

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CANADIAN COMMERCIAL WORKERS INDUSTRY PENSION PLAN

Plaintiff

- and -

ROYAL GROUP TECHNOLOGIES LTD., VIC DE ZEN, DOUGLAS DUNSMUIR, GARY BROWN,
RON GOEGAN, DOMINIC D'AMICO, GREGORY SORBARA, RONALD SLAGHT and
RALPH BREHN

Defendants

Proceeding Under the *Class Proceedings Act, 1992*

AFFIDAVIT OF EUGENE FRASER

(sworn December 5, 2007)

I, Eugene Fraser, of the City of Guelph, in the Province of Ontario, MAKE
OATH AND SAY:

INTRODUCTION

1. I am the Executive Vice President of Propco 100 Ltd., which is the management firm for CCWIPP. As such, I have personal knowledge of the facts to which I hereinafter depose, except where my knowledge is stated to be on information and belief, in which case I disclose the source of my information. I believe the facts asserted herein to be true. I am authorized to speak on CCWIPP's behalf in this proceeding.

2. I make this affidavit in support of CCWIPP's motion to have the Settlement approved, and the separate motion to have the fees and disbursements of counsel approved. I previously swore an affidavit dated September 4, 2007 in support of CCWIPP's motion to have

this action certified as a class proceeding for settlement purposes, and approving the form and method of dissemination of notice to Class Members. This affidavit supplements my earlier affidavit.

CCWIPP'S INVOLVEMENT IN THE LITIGATION

3. As detailed in my September 4 affidavit, CCWIPP has been pursuing this matter with the assistance of Canadian Class Counsel since shortly after it first arose in 2004. Since that time, CCWIPP has been in regular communication with Canadian Class Counsel, particularly through Michael Wright of Cavalluzzo Hayes Shilton McIntyre & Cornish LLP.

4. Throughout that period, CCWIPP has understood the issues raised by the lawsuit, and the challenges facing this litigation, and that success was not a certainty. In particular, CCWIPP is aware that the decline of Royal Group's share price through the Class Period may not have been entirely attributable to the conduct alleged in the action, and that there was a real question as to whether the series of related party transactions alleged had any material impact on the Company's business. We also noted that the regulatory and criminal investigations announced during the Class Period have not resulted in criminal charges as of this date.

5. Therefore, when the prospect of pursuing settlement discussions in relation to the Action arose, we were prepared to engage in those discussions. CCWIPP provided instructions to Canadian Class Counsel in advance of the mediation, and Mr. Wright was in contact with CCWIPP with respect to the mediation. We were kept apprised of the issues that arose in the course of negotiating the settlement documentation. At the conclusion of this process, CCWIPP instructed Canadian Class Counsel to execute the Stipulation on its behalf and to seek its approval in this Court.

CCWIPP'S UNDERSTANDING OF THE SETTLEMENT

6. Canadian Class Counsel has explained the Settlement to CCWIPP. In particular, CCWIPP understands that:

- (a) The defendants have agreed to pay the sum of CAD\$9,000,000 plus interest from March 19, 2007 (the "Settlement Fund") to resolve the claims of CCWIPP and Class Members;
- (b) The Settlement is contingent on the approval of this Court and the United States District Court for the Southern District of New York;
- (c) The costs of notice and administration of the Settlement are to be paid from the Settlement Fund on a non-refundable basis. That means that, even if the Settlement is terminated in accordance with its terms, the costs incurred to give notice to Class Members and to administer their claims to date will be borne by the Settlement Fund;
- (d) In exchange for the payment of the above sum, CCWIPP's action will be dismissed, and all claims belonging to CCWIPP and Class Members relating to the matters raised in the Action arising up to the present will be released as against specified parties including the defendants, and persons and entities directly related to them, as well as persons and entities who acted in an advisory capacity to the defendants, including their auditors, accountants, underwriters, investment advisors and attorneys, even though those parties were not sued and have paid no consideration for a release. CCWIPP understands that the

defendants required a release for those parties to ensure that they would not be drawn into further litigation concerning the issues raised in this case.

7. These key terms are acceptable to CCWIPP.

THE PLAN OF ALLOCATION

8. I have reviewed the Plan of Allocation and discussed it with Mr. Wright. CCWIPP understands that, after the costs of administration and notice and counsel fees and disbursements are paid from the Settlement Fund, the remaining funds (the "Net Settlement Fund") will be distributed to Class Members who have timely filed valid claims showing a loss in their transactions in the Company's shares during the Class Period.

9. CCWIPP understands that the relative entitlements of Class Members will be determined according to the following:

- (a) The number of shares purchased and sold by the Class Member;
- (b) The dates of their purchases and sales; and
- (c) The prices at which they purchased and sold their shares.

10. We understand that the transactions of each Class Member who files a claim will be evaluated to determine whether that person held her Royal Group shares through any of the price declines alleged to have resulted from the market's reaction to news concerning the events alleged in the Action. A nominal sum is also allocated to persons who did not hold through any of the corrective price declines.

11. CCWIPP understands the Plan of Allocation, and believes that it is a fair and equitable method of distributing the Net Settlement Fund to Class Members.

CLASS COUNSEL'S FEES AND EXPENSES

12. As stated in Mr. Wright's affidavit, CCWIPP retained Canadian Class Counsel in respect of this matter in 2004. After CCWIPP's proceeding before the U.S. Court was dismissed, Canadian Class Counsel agreed to undertake this litigation on CCWIPP's behalf, on a contingent fee basis. On January 30, 2007, CCWIPP executed a retainer agreement which reflects the understanding between CCWIPP and Canadian Class Counsel from the outset of the litigation. A copy of the executed retainer agreement is attached as exhibit "A" to this affidavit.

13. The retainer agreement provides, among other things, that Canadian Class Counsel will undertake this proceeding on a contingent fee basis, and that Canadian Class Counsel is responsible for paying the expenses incurred in prosecuting this matter.

14. The retainer agreement also provides that, in the event of a settlement or judgment in favour of the Class, Canadian Class Counsel may seek a fee of up to 25% of any such recovery, inclusive of its expenses. CCWIPP understands that Ontario law requires that any fees to be paid to Canadian Class Counsel must be approved by the Court, as must the retainer agreement between CCWIPP and Canadian Class Counsel.

15. CCWIPP is aware that U.S. Lead Plaintiff's Counsel also agreed to pursue its litigation on a contingent fee basis, and that it will be seeking the approval of the U.S. Court for its fees and disbursements when it seeks approval of the Settlement.

16. CCWIPP understands that, by agreement, each set of counsel will make an application for fees that takes into account the application for fees being made by the other set of

counsel, so that Class Members' recovery is not unduly reduced. The two sets of counsel have agreed to seek combined fees not exceeding 25% of the Settlement Fund, inclusive of their disbursements.

17. Canadian Class Counsel is therefore making a request for fees and expenses amounting to 15% of the Settlement Fund, or \$1,350,000, inclusive of its expenses of up to \$70,000. CCWIPP understands that U.S. Lead Plaintiff's Counsel is making a request for fees amounting to 10% of the Settlement Fund, or CAD\$900,000, including their expenses of up to US\$115,000.

18. I am advised by Mr. Wright that Canadian Class Counsel has expended time valued at approximately CAD\$385,000 as of November 27, 2007. CCWIPP further understands that Canadian Class Counsel will continue to work on this matter through to its completion. Mr. Wright advises me that it is estimated that significant additional time may be spent through the completion of this matter.

19. CCWIPP understands that Canadian Class Counsel has undertaken this action with no promise of remuneration other than in the event of success, and that Canadian Class Counsel has not, to date, been paid anything for its efforts on behalf of the Class.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Milton

Proceeding under the *Class Proceedings Act*, 1992

AFFIDAVIT OF EUGENE FRASER

Siskinds LLP

680 Waterloo St.

London, ON N6A 3V8

Michael G. Robb (LSUC #45787G)

A. Dimitri Lascaris (LSUC #50074A)

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Cavaluzzo Hayles Shilton McIntyre & Cornish
LLP

Michael Wright (LSUC#: 32522T)

Solicitors for the Plaintiff

This is Exhibit "A" mentioned
and referred to in the
Affidavit of Eugene Fraser,
sworn before me at the City
of Toronto, in the Province of
Ontario, this 5th day of
December, 2007.

A handwritten signature in black ink, consisting of several overlapping, stylized loops and lines, positioned above a horizontal line.

A Commissioner, etc.

RETAINER AGREEMENT

On behalf of the Canadian Commercial Workers Industry Pension Plan ("CCWIPP"), I, Bernard Christophe, hereby retain and employ the law firm of Cavalluzzo Hayes Shilton McIntyre & Cornish LLP ("the law firm") as my solicitors and hereby authorize them to institute a Class Action pursuant to the *Class Proceedings Act*, naming CCWIPP as representative plaintiff on behalf of a class of persons who purchased shares in Royal Group Technologies Ltd. during the class period and to take such actions and conduct such proceedings as they may consider necessary or proper for the conduct of the proceeding.

I understand that this litigation is to be pursued on a contingency basis such that fees and disbursements with respect to the common issues will be payable only in the event of success in the class proceeding.

I understand that according to the *Class Proceedings Act*, "success" in a class proceeding includes:

- (a) judgment on the common issues in favour of some or all class members; and
- (b) a settlement that benefits one or more class members.

I understand that legal fees will be charged on a percentage basis. I understand that the law firm will request a legal fee of 25% from the Court inclusive of GST and disbursements. I understand that the percentage legal fee will be calculated based on all benefits obtained for the class members, including legal costs. By way of example, if the defendant pays by way of settlement \$5 million, plus \$500,000 for legal costs, I understand that the contingency fee will be 25% of \$5.5 million (\$1,375,000).

I understand that in order to prosecute this action, Cavalluzzo Hayes Shilton McIntyre & Cornish LLP may associate with other law firms in Canada, including but not

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limited to Siskinds LLP, and this agreement shall apply to those firms as well.

I understand that the legal fees of Cavalluzzo Hayes Shilton McIntyre & Cornish LLP legal fees shall be subject to approval by the Court.

I understand that a reasonable settlement or judgment in this case could be in the range of \$5,000,000 to \$50,000,000 depending on the size of the Class, the disposition of certain legal issues, and the length of the class period. I understand that a more precise estimate is not possible at this time.

Dated at Naples, FL, this 30th day of January, 2007.

Witness


_____
Bernard Christophe