

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SECURITIES AND EXCHANGE COMMISSION
100 F Street, NE
Washington, DC 20549,

Plaintiff,

v.

RESEARCH IN MOTION LIMITED, DENNIS
KAVELMAN, ARCANGELO LOBERTO, JAMES
BALSILLIE and MIHAL LAZARIDIS,

Defendants.

Case: 1:09-cv-00301
Assigned To : Walton, Reggie B.
Assign. Date : 2/17/2009
Description: General Civil

COMPLAINT

Plaintiff Securities and Exchange Commission ("Plaintiff" or "Commission")

alleges for its Complaint, as follows:

SUMMARY

1. From 1998 through 2006, Research In Motion Limited ("RIM" or the "Company"), the maker of BlackBerry wireless devices, and four of its senior executives illegally granted undisclosed, in-the-money options to RIM executives and employees, by backdating approximately 1,400 stock option grants to coincide with historically low closing prices for the Company's stock. The executives failed to disclose that RIM was not recording material compensation expenses and was materially overstating its net income or understating its net losses. The illicit backdating provided the executives and other employees with millions of dollars in undisclosed compensation.

2. Co-Chief Executive Officer James Balsillie ("Balsillie") initially ran RIM's stock option program and directed others to assign previous dates with low prices for his own and

other employees' options. Chief Financial Officer Dennis Kavelman ("Kavelman") assumed increasing responsibility for the option program and approved backdating many grants. Vice President of Finance Angelo Loberto ("Loberto") helped carry out the backdating and selected prior dates with low prices for a number of grants. Co-CEO Mike Lazaridis ("Lazaridis") requested that options for certain new hires and employees be backdated.

3. These executives backdated all types of option grants, including new hire, group, promotional and periodic grants. At times, when RIM's stock price dropped after employees had received options, these executives re-priced the same options at substantially lower backdated prices. RIM failed to record any compensation expense for the millions of backdated (and, in some instances, also repriced) in-the-money options it granted. The backdating violated the terms of RIM's stock option plan and also a Toronto Stock Exchange ("TSE") rule, which required options to be priced at fair market value as of the grant date.

4. The executives backdated documents reflecting grants, such as option agreements and offer letters, which concealed the fact that the options were granted in-the-money. Kavelman and Loberto took steps to hide the backdating from RIM's independent auditor, outside counsel, and U.S. and Canadian regulators. Kavelman also misled investors at RIM's July 2006 annual shareholder meeting by denying that RIM was backdating options.

5. The defendants' misconduct caused RIM from fiscal year 1999 to the first quarter of fiscal year 2007: (i) to falsely disclose in its annual reports on Form 40-F, reports on Form 6-K that included quarterly financial statements and earnings releases, management information circulars and registration statements that RIM's options were granted at exercise prices equal to the fair market value of RIM's common stock at the date of the grants; and (ii) to file materially false and misleading financial statements that understated RIM's compensation expenses, and

overstated its quarterly and annual net income or understated its net losses. Kavelman, Loberto, Balsillie and Lazaridis prepared, reviewed, signed and/or certified RIM's filings with the Commission.

6. On September 28, 2006, RIM announced that a committee of independent directors was conducting a review of its option granting practices (the "Internal Review") and that it would need to restate as much as \$45 million in compensation expenses for options issued between fiscal years 1998 and 2006. That same day, RIM informed the Commission about its Internal Review. Following the Internal Review, in May 2007, RIM restated a total of \$248 million in additional charges for fiscal years 1999 through 2006 (the "Restatement"). The size of the Restatement was in part due to the Company's change from intrinsic accounting to variable accounting for certain options including repriced options.

7. By engaging in the conduct described in this Complaint, RIM violated the antifraud provisions of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5], and the reporting, books and records and internal controls provisions of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 12b-20, 13a-1 and 13a-16 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-16].

8. By engaging in the conduct described in this Complaint, Kavelman and Loberto violated the antifraud provisions of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5], the internal controls and books and records provisions of Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1]

and the misrepresentations to auditors provision of Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2]; and aided and abetted RIM's violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 12b-20, 13a-1 and 13a-16 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-16]. In addition, Kavelman violated the certification provision of Exchange Act Rule 13a-14 [17 C.F.R. § 240.13a-14].

9. By engaging in the conduct described in this Complaint, Balsillie and Lazaridis violated the antifraud provisions of Sections 17(a)(2) and (3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and (3)], and the internal controls and books and records provisions of Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. §§ 240.13b2-1]; and aided and abetted RIM's violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 12b-20, 13a-1 and 13a-16 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-16].

10. The Commission seeks an order enjoining RIM, Kavelman, Loberto, Balsillie and Lazaridis from future violations of the above provisions, requiring the individual defendants to disgorge any ill-gotten gains derived as a result of their violations and prejudgment interest thereon and to pay appropriate civil money penalties. In addition, the Commission seeks an order prohibiting Kavelman and Loberto from acting as officers or directors of any issuer that has a class of securities registered pursuant to Exchange Act Section 12 [15 U.S.C. § 78l] or that is required to file reports pursuant to Exchange Act Section 15(d) [15 U.S.C. § 78o(d)].

JURISDICTION AND VENUE

11. The Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa].

12. The defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, or of the mails, or the facilities of a national securities exchange in connection with the acts, transactions, practices, and courses of business alleged herein.

13. Venue is proper pursuant to Section 22(a) of the Securities Act and Section 27 of the Exchange Act [15 U.S.C. §§ 77v(a) and 78aa] because certain of the acts alleged herein constituting violations of the Securities Act and the Exchange Act occurred in this District, including RIM's filing of materially false and misleading reports, registration statements and other documents with the Commission in the District of Columbia.

DEFENDANTS

14. **Defendant Research in Motion Limited ("RIM")**, an Ontario, Canada corporation, is the designer, manufacturer and marketer of the BlackBerry and other wireless handheld devices sold worldwide. Founded in 1984 and headquartered in Waterloo, Ontario, Canada, RIM operates offices in the United States, Europe and Asia. RIM's stock is listed on the NASDAQ Stock Market under the symbol "RIMM" and the TSE under the symbol "RIM." Before July 31, 2006, RIM's common shares were registered with the Commission pursuant to Section 12(g) of the Exchange Act [15 U.S.C. § 78l(g)]. Since then, RIM's common shares have been registered with the Commission pursuant to Section 12(b) of the Exchange Act [15 U.S.C. § 78l(b)].

15. As a foreign private issuer, RIM files with the Commission annual reports and Exchange Act registration statements on Form 40-F and Securities Act registration statements on Form F-10. In addition, RIM furnishes to the Commission on Form 6-K all information that it makes public or files with other regulators, including quarterly financial information, earnings releases and management information circulars (the Canadian equivalent of a proxy statement).

16. RIM's fiscal year ends on the last Saturday in February or the first Saturday in March. From fiscal years 1999 to 2004, RIM reported its financial results in accordance with Canadian Generally Accepted Accounting Principles ("Canadian GAAP") and reconciled to U.S. Generally Accepted Accounting Principles ("U.S. GAAP"). During fiscal years 2004 and 2005, RIM reported in U.S. GAAP and reconciled to Canadian GAAP. Starting with fiscal year 2006, RIM has reported only in U.S. GAAP.

17. As a Canadian reporting company, RIM also is subject to Canadian securities regulations governing stock option awards. These regulations require, among other things, that RIM file with the Ontario Securities Commission ("OSC") insider reports of the Company's option grants to insiders within ten days of the date of a stock option grant. In addition, RIM is required to file with the TSE monthly reports of all option grants.

18. **Defendant Dennis Kavelman**, age 38, is a resident of Waterloo, Ontario, Canada. He was RIM's Vice President of Finance from February 1995 through 1997 and its CFO from 1997 through March 2007. He also was RIM's Corporate Secretary from 2004. Kavelman is a chartered accountant and, prior to joining RIM, worked as an auditor at KPMG in Canada. In March 2007, as a result of the internal review, Kavelman stepped down from his position as CFO. He has remained at the Company as Chief Operating Officer, Administration and Operations.

19. **Defendant Arcangelo Loberto (commonly known as Angelo Loberto)**, age 37, resides in Cambridge, Ontario, Canada. Loberto joined RIM in 1997 and was RIM's Director of Finance until 2001, when he was given the title of Vice President of Finance. Loberto is a chartered accountant and worked as an auditor at KPMG in Canada before joining RIM. In March 2007, as a result of the internal review, Loberto stepped down from his position as Vice President of Finance. He has remained at the Company as Vice President, Corporate Operations.

20. **Defendant James Balsillie**, age 47, is a resident of Waterloo, Ontario, Canada. Balsillie has been a co-CEO and Board member of RIM since 1993, and is responsible for business development, marketing, sales and financial matters. He was a member of the compensation committee through 2000. Balsillie completed the qualifications of a chartered accountant, but has never been licensed as a public accountant. In March 2007, when RIM announced it would restate its financial results because of problems with its stock option grants, Balsillie stepped down as Chairman of the Board. However, he remains a member of the Board and co-CEO.

21. **Defendant Mihal Lazaridis (commonly known as Mike Lazaridis)**, age 47, is a resident of Waterloo, Ontario, Canada. Lazaridis is the founder, president, a Board member, and a co-CEO of RIM. He is responsible for product strategy, research and development, and manufacturing.

FACTS

Accounting for Options under U.S. GAAP

22. From fiscal year 1999 to the first quarter of fiscal year 2007, RIM told investors in its filings that it accounted for stock options using the intrinsic value method described in Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees"

(“APB 25”). Under APB 25, employers were required to record as an expense on their financial statements the “intrinsic value” of a fixed stock option on its “measurement date.” The measurement date, as defined by APB 25, is the first date on which the following information is known: (i) the number of options that an individual employee is entitled to receive, and (ii) the exercise price. An option that was in-the-money on the measurement date had intrinsic value, and the difference between its exercise price and the underlying security’s market price was required to be recorded as compensation expense over the vesting period of the option. Options that were at-the-money on the measurement date had no intrinsic value and therefore no amount was required to be expensed.

23. In addition, under Financial Accounting Standards Board Interpretation No. 44 (FIN 44), companies were generally required to apply variable accounting and recognize compensation expenses if they repriced an employee’s options. Variable accounting requires that compensation expenses be adjusted from period to period, based on variations in the market price of the stock.

The Option Granting Process at RIM

24. Balsillie helped set up RIM’s stock option program in the mid-1990s. Initially, Balsillie approved all option grants, with the exception of grants for himself and Lazaridis, which were approved by the Board or the compensation committee of the Board. As the Company grew, Balsillie delegated more responsibility for granting options to Kavelman. However, Balsillie continued to be involved in grants for key new hires and certain employees. Lazaridis recommended to Balsillie or Kavelman that options be granted for new hires and employees in departments he oversaw. After March 2003, the compensation committee also approved stock option grants for RIM’s Chief Operating Officers and its CFO.

25. Kavelman supervised Loberto and the rest of the finance department, as well as the human resources department (which RIM called organizational development). Initially, Loberto's direct reports in the finance department prepared option agreements and kept track of option grants. In 2001, human resources employees took over the administration of the stock option program. Loberto continued to provide guidance and input into the process. Until 2003, Loberto was responsible for preparing the option disclosures in filings with the Commission and RIM's Canadian regulators, though he continued to play a role in preparing the filings until March 2007.

RIM's Stock Option Plans Prohibited Backdating

26. In early 1998, shortly after RIM was listed on the TSE, an investment banking firm hired by RIM to advise the Company on its stock option plan advised Kavelman in writing that the plan needed to comply with the TSE's rule that the exercise price of stock option grants cannot be less than the market price at the time the options are granted. One of RIM's outside lawyers gave Kavelman the same advice. RIM revised its stock option plan in 1998 to incorporate this requirement.

27. Since 1998, RIM granted stock options to its employees pursuant to at least five stock option plans. As members of the Board, Balsillie and Lazaridis reviewed and approved RIM's stock option plans. Kavelman and Loberto received copies of the plans.

28. Consistent with the advice given to Kavelman, each of the plans since 1998 has required that options be granted at a price no lower than the closing price of the common shares on the last trading day before the date the option grant was approved. The defendants, however, routinely failed to comply with this pricing provision.

**Kavelman and Loberto Received Numerous Documents
Explaining the Accounting for Options and Options Pricing**

29. RIM's obligation to file annual reports with the Commission and reconcile its financial statements from Canadian GAAP to U.S. GAAP started when RIM's common stock began trading in the United States in early 1999. In anticipation of this change, in August and December 1998, RIM's outside auditor provided Kavelman and Loberto with a description of the U.S. GAAP requirements for stock option accounting under APB 25. This description became part of the annual reports on Form 40-F that RIM filed with the Commission and certain reports on Form 6-K that RIM furnished to the Commission.

30. From 2000 to at least 2004, Kavelman and Loberto received numerous additional documents from RIM's lawyer, auditor, the securities industry and RIM's own finance department explaining that the Company was required to record compensation expenses for in-the-money options.

31. During the same period, Kavelman and Loberto also received a number of documents detailing how to price options. One such document was RIM's own summary of its stock options program, which Loberto edited on July 25, 2001. That document stated that the TSE required that options be priced at fair market value (i.e. the closing price prior to the grant date), and that for all new hires, the grant date is the employee's start date.

32. Kavelman and Loberto understood the concept of in-the-money options and sent or received e-mails calculating the potential in-the-money value of certain options. For instance, on November 23, 1999, Kavelman e-mailed a RIM employee (copying Balsillie) to explain that using a exercise price from November 1, 1999 (which was lower than the then current stock price by C\$30), would create an in-the-money value of approximately C\$600,000 for 20,000 options. ("C\$" refers to Canadian dollars.)

33. In December 2000, Loberto received an e-mail from a RIM finance employee calculating potential in-the-money values of RIM's pre-IPO options.

34. In addition, from May 2000 until at least 2002, Kavelman and Loberto repeatedly received articles making clear that companies were required to apply variable accounting and recognize compensation expenses if they repriced an employee's options. For instance, Kavelman received an article in May 2000 titled "Stock-Option Nightmare," which cautioned: "FASB, the accounting police, dictates that companies now have to report options repricings as a compensation expense on their income statements, which would eat into the bottom line so many Internet companies are desperately trying to turn into a positive number." In August 2000, Kavelman and Loberto received another article warning, "re-pricing options trigger rules that force companies to record big expenses for their option grants."

35. Kavelman and Loberto, both chartered accountants, were responsible for RIM's financial statements and its accounting treatment of options. They ignored all of the information and advice they received and recorded no compensation expense for the millions of backdated in-the-money options RIM granted and/or repriced.

The Defendants Routinely Backdated Options

36. RIM relied heavily on stock options to recruit and retain employees, especially because RIM was rapidly growing. RIM expanded from approximately 200 employees in 1998 to nearly 5,000 employees by 2006. As RIM often provided lower salaries and fewer benefits than other technology companies did, stock option grants were a particularly important component of RIM's compensation packages.

37. Until February 2002, RIM granted options to almost every new hire. After February 2002, RIM limited its new hire grants to executives. RIM also granted options to current employees each year.

38. From 1998 through 2006, RIM backdated approximately 1,400 option grants to coincide with low closing prices for a total of nearly seven million shares.

Backdated Stock Option Grants to New Hires

39. From 1998 through at least 2005, Balsillie, Kavelman, Loberto and Lazaridis were involved in backdating grants for new hires.

40. Balsillie repeatedly told prospective employees that there was “flexibility” in pricing their options. Some new hires were given the lowest price between their offer and start dates. Others received low prices that preceded their offer dates. Balsillie promised at least one new hire options that were C\$30 in-the-money. Kavelman and Loberto also selected past low prices for grants to new hires. Lazaridis requested that options for certain key new hires be backdated.

41. If a grant date was chosen and the price of the stock subsequently fell, Kavelman and Loberto, with the approval or knowledge of Balsillie or Lazaridis, frequently repriced the options to another backdated date with a lower price.

42. For instance, in order to recruit a chief information officer (the “CIO Candidate”), the four executives backdated his options and then repriced the options to an even lower backdated price after RIM’s stock price had declined. In early May 2000, Balsillie and Lazaridis offered the CIO Candidate 100,000 options backdated to C\$53.50, the “lowest recent close on April 24.” On May 2, 2000, Lazaridis prepared and signed a backdated offer letter and had a backdated option agreement prepared. Then, in late May 2000, before the CIO Candidate started

work, RIM's stock price fell significantly and the CIO Candidate asked for a lower exercise price. After Kavelman confirmed with outside counsel that the Company had not filed any information with the OSC regarding the CIO Candidate's grant, Balsillie and Kavelman decided that after the CIO Candidate started work, they would reprice and backdate the CIO Candidate's options to the lowest price before his June 5, 2000 start date. Loberto was kept apprised of these developments. In pricing the options at the low, Kavelman disregarded explicit advice from RIM's outside counsel that the Company could price the options on either the date the CIO Candidate accepted his employment offer or on his start date. Kavelman also ignored the lawyer's previous warning not to reprice options.

43. When the CIO Candidate started work on June 5, 2000, Kavelman expressed concern regarding the TSE's pricing requirements, writing to Loberto, "I wanted to look at pricing before we agreed to take the bottom – will look much too cute with the TSE." Kavelman conveyed to the CIO Candidate his concern about an "optics issue" with the regulators if the CIO Candidate's start date did not match the grant date for his options. Nevertheless, Kavelman and Balsillie agreed to backdate the options to the lowest price before the CIO Candidate's start date, C\$35.45, which was the close on May 29, 2000.

44. On or after June 7, 2000, Loberto had a new option agreement prepared and backdated to May 30, 2000. Against the suggestion of RIM's outside lawyer, Loberto omitted the CIO Candidate's exercise price and date when Loberto submitted the insider report to be filed with the OSC. As a result, RIM's Canadian regulators and the public would not know that these options were backdated. The CIO Candidate's options were more than C\$2.53 million in-the-money.

45. Another example of repricing and backdating options for a new hire involved a key employee RIM hired in 2000 (the “Key Employee”). The Key Employee had received options priced at C\$143.05 in March 2000, but two months later, Lazaridis recommended to Balsillie that they give the Key Employee the same benefit they had just given the CIO Candidate. The Key Employee’s options were repriced from C\$143.05 to C\$53.50 and Loberto assured Lazaridis that he would prepare a new options agreement backdated to April 25, 2000. In early June 2000, in order to keep the Key Employee happy, Lazaridis directed Kavelman to give the Key Employee equal treatment to the CIO Candidate. Accordingly, in June 2000, the Key Employee’s options were repriced a second time to a past low price of C\$35.45 as of May 30, 2000. Loberto prepared another new option agreement for the Key Employee to reflect this change. The Key Employee’s options were over C\$1 million in-the-money.

46. Also in mid-2000, Lazaridis directed Kavelman to reprice options for other new hires to “make sure [RIM did not] lose anyone because of blind timing.”

47. In another example, in May 2001, an employee complained that her option agreement provided a high exercise price as of her start date in October 2000, but she had been promised a lower exercise price from September 2000. The employee’s supervisor asked that the option agreement be changed to give the employee the lower price. On May 3, 2001, Loberto, who at the time was preparing option disclosures for RIM’s annual report, responded to the supervisor by e-mail (copying Kavelman), “I can NOT have continual changes in the stock price. I have disclosures to be made to the TSE, SEC and in RIM’s annual report. These reports have already been prepared. I can NOT continually change history.” Nevertheless, the employee’s option agreement was changed and she was given the lower backdated exercise price.

48. Later that same day (May 3, 2001), in response to another employee's complaint that he was not given the backdated exercise price that he was promised at the time he was hired, Loberto noted (copying Kavelman), "This will change ALL my disclosures in the annual report....Our lawyer recommends that we use the start date for pricing. Thus, the company policy is that pricing is determined on the start date." Loberto nonetheless gave the employee the backdated price that preceded his start date and agreed to fix the agreements.

Backdated Stock Option Grants to Existing Employees

49. In addition to backdating options for new hires, RIM also routinely backdated option grants to existing employees. Between 1999 and 2006, Balsillie and Kavelman approved option grants to individuals or groups of employees periodically, upon promotions or based on performance. Balsillie and Kavelman frequently chose or authorized others to choose a date with a low exercise price that preceded approval of the grant or that preceded finalization of the list of employees and the number of options they would receive. Loberto carried out the backdating and chose grant dates for a number of the employees. Lazaridis was aware of the backdating and requested that options be backdated for certain employees in departments he oversaw.

50. In 1999 and each year between 2001 and 2004, Balsillie and Lazaridis themselves received 100,000 backdated options. Generally, once a year, Balsillie made recommendations to the compensation committee for a certain number of options for himself and Lazaridis. Sometimes, the compensation committee took these recommendations to the Board for approval. After the grant amounts were approved, Balsillie used hindsight to choose favorable low prices for these grants. Lazaridis knew that his own options were backdated. Balsillie and Lazaridis each received backdated options that were C\$2,264,000 in-the-money.

51. For example, around March 30, 1999, Balsillie directed Kavelman to issue grants for Balsillie and Lazaridis at the lowest March price. Kavelman then directed Loberto to create option agreements granting 100,000 options each to Balsillie and Lazaridis “at lowest March price (March 3rd, 11.55).” The exercise price was the lowest closing price for RIM stock in March and the lowest since mid-January 1999. Balsillie and Lazaridis signed and backdated their option agreements to March 3, 1999. Kavelman signed their backdated option agreements as a witness.

52. From 1999 through 2004, Kavelman received six backdated option grants. Balsillie approved these grants and repeatedly gave Kavelman the same backdated exercise price that Balsillie and Lazaridis received. Kavelman knew that at least some of his own options were backdated. Kavelman’s options were C\$2,594,700 in-the-money.

53. From 2000 through 2004, Loberto received four backdated option grants. The number of options Loberto received was sometimes recommended by Kavelman to Balsillie for approval and other times approved by Kavelman (who also approved grants to the rest of the finance group). Loberto knew that at least some of his own options were backdated. Loberto’s options were C\$517,100 in-the-money.

54. Between fiscal years 1999 and 2006, Kavelman, Loberto, Balsillie and Lazaridis exercised some of the backdated options they received. As a result of the Internal Review, they each paid RIM the in-the-money portion of the options that they exercised plus interest, and their unexercised options were repriced to the correct measurement dates. In addition, Balsillie and Lazaridis each agreed to pay \$4.7 million (C\$5 million) to cover some of the costs of the Internal Review.

55. From 1999 through 2006, RIM also backdated group grants to employees each year.

56. For instance, after RIM managers expressed concern that a large number of employees would leave the Company because their existing options were out-of-the-money due to RIM's declining stock price, Kavelman, Loberto, Balsillie and Lazaridis participated in issuing 654,670 backdated options to 639 employees in late 2001. As early as March and April 2001, managers had begun assembling lists of employees who would receive the new options. Kavelman and Loberto waited until the Fall of 2001 to start finalizing the details of the group grant because RIM's stock price continued to decline. On November 7, Balsillie directed Kavelman to pick "the lowest possible price over this past month," for one employee's options. That date was November 1, 2001. Loberto, with Kavelman's knowledge, then used this November 1 date to price the options for the rest of the employees, despite the fact that the date bore no relation to the dates when lists of employees were finalized (which occurred on a rolling basis in mid-November through mid-December). The options in this group grant had an in-the-money value of over C\$4.1 million.

The Defendants Backdated Option Grant Documents

57. Kavelman, Loberto, Balsillie and Lazaridis backdated documents, which made it appear that options were priced at fair market value on the grant date and that options to new hires were granted on their acceptance or start dates. In reality, the purported "grant" date in the option agreement was chosen because of the low exercise price on that date. So-called "offer" and "acceptance" dates in offer letters were selected to correspond with the low exercise prices.

58. Kavelman and Loberto were primarily responsible for preparing these documents, but Balsillie and Lazaridis backdated offer letters for some new hires and they signed backdated option agreements for their own options.

59. In some instances, when employees accurately dated documents, the employees were asked to change the date or sign a replacement document with a different date to correspond to a past low exercise price. On at least one occasion, RIM changed the date on its copy of an employee's option agreement to match the exercise price without notifying the employee.

60. In January 2001, the Canadian tax authority, Canada Customs and Revenue Agency ("CCRA") concluded an audit of RIM's recordkeeping and reporting of options, which were a taxable benefit to employees under Canadian law (the "CCRA Audit"). As a result of the CCRA audit, RIM agreed to pay \$14,500 and to prepare complete records of stock options granted, and Kavelman signed the settlement documents on behalf of RIM. Even after this agreement, however, Kavelman, Loberto and others at RIM failed to prepare and maintain complete and accurate records of the option grants.

61. Loberto initially used an electronic spreadsheet and in 2001 switched to an electronic database to keep track of options at RIM. The grant dates from offer letters and option agreements, including those that had been backdated, were entered into both systems. Even though the electronic database had protections against changing information or inputting grant dates that preceded RIM's filings, Loberto, with Kavelman's knowledge, approved overriding those protections so that RIM could reprice options and backdate options prior to its filings. Loberto used the electronic spreadsheet and later the electronic database to generate RIM's financial statements and other filings with the Commission and Canadian regulators. The false

grant date information in these records resulted in filings and financial statements that were false and misleading.

**Kavelman and Loberto Concealed the Backdating
From Regulators, Shareholders and RIM's Outside Lawyer**

62. Kavelman and Loberto took affirmative steps to hide the backdating from regulators. They usually picked low strike prices within reporting periods so regulators would not detect the backdating. For example, on May 12, 2003, before the compensation committee had approved grants to the chief executives, Loberto wrote to Kavelman, "Should I proceed with the Insider . . . Reports [to the OSC]. They are due today, assuming a grant date of May 2nd. The OSC now imposes penalties, \$50/day late. The fee is irrelevant, but the late filing will be highlighted."

63. In another example, on July 30, 2001, Balsillie e-mailed Loberto (copying Kavelman), "Please process another 10,000 options for [a RIM vice president]. Pick a low point in the past 30-60 days." Loberto e-mailed an options administrator (copying Balsillie and Kavelman), "Please grant 10,000 options to [the vice president] with a grant date of July 26, 2001 @ \$35.00. I have already submitted May's transactions to the TSE and the lowest price in June was \$38.65."

64. Kavelman and Loberto also tried to conceal the backdating by avoiding the lowest price in some instances. For instance, on September 26, 2001, Kavelman directed Loberto, "Please do option grants for [the two chief operating officers] for 50K options over 5 years at a recent low price for [Balsillie] to sign up tomorrow." Loberto replied to Kavelman, "I need to pick a price in the last 10 days. As this is going to be disclosed in the Insider . . . Report [to the OSC], I don't want to pick the absolute low." Kavelman approved Loberto's price choice - the second lowest price in the preceding week.

65. In addition, during the CCRA's Audit of RIM's options, the CCRA questioned why a number of employees' grant dates were different from their start dates. When RIM responded to the CCRA, it failed to disclose that some of the problematic grants had been backdated. Loberto was the main person at RIM providing information to the CCRA.

66. Furthermore, Kavelman asked a manager not to document improper pricing in e-mails. On October 3, 2000, a manager recommended backdating options for four recent new hires to low exercise prices from mid-September, before the recruits' start dates. The manager stated, "RIM has fewer financial incentive parameters in recruiting relative to the high tech companies in Ottawa and elsewhere . . . [I]n order to stay competitive . . . we should and need to make stock price adjustments." Kavelman approved backdating the options for these four recruits, but on October 4, 2000, he wrote to the manager (copying Loberto), "FYI, it is a major breach of protocol to be discussing (and documenting via email) using option pricing other than that allowable by the Ontario Securities Commission and the SEC in the US. You should call [Loberto] to discuss." The manager replied, "I understand and have full intention to comply with the serious nature of your FYI, thanks. I will communicate henceforth by phone to [Loberto] et. al."

67. Loberto also hid the backdating from RIM's outside lawyer. In November 2001 and again in April 2002, Balsillie sent e-mail messages directing Kavelman and Loberto to grant options to RIM executives at low prices. When Loberto forwarded Balsillie's e-mail messages to the lawyer for preparation of insider reports for these grants, Loberto deleted the portion of Balsillie's directions related to pricing, thus concealing from the lawyer that RIM picked the exercise prices with hindsight.

RIM's Materially False and Misleading Disclosures in Filings with the Commission

Materially False and Misleading Reports on Forms 40-F and 6-K

68. In all of RIM's annual reports on Form 40-F for fiscal years 1999 through 2006 and in a number of its reports on Form 6-K containing quarterly financial information through the first quarter of fiscal year 2007, RIM falsely stated that it granted options at the fair market value of the stock at the grant date and accordingly, no compensation expense was recognized under APB 25. In reality, RIM routinely granted in-the-money options and repriced options, but failed to record any compensation expense.

69. By failing to record compensation expenses for backdated and repriced options, RIM's financial statements in annual reports on Form 40-F and certain reports on Form 6-K, and its earnings releases on Form 6-K, were inaccurate and were not prepared in accordance with, or properly reconciled to, U.S. GAAP. Consequently, RIM reported inflated earnings or understated losses in each of the periods. If RIM had accounted for options consistent with its disclosures in its filings, RIM annually overstated income or understated (loss) due to backdating by material amounts in most years. RIM's annual reports on Form 40-F also misrepresented that its systems of accounting and internal controls were sufficient to prepare accurate financial statements.

70. Balsillie and Lazaridis reviewed RIM's reports on Forms 40-F and 6-K ("Exchange Act Reports") which explained options accounting under APB 25, they signed and beginning in fiscal year 2003 certified RIM's annual reports on Form 40-F, and they signed certain reports on Form 6-K that included quarterly financial statements. As Balsillie and Lazaridis approved or recommended backdating grants, they knew or should have known that: (i) the disclosures about RIM's pricing of options in RIM's Exchange Act Reports were

materially false and misleading, and (ii) RIM's financial statements and results, and its representations about the sufficiency of its accounting systems and internal controls, were materially false and misleading.

71. Kavelman prepared, reviewed and signed RIM's annual reports on Form 40-F and certain reports on Form 6-K including quarterly financial statements and earnings releases. Kavelman also certified RIM's annual reports on Form 40-F beginning in fiscal year 2003. Loberto helped to prepare and reviewed RIM's annual reports on Form 40-F and certain reports on Form 6-K that included quarterly financial statements. Loberto also signed an annual report on Form 40-F for fiscal year 2004, and reports on Form 6-K containing financial information for the third quarter of fiscal year 2004 and the first quarter of fiscal year 2005. Kavelman was responsible for, and Loberto participated in preparing, RIM's financial statements in RIM's Exchange Act Reports. Kavelman signed a number of reports on Form 6-K that contained earnings releases and Loberto signed at least one report on Form 6-K that contained the earnings release for the second quarter of fiscal year 2004. Kavelman and Loberto were responsible for RIM's systems of accounting and internal controls relating to options.

72. Kavelman and Loberto routinely backdated and repriced options and received advice that the Company was required to record compensation expenses for in-the-money options and repriced options. Nevertheless, they recorded no compensation expense for the millions of backdated (and repriced) in-the-money options. In fact, they took affirmative steps to hide their conduct from regulators, shareholders and RIM's outside lawyer. Accordingly, Kavelman and Loberto knew, or were reckless in not knowing, that: (i) the disclosures about RIM's pricing of options in RIM's Exchange Act Reports were materially false and misleading,

and (ii) RIM's financial statements and results, and its representations about the sufficiency of its accounting systems and internal controls were materially false and misleading.

Materially False and Misleading Management Information Circulars

73. RIM's management information circulars furnished to the Commission on Form 6-K contain a number of materially false and misleading statements concerning RIM's stock option plan. The 2000, 2002, 2004, 2005 and 2006 circulars correctly noted that RIM's stock option plan provides for options to be granted at prices not less than the closing price on the trading day before the grant. However, the circulars failed to disclose that RIM routinely violated this pricing provision in making grants and engaged in both backdating and repricing. RIM's management information circulars for 1999 through 2006 materially understated the compensation of the Company's most highly paid officers, including Balsillie, Lazaridis and in some years Kavelman, because those filings omitted the compensation resulting from the in-the-money options that they received in the current or prior years. The management information circulars also referenced, and in some instances were furnished to the Commission in the same Form 6-K with, RIM's materially false and misleading annual reports and financial statements.

74. Balsillie and Lazaridis reviewed and approved RIM's stock option plans and management information circulars. Balsillie approved backdating options for himself, other executives and employees. Lazaridis requested that Balsillie or Kavelman backdate option grants for employees and Lazaridis personally received backdated options. Accordingly, Balsillie and Lazaridis knew or should have known that the statements in RIM's management information circulars were materially false and misleading.

75. Kavelman and Loberto were familiar with the provisions of RIM's stock option plans and reviewed management information circulars. Kavelman and Loberto backdated

options for executives and other employees and they personally received backdated options, despite receiving advice detailing how to price and account for options. Therefore, Kavelman and Loberto knew, or were reckless in not knowing, that the statements in RIM's management information circulars were materially false and misleading.

Materially False and Misleading Registration Statements

76. RIM filed a registration statement on Form 40-FR on September 11, 1998. RIM filed registration statements and amendments thereto on Form F-10 on September 23, 1999, October 13, 1999, October 20, 2000, October 26, 2000, January 7, 2004 and January 14, 2004. RIM also filed registration statements on Form S-8 on March 28, 2002 and October 21, 2002.

77. RIM's registration statements and amendments included or incorporated by reference Forms 40-F and 6-K, which included annual and quarterly financial statements that were materially inaccurate because RIM failed to record any compensation expenses for in-the-money (and repriced) option grants. The registration statements falsely stated, or incorporated Exchange Act Reports that falsely stated, that RIM grants options at the fair market value on the day before the grant date and, therefore, no compensation expense is recognized under APB 25. Some of the registration statements also incorporated RIM's false and misleading management information circulars.

78. Balsillie and Lazaridis reviewed and/or signed RIM's registration statements and approved or recommended backdating options. Accordingly, Balsillie and Lazaridis knew or should have known that the registration statements were materially false and misleading.

79. Kavelman was responsible for the preparation of RIM's financial statements, which were incorporated into the registration statements. Kavelman also signed the registration statement filed on September 11, 1998, and authorized Balsillie to sign the March 28, 2002 and

October 21, 2002 registration statements on his behalf. Loberto helped prepare RIM's financial statements and options disclosures, which were incorporated into the registration statements.

Kavelman and Loberto backdated and repriced options without recording compensation expenses, despite receiving advice to record compensation expenses for such options. Therefore, Kavelman and Loberto knew, or were reckless in not knowing, that RIM's registration statements were materially false and misleading.

Kavelman's and Loberto's Material Misrepresentations to RIM's Auditor

80. From at least 1999 to 2006, Kavelman misrepresented in management representation letters to RIM's independent auditor that: (i) he had no knowledge of any fraud, suspected fraud or illegal acts; (ii) RIM's internal controls were adequate to permit the preparation of accurate financial statements; and (iii) the financial statements were fairly presented in conformity with U.S. GAAP.

81. In addition, Kavelman and Loberto were aware that inaccurate stock option grant dates from RIM's books and records, including backdated option agreements and information generated from the electronic database RIM used for tracking options, were provided to the auditor. Kavelman and Loberto understood that the auditor relied on those documents in conducting its audits and reviews. They also did not provide to the auditor e-mails revealing backdating.

Kavelman's Materially False and Misleading Statements to Investors at RIM's July 18, 2006 Annual General Meeting

82. On March 18, 2006, the Wall Street Journal published an article discussing the legal and accounting problems associated with backdating stock options. The article included charts showing that executives at six companies repeatedly received stock options with very low exercise prices that suggested backdating. Although RIM was not mentioned in the article, Kavelman obtained a copy of the Wall Street Journal article, as well as other articles about backdating problems at a number of companies. In addition, in May 2006, an institutional investor sent Kavelman its assessment of the risk that backdating had occurred at various companies in North America (although the assessment did not identify RIM). The assessment was based on option grant charts similar to those that appeared in the Wall Street Journal. By May 2006, Balsillie, Lazaridis and Loberto also were aware of backdating issues at other companies.

83. In May 2006, Kavelman attended an analyst meeting where analysts and investors asked questions about options backdating. Kavelman then directed RIM's Vice President of Tax ("VP Tax") to prepare a chart of options granted to Balsillie, Lazaridis and two RIM chief operating officers ("COOs"). The chart revealed that Balsillie, Lazaridis and both COOs received options with very low exercise prices. The VP Tax highlighted for Kavelman that the COOs' initial grants were well before their start dates. Kavelman told Balsillie, Loberto and others about this analysis.

84. On July 18, 2006, the four executives attended RIM's annual general meeting for shareholders, which was broadcast over the internet. At the meeting, an investor asked whether RIM engaged in options backdating. Kavelman responded, "That's been a major issue in the news and I'm sure some of you have read about it. We have very strict policies around how we

grant options. When employees start they get them on their start date. Any options that are granted to employees, during the course of the year to senior officers, are approved by the Board and certainly, no, there's no backdating.”

85. At the time Kavelman made these statements, he knew RIM had engaged in backdating because he was directly involved in backdating options. He also knew that employees often received options that were dated before their start dates to give them lower exercise prices. In fact, as noted above, just two months before the annual general meeting, the VP Tax highlighted for Kavelman that the two COOs had received options with favorable prices based on purported grant dates that were well before their start dates. Kavelman made these false and misleading statements to investors when he knew that regulators, investors and the media were concerned about backdating.

86. On September 28, 2006, RIM announced that it was conducting an internal review of the Company's stock option granting practices. This review culminated in the Restatement of \$248 million in additional expenses from 1999 through 2006. Kavelman and Loberto stepped down from their positions, and Balsillie stepped down as Chairman of the Board.

FIRST CLAIM
Violations of Exchange Act Section 10(b) and Exchange Act Rule 10b-5

87. The Commission realleges and incorporates by reference Paragraphs 1 through 86 above.

88. Defendants RIM, Kavelman and Loberto, directly or indirectly, by use of the means or instruments of interstate commerce, or of the mails, or of a facility of a national securities exchange, in connection with the purchase or sale of RIM securities, knowingly or recklessly: (i) employed devices, schemes or artifices to defraud; (ii) made untrue statements of material fact or omitted to state a material fact necessary to make the statements made, in light of

the circumstances under which they were made, not misleading; and/or (iii) engaged in acts, transactions, practices or courses of business that operated or would operate as a fraud or deceit upon other persons.

89. By engaging in the conduct alleged above, defendants RIM, Kavelman and Loberto violated Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

SECOND CLAIM
Violations of Securities Act Section 17(a)(1)

90. The Commission realleges and incorporates by reference Paragraphs 1 through 89 above.

91. Defendants RIM, Kavelman and Loberto, directly or indirectly, knowingly or recklessly, in the offer or sale of RIM's securities, by use of the means or instruments of transportation or communication in interstate commerce, or by use of the mails, employed devices, schemes or artifices to defraud.

92. By engaging in the conduct alleged above, defendants RIM, Kavelman and Loberto violated Securities Act Section 17(a)(1) [15 U.S.C. § 77q(a)(1)].

THIRD CLAIM
Violations of Securities Act Sections 17(a)(2) and 17(a)(3)

93. The Commission realleges and incorporates by reference Paragraphs 1 through 92 above.

94. Defendants RIM, Kavelman, Loberto, Balsillie and Lazaridis, directly or indirectly, knowingly, recklessly, or negligently, in the offer or sale of RIM securities, by use of the means or instruments of transportation or communication in interstate commerce, or by use of the mails: (i) obtained money or property by means of untrue statements of material fact or

omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and/or (ii) engaged in transactions, practices or courses of business that operated or would operate as a fraud or deceit upon purchasers of RIM securities.

95. By engaging in the conduct alleged above, defendants RIM, Kavelman, Loberto, Balsillie and Lazaridis violated Securities Act Sections 17(a)(2) and (3) [15 U.S.C. §§ 77q(a)(2) and (3)].

FOURTH CLAIM
Violations of Exchange Act Rule 13a-14

96. The Commission realleges and incorporates by reference Paragraphs 1 through 95 above.

97. Defendant Kavelman certified in RIM's annual reports on Form 40-F that, among other things, he reviewed each of the reports and, based on his knowledge, the reports: (i) did not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading; and (ii) included financial statements and other financial information that fairly presented, in all material respects, RIM's financial condition, results of operations and cash flows.

98. By engaging in the conduct alleged above, defendant Kavelman violated Exchange Act Rule 13a-14 [17 C.F.R. § 240.13a-14].

FIFTH CLAIM
Violations of Exchange Act Section 13(b)(5) and Exchange Act Rule 13b2-1

99. The Commission realleges and incorporates by reference Paragraphs 1 through 98 above.

100. Defendants Kavelman, Loberto, Balsillie and Lazaridis knowingly circumvented or knowingly failed to implement a system of internal accounting controls or knowingly falsified books, records or accounts subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

101. Defendants Kavelman, Loberto, Balsillie and Lazaridis directly or indirectly, falsified or caused to be falsified books, records or accounts subject to Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)].

102. By engaging in the conduct alleged above, defendants Kavelman, Loberto, Balsillie and Lazaridis violated Exchange Act Section 13(b)(5) [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

SIXTH CLAIM
Violations of Exchange Act Rule 13b2-2

103. The Commission realleges and incorporates by reference Paragraphs 1 through 102 above.

104. Defendants Kavelman and Loberto, directly or indirectly: (i) made, or caused to be made, materially false or misleading statements; or (ii) omitted to state, or caused others to omit to state, material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading, to an accountant in connection with an audit, review, or examination of financial statements or the preparation or filing of a document or report required to be filed with the Commission.

105. By engaging in the conduct alleged above, defendants Kavelman and Loberto violated Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2].

SEVENTH CLAIM
Violations of Exchange Act Section 13(a) and
Exchange Act Rules 12b-20, 13a-1 and 13a-16

106. The Commission realleges and incorporates by reference Paragraphs 1 through 105 above.

107. Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 13a-1 and 13a-16 [17 C.F.R. §§ 240.13a-1 and 240.13a-16] require foreign private issuers of registered securities to file with the Commission factually accurate annual reports and furnish factually accurate documents it makes public or files with other regulators. Exchange Act Rule 12b-20 [17 C.F.R. § 240.12b-12] further provides that, in addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they were made not misleading.

108. As alleged above, defendant RIM filed with, or furnished to, the Commission false and misleading annual reports on Form 40-F and reports on Form 6-K that contained quarterly financial statements, earnings releases and management information circulars. In so doing, RIM violated Exchange Act Section 13(a) [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1 and 13a-16 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-16].

109. By engaging in the conduct alleged above, defendants Kavelman, Loberto, Balsillie and Lazaridis knowingly or recklessly provided substantial assistance to RIM in its violations of Exchange Act Section 13(a) [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1 and 13a-16 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-16].

110. By engaging in the conduct alleged above, defendants Kavelman, Loberto, Balsillie and Lazaridis aided and abetted RIM's violations of Exchange Act Section 13(a) [15

U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1 and 13a-16 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-16].

EIGHTH CLAIM
Violations of Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B)

111. The Commission realleges and incorporates by reference Paragraphs 1 through 110 above.

112. Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] requires issuers to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of its assets. Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)] requires issuers to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain the accountability of assets.

113. By engaging in the conduct alleged above, defendant RIM violated Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)].

114. By engaging in the conduct alleged above, defendants Kavelman, Loberto, Balsillie and Lazaridis knowingly or recklessly provided substantial assistance to RIM in its violations of Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)].

115. By engaging in the conduct alleged above, defendants Kavelman, Loberto, Balsillie and Lazaridis aided and abetted RIM's violations of Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

- (a) permanently enjoin defendant RIM from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)], and Exchange Act Rules 10b-5, 12b-20, 13a-1 and 13a-16 [17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13a-1 and 240.13a-16];
- (b) permanently enjoin defendant Kavelman from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78m(b)(5)], and Exchange Act Rules 10b-5, 13a-14, 13b2-1 and 13b2-2 [17 C.F.R. §§ 240.10b-5, 240.13a-14, 240.13b2-1 and 240.13b2-2], and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)], and Exchange Act Rules 12b-20, 13a-1 and 13a-16 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-16];
- (c) permanently enjoin defendant Loberto from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78m(b)(5)], and Exchange Act Rules 10b-5, 13b2-1 and 13b2-2 [17 C.F.R. §§ 240.10b-5, 240.13b2-1 and 240.13b2-2], and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)], and Exchange Act Rules 12b-20, 13a-1 and 13a-16 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-16];

- (d) permanently enjoin defendants Balsillie and Lazaridis from violating Sections 17(a)(2) and (3) of the Securities Act [15 U.S.C. §§ 77q(a)(2) and (3)], Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)], and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1], and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)], and Exchange Act Rules 12b-20, 13a-1 and 13a-16 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-16];
- (e) order defendants Kavelman, Loberto, Balsillie and Lazaridis to disgorge, with prejudgment interest, all ill-gotten gains by virtue of the conduct alleged herein, and deem their disgorgement and interest to be satisfied in full because these defendants have already paid these amounts to RIM;
- (f) pursuant to Securities Act Section 20(d) [15 U.S.C. § 77t(d)] and Exchange Act Section 21(d)(3) [15 U.S.C. § 78u(d)(3)], order defendants Kavelman, Loberto, Balsillie and Lazaridis to pay civil money penalties;
- (g) pursuant to Securities Act Section 20(e) [15 U.S.C. § 77t(e)] and Exchange Act Section 21(d)(2) [15 U.S.C. § 78u(d)(2)], prohibit defendants Kavelman and Loberto from acting as officers or directors of any issuer that has a class of securities registered pursuant to Exchange Act Section 12 [15 U.S.C. § 78l] or that is required to file reports pursuant to Exchange Act Section 15(d) [15 U.S.C. § 78o(d)];
- (h) grant any equitable relief that may be appropriate or necessary for the benefit of investors pursuant to Exchange Act Section 21(d)(5) [15 U.S.C. § 78u(d)(2)]; and

(i) grant such other relief as the Court may deem just and appropriate.

Dated: February 17, 2009
Washington, DC

Respectfully submitted,



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