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## Client sues BMO over currency cost

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A Stouffville man has begun a \$100 million class action against BMO Bank of Montreal, BMO Nesbitt Burns Inc. and BMO Trust Co., alleging "secret, undisclosed" fees on certain foreign-exchange conversions.

BMO spokesman Ralph Marranca said the bank intends to defend itself against the lawsuit.

The proposed suit, which still needs court approval to become a class action, has been launched by James MacDonald on behalf of all present and former BMO clients who have held registered retirement savings plans, registered retirement income funds and/or registered education savings plans and who have had foreign-currency conversion charges in the accounts since June 14, 2001.

That's when Canadian income tax laws changed so that foreign-currency deposits became qualified investments for trust accounts such as RRSPs, the court documents state.

"What we're alleging is that, with the rule change, they should have stopped the automatic conversions (of foreign currency in trust accounts to Canadian dollars) because there was no need to do that any longer," lawyer Margaret Waddell of Paliare Roland Rosenberg Rothstein LLP said in an interview. "Secondly, we're saying that, on all of the foreign-exchange transactions, they have a buried fee that goes directly to the bank, that is built into the number you see as the conversion rate. We're saying that they couldn't take that fee without it being in the contractual agreements."

MacDonald noticed issues with his account and did research to find out what was going on, said Waddell, who described MacDonald as a businessman in his 50s.

According to the statement of claim, MacDonald "has been diligently saving for his retirement."

On March 3, 2003, he directed BMO Nesbitt to buy 500 shares of Tyco International Ltd. at \$14.89 (U.S.), and he was charged a conversion rate of 1.502, which included the bank foreign-exchange rate and a foreign-exchange fee, the suit states. In total, he paid \$11,317.57 for the shares.

On May 12, 2003, he asked that the shares be sold at \$16.04 each. The suit alleges he was charged for "the unauthorized conversion of the sale of proceeds to Canadian currency" at a rate of 1.381, which included the bank foreign-exchange rate and the foreign-exchange fee.

The total amount he received after those fees were deducted was \$10,950.81 (Canadian), the suit says, meaning he lost money on the shares even though they went up in U.S. currency.

"As illustrated by MacDonald's transaction, above, after each sale of a foreign denominated security, the defendants

systematically and automatically undertook a second transaction to convert the foreign currency to Canadian currency, without any instructions, authorization or consent from MacDonald," the suit states, adding that a "secret, undisclosed fee" was automatically withdrawn from his account each time.

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