

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL  
N°: 500-06-000435-087

SUPERIOR COURT  
(Class Action Division)

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SHEILA CALDER

Plaintiff

v.

ROYAL BANK OF CANADA  
-and-  
RBC CAPITAL MARKETS  
CORPORATION

Defendants

-and-

TD WATERHOUSE CANADA INC.

-and-

LE FONDS D'AIDE AUX ACTIONS  
COLLECTIVES

Mis en cause

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DATE: December 7, 2020

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**JUDGMENT ON THE MOTION TO DECLARE TD WATERHOUSE CANADA  
INC. HOLDER OF CERTAIN INVESTORS' RIGHTS**

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- (1) **CONSIDERING** that Plaintiff was authorized on October 30, 2013<sup>1</sup> (the "**Autorization Judgment**") to commence a class action against Royal Bank of Canada and RBC Capital Markets Corporation (together, the "**Defendants**") on behalf of the following class:

"All Canadian retail investors who purchased one of the Olympus United Funds Corporation shares (formerly First Horizon Holdings Ltd.) from June 27, 1999 to June 29, 2005, and who had outstanding shares in said corporations as of June 29, 2005, but to the exclusion of any person who is or was in any way related to John Xanthoudakis or any former director, administrator, representative or employee of the Norshield Financial Group.";

JD2836

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1 *Calder c. Banque Royale du Canada*, 2013 QCCS 5296, judgment corrected on November 1, 2013.

- (2) **CONSIDERING** this Court's judgment of December 7, 2020 approving the Settlement Agreement entered into between Plaintiff and Defendants on August 6, 2020;
- (3) **CONSIDERING** Plaintiff's *Motion to declare TD Waterhouse Canada Inc. holder of certain investors' rights* (the "**TD Motion**") dated November 18, 2020;
- (4) **CONSIDERING** that the material filed into the court record, namely exhibits E-3 to E-11, demonstrates that:
- a. In 2006 and 2007, TD Waterhouse Canada Inc ("**TD**") made payments into at least 76 of its clients' accounts in which Olympus United Funds Corporation shares had been purchased (the "**Concerned Investors**" – a list of the Concerned Investors is filed as exhibit E-2);
  - b. By those payments, TD fully reimbursed at least 81 investments out of the 83 made by the Concerned Investors;
  - c. One other investment appears to have been fully reimbursed, but no supporting documentation was found;
  - d. Another investment was only partially reimbursed; and
  - e. The Concerned Investors all signed a settlement and release containing an assignment of rights in favor of TD, except for those holding the following accounts: 7U7388, 7Z8883, 8H9387, 8Y5523, 7Z8672 and 8F0855;
- (5) **CONSIDERING** that no proof of assignment of rights or subrogation was located regarding the accounts 7U7388, 7Z8883, 8H9387, 8Y5523, 7Z8672 and 8F0855;
- (6) **CONSIDERING** that the Concerned Investors were advised of the TD Motion and no members made comments regarding said motion;
- (7) **CONSIDERING** that TD was also notified of the TD Motion and has mandated counsel;
- (8) **CONSIDERING** the representations made by counsel for the Class and TD;

**FOR THESE REASONS, THE COURT:**

- (9) **DECLARES** that, except for investors holding account **DÉCLARE** que, sauf pour les investisseurs détenant les numéros


numbers 7U7388, 7Z8883, 8H9387, 8Y5523, 7Z8672 and 8F0855, TD Waterhouse Canada Inc. is the holder of the rights of the investors, identified in the E-2 proof of claim, relative to the Settlement Agreement entered into between Plaintiff and Defendants on August 6, 2020.

de compte 7U7388, 7Z8883, 8H9387, 8Y5523, 7Z8672 et 8F0855, TD Waterhouse Canada Inc. est le titulaire des droits des investisseurs identifiés dans la preuve de réclamation E-2 découlant de l'Entente de règlement conclue entre la demanderesse et les défendeurs le 6 août 2020.

**(10) THE WHOLE**, without legal costs.

**LE TOUT**, sans frais de justice.

December 7, 2020



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THOMAS M. DAVIS, J.S.C.