

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: **60069** OF 2017

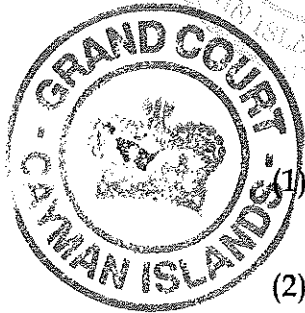
BETWEEN:

\$200,000
270294
APR 13 2017
GRAND COURT
CAYMAN ISLANDS

BRIAN TAYLOR

PLAINTIFF
APR 13 2017
CLERK OF COURT
CAYMAN ISLANDS GOVERNMENT

AND



- (1) ROYAL BANK OF CANADA TRUST COMPANY (CAYMAN) LTD
- (2) ROYAL BANK OF CANADA (CHANNEL ISLANDS) LTD
- (3) ROYAL BANK OF CANADA

DEFENDANTS

WRIT OF SUMMONS

TO: Royal Bank of Canada Trust Company (Cayman) Limited

c/o Mourant Ozannes
94 Solaris Avenue
Camana Bay
PO Box 1348
Grand Cayman KY1-1108
Cayman Islands

AND TO: **Royal Bank of Canada (Channel Islands) Limited**

c/o Mourant Ozannes
94 Solaris Avenue
Camana Bay
PO Box 1348
Grand Cayman KY1-1108
Cayman Islands

And TO: **Royal Bank of Canada**

c/o Mourant Ozannes
94 Solaris Avenue
Camana Bay
PO Box 1348
Grand Cayman KY1-1108
Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next pages.

Within 14 Days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Courts Office, PO Box 495, George Town, Grand Cayman, KY1-1106 the accompanying Acknowledgment of Service stating whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment of Service within the time stated, or if you return the Acknowledgement of Service without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and Judgment may be entered against you forthwith without further notice.

Issued this 13th day of April 2017

This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by Order of the Court.

IMPORTANT

Directions for Acknowledgement of Service is given with the accompanying form.

STATEMENT OF CLAIM

THE PARTIES

1. The Plaintiff, Brian Taylor, is an individual who was employed by affiliated companies in the Royal Bank of Canada Financial Group ("**RBC Group**") from 4 March 1985 until 8 July 2014, when his employment as Head of Trust Management Caribbean was terminated on notice but without cause, by the First Defendant.
2. The First Defendant, Royal Bank of Canada Trust Company (Cayman) Ltd ("**RBC-Cayman**") was incorporated in the Cayman Islands on 16 June 1972 as a wholly owned subsidiary of the Third Defendant Bank under registration number 2431. RBC-Cayman is registered with the Cayman Islands Companies Registry (as at 6 April 2017) as a **non resident** company in the Cayman Islands (as evidenced by a Cayman Islands Online Registry Search Report appended at Schedule 1 to this Statement of Claim) and has therefore at all material times traded unlawfully by conducting business and employing staff in the Cayman Islands which are impermissible activities for non-resident companies.
3. RBC-Cayman's registered office is at PO Box 1586 4th Floor, Royal Bank House, 24 Shedden Road, George Town, Grand Cayman, Cayman Islands KY1-110. It was granted a Trust Company Licence (# 72007) by the Cayman Islands Monetary Authority on 6 December 1972 and despite being a non-resident company, carries on a business as a trust company in the Cayman Islands and Caribbean region, offering trust services to clients. Prior to 31 December 2015 RBC-Cayman also held a Class A Banking Licence and carried out banking services for its trust company clients.
4. The Second Defendant, Royal Bank of Canada (Channel Islands) Ltd ("**RBC-Guernsey**") was incorporated as a company in Guernsey, Channel Islands on 10 July 1973. Its registered office is at Canada Court, Upland Road, St Peter Port, Guernsey GY1 3 BQ Channel Islands. It is licensed by the Guernsey Financial Services Commission to carry on inter alia, investment and banking and related financial services business in the Channel Islands.
5. The Third Defendant, Royal Bank of Canada ("**RBC - HQ**") was incorporated in Canada as a Bank in 1864 in Halifax, Nova Scotia and is a bank named in Schedule

1 to the Bank Act (Canada) and regulated by the Office of the Superintendent of Financial Institutions, Canada. Its registered office is 200 Bay Street, PO Box 1 Toronto, Ontario, M5J 2 J5, Canada. RBC-HQ is the ultimate parent company of RBC-Cayman and RBC- Guernsey, owning the latter through its wholly owned subsidiary RBC Holdings (Luxembourg) S.A.R.L and that company's respective wholly-owned subsidiary RBC Holdings (Channel Islands) Limited.

6. By a written decision by the Cayman Islands Labour Tribunal dated 17 June 2016 in relation to the Plaintiff's statutory claims ("**The Labour Tribunal Proceedings**") the Labour Tribunal found that RBC-HQ and all its material affiliates, namely RBC Guernsey, Royal Trust (Bermuda) Ltd, an affiliated RBC company originally incorporated in Bermuda ("**RBC-Bermuda**"), and RBC-Cayman were to be collectively construed as the Plaintiff's employer for 29 years and 4 months, namely from 4 March 1985 to 8 July 2014.
7. RBC-Cayman had attempted to deprive the Plaintiff of 18 years' accrued statutory benefits by alleging in the Labour Tribunal Proceedings that since the Plaintiff had only been employed by the RBC Group in the Cayman Islands for 11 years, it had no liability to pay for the previous 18 years' accrued statutory benefits for his employment within RBC in other jurisdictions, which had either been lost or forfeited by the Plaintiff when he obligingly relocated around the world at the behest of his RBC employers.
8. The Labour Tribunal awarded the Plaintiff severance pay and compensation for unfair dismissal against RBC-Cayman for the full tenure of his 29 years' continuous employment by RBC. The Plaintiff's contractual and other claims against his former employers were however outside the jurisdiction of the said Tribunal and fall to be determined by the Grand Court in these proceedings.

SUMMARY OF CLAIMS

9. The Plaintiff's claims are for damages for repudiatory breach and other breaches of contract, damages for wrongful dismissal and damages for misrepresentation against the Defendants as his former employers.
10. Unlawfully and in breach of its statutory duties as an employer under section 6 of the Labour Law, RBC-Cayman failed to provide the Plaintiff with any written statement of his conditions of employment within ten working days of the

commencement of his contract in the Cayman Islands in September 2002. In fact, the Plaintiff did not receive any employment contract from RBC-Cayman until October 2009, namely for the first seven years and one month of his employment in the Cayman Islands.

11. Unlawfully and in breach of its statutory duties as an employer under the National Pensions Law, RBC-Cayman failed to enroll the Plaintiff in an approved pension scheme in the Cayman Islands during his employment in the Cayman Islands commencing in September 2002 and failed to make any pension contributions on his behalf to a Cayman Islands Pension scheme until 5 weeks before its unlawful and wrongful termination of his employment on 8 July 2014.
12. In utmost bad faith, and in repudiatory breach of contract, RBC-Cayman deliberately deprived the Plaintiff of a very valuable final salary pension benefit (to which he had been contractually entitled for over 29 years' continuous employment in the RBC-Group) and terminated his enrollment in a final salary pension plan with RBC-Guernsey in June 2014, purportedly in order to rectify its own unlawful statutory delinquency and breach of the National Pensions Law.
13. RBC-Cayman knew or ought to have known, that there was no lawful impediment to its enrolling the Plaintiff in an authorized Cayman pension plan (albeit 11 years late) whilst fulfilling the Defendants' contractual obligation of almost three decades to maintain his enrollment in the final salary RBC-Guernsey plan at a modest monthly cost to the Defendants.
14. When the Plaintiff expressed his emphatic objection to RBC-Cayman's repudiatory breach of contract in seeking to divest him of his valuable life-time pension benefit, RBC-Cayman retaliated to such dissent by wrongfully terminating his employment after 29 years and 4 months as an RBC employee (with only two years' and eight months' service remaining to the date on which he would have been entitled to take early retirement under such final salary pension plan) callously indifferent to the fact the Plaintiff had a wife and five dependent children to support.
15. The Plaintiff's employment contract with RBC-Cayman had no express term permitting the said Defendant to terminate his employment at will on notice. His employment could only be terminated for cause, so his dismissal on 8 July 2014 was prima facie in repudiatory breach of contract and wrongful.

16. The Plaintiff's employment contract with RBC-Cayman had no express term permitting the said Defendant to require him to take garden leave. Unlawfully and in breach of section 10 (2) of the Labour Law, RBC-Cayman required the Plaintiff to cease work and leave its office premises within the same hour of his receiving the letter terminating his employment of almost three decades yet failed to pay him three months' salary on 8 April 2014 in lieu of any notice.
17. The Plaintiff is entitled to and claims damages for wrongful dismissal and damages for repudiatory and other breaches of contract, for the income and other contractual benefits he has lost by being wrongfully dismissed by RBC-Cayman on 8 July 2014, and the difference in pension amount he will now receive on retirement, compared to the amount he would have received if he had remained in the RBC-Guernsey final salary plan as he reasonably expected until his retirement at age 62.
18. Having terminated the Plaintiff's employment wrongfully and in complete bad faith, RBC-Cayman falsely asserted that the Plaintiff was only entitled to 11 years' statutory claims for severance pay, and dishonestly informed him in writing that the maximum amount that could be awarded to him by a Cayman Labour Tribunal was the sum of CI\$35,200 representing 11 weeks' severance pay for 11 years of employment.
19. In order to evade paying the Plaintiff the full compensation due to him upon termination of this employment, RBC-Cayman further deliberately failed to inform the Plaintiff in the termination letter provided to him on 8 April 2014 that since his dismissal was simply on notice and without cause, he was also entitled to additional compensation for unfair dismissal equivalent to one week's salary for every year of his continuous employment.
20. RBC-Cayman in full knowledge that the Plaintiff had been continuously employed within the RBC Group for 29 years and 4 months, disingenuously, alternatively dishonestly, contended in the Labour Tribunal Proceedings that the Plaintiff had in effect forfeited his accrued rights to 18 years of statutory payments from previous RBC Group Employers for the years 1985 to 2002, when he relocated from employment with RBC-Guernsey to RBC-Bermuda in 1997, and thereafter from RBC-Bermuda to the Cayman Islands in 2002 at the specific instruction and at the specific behest of RBC-Guernsey and RBC-HQ and in reliance on the contractual

agreement and/ or representations that all his contractual and statutory benefits would be preserved or enhanced by his remaining in employment in the RBC Group.

21. RBC-Cayman willfully and unreasonably refused to follow the unequivocal written recommendations set out in a letter from the Department of Labour & Pensions ["The DLP"] dated 12 February 2015 signed by Mario Ebanks, Director of the DLP and Andrea Bodden, Senior Labour Officer that the said Defendant employer should pay the Plaintiff severance pay and compensation for unfair dismissal properly due to him based on its assessment of his continuous employment lasting 29 years, 4 months.
22. The Plaintiff was therefore compelled to incur legal costs and endure two years of stress, mental anguish and delay before the Cayman Labour Tribunal unanimously found in his favour in its decision of 17 June 2016, holding (just as the DLP had found 16 months previously in February 2015) that he had been continuously employed for 29 years and ordered RBC-Cayman to pay CI\$185,600 to the Plaintiff for both severance pay and compensation for unfair dismissal, some CI\$150,400 more than the amount RBC-Cayman had dishonestly informed the Plaintiff in writing was the maximum sum he was entitled to receive in statutory benefits.
23. The Plaintiff is therefore entitled to and claims by way of damages for misrepresentation or alternatively as damages for breach of contract, the full amount he incurred in legal fees in relation to the litigation against RBC-Cayman in the Labour Tribunal Proceedings from April 2014 to June 2016 in order to receive what had always been properly and lawfully due and which ought to have been paid to him immediately by any reputable, honest employer on 8 July 2014.
24. The Second and Third Defendants further contractually agreed and represented to the Defendant that in relocating internationally at their request, he would always retain his valuable final salary pension benefit in the RBC-Guernsey Pension Plan no matter which RBC entity was his formal employer, which representation was false, in that RBC- Cayman purported to be entitled to terminate such valuable pension benefit. The Plaintiff is therefore entitled to and claims additional damages to be assessed concerning the misrepresentation and breach of contract in respect of his lost pension benefit together with interest thereon.

25. Further, the Plaintiff is entitled to and claims damages for numerous breaches of the express terms of RBC Code of Conduct which were incorporated by reference into his employment contract, by which the Defendants were required inter alia, to comply with all legal and regulatory obligations (including "*the intent and spirit*" of the applicable laws), to act with integrity, to adhere to the highest ethical standards and to treat employees fairly with a "*commitment to non-retaliation*".

THE PLAINTIFF'S INTERNATIONAL EMPLOYMENT WITH RBC-Guernsey FROM 1985 TO 1996

26. The Plaintiff first commenced his employment within the RBC Group on 4 March 1985 working for RBC-Guernsey in Guernsey Channel Islands.

27. The following were inter alia, express terms of the Plaintiff's employment with RBC-Guernsey from the commencement of his employment:

- (i) His initial job title would be Assistant Trust Officer.
- (ii) He would be enrolled immediately in RBC-Guernsey's health insurance plan and receive health and dental insurance benefits without being required to make any employee contribution for premiums for the same.
- (iii) He would be enrolled in RBC Guernsey's Final Salary Pension Plan ["**The Guernsey Pension Plan**"] in or about March 1985 (when the Plaintiff was 23).

28. The key terms of the Guernsey Pension Plan were inter alia as follows:

- (i) An accrued monthly pension would be calculated under "*the Plan formula*" based on (a) total pensionable service (meaning the number of years of service a member had accrued in the pension plan subject to a maximum of 40 years); (b) the average pensionable salary (which was the average of the best consecutive 36 months of pensionable salary within the last 120 months of service capped at certain maximum levels per annum); and (c) the normal retirement date (which was either the date on which a member attains the age of 62 or the member could elect to take early retirement as early as the last day of the month in which age 55 was attained provided

the member acquired 10 years of continuous pensionable service and provided 3 months' notice of retirement).

- (ii) All pension rights would become vested upon completion of five (5) years of qualifying service.
- (iii) The date which was to be recorded for the purposes of calculating the Plaintiff's total pensionable service was 4 March 1985 as his "*continuous service date*".
- (iv) The Plaintiff's normal retirement date was 2 March 2024, the date of his sixty second birthday.
- (v) Upon the death of the Plaintiff following retirement, any eligible spouse would receive 50% of the pension entitlement payable from age 65 onwards (namely as adjusted for any State pension paid) continuing for such spouse's lifetime.

29. In addition to his salary, the benefit of his enrollment in the Guernsey Pension Plan as a final salary plan was perceived by the Plaintiff to be a valuable contractual benefit and a significant component in a generous compensation package on which he relied as an inducement when he decided to resign from his position with Lloyds Bank International in Guernsey, and to accept RBC-Guernsey's offer of employment in or about March 1985.

30. As soon as the RBC Employee share purchase scheme (RESSOP) was introduced in the Guernsey branch by RBC-Guernsey in or about 1988-1989, the Plaintiff enrolled in the same and this too became a term of his contract/ a contractual benefit.

31. On unknown dates but during the course of the Plaintiff's employment with RBC-Guernsey the following further express terms of his employment were agreed between the said parties and RBC-HQ concerning any work to be undertaken by the Plaintiff for RBC Group affiliates in other jurisdictions [**"The Terms of International Assignments"**]:

- (i) Under RBC-HQ's / the RBC Group's general policy of "*one organization, many careers*" there would be opportunities for the Plaintiff as someone

recognized as a “*talented employee*” to travel and work internationally for affiliates of RBC-Guernsey alternatively, RBC-HQ at their different branches in other jurisdictions.

- (ii) Any international assignments or temporary secondments undertaken by the Plaintiff at the specific behest of RBC-HQ, alternatively RBC-Guernsey, in enabling the RBC Group’s business or staffing needs to be met, would be viewed positively and enhance the Plaintiff’s prospects of progressions or promotions within the RBC Group.
- (iii) Whichever new RBC Group affiliate employer might be the Plaintiff’s new “formal” RBC-entity employer for immigration or any other purposes for such international assignment or secondment, such RBC entity was to be regarded by the Plaintiff as simply another manifestation of the “*mother bank*” (i.e. RBC-HQ) in that jurisdiction.
- (iv) All the Plaintiff’s contractual rights and benefits under his employment contract with RBC-Guernsey (as his “*home country*” employer) would be preserved or alternatively enhanced whenever he was working on international assignment or secondment for RBC Group affiliates in other jurisdictions.
- (v) RBC-HQ Human Resources department would make all necessary logistical arrangements for the international transfer of employees relocating at its or its affiliate’s express request.

32. Further or alternatively RBC-HQ and /or RBC-Guernsey represented to the Plaintiff that the Terms of International Assignments as set out above would apply to his employment with the intention that such representations would induce the Plaintiff to act to his detriment in relocating from his home base of Guernsey (where he had generally lived since he was 12 years old) to fulfill international assignments or international secondments at the specific behest of the Second and Third Defendants. The said Defendants’ intention in transferring the Plaintiff to its other offices was to meet the staffing or other business requirements of the RBC Group in other jurisdictions.

33. The following terms fall to be implied in the employment contact between the Plaintiff and RBC-Guernsey as being obvious and/ or to give business efficacy thereto:

- (i) There was a duty of mutual trust and confidence between the parties to enable the employment relationship to prosper and continue.
- (ii) RBC-Guernsey would not without reasonable and proper cause conduct itself in a manner likely to destroy or seriously damage the relationship of confidence and trust between employer and employee.
- (iii) That the Terms of International Assignments (and or representations to the same effect) would be honoured by RBC affiliates to whom RBC-Guernsey or RBC-HQ sent the Plaintiff to work.
- (iv) That if RBC-Guernsey intended the Plaintiff's employment with RBC-Guernsey to be formally terminated it would provide the Plaintiff with formal notice to that effect and pay him all accrued statutory and other benefits as at the date of any termination of employment.

34. Pursuant to the Employment Agreement with RBC-Guernsey as set out above, the Plaintiff was employed by RBC-Guernsey, enrolled in the Guernsey Pension Plan, and in reliance on the Terms of International Assignments and/or representations to the same effect, whilst remaining an employee of RBC-Guernsey undertook international assignments or secondments at the request of RBC-Guernsey / RBC-HQ as follows:

- (i) for three months in the Cayman Islands for RBC- Cayman in 1988;
- (ii) for two years in the Isle of Man for the RBC Group from 1990 to 1992;
- (iii) in Bermuda with RBC-Bermuda from October 1995 to January 1996; and
- (iv) a longer term international assignment to RBC-Bermuda in Bermuda from February 1996 as described in more detail below.

THE PLAINTIFF'S INTERNATIONAL EMPLOYMENT WITH RBC-BERMUDA FROM 1996 TO 2002

35. RBC-Bermuda was a wholly owned subsidiary of RBC-Guernsey. It was granted a trust license from the Bermuda Monetary Authority in or about 1994 and was in a startup phase in October 1995 when the Plaintiff was initially sent on a temporary secondment by RBC-Guernsey (in conjunction with RBC-HQ internal audit) to Bermuda to assess the new business and the state of approximately of ten client files which had been opened or were pending being opened.
36. RBC-Guernsey in conjunction with its parent company RBC-HQ, decided on a date unknown to the Plaintiff between November 1995 and January 1996 that it strategically wanted to develop its new trust business in Bermuda and to increase the client offering to RBC clients worldwide by retaining the option of Bermuda based trust services.
37. The Plaintiff had received generally positive appraisals in relation to his work performance from RBC-Guernsey during his eleven years' continuous employment with the said trust company, during which time he had received a number of promotions from his original Assistant Trust Officer role, ultimately holding the position of Assistant Manager - Compliance and Audit. He received long service recognition awards in March 1990 for five years' continuous service and March 1995 for ten years' continuous service.
38. In identifying the Plaintiff as a long term and valued employee whom it would benefit the RBC Group to relocate to RBC-Bermuda from 1996, the Managing Director of RBC-Bermuda, Bill Humphreys described the senior position in Bermuda as requiring someone who amongst other attributes:
 - (i) Had at least 10 years' experience in Offshore Trust Work;
 - (ii) Possessed a high level of technical and administrative expertise;
 - (iii) Possessed excellent organizational and demonstrated proven communication and inter-personal skills;
 - (iv) Was able to manage a team of trust officers effectively.

39. The Plaintiff was self-evidently assessed by the Second and Third Defendants as meeting all the high requirements for the new senior role they offered him in Bermuda as set out above.
40. At RBC-Guernsey's specific behest and specific instructions the Plaintiff (having briefly returned to Guernsey after his initial temporary secondment in Bermuda to make all necessary immigration arrangements in January to February 1996) relocated to Bermuda on 14 February 1996 to continue his longer term employment within the RBC Group with RBC-Bermuda.
41. In requiring the Plaintiff to relocate to Bermuda in 1996, RBC-HQ informed the Plaintiff that one of his key areas of responsibility was business development for RBC-HQ/ the RBC Group generally including the selling of RBC banking products and the development of close relationships with "*principal sources of business in the Royal Bank of Canada network*". It is averred that such relocation was therefore for the benefit of RBC-HQ's financial and business interests.
42. RBC-Guernsey, or alternatively RBC-HQ, took no steps to terminate the Plaintiff's employment with RBC-Guernsey with effect from 14th February 1996. RBC-Guernsey did not provide any written notice to him that he should consider his employment with RBC-Guernsey to be at an end for all employment law purposes and thereafter to be assumed to be a distinct legal entity RBC-Bermuda.
43. RBC-Guernsey or alternatively RBC-HQ, did not offer the Plaintiff any severance package for his eleven years' continuous employment with RBC-Guernsey prior to his relocation to Bermuda or advise him that he would forfeit all rights to severance pay and to compensation for unfair dismissal unless he brought a claim against RBC-Guernsey in the Guernsey Labour Tribunal within 3 months of February 1996.
44. The Second and Third Defendants' clear statements and actions were to demonstrate to the Plaintiff that he was to regard himself as an international employee, being continuously and (initially) concurrently employed by RBC-Guernsey as well as the latter's wholly owned subsidiary RBC-Bermuda from February 1996 to February 2000 by paying him in both GBP Sterling as well as in Bermudian dollars. The Plaintiff received monthly statements of '*international compensation*' and continued to receive his annual pension report of showing his final salary benefits under the Guernsey Pension.

45. All verbal assurances and representations to the Plaintiff in early 1996 by RBC-Guernsey and by RBC-HQ were that his existing contractual terms and benefits would be preserved despite his relocating and working out of Bermuda.
46. The express terms of the Plaintiff's concurrent employment with RBC-Guernsey and RBC-Bermuda from February 1996 to February 2000, whilst based in Bermuda were inter alia, as follows:
- (i) His title would be "*executive director - trust services*".
 - (ii) His base salary would be increased to GBP £36,000 or the "CB 32 band" which referred to an RBC Group pay scale. He would receive part of his salary paid in Bermuda in Bermudan dollars (BMD\$41,884 per annum) and part of his salary paid in Guernsey in sterling (GBP £6,091 pa).
 - (iii) He would receive a lump sum relocation bonus of GBP £7,200 and a further lump sum payment of 10% of base salary to be paid annual on the anniversary date if he was requested to continue for a following year.
 - (iv) His "*home leave*" point would be Guernsey.
 - (v) All the Plaintiff's other long standing contractual benefits remained paid and administered through RBC-Guernsey as follows:
 - (a) The Plaintiff's annual bonus (a performance payment incentive program) was paid into his RBC bank account in the Chanel Islands;
 - (b) The Plaintiff's health insurance was arranged and provided by RBC Guernsey (not RBC-Bermuda);
 - (c) The Plaintiff's pension continued to be the Guernsey Pension Plan provided by RBC-Guernsey as the "*home country plan*" with all pension statements showing '*continuous service date March 4 1985*' and "*date joined service plan ... 4 March 1985*".
 - (d) The Plaintiff continued on RBC-Guernsey's employee share participation scheme (RESOP) whilst working as an "*international employee*" for RBC-Bermuda.
47. In February 2000 when the Plaintiff was promoted to Managing Director of RBC-Bermuda, the express terms of his contract were varied from an International Assignment / ex patriate package to a local compensation package (in keeping with

a generally introduced policy by RBC-HQ to move away from ex-patriate packages to local compensation) and his employment evolved by such transition from concurrent employment with RBC-Guernsey and RBC-Bermuda to RBC-Bermuda as sole formal employer.

48. The express terms of the Plaintiff's employment as Managing Director of RBC-Bermuda, were inter alia, as follows:

- (i) His base salary would be paid in Bermuda, in Bermudan dollars and was BMD\$72,000;
- (ii) He would receive a housing allowance of BMD\$50,0000;
- (iii) He would continue to receive a 10% relocation bonus annually and other discretionary bonuses in accordance with RBC Group guidelines.
- (iv) RBC-Bermuda would pay Bermuda National Insurance payments on his behalf ensuring he satisfied, inter alia, the statutory requirements of Bermuda state pension enrollment.
- (v) He would remain enrolled in the Guernsey "RESSOP" employee share purchase plan, but RBC-Bermuda would be responsible for covering the cost of such benefit.
- (vi) He would remain enrolled in the Guernsey health and dental insurance plan and RBC-Bermuda would pay the premiums.
- (vii) He would remain enrolled in the Guernsey Pension Plan and his new salary would be converted from Bermuda Dollars into sterling for pension plan calculation purposes. RBC-Bermuda would be responsible for paying the cost of such benefit.

49. There was at all material times, no express term in the Plaintiff's contract of employment with RBC-Bermuda entitling the employer to terminate his employment at will, on notice. RBC-Bermuda was only entitled to terminate the Plaintiff's employment for cause.

50. The following terms fall to be implied in the employment contact between the Plaintiff and RBC-Bermuda at all material times as being obvious and/ or to give business efficacy thereto:

- (i) There was a duty of mutual trust and confidence between the parties to enable the employment relationship to prosper and continue.
- (ii) RBC-Bermuda would not without reasonable and proper cause conduct itself in a manner likely to destroy or seriously damage the relationship of confidence and trust between employer and employee.
- (iii) That the Terms of International Assignments (and or representations to the same effect) would be honoured by RBC-Bermuda and any affiliates to whom RBC-Bermuda or RBC-HQ sent the Plaintiff to work.
- (iv) That if RBC-Bermuda intended the Plaintiff's employment with RBC-Bermuda to be formally terminated it would provide the Plaintiff with formal notice to that effect and pay him all accrued statutory and other benefits as at the date of termination of employment.

51. Pursuant to the express and implied terms set out above, the Plaintiff was employed by RBC-Bermuda in Bermuda from February 1996 until September 2002 and thereafter by RBC-Bermuda in the Cayman Islands, as set out in more detail below.

52. The Plaintiff was assessed in performance appraisals for RBC-Bermuda as his employer as meeting expectations during the said company's challenging start-up phase and recognized for his contribution to the success of the business including by RBC-HQ causing him to be promoted to Managing Director of RBC-Bermuda in February 2002.

53. The Plaintiff received an RBC Group long service recognition award in March 2000 acknowledging his 15 years of continuous service.

THE PLAINTIFF'S INTERNATIONAL EMPLOYMENT WITH RBC-CAYMAN FROM 2002 TO 2014

54. In or about March 2002 RBC-HQ made the decision without any prior consultation or discussion with the Plaintiff as Managing Director of RBC-Bermuda, to close the entire operation and business of RBC-Bermuda and to transfer the same by way of continuation to RBC-Cayman.

55. At RBC-HQ's request and specific instructions in September 2002 the Plaintiff agreed to relocate from Bermuda to live in the Cayman Islands to continue his longer term employment within the RBC Group with RBC-Cayman.
56. In relocating to the Cayman Islands the Plaintiff once more relied on the Terms of International Assignments and/ or the general representations made by RBC-HQ to the same effect, that all his long standing contractual and other benefits would be preserved or enhanced following such requested transfer.
57. The entire operations and business of RBC-Bermuda closed and transferred by way of continuation on the 27 September 2002 to RBC-Cayman in the Cayman Islands.
58. The Plaintiff was employed by RBC-Cayman on a work permit issued on September 30th 2002 to continue inter alia, as Managing Director of RBC- Bermuda to oversee orderly transition and transferal of the trust clients of RBC-Bermuda to RBC-Cayman.
59. For the second time, the Plaintiff assumed parallel/concurrent employment and until the date of dissolution of RBC-Bermuda, working simultaneously for RBC-Cayman and RBC-Bermuda while being located in the Cayman Islands.
60. RBC-Bermuda (as local employer) or alternatively RBC-HQ (as global employer), did nothing to terminate the Plaintiff's employment with RBC-Bermuda with effect from 30th September 2002, or provide written notice to him that he should consider his employment with RBC-Bermuda to be at an end for all employment law purposes and thereafter assumed by distinctly legal entity, RBC-Cayman. On the contrary, RBC-Bermuda required the Plaintiff to continue to work for this entity as its Managing Director based in the Cayman Islands in order to effect an orderly wind down and transfer of all its business to RBC-Cayman.
61. RBC-Bermuda did not offer the Plaintiff any severance package for his six years' continuous employment with RBC-Bermuda prior to his relocation to the Cayman Islands or advise him that he would forfeit all such rights to severance pay and compensation for unfair dismissal (including those accumulated over the previous eleven years with RBC-Guernsey) unless he brought a claim against RBC-Bermuda in the Bermudan Labour Tribunal within 3 months of 30 September 2002.

62. The First and Third Defendants' clear statements and actions were to demonstrate to the Plaintiff that he was to regard himself as an international employee, being continuously and (initially) concurrently employed by RBC-Bermuda as well as RBC-Cayman with the preservation of all his previous 18 years' contractual and other accrued benefits.
63. The Plaintiff's seamless and continuous employment with RBC-Bermuda is also evidenced by the fact that unlawfully and in breach of section 6 of the Labour Law, RBC-Cayman failed to provide the Plaintiff with any written statement of his conditions of employment within ten working days of the commencement of his contract in the Cayman Islands in September 2002, the assumption being that his employment within the RBC Group simply continued but was being performed by the Plaintiff in a new jurisdiction.
64. From September 2002 until October 2009 the Plaintiff was accordingly employed by RBC-Bermuda and RBC-Cayman on similar express terms to those of his employment by RBC-Bermuda in Bermuda, with the main difference being that his salary was paid in Cayman Islands dollars.
65. The Plaintiff continued to be enrolled in RBC-Guernsey's health and dental insurance plan.
66. It was an express term of the Plaintiff's employment with RBC-Cayman that he remained enrolled in the Guernsey Pension Plan and RBC-Cayman paid the modest monthly cost of such pension contribution.
67. Unlawfully, and in breach of National Pensions law, RBC-Cayman failed however to fulfill its statutory duty to enroll the Plaintiff in an approved pension scheme in the Cayman Islands as required after he had been resident in the Cayman Islands for nine months, namely on or about 27 June 2003. RBC-Cayman furthermore failed to make any pension contributions on his behalf to a Cayman Islands Pension scheme for the next 11 years of his employment in the Cayman Islands - namely until June 2014.
68. When RBC-Cayman finally complied with its statutory obligation under section 6 of the Labour Law (2011 Revision) to provide the Plaintiff with a written statement of the conditions of his employment over seven years' late, he was required to sign

a contact upon his promotion to Head of Trust Management - Caribbean dated 29 October 2009 [*"The Employment Contract"*].

Terms of the Employment Contract

69. The following were inter alia, express terms of the Employment Contract:

- (i) The Plaintiff's new title on his promotion was to be *"Head of Trust Management - Caribbean"*
- (ii) His annual salary in 2009 was to be CI\$150,000.00, paid bi-weekly in equal instalments.
- (iii) The Plaintiff was eligible to participate in RBC-Cayman's Discretionary Compensation Plan with a target discretionary bonus in 2009 of CI\$55,000.
- (iv) The Plaintiff was eligible to participate in the health, life, accident, share purchase plan and disability insurance plans offered to all RBC-Cayman employees.
- (v) The Plaintiff's employment was subject to the policies generally applicable to all RBC Group Employees.
- (vi) In accepting the *"offer of employment"* (i.e. upon his promotion) the Plaintiff specifically *"agreed to abide by the terms and conditions of all RBC employment policies including "Our Code of Conduct"*.
- (vii) The standard notice period for employees was 90 days which notice period could be shortened by mutual consent.
- (viii) RBC-Cayman could summarily terminate the Plaintiff's employment at any time without notice for misconduct in accordance with the terms of the RBC Code of Conduct, but the contract was **not** terminable at will by RBC-Cayman.
- (ix) The Pension benefit to be paid by RBC-Cayman was stated to be *"currently under discussion; final decision forthcoming"*.
- (x) The Plaintiff was entitled to 26 days' vacation leave.

70. The Plaintiff will rely on the express terms of the Employment Contract for their full terms and effect.

71. It is contended that in its plain and ordinary meaning the express term in the Employment Contract concerning "*Termination Notice*" permitted the Plaintiff to resign by giving 90 days' notice of termination as the notice period "*for employees*". There is no express term however entitling RBC-Cayman to terminate the contract at will on notice, without cause. RBC-Cayman was only entitled to dismiss the Plaintiff (who in October 2009 had been continuously employed within the RBC Group for over 24 years) summarily for gross misconduct, in accordance with the terms of the Code of Conduct, or in accordance with the Labour Law, i.e. for cause.

72. The Plaintiff will rely on the "*contra proferentem*" rule in the event RBC-Cayman seeks to contend that the words "*the standard notice period for employees is 90 days*" is to be construed as meaning "*the notice period for the employer to terminate the employee's employment is 90 days*" since the Employment Contract was prepared by RBC-Cayman and any ambiguity in this clause must be resolved in favour of the Plaintiff.

Terms of the Employee Handbook

73. The terms of the RBC-Cayman Employee Handbook (version August 2010) were incorporated by reference into the Employment Contract.

74. The Plaintiff will rely on the terms of the Employee Handbook for their full terms and effect.

75. The following were inter alia, express terms of the Employee Handbook

- (i) "*Integrity – Trust through integrity in everything we do.*

Our relationships are based upon respect and fairness in all our dealings. Our actions demonstrate our integrity.

These values define what we stand for. They represent our commitments to each other. They are reflected in our behavior and form the foundation of how we build relationships and deliver value to our stakeholders – clients, employees, shareholders and communities.

Our values are more than just words. To ensure our daily actions are aligned with our values, we measure how well we live our values as an organization and as individual

(ii) ***"3.12 Opportunities for Advancement***

At RBC, we support learning and development as a lifelong process. Our goal is to provide you with the opportunities for unique and challenging careers, leaning and personal and professional growth. That's why a "one organization, many careers" approach to career development and growth is strongly supported. We do this by ensuring that our employees have the necessary knowledge and skills to be successful in their current role and by encouraging the movement of talented people within and across the various RBC businesses and functions.

RBC Wealth Management Cayman would like to provide employees with every opportunity for advancing to other positions or opportunities within the Company or another RBC Office... Approval of progression moves or promotions depends largely upon qualifications, training experience, work record and business need".

(iii) ***"5.1 Anniversary Date.***

The first day an employee reports to work is his or her official anniversary date, This anniversary date is used to compute the following:

- *Pension benefits*
- *Employee savings plan enrolment*
- *Employee Service Recognition Awards*
- *Vacation entitlement"*

(iv) ***"5.2 Registered Employee's Share Savings Option Plan (RESSOP)***

The Registered Employee's Share Savings Option Plan (RESSOP) offers each employee the opportunity to become a part owner of the Royal Bank of Canada and a convenient way to establish a regular savings program".

(v) ***"5.3 Silver Thatch Pension Plan***

Under the National Pensions Law of the Cayman Islands, you and your employer must contribute an amount that when combined, equals 10% of your earnings (up to a maximum contribution of CI\$6,000 per annum). The Employer's share must equal at least 5% of your savings... RBC Wealth Management Cayman contributes 6% of your earnings. Therefore your share of the total contributions is 4%, which will be deducted from your salary each pay period".

(vi) ***"5.14 Employee Assistance Program***

RBC recognizes that providing tools and resources to assist employees in managing personal and workplace issues is a good thing both for employees and for the company

(and gave details of an "RBC EmployeeCare program" as an "extensive employee support program that assists RBC employees and their qualifying dependents in managing all aspects of their work and personal lives" and stated the contact telephone number of LifeWorks Counselling services.

(vii) **"7 STANDARDS OF CONDUCT**

7.1 Code of Conduct

All employees are urged to become familiar with the Code of Conduct and RBC values, and are expected to follow these rules and standards faithfully in doing their own jobs and conducting the Company's business.....

Eight Guiding Principles:

Principle 1: Upholding the law

Every RBC Company and employee will, at all times, abide by the law and respect its intent in the best interests of our clients, employees and shareholders.

.....

Principle 3: Fairness

In all our dealings we strive to treat people fairly, carefully weighing our responsibilities to all stakeholders.

.....

Principle 7: Integrity

Our word is our bond. As representatives of RBC Companies, we tell the truth in all our communications and do not mislead by commissions or omissions".

(viii) ***“7.4 Harassment Policy***

RBC Wealth Management Cayman does not tolerate harassment, sexual harassment, disrespectful and / or inappropriate behavior or retaliation by or of employees...

Any manager having knowledge of any harassment or retaliation or any allegations of harassment or retaliation is required to immediately report it to human resources.

Investigation Following A Report of Harassment or Other Violation of this Policy
The company will promptly conduct a thorough and objective investigation of all harassment complaints....

Resolution

If during the investigation the allegation of harassment or other violation is substantiated, the company will take immediate and appropriate corrective action. Any employee found to have engaged in harassment or retaliated against a fellow employee is subject to disciplinary action up to and including termination of employment”.

(ix) ***“7.7 Ethical Standards***

RBC Wealth Management Cayman insists on the highest ethical standard in conducting its business. Doing the right thing and acting with integrity are the two driving forces behind RBC Wealth Management Cayman’s great success story”.

(x) ***“8: GRIEVANCE PROCEDURE***

Grievance Procedure

The Company’s grievance procedure is set out below. Such procedure shall not form part of any employee’s terms and conditions of employment. It is our policy of the company that employees should:

- Be given a fair hearing by their immediate Reporting Officer or Manager concerning grievances they may wish to raise.*
- Have the right to appeal to a more senior Manager against a decision made by their Reporting Officer or Manager*
- Have a right to be accompanied by a fellow employee of their own choice when raising a grievance or appealing against a decision”.*

(xi) *Employee Ombudsman Office*

After all avenues of solving workplace disputes have taken place i.e. discussions with your immediate Manager, or other Senior Manager, the Human Resources Manager or the Unit's Managing Director have been exhausted and the employee is still not satisfied with the outcome, the office of the Employee Ombudsman may be contacted".

(xii) *"9.7 Gross Misconduct*

RBC Wealth management Cayman will be entitled to dismiss you without notice (or payment in lieu of notice) in the event of gross misconduct, or breach of RBC's policies or procedures or of your contract of employment.

Examples of gross misconduct include:

- *Serious misconduct;*
- *Being charged with and/or convicted of a criminal offence;*
- *Dishonesty, fraud or theft;*
- *Being under the influence of alcohol/ drugs during working hours or while on company business; ...*
- *Unauthorized absences;*
- *Falsifying time sheets and attendance records;....*
- *Breach of RBC's Code of Conduct"*

This list is not exhaustive."

Terms of the Code of Conduct

76. The Code of Conduct - namely the RBC "*Magna Carta*" of employees' rights, obligations and standards of conduct was incorporated by reference in to the Employment Contract. The Code of Conduct was applicable to RBC-HQ and all its subsidiaries and affiliates in the RBC Group, (referred to collectively in the said document as "**RBC**") and all their respective employees, contract workers and members of the board of directors.

77. The Code of Conduct was intended "*to incorporate RBC's values, and in particular our Value of Integrity*" - "*Doing what's right*". The Code of Conduct "*explains how we maintain our culture of doing what's right that makes RBC a great place to do business and to work*".

78. The Plaintiff will rely on the express terms of the Code of Conduct, for their full terms and effect.

79. The following were inter alia, express terms of the Code of Conduct:

- (i) RBC would adhere to ethical principles and honesty;
- (ii) RBC would provide excellent service within the Bank *"to each other"* and *"be known as an organization that cares about people"*.
- (iii) RBC would foster teamwork so all employees could *"have confidence and trust in the capabilities and intentions of our colleagues across RBC"* and would also hold their managers to high ethical standards in order *"to maintain an environment where everyone feels comfortable asking questions and raising concerns and making reports."*
- (iv) RBC would act with *"integrity"* and *"build trust through integrity in everything we do"* because *"it's crucial that clients, employees, investors, communities and regulators have confidence that banks will act ethically and fairly"* specifically, the RBC would
 - (a) *"Do what we say we would do"*
 - (b) *"Earn the trust and loyalty of both RBC clients and our colleagues"*
 - (c) *"Base relationships on respect and fairness in all our dealings... making RBC a great place to work"*
 - (d) *"Demonstrate integrity through our actions by always doing what's right"*
 - (e) *"Consider the impact of our decisions and actions on others"*
 - (f) *"Speak up when we believe something is wrong"* and connected with this was *"RBC's commitment to non-retaliation"* which stated *"there will be no retaliation for speaking up and making a truthful report of real or potential misconduct, for participating in an investigation or for exercising our legal rights."* *"Retaliatory Acts"* was defined as including *"dismissal"*,
 - (g) *"Seek diverse views and constructive challenge when we make decisions"*.
- (v) The Code of Conduct further specified as an express term of employment that when deciding to speak up and raise concerns, employees should ask themselves the following questions:

- (a) *is this legal?*
- (b) *is this fair and ethical?*
- (c) *How would RBC clients, our colleagues or other third parties view this situation?*
- (d) *Would RBC's reputation be damaged if this situation became public knowledge?*

- (vi) RBC would comply with the law in all their dealings, and even go further and comply with *"the intent and spirit of the laws that apply to it"*, in order to maintain its *"reputation for integrity"*.
- (vii) RBC's *"integrity"* in how it does business included further express terms that representatives of RBC had a duty not to mislead others, even by omission, which included being *"mindful when evaluating RBC communications that all information is clear and not misleading in any way.... To this end, we promptly correct misstatements when we notice them or when they are brought to our attention. We must make every reasonable effort to provide full and fair information and avoid errors or ambiguity in any statement issued on RBC's behalf"*.

Implied Terms of the Plaintiff's Employment with RBC-Cayman

80. The following terms fall to be implied in the employment contract between the Plaintiff and RBC-Cayman at all material times as being obvious and/ or to give business efficacy thereto:

- (i) There was a duty of mutual trust and confidence between the parties to enable the employment relationship to prosper and continue.
- (ii) RBC-Cayman would not without reasonable and proper cause conduct itself in a manner likely to destroy or seriously damage the relationship of confidence and trust between employer and employee.
- (iii) The Terms of International Assignments (and or representations to the same effect) would be honoured by RBC-Cayman as an affiliated company to whom RBC-Bermuda and/or RBC-HQ transferred the Plaintiff to work.

- (iv) That any right or power to terminate the Plaintiff's employment after nearly three decades of continuous employment in the RBC Group would be exercised reasonably and in good faith.
- (v) Further or alternatively, since the Plaintiff's employment from at least 2002 onwards had not been governed by any written contract with any provision entitling the RBC employer to terminate his employment by giving notice, it was an implied term as being obvious, that his long employment within the RBC Group since 1985 could not be terminated on notice and without cause.
- (vi) That RBC-Cayman as a fair employer acting with integrity, would have reasonable grievance procedures in place which employees could rely upon as terms of their employment.

81. It is contended that since the Plaintiff had already been continually employed within the RBC Group for over 24 years at the time he signed the Employment Contract in October 2009, no term falls to be implied into the Employment Contract that after almost quarter a century of continuous employment, RBC-Cayman was entitled as employer to terminate the Plaintiff's employment at its discretion, at will and without cause, simply on 90 days' notice.

PERFORMANCE OF EMPLOYMENT CONTRACT BY PLAINTIFF

82. Pursuant to the continued terms of his employment with RBC-Bermuda until October 2009, as well as pursuant to the Employment Contract, the Employee Handbook and the Code of Conduct, the Plaintiff was employed by RBC-Cayman from 30 September 2002 until 8 July 2014, when as set out below, he was wrongfully and contumeliously dismissed in breach of contract.

83. The Plaintiff received positive appraisals for his performance from RBC-Cayman, as reflected by his promotion to Head of Trust Services-Caribbean Region in October 2009. He received discretionary bonuses every year which steadily increased by an average of 11.56% per year as a reward for his good performance, such bonuses averaging CI\$80,000 per annum by 2013.

84. The Plaintiff was named as a leading trustee in Citiwealth leaders' lists. Thanks to the Plaintiff's efforts as a hard-working, diligent and highly skilled employee,

RBC-Cayman was awarded "*Cayman Trust Company of the Year*" in 2012 by Euromoney. RBC Wealth Management globally was also awarded "*International Trust Company of the Year*" by the Society of Trust and Estate Practitioners (STEP) in 2012.

85. The Plaintiff received long service recognition awards in March 2005 for 20 years' continuous service in the RBC Group and in March 2010 for 25 years' continuous service, and on the later occasion was presented with an engraved watch reflecting such achievement.

EVENTS LEADING TO THE PLAINTIFF'S WRONGFUL DISMISSAL

86. On or about 7 October 2009 RBC-Cayman in threatened repudiatory breach of contract, had given the Plaintiff notice of its intention to revoke unilaterally his enrollment in the Guernsey Pension Plan after 24 years of his receiving such valuable contractual benefit. RBC-Cayman's justification for such proposed repudiatory breach of contract was that the Plaintiff was not compliant with Cayman Islands' Pension Law, namely due to RBC-Cayman's own unlawful failure to enroll him in an approved Cayman pension scheme; and secondly that such pension arrangement was supposedly not compliant with Guernsey law.
87. The Plaintiff obtained legal advice from Guernsey lawyers on that jurisdiction's pension regulations and requirements in October 2009 and was informed that there was no lawful impediment whatsoever to his remaining indefinitely in the Guernsey Pension Plan and the only requirement was an administrative filing by RBC-Guernsey (on behalf of its affiliate RBC-Cayman) with the Guernsey States Income Tax Authority.
88. By email dated 23 October 2009 the Plaintiff confirmed to RBC-Cayman the advice he had received concerning his ability to remain lawfully enrolled in the Guernsey Pension Plan as a non-resident of Guernsey. He furthermore informed RBC-Cayman that his final salary pension plan benefit under the Guernsey Pension Plan was regarded by him as one of the most important and fundamental terms of his long-standing employment with the RBC Group. He stated that he would have to consider a transfer back to RBC-Guernsey if this step ever became necessary to preserve his valuable accrued pension benefits.

89. The threatened repudiatory breach of contract by RBC-Cayman in October 2009 in seeking to deprive the Plaintiff of his valuable final salary pension benefit was then retracted at that time when the previous managing director of RBC-Cayman, Deanna Bidwell (a.k.a. Deanna Price) informed higher management within the RBC Group, including RBC-HQ, that the Plaintiff was an indispensable member of the trusts/ wealth management team in the Cayman Islands and RBC-Cayman should make every effort to retain him in the jurisdiction. Accordingly, the Employment Contract dated 29 October 2009 stated only "*pension: under discussions, final decision forthcoming*" in relation to the Plaintiff's contractual pension benefits.
90. The Plaintiff continued to be enrolled in the Guernsey Pension Plan for the remainder of 2009 and in 2010, 2011, 2012 and 2013.
91. Some of the same allegations querying the ability of the Plaintiff to remain in the Guernsey Pension Plan under Guernsey law (which the Plaintiff had answered in October 2009) were raised again by David Foster (who had succeeded Deanna Price as managing director of RBC-Cayman) in verbal discussions with the Plaintiff in September to October 2013. However, he heard nothing from any of the Defendants in writing about his pension until December 2013.
92. By email from David Foster dated 19 December 2013 the Plaintiff received an official notification letter informing him once again that RBC-Cayman intended to terminate his participation in the Guernsey Pension Plan with effect from 31 December 2013 and to enroll him in the Cayman Silver-Thatch Plan and to pay all past pension contributions which should have been paid by RBC-Cayman and were outstanding to Silver Thatch from 30 September 2002 to 31 December 2013.
93. In emails passing between the Plaintiff and management of RBC-Cayman, RBC-Guernsey and RBC-HQ including the human resources department, from 19 December 2013 to 28 February 2014 the Plaintiff emphatically objected to such repudiatory breach of contract by RBC-Cayman in seeking to deprive him of such long-standing and valuable contractual benefit with minimal advance notice.
94. The Plaintiff received no explanation as to why RBC-Cayman could not correct its own statutory delinquency and unlawful conduct as a Cayman Islands employer in failing to enroll him in an authorized Cayman pension plan, by regularizing his

enrollment in the Silver Thatch Plan which did not necessitate the termination of the Plaintiff's participation in the Guernsey Pension Plan.

95. The Plaintiff confirmed again the legal advice he had received from Guernsey lawyers that there was no legal reason why he could not remain enrolled in the Guernsey Pension Plan providing an administrative filing was made on his behalf every year by RBC-Guernsey. Stuart Routledge, Head of RBC Wealth Management British Isles and Caribbean Region (to whom David Foster reported), and who was based in the Channel Islands confirmed verbally to the Plaintiff on or about 5 February 2014 that RBC-Cayman's only issue with his remaining in the Guernsey Pension Plan was not that it was unlawful as a matter of Guernsey law (as had been stated in October 2009 and as falsely reiterated in writing by David Foster in his email and official letter dated 19 December 2013) but rather that the Plaintiff was the only non-Guernsey resident person remaining in such pension plan. Mr Routledge informed the Plaintiff that RBC-Guernsey (on behalf of its affiliate, RBC-Cayman) did not want the administrative inconvenience of continuing such plan or taking the administrative action required to comply with the requirements of the Guernsey States Income Tax Authority only for the Plaintiff's benefit.
96. When the Plaintiff continued to challenge RBC-Cayman's right to deprive him of his long-standing and highly valued contractual Pension rights simply to avoid putting RBC-Guernsey to this administrative inconvenience for just one employee, RBC-Cayman retaliated to such dissent by dismissing him wrongfully without cause and thus in breach of contract and also at a time when RBC-Cayman was already in repudiatory breach of contract.
97. Thus on 8 April 2014 without further warning, discussion, any grievance procedure, due process or any other form of "*extensive employee support*" the Plaintiff was summoned to a meeting with David Foster and Pam Copeland (from RBC-HQ) in which he was given a letter terminating his employment after 29 years and 1 month within the RBC Group, and informing him his participation in the Guernsey Pension Plan had ceased on 31 March 2014 and that he had been enrolled in the Silver Thatch Plan [**The Termination Letter**"].
98. The Plaintiff was further more informed in the Termination Letter that his last working day after almost 3 decades with RBC was to be that very same day, 8 April 2014 and he was purportedly placed on "gardening leave" until 8 July 2014.

99. When the Plaintiff specifically enquired as to the reason for his dismissal, Ms Copeland of RBC-HQ responded that the Plaintiff was able to resign by giving three months' notice and RBC-Cayman was similarly entitled to terminate his employment by giving notice, and thus confirmed that the Plaintiff had not been dismissed for cause (as the Labour Tribunal also found in June 2016 when it unanimously awarded the Plaintiff compensation for unfair dismissal).

100. The Plaintiff was furthermore told in the meeting that he was not permitted to return to his office and was prohibited from collecting any of his personal items. His brief case was brought to him in the meeting room and as a loyal and diligent RBC employee of over 29 years, he was required to leave the RBC-Cayman office building in less than 29 minutes of being fired, without even the chance to say goodbye in person to his colleagues of the previous 11 years.

101. The Plaintiff was also notified in writing in the termination letter that he would only be paid severance pay of CI\$35,200,00 – the equivalent of 11 weeks' salary as if he had been continuously employed in the RBC Group only for 11 years since 2002. RBC-Cayman purported not to recognize the first 18 years of his employment with RBC-Guernsey and RBC-Bermuda and also deliberately omitted to inform him that since his employment had been terminated without cause he was also entitled to compensation for unfair dismissal equivalent to one week for every year of continuous employment.

BREACHES OF CONTRACT

Unlawful Conduct by RBC-Cayman

102. In breach of the express terms of (a) the Employee Handbook that the first foundational principle of RBC-Cayman's conduct was to "*uphold the law*" and (b) the express term of the Code of Conduct that RBC would comply with the law in all its dealings and even go further than the letter of the law and comply with "*the intent and spirit of the laws that apply to it*":

- (i) RBC-Cayman has at all material times traded unlawfully since 1972 in the Cayman Islands as a *non-resident* company without ever changing its status to that of a resident company;
- (ii) Unlawfully and in breach of its statutory duties as an employer under section 6 of the Labour Law, RBC-Cayman failed to provide the Plaintiff

with any written statement of his conditions of employment within ten working days of the commencement of his contract in the Cayman Islands in September 2002. The Plaintiff did not receive any employment contract from RBC-Cayman until his promotion to Head of Trust Services - Caribbean in October 2009, namely for the first seven years and one month of his employment in the Cayman Islands.

- (iii) Unlawfully and in breach of its statutory duties as an employer under the National Pensions Law, RBC-Cayman failed to enroll the Plaintiff in an approved pension scheme in the Cayman Islands during his employment in the Cayman Islands commencing in September 2002 and failed to make any pension contributions on his behalf to a Cayman Islands Pension scheme until 5 weeks before its unlawful and wrongful termination of his employment on 8 July 2014.
- (iv) Unlawfully and in breach of section 10 (2) of the Labour Law RBC-Cayman placed the Plaintiff on "*garden leave*" without any contractual right to require him to refrain from working and performing his usual duties throughout his full notice period, and failed to pay him his full salary and other contractual benefits due to him in relation to an alleged 90 days' notice period on 8 April 2014 in lieu of notice.
- (v) Unlawfully and in breach of section 14 (10) of the Labour Law RBC-Cayman failed to pay the Plaintiff the full amount of accrued vacation pay for 14.5 days' due to him on the termination of his employment even after the DLR expressly confirmed the full amount due and owing to the Plaintiff by its letter of 12 February 2015.
- (vi) Unlawfully and in breach of sections 40, 41 and 55 of the Labour Law, RBC-Cayman deliberately failed to pay the full amount of statutory benefits due and owing to the Plaintiff on 8 July 2014 for severance pay and unfair dismissal after 29 years of continuous employment until directed to do so by the Cayman Labour Tribunal on 17 June 2016.
- (vii) RBC-Cayman unlawfully made a false statutory declaration pursuant to section 12 (2) of the Labour Law knowing the same to be untrue and thereby also committing a criminal offence under section 120 of the Penal Code

(2013 Revision), by informing the Cayman Labour Tribunal that the Plaintiff's employment had commenced only on 30 September 2002.

- (viii) Unlawfully and in repudiatory breach of contract, RBC-Cayman wrongfully dismissed the Plaintiff as set out below.
- (ix) Unlawfully and in repudiatory breach of contract, RBC-Cayman terminated the Plaintiff's long standing enrollment in the Guernsey Pension Plan as set out below.
- (x) Unlawfully and in breach of contract, RBC-Guernsey and RBC-HQ permitted RBC-Cayman to terminate the Plaintiff's long standing enrollment in the Guernsey Pension Plan as set out below.

Repudiatory Breach of Contract by RBC-Cayman, Breaches of Contract by RBC-Guernsey and RBC-HQ re Plaintiff's Contractual Pension Benefits

103. Unlawfully and in repudiatory breach of contract, and in particular in breach of the Terms of International Assignment by which RBC-Guernsey and RBC-HQ had expressly agreed and represented that the Plaintiff's contractual rights and benefits would be preserved or enhanced if he relocated internationally to work for other affiliated companies in the RBC Group at their request, RBC-Cayman with the knowledge and consent of RBC-Guernsey (through the involvement of Stuart Routledge) and with the knowledge and consent of RBC-HQ (represented by its senior HR manager, Pam Copeland), willfully and unfairly terminated the Plaintiff's participation in the Guernsey Pension Plan, depriving him of one of his most long-standing and highly valued contractual benefits.

104. RBC-Cayman and the other Defendants failed to consider a range of alternative reasonable responses before unlawfully terminating the Plaintiff's final salary pension benefit in repudiatory breach of contract some 2 years and 8 months prior to the date on which he would have been entitled to take early retirement. Specifically, RBC-Cayman knew or ought to have known that it could immediately rectify its own long term unlawful conduct in failing to enroll the Plaintiff in an authorized Cayman Pension Plan without having to terminate his concurrent participation in the Guernsey Pension Plan.

105. RBC-Cayman and RBC-Guernsey were aware that the Plaintiff could remain enrolled in the Guernsey Pension Plan indefinitely even as a non-resident of Guernsey, providing that RBC-Cayman, alternatively RBC-Guernsey, filed an annual declaration with the Guernsey States Tax Authority.

106. RBC-Cayman also knew that the monthly financial cost of the Plaintiff remaining enrolled in the Guernsey Pension Plan was comparatively modest, but did not consider ascertaining if the Plaintiff would be willing to assume such contribution personally in order to remain enrolled in the said final salary plan or make such reasonable alternative option available to him.

107. In breach of contract, RBC-HQ and RBC-Guernsey took no action to prevent RBC-Cayman from terminating the Plaintiff's participation in the Guernsey Pension Plan and to preserve the contractual rights which they had contractually agreed and represented to him he would continue to enjoy as an employee of the RBC Group when relocating internationally at their request and for their benefit to work for other RBC Group affiliates.

Breach of Duty of Mutual Trust and Confidence by RBC-Cayman

108. Furthermore, RBC-Cayman's actions in depriving the Plaintiff of his valuable pension benefit which he had enjoyed as a contractual benefit for over 29 years was a breach of the implied term of mutual trust and confidence owed to the Plaintiff that his employer would not without reasonable and proper cause, conduct itself in a manner likely to destroy or seriously damage the relationship of confidence and trust between employer and employee.

Particulars of Trust Destroying Conduct

- (i) RBC-Cayman deliberately misled the Plaintiff as to its justification for terminating his enrollment in the Guernsey Pension Plan, stating that this was required as a matter of Cayman Law and Guernsey law, when it knew or ought to have known this was completely untrue.
- (ii) RBC-Cayman in willfully refusing to undertake the administrative inconvenience of preparing and filing an annual declaration in respect of the Plaintiff to the Guernsey States Tax Authority which was the only action required to allow him to remain in the Guernsey Pension Plan, seriously damaged the trust and confidence the Plaintiff had in his employer.

- (iii) RBC-Cayman first notified the Plaintiff of its unilateral decision to terminate his enrollment in the Guernsey Pension Plan on only 11 days' notice by letter dated 19 December 2013, without any prior discussion with the Plaintiff and just prior to the commencement of the Christmas public holidays/vacation period, knowing the Plaintiff would have no time to take any effective action to prevent such repudiatory breach of contract or to challenge the same and thus completely undermined his confidence in his employer to treat him fairly, respectfully or considerately.
- (iv) The Plaintiff's complaints in relation to the intended termination of his long-standing final salary benefit in the Guernsey Pension Plan were not dealt with reasonably or fairly by RBC-Cayman by means of any due process or any fair employee grievance procedure.
- (v) The Plaintiff was not afforded any "*extensive employee support*" despite suffering great distress at the prospect of losing his final salary pension benefit in the Guernsey Pension Plan after 29 years of employment.
- (vi) RBC-Cayman offered no legal advice to the Plaintiff when unlawfully seeking to deprive him of his long-standing contractual pension benefit. He was informed by the HR department that he would have to seek such legal advice at his own expense and providing he could identify a Cayman law firm which would not be under any conflict of interest by reason of its prior professional relationship with RBC-Cayman.
- (vii) RBC-Cayman was well aware of the financial loss the Plaintiff would suffer by the premature termination of his enrollment in the Guernsey Pension Plan and in a confidential email dated 8 January 2014 on which the Plaintiff was accidentally copied, RBC-Cayman considered the Plaintiff's ability to claim constructive dismissal based on such unreasonable repudiatory breach of contract.

Breach of Contract by RBC-Cayman re Termination of Plaintiff's Employment without Cause

109. RBC-Cayman had no contractual right under the express or the implied terms of the Employment Contract to terminate the Plaintiff's employment at will on notice after 29 years of continuous employment. It was only entitled to terminate

for cause, such as gross misconduct under with the Labour Law or gross misconduct by breach of the terms of the Code of Conduct.

110. Pam Copeland of RBC-HQ expressly confirmed to the Plaintiff on 8 April 2014 that RBC-Cayman was purporting to exercise a contractual right to terminate his employment only on three months' notice. The First Defendant also confirmed in its written statement of reasons for termination dated 9 July 2014 provided in accordance with a request from the Plaintiff under section 12 (1) of the Labour Law that there were no grounds whatsoever for the termination of the Plaintiff's employment other than the giving of three months' notice.

111. In the circumstances, since there had been no misconduct by the Plaintiff whether under the Labour Law or under the terms of Code of Conduct or the Employee Handbook, RBC-Cayman were not entitled to terminate his long-standing employment without cause or on notice, and such termination on notice and in bad faith is prima facie in repudiatory breach of contract and wrongful.

112. After almost three decades of continuous employment in the RBC Group during which he had been continuously promoted and received generally positive appraisals from his respective RBC Group employers, the Plaintiff had a legitimate and reasonable expectation that as a long-standing and valued employee he would continue to be employed by the RBC-Cayman or alternatively the RBC Group until his retirement at the end of March 2024 and RBC-Cayman's wrongful dismissal in repudiatory breach of contract and by exercising any power to dismiss him in complete bad faith, has caused the Plaintiff to suffer premature termination losses as set out below.

Breach of Code of Conduct: Issuing of False and Misleading statements by RBC-Cayman

113. In breach of the Code of Conduct which requires every RBC entity and every RBC employee to make every reasonable effort to provide full and fair information to third parties and to avoid errors or ambiguity in any statement, RBC-Cayman deliberately issued false and misleading statements in that it:

- (i) Falsely informed the Plaintiff in his termination letter dated 8 April 2014 that the maximum amount he was entitled to receive in statutory benefits for his employment with the RBC Group was CI\$35,200, when it knew or

ought to have known the Plaintiff was entitled to a minimum of CI\$185,600 in statutory benefits.

- (ii) Falsely or misleadingly required the Plaintiff to acknowledge in a Deed of Release dated 8 April 2014 that a lump sum settlement offered to him of CI\$128,000 on termination of his employment which included a (later retracted) CI\$92,800 discretionary payment was in excess of that to which he was entitled to under his contract of employment or by law, when it knew or ought to have known the Plaintiff was entitled to a minimum of CI\$185,600 in statutory benefits independently of any ex gratia sum for almost three decades of excellent service and far in excess of the sum offered.
- (iv) Falsely informed the Cayman Labour Tribunal that the Plaintiff's employment commenced on 30 September 2002 when RBC-Cayman knew that the Plaintiff's employment had commenced for all purposes on 4 March 1985.
- (v) Falsely or misleadingly informed the Cayman Labour Tribunal that in seeking to recover his full statutory benefits for 29 years of continuous employment that the Plaintiff was pursuing "*inflated unmeritorious claims*" when RBC-Cayman knew that the Plaintiff was justly and fairly entitled to claims for severance pay and compensation for unfair dismissal after 29 years of continuous employment. Furthermore, the DLR had recommended on 12 February 2015 that RBC-Cayman pay the Plaintiff his full claims for 29 years' continuous employment but RBC-Cayman willfully and unfairly refused to do so.
- (vi) Falsely or misleadingly informed the Plaintiff by letter dated 19 December 2013 that RBC-Cayman needed to terminate his enrollment in the Guernsey Pension Plan on the basis that this was non-compliant with Guernsey Law when it knew this was not true, and as Stuart Routledge later confirmed on 6 February 2014, in fact such continued enrollment required only the administrative inconvenience to RBC-Cayman or RBC-Guernsey of the filing of an annual declaration with the States of Guernsey Tax Authority.
- (vii) Falsely or misleadingly informed the Plaintiff by letter dated 19 December 2013 and in subsequent communications that RBC-Cayman would need to

terminate his enrollment in the Guernsey Pension Plan since this was non-compliant with Cayman Law when it knew or ought to have known that there was nothing to prevent RBC-Cayman from enrolling the Plaintiff in the Silver Thatch Plan, as an authorized Cayman Pension Plan to regularize his position under the Cayman Islands Pension Law some 11 years' late whilst allowing the Plaintiff to remain enrolled in the Guernsey Pension Plan and retain such long-standing contractual benefit.

(viii) Falsely and misleadingly informed the Plaintiff in his termination letter dated 8 April 2014 that his enrollment in the Guernsey Pension Plan had already been terminated on 31 March 2014 when it had not. In fact it had been previously agreed in February 2014 that the Plaintiff would remain in such plan at least until June 2014 while he explored the possibilities of transferring back to work for RBC-Guernsey in order to retain such valuable contractual benefit in light of RBC-Cayman's notified repudiatory breach of contract. RBC-Cayman terminated the Plaintiff's enrollment in the Guernsey Pension Plan in repudiatory breach of contract on 30 June 2014.

(ix) Misleadingly provided Silver Thatch Pension Plan with a copy of the photopage of the Plaintiff's cancelled, invalid, previous passport in June 2014 as if it were a valid identity document in order to enroll the Plaintiff unilaterally without his consent into the said Cayman pension plan.

Breaches of Code of Conduct: Unethical, Harsh and Oppressive Conduct by RBC-Cayman

114. In breach of the express terms of the Code of Conduct which requires every RBC Group entity to adhere to the highest standards of ethical and fair conduct and to "*build trust through integrity in everything we do*", RBC-Cayman:

- (i) Unfairly exercised its power to terminate the Plaintiff's employment after almost three decades in utmost bad faith.
- (ii) Unfairly and wrongfully dismissed the Plaintiff for having the temerity to challenge its decision to deprive him unlawfully of a 29 year contractual pension benefit.

- (iii) In unfairly and wrongfully dismissing the Plaintiff for his dissent to its unlawful conduct in depriving him of his long-standing contractual pension benefit, RBC-Cayman took no account of the hardship such unethical decision would cause the Plaintiff at a time when he was only two years and eight months away from the date on which he could have taken early retirement under the Guernsey Pension Plan.
- (iv) In unfairly and wrongfully dismissing the Plaintiff when he challenged RBC-Cayman for its repudiatory breach of contract in terminating his long-standing enrollment in the Guernsey Pension Plan, RBC-Cayman unethically and unfairly failed to consider the adverse impact of such unreasonable and unlawful decision on his wife and five dependent children.
- (v) The conduct of RBC-Cayman's management in wrongfully dismissing the Plaintiff, amounted to retaliation and was in breach of the express terms of the Code of Conduct which prohibited any retaliation against employees for speaking up in relation to any grievance or unlawful conduct within the RBC Group.
- (vi) On 8 April 2014 RBC-Cayman unethically offered the Plaintiff a supposedly "*ex gratia* payment" of CI\$92,800 providing he was willing to agree to relinquish eighteen years of accrued statutory benefits, including compensation for unfair dismissal in the minimum sum of US\$92,800 to which the Plaintiff was lawfully entitled under section 55 of the Labour Law.
- (vii) When the Plaintiff declined to abandon over CI\$150,000 in statutory benefits lawfully due to him (as ultimately awarded to him by the Cayman Labour Tribunal in addition to the CI\$35,200 originally offered by RBC-Cayman) and he refused to sign the misleading and erroneous Deed of Release provided to him by RBC-Cayman on 8 April 2014, RBC-Cayman unfairly and unethically retracted its initial offer to pay the Plaintiff CI\$92,800 as an *ex-gratia* payment in recognition of his almost three decades of service to the RBC Group. Such payment has not been made available to the Plaintiff at any time since April 2014.

- (viii) Unlawfully and unethically attempted to deny the Plaintiff's rights to severance pay and compensation for unfair dismissal of the full tenure of his 29 years and 3 months continual employment upon the termination of his employment in July 2014;
- (ix) Willfully and unethically refused to pay the Plaintiff his full statutory benefits due to him even after the DLR unequivocally recommended such payment be made in its letter dated 12 February 2015.
- (x) Willfully and unethically refused to pay the Plaintiff for the full vacation pay due to him even when the DLR recommended such payment be made in its letter dated 12 February 2015.
- (xi) Unethically and unfairly failed to provide the Plaintiff with any fair procedure or indeed any grievance procedure when he challenged RBC-Cayman's decision to deprive him of his long-standing contractual benefits under the Guernsey Pension Plan.
- (xii) Unlawfully and unethically made false and misleading statements to further its own interests and deprive the Plaintiff of the statutory benefits lawfully due to him as set out in paragraph 113 above.
- (xiii) Unethically and unfairly, was hostile to the Plaintiff's speaking up and raising concerns when RBC-Cayman sought (in repudiatory breach of contract) to deprive him of his valuable final salary pension benefit in the Guernsey Pension Plan after almost twenty nine years of continuous employment. The Plaintiff had in proper adherence to the Code of Conduct asked himself the following questions:
 - (a) would it be legal for RBC-Cayman to renege unilaterally on a contractual term to deprive an employee of a valuable pension benefit he had received for almost twenty-nine years? - Answer: no.
 - (b) would it be fair and ethical for RBC-Cayman to seek to take away an employee's main pension benefit when such employee was only two years and eight months' away from early retirement aged 55? Answer: no.

- (c) How would RBC clients, colleagues or other third parties view this situation? Answer: as RBC-Cayman acting only in its own financial best interests and seeking to save money by removing an employee's valuable pension benefit, with no regard to its obvious adverse impact or hardship on him, his wife (who would be entitled to receive a lifetime income equivalent to 50% of his own final salary pension) and his five dependent children.
- (d) How would RBC's reputation be damaged if this employee's situation became public knowledge? Answer: it would be irreparably damaged in its reputation as an employer in the Cayman Islands and internationally by its manifestly unfair treatment of a very long-standing employee and his Caymanian family. Furthermore, the Code of Conduct would be exposed to be mere a public relations "puff" and not any genuine statement that RBC employees could be expected to be treated lawfully, fairly or ethically no matter how long they had been employed by the RBC Group.
- (xiii) Unethically and unfairly RBC-Cayman paid a termination sum of CI\$141,769.04 into the Plaintiff's RBC bank account as part of his final payroll knowing he had no means to prevent the unilateral credit of such disputed sum into his account without his consent and in full knowledge (due to ongoing legal correspondence) that the Plaintiff did not accept the sum of CI\$35,200 in severance pay for only 11 years of continuous employment and furthermore did not accept the sum of CI\$35,200 in compensation for unfair dismissal supposedly for only 11 years of continuous employment, and thus sought oppressively to impose the settlement of such disputed sum on the Plaintiff, in the hope he would compromise his rights by utilizing such disputed sum inadvertently or otherwise.
- (xiv) Unethically and unfairly RBC-Cayman refused to accept a cheque in the sum of CI\$141,769.04 from the Plaintiff delivered by hand on 8 July 2014 refunding the disputed termination amount paid by RBC-Cayman into his bank account unilaterally and without his consent in supposed settlement of his claims, specifically refuting that he had agreed to the forfeit of over 18 years' statutory benefits due to him.

Breach of Contract: re Accrued Vacation Pay

115. In breach of contract, RBC-Cayman computed the Plaintiff's 14.5 days' accrued vacation leave on the termination of his employment at a daily rate only by reference to his base salary, not a daily rate including his bonus which amounted to CI\$931.80 and sought to pay him the sum of CI\$9,280 by direct deposit into the Plaintiff's RBC bank account in respect of accrued vacation on 8 July 2014, knowing this sum was disputed by the Plaintiff.
116. The DLR found in its letter of recommendation dated 12 February 2015 that since section 14 (10) of the Labour Law referred only to "*a cash sum equal to the remuneration for each such day*" of accrued vacation leave and did not refer to "*basic salary*" or "*basic wages*", and that this meant both salary and average bonus should be applied in the computation of the relevant daily rate. The DLR recommended that the Plaintiff be paid CI\$13,511.24 in respect of his accrued vacation leave.
117. In breach of contract, and specifically in breach of the terms of the Code of Conduct to act fairly, ethically and in accordance with the spirit of the law, RBC-Cayman willfully refused to follow the DLR's recommendation in February 2015 or at any time and has failed to pay the further outstanding amount of CI\$4,231.24 due to the Plaintiff in respect of his vacation leave entitlement in addition to the sum of CI\$9,280 underpaid on 8 July 2014.

Breach of Terms of International Assignments

118. As set out above, in breach of the express Terms of International Assignments, RBC-Cayman falsely asserted that the Plaintiff was only entitled to statutory benefits relating to his 11 years' employment in the Cayman Islands and not in respect of the previous 18 years employment within the RBC Group, as set out in more detail in the misrepresentation section below.
119. In breach of the express Terms of International Assignment RBC-Cayman Guernsey Pension Plan, RBC-Cayman terminated the Plaintiff's enrollment in the Guernsey Pension Plan in June 2014.

CAUSATION

120. By reason of the many facts and matters aforesaid, the Plaintiff has suffered loss and damage. It is averred that it was at all material times reasonably foreseeable that after almost three decades of excellent service, the Plaintiff would continue

to be employed by RBC-Cayman or the RBC Group until 31 March 2024 being the end of the month on which he reached his 62nd birthday. The Plaintiff had a legitimate expectation and contractual right that his employment would not be prematurely terminated in bad faith and without cause after twenty-nine years of continuous employment.

LOSS AND DAMAGE

121. The Plaintiff is entitled to and claims damages for repudiatory breach of contract, damages for breach of contract and damages for wrongful including premature termination losses

Particulars of Loss and Damage

- (i) Loss of income in the sum of CI\$34,400.01 from 8 July 2014 being the date on which the Plaintiff was wrongfully dismissed by the First Defendant until 2 October 2014 when he commenced new employment, calculated by reference to the Plaintiff's annual base salary from RBC-Cayman on the said termination date.
- (ii) Loss of bonus income from 8 July 2014 to 2 October 2014 in the sum of CI\$13,333.34 calculated by reference to the Plaintiff's 2013 average bonus from RBC-Cayman.
- (iii) Diminished income from 2 October 2014 until 31 March 2024 (the date on which the Plaintiff had reasonably expected to retire from very long-term employment with the First Defendant or otherwise in the RBC Group) in both salary and bonus in the aggregate sum of CI\$989,971.80.
- (iv) Loss of Pension in the Guernsey Pension Plan in the sum of GBP £410,848.74 based on the Plaintiff living and drawing a full pension until the year 2043/ aged 81 and his wife, Nurlene Taylor ["Mrs Taylor"] as an eligible spouse also living and drawing 50% of the said pension until the year 2053/ aged 81, such average life expectancies being calculated by reference to actuarial tables and average statistics. A total of GBP£1,232,135.37 is expected to be received in pension by the Plaintiff and Mrs Taylor by 2053 from the Guernsey Pension Plan (calculated by reference to the figures in the pension statement provided to the Plaintiff following termination of his employment). But for the Defendants' breaches

of contract and misrepresentation he would have received GBP£1,642,984.11.

- (v) Further or alternatively, the Plaintiff is entitled to and claims loss of pension calculated by reference to the Guidelines set out in the UK's "*Compensation for Loss of Pension Rights*" as applied by Employment Tribunals in the UK.
- (vi) Further or in the further alternative, the Plaintiff is entitled to and claims loss of pension to be assessed.
- (vii) Legal costs from April 2014 until June 2016 in the sum of CI\$109,957.80 in being compelled to bring proceedings against RBC-Cayman in the Cayman Islands Labour Tribunal in order to be paid the statutory benefits properly due to him which should have been paid in full on 8 July 2014.
- (viii) Loss of the contractual benefit of the RESSOP share purchase scheme, being the amount of CI\$3,000 per year /CI\$250 per month contributed by RBC-Cayman (and prior to 2002 by RBC-Bermuda and RBC-Guernsey respectively) to match the same amount the Plaintiff had expected to save and invest in RBC shares from July 2014 to March 2024 his expected retirement date being 117 months @CI\$250 per month, namely CI\$29,250.
- (ix) Loss of the value the Plaintiff could have reasonably expected to have received in relation to CI\$6,000 per annum worth of RBC shares purchased under the RESSOP scheme based on a 29% increase in value of CAD\$ 96.76 (as at March 2017) compared to the value of the said shares in April 2014, CAD\$75 per share.
- (x) Loss of additional value in RBC shares from any dividends due to the Plaintiff under the RESSOP scheme being reinvested as usual in RBC shares in lieu of cash dividends being paid to the Plaintiff (which is what he currently receives on shares vested prior to 8 July 2014 in the scheme, now he may no longer participate in the RESSOP scheme).
- (xi) Further or alternatively interest on the value of shares in the RESSOP scheme which the Plaintiff would have received from July 2014 to March 2024 to be assessed.

- (xii) Loss of interest in the sum of CI\$11,303 representing interest at 3% per annum on the sum of CI\$185,600 (the total amount in statutory benefits found due to the Plaintiff by the Labour Tribunal for his twenty nine years' continuous employment by the Defendants and which should have been paid to him by RBC-Cayman unconditionally on 8 July 2014 and which was ultimately paid to him or otherwise made available for his use only on 1 July 2016 following the ruling of the Cayman Labour Tribunal dated 17 June 2016); 3% being the minimum interest rate which the Defendants' affiliated retail bank, Royal Bank of Canada Cayman Islands charged the Plaintiff in mortgage interest and which mortgage could have been significantly reduced by such statutory payments if they had been paid in full when due by RBC-Cayman in July 2014. It is averred that the Plaintiff as a prudent man with a wife and five dependent children to support would have immediately significantly reduced his RBC mortgage liability when finding himself unemployed for the first time ever in his working life in July 2014. In fact, in light of the financial uncertainty of his future due to the Defendants' many breaches of contract and RBC-Cayman's willful refusal to pay him the statutory benefits due to him, the Plaintiff was compelled to sell an investment property in order to redeem the said RBC mortgage.
- (xiii) Further or alternatively, the Plaintiff is entitled to and claims interest to be assessed on the sum of CI\$185,600 from 8 July 2014 to 1 July 2016.
- (xiv) Loss of interest in the sum of CI\$346.67 representing interest on three months' salary which should have been paid as a lump sum of CI\$41,600 on 8 April 2014 in accordance with section 10 (2) of the Labour Law in lieu of notice, but was instead paid in 3 instalments until 8 July 2014.
- (xv) Further or alternatively, the Plaintiff is entitled to and claims interest to be assessed on the sum of CI\$41,600 from 8 April 2014 to 8 July 2014.
- (xvi) The sum of CI\$4,231.24 being the difference between the accrued vacation pay due to the Plaintiff for 14.5 days' vacation applying a daily rate of CI\$931.80 (being his average bonus and salary from RBC-Cayman) namely, CI\$13,511.24 as confirmed and recommended to be paid to him by the DLR in its letter of 12 February 2015 in accordance with section 14(10) of the

Labour Law and the amount of CI\$9,280 underpaid to him by RBC-Cayman on 8 July 2014.

(xvii) Legal Costs in bringing these proceedings.

INTEREST

122. The Plaintiff is entitled to and claims interest pursuant to section 3 (1) of the Judicature Law (2007 Revision) or the equitable jurisdiction of the Court on sums as are found due to him from the Defendants for damages for repudiatory breach and other breaches of contract.

CLAIM FOR MISREPRESENTATION

123. The Plaintiff repeats paragraph 31 above and the terms of International Assignments which applied to his employment with the Defendants or which otherwise constituted representations to him by the Second and Third Defendants upon which he relied when transferring internationally at their request to other RBC Group affiliates.

RBC Group's International Relocation and Transfer of Employees

124. The Plaintiff will further rely upon the general statements and actions of RBC-HQ and its affiliates in inducing employees to relocate internationally within the RBC Group.

125. In public descriptions of the RBC Group online on its website, in shareholder information and in information given by RBC-HQ based on international financial reporting statements, it is stated:

- (i) RBC-HQ has operations in 39 countries with *"over 80, 000 full- and part-time employees who serve more than 16 million clients through offices in Canada, the U.S and 35 other countries"*.
- (ii) one of RBC-HQ's strategic goals globally is to be *"a leading financial services partner valued for "its expertise" in select global financial centers.*
- (iii) 17 percent of the RBC financial group revenues in the 12 months ending 30 April 2016 came from international markets outside Canada and the USA.

126. At all material times RBC-HQ met and meets its staffing and strategic business development requirements within its affiliates worldwide by relocating and transferring geographically mobile employees to other branches and subsidiaries of the Defendant Bank internationally to service its variable needs.
127. In order to encourage and induce its global employees to relocate to other jurisdictions RBC-HQ and its affiliates offer promotions or enhanced remunerations and benefits to such peripatetic employees.
128. RBC-HQ and its affiliates specifically represented to employees (including the Plaintiff) accepting international assignments and transfers that in relocating to a new jurisdiction at the behest and the instruction of RBC-HQ all previously acquired statutory employment rights and benefits would be preserved or enhanced by such "*progression moves or promotions*".
129. RBC-HQ and its affiliates never informed any of its global employees (including the Plaintiff) that upon relocation to another RBC affiliate in a new jurisdiction that the employee's employment would be regarded as terminated with the RBC employer in the originating jurisdiction or alternatively that such relocation would result in all accrued employment rights and statutory benefits being forfeited by the relocating employee without any compensation for the same.
130. It is averred that if RBC-HQ and its affiliates did intend for internationally relocating employees to forfeit all accrued employment rights and statutory benefits relating to previous employment within the RBC Group in other jurisdictions without compensation, and had stated the same transparently to such employees, it is unlikely RBC-HQ would ever find sufficient or indeed *any* employees willing to make such detrimental transfer internationally.

Representations made by RBC-HQ and RBC-Guernsey

131. In accordance with the agreed Terms of International Assignments, RBC-HQ or alternatively, RBC-Guernsey, made the following representations to the Plaintiff:
- (i) During his temporary "*International Assignment*" secondments to the Cayman Islands in 1988, the Isle of Man from 1990 to 1992 and to Bermuda in 1995 he would remain formally employed by RBC- Guernsey

(alternatively RBC-HQ) which was therefore to be construed as continuous employment with RBC-Guernsey, alternatively RBC- HQ, in the respective jurisdictions, no matter which formal legal entity was the formal employer or holding the respective work permit.

- (ii) All logistical arrangements for The Plaintiff's international assignments undertaken at the specific request of RBC-Guernsey, alternatively RBC-HQ, would be made by RBC-HQ.
- (iii) All the Plaintiff's existing contractual terms including contractual benefits would continue to apply or be enhanced by his undertaking international assignments within the RBC Group at RBC-HQ's request.
- (iv) The Plaintiff's willingness to undertake international assignments on behalf of RBC-HQ would be regarded favorably by RBC-HQ when assessing the Plaintiff's future career prospects and prospects for promotion and pay increases within the Bank.
- (v) Furthermore, at all material times RBC-Guernsey, alternatively RBC-HQ represented to the Plaintiff that the Plaintiff would continue to be enrolled in the the Guernsey Pension Plan knowing such pension benefit was one of the most valuable contractual benefits received by the Plaintiff in his long employment, and which final salary pension benefit had otherwise been discontinued in the RBC-Group for employees whose employment had commenced after the Plaintiff.
- (vi) In reliance on the Terms of International Assignments and the Representations set out above ["**The Representations**"] and induced thereby the Plaintiff:
 - (a) relocated from Guernsey /RBC- Guernsey to work for RBC-Cayman for 3 months in 1988.
 - (b) relocated from Guernsey /RBC- Guernsey to work with RBC Isle of Man from 1990 to 1992.

- (c) relocated from Guernsey on a temporary international assignment from RBC -Guernsey to RBC-Bermuda from October 1995 to January 1996.
- (d) relocated from Guernsey/RBC-Guernsey on a longer term international assignment to RBC-Bermuda on the 14th February 1996.
- (e) relocated from Bermuda to the Cayman Islands in September 2002 when RBC- Bermuda discontinued its business in Bermuda and transferred by way of continuation into the Cayman islands on the 30 of September 2002.

132. It is accordingly averred that since RBC-HQ and its affiliates including the Second Defendant chose to move certain of its employees including The Plaintiff as "*international employees*" across jurisdictions with maximum fluidity as convenient for the business requirements for the RBC-HQ and its RBC Group global affiliates without regard for formal legal or corporate boundaries of the discrete RBC Group legal entities amongst which the said employees are and were at all material times freely transferred, they are and were at all material times estopped from denying any statutory rights for continuous employment which have accrued to such employees including the Plaintiff at the time their employment is terminated in any jurisdiction, or from refusing to pay the same to them unless compelled by a relevant Labour or Employment Tribunal to do so.

Particulars of Misrepresentation

133. Upon the termination of employment of the Plaintiff as Head of Trust Management-Caribbean on notice but without cause, on 8 July 2014 by RBC-Cayman as his final RBC Group employer, RBC-Cayman with the knowledge and presumed consent of the Human Resources Department of RBC-HQ, sought to disregard the first 18 years of the Plaintiff's continuous and concurrent employment for RBC Group affiliates outside of the Cayman Islands and treat the same as irrelevant as if the Plaintiff's 18 years' accrued statutory rights had therefore been somehow forfeited or lost by him.
134. In bad faith and in an unlawful attempt to evade its liability to pay severance pay and compensation for unfair dismissal to the Plaintiff in respect of the first

18 years of his employment within the RBC Group, RBC-Cayman sought to rely on an unmeritorious technical argument that the Plaintiff had only worked for RBC-Cayman in the Cayman Islands since 30 September 2002 and that RBC Cayman was therefore only liable for the employment rights accrued by the Plaintiff to severance pay and compensation for unfair dismissal for such eleven year period whilst employed in this jurisdiction.

135. In a letter to the Department of Employee Relations dated 21 November 2014 as an *"Employers Response to Complaint"*, RBC-Cayman stated *"RBC Cayman and its affiliates did give [the Plaintiff] long service awards... based on [the Plaintiff's] combined service with RBC entities in Guernsey, Bermuda and the Cayman Islands. That act was entirely gratuitous and cannot result in the Labour Tribunal extending its jurisdiction outside the Cayman Islands to apply to employment which was not governed by Cayman Islands law and was not undertaken in the Cayman Islands nor had any connection to the Cayman Islands."*
136. RBC-Cayman furthermore in its Response to the Plaintiff's Complaint to the DLP it characterized the Plaintiff's actions in seeking to be paid the full statutory benefits for 29 years continuous employment which were properly due to him and which an honest and reasonable employer would have paid to him on 8 July 2014, as a pursuit of *"inflated unmeritorious claims."*
137. In a Certificate of Employment dates provided to the Plaintiff pursuant to section 12 (2) of the Labour Law dated 9 of July 2014, RBC-Cayman inaccurately and falsely certified that the Plaintiff's employment with *' the Employer ' commenced on 30 September 2002 in the capacity of Head of Trust Services - Caribbean Region*, despite being warned by the Plaintiff's attorneys by letter dated 25 June 2014 that making a false statement to a person employed in public service within the meaning of section 120 of the Penal Code (2013 Revision) would constitute a criminal offence.
138. In the Labour Tribunal Proceedings, the attorneys for RBC-Cayman stated *'the Labour Tribunal has no jurisdiction and can make no award under the Labour Law calculated on the basis of any employment outside the Cayman Islands with an employer outside the Cayman Islands [the Plaintiff's] employment in the Cayman Islands commenced on 30 of September 2002 ... and his employment prior to that date is irrelevant to the Labour Tribunal's consideration even if his employment was with an entity related to the Employer "*.

139. It is averred that RBC-Cayman's denial in the Labour Tribunal Proceedings of the Plaintiff's accumulated employment rights and statutory benefits during the timeframe March 1985 to September 2002, constitutes an admission by RBC-Cayman before a statutory tribunal that the representations made to the Plaintiff to induce him to relocate from Guernsey to Bermuda in 1996, and Bermuda to the Cayman Islands in 2002 were false, and had been made by the Defendants either intentionally knowing them to be false, or alternatively, recklessly or carelessly with no belief in their truth. Alternatively such statements will be relied upon by the Plaintiff as incontrovertible proof of breach of the Terms of International Assignment by RBC-Guernsey and RBC-HQ.

140. In unanimously rejecting RBC-Cayman's contentions that the Plaintiff was not entitled to receive statutory benefits for the first 18 years of his continuous employment within the RBC Group outside the Cayman Islands, the Labour Board observed in its decision dated 17 June 2016 as follows:

"As with his migration from Royal Bank of Canada (Channel Islands) Ltd to Royal Trust (Bermuda) Ltd, if, in reality the [Plaintiff] was truly moving employment from one employer (Royal Trust (Bermuda) Ltd) to another employer, (Royal Bank of Canada Trust Company (Cayman) Ltd as the Employer now claims, then surely it would have only been right to have informed The [Plaintiff] of it at the material time.

But the [Plaintiff] was not so informed and every indication suggests that he was led to believe, or was allowed to believe, or at least reasonably concluded, that he simply continued to be employed by "the Bank" and he took no steps to deal with any issues concerning separation, either when he left Guernsey in 1995 or when he left Bermuda in 2002. Nor did he pursue any claims or entitlements he may have had arising from a termination of his contract of employment with either Royal Bank of Canada (Channel Islands) Ltd or Royal Trust (Bermuda) Ltd).

141. The Plaintiff will rely upon the findings of the Labour Tribunal's decision of 17 June 2016 as confirmation of the Defendants' misrepresentations or alternatively, breach of contract which have caused him loss and damage.

142. Since RBC-Cayman had willfully and unfairly refused to pay the severance pay and compensation for unfair dismissal due to the Plaintiff for 29 years

and 3 months continuous employment he was compelled to seek legal advice to seek to recover the statutory benefits lawfully and properly due to be paid to him under the Labour Law. First through legal correspondence, and later when all reasonable attempts at negotiation with RBC-Cayman had failed, to file a Complaint in the Labour Tribunal and to commence proceedings, thereby suffering loss and damage.

143. RBC-Cayman also willfully and unreasonably refused to follow the clear recommendations of the DLP in a letter dated 12 February 2015 in which it stated that RBC-Cayman should pay the Plaintiff the severance pay and compensation for unfair dismissal based on his continuous employment of 29 years and 4 months. The First Defendant therefore exposed the Plaintiff to a further 16 months of delay and additional legal fees before he received the statutory benefits to which he had always been entitled, and which a fair employer with integrity would have paid him without disputing the same.

Particulars of Loss and Damage for Misrepresentation

144. From April 2014 to July 2016 the Plaintiff incurred legal costs amounting to US\$134,094 / CI\$109,957.80, comprised of:

- (a) US\$116,899 for 168.20 hours by a litigation partner at an hourly rate of US\$695 per hour;
- (b) US\$10,395 for 23.10 hours by a litigation associate at an hourly rate of US\$450 per hour;
- (c) US\$5,250 for 30 hours by a paralegal at an hourly rate of US\$175 per hour; and
- (d) US\$1,550 in disbursements.

145. The Defendants' representation that the Plaintiff would continue to be enrolled in the Guernsey Pension Plan following his relocation from Guernsey to Bermuda in 1996 and Bermuda to the Cayman Islands in 2002 to continue his employment with RBC in such jurisdiction was also false, in that RBC-Cayman in repudiatory breach of contract, terminated the Plaintiff's enrollment in The Guernsey Pension Plan in June 2014, thereby

causing the Plaintiff loss and damage, as set out above in paragraph 121 of this Statement of Claim.

146. The Plaintiff is accordingly entitled to and claims damages for misrepresentation in the sum of US\$134,094.00 for legal costs as set out above, as well as additional damages in respect of the unlawful termination of the Plaintiff's enrollment in the Guernsey Pension Plan by RBC-Cayman in the sum of GBP £410,848.74 or to be assessed.

147. The Plaintiff is entitled to and claims interest pursuant to section 3(1) of the Judicature Law (2007) Revision or the equitable jurisdiction of the Court on such sum as is found due to him for damages for misrepresentation.

AND THE PLAINTIFF CLAIMS AGAINST THE FIRST DEFENDANT:

- (i) Damages for repudiatory breach of contract and other breaches of contract to be assessed;
- (ii) Damages for wrongful dismissal to be assessed;
- (iii) Damages for misrepresentation to be assessed;
- (iv) Any necessary inquiries into damages;
- (v) Interest pursuant to section 3(1) of the Judicature Law (2007) Revision or the equitable jurisdiction of the Court;
- (vi) Costs; and
- (vii) Such further and other relief as the Court thinks fit.

AND THE PLAINTIFF CLAIMS AGAINST THE SECOND DEFENDANT:

- (i) Damages for breach of contract to be assessed;
- (ii) Damages for misrepresentation to be assessed;
- (iii) Any necessary inquiries into damages to be assessed;
- (iv) Interest pursuant to section 3(1) of the Judicature Law (2007) Revision or the equitable jurisdiction of the Court;
- (v) Costs; and
- (vi) Such further and other relief as the Court thinks fit.

AND THE PLAINTIFF CLAIMS AGAINST THE THIRD DEFENDANT:

- (i) Damages for breach of contract to be assessed;
- (ii) Damages for misrepresentation to be assessed;
- (iii) Any necessary inquiries into damages to be assessed;

- (iv) Interest pursuant to section 3(1) of the Judicature Law (2007) Revision or the equitable jurisdiction of the Court;
- (v) Costs; and
- (vi) Such further and other relief as the Court thinks fit.

Sindars

12 April 2017

Sinclairs

Attorneys for the Plaintiff



CAYMAN ISLANDS
Search Report

Entity Name : Royal Bank of Canada Trust Company (Cayman) Limited
Jurisdiction : Cayman Islands
Registration Number : 2431
Registration Date : 16 June 1972
Entity Type : NONRESIDENT
Registered Office : P. O. Box 1586
4th FLOOR, ROYAL BANK HOUSE,
24 SHEDDEN ROAD, GEORGE
TOWN,
GRAND CAYMAN KY1-1110
Status : ACTIVE

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