

1 ROBERT C. SCHUBERT (S.B.N. 62684)  
 2 WILLEM F. JONCKHEER (S.B.N. 178748)  
 3 NOAH M. SCHUBERT (S.B.N. 278696)  
**SCHUBERT JONCKHEER & KOLBE LLP**  
 4 Three Embarcadero Center, Suite 1650  
 San Francisco, CA 94111  
 Telephone: (415) 788-4220  
 5 Facsimile: (415) 788-0161  
 6 [rschubert@sjk.law](mailto:rschubert@sjk.law)  
 7 [wjonckheer@sjk.law](mailto:wjonckheer@sjk.law)  
[nschubert@sjk.law](mailto:nschubert@sjk.law)

8 JOHN ARCHIBALD (*pro hac vice to be filed*)  
**INVESTIGATION COUNSEL P.C.**  
 9 350 Bay Street, Suite 1100  
 10 Toronto, ON M5H 2S6 Canada  
 Telephone: (416) 637-3152  
 11 [jarchibald@investigationcounsel.com](mailto:jarchibald@investigationcounsel.com)

12 *Counsel for Plaintiff Vera A. Hays*  
 13 [*additional counsel appear on signature page*]

14 **UNITED STATES DISTRICT COURT**  
 15 **NORTHERN DISTRICT OF CALIFORNIA**

16 VERA A. HAYS, individually and on behalf of  
 17 herself and all others similarly situated,

18 Plaintiff,

19 v.

20 AMERICAN CENTURY CAPITAL  
 21 PORTFOLIOS, INC., AMERICAN CENTURY  
 22 INVESTMENT SERVICES, INC.,  
 23 AMERICAN CENTURY INVESTMENT  
 24 MANAGEMENT, INC., PATRICK  
 25 BANNIGAN, JONATHAN THOMAS, R.  
 26 WES CAMPBELL, CHRIS H. CHEESMAN,  
 27 RAJESH K. GUPTA, C. JEAN WADE,  
 THOMAS W. BUNN, BARRY FINK,  
 28 ANDREA C. HALL, JAN M. LEWIS, LYNN  
 JENKINS, M. JEANNINE STRANDJORD,  
 JOHN R. WHITTEN, and STEPHEN E.  
 YATES,

Defendants.

Case No.

**CLASS ACTION COMPLAINT**

DEMAND FOR JURY TRIAL

Class Action

1 Plaintiff Vera A. Hays (“Hays” or “Plaintiff”) alleges the following upon information  
2 and belief except for those allegations as to herself, which are alleged upon personal knowledge.  
3 The allegations are based upon an investigation conducted by and through Plaintiff’s counsel,  
4 which included, inter alia, a review of documents filed with the U.S. Securities and Exchange  
5 Commission (the “SEC”) and other public information. Many of the facts supporting the  
6 allegations contained herein are known only to the Defendants (as defined below) or are  
7 exclusively within their custody and/or control. Plaintiff believes that a reasonable opportunity  
8 for discovery will yield additional, substantial evidentiary support for the allegations herein.

9 **INTRODUCTION**

10 1. The American Century Value Fund (the “Fund”) is an open-end mutual fund that  
11 invests primarily in domestic and foreign securities. The claims in this action arise out of sales  
12 of shares of the Fund pursuant to publicly filed registration statements and prospectuses that  
13 misrepresent the Fund’s principal investment strategy.

14 2. As alleged herein, the Fund’s offering documents and public statements assure  
15 investors that its investment strategy is to identify companies whose stock price may not reflect  
16 the company’s value, and to purchase the stocks of these undervalued companies and hold each  
17 stock until the price has increased to, or is higher than, a level the managers believe more  
18 accurately reflects the fair value of the company.

19 3. Thus, Defendants represent to investors that they actively manage the Fund,  
20 including by researching and selecting investments for the Fund. Defendants charge the Fund  
21 substantial fees for this purportedly active management.

22 4. In truth, in managing the Fund, Defendants employ an investment strategy  
23 designed to closely track the performance of the Fund’s stated benchmark index, the Russell  
24 1000 Value index. This investment strategy is known as “closet indexing.”

25 5. Closet indexing is an investment strategy used by fund managers who claim to  
26 actively purchase and sell investments with the goal of outperforming a benchmark index, but in  
27 truth use a strategy designed to closely track the performance of that benchmark. As a result, the  
28

1 fund has no real prospect of outperforming the benchmark over time, after accounting for fees  
2 and expenses associated with the purportedly active investment strategy.

3 6. Closet indexing is not true active management. The aim of true active  
4 management is to *outperform* the benchmark.

5 7. Instead, Defendants engage in closet indexing to mimic the performance of their  
6 designated benchmark index, even while charging excessive fees for purportedly active  
7 management. These excessive fees virtually ensure that the Fund cannot match its benchmark  
8 over time, let alone outperform it.

9 8. As alleged herein, the Fund at issue here has shown precisely such performance  
10 characteristics. The Fund has consistently failed to meet or outperform its benchmark index, yet  
11 charges management fees that are astronomically higher than passive index funds designed to  
12 generate benchmark returns.

13 9. Defendants' closet indexing strategy was not disclosed to investors in the Fund's  
14 SEC filings and prospectuses. In this action, Plaintiff seeks to recover damages arising out of  
15 Plaintiff's and the Class's purchases of the Fund's shares pursuant to the Fund's untrue and  
16 misleading offering documents.

17 10. Plaintiff and the Class paid higher fees than they otherwise would have if they  
18 had known that the Fund's managers were engaged in closet indexing. The higher fees were  
19 deducted from the Fund's assets, which directly resulted in the diminution in value of their  
20 investments. The Fund's excessive management fees caused losses to Plaintiff and the Class.

21 11. Because the conduct complained of herein is continuing in nature, Plaintiff seeks  
22 recovery for a period commencing at the earliest date pursuant to the applicable three year statute  
23 of limitations, through the date of final judgment after trial (the "Class Period").

24 **JURISDICTION AND VENUE**

25 12. This Court has jurisdiction over the subject matter of this action pursuant to 28  
26 U.S.C. § 1331 and § 22 of the Securities Act (15 U.S.C. § 77v).

27 13. The claims asserted herein arise under and pursuant to §§ 11, 12(a)(2) and 15 of  
28 the Securities Act (15 U.S.C. §§ 77k, 77l(a)(2) and 77o).



1           20. Defendant Patrick Bannigan was at relevant times the President of ACCP.  
2 Bannigan signed one or more of the registration statements effective during the Class Period.

3           21. Defendant Jonathan Thomas was at relevant times a director of ACCP. Thomas  
4 signed one or more of the registration statements effective during the Class Period.

5           22. Defendant R. Wes Campbell was at relevant times a director of ACCP. Campbell  
6 signed one or more of the registration statements effective during the Class Period.

7           23. Defendant Chris H. Cheesman was at relevant times a director of ACCP.  
8 Cheesman signed one or more of the registration statements effective during the Class Period.

9           24. Defendant Rajesh K. Gupta was at relevant times a director of ACCP. Gupta  
10 signed one or more of the registration statements effective during the Class Period.

11           25. Defendant C. Jean Wade was at relevant times a director of ACCP. Wade signed  
12 one or more of the registration statements effective during the Class Period.

13           26. Defendant Thomas W. Bunn was at relevant times a director of ACCP. Bunn  
14 signed one or more of the registration statements effective during the Class Period.

15           27. Defendant Barry Fink was at relevant times a director of ACCP. Fink signed one  
16 or more of the registration statements effective during the Class Period.

17           28. Defendant Andrea C. Hall was at relevant times a director of ACCP. Hall signed  
18 one or more of the registration statements effective during the Class Period.

19           29. Defendant Jan M. Lewis was at relevant times a director of ACCP. Lewis signed  
20 one or more of the registration statements effective during the Class Period.

21           30. Defendant Lynn Jenkins was at relevant times a director of ACCP. Jenkins signed  
22 one or more of the registration statements effective during the Class Period.

23           31. Defendant M. Jeannine Strandjord was at relevant times a director of ACCP.  
24 Strandjord signed one or more of the registration statements effective during the Class Period.

25           32. Defendant John R. Whitten was at relevant times a director of ACCP. Whitten  
26 signed one or more of the registration statements effective during the Class Period.

27           33. Defendant Stephen E. Yates was at relevant times a director of ACCP. Yates  
28 signed one or more of the registration statements effective during the Class Period.

1 34. The individual defendants listed in paragraphs 20-33 are sometimes collectively  
2 referred to herein as the “Director Defendants.”

3 35. All defendants listed above are collectively referred to herein as “Defendants.”

4 **SUBSTANTIVE ALLEGATIONS**

5 **I. Relevant Industry Background.**

6 36. Investment companies are collective investment vehicles that pool money from  
7 investors to purchase a portfolio of securities. Investors purchase shares in investment  
8 companies, and the shares generally represent a proportionate interest in the company’s portfolio  
9 of securities.

10 37. Investment companies are widely owned by individual investors and are popular  
11 retirement planning tools.

12 38. As of approximately 2019, there were over 16,000 U.S. registered investment  
13 companies with over \$20 trillion dollars in net assets, and over 44% of U.S. households owned  
14 shares in such investment companies. The three most prevalent types of investment companies  
15 are (a) open-end funds, (b) closed-end funds, and (c) exchange-traded funds.

16 39. Open-end funds, commonly referred to as mutual funds, are the most popular type  
17 of investment company. Investors purchase shares in such funds directly from the funds  
18 themselves. The funds issue new fund shares to the purchasing investors, and the funds use  
19 investors’ money to purchase investment securities.

20 40. Conversely, when investors wish to sell their open-end fund shares, the funds  
21 must redeem the shares directly from the investors at a price determined by the fund based on  
22 the current market value of its assets and liabilities (called net asset value, or NAV).  
23 Determination of NAV and the issuance and redemption of open-end fund shares generally takes  
24 place each business day after the close of trading.

25 41. Closed-end funds more closely resemble individual corporate stocks. Closed-end  
26 funds generally raise capital only once and issue a fixed number of shares. Although this process  
27 may be repeated in a limited number of follow-on share offerings, closed-end funds do not  
28 engage in the creation and redemption of shares that characterizes open-end funds.

1           42.     Closed-end fund shares are listed for trading on a securities exchange. Investors  
2 buy and sell shares and are not purchasing shares directly from the fund as with open-end funds.  
3 Prices are determined by supply and demand for a fund's shares in the market, not by the net  
4 asset value of the fund's investments.

5           43.     Exchange-traded funds, or ETFs, are a more recent invention. They are rapidly  
6 gaining in popularity in large part due to their association with lower fees. ETFs combine features  
7 of traditional open-end funds and features of closed-end funds. ETF shares trade on securities  
8 exchanges and can be bought and sold throughout the day at market-based prices.

9           44.     However, ETFs do not have a fixed number of shares. Rather, ETF shares may  
10 be created or redeemed at any time between the ETF and a financial intermediary, called an  
11 authorized participant, or AP, in response to market demand for the ETF's shares. In this process,  
12 the ETF and AP exchange fund shares for a basket of underlying investment securities that  
13 comprise the fund's portfolio.

14           45.     The Fund at issue in this Class Action Complaint is an open-end fund.

15           46.     The principal statutory framework and regulatory regime for investment  
16 companies is supplied by the Investment Company Act of 1940. Pursuant to its provisions, an  
17 investment company is overseen by a board of directors or trustees that manages the affairs of  
18 the company.

19           47.     Unlike other companies, an investment company generally has no employees or  
20 facilities of its own. Rather, the investment company's board contracts with other parties for  
21 basic services required to operate the fund.

22           48.     Chief among these fund service providers is the investment advisor (or manager),  
23 which manages the fund's portfolio of securities, researches potential investments, and decides  
24 which securities to purchase for or sell from the portfolio.

25           49.     Other fund operations are typically provided separately by distributors,  
26 custodians, auditors, accountants, counsel, and transfer agents. All of a fund's external service  
27 providers receive compensation from the fund. The total amount of a fund's annual expenses is  
28 expressed as a percentage of the fund's assets, and is called the fund's expense ratio.

1           50.     Certain fund services, in particular investment advice, are traditionally  
2 compensated in amounts based on a percentage of the fund’s assets, rather than based on a flat  
3 rate for the services performed, or based on the results delivered to the fund. Such compensation  
4 is typically calculated based on a fund’s net assets.

5           51.     As a practical matter, investment companies do not operate independently, but  
6 rather operate as parts of fund families or complexes, here, under the banner of American  
7 Century. Like American Century, a typical fund family may consist of several dozen funds, an  
8 investment advisor, and related service providers that are under common control with the  
9 investment advisor. American Century Investments follows this model.

10          52.     Investment advisors and their affiliates create investment companies in order to  
11 obtain fees from the funds’ shareholders in exchange for providing services to the funds.  
12 Frequently, individuals affiliated with such investment advisors are appointed to serve on the  
13 funds’ boards and are appointed as the funds’ officers.

14          53.     Consequently, conflicts of interest are rampant in the relationship between  
15 investment advisors and the investment companies they control.

16          54.     Although the board of directors is supposed to serve the interests of the fund and  
17 its shareholders, the structure of fund families creates opportunities and incentives for investment  
18 advisors and board members to profit by abusing the interests of the fund and its investors.

19          55.     Investment companies generally do not shop around among different investment  
20 advisors to obtain the best services at the lowest price. In the ordinary course of business, funds  
21 rarely even contemplate changing investment advisors.

22          56.     Historically, the funds’ dependence on their investment advisors has allowed  
23 investment advisors to specify the terms of the contractual relationships between them and their  
24 captive funds.

25          57.     While it is in the interest of the fund and its shareholders to secure investment  
26 advisory fees that are as low as possible, the investment advisor’s interests are the opposite: to  
27 secure investment advisory fees that are as high as possible.



1           **II. Active vs. Passive Management of Mutual Funds.**

2           58. Mutual funds are generally classified as either actively or passively managed.

3           59. Actively managed funds are operated with the objective of producing excess risk-  
4 adjusted returns that outperform a particular market benchmark by carefully choosing stocks that  
5 fit the fund's investment style and that the fund manager reasonably expects to collectively  
6 outperform the fund's benchmark.

7           60. Index funds, by contrast, are a form of passively managed funds. They are  
8 designed to closely track the performance of a specific benchmark, allowing investors to invest  
9 money knowing that they will get performance roughly equal to the performance of that  
10 benchmark index. Instead of a fund portfolio manager actively picking stocks and strategizing  
11 over when to buy and sell them, the fund manager builds a portfolio with holdings that mirror  
12 the securities that make up a particular index. By mimicking an index profile, the funds will  
13 match its performance as well.

14           61. One primary advantage of index funds is that an index fund has a lower expense  
15 ratio, including lower management fees paid to the investment advisor. Since index fund  
16 managers are simply replicating the performance of the designated benchmark index, they do  
17 not need the services of research analysts and others to pick stocks. Managers of index funds  
18 also trade less often, incurring fewer transaction and fees and commissions borne by the fund.

19           62. By contrast, actively managed funds change their portfolio positions on a regular  
20 basis in order to hold securities that, in the fund manager's view, are likely to outperform their  
21 respective benchmarks. The managers of such funds charge higher fees than index funds because  
22 of the higher expenses associated with the research necessary to select stocks, and the expenses  
23 associated with increased trading activity.

24           63. Investors purchase actively managed mutual funds in hopes that those mutual  
25 funds will *outperform* the benchmark by a margin that offsets the higher fees.

26           64. According to a report issued by the Investment Company Institute in March 2020  
27 captioned "Trends in the Expenses and Fees of Funds," the average expense ratio for actively  
28 managed equity mutual funds is approximately 0.74 percent.

1           65.     In contrast, the average expense ratio for index equity mutual funds is just 0.07  
2 percent, illustrating the dramatic cost differences between active and passive management.

3           **III.     The Value Fund.**

4           66.     The Fund is an open-end management investment company, also known as a  
5 mutual fund, registered under the 1940 Act. The Fund's inception date is September 1, 1993.

6           67.     Like other mutual funds, the Fund is a type of collective investment that pools  
7 money from investors and invests it in a portfolio of securities.

8           68.     The Fund is organized as a series of shares of ACCP, a corporation organized  
9 under Maryland law. The Fund's shares are sold pursuant to Form N-1A registration statements  
10 and prospectuses filed annually under the Securities Act of 1933. These offering documents are  
11 filed by ACCP, a registered open-end management investment company.

12          69.     The Fund issues several share classes. Those share classes include the Investor  
13 Class (TWVLX), I Class (AVLIX), Y Class (AVUYX), A Class (TWADX), C Class (ACLCX),  
14 R Class (AVURX), R5 Class (AVUGX), and R6 Class (AVUDX). Each share class carries  
15 different rights, obligations and charges.

16          70.     Total assets of the Fund as of December 31, 2020 were approximately \$2.3  
17 billion. TWVLX, which is the share class held by Plaintiff, is the Fund's primary share class,  
18 accounting for approximately \$1.4 billion of the Fund.

19          71.     The Fund does not have employees or facilities of its own. The Fund's operations  
20 are conducted by external service providers pursuant to contracts with the Fund.

21          72.     The Fund issues shares to investors, such as Plaintiff, who invest money in the  
22 Fund, and those investors become shareholders in the Fund. Each share issued by the Fund  
23 represents, and may be redeemed for, a *pro rata* interest in the Fund's underlying portfolio of  
24 securities (less any fees and other liabilities).

25          73.     Each share class carries its own unified management fee, as follows:

Class	Expense Ratio
Investor	1.00%
I	0.80%
Y	0.65%

A	1.25%
C	2.00%
R	1.50%
R5	0.80%
R6	0.65%

74. During the Class Period, ACIM has been paid tens of millions of dollars in management fees by the Fund, diminishing its total assets available for investment and returns, as follows: \$30,322,648 (2018), \$28,135,345 (2019); and \$24,633,585 (2020), with additional amounts paid during 2021.

**IV. Closet Indexing.**

75. As alleged herein, certain mutual funds, including the Fund, claim to be actively managed funds when they are, in truth, closet indexers.

76. Closet indexing is an investment strategy where managers claim to actively select and purchase investments with the goal of beating the fund's declared benchmark index, but in truth seek to closely track the performance of that benchmark. By closely tracking the benchmark, and charging fees and incurring costs associated with "active trading," closet indexers have no realistic prospect of outperforming that benchmark over time.

77. Investment managers engage in closet indexing because they want to maintain appearances and not lag too far behind their fund benchmarks for fear of losing business, or their jobs, for delivering comparatively poor performance. Closet indexing results in higher fees for investors who pay an active management fee to fund managers who simply pick stocks to track the performance of an index, displaying a false sense of their management abilities.

78. Managers who engage in closet indexing have an incentive to gain returns that are at least similar to the index. Yet closet indexers continue to charge active management fees and incur transaction costs in the purported pursuit of greater returns, to the detriment of investors.

79. Excessive management fees and transaction costs damage investors because such expenses reduce the value of the fund's portfolio, and therefore its shares. In addition, each dollar

1 improperly drained for the payment of excessive management fees and transaction costs also  
2 damages the fund's return over time because there are fewer dollars available to invest.

3 **V. Defendants Represent That the Fund is Actively Managed.**

4 80. The Fund has operated as an open-end mutual fund wherein shares of the Fund  
5 could be purchased only from ACCP in continuous, open-end offerings pursuant to the Fund's  
6 registration statements. There was no secondary market for the Fund shares.

7 81. At any time during the Class Period, investors could redeem their shares or  
8 purchase more shares from the Fund. Thus, each member of the Class purchased shares of the  
9 Fund from ACCP pursuant to and traceable to the Fund's registration statements.

10 82. Throughout the Class Period, Defendants annually filed nearly identical  
11 registration statements and prospectuses in connection with the continuous offerings of the  
12 Fund's shares. The Fund's shares were issued to investors pursuant to a series of registration  
13 statements and prospectuses made effective during the Class Period.

14 83. At all relevant times, the Fund's registration statements and prospectuses  
15 represented that the Fund was actively managed fund.

16 84. According to the registration statement on Form N-1A and prospectus for  
17 TWVLX, dated August 1, 2018, the Fund's principal investment strategies are as follows:

18 **Principal Investment Strategies**

19 In selecting stocks for the fund, the portfolio managers look for  
20 companies of all sizes whose stock price may not reflect the  
21 company's value. The managers attempt to purchase the stocks of  
22 these undervalued companies and hold each stock until the price has  
increased to, or is higher than, a level the managers believe more  
accurately reflects the fair value of the company.

23 The fund may invest a portion of its assets in foreign securities when  
these securities meet the portfolio managers' standards of selection.

24 The portfolio managers may sell stocks from the fund's portfolio if  
25 they believe a stock no longer meets their valuation criteria, a stock's  
26 risk parameters outweigh its return opportunity, more attractive  
alternatives are identified or specific events alter a stock's prospects.

27 85. The August 1, 2018 prospectus included in the 2018 Form N-1A makes the  
28 following additional disclosures regarding the Fund's principal investment strategies:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

### **What are the fund's principal investment strategies?**

The portfolio managers look for stocks of companies of all sizes that they believe are undervalued at the time of purchase. The managers use a value investment strategy that looks for companies that are temporarily out of favor in the market. The managers attempt to purchase the stocks of these undervalued companies and hold each stock until it has returned to favor in the market and the price has increased to, or is higher than, a level the managers believe more accurately reflects the fair value of the company.

Companies may be undervalued due to market declines, poor economic conditions, actual or anticipated bad news regarding the issuer or its industry, or because they have been overlooked by the market. To identify these companies, the portfolio managers look for companies with earnings, cash flows and/or assets that may not be reflected accurately in the companies' stock prices or may be outside the companies' historical ranges. The managers also may consider whether the companies' securities have a favorable income-paying history and whether income payments are expected to continue or increase. Since the fund invests in companies of all sizes on an ongoing basis, it may be best characterized as a multi-capitalization value fund.

The portfolio managers may sell stocks from the fund's portfolio if they believe: a stock no longer meets their valuation criteria; a stock's risk parameters outweigh its return opportunity; more attractive alternatives are identified; or specific events alter a stock's prospects.

The portfolio managers do not attempt to time the market. Instead, under normal market conditions, they intend to keep the fund's assets invested primarily in U.S. *equity securities* at all times regardless of the movement of stock prices generally.

**Equity securities** include common stock, preferred stock, and equity-equivalent securities, such as convertible securities, stock futures contracts or stock index futures contracts.

86. The August 1, 2018 Form N-1A was signed by Defendants Thomas, Wade, Bunn, Fink, Hall, Lewis, Strandjord, Whitten, and Yates.

87. According to the registration statement on Form N-1A and prospectus for TWVLX, dated August 1, 2019, the Fund's principal investment strategies are as follows:

#### **Principal Investment Strategies**

In selecting stocks for the fund, the portfolio managers look for companies of all sizes whose stock price may not reflect the company's value. The managers attempt to purchase the stocks of these undervalued companies and hold each stock until the price has increased to, or is higher than, a level the managers believe more accurately reflects the fair value of the company.

1 The fund may invest a portion of its assets in foreign securities when  
2 these securities meet the portfolio managers' standards of selection.

3 The portfolio managers may sell stocks from the fund's portfolio if  
4 they believe a stock no longer meets their valuation criteria, a stock's  
risk parameters outweigh its return opportunity, more attractive  
alternatives are identified or specific events alter a stock's prospects.

5 88. The August 1, 2019 prospectus included in the 2019 Form N-1A makes the  
6 following additional disclosures regarding the Fund's principal investment strategies:

7 **What are the fund's principal investment strategies?**

8 The portfolio managers look for stocks of companies of all sizes that  
9 they believe are undervalued at the time of purchase. The managers  
10 use a value investment strategy that looks for companies that are  
temporarily out of favor in the market. The managers attempt to  
11 purchase the stocks of these undervalued companies and hold each  
stock until it has returned to favor in the market and the price has  
increased to, or is higher than, a level the managers believe more  
12 accurately reflects the fair value of the company.

13 Companies may be undervalued due to market declines, poor  
economic conditions, actual or anticipated bad news regarding the  
14 issuer or its industry, or because they have been overlooked by the  
market. To identify these companies, the portfolio managers look for  
15 companies with earnings, cash flows and/or assets that may not be  
reflected accurately in the companies' stock prices or may be outside  
16 the companies' historical ranges. The managers also may consider  
whether the companies' securities have a favorable income-paying  
17 history and whether income payments are expected to continue or  
increase. Since the fund invests in companies of all sizes on an  
18 ongoing basis, it may be best characterized as a multi-capitalization  
value fund.

19 The portfolio managers may sell stocks from the fund's portfolio if  
20 they believe: a stock no longer meets their valuation criteria; a stock's  
risk parameters outweigh its return opportunity; more attractive  
21 alternatives are identified; or specific events alter a stock's prospects.

22 The portfolio managers do not attempt to time the market. Instead,  
under normal market conditions, they intend to keep the fund's assets  
23 invested primarily in U.S. *equity securities* at all times regardless of  
the movement of stock prices generally.

24 **Equity securities** include common stock, preferred stock, and  
25 equity-equivalent securities, such as convertible securities, stock  
futures contracts or stock index futures contracts.

26 89. The August 1, 2019 Form N-1A was signed by Defendants Thomas, Campbell,  
27 Bunn, Cheesman, Fink, Gupta, Jenkins, Lewis, Whitten and Yates.

1           90.     According to the registration statement on Form N-1A and prospectus for  
2 TWVLX, dated August 1, 2020, the Fund’s principal investment strategies are as follows:

3                           **Principal Investment Strategies**

4                           In selecting stocks for the fund, the portfolio managers look for  
5 companies of all sizes whose stock price may not reflect the  
6 company’s value. The managers attempt to purchase the stocks of  
7 these undervalued companies and hold each stock until the price has  
8 increased to, or is higher than, a level the managers believe more  
9 accurately reflects the fair value of the company.

10                          The fund may invest a portion of its assets in foreign securities when  
11 these securities meet the portfolio managers’ standards of selection.

12                          The portfolio managers may sell stocks from the fund’s portfolio if  
13 they believe a stock no longer meets their valuation criteria, a stock’s  
14 risk parameters outweigh its return opportunity, more attractive  
15 alternatives are identified or specific events alter a stock’s prospects.

16           91.     The August 1, 2020 prospectus included in the 2020 Form N1-A makes the  
17 following additional disclosures regarding the Fund’s principal investment strategies:

18                           **What are the Fund’s Principal Investment Strategies?**

19                           The portfolio managers look for stocks of companies of all sizes that  
20 they believe are undervalued at the time of purchase. The managers  
21 use a value investment strategy that looks for companies that are  
22 temporarily out of favor in the market. The managers attempt to  
23 purchase the stocks of these undervalued companies and hold each  
24 stock until it has returned to favor in the market and the price has  
25 increased to, or is higher than, a level the managers believe more  
26 accurately reflects the fair value of the company.

27                           Companies may be undervalued due to market declines, poor  
28 economic conditions, actual or anticipated bad news regarding the  
29 issuer or its industry, or because they have been overlooked by the  
30 market. To identify these companies, the portfolio managers look for  
31 companies with earnings, cash flows and/or assets that may not be  
32 reflected accurately in the companies’ stock prices or may be outside  
33 the companies’ historical ranges. The managers also may consider  
34 whether the companies’ securities have a favorable income-paying  
35 history and whether income payments are expected to continue or  
36 increase. Since the fund invests in companies of all sizes on an  
37 ongoing basis, it may be best characterized as a multi-capitalization  
38 value fund.

39                           The portfolio managers may sell stocks from the fund’s portfolio if  
40 they believe: a stock no longer meets their valuation criteria; a stock’s  
41 risk parameters outweigh its return opportunity; more attractive  
42 alternatives are identified; or specific events alter a stock’s prospects.



1 The portfolio managers do not attempt to time the market. Instead,  
2 under normal market conditions, they intend to keep the fund's assets  
3 invested primarily in U.S. *equity securities* at all times regardless of  
the movement of stock prices generally.

4 **Equity securities** include common stock, preferred stock, and  
5 equity-equivalent securities, such as convertible securities, stock  
futures contracts or stock index futures contracts.

6 92. The August 1, 2020 Form N-1A was signed by Defendants Bannigan, Campbell,  
7 Bunn, Cheesman, Fink, Gupta, Jenkins, Lewis, Thomas, Whitten and Yates.

8 93. According to the registration statement on Form N-1A and prospectus for  
9 TWVLX, dated August 1, 2021, the Fund's principal investment strategies are as follows:

10 **Principal Investment Strategies**

11 In selecting stocks for the fund, the portfolio managers look for  
12 companies of all sizes whose stock price may not reflect the  
13 company's value. The managers attempt to purchase the stocks of  
14 these undervalued companies and hold each stock until the price has  
increased to, or is higher than, a level the managers believe more  
accurately reflects the fair value of the company.

15 The fund may invest a portion of its assets in foreign securities when  
these securities meet the portfolio managers' standards of selection.

16 The portfolio managers may sell stocks from the fund's portfolio if  
17 they believe a stock no longer meets their valuation criteria, a stock's  
18 risk parameters outweigh its return opportunity, more attractive  
alternatives are identified or specific events alter a stock's prospects.

19 94. The August 1, 2021 prospectus included in the 2021 Form N1-A makes the  
20 following additional disclosures regarding the Fund's principal investment strategies:

21 **What are the Fund's Principal Investment Strategies?**

22 The portfolio managers look for stocks of companies of all sizes that  
23 they believe are undervalued at the time of purchase. The managers  
24 use a value investment strategy that looks for companies that are  
temporarily out of favor in the market. The managers attempt to  
25 purchase the stocks of these undervalued companies and hold each  
26 stock until it has returned to favor in the market and the price has  
increased to, or is higher than, a level the managers believe more  
accurately reflects the fair value of the company.

27 Companies may be undervalued due to market declines, poor  
28 economic conditions, actual or anticipated bad news regarding the  
issuer or its industry, or because they have been overlooked by the  
market. To identify these companies, the portfolio managers look for  
companies with earnings, cash flows and/or assets that may not be



1 reflected accurately in the companies' stock prices or may be outside  
 2 the companies' historical ranges. The managers also may consider  
 3 whether the companies' securities have a favorable income-paying  
 4 history and whether income payments are expected to continue or  
 5 increase. The portfolio managers use a variety of analytical research  
 6 tools and techniques, including the integration of environmental,  
 7 social, and governance ("ESG") risks and opportunities, to help them  
 8 buy or hold securities of companies that meet their investment criteria  
 9 and sell the securities of companies that do not. Since the fund invests  
 10 in companies of all sizes on an ongoing basis, it may be best  
 11 characterized as a multi-capitalization value fund.

12 The portfolio managers may sell stocks from the fund's portfolio if  
 13 they believe: a stock no longer meets their valuation criteria; a stock's  
 14 risk parameters outweigh its return opportunity; more attractive  
 15 alternatives are identified; or specific events alter a stock's prospects.

16 The portfolio managers do not attempt to time the market. Instead,  
 17 under normal market conditions, they intend to keep the fund's assets  
 18 invested primarily in U.S. *equity securities* at all times regardless of  
 19 the movement of stock prices generally.

20 **Equity securities** include common stock, preferred stock, and  
 21 equity-equivalent securities, such as convertible securities, stock  
 22 futures contracts or stock index futures contracts.

23 95. The August 1, 2021 Form N-1A was signed by Defendants Bannigan, Campbell,  
 24 Bunn, Cheesman, Fink, Gupta, Jenkins, Lewis, Thomas, Whitten and Yates.

25 96. Similarly, the August 1, 2018, 2019, and 2020 "summary" prospectuses make the  
 26 following disclosures regarding the Fund's principal investment strategies:

27 **Principal Investment Strategies**

28 In selecting stocks for the fund, the portfolio managers look for  
 companies of all sizes whose stock price may not reflect the  
 company's value. The managers attempt to purchase the stocks of  
 these undervalued companies and hold each stock until the price has  
 increased to, or is higher than, a level the managers believe more  
 accurately reflects the fair value of the company.

The fund may invest a portion of its assets in foreign securities when  
 these securities meet the portfolio managers' standards of selection.

The portfolio managers may sell stocks from the fund's portfolio if  
 they believe a stock no longer meets their valuation criteria, a stock's  
 risk parameters outweigh its return opportunity, more attractive  
 alternatives are identified or specific events alter a stock's prospects.

97. The August 1, 2021 "summary" prospectuses make the following disclosures  
 regarding the Fund's principal investment strategies:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

### **Principal Investment Strategies**

In selecting stocks for the fund, the portfolio managers look for companies of all sizes whose stock price may not reflect the company's value. The managers attempt to purchase the stocks of these undervalued companies and hold each stock until the price has increased to, or is higher than, a level the managers believe more accurately reflects the fair value of the company. The portfolio managers use a variety of analytical research tools and techniques, including the integration of environmental, social, and governance ("ESG") risks and opportunities, to help them buy or hold securities of companies that meet their investment criteria and sell the securities of companies that do not.

The fund may invest a portion of its assets in foreign securities when these securities meet the portfolio managers' standards of selection.

The portfolio managers may sell stocks from the fund's portfolio if they believe a stock no longer meets their valuation criteria, a stock's risk parameters outweigh its return opportunity, more attractive alternatives are identified or specific events alter a stock's prospects.

98. As the foregoing disclosures demonstrate, the Fund's purported investment strategy is one involving active management. Specifically, the offering documents represent to investors that the managers perform an analysis and valuation of an individual company when deciding whether to buy or sell the company's stock.

### **VI. The Fund's Stated Investment Strategy Was Untrue and Misleading.**

99. The true strategy employed by Defendants is to buy and sell stock in order to ensure that the Fund closely tracks the performance of the Russell 1000 Value index. Such an investment strategy is not active management because an investor could achieve the same performance by simply holding a passive fund following the Russell 1000 Value index.

100. Contrary to its representations, in managing the Fund throughout the Class Period, Defendants implemented a closet indexing strategy. As a result, the Fund's performance throughout the Class Period has barely strayed from the movement of its benchmark.

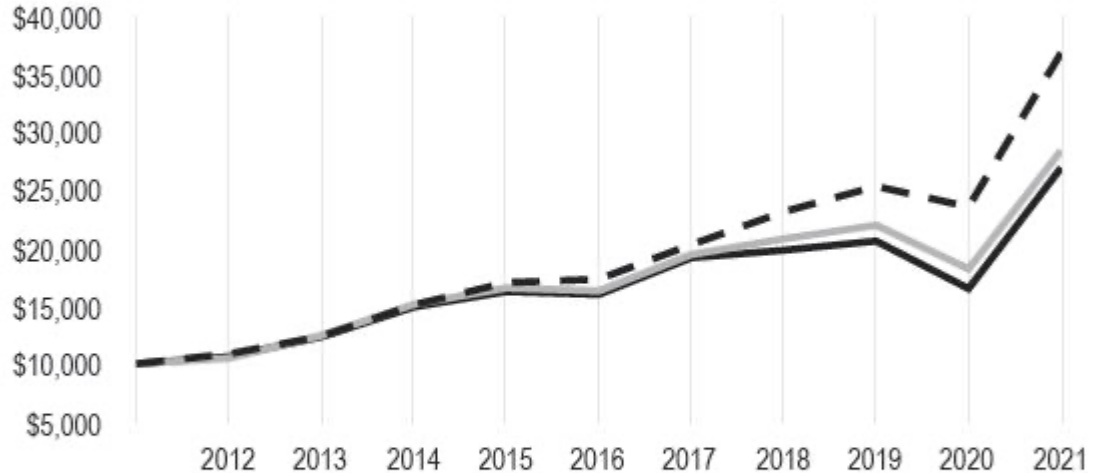
101. In fact, the Fund's own disclosures demonstrate that it has historically failed to even match the Russell 1000 Value index over extended periods, let alone outperform it on a consistent basis – which is the entire rationale for active management (and higher fees) in the first place.

1           102. In its 2021 annual report dated March 31, 2021, the Fund published the following  
2 graph showing that for the preceding decade, the Fund's Investor class closely tracked the  
3 movements of (yet has underperformed) the Russell 1000 Value index:

4           **Growth of \$10,000 Over 10 Years**

5           **\$10,000 investment made March 31, 2011**

6           Performance for other share classes will vary due to differences in fee structure.



19           103. The performance of the Fund relative to the Russell 1000 Value index is further  
20 illustrated by the Fund's R-Squared metric as disclosed on its Quarterly Fact Sheet, dated  
21 September 30, 2021.

22           104. R-squared is a statistical calculation generally interpreted as the percentage of a  
23 fund's movements that can be explained by movements in a benchmark index. If a fund has an  
24 R-Squared value of 0.9 relative to its benchmark, that indicates that 90% of the variance of the  
25 fund is explained by the variance of its benchmark index.

26           105. As of September 30, 2021, the Fund reported an R-Squared of 0.97, or 97%, over  
27 the preceding three year period, meaning that the strength of the relationship between the Fund  
28 and its benchmark, the Russell 1000 Value index, is very high. Such a strong relationship

1 indicates that the investment advisor's investment strategy is adding little or no value to the  
2 Fund's performance.

3 106. The performance of the Fund relative to the Russell 1000 Value index is further  
4 illustrated by the Fund's Alpha metric as disclosed on its Quarterly Fact Sheet, dated September  
5 30, 2021.

6 107. Alpha is a metric that measures the value a portfolio manager adds to or subtracts  
7 from a fund's portfolio return. If a fund has an Alpha of 1.0, it generally means that the fund  
8 outperforms its benchmark index by 1%.

9 108. As of September 30, 2021, the Fund reported an Alpha metric over the preceding  
10 three year period of -1.57 (annualized), meaning that the Fund significantly and consistently  
11 underperforms against the index. This metric further illustrates that the investment advisor's  
12 investment strategy is adding no value to the Fund's performance.

13 109. The September 30, 2021 Quarterly Fact Sheet further illustrates that the Fund has  
14 underperformed against the index over the preceding three year period by almost a full  
15 percentage point, with a 10.06 return for the index versus 9.08 for the Fund.

16 110. The Fund's performance over time illustrates that Defendants' investment  
17 strategy has been based on closet indexing, not active management.

18 111. Defendants' closet indexing strategy was not true active management because the  
19 Fund did not have a reasonable prospect of outperforming its benchmark index over time (and,  
20 in fact, has not outperformed its benchmark index over the last 3 years of the Fund's existence)  
21 once Defendants' management fees are taken into account.

22 112. Indeed, for the last 10 years, the Fund has only barely outperformed the Russell  
23 1000 Value index in three reporting periods, even while ACIM is and was paid tens of millions  
24 of dollars in management fees for the specific purpose of outperforming the benchmark index:

25 **Investor Class Annual Performance 2012-YTD**

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
<b>Fund (%)</b>	14.55	31.10	12.89	-4.34	20.22	8.47	-9.35	26.88	0.65	17.93
<b>Index (%)</b>	17.51	32.53	13.45	-3.83	17.34	13.66	-8.27	26.54	2.80	16.14

1 113. Defendants' implementation and use of closet indexing means that Defendants  
2 managed the Fund in a manner that was materially different than or contrary to its stated  
3 investment strategies. Closet indexing, which is not a true active investment strategy, did not  
4 justify the Defendants' receipt of the excess management fees out of the Fund's assets.

5 114. The Fund's registration statements and prospectuses did not disclose a material  
6 risk associated with the closet indexing investment strategy, namely that all or a substantial  
7 portion of the Fund's returns are linked to the benchmark index.

8 115. In addition, the closet indexing strategy involved Defendants trading in and out  
9 stocks in order to keep the Fund's overall portfolio highly correlated with the benchmark, which  
10 trading activity also served to conceal that Defendants pursued what was effectively a passive  
11 strategy, because a fund could closely track the performance of an index by passively holding  
12 the constituent securities that make up the index.

13 116. At all material times, Defendants' trading activity was significantly greater than  
14 the trading activity that occurred in passive index funds that tracked the same underlying  
15 benchmark as the Fund.

16 117. As a result of the more frequent trading associated with closet indexing strategy,  
17 excess trading costs were paid out of the Fund's assets, further damaging investors.

18 118. The higher fees were deducted from the Fund's assets, which directly resulted in  
19 a diminution of the value of their investments.

20 **CLASS ACTION ALLEGATIONS**

21 119. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal  
22 Rules of Civil Procedure on behalf of all persons or entities who purchased or otherwise acquired  
23 shares of each share class of the Fund in continuous offerings pursuant to registration statements  
24 and prospectuses for the Fund filed during the Class Period and were damaged thereby.

25 120. Excluded from the Class are Defendants and their immediate families; the officers  
26 and directors of the Fund, at all relevant times; any firm, trust, corporation, or other entity in  
27 which any defendant has or had a controlling interest; and the legal representatives, affiliates,  
28 heirs, successors-in-interest, or assigns of any such excluded person or entity.

1 121. The members of the Class are so numerous that joinder of all members is  
2 impracticable. While the exact number of Class members is unknown to Plaintiff at this time and  
3 can only be ascertained through appropriate discovery, Plaintiff believes that there are hundreds  
4 or thousands of members in the proposed Class.

5 122. Record owners and other members of the Class may be identified from records  
6 maintained by the Fund or its agents and may be notified of the pendency of this action by mail,  
7 using the form of notice similar to that customarily used in securities class actions.

8 123. Common questions of law and fact predominate across each of the Fund's share  
9 classes and include: (a) whether Defendants violated the Securities Act; (b) whether Defendants  
10 omitted and/or misrepresented material facts; (c) whether the Fund was closet indexed; (d)  
11 whether the management fees were excessive; and (e) the extent and appropriate measure of  
12 damages.

13 124. Plaintiff's claims are typical of the claims of the members of the Class as all  
14 members of the Class are similarly affected by Defendants' wrongful conduct in violation of  
15 federal law that is complained of herein.

16 125. Plaintiff will fairly and adequately protect the interests of the members of the  
17 Class and has retained counsel competent and experienced in class action and securities  
18 litigation.

19 126. A class action is superior to all other available methods for the fair and efficient  
20 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as  
21 the damages suffered by individual Class members may be relatively small, the expense and  
22 burden of individual litigation make it impossible for members of the Class to individually  
23 redress the wrongs done to them. There will be no difficulty in the management of this action as  
24 a class action.

25 **CLAIMS FOR RELIEF**

26 **COUNT I**

27 **For Violation of § 11 of the Securities Act**

28 ***Against ACCP, ACIS, the Director Defendants and Bannigan***

127. Plaintiff repeats and realleges each and every allegation contained above.



1           140. The prospectuses contained untrue statements of material fact, omitted to state  
2 other facts necessary to make the statements made not misleading, and omitted to state material  
3 facts required to be stated therein.

4           141. Defendants' actions of solicitation included participating in the preparation of the  
5 false and misleading prospectuses and participating in marketing the shares of the Fund to  
6 investors.

7           142. Defendants owed to the purchasers of Fund shares, including Plaintiff and other  
8 Class members, the duty to make a reasonable and diligent investigation of the statements  
9 contained in the prospectuses and corresponding supplements and amendments to ensure that  
10 such statements were true and that there was no omission to state a material fact required to be  
11 stated in order to make the statements contained therein not misleading.

12           143. Defendants, in the exercise of reasonable care, should have known of the  
13 misstatements and omissions contained in the prospectuses as set forth above.

14           144. Plaintiff and other members of the Class purchased or otherwise acquired shares  
15 of the Fund pursuant to the defective prospectuses.

16           145. Plaintiff and the other members of the Class did not know, nor in the exercise of  
17 reasonable diligence could they have known, of the untruths and omissions contained in the  
18 offering documents for the Fund.

19           146. By reason of the conduct alleged herein, Defendants violated, and/or controlled a  
20 person who violated, § 12(a)(2) of the Securities Act.

21           147. Accordingly, Plaintiff and members of the Class who hold shares of the Fund  
22 have the right to rescind and recover the consideration paid for their shares of the Fund and  
23 hereby elect to rescind and tender those shares to the Defendants sued herein.

24           148. Plaintiff and Class members who have sold their shares of the Fund are entitled  
25 to rescissory damages.

26                                   **COUNT III**  
27                                   **For Violation of § 15 of the Securities Act**  
28                                   ***Against ACIM, the Director Defendants and Bannigan***

29           149. Plaintiff repeats and realleges each and every allegation contained above.



1           150. This Count is brought pursuant to § 15 of the Securities Act on behalf of Plaintiff  
2 and the Class against ACIM, the Director Defendants and Bannigan.

3           151. ACIM managed and controlled the business affairs of the Fund and was a control  
4 person of the Fund. ACIM and its directors and/or officers each had a series of direct and/or  
5 indirect business and/or personal relationships with the directors and/or officers and/or major  
6 shareholders of the Fund.

7           152. Each of the Director Defendants and Bannigan was a control person of the Fund  
8 by virtue of his position as a director and/or senior officer of the Fund, ACCP or ACIM.

9           153. These Defendants each had a series of direct and/or indirect business and/or  
10 personal relationships with other directors and/or officers and/or major shareholders of the Fund.

11           154. Each of these Defendants had the ability to control the process which allowed the  
12 sale of the shares of the Fund to be successfully completed.

13           155. By reason of such conduct, the defendants named in this Count are liable pursuant  
14 to §15 of the Securities Act.

15   **PRAYER FOR RELIEF**

16           **WHEREFORE**, Plaintiff, on behalf of herself and the Class, prays for judgment and  
17 relief as follows:

18                           (a) declaring this action to be a proper class action, designating Plaintiff as  
19 Lead Plaintiff and certifying Plaintiff as a class representative under Rule 23 of the Federal Rules  
20 of Civil Procedure and designating Plaintiff's counsel as Lead Counsel;

21                           (b) awarding damages in favor of Plaintiff and the other Class members  
22 against all Defendants, jointly and severally, together with interest thereon;

23                           (c) awarding Plaintiff and the Class reasonable costs and expenses incurred in  
24 this action, including counsel fees and expert fees; and

25                           (d) awarding Plaintiff and other members of the Class such other and further  
26 relief as the Court may deem just and proper.

27   **DEMAND FOR JURY TRIAL**

28           Plaintiff hereby demands a trial by jury.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: November 5, 2021

SCHUBERT JONCKHEER & KOLBE LLP

/s/ Willem F. Jonckheer  
ROBERT C. SCHUBERT (S.B.N. 62684)  
WILLEM F. JONCKHEER (S.B.N. 178748)  
NOAH M. SCHUBERT (S.B.N. 278696)  
**SCHUBERT JONCKHEER & KOLBE LLP**  
Three Embarcadero Center, Suite 1650  
San Francisco, CA 94111  
Telephone: (415) 788-4220  
Facsimile: (415) 788-0161  
[rschubert@sjk.law](mailto:rschubert@sjk.law)  
[wjonckheer@sjk.law](mailto:wjonckheer@sjk.law)  
[nschubert@sjk.law](mailto:nschubert@sjk.law)

JOHN ARCHIBALD (*pro hac vice to be filed*)  
**INVESTIGATION COUNSEL P.C.**  
350 Bay Street, Suite 1100  
Toronto ON M5H 2S6 Canada  
Telephone: (416) 637-3152  
[jarchibald@investigationcounsel.com](mailto:jarchibald@investigationcounsel.com)

PAUL BATES (*pro hac vice to be filed*)  
481 Plane Tree Drive  
London ON N6G 5LS Canada  
Telephone: (416) 869-9898  
[pbates@batesbarristers.com](mailto:pbates@batesbarristers.com)

ALFRED G. YATES, JR.  
GERALD L. RUTLEDGE  
**LAW OFFICE OF ALFRED G. YATES, JR.,  
P.C.**  
1575 McFarland Road, Suite 305  
Pittsburgh, PA 15216  
Telephone: (412) 391-5164  
[yateslaw@aol.com](mailto:yateslaw@aol.com)

*Counsel for Plaintiff Vera A. Hays*

CERTIFICATION PURSUANT TO THE FEDERAL SECURITIES LAWS

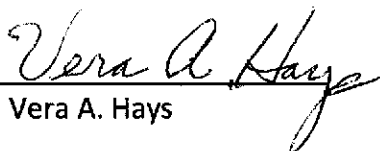
I, Vera A. Hays, certify that:

1. I have reviewed the complaint and authorize its filing.
2. I did not purchase American Century Value Fund (TWVLX) shares that are the subject of this action at the direction of plaintiff's counsel or in order to participate in any private right of action arising under this title.
3. I am willing to serve as a representative party on behalf of a class and will testify at deposition and trial if necessary.
4. My transactions in American Century Value Fund (TWVLX) shares during the Class Period are set forth in the attachment.
5. I have not sought to serve, nor served, as a representative party on behalf of a class under this title during the last three years.
6. I will not accept any payment for serving as a representative party, except to receive my pro rata share of any recovery or as ordered or approved by the court, including the award to a representative plaintiff of reasonable costs and expenses (including lost wages) directly relating to the representation of the class.

I declare under penalty of perjury that the foregoing are true and correct statements.

Date:

10/15/2021

  
Vera A. Hays

Date	Transaction Type	Quantity	Unit Price
12/12/18	Buy	42.858	\$7.68
12/12/18	Buy	371.947	\$7.68
12/21/18	Buy	25.348	\$7.19
03/20/19	Buy	24.262	\$8.20
06/19/19	Buy	21.947	\$8.14
07/15/19	Sell	15.343	\$8.37
07/15/19	Sell	71.298	\$8.37
07/15/19	Sell	10.075	\$8.37
07/15/19	Sell	62.255	\$8.37
07/15/19	Sell	19.329	\$8.37
07/15/19	Sell	4.456	\$8.37
07/15/19	Sell	4.837	\$8.37
07/15/19	Sell	14.579	\$8.37
07/15/19	Sell	12.882	\$8.37
09/18/19	Buy	20.333	\$8.42
10/23/19	Buy	7.235	\$7.79
10/23/19	Buy	51.009	\$7.79
10/23/19	Buy	306.671	\$7.79
12/23/19	Buy	12.609	\$8.44
12/23/19	Buy	4.569	\$8.44
03/11/20	Buy	29.431	\$6.59
06/17/20	Buy	27.593	\$7.05
09/23/20	Buy	28.528	\$6.91
12/23/20	Buy	24.522	\$8.04
12/23/20	Buy	22.958	\$8.04
12/23/20	Buy	65.285	\$8.04
03/24/21	Buy	20.094	\$9.09
06/23/21	Buy	24.021	\$9.58
09/22/21	Buy	23.277	\$9.35