESP Dealers Association of Canada (RESPDAC) has adopted a code of sales practices which urges fair dealing and balanced representation. Transfer out of a group plan is specifically addressed: Members agree to discourage subscribers from transferring out of a group plan after 60 days **because they would have no claim on accrued interest and the enrolment fee they paid**. The code stipulates that subscribers who want to transfer to another provider should acknowledge that they have been advised of these financial implications by filling out a Plan Transfer Disclosure Form.

II. THE DEFENDANTS AND THEIR VIOLATIONS:

38. Defendants continue to exercise their commercial activities across the province of Quebec in violation of subsection 1.1 (7) of *Regulation no. 15*, despite specifically undertaking to comply with this regulation;
39. Since the coming into force of *Regulation no. 15* on September 19th, 2005, each Defendant – year after year – has filed their respective prospectuses (for the sale of contracts or plans commonly referred to as “scholarship plans” or “scholarship agreements”) with an undertaking to comply with *Regulation no. 15*, but failed to comply with subsection 1.1(7). Notably, the Enrolment Fees charged by Defendants are in excess of \$200.00 per plan;
40. Defendants operate their respective enterprises (as defined in third paragraph of article 1525 CCQ) and engage in the carrying on of an organized economic activity, commercial in nature, consisting of providing the service of promoting, distributing and sponsoring Group Plan RESPs;
41. All of the Defendants’ application forms, contracts and prospectuses contain clauses providing that Class members will be charged fees on a per unit basis (which ultimately far exceeds the allowable maximum of \$200.00 per plan);
42. In each of their prospectuses during the Class Period, all of the Defendants undertake to comply with and respect *Regulation no. 15* (also referred to as “**National Policy 15**”, “**Regulation No. C-15**”, “**NPS-15**” and “**General Instruction C-15**”);
- 42.1 As for the cause of action concerning the abusive nature of the fee upon termination, each of the Defendants cause Subclass members to forfeit Sales Charges in the amount of as much as 100% of their contributions (if they cancel between 2 and 11 months after opening the RESP). For all Defendants, the forfeiture amounts are similar and vary in time between 10% to 100%;

C.S.T. Defendants:

43. Defendant **C.S.T. Consultants Inc.** (“**CSTC**”), a wholly-owned subsidiary of Defendant Canadian Scholarship Trust Foundation, is incorporated under the laws of Canada, having its head office in Toronto, Ontario;
44. Defendant **CSTC** commenced operations in 1988 as the exclusive Distributor of CST’s Plans in addition to providing administration services to the Foundation and the Plans. In 2010, CSTC was appointed investment fund manager of the Plans and carries out the overall management and administration of the Plans;
45. Defendant **Canadian Scholarship Trust Foundation** is a not-for-profit organization constituted under the law of Canada. It sponsors and provides governance and oversight over the Plans (including the CST Advantage Plan, the *Group Savings Plan 2001* and the *Group Savings Plan*). In its role as plan

Sponsor and provider of governance and oversight in respect of the Plans, the CST Foundation supervises and performs specific functions, including entering into the education savings plan agreements with the Subscribers;

46. The CST Defendants' 2015 prospectus (dated October 21st, 2015) contains the following, Applicant disclosing **Exhibit P-3** (see pages 10 and 13):

The investment of your Contributions, Grants and the Income earned on them must comply with restrictions contained in the *Income Tax Act* (Canada) and the administrative policies of the Canadian Securities Administrators. **The Plans are managed in accordance with the investment restrictions set out in National Policy Statement No. 15 Conditions Precedent to Acceptance of Scholarship or Educational Plan Prospectuses** as modified by the undertaking to the Ontario Securities Commission and every other securities regulatory authority in the provinces and territories of Canada where the Plans are managed and distributed to the public. The undertaking is incorporated by reference into this prospectus and is available for review on our website www.cst.org or the SEDAR website www.sedar.com.

[...]

The Plans are managed in accordance with the investment restrictions set out in National Policy Statement No. 15 Conditions Precedent to Acceptance of Scholarship or Educational Plan Prospectuses and the administrative policies of the Canadian Securities Administrators.

47. C.S.T.'s prospectus, Exhibit P-3, sets out the Sales Charges at page 21, which clearly contradicts C.S.T.'s undertaking to comply with *Regulation 15*;
48. Defendants C.S.T. Consultants Inc. and Canadian Scholarship Trust Foundation confirm at page 21 of their prospectus, Exhibit P-3, that the fee of **\$200.00 per unit** charged to Class members "**is for paying commissions to your sales representative, and covering the costs of selling your plan**", and this in violation of *Regulation no. 15*;
49. Defendants C.S.T. Consultants Inc. and Canadian Scholarship Trust Foundation further state that: "*All of your first 11 Contributions go toward the sales charges until half of the sales charges are paid off. Half of your next 21 Contributions go toward the sales charges until they are fully paid off. Altogether, it will take 32 months to pay off the sales charges. During this time, 34% of your Contributions will be invested in your plan*";

Universitas Defendants

50. Defendant **Universitas Management Inc.**, a joint stock company governed by the *Quebec Business Corporations Act*, acts as the investment fund manager and plan Distributor. Universitas Management Inc. is a wholly-owned subsidiary of Defendant Universitas Foundation of Canada. Universitas Management Inc. is registered as an investment fund manager and scholarship plan dealer pursuant to the *Quebec Securities Act*;
51. Defendant **Universitas Foundation of Canada** is a not-for-profit organization constituted under the laws of the province of Quebec. The Foundation is the Sponsor of the Universitas Plans (including the Universitas and REEFLEX plans) and oversees the administration and management of each plan sold by Universitas Management Inc.;
52. Both Defendants Universitas Management Inc. and Universitas Foundation of Canada have their head offices in Quebec City, Quebec;
53. The Universitas Defendants refer to *Regulation no. 15* at pages 16 and 57 of their 2015 prospectus (dated November 30th, 2015), Applicant disclosing **Exhibit P-4**:

Decision No. 2001-C-0383 issued in 2001 by the Quebec Securities Commission (now the *Autorité des marchés financiers*) allows the REFLEX and INDIVIDUAL Plans to modify certain restrictions on investments provided for under *Regulation No. C-15 Respecting Conditions Precedent to Acceptance of Scholarship or Educational Plan Prospectuses*. The changes thus authorized specifically target the ability to invest up to 100% of accumulated income (i.e., the Other Funds) in Canadian equities, subject to compliance with the investment policies and objectives.

[...]

EXEMPTION AND APPROVAL UNDER SECURITIES LAWS

In 2001, pursuant to Decision No. 2001-C-0383 of the *Autorité des marchés financiers* (previously the Quebec Securities Commission), **the Foundation obtained an exemption from application of Article 4 of the *General Instruction C-15 – Conditions Precedent to Acceptance of the prospectus of university educational plan foundations*** in order to allow the Foundation to invest the assets in its account in shares of common stock in companies. For more details on the investment terms and conditions stipulated in Decision No. 2001-C-0383, see the

“Investment Objectives, Strategies and Restrictions” section.

54. In its 2015 prospectus, Exhibit P-4, Universitas refers to Decision No. 2001-C-0383. This decision only provides Universitas with an exemption from article 4 of *Regulation No. 15* and therefore all other articles of *Regulation No. 15* continue to apply in all other aspects (including articles 7 and 11 concerning maximum allowable enrolment fees);
55. Defendants Universitas Management Inc. and Universitas Foundation of Canada fail to comply with their undertaking to respect *Regulation no. 15*, as it appears from the “Reflex Plan” section of their prospectus, Exhibit P-4 (see page 28 of prospectus);
56. Under the heading “What you pay”, Defendants Universitas Management Inc. and Universitas Foundation of Canada state that their Sales charges are a “**Flat fee of \$200 per whole unit**”, and this in violation of *Regulation no. 15*. On the same (p. 27-PDF), Universitas states that “...if you subscribe to a REFLEX Plan unit for a newborn and opted for monthly contributions until the maturity date, 100% of your initial contributions are used to pay off up to 50% of the sales charges; 50% of the following contributions are used to pay the sales charges until payment in full. In total, it will take 27 months to pay off the sales charges. During that period, 66% of your contributions will be used to pay sales charges and 34% will be invested in your plan”;

Heritage Defendants

57. Defendant **Heritage Education Funds Inc.** is a scholarship plan dealer (Distributor) incorporated under the *Canada Business Corporations Act*, having its head office in Toronto, Ontario;
58. Defendant **Heritage Educational Foundation** is a not-for-profit corporation incorporated under the *Canada Corporations Act*, having its head office in Toronto, Ontario. According to its prospectus, Heritage Educational Foundation is the Sponsor of the Heritage Plans and administers assets that exceed \$2.43 billion;
59. The Heritage Defendants’ 2015 prospectus (dated August 7th, 2015) contains the following, Applicant disclosing **Exhibit P-5** (see pages 1 and 21):

The plan is managed in **accordance with the investment restrictions set out in the National Policy 15 Conditions Precedent to Acceptance of Scholarship or Educational Plan Prospectuses**, the administrative policies of the Canadian Securities Administrators and the undertaking.

[...]

Investment Restrictions

Your contributions less sales charges and fees, government grants and income earned in your plan will be invested according to restrictions contained in the *Income Tax Act* (Canada) and the administrative policies of the Canadian Securities Administrators. **The plan is managed in accordance with the investment restrictions set out in National Policy 15 Conditions Precedent to Acceptance of Scholarship or Educational Plan Prospectuses** as modified by the undertaking.

60. Defendants Heritage Education Funds Inc. and Heritage Educational Fund also unlawfully exercise their commercial activities by failing to comply with their undertaking to respect *Regulation no. 15*, as it appears from the “Heritage Plans” section at page 23 of the prospectus, Exhibit P-5;
61. Under the heading “Fees You Pay”, Defendants Heritage Education Funds Inc. and Heritage Educational Fund state that there is a charge of \$100 per unit, which contradicts their undertaking to comply *Regulation no. 15*;
62. Under the heading “Paying Off the Sales Charges”, Defendants Heritage Education Funds Inc. and Heritage Educational Fund state that “*All of your first ten and part of your 11th contribution go toward the sales charge until half of the sales charge is paid off*”, also in violation of *Regulation no. 15*;

Children’s Education Defendants

63. Defendant **Children’s Education Funds Inc.**, wholly owned by Children’s Financial Group Inc., is incorporated under the laws of Ontario, with its head office in Burlington, Ontario. Children’s Education Funds Inc. is the scholarship plan dealer and investment fund manager of the Children’s Education Funds Plans, commencing its operations in 1991 as the exclusive Distributor of the Children’s Education Funds Plans in addition to providing administration services to the Foundation and the Plans;
64. Defendant and **Children Educational Foundation of Canada** is a non-profit corporation without share capital incorporated by Letters Patent under the laws of Canada in 1990, and is the Sponsor of the Children’s Educational Plans;
65. The Children Defendants’ 2015 prospectus (dated November 12th, 2015) contains the following, Applicant disclosing **Exhibit P-6** (see pages 1 and 10):

The Plans are **managed in accordance with the investment restrictions set out in National Policy Statement No. 15 – Conditions Precedent to Acceptance of Scholarship or Educational Plan Prospectuses** and the

administrative policies of the Canadian Securities Administrators...

[...]

Investment Restrictions

The investment of your net Contributions, Government Grants and the Income earned on them must comply with the restrictions contained in the *Income Tax Act* (Canada) and the administrative policies of the Canadian Securities Administrators. **The Plans will be managed in accordance with the investment restrictions set out in National Policy Statement No. 15 – Conditions Precedent to Acceptance of Scholarship or Educational Plan Prospectuses** as modified by the undertaking to the Ontario Securities Commission and every other securities regulatory authority in the provinces and territories of Canada where the Plans are managed and distributed to the public. We have agreed to the undertaking which is incorporated by reference into this prospectus and is available for review on our website at www.cefi.ca or the SEDAR website at www.sedar.com.

66. Defendants Children's Education Funds Inc. and Children Educational Foundation of Canada unlawfully exercise their commercial activities by failing to comply with their undertaking to respect *Regulation no. 15*;
67. Under the heading "Fees You Pay" (Exhibit P-6 at page 21), Defendants Children's Education Funds Inc. and Children Educational Foundation state that their Sales Charge is "**\$200.00 per Unit**", and this in violation of *Regulation no. 15*;
68. Under the heading "Paying Off the Sales Charge", Defendants Children's Education Funds Inc. and Children Educational Foundation of Canada further state that "*All of your first 11 Contributions go toward the sales charge until half of the sales charge is paid off*", and this also in violation of *Regulation no. 15*;

Global Defendants

69. Defendant **Global RESP Corporation**, incorporated under the laws of Canada, is the Distributor of the plans (including the Legacy Education Savings Plan and the Global Education Trust Plan), having its head office in Richmond Hill, Ontario;
70. Defendant **Global Educational Trust Foundation** is a non-profit corporation without share capital incorporated under the laws of Canada, having its head office in Richmond Hill, Ontario. As Sponsor of the Plans (including the Global Education Trust Plan and the Legacy Education Savings Plan), the Foundation is

considered to be promoter of the plans;

71. The Global Defendants' 2015 prospectus (dated February 9th, 2015) contains the following, Applicant disclosing **Exhibit P-7** (see pages 21 and 39):

The funds are invested in accordance with NP-15. While the investment manager has discretion as to the selection of issuers of securities, **there is little or no discretion to deviate from the investment objective of the Plan and NP-15**, that is, to invest in safe and secure fixed income securities of mainly Canadian federal and provincial government bonds, Guaranteed Investment Certificates (GICs), financial institution and corporate bonds. **Should the mandate under NP-15 change** and the Plan's investment objective change accordingly, security holders will be notified.

[...]

Investment Restrictions

In accordance with NP-15, the Plan's investment in corporate bonds must be of "designated rating" and not exceeding 20% of the income earned on Contributions and Government Grants; and investment in a particular corporate issuer is not to exceed 10%...

[...]

Scotia Institutional Asset Management ("SIAM"), Toronto, Ontario, is one of three Portfolio Advisors **investing and managing Plan assets in accordance with NP-15**.

72. Defendants Global RESP Corporation and Global Educational Trust Foundation unlawfully exercise their commercial activities by failing to comply with their undertaking to respect *Regulation no. 15*;
73. Under the heading "What You Pay", Defendants Global RESP Corporation and Global Educational Trust Foundation state that their Sales Charge is "\$60 per Unit", and this in violation of *Regulation no. 15* (see Exhibit P-7 at page 27);
74. Under the heading "Paying Off the Sales Charge" (page 27), Defendants Global RESP Corporation and Global Educational Trust Foundation state that "*100% of your first Contributions go toward the sales charge until 100% of the sales charge is paid off. Altogether, it will take you up to 26 months to pay off the sales charge. During this time, approximately 99% of your Contributions will be used to pay the sales charge and approximately 1% of your Contributions will be invested in your plan*", in violation of *Regulation no. 15*;

Knowledge First Defendants

75. Defendant **Knowledge First Financial Inc.** (formerly USC Education Savings Plans Inc.) incorporated under the laws of Canada, is the principal Distributor of Knowledge First's Educational Savings Plans (including the "**Family Group Education Savings Plan**" and formerly the "USC Family Group Education Savings Plan"), with its head office in Mississauga, Ontario;
76. Defendant **Knowledge First Foundation** (formerly the International Scholarship Foundation) is a not-for-profit corporation incorporated under the laws of Canada, having its head office in Mississauga, Ontario. The Foundation sponsors and promotes the Knowledge First's Educational Savings Plans (including the Family Group Education Savings Plan and formerly the USC Family Group Education Savings Plan) and has overall responsibility for the Plans including overseeing the investment of all Plan assets;
77. The Knowledge First Defendants' 2015 prospectus (dated August 26th, 2015) contains the following, Applicant disclosing **Exhibit P-8** (see page 8):

INVESTMENT RESTRICTIONS

We follow the restrictions and practices in CSA National Policy No. 15, except where we have been given permission otherwise by the CSA, as described below, or by virtue of prospectus receipt in prior years. Changes to the investment restrictions require approval of the CSA.

78. Defendants Knowledge First Financial Inc. and Knowledge First Foundation unlawfully exercise their commercial activities by failing to comply with their undertaking to respect *Regulation no. 15*;
79. Under the heading "What you pay" (page 32 of Exhibit P-8), Defendants Knowledge First Financial Inc. and Knowledge First Foundation state that their Sales Charge is \$100 per unit, and this in violation of *Regulation no. 15*;
80. Under the heading "Paying off the sales charge" (page 32 of Exhibit P-8), Defendants Knowledge First Financial Inc. and Knowledge First Foundation state that "*All of your first 10 contributions go toward the sales charge until half of the sales charge is paid off. Then after that half of your next 21 contributions go toward the sales charge until it's fully paid off. In this example, altogether, it will take you 31 months to pay off the sales charge. During this initial period, 67% of your contributions will be used to pay the sales charge and 33% of your contributions will be invested in your plan*", in violation of *Regulation no. 15*;
81. Despite the above undertakings in each of their respective prospectus (which is included year after year and until the date of filing the present Application), all Defendants failed to comply with their undertakings with respect to *National Policy 15* (i.e. *Regulation No. 15*) contained in their prospectuses;

82. Applicant discloses extracts of the CIDREQ and business registration information for all Defendants *en liasse* as **Exhibit P-9**;

III. CONDITIONS REQUIRED TO AUTHORIZE THIS CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF (SECTION 575 C.C.P.):

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

83. On or around February 10th, 2015, Applicant entered into two RESP Agreements with the C.S.T. Defendants;

84. Applicant is a consumer within the meaning of article 1384 of the *Civil Code of Quebec* ("**CCQ**"). The contract signed by the Applicant is a contract of adhesion (standard form contract);

84.1 The Applicant immigrated to Canada from China, landing in Toronto on February 6th, 2015 and arrived to Montreal on February 7th, 2015;

84.2 When he arrived to Montreal, he and his family lived in a property owned by Ms. Ruoli Li's. Ms. Li is the CST agent (registered as a Scholarship Plan Dealer with the AMF and member of the *Chambre de la sécurité financière*) who immediately introduced and sold the RESP plans to the Applicant within days of his landing in Canada;

84.3 The meeting with Ms. Li lasted for a total of 60 minutes and generated Sales Charges (i.e. the commission of CST and/or its agents) of \$11,720.00 for two RESPs, as it appears from the Application form disclosed herewith as **Exhibit P-13** (see page 5-PDF);

85. Applicant opened an RESP Group Savings Plan 2001 for each of his two children with the C.S.T. Defendants because he wanted to contribute towards his children's post-secondary education;

Applicant's 1st RESP (for Haiyuan)

86. Applicant signed the standard form Application for his first child Haiyuan Wang (Plan #22008497) on or around February 10th, 2015 and received a welcome letter dated February 11th, 2015, along with the "Education Savings Plan Agreement" Applicant disclosing a copy of his Education Savings Plan Agreement with C.S.T. for Haiyuan as **Exhibit P-10**;

87. Applicant had agreed to contribute \$4,999.93 per year (with a total of 10 annual contributions beginning on February 6th, 2015), which amounted to 32.626 units for Haiyuan in the *Group Savings Plan 2001*;

- 87.1 On February 11th, 2015, the Applicant received an email from the CST agent Ruoli Li (ruoli.li@cstresp.com), containing a copy of his application, as it appears from the email and Application form (Exhibit P-13);
- 87.2 On February 13th, 2015, the Applicant received an email from C.S.T. (cstwelcome@cst.org), which included a PDF file of their 2014 prospectus (Exhibit P-11) and a PDF file titled "Plan Summary" (Exhibit P-14), Applicant disclosing the email as **Exhibit P-15**;
88. Concerning his first cause of action regarding the illegality of the Sales Charge (which applies to all Class members), the Defendant C.S.T. Consultants Inc. thus unlawfully charged Applicant **\$6,325.20** above the \$200 legal maximum for his first RESP (Plan #22008497), and this in violation of subsection 1.1 (7) of *Regulation no. 15* which provides that the fees charged, including the commissions of the distributor and its salesmen, must not exceed \$200 per plan – which the C.S.T. undertook to comply with in their 2014 prospectus (dated May 29th, 2014), Applicant disclosing **Exhibit P-11** (see pages 1 and 10 regarding C.S.T.'s undertaking to comply with *Regulation No. 15*):
- (pages 5 and 14 of the PDF, Exhibit P-11)
- The Plans are managed in accordance with the investment restrictions set out in National Policy Statement No. 15 *Conditions Precedent to Acceptance of Scholarship or Educational Plan Prospectuses* and the administrative policies of the Canadian Securities Administrators.
89. The Applicant's second cause of action concerns the abusive nature of the Sales Charges that C.S.T. caused him to forfeit, in proportion to the contributions he made towards Haiyuan's RESP, at the time that he cancelled Haiyuan's RESP. As mentioned, Defendant C.S.T. Consultants Inc. charged Applicant **\$6,525.20** on account of Sales Charges for [...] 32.626 units for Haiyuan's RESP (\$200 x 32.626 units), as it appears from Exhibit P-10 and Exhibit P-13;
- 89.1 The way that C.S.T. charged these fees to the Applicant was by deducting the \$6,525.20 in Sales Charges from his initial contributions towards Haiyuan' plan, until the Sales Charges were fully paid;
- 89.2 On February 17th, 2015, the Applicant made his first annual contribution of \$4,999.93 towards Haiyuan's RESP, as it appears from the "Preauthorized Debit CST Foundation" appearing on a copy of his CIBC bank statement for February 2015, disclosed as **Exhibit P-16** (the Applicant alleges that the Defendants misled him and Class members by stating that their respective "Foundations" are a "not-for-profit organization", whereas the Foundations are withdrawing the Sales Charges and have some of the same individuals as officers and directors of both entities, which creates a conflict of interest);

- 89.3 From his first annual contribution of \$4,999.93, CST Foundation deducted \$4,131.27 (i.e. 82.62% of his contribution) as a payment towards the Sales Charges, as it appears from the Applicant's "CST 2015 Annual Client Statement" (see page 9 of 9) disclosed as **Exhibit P-17**;
- 89.4 Because of the way that CST front-loads its Sales Charges, had the Applicant (or any class member similarly situated) cancelled Haiyuan's RESP after 3 months, he would have lost \$4,131.27 (or 82.62%) of his RESP investment on account of Sales Charges, even though his account was only opened for 90 days;
- 89.5 On February 8th, 2016, the Applicant made his second annual contribution of \$4,999.93 towards Haiyuan's RESP, as it appears from a copy of his CIBC bank statement for February 2016 disclosed as **Exhibit P-18**;
- 89.6 CST Foundation deducted an additional \$2,393.93 from the Applicant's second \$4,999.93 payment towards the Sales Charges, as it appears from the document titled "Canadian Scholarship Trust Plan Current Statement (January 1, 2017 to June 6, 2017)" in Haiyuan's name (see page 2 of 2 showing total sales charges paid as \$6,525.20) disclosed as **Exhibit P-19**;
- 89.7 Therefore, as of the date of his second payment on February 8th, 2016, the Applicant had contributed \$9,999.86 towards Haiyuan's RESP, from which CST deducted the sum of \$6,525.20 on account of Sales Charges. In other words, the Sales Charges in proportion to the Applicant's contributions are as follows:

Year	Total of all Contributions	Total Sales Charges (\$)	Sales Charges (%)
Contribution #1 (2015)	\$4,999.93	\$4,131.27	82.62%
Contribution #2 (2016)	\$9,999.86	\$6,525.20	65.25%

- 89.8 In October of 2016, the Applicant decided that he wanted to cancel his RESP plans with CST and wished to transfer his capital (i.e. the \$9,999.86 he contributed over a 20-month period), plus the government grants and interest, to an RESP account at the CIBC, which brings us to the second cause of action concerning the abusive nature of the Sales Charges in proportion to the total contributions made at the time of termination;
- 89.9 On November 15th, 2016, C.S.T. Consultants Inc. sent a letter to the Applicant informing him that if he cancelled Haiyuan's plan on that day (which is only 21 months after he made his first payment to the RESP on February 17, 2015), he would forfeit \$6,520.20 on account Sales Charges, as it appears from **Exhibit P-20**;
- 89.10 The forfeiture of \$6,520.20 represents a penalty/loss of 65.25% of the Applicant's total contributions towards Haiyuan's RESP and the contractual clause enabling this is manifestly abusive and should be declared null;

- 89.11 On June 6th, 2017, CST terminated Haiyuan's RESP, at which point the Applicant's loss of \$6,525.20 as a percentage of contributions (65.25%) was determinable and crystallized (CST's termination letter is included in Exhibit P-19);
- 89.12 On June 19th, 2017, the Applicant's contributions (less Sales Charges of \$6,525.20 and some other administrative fees) and government grants accumulated in Haiyuan's RESP were transferred from CST to CIBC Securities Inc., as it appears from **Exhibit P-21**;
- 89.13 We emphasize that the abusive nature of the proportionate loss varies each month or year (depending on whether the payments are made on a monthly or annual basis) and therefore prescription for this cause of action can only start once that percentage (i.e. Sales Charges forfeited divided by total payments made towards the RESP) is determinable, which in the Applicant's case was on June 6th, 2017;
- 89.14 To demonstrate how the abusive nature of the loss varies in time, the chart below shows the Sales Charges in proportion to total contributions had the Applicant continued paying \$4,999.93 annually for 10-years:

Year	Total of all Contributions	Total Sales Charges (\$)	Sales Charges (%)
Contribution #1 (2015)	\$4,999.93	\$4,131.27	82.62%
Contribution #2 (2016)	\$9,999.86	\$6,525.20	65.25%
Contribution #3 (2017)	\$14,999.79	\$6,525.20	43.50%
Contribution #4 (2018)	\$19,999.72	\$6,525.20	32.63%
Contribution #5 (2019)	\$24,999.65	\$6,525.20	26.10%
Contribution #6 (2020)	\$29,999.58	\$6,525.20	21.75%
Contribution #7 (2021)	\$34,999.51	\$6,525.20	18.64%
Contribution #8 (2022)	\$39,999.44	\$6,525.20	16.31%
Contribution #9 (2023)	\$44,999.37	\$6,525.20	14.50%
Contribution #10 (2024)	\$49,999.30	\$6,525.20	13.05%

- 89.15 It is important to note that at any point in time when the Applicant would decide to cancel his RESP, he would have lost 100% of his Sales Charges because the Defendants deduct them from his initial contributions. The purpose of the chart above is to demonstrate that at a certain point, the loss in proportion to total contributions is reasonable and cannot be considered as abusive (for instance, as of year #9 where the Sales Charges represent 14.50% of total contributions). However, there should be no debate that termination forfeitures ranging from 82.62% to 26.10% (in years 1 to 5) of the amount contributed is objectively abusive;
- 89.16 This is even more so considering that the Defendants generate substantial revenues from sources other than the Sales Charges (for example, see page 22 of CST's prospectus, Exhibit P-11);

Applicant's 2nd RESP (for Xuyuan)

90. Applicant signed the standard form Application for his second child Xuyuan Wang (Plan #22008489) on or around February 10th, 2015, Applicant disclosing a copy of his Education Savings Plan Agreement with C.S.T. for Xuyuan as **Exhibit P-12**;
91. Applicant had agreed to contribute \$5,000.00 per year (with a total of 10 annual contributions beginning on February 6th, 2015), which amounted to 25.974 units for Xuyuan in the *Group Savings Plan 2001*;
 - 91.1 On February 11th, 2015, the Applicant received an email from the CST agent Ruoli Li (ruoli.li@cstresp.com), containing a copy of his application (Exhibit P-13 contains a single application for both children);
 - 91.2 On February 13th, 2015, the Applicant received an email from C.S.T. (cstwelcome@cst.org), which included a PDF file of their 2014 prospectus (Exhibit P-11) and a PDF file titled "Plan Summary" (Exhibit P-14);
92. Defendant C.S.T. Consultants Inc. charged Applicant **\$5,194.80** on account of Sales Charges for [...] 25.974 units (\$200 x 25.974 units), as it appears from Exhibit P-12 and Exhibit P-13 (Exhibit P-13 at page 5-PDF shows a single total charged for both plans);
93. Concerning his first cause of action regarding the illegality of the Sales Charge (which applies to all Class members), the Defendant C.S.T. Consultants Inc. thus unlawfully charged Applicant **\$4,994.80** above the \$200 legal maximum for his first RESP (Plan #22008489), and this in violation of subsection 1.1 (7) of Regulation no. 15 which provides that the fees charged, including the commissions of the distributor and its salesmen, must not exceed \$200 per plan – which the C.S.T. undertook to comply with in their 2014 prospectus (dated May 29th, 2014), Exhibit P-11 (see pages 1 and 10 regarding C.S.T.'s undertaking to comply with Regulation No. 15);
 - 93.1 The way that C.S.T. charged these fees to the Applicant was by deducting the \$5,194.80 in Sales Charges from his initial contributions towards Xuyuan's plan, until the Sales Charges were fully paid;
 - 93.2 On February 17th, 2015, the Applicant made his first annual contribution of \$5,000.00 towards Xuyuan's RESP, as it appears from the "Preauthorized Debit CST Foundation" appearing on a copy of his CIBC bank statement for February 2015, disclosed as **Exhibit P-22**;
 - 93.3 From his first annual contribution of \$5,000.00, CST Foundation deducted \$3,798.70 (i.e. 75.97% of his contribution) as a payment towards the Sales Charges, as it appears from the Applicant's "CST 2015 Annual Client Statement" (see Exhibit P-17, at page 5 of 9);

93.4 Because of the way that CST front-loads its Sales Charges, had the Applicant (or any class member similarly situated) cancelled Xuyuan's RESP after 3 months, he would have lost \$3,798.70 (or 75.97%) of his RESP investment on account of Sales Charges, even though his account was only opened for 90 days;

93.5 On February 8th, 2016, the Applicant made his second annual contribution of \$5,000.00 towards Xuyuan's RESP, as it appears from a copy of his CIBC bank statement for February 2016 disclosed as **Exhibit P-23**;

93.6 CST Foundation deducted an additional \$1,396.10 from the Applicant's second \$5,000.00 payment towards the Sales Charges, as it appears from the document titled "Canadian Scholarship Trust Plan Current Statement (January 1, 2017 to June 6, 2017)" in Xuyuan's name (see page 2 of 2 showing total sales charges paid as \$5,194.80) disclosed as **Exhibit P-24**;

93.7 Therefore, as of the date of his second payment on February 8th, 2016, the Applicant had contributed \$10,000.00 towards Xuyuan's RESP, from which CST deducted the sum of \$5,194.80 on account of Sales Charges. In other words, the Sales Charges in proportion to the Applicant's contributions are as follows:

Year	Total of all Contributions	Total Sales Charges (\$)	Sales Charges (%)
Contribution #1 (2015)	\$5,000.00	\$3,798.70	75.97%
Contribution #2 (2016)	\$10,000.00	\$5,194.80	51.95%

93.8 In October of 2016, the Applicant decided that he wanted to cancel his RESP plans with CST and wished to transfer his capital (i.e. the \$10,000.00) he contributed over a 20-month period), plus the government grants and interest, to an RESP account at the CIBC, which brings us to the second cause of action concerning the abusive nature of the Sales Charges in proportion to the total contributions made at the time of termination;

93.9 On November 15th, 2016, C.S.T. Consultants Inc. sent a letter to the Applicant informing him that if he cancelled Xuyuan's plan on that day (which is only 21 months after he made his first payment to the RESP on February 17, 2015), he would forfeit \$5,194.80 on account of Sales Charges, as it appears from **Exhibit P-25**;

93.10 The forfeiture of \$5,194.80 represents a penalty/loss of 51.95% of the Applicant's total contributions towards Xuyuan's RESP and the contractual clause enabling this is manifestly abusive and should be declared null;

93.11 On June 6th, 2017, CST terminated Xuyuan's RESP, at which point the Applicant's loss of \$5,194.80 as a percentage of contributions (51.95%) was determinable and crystallized (CST's termination letter for Xuyuan's plan is included in Exhibit P-24);

93.12 On June 13th, 2017, the Applicant's capital (less Sales Charges of \$5,194.80 and some other administrative fees) and government grants accumulated in Xuyuan's RESP were transferred from CST to CIBC Securities Inc., as it appears from Exhibit P-26;

93.13 To demonstrate how the abusive nature of the loss varies in time, the chart below shows the Sales Charges in proportion to total contributions had the Applicant continued paying \$5,000.00 annually for 10-years:

Year	Total of all Contributions	Total Sales Charges (\$)	Sales Charges (%)
Contribution #1 (2015)	\$5,000.00	\$3,798.70	75.97%
Contribution #2 (2016)	\$10,000.00	\$5,194.80	51.95%
Contribution #3 (2017)	\$15,000.00	\$5,194.80	34.63%
Contribution #4 (2018)	\$20,000.00	\$5,194.80	25.97%
Contribution #5 (2019)	\$25,000.00	\$5,194.80	20.78%
Contribution #6 (2020)	\$30,000.00	\$5,194.80	17.31%
Contribution #7 (2021)	\$35,000.00	\$5,194.80	14.84%
Contribution #8 (2022)	\$40,000.00	\$5,194.80	12.99%
Contribution #9 (2023)	\$45,000.00	\$5,194.80	11.54%
Contribution #10 (2024)	\$50,000.00	\$5,194.80	10.39%

93.14 Again, the purpose of the chart above is to demonstrate that at a certain point, the loss in proportion to total payments is reasonable and cannot be considered as abusive (for instance, as of year #8 where the Sales Charges represent 12.99% of total contributions). However, there should be no debate that termination forfeitures ranging from 75.97% to 25.97% (in years 1 to 5) of the amount contributed is objectively abusive;

Recap

94. In its 2014 prospectus which applies to Applicant's plans (Exhibit P-11), C.S.T. states that it recognizes and complies with *Regulation No. 15*, which is false;

95. By charging Applicant more than \$200 per plan, C.S.T. failed to comply with section 1.1(7) of *Regulation No. 15* (which is what they undertook to do by including this in their prospectuses year after year) and are therefore liable to reimburse Applicant the total sum of \$11,320.00 for both plans (Exhibit P-13 at page 5-PDF shows that the Applicant was charged a total of \$11,720.00 for two plans and he agrees that C.S.T. could have charged him \$200 per plan);

96. Additionally, in June of 2017, when Applicant terminated both his plans [...], C.S.T. refused to reimburse Applicant any portion of the Sales Charges and the amount of \$11,720.00 that he paid on account of Sales Charges for both plans and which he was forced to forfeit upon termination of the RESPs, after only 2 years, represents 58.60% of his contributions, which is objectively abusive under article 1437 C.C.Q. and there exists no regulation or legal basis that allows the

Defendants to charge such a disproportionate amount of fees;

96.1 On August 25, 2017, C.S.T. Consultants Inc. sent a letter to the Applicant declining his request for a refund of the Sales Charges, as it appears from a copy of the letter disclosed herewith as **Exhibit P-27**. In this letter CST mentions:

“We are aware that a class action regarding Regulation C-15 and the sales charges paid by clients has been initiated in Quebec. Until this matter is resolved, CSTC will administer your account in accordance with the terms of your Education Savings Plan Agreement and the prospectus in effect at the time of purchase and deny your request for a partial refund of the sales charges paid.”

96.2 We re-emphasize that in the class action referred to by CST in Exhibit P-27, the Court said that it would have authorized the class action concerning the cause of action based on the violation of *Regulation C-15*, but for the fact that the claim of the proposed Plaintiff (Mr. Segalovich) was prescribed;

96.3 As for “the prospectus in effect at the time of purchase” (i.e. Exhibit P-11), CST clearly undertook to comply with *Regulation C-15* and it failed to do so by charging Applicant and all Class members more than \$200 per plan;

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

97. All Class members, regardless of which of the Defendants they contracted with, have a common interest both in proving the commission of a violation of a rule of law within their contracts (the violation of subsection[...] 1.1 (7) [...] of *Regulation no. 15* in the present case and that the fees were abusive at the time of termination in the case of Subclass members) by all of the Defendants and in maximizing the aggregate of the amounts unlawfully charged to them by Defendants;

98. The nature of the interest necessary to establish the standing of the Applicant must be viewed from the perspective of the common interest of the proposed Class, and not solely from the perspective of the Applicant/representative plaintiff;

99. In this case, the legal and factual backgrounds at issue are common to all the members of the Class, namely whether the Defendants violate subsection[...] 1.1 (7) [...] of *Regulation no. 15* by charging Enrolment Fees greater than \$200.00 per plan and whether Sales Charges that exceed 20% of total contributions at the time of termination are abusive within the meaning of art. 1437 C.C.Q.;

100. The claims of every member of the Class and Subclass are founded on very similar facts to the Applicant’s claim;

100.1 Although the Applicant made payments towards his children's RESPs on an annual schedule, the situation is the same for members who made payments on a monthly schedule, as it appears from the chart below providing relatively precise amounts forfeited up until the 32nd month and approximate amounts for years 6 to 9:

<u># of Months to Cancellation</u>	<u>Forfeiture Amount</u>
0 to 11 months	100%
24 months	73%
32 months	66%
6 years	34.7%
9 years	23%

101. In Quebec, all of the Defendants unlawfully charge above \$200.00 per plan when selling contracts or plans commonly referred to as "scholarship plans" or "scholarship agreements". All of the Defendants also cause Subclass members to forfeit disproportionately high and abusive amounts on account of Sales Charges when they terminate their RESP before term;
102. Defendants' conduct is unlawful because the fees charged by Defendants for their scholarship plans and/or scholarship agreements, including the commissions of the distributor and its salesmen, exceed \$200.00 per plan;
103. Every member of the Class subscribed to an RESP with one of the Defendants;
104. Every member of the Class signed a contract of adhesion (standard form contract) with one of the Defendants;
105. All of the Defendants have failed to respect their undertaking to comply with *Regulation No. 15* and have caused damages to Class members as a result thereof. The Defendants repeat this undertaking each year in their respective prospectuses, up until the present date;
106. Defendants are liable towards Class members for the damages caused by their failure and are bound to make reparation for the damages;
107. Each Defendant unlawfully charged an amount in excess of \$200.00 per plan to every Class member who subscribed to an RESP with any of the Defendants who undertook to comply with *Regulation No. 15* (which provides that the enrolment fees cannot exceed \$200.00 per plan);
108. Each of the Defendants' Agreements contain the same (or very similarly drafted) abusive clause concerning the Sales Charges/Enrolment Fees;
109. Every Class member has suffered damages equivalent to the difference between the unlawfully inflated price charged by Defendants for their RESP and the \$200.00 maximum per plan provided for by section 1.1(7) of *Regulation No. 15*;

110. Every Class member has a right to ask this honorable Court to declare the abusive clause null, or, alternatively, that their obligations under the abusive clause be reduced to the maximum of \$200.00 per plan provided for under section 1.1(7) of *Regulation No. 15*;
111. The same legal issues are present in the action of each Class member against each Defendant (each Defendant faces more or less the same issues regarding the interpretation and application of subsection[...] 1.1 (7) [...] of *Regulation no. 15*, and article 1437 C.C.Q. concerning abusive fees);
112. By reason of Defendants' unlawful conduct, Applicant and members of the Class have suffered damages, which they may collectively claim against the Defendants;
113. Although the Applicant himself does not have a personal cause of action against, or a legal relationship with, each of the Defendants, the Class contain enough members with personal causes of action against each Defendant;
114. The facts and legal issues of the present action support a proportional approach to class action standing that economizes judicial resources and enhances access to justice;
115. All of the damages to the Class members are a direct and proximate result of the Defendants' misconduct;
116. The damages sustained by the Class members flow, in each instance, from a common nucleus of operative facts, namely, Defendants' undertaking to comply with *Regulation No. 15* and then charging Enrolment Fees/Sales Charges which are not in conformity with section 1.1(7) of *Regulation No. 15*;
- 116.1 The damages sustained by the Subclass members flow, in each instance, from a common nucleus of operative facts, namely, when they wish to terminate their RESP before the term and the Defendants cause them to forfeit more than 20% of their contributions on account of Sales Charges upon early termination, which is abusive under article 1437 C.C.Q.;
117. All members of the Class are justified in claiming the sums which they unlawfully overpaid to Defendants as Enrolment Fees, Sales Charges and/or Membership Fees for their RESPs;
118. In taking the foregoing into account, the following damages may be claimed against the Defendants:
 - a) reimbursement of the aggregate of the sums unlawfully overcharged in excess of \$200.00 per plan during the Class Period;
119. Individual questions, if any, pale by comparison to the numerous common questions that are significant to the outcome of the present Application;

120. **The questions of fact and law raised and the recourse sought by this Application are identical with respect to each member of the Class, namely:**
- a) Did Defendants fail to comply with their undertakings in their respective prospectuses to respect *Regulation no. 15*?
 - b) If so, must Defendants reimburse Class members the Enrolment Fees charged above \$200.00 per plan (in violation of subsection 1.1 (7) of *Regulation no. 15*)?
 - c) Is the clause providing for Enrolment Fees in excess of \$200.00 per plan abusive under article 1437 CCQ and, if so, what is the appropriate remedy?
 - d) When does prescription start for Class members and what are the factors common to the Class members regarding the impossibility in fact to act?
 - e) Is the forfeiture of Sales Charges representing an amount of 20% or more of the Subclass members' total contributions abusive, and, if so, should the clause allowing such Sales Charges be declared null and without effect?

C) THE COMPOSITION OF THE CLASS:

121. 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;
122. Applicant is unaware of the total number of the Defendants' clients or Class members who opened an RESP with the Defendants, nor is Applicant aware of the total number of RESPs sold by Defendants to Class members during the Class Period;
123. However, Applicant is aware that approximately 100 people "signed up" to Class Counsel's website for Mr. Segalovich's case against the Defendants (the redacted list of Class members was filed as Exhibit P-24 in C.S.M. #500-06-000803-169);
124. Moreover, on its website, the RESP Dealers Association of Canada (RESPDAC) boasts that as of December 31st, 2014, its members (Defendants Global RESP Corporation, Heritage Education Funds Inc., Knowledge First Financial Inc. and Universitas Management Inc.) "*administered over \$10 billion in RESP assets on behalf of Canadians. Each year, **hundreds of thousands of students** are able to attend college or university, thanks to RESPs provided by our member firms*" (<http://www.respdac.com>);
125. For its part, Defendant Canadian Scholarship Trust Foundation claims that "*CST currently manages \$4.2 billion in assets for more than 250,000 Canadian*

families” (<http://www.cst.org/en/Group-Plan>);

126. According to the HRSDC Report, Exhibit P-2, there was a total of **\$118 million in Enrolment Fees** charged in 2006 by Defendants C.S.T. Consultants Inc., Children’s Education Funds Inc., Heritage Education Funds Inc., USC (currently operating as Knowledge First Financial Inc.) and Universitas Management Inc. (Table A11 of the HRSDC Report, at pages 44-45);
127. Based on the above information, the aggregate amount of Enrolment Fees/Sales Charges unlawfully collected by the Defendants in the province of Quebec during the Class Period is likely in the millions of dollars;
128. The number of persons included in the Class is estimated to be in the tens of thousands;
129. The names and addresses of all persons included in the Class are not known to the Applicant, however, are in the possession of the Defendants;
130. Class members are very numerous and are dispersed across Quebec and elsewhere;
131. 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:

132. Applicant is a member of the Class;
133. Around October of 2017, Applicant learnt that Mr. Moshe Segalovich had filed a class action against the Defendants essentially seeking reimbursement of the fees he paid in excess of \$200 per plan (C.S.M. #500-06-000803-169);
134. Applicant contacted and met with class counsel in October of 2017 and asked to be kept up to date on the class action;
135. On June 14th, 2018, Applicant learnt that Mr. Segalovich’s application was dismissed at authorization because the Court found that his claim was prescribed and that article 575(4) was therefore not satisfied;
136. The Court found that the other three criteria of article 575 C.C.P. were satisfied and specifically concerning article 575 (2) C.C.P. the Court wrote:

[23] The overall case is not clear in the current state of the file, but one thing does seem to be clear: **Applicant has at least established an arguable thesis.**

[24] Accordingly, the Court must hold that Applicant has satisfied the test imposed by article 575(2) C.C.P. Based on the *approche souple, liberale et genereuse* that the Defendants admit must be followed at authorization, **the facts alleged appear to justify the conclusions sought**. Whether or not this would pass muster on a balance-of-probabilities test is not part of the equation at this stage.

[our emphasis underlined in bold]

137. Without admitting whether Mr. Segalovich's claim is prescribed or not, Applicant is filing the present action because he wants to obtain justice and compensation for himself and all other Class members for who, prescription was suspended when Mr. Segalovich filed his claim on July 19th, 2016 (pursuant to article 2908 CCQ);
138. Consequently, 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 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;
139. Additionally, Applicant respectfully adds that:
 - a) he has the time, energy, will and determination to assume all the responsibilities incumbent upon her in order to diligently carry out the action;
 - b) he mandated him on June 15th, 2018 to file the present application for the sole purpose of having his rights, as well as the rights of other Class members, recognized and protected so that they may be compensated for the damages that they have suffered as a consequence of Defendants' illegal and abusive behavior and so that they Defendants can be held accountable for their misconduct;
 - c) he cooperates and will continue to fully cooperate with his attorney, who has experience in consumer protection-related class actions;
 - d) he understands the nature of the action;
 - e) He attended the Court of Appeal hearing on November 26, 2019, for Mr. Segalovich's appeal.
140. As for identifying other Class members, Applicant draws certain inferences from the situation and realizes that by all accounts, there is a very important number of

Class members that find themselves in an identical situation, and that it would not be any more useful for him to attempt to identify them given their sheer number;

141. For the above reasons, Applicant respectfully submits that his interest and competence are such that the present class action could proceed fairly and in the best interest of Class members;

IV. DAMAGES

142. By reason of Defendants' unlawful conduct (breach of *Regulation no. 15* which they all undertook to comply with), the Applicant and the members of the Class have suffered a prejudice, which they wish to claim, every time Defendants charged an amount in excess of over \$200.00 per plan;

143. During the Class Period, Defendants have likely generated millions of dollars while intentionally failing to comply with *Regulation no. 15*, by charging Enrolment Fees, Sales Charges and/or Membership Fees in excess of \$200.00 per plan;

144. Defendants' misconduct is to the detriment of vulnerable families. Professor Henderson discusses this in her article (Exhibit P-29): "Group RESPs have a unique and complicated structure, which generates a high number of consumer complaints, particularly about the high, upfront fees. Group plan providers also have a long history of non-compliance with securities laws, including selling group plans to investors for whom they are not suitable. The combination of high, upfront fees and the lack of suitability is particularly harmful to low-income investors";

145. Consequently, the Defendants have breached several obligations imposed on them by the *Civil Code of Quebec*, as well as by securities legislation and regulations in Quebec, including:

- a) Quebec's *Regulation no. 15 Respecting Conditions Precedent to Acceptance of Scholarship or Educational Plan Prospectuses*, c. V-1.1, r. 44, subsection 1.1 (7) [...];
- b) The *Civil Code of Quebec*, including articles 1437 and 1458;

V. THE CLASS AND SUBCLASS

146. The Class and Subclass for whom the Applicant intends to act is described in the first paragraph of this Application and includes all persons who, during the Class Period had an RESP agreement with any of the Defendants in which they were a Subscriber and/or contributor (either primary or joint) and were charged a fee (referred to as "Enrolment Fee", "Sales Charge" and/or "Membership Fee"), including the commissions of the distributor and its salesmen, exceeding \$200.00 per plan;

147. It is worth emphasizing that prescription was suspended for all Class members on July 19th, 2016, when Mr. Segalovich filed his action (S.C.M. #500-06-000803-169) on behalf of the Class (article 2908 CCQ);
- 147.1 For greater clarity, the reason why the “Class Period” begins on July 19th, 2013, is because the Superior Court found that in Mr. Segalovich’s application for leave to bring a class action filed against the same Defendants on July 19th, 2016, that Mr. Segalovich’s claim satisfied the criterion of art. 575 (2) C.C.P. for the group of people described in the Class, but that his personal cause of action was prescribed (*Segalovich c. CST Consultants Inc. (CSTI)*, 2018 QCCS 6122, paras. 23, 24 and 40-44; see also *Segalovich c. CST Consultants inc.*, 2019 QCCA 2144, para. 18);
- 147.2 Article 2908 C.C.Q. suspended prescription for Class members (as of July 19th, 2016) that were included in Mr. Segalovich’s application and who were not prescribed (that is people who made a payment to any of the Defendants on account of the Sales Charges within 3 years before the date of Mr. Segalovich’s filing, i.e. making such a payment as of July 19th, 2013). Mr. Segalovich’s application was “no longer susceptible of appeal” (art. 2908 al. 3 C.C.Q.) when the Supreme Court of Canada dismissed his leave application on May 28, 2020. Mr. Wang initially filed the present application on June 15th, 2018 and the people in Mr. Segalovich’s application (who were not prescribed) were included in this case;
- 147.3 The reason why the “Subclass Period” begins on June 15th, 2015, is because this subgroup includes people who terminated their plans and forfeited a disproportionate amount of their contributions as a result of this termination within 3 years from the filing of Mr. Wang’s Application;
- 147.4 As more fully detailed above, the amount that Subclass members were forced to forfeit is abusive in proportion to their total contributions, which necessarily varies depending on the time of termination. If a customer cancelled his/her RESP after 3 months, their forfeiture could be as high as 100% of their contributions (if they are paying on a monthly schedule, they would always lose 100% of their contributions if they terminated in the first 11 months). If they cancelled after 2 years their forfeiture can be approximately 65-73% of their contributions. If they cancelled after 9 years, their forfeiture can be over 20% of their contributions. The Court of Appeal agreed with the first instance Judge and with the Defendants that Mr. Segalovich never made this allegation (i.e. that prescription starts to run from the date of cancellation for this group of people) and the starting point of prescription for the cause of action of abuse was never considered;
- 147.5 Therefore, there is no *res judicata* on Mr. Wang’s cause of action that the sums he forfeited (the \$11,720.00 he paid in Sales Charges upfront), when he cancelled within 2 years, were abusive in relation to the total payments he made towards his two children’s RESPs with the CST Defendants (\$19,999.86), representing a loss of 58.60% on account of Sales Charges (or commissions)

after only 2 years (which is abusive within the meaning of art. 1437 C.C.Q.). As the Court of Appeal found:

[15] Tant en première instance qu'en appel, l'appelant tente de modifier sa théorie de la cause pour invoquer de nouveaux reproches susceptibles de retarder le point de départ de la prescription. Or, en l'absence d'allégations claires dans la demande en autorisation portant sur le caractère abusif des dispositions concernant les modalités de remboursement des frais ou encore sur des représentations trompeuses dans les relevés mensuels, le juge n'a commis aucune erreur justifiant l'intervention de notre Cour en rejetant la demande d'autorisation pour cause de prescription.

147.6 The Subclass includes persons whose forfeiture upon termination represented more than 20% of their total contributions since June 15, 2015;

VI. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

148. The action that the Applicant wishes to institute on behalf of the members of the Class is an action in damages and declaratory judgment;

149. The conclusions that the Applicant wishes to introduce by way of an Application to Institute Proceedings are:

GRANT Plaintiff's class action against Defendants on behalf of all Class members;

CONDEMN the Defendants to pay to Qing Wang and to the members of the Class compensatory damages for the aggregate of the difference between the amounts charged per plan as Enrolment Fees, Sales Charges and/or Membership Fees and the legal maximum of \$200.00 per plan provided for under section 1.1(7) of *Regulation no. 15*, and **ORDER** collective recovery of these sums;

SUBSIDIARILY,

DECLARE abusive the following clause which appears in the Defendants' contracts of adhesion in the following, or similar terms:

"You acknowledge that a sales charge of \$_____ (_____ units x \$200 per unit) is deducted from early contributions.

The sales charge is deducted from your contribution as follows:

All of your contributions are applied to the Sales Charge until it is one-half paid.

After that, only one half of contributions will be applied to the Sales Charge until it is fully paid.”

REDUCE the obligations of Class members arising from the abusive clause so that they only pay the maximum of \$200.00 per plan provided for under section 1.1(7) of *Regulation no. 15*;

CONDEMN the Defendants to pay interest and the additional indemnity on the above sums according to law from July 19th, 2016;

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

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

CONDEMN the Defendants to bear the costs of the present action including the cost of 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;

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

VII. JURISDICTION

151. The Applicant suggests that this class action be exercised before the Superior Court of the province of Quebec, in the judicial district of Montreal, since he is domiciled and resides in the district of Montreal.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

1. **GRANT** the present Application;
2. **AUTHORIZE** the bringing of a class action in the form of an originating application in damages and declaratory judgment;
3. **APPOINT** the Applicant the status of representative plaintiff of the persons included in the Class and Subclass herein described as:

Class:

All persons residing in Quebec who, at any time since July 19th, 2013 (the “**Class Period**”), had a contract with any of the Defendants in which they were a subscriber and/or contributor (either primary or joint) for a Registered Education Savings Plan (“**RESP**”), and who were charged a fee

(referred to as “**Enrolment Fee**”, “**Sales Charge**” and/or “**Membership Fee**”), including the commissions of the distributor and its salesmen, exceeding \$200.00 per plan;

Subclass:

All persons residing in Quebec: (1) who at any time since June 15th, 2015 (the “**Subclass Period**”), had a contract with any of the Defendants in which they were a subscriber and/or contributor (either primary or joint) for an RESP, (2) who cancelled their RESP as of that date and (3) lost more than 20% of their contributions on account of Enrolment Fees, Sales Charges or Membership Fees;

(hereinafter referred to as the “**Subclass**”)

or any other group to be determined by the Court;

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

- a) Did Defendants fail to comply with their undertakings in their respective prospectuses to respect *Regulation no. 15*?
- b) If so, must Defendants reimburse Class members the Enrolment Fees charged above \$200.00 per plan (in violation of subsection 1.1 (7) of *Regulation no. 15*)?
- c) Is the clause providing for Enrolment Fees in excess of \$200.00 per plan abusive under article 1437 CCQ and, if so, what is the appropriate remedy?
- d) When does prescription start for Class members and what are the factors common to the Class members regarding the impossibility in fact to act?
- e) Is the forfeiture of Sales Charges representing an amount of 20% or more of the Subclass members’ total contributions abusive, and, if so, should the clause allowing such Sales Charges be declared null and without effect?

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

GRANT Plaintiff’s class action against Defendants on behalf of all Class members;

CONDEMN the Defendants to pay to Qing Wang and to the members of the Class compensatory damages for the aggregate of the difference

between the amounts charged per plan as Enrolment Fees, Sales Charges and/or Membership Fees and the legal maximum of \$200.00 per plan provided for under section 1.1(7) of *Regulation no. 15*, and **ORDER** collective recovery of these sums;

SUBSIDIARILY,

DECLARE abusive the following clause which appears in the Defendants' contracts of adhesion in the following, or similar terms:

"You acknowledge that a sales charge of \$_____ (_____ units x \$200 per unit) is deducted from early contributions.

The sales charge is deducted from your contribution as follows:

All of your contributions are applied to the Sales Charge until it is one-half paid.

After that, only one half of contributions will be applied to the Sales Charge until it is fully paid."

REDUCE the obligations of Class members arising from the abusive clause so that they only pay the maximum of \$200.00 per plan provided for under section 1.1(7) of Regulation no. 15;

CONDEMN the Defendants to pay interest and the additional indemnity on the above sums according to law from July 19th, 2016;

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

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

CONDEMN the Defendants to bear the costs of the present action including the cost of 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 Defendants’ various websites, Facebook pages and Twitter accounts, in a conspicuous place, with a link stating “Notice of a Class Action”;

ORDER the Defendants to send an Abbreviated Notice by regular mail to each Class member, to their last known address, with the subject line “Notice of a Class action”;

ORDER the Defendants 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”;

RENDER any other order that this Honourable Court shall determine;

THE WHOLE with costs including publications fees.

Montreal, June 26, 2020

(s) LPC Avocat Inc.

LPC AVOCAT INC.
ME JOEY ZUKRAN
Attorney for Applicant

500-06-000932-182

(Class Action)
SUPERIOR COURT
DISTRICT OF MONTREAL

QING WANG

Applicant

v.

C.S.T. CONSULTANTS INC. ET ALS.

Defendants

**AMENDED APPLICATION FOR AUTHORIZATION TO
INSTITUTE A CLASS ACTION AND TO APPOINT THE
STATUS OF REPRESENTATIVE PLAINTIFF**
(ARTICLES 571 AND FOLLOWING C.C.P.)

ORIGINAL

Me Joey Zukran
LPC AVOCAT INC.
276, rue Saint-Jacques, Suite 801
Montréal, Québec, H2Y 1N3
Téléphone: (514) 379-1572 • Télécopieur: (514) 221-4441
Email: jzukran@lpclex.com

BL 6059

N/D : JZ-168
