

**IN THE MATTER OF THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED**

- and -

**IN THE MATTER OF
ROBERT THOMISLAV ADZIJA, LARRY ALLEN AYRES, DAVID ARTHUR
BENDING, MARLENE BERRY, DOUGLAS CROSS, ALLAN JOSEPH DORSEY,
ALLAN EIZENGA, GUY FANGEAT, RICHARD JULES FANGEAT, MICHAEL
HERSEY, GEORGE EDWARD HOLMES, TODD MICHAEL JOHNSTON, MICHAEL
THOMAS PETER KENNELLY, JOHN DOUGLAS KIRBY, ERNEST KISS,
ARTHUR KRICK, FRANK ALAN LATAM, BRIAN LAWRENCE, LUKE JOHN
MCGEE, RON MASSCHAELE, JOHN NEWMAN, RANDALL NOVAK, NORMAND
RIOPELLE, ROBERT LOUIS RIZZUTO AND MICHAEL VAUGHAN**

**SETTLEMENT AGREEMENT BETWEEN STAFF OF THE
ONTARIO SECURITIES COMMISSION
AND MICHAEL VAUGHAN**

I. INTRODUCTION

1. By Notice of Hearing dated September 24, 1998 (the "Notice of Hearing"), the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing to consider, among other things:

- (a) whether, pursuant to subsection 127(1) of the *Securities Act*, R.S.O. 1990, c. S.5 (the "Act"), it is in the public interest for the Commission to make an order that the exemptions contained in Ontario securities law do not apply to the respondent Michael Vaughan ("Vaughan") permanently or for such time as the Commission may direct; and
- (b) such other orders as the Commission deems appropriate.

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) agrees to recommend settlement of the proceeding respecting Vaughan initiated by the Notice of Hearing in accordance with the terms and conditions set out below. Vaughan consents to the making of an order against him in the form attached as Schedule “A” based on the facts set out in Part III of this Settlement Agreement.

III. STATEMENT OF FACTS

Acknowledgement

3. Solely for the purposes of this proceeding, and of any other proceeding commenced by a securities regulatory agency, Staff and Vaughan agree with the facts set out in paragraphs 4 through 14 of this Settlement Agreement.

Facts

4. Saxton Investment Ltd. (“Saxton”) was incorporated on January 13, 1995. Alan Eizenga (“Eizenga”) was Saxton’s registered director. Saxton and Eizenga established numerous offering corporations, as listed below (the “Offering Corporations”).

The Saxton Trading Corp.
The Saxton Export Corp.
The Saxton Export (II) Corp.
The Saxton Export (III) Corp.
The Saxton Export (IV) Corp.
The Saxton Export (V) Corp.
The Saxton Export (VI) Corp.
The Saxton Export (VII) Corp.
The Saxton Export (VIII) Corp.
The Saxton Export (IX) Corp.
The Saxton Export (X) Corp.
The Saxton Export (XI) Corp.
The Saxton Export (XII) Corp.
The Saxton Export (XIII) Corp.
The Saxton Export (XIV) Corp.
The Saxton Export (XV) Corp.
The Saxton Export (XVI) Corp.
The Saxton Export (XVII) Corp.
The Saxton Export (XVIII) Corp.
The Saxton Export (XIX) Corp.
The Saxton Export (XX) Corp.
The Saxton Export (XXI) Corp.
The Saxton Export (XXII) Corp.
The Saxton Export (XXIII) Corp.
The Saxton Export (XXIV) Corp.
The Saxton Export (XXV) Corp.
The Saxton Export (XXVI) Corp.
The Saxton Export (XXVII) Corp.
The Saxton Export (XXVIII) Corp.
The Saxton Export (XXIX) Corp.
The Saxton Export (XXX) Corp.

The Saxton Export (XXXI) Corp.
The Saxton Export (XXXII) Corp.
The Saxton Export (XXXIII) Corp.
The Saxton Export (XXXIV) Corp.
The Saxton Export (XXXV) Corp.
The Saxton Export (XXXVI) Corp.
The Saxton Export (XXXVII) Corp.
The Saxton Export (XXXVIII) Corp.

5. Saxton and the Offering Corporations represented to the public that they were investing in businesses in Cuba and other Caribbean companies.

6. On or about October 7, 1998, the Court appointed KPMG Inc. (“KPMG”) as the custodian of Saxton’s assets. In early 1999, KPMG reported that the Offering Corporations had raised approximately \$37 million from investors. All funds invested in the Offering Corporations had been transferred to Saxton. At that time, KPMG held the view that the value of the Saxton assets, at its highest (as reported by related companies), was approximately \$5.5 million.

7. During the material time, Vaughan was a life insurance agent. He has never been registered with the Commission under the Act to trade in securities.

8. Between 1996 and 1998, Vaughan sold to Ontario investors securities of one or more of the Offering Corporations (the “Saxton Securities”). Vaughan sold the Saxton Securities to two Ontario investors for a total amount sold of approximately \$35,000.

9. All of the Offering Corporations were incorporated pursuant to the laws of Ontario. Vaughan’s sales of the Saxton Securities constituted trades in securities of an issuer that had not been previously issued.

10. None of the Offering Corporations filed a prospectus with the Commission. By selling the Saxton Securities to his clients, Vaughan traded in securities, which trades were distributions, without a prospectus being filed or receipted by the Commission and with no exemption from the prospectus requirements of Ontario securities law being available.

11. Further, by selling the Saxton Securities to his clients, Vaughan traded in securities without being registered with the Commission and with no exemption from the registration requirements being available to him.

12. Vaughan received commissions of approximately \$855 on the sales described in paragraph 8 above.

13. Vaughan co-operated with Staff’s investigation of this matter.

14. Vaughan’s conduct in selling the Saxton Securities was contrary to the public interest.

IV. TERMS OF SETTLEMENT

15. Vaughan agrees to the following terms of settlement:

- (a) the making of an order:
 - (i) approving this settlement;
 - (ii) that trading in any securities by Vaughan cease for 90 days;
 - (iii) reprimanding Vaughan; and
 - (iv) that the Temporary Order of the Commission dated September 24, 1998 as against Vaughan no longer has any force or effect.

V. STAFF COMMITMENT

16. If this settlement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Vaughan in relation to the facts set out in Part III of this Settlement Agreement.

VI. APPROVAL OF SETTLEMENT

17. Approval of the settlement set out in this Settlement Agreement shall be sought at the public hearing of the Commission scheduled for March 4, 2002, or such other date as may be agreed to by Staff and Vaughan (the "Settlement Hearing").

18. Counsel for Staff or Vaughan may refer to any part, or all, of this Settlement Agreement at the Settlement Hearing. Staff and Vaughan agree that this Settlement Agreement will constitute the entirety of the evidence to be submitted at the Settlement Hearing.

19. If this settlement is approved by the Commission, Vaughan agrees to waive his rights to a full hearing, judicial review or appeal of the matter under the Act.

20. Staff and Vaughan agree that if this settlement is approved by the Commission, they will not make any public statement inconsistent with this Settlement Agreement.

21. If, for any reason whatsoever, this settlement is not approved by the Commission, or an order in the form attached as Schedule "A" is not made by the Commission:

- (a) this Settlement Agreement and its terms, including all discussions and negotiations between Staff and Vaughan leading up to its presentation at the Settlement Hearing, shall be without prejudice to Staff and Vaughan;
- (b) Staff and Vaughan shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the

Notice of Hearing and Statement of Allegations of Staff, unaffected by this Agreement or the settlement discussions/negotiations;

- (c) the terms of this Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person, except with the written consent of Staff and Vaughan or as may be required by law; and
- (d) Vaughan agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement, the settlement discussions/negotiations or the process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

VII. DISCLOSURE OF SETTLEMENT AGREEMENT

22. Except as permitted under paragraph 18 above, this Settlement Agreement and its terms will be treated as confidential by Staff and Vaughan until approved by the Commission, and forever, if for any reason whatsoever this settlement is not approved by the Commission, except with the consent of Staff and Vaughan, or as may be required by law.

23. Any obligations of confidentiality shall terminate upon approval of this settlement by the Commission.

VIII. EXECUTION OF SETTLEMENT AGREEMENT

24. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.

25. A facsimile copy of any signature shall be as effective as an original signature.

DATED this day of , 2002

WITNESS

MICHAEL VAUGHAN

DATED this day of , 2002

**STAFF OF THE ONTARIO
SECURITIES COMMISSION**

MICHAEL WATSON
Director, Enforcement Branch