

**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 MICHAEL WRIGHT  
(sworn SEPTEMBER 4, 2007)**

I, Michael Wright, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am partner with the law firm of Cavalluzzo, Hayes, Shilton, McIntyre & Cornish LLP ("Cavalluzzo"), counsel to the plaintiff herein. I have been directly involved with the prosecution and resolution of this action. As such, I have the knowledge set out herein. Where that knowledge is based on information obtained from others, I have so indicated below, and I believe that information to be true.
2. In this action, Cavalluzzo and the law firm of Siskinds LLP (together, "Canadian Class Counsel") are co-counsel to the plaintiff, the Canadian Commercial Workers' Industry Pension Plan ("CCWIPP" or the "Plaintiff").
3. Subject to this Honourable Court's approval, the parties to this proceeding have agreed to settle the claims herein. Their agreement is embodied within a Stipulation and Settlement Agreement, dated March 30, 2007. The Stipulation was amended by an agreement entered into by and among the parties hereto on August 31, 2007. A copy of the Stipulation and Settlement Agreement is

attached as exhibit "A" to my affidavit. A copy of the agreement by which it was amended is attached as exhibit "B" to my affidavit. Hereafter, I refer to Stipulation and Settlement Agreement, as amended by that amending agreement, as the "Amended Stipulation". Terms that are capitalized but not defined in this affidavit have the meanings given to them in the Amended Stipulation.

4. The Amended Stipulation also resolves a parallel proceeding pending before the United States District Court for the Southern District of New York (the "SDNY"). As such, there are parallel approval proceedings pending before the SDNY, and counsel in both this action and the parallel action before the SDNY are seeking to coordinate their respective approval procedures in order to facilitate the most efficient administration possible of the settlement.

5. On this motion, CCWIPP seeks an order:

- (a) certifying this action as a class proceeding for the purposes of implementing a settlement to be described below;
- (b) appointing the Plaintiff as representative of the Class Members;
- (c) approving the form and method of dissemination of a notice to the proposed class of the certification and settlement of the action and of the settlement approval hearing;
- (d) fixing the date for the hearing of the Plaintiff's settlement approval motion;
- (e) fixing the date by which Class Members who wish to opt out of the class proceeding must exercise their right to opt out;
- (f) appointing a claims administrator to receive claims from Class Members and to administer the settlement;
- (g) approving the form of the Proof of Claim;
- (h) fixing the manner in which Class Members may claim against the settlement fund;
- (i) fixing the manner in which, and the date by which, Class Members may object to the terms of the Settlement and/or to Canadian Class Counsel's fee request; and
- (j) stipulating the effect of the Defendants' exercise (if any) of their right of termination.

6. I am advised by Michael Robb of Siskinds LLP that, following a case conference conducted on July 10, 2007, the Court fixed December 17, 2007 as the date for the hearing of the Plaintiff's

motions for orders approving of the settlement and Canadian Class Counsel's request for counsel fees and expense reimbursement.

#### **THE ROYAL GROUP SECURITIES LITIGATION**

7. In this action, CCWIPP sought to recover the losses it suffered from its investment in shares of the defendant, Royal Group Technologies Limited ("Royal Group"). CCWIPP purchased those shares over the Toronto Stock Exchange ("TSX").
8. CCWIPP commenced its proceeding by Notice of Action dated February 24, 2006. A copy of the Notice of Action is attached as exhibit "C" to this affidavit. The Statement of Claim was filed on March 21, 2006. A copy of the Statement of Claim is attached as exhibit "D" to this affidavit.
9. Royal Group's Single Voting Shares were traded over the TSX and the New York Stock Exchange during the Class Period. Accordingly, Royal Group was required to make regular financial disclosure pursuant to Canadian and U.S. securities laws. The primary allegation in this action and the parallel U.S. proceeding was that Royal Group's financial statements during the Class Period did not comply with generally accepted accounting principles and were false or misleading because they failed to disclose that the company had engaged in a series of significant related party transactions. It was further alleged that the trading price of Royal Group's stock was artificially inflated during the Class Period. It was also alleged that, when the related party transactions were disclosed to the public, the price of Royal Group's shares declined precipitously, causing a loss to all those who purchased the shares during the period of price inflation and who continued to hold those shares when the related party transactions were first disclosed.
10. The claims against the Defendants in this action can be summarized as follows:
  - (a) with respect to Messrs. De Zen, Dunsmuir, Goegan, Brown, D'Amico, and Sorbara, it is alleged that they engaged in related party transactions with Royal Group, which ought to have been disclosed to the Plaintiffs and public generally, but were not;

- (b) with respect to Mssrs. Sorbara, Slaght, and Brehn, they are alleged to have negligently failed to monitor the financial reporting of Royal Group and ensure that there were adequate controls in place to prevent the inappropriate or undisclosed use of Royal Group's assets by its employees, officers and directors; and
- (c) with respect to all Defendants, they are alleged to have made misrepresentations in Royal Group's financial statements, and to have failed to make timely disclosure of material changes.

11. As I indicated above, a proceeding based on the same set of facts is pending before the SDNY. That proceeding is captioned *In re Royal Group Technologies Securities Litigation* (the "U.S. Action"). The plaintiffs in the U.S. Action allege that Royal Group and Mssrs. De Zen, Dunsmuir, Brown and Goegan violated U.S. securities laws by failing to disclose the alleged related party transactions. A copy of the Consolidated Amended Complaint filed with the SDNY in the U.S. Action (the "Complaint") is attached as exhibit "E" to my affidavit.

12. Although no statements of defence had been filed when the Settlement was reached, it was clear throughout the proceedings that the Defendants intended to contest the allegations made in the Statement of Claim and in the Complaint. When the Settlement was reached, a motion to dismiss the U.S. Action was pending before the SDNY.

**The Settlement**

13. The terms of the settlement are set out in the Amended Stipulation. The Settlement is intended to resolve both this action and the U.S. Action. The Amended Stipulation contemplates a coordinated effort to have the settlement approved, and a single program of notice and administration in order to achieve the most efficient and least expensive administration.

14. As a term of the settlement, the parties have agreed that the action will be certified for the purposes of implementing the settlement only. In the event that the settlement is not ultimately approved both by this Court and the U.S. Court, it is agreed that the parties will seek to have the order certifying the action set aside, and the parties will be entitled to take whatever positions they wish with respect to the issue of certification.

15. The key terms of the settlement are summarized as follows:
  - (a) the Defendants have agreed to pay the sum of C\$9 million (the "Settlement Fund");
  - (b) upon becoming effective, the settlement will finally resolve all of the issues raised in the Statement of Claim and in the Complaint for all persons other than Excluded Persons who purchased the Single Voting Shares of Royal Group during the Class Period; and
  - (c) the parties will coordinate to seek the approval of both this Court and the U.S. Court for a single notice program and administration, followed by the approval of the settlement.
16. In addition, the Amended Stipulation required the Defendants to pay interest on the Settlement Fund from March 19, 2007 to April 10, 2007. On April 10, 2007, the Defendants deposited the Settlement Fund, \$9,016,752.12 (which sum included the aforesaid interest), into the interest-bearing trust account of Siskinds LLP. I am advised by Michael Robb that, on April 11, 2007, Siskinds purchased term deposits with \$8,748,521.27 million of the settlement fund and deposited the balance of the settlement fund, \$268,230.85, in a money-market account. Michael Robb further advises me that, as of July 31, 2007, the investment return on the settlement fund was \$114,744.22. Unless and until the Courts otherwise direct, the settlement fund will continue to earn an investment return until its disbursement to the Class Members, and that investment return will be held for their benefit and paid out to them.
17. A settlement in principle was achieved following a mediation before Judge Daniel Weinstein (Ret.), a retired judge of the California Superior Court, who was assisted by Randy Bennett of Rueter Scargall Bennett LLP. Mr. Bennett advised Judge Weinstein on matters of Ontario law and practice. The parties each prepared extensive submissions which were provided to Judge Weinstein and Mr. Bennett in advance of the mediation. The mediation was conducted on February 2, 2007. The Stipulation was originally signed on March 30, 2007, following extensive and sometimes difficult negotiations as to a variety of issues that remained outstanding at the termination of the mediation.

**CERTIFICATION**

18. As indicated above, the parties have agreed that this action should be certified for the purposes of implementing the settlement. Thus, for settlement purposes, the Defendants agree that each of the criteria for certification has been fulfilled. For ease of reference, section 5(1) of the *Class Proceedings Act, 1992* states:

5. (1) The court shall certify a class proceeding on a motion under section 2, 3 or 4 if,
- (a) the pleadings or the notice of application discloses a cause of action;
  - (b) there is an identifiable class of two or more persons that would be represented by the representative plaintiff or defendant;
  - (c) the claims or defences of the class members raise common issues;
  - (d) a class proceeding would be the preferable procedure for the resolution of the common issues; and
  - (e) there is a representative plaintiff or defendant who,
    - (i) would fairly and adequately represent the interests of the class,
    - (ii) has produced a plan for the proceeding that sets out a workable method of advancing the proceeding on behalf of the class and of notifying class members of the proceeding, and
    - (iii) does not have, on the common issues for the class, an interest in conflict with the interests of other class members.

**Identifiable Class**

19. The Plaintiff seeks to certify this action for a class defined as follows:

All persons who purchased or otherwise acquired shares of Royal Group during the Class Period, other than members of the U.S. Class and Excluded Persons.

20. The U.S. Class is defined as follows:

All United States citizens and entities that purchased or otherwise acquired the common stock of Royal Group on the New York Stock Exchange or the Toronto Stock Exchange between February 24, 2000 and October 18, 2004 inclusive, other than Excluded Persons.

21. The Amended Stipulation defines the Class Period as the period from February 26, 1998 to October 18, 2004.

22. Excluded Persons are defined as:
- (i) the Defendants; (ii) persons and entities directly related to or controlled by Royal Group or the Individual Defendants; (iii) Georgia Gulf Corporation, its subsidiaries and affiliates; (iv) Fortunato Bordin, Lu Galasso, Gord Brocklehurst, Angelo Bitondo, Gwain Cornish, and Tony Di Giorgio; and (v) any putative members of the Class who exclude themselves by timely requesting exclusion in accordance with the requirements set forth in the Notice given to Class Members approved by the Courts.
23. The definitions of the Canadian and U.S. Classes are intended to ensure that all Class Members are easily able to determine to which proceeding they belong, and to which Court they have recourse if they wish to object either to the Settlement or to Class Counsel's request for fees and expense reimbursement. As is set out in the Notice (which is discussed in further detail below), any putative Class Member who complies with the requirements described in the Notice for opting out will be deemed to have opted out of the Class of which they are properly a member, and of both classes if they are a member of both.
24. Class Counsel also sought to minimize the possibility that one person could be a member of both classes. The only persons who could theoretically be members of both classes are persons who:
- (a) are U.S. citizens or entities;
  - (b) purchased Royal Group common stock over the TSX or NYSE between February 28, 1998 and February 23, 2000; and
  - (c) made a separate purchase of Royal Group common stock over the TSX or NYSE between February 24, 2000 and October 18, 2004.
25. We are not currently aware that there are any such persons, although such persons could exist.
26. U.S. citizens or entities who made their Royal Group investments before February 24, 2000 (and who otherwise qualify for membership in the Canadian Class) are included in the Canadian Class rather than the U.S. Class. I am advised by David Goldsmith, part of the U.S. Lead Plaintiffs' Counsel team appointed by the U.S. Court to prosecute the U.S. Action, that no claims could be asserted under United States law for purchases made before February 24, 2000 because those

claims are conclusively extinguished by applicable limitations statutes. The Statement of Claim in this action asserted a Class Period commencing on February 28, 1998, and the class definition set forth in the Statement of Claim was not confined to Canadians. Thus, Class Counsel considered it appropriate to include in the Canadian class U.S. Persons who purchased between February 28, 1998 and February 24, 2000.

27. We do not have specific information regarding the number of members of the Canadian Class. We have requested that whatever information is available from Royal Group's transfer agent be provided, but we have not yet received it.

#### **Common Issues**

28. In the Amended Stipulation, the parties have agreed to the certification of the following common issue:

Were Royal Group Technologies Limited's annual and interim financial statements during the Class Period accurate and in accordance with generally accepted accounting principles?

#### **Preferable Procedure**

29. In my opinion, certifying this proceeding for the purposes of settlement:
- (a) is a fair, efficient and manageable way of resolving the claims of the plaintiff and other Class Members, because the individual claims of Class Members would have been prohibitively expensive to litigate individually;
  - (b) will provide Class Members with access to justice; assuming the settlement is approved by this Court, Class Members be entitled to claim compensation for the losses they have suffered without having been obliged to commence and prosecute an individual proceeding or to incur the expense and inconvenience of doing so;
  - (c) will facilitate judicial economy, inasmuch as the resolution of the claims of these Class Members will require only the Court's supervision, rather than a potentially expensive and time consuming series of individual trials; and
  - (d) will serve the goal of behaviour modification; the Defendants have agreed to provide significant financial compensation, which will serve as a significant incentive to other market participants to ensure that they meet their obligations to shareholders.

**Representative Plaintiff**

30. CCWIPP is a pension plan serving approximately 290,000 current and former members. In essence, CCWIPP's mandate is to preserve and grow the plan assets in order to deliver pension benefits to the plan beneficiaries.
31. I am not aware of any fact that would give rise to a conflict of interest between CCWIPP and any member of the putative class. I believe that CCWIPP can and will fairly and adequately represent the interests of the class.

**Litigation Plan**

32. In my opinion, CCWIPP's plan to have the settlement approved and to distribute its proceeds in accordance with the plan of allocation described in the notice represents a workable plan for concluding this litigation.

**Pre-Approval Notice**

33. In accordance with the *Class Proceedings Act, 1992*, the parties have agreed to provide notice of the certification of this action for settlement purposes, and of the settlement and the hearing to approve it. The form of the notice and the plan for disseminating the notice has been agreed, subject to the approval of this Court and the SDNY.
34. The plan for disseminating the notice is essentially as follows:
- (a) a summary form of the notice (the "Summary Notice") will be published in the financial news sections of a number of major Canadian news papers, a U.S. investor publication, as well as released over a major newswire service in each of Canada and the United States;
  - (b) a longer, more detailed form of the notice (the "Long Form Notice") will be mailed directly to all persons identified as Class Members from Royal Group's transfer records, and to any other person who requests a copy of it from either Class Counsel or the Claims Administrator;
  - (c) Class Counsel and the Claims Administrator will post the Long Form Notice on their websites;
  - (d) a request will also be made to CDS Clearing and Depository Services Inc. to issue a bulletin to all brokerages participating in the CDS system, which bulletin will contain the Long Form Notice and Proof of Claim and a request from the Courts that each

participating brokerage forward a copy of such notice and Proof of Claim to any investors or non-member brokerages who purchased Royal Group securities through the participating brokerage during the Class Period; and

- (e) Securities Class Actions Services, an institutional shareholder services company ("SCAS"), will be asked to issue a "securities class action alert".

A copy of the plan for disseminating the notice is attached as exhibit "F" to my affidavit. A copy of the Summary Notice is attached as exhibit "G" to my affidavit. A copy of the Long Form Notice is attached as exhibit "H" to my affidavit.

**Plan of Dissemination**

- 35. Based on my experience, and on the experience of my co-counsel in such matters, it is my belief that the notice will effectively notify the Class. Assuming that Royal Group's transfer records comprehensively and accurately record those persons who purchased its shares during the Class Period, and that the brokerage firms to whom the Notice is sent, direct notice of the certification and settlement of this action will be sent to the last known address of all Class Members. The publication of the summary notice, the issuance of a securities class action alert by SCAS, and the issuance of notice by CDS to its member brokerages, provide substantial additional assurance Class Members will receive notice of the settlement.

**Form of Notice- Summary Notice**

- 36. The primary purpose of the Summary Notice is to:
  - (a) allow Class Members to identify themselves as Class Members;
  - (b) inform Class Members that their legal rights may be affected by the resolution of these actions; and
  - (c) enable Class Members to inform themselves more fully so that they can take the appropriate steps to protect their interests within the applicable deadlines.
- 37. The Summary Notice provides the following information:
  - (a) the definitions of the Classes;
  - (b) a brief description of the Settlement;
  - (c) the dates of the motions to approve the Settlement and Class Counsel's request for fees and expense reimbursement;


- (d) a brief description of each Class Member's options with respect to making a claim, objecting to the Settlement, and opting out, and the consequences of exercising each such option;
  - (e) how to obtain more fulsome information pertaining to the lawsuits, the Settlement, and the options available to Class Members; and
  - (f) contact information for Class Counsel and the Claims Administrator.
38. The Long Form Notice is intended to provide Class Members with more detailed information and instructions regarding the lawsuits, the Settlement, and their rights to opt out of, object to, or participate in the Settlement. Because approval of the Long Form Notice is also being sought from the U.S. Court, it is intended to comply with the law of the United States as well. I am advised by David Goldsmith that the United States *Private Securities Litigation Reform Act of 1995* ("PSLRA") contains very specific requirements for a notice of this type. Mr. Goldsmith advises me that he believes that the Long Form Notice meets those requirements, although it remains subject to review by the U.S. Court.
39. Because the Long Form Notice is intended to provide more detailed information and to comply with both the *Class Proceedings Act, 1992* and the PSLRA, it contains the following information:
- (a) the identities of all parties to the Actions, and information on how to contact the Claims Administrator and CCWIPP, through its counsel;
  - (b) a description of the Actions, including the nature of the claims asserted and the issues upon which the parties disagreed;
  - (c) the definitions of the Classes;
  - (d) the material terms of the settlement;
  - (e) the rationale for the settlement;
  - (f) an estimate of Class Members' potential claims in the Actions;
  - (g) an estimate of the potential recovery per share under the Settlement;
  - (h) a description of the factors that will impact the value of each Class Member's recovery under the Settlement;
  - (i) a detailed explanation of how each Class Member's recovery under the Settlement will be calculated;

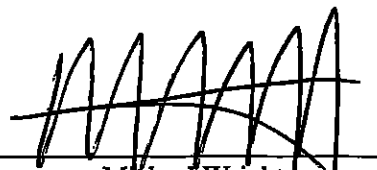
- (j) a statement of the fees and expenses being sought by Class Counsel in each Action;
- (k) detailed instructions for objecting, opting out or filing claims for compensation, including the dates by which each of these options must be exercised;
- (l) the legal consequences of exercising each of these options, including a detailed description of the scope of the release being granted under the Amended Stipulation and a statement that Class Members will be bound by that release unless they opt out; and
- (m) an explanation of how to obtain more detailed information on the Actions, the settlement, and the motions to approve the settlement, including information on how to access the pleadings in the Actions, the Amended Stipulation, and the materials filed in support of the motions to approve the settlement and Class Counsel's requests for fees and expense reimbursement.

**Claims Administrator**

- 40. Class Counsel invited bids from prospective claims administrators. In the view of Class Counsel, Crawford Class Actions Services submitted the bid that was in the best interests of the Class, having regard to their competence to administer the Settlement, and the cost to the Class of their doing so.
- 41. A copy of Crawford Class Actions Services' *curriculum vitae* is attached as exhibit "I".
- 42. I am advised by David Goldsmith that Crawford Class Actions Services is also being nominated to be claims administrator in the U.S. Action. A single claims administrator will facilitate the efficient, consistent and economical administration of the Settlement.

SWORN BEFORE ME at the City of Toronto, on Sept. 4, 2007.

  
 \_\_\_\_\_  
 Commissioner for Taking Affidavits

  
 \_\_\_\_\_  
 Michael Wright

**SYBIL MAY GRANT, a Commissioner, etc.,**  
 City of Toronto, for Cavalluzzo Hayes Shilton McIntyre & Cornish LLP,  
 Barristers and Solicitors.  
 Expires May 17, 2010.

CANADIAN COMMERCIAL WORKERS INDUSTRY PENSION PLAN et al. v. ROYAL GROUP  
TECHNOLOGIES LTD. et al.

Court File No: 965/06

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Milton

**AFFIDAVIT OF MICHAEL WRIGH  
(SWORN SEPTEMBER 4, 2007)**

Siskinds LLP  
Barristers & Solicitors  
680 Waterloo Street  
P.O. Box 2520  
London, ON N6A 3V8

Michael G. Robb LSUC#: 45787G  
Tel: (519) 660-7872  
Fax: (519) 672-6065

Solicitors for the Plaintiff  
Canadian Commercial Workers Industry Pen