

The Ontario Securities Commission

# OSC Bulletin

August 4, 2000

Volume 23, Issue 31

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The Ontario Securities Commission Administers the  
Securities Act of Ontario (R.S.O. 1990, c.S.5) and the  
Commodity Futures Act of Ontario (R.S.O. 1990, c.C.20)

**The Ontario Securities Commission**

Cadillac Fairview Tower  
Suite 800, Box 55  
20 Queen Street West  
Toronto, Ontario  
M5H 3S8

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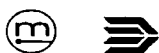
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## Chapter 1

# Notices / News Releases

### 1.1 Notices

### SCHEDULED OSC HEARINGS

#### 1.1.1 Current Proceedings Before The Ontario Securities Commission

August 4, 2000

#### CURRENT PROCEEDINGS

#### BEFORE

#### ONTARIO SECURITIES COMMISSION

-----

Date to be announced

**Amalgamated Income Limited Partnership and 479660 B.C. Ltd.**

s. 127 & 127.1

Ms. J. Superina in attendance for staff.

Panel: TBA

Date to be announced

**2950995 Canada Inc., 153114 Canada Inc., Micheline Charest and Ronald A. Weinberg**

s. 127

Ms. S. Oseni in attendance for staff.

Panel: HIW / MPC / RSP

Jul 31/2000-  
Aug18/2000  
10:00 a.m.

**Paul Tindall and David Singh**

s. 127

Ms. M. Sopinka in attendance for staff.

Panel: TBA

Aug 9/2000  
10:00 a.m.

**Gordon-Daly Grenadier Securities, David Bregman, Alan Greenberg, Oron Sternhill and Wangyal Tulotsang**

s.127

Panel: JAG/

Aug16/2000  
10:00 a.m.

**Noram Capital Management, Inc. and Andrew Willman**

s. 127

Ms. K. Wootton in attendance for staff.

Panel: JAG

Unless otherwise indicated in the date column, all hearings will take place at the following location:

The Harry S. Bray Hearing Room  
Ontario Securities Commission  
Cadillac Fairview Tower  
Suite 1700, Box 55  
20 Queen Street West  
Toronto, Ontario  
M5H 3S8

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John A. Geller, Q.C., Vice-Chair	—	JAG
Howard Wetston, Q.C. Vice-Chair	—	HW
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Stephen N. Adams, Q.C.	—	SNA
Derek Brown	—	DB
Morley P. Carscallen, FCA	—	MPC
Robert W. Davis, FCA	—	RWD
John F. (Jake) Howard, Q.C.	—	JFH
Robert W. Korthals	—	RWK
Mary Theresa McLeod	—	MTM
R. Stephen Paddon, Q.C.	—	RSP

ADJOURNED SINE DIE

Aug22/2000  
10:00 a.m.

Patrick Joseph Kinlin

s. 127

Mr. I. Smith in attendance for staff.

Panel: TBA

DJL Capital Corp. and Dennis John Little

May 7, 2001  
10:00 a.m.

YBM Magnex International Inc., Harry W. Antes, Jacob G. Bogatin, Kenneth E. Davies, Igor Fisherman, Daniel E. Gatti, Frank S. Greenwald, R. Owen Mitchell, David R. Peterson, Michael D. Schmidt, Lawrence D. Wilder, Griffiths Mcburney & Partners, National Bank Financial Corp., (formerly known as First Marathon Securities Limited)

s. 127

Mr. I. Smith in attendance for staff.

Panel: HIW / DB / MPC

Dual Capital Management Limited, Warren Lawrence Wall, Shirley Joan Wall, DJL Capital Corp., Dennis John Little and Benjamin Emile Poirier

Irvine James Dyck

M.C.J.C. Holdings Inc. and Michael Cowpland

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

S. B. McLaughlin

PROVINCIAL DIVISION PROCEEDINGS

2950995 Canada Inc., 153114 Canada Inc., Robert Armstrong, Jack Austin, Suzanne Ayscough, Mary Bradley, Gustavo Candiani, Patricia Carson, Stephen Carson, Lucy Caterina, Micheline Charest, Mark Chernin, Alison Clarke, Susannah Cobbold, Marie-Josée Corbeil, Janet Dellosa, François Deschamps, Marie-Louise Donald, Kelly Elwood, David Ferguson, Louis Fournier, Jean Gauvin, Jeffrey Gerstein, Benny Golan, Menachem Hafsari, Amir Halevy, Jerry Hargadon, Karen Hilderbrand, Jorn Jessen, Bruce J. Kaufman, Mohamed Hafiz Khan, Kathy Kelley, Phillip Kelley, Lori Evans Lama, Patricia Lavoie, Michael Légaré, Pierre H. Lessard, Carol Lobissier, Raymond McManus, Michael Mayberry, Sharon Mayberry, Peter Moss, Mark Neiss, Gideon Nimoy, Hasanain Panju, Andrew Porporino, Stephen F. Reitman, John Reynolds, Mario Ricci, Louise Sansregret, Cassandra Schafhausen, Andrew Tait, Lesley Taylor, Kim M. Thompson, Daniel Tierney, Barrie Usher, Ronald A. Weinberg, Lawrence P. Yelin and Kath Yelland

Date to be announced

**Michael Cowpland and M.C.J.C. Holdings Inc.**

s. 122  
Ms. M. Sopinka in attendance for staff.

Ottawa

July 11/2000  
July 18/2000  
9:00 a.m.

**Arnold Guettler, Neo-Form North America Corp. and Neo-Form Corporation**

s. 122(1)(c)  
Mr. D. Ferris in attendance for staff.

Court Room No. 124, Provincial Offences Court  
Old City Hall, Toronto

July 21/2000  
10:00 a.m.

**Glen Harvey Harper**

s.122(1)(c)  
Mr. J. Naster in attendance for staff.

Courtroom 121, Provincial Offences Court  
Old City Hall, Toronto

Aug 22/2000  
10:00 a.m.  
Pre-trial  
Conference

**Dual Capital Management Limited, Warren Lawrence Wall, Shirley Joan Wall**

s. 122  
Ms. J. Superina in attendance for staff.

Oct 10/2000 -  
Nov 3/2000  
Trial

Court Room No. 9  
114 Worsley Street  
Barrie, Ontario

Oct 16/2000 -  
Dec 22/2000  
10:00 a.m.

**John Bernard Felderhof**

Mssrs. J. Naster and I. Smith  
for staff.

Courtroom TBA, Provincial Offences  
Court

Old City Hall, Toronto

Dec 4/2000  
Dec 5/2000  
Dec 6/2000  
Dec 7/2000  
9:00 a.m.  
Courtroom N

**1173219 Ontario Limited c.o.b. as  
TAC (The Alternate Choice), TAC  
International Limited, Douglas R.  
Walker, David C. Drennan, Steven  
Peck, Don Gutoski, Ray Ricks, Al  
Johnson and Gerald McLeod**

s. 122  
Mr. D. Ferris in attendance for staff.  
Provincial Offences Court  
Old City Hall, Toronto

Jan 29/2001 -  
Feb 2/2001  
9:00 a.m.

**Einar Bellfield**

s. 122  
Ms. K. Manarin in attendance for staff.

Courtroom C, Provincial  
Offences Court  
Old City Hall, Toronto

Reference:

John Stevenson  
Secretary to the  
Ontario Securities Commission  
(416) 593-8145

## 1.1.2 Dialogue with the OSC

July 4, 2000

### *Dialogue with the OSC*

Dear Colleague:

Each year the Ontario Securities Commission sponsors an all-day conference designed to bring the staff of the Commission together with professionals from the financial services industry.

I would like to take this opportunity to invite you to participate in this year's *Dialogue with the OSC* event, now in its sixth successful year, which will take place at the Toronto Sheraton Centre Hotel on October 31<sup>st</sup>, 2000.

This year, the agenda for Dialogue again focuses on the significant regulatory issues and events that have emerged over the past year, including the Ontario Government's plan to merge the OSC with the Financial Services Commission of Ontario. Topics will also include **A Market Regulation Update, Financial Planning, Mutual Funds and the Launch of the MFDA, Enforcement Issues and Current Financial Reporting and Auditing Issues**, among many other interesting and timely items.

The proposed agenda for *Dialogue with the OSC 2000* is attached.

The cost to attend this conference is \$400.00 and for those registering before September 11<sup>th</sup> we are offering an early bird special of \$350.00. To reserve your place, return the attached agenda with your business card and concurrent session choices by facsimile to (416) 593-0249. An invoice will follow. If you have any questions please call *Dialogue with the OSC* registration at (416) 593-7352 before October 20, 2000. Or you may register on-line through the OSC website at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

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### *New This Year*

The 2000 edition of *Dialogue with the OSC* will introduce a new and very exciting element to the program. In order to bring our staff and this important event to a greater number of our constituents, we are offering a modified version of Dialogue through a satellite feed to the following locations:

- London
- Sudbury
- Ottawa

During the satellite broadcast, participants at each of the above locations will be able to watch and listen to the presentations as well as ask questions of the panelists in Toronto.

If you are interested in attending Dialogue at one of these locations call (416) 593-7352.

I hope you are able to join us either in Toronto, or at one of the other locations across Ontario, for this exciting and informative conference.

Sincerely,

David Brown Q.C.  
Chair

Encl.

# Dialogue with the OSC

## Preliminary Agenda & Early Registration

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Tuesday, October 31, 2000 □ Sheraton Centre Hotel □ Toronto

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- 9:00 a.m. **Welcoming Address**  
*Charlie F. Macfarlane, Executive Director, OSC*
- 9:10 a.m. **Opening Remarks**  
*David A. Brown, Q.C., Chair of the OSC*
- 9:30 a.m. **Executive Panel**  
*David Brown, Ontario Securities Commission; Dina Palozzi, Financial Services Commission of Ontario; Securities Market Participant and FSCO Participant*
- 10:00 a.m. **Panel of Chairs**  
*Chairs of the Ontario, Alberta, British Columbia & Quebec Securities Commissions*
- 11:00 a.m. **Break-Out Session 1**  
(Please check one (1) box only to indicate concurrent session choice)
- Market Regulation Update: Including ATS and the New Markets**  
*A discussion of the changes in the Canadian marketplace including the OSC and the reorganization of the Canadian exchanges and regulatory approaches to advances in electronic trading technology.*
  - Enforcement Issues**  
*Current themes in enforcement reflecting a more aggressive approach to enforcing the Ontario Securities Act.*
  - Corporate Finance: An Update**  
*Included in this update are a review of developments in recent filings issues and a report on small business financing.*
- 11:50 a.m. **Break-Out Session 2**  
(Please check one (1) box only to indicate concurrent session choice)
- Mutual Funds: The Launch of the MFDA**  
*An update on the launch of the Mutual Funds Dealers Association and the issues surrounding the question of distribution structures for the mutual fund dealer.*
  - Strengthening the Secondary Market: Enhancing the Quality of Continuous Disclosure by Reporting Issuers**  
*A discussion of legislative, regulatory and operational changes including the developments in Continuous and Integrated Disclosure. Also reviewed SEDI, the System for Electronic Data on Insiders.*
  - International Issues: The OSC and the International Securities Regulators**  
*A look at the critical issues facing regulators as electronic trading makes borders irrelevant in the age of e-trades and electronic communication. Also included will be a review of the work of the International Accounting Standards Committee.*
- 12:30 p.m. **Lunch**

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**Dialogue with the OSC □ Tuesday, October 31, 2000 □ Sheraton Centre Hotel, Toronto**

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1:30 p.m. **Luncheon Address**

*Dr. Sherry Cooper, Chief Economist, Nesbitt Burns*

2:00 p.m. **Break-Out Session 3**

(Please check one (1) box only to indicate concurrent session choice)

- Financial Planning Update: The Re-regulation of Advice Project**  
*A review of the products and services delivered to customers in view of the retail securities industry's shift in focus from stock trading to financial advice and asset management.*
- Current Financial Reporting and Auditing Issues at the OSC**  
*A review of staff positions and current policy directions including a look at GAAP and GAAS.*
- The Latest Developments in Mergers and Acquisitions**  
*The Takeover/Issuer Bids team from the OSC will highlight the issues and latest developments under discussion at the OSC.*

3:30 p.m. **Break-Out Session 4**

(Please check one (1) box only to indicate concurrent session choice)

- SRO Oversight**  
*A review of the Commission's efforts to strengthen protocols for SRO oversight through the development of oversight agreements and the planned national compliance review.*
- Investor Education**  
*A look at the products developed by the OSC to enhance investor understanding of the securities industry.*

4:45 p.m. **Closing Remarks**

5:00 p.m. **Conference Conclusion**

---

**Registration Fee: \$400** (after September 11, 2000)  
**Earlybird Fee: \$350** (before September 11, 2000)

*To register, please attach your business card to this form  
and*

*Fax to: "Dialogue with the OSC" at (416) 593-0249  
An invoice for the registration fee will follow in the mail.*

**For a Detailed Program or Further Information:**  
Call (416) 593-7352 or visit our website at [www.osc.gov.on.ca](http://www.osc.gov.on.ca)

**Please Place Your  
Business Card Here**

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# Dialogue with the OSC - London

## Preliminary Agenda & Early Registration

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Tuesday, October 31, 2000 □ London

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All morning sessions and the Luncheon Address will be broadcast from Toronto to London by satellite link followed by a live panel entitled, **Financial Planning – A Review of OSC/CSA Initiatives**. This panel will look at the current regulatory model governing advice. During the morning program, participants will be able to watch and listen to the presentations as well as ask questions of the panelists in Toronto.

- 9:00 a.m.      **Welcoming Address**  
*Charlie F. Macfarlane, Executive Director, OSC*
- 9:10 a.m.      **Opening Remarks**  
*David A. Brown, Q.C., Chair of the OSC*
- 9:30 a.m.      **Executive Panel**  
*David Brown, Ontario Securities Commission; Dina Palozzi, Financial Services Commission of Ontario; Securities Market Participant and FSCO Participant*
- 10:00 a.m.     **Panel of Chairs**  
*Chairs of the Ontario, Alberta, British Columbia and Quebec Securities Commissions*
- 11:00 a.m.     **Break-Out Session 1**  
**Market Regulation Update: Including ATS and the New Markets**  
*A discussion of the changes in the Canadian marketplace including the OSC and the reorganization of the Canadian exchanges and regulatory approaches to advances in electronic trading technology.*
- 11:50 a.m.     **Break-Out Session 2**  
**Mutual Funds: The Launch of the MFDA**  
*An update on the launch of the Mutual Funds Dealers Association and the issues surrounding the question of distribution structures for the mutual fund dealer.*
- 12:30 p.m.     **Lunch and Luncheon Address**  
*Dr. Sherry Cooper, Chief Economist, Nesbitt Burns*
- 2:00 p.m.      **Live Panel in London**  
**Financial Planning – A Review of OSC/CSA Initiatives**  
*Julia Dublin, Chair, CSA Financial Planning Committee*  
*A look at the current regulatory model governing advice.*
- 3:00 p.m.      **Closing Remarks**

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**Registration Fee: \$300** (after September 11, 2000)

**Earlybird Fee: \$250** (before September 11, 2000)

*To register, please attach your business card to this form and  
Fax to: "Dialogue with the OSC" at (416) 593-0249  
An invoice for the registration fee will follow in the mail.*

**For a Detailed Program or Further Information:**  
Call (416) 593-7352 or visit our website at [www.osc.gov.on.ca](http://www.osc.gov.on.ca)

**Please Place Your  
Business Card Here**



# Dialogue with the OSC - Ottawa

## Preliminary Agenda & Early Registration

Tuesday, October 31, 2000 □ Ottawa

All morning sessions and the Luncheon Address will be broadcast from Toronto to Ottawa by satellite link followed by a live panel entitled, **Small Business Financing - A Progress Report**. This panel will give a progress report on the regulatory issues surrounding small business financing. During the morning program, participants will be able to watch and listen to the presentations as well as ask questions of the panellists in Toronto.

- 9:00 a.m. **Welcoming Address**  
*Charlie F. Macfarlane, Executive Director, OSC*
- 9:10 a.m. **Opening Remarks**  
*David A. Brown, Q.C., Chair of the OSC*
- 9:30 a.m. **Executive Panel**  
*David Brown, Ontario Securities Commission; Dina Palozzi, Financial Services Commission of Ontario; Securities Market Participant and FSCO Participant*
- 10:00 a.m. **Panel of Chairs**  
*Chairs of the Ontario, Alberta, British Columbia and Quebec Securities Commissions*
- 11:00 a.m. **Break-Out Session 1**  
**Market Regulation Update: Including ATS and the New Markets**  
*A discussion of the changes in the Canadian marketplace including the OSC and the reorganization of the Canadian exchanges and regulatory approaches to advances in electronic trading technology.*
- 11:50 a.m. **Break-Out Session 2**  
**Mutual Funds: The Launch of the MFDA**  
*An update on the launch of the Mutual Funds Dealers Association and the issues surrounding the question of distribution structures for the mutual fund dealer.*
- 12:30 p.m. **Lunch and Luncheon Address**  
*Dr. Sherry Cooper, Chief Economist, Nesbitt Burns*
- 2:00 p.m. **Live Panel in Ottawa**  
**Small Business Financing - A Progress Report**  
*This panel will provide a progress report on the regulatory issues surrounding financing a small business.*
- 3:00 p.m. **Closing Remarks**

**Registration Fee:** \$300.00 (after September 11)

**Earlybird Fee:** \$250.00 (before September 11)

*To register, please attach your business card to this form and*

*Fax to: "Dialogue with the OSC" at (416) 593-0249*

*An invoice for the registration fee will follow in the mail.*

**For a Detailed Program or Further Information:**

Call (416) 593-7352 or visit our website at [www.osc.gov.on.ca](http://www.osc.gov.on.ca)

**Please Place Your  
Business Card Here**

# Dialogue with the OSC - Sudbury

## Preliminary Agenda & Early Registration

Tuesday, October 31, 2000 □ Sudbury

All morning sessions and the Luncheon Address will be broadcast from Toronto to Sudbury by satellite link followed by a live panel entitled, **Mining Regulations - After the Mining Standards Task Force Report**. This panel will look at the effect of the report on the mining industry. During the morning program, participants will be able to watch and listen to the presentations as well as ask questions of the panellists in Toronto.

- 9:00 a.m.      **Welcoming Address**  
*Charlie F. Macfarlane, Executive Director, OSC*
- 9:10 a.m.      **Opening Remarks**  
*David A. Brown, Q.C., Chair of the OSC*
- 9:30 a.m.      **Executive Panel**  
*David Brown, Ontario Securities Commission; Dina Palozzi, Financial Services Commission of Ontario; Securities Market Participant and FSCO Participant*
- 10:00 a.m.     **Panel of Chairs**  
*Chairs of the Ontario, Alberta, British Columbia and Quebec Securities Commissions*
- 11:00 a.m.     **Break-Out Session 1**  
**Market Regulation Update: Including ATS and the New Markets**  
*A discussion of the changes in the Canadian marketplace including the OSC and the reorganization of the Canadian exchanges and regulatory approaches to advances in electronic trading technology.*
- 11:50 a.m.     **Break-Out Session 2**  
**Mutual Funds: The Launch of the MFDA**  
*An update on the launch of the Mutual Funds Dealers Association and the issues surrounding the question of distribution structures for the mutual fund dealer.*
- 12:30 p.m.     **Lunch and Luncheon Address**  
*Dr. Sherry Cooper, Chief Economist, Nesbitt Burns*
- 2:00 p.m.      **Live Panel in Sudbury**  
**Mining Regulations - After the Mining Standards Task Force Report**  
*Deborah McCombe, Senior Mining Consultant, OSC*  
*This panel will look at what the Mining Standards Task Force Report means to the mining industry.*
- 3:00 p.m.      **Closing Remarks**

**Registration Fee:** \$300.00 (after September 11)  
**Earlybird Fee:** \$250.00 (before September 11)

*To register, please attach your business card to this form and  
Fax to: "Dialogue with the OSC" at (416) 593-0249  
An invoice for the registration fee will follow in the mail.*

**For a Detailed Program or Further Information:**  
Call (416) 593-7352 or visit our website at [www.osc.gov.on.ca](http://www.osc.gov.on.ca)

**Please Place Your  
Business Card Here**

**1.1.3 CSA Staff Notice 31-401 - Registration Forms Relating to the National Registration Database**

**CANADIAN SECURITIES ADMINISTRATORS STAFF  
NOTICE 31-401  
Registration Forms Relating to the National Registration Database**

**REQUEST FOR COMMENTS**

The Canadian Securities Administrators (the "CSA") are requesting comment on three forms (the "Forms") relating to the application for registration of dealer firms, adviser firms and individuals to replace Form 3, Form 4 and Form 1-U-2000.

The materials are published in Chapter 6 of the Bulletin.

**1.1.4 Staff Notice 81-704 - Limited Powers of Attorney and Letters of Authorization Used in the Sale of Mutual Funds**

**LIMITED POWERS OF ATTORNEY AND  
LETTERS OF AUTHORIZATION  
USED IN THE SALE OF MUTUAL FUNDS**

**OSC Staff Notice #81-704**

**Introduction**

The purpose of this Notice is to communicate the views of the staff of the Ontario Securities Commission (the "staff") on the use of powers of attorney, letters of authorization or trading authorizations (collectively "powers of attorney") by dealers and their sales representatives in the purchase and redemption of mutual fund securities.

**Background**

A large number of mutual fund securities are registered in the security registers of mutual funds in client name. Mutual fund companies must look to the registered unitholder (i.e. the investor) for instructions to execute a trade. Hence, where a dealer submits an order on behalf of its client, mutual fund companies should require that dealers provide instructions bearing the client's signature for each trade before processing a trade in client name. At the same time, staff understand the impracticalities for dealers in obtaining a client's signature for every trade. Mutual fund companies have informed staff that they will accept a power of attorney signed by a client which authorizes the client's dealer to request trades on behalf of the client.

National Instrument 81-102 - Mutual Funds prohibits a mutual fund from paying redemption proceeds prior to the receipt by the mutual fund of a written request for redemption from the securityholder. A written request is not required, however, if alternative "arrangements" are made between the mutual fund and the securityholder. The mutual fund industry typically accepts powers of attorney signed by clients of dealers. These powers of attorney purport to give dealers authority to purchase and redeem the clients' securities, and as such, many industry participants view them as an acceptable alternative "arrangement".

**Issues of Concern**

Staff have serious concerns about the scope and form of powers of attorney which dealers and their sales representatives commonly obtain from their clients. Staff compliance examinations of the operations of both dealers and fund managers have revealed that many powers of attorney confer unlimited powers on dealers and their representatives that are not permitted by their category of registration. These unlimited powers of attorney may permit a dealer's representatives to place trades without having received specific prior instructions from the client. Staff concerns about the ability to conduct discretionary trading are heightened where there is little or no supervision by a dealer of its representatives. When dealers fail to supervise the use of powers of attorney carefully, there is a much greater risk that

inappropriate uses of such powers of attorney will not be prevented or detected.

Staff are concerned about how these powers of attorney are presented to clients and question whether clients understand the contents of the documents and the inherent risks involved in executing unlimited powers of attorney.

### Recommendations

Staff recommend that dealers and their representatives discontinue the use of powers of attorney that confer unlimited authority and discretion over their clients' accounts.

In order to ensure appropriate use of powers of attorney, staff recommend that dealers develop a standard document or form of power of attorney that:

- clearly states the name of the dealer, as well as the name of the specified representative;
- provides for the signature of a designated partner, director, officer or branch manager of the dealer whereby that designated individual indicates approval and acceptance of the power of attorney;
- provides for the dealer representative's signature;
- states that the power of attorney will terminate if and when the specified representative leaves the employment of the dealer;
- clearly states that the power of attorney is limited to trading in mutual funds and that the dealer's representative must obtain prior specific consent from the client for each trade;
- clearly states that the dealer's representative is limited to providing investment recommendations and executing the client's trading orders, and that he or she may not make any decision to buy or sell mutual fund securities on behalf of the client; and
- is labelled in such a way that it clearly conveys the limited scope and power given by the client to the dealer and representative. Acceptable titles include "Limited Power of Attorney" or "Letter of Authorization".

Staff recommend that a dealer have legal counsel review the document to ensure that it does not grant to the dealer and the dealer's representatives discretionary authority over a client's account.

Staff also recommend that a dealer set up control procedures to monitor the use of powers of attorney. Recommended procedures include:

- attaching a copy of the limited power of attorney to each trade order form and indicating the original copy of the power of attorney is on the dealer's file (this will help to ensure that the branch manager, head office and the mutual fund company are aware of the authorization);

- keeping a copy of the power of attorney document on the dealer representative's file and at head office of the dealer;
- appropriate client signature verification procedures;
- procedures to record and retain, whether electronically or manually, specific oral or written trade instructions received from clients and for the dealer to regularly assess the adequacy of documented instructions;
- procedures to identify client accounts where limited powers of attorney have been granted;
- ensuring that branch managers and head office carry out supervision on these accounts on a regular basis prior to executing a trade, or within a reasonable time after executing a trade, to ensure that all transactions are performed according to clients' prior and specific instructions, and in accordance with clients' investment objectives;
- procedures to ensure clients receive a confirmation of every trade directly from the mutual fund company or from the dealer's head office; and
- documenting in writing the control procedures in a policies and procedures manual made available to representatives.

Please direct any questions to:

Elle S. Koor  
Ontario Securities Commission  
Senior Accountant, Compliance  
(416) 593-8077  
ekoor@gov.on.ca

Christina Forster  
Ontario Securities Commission  
Senior Accountant, Compliance  
(416) 593-8061  
cforster@gov.on.ca

Felicia Tedesco  
Ontario Securities Commission  
Senior Accountant, Compliance  
(416) 593-8273  
ftedesco@gov.on.ca

Antoinette Leung  
Ontario Securities Commission  
Senior Accountant, Compliance  
(416) 595-8901  
aleung@gov.on.ca

**1.1.5 TSE Inc. - Amendments to the In-House  
Client Priority Rule (Rule 4-501)**

**THE TORONTO STOCK EXCHANGE -  
AMENDMENT TO THE IN-HOUSE CLIENT PRIORITY  
RULE  
(RULE 4-501)**

**REQUEST FOR COMMENTS**

A request for comments on the amendment to the In-House Client Priority Rule (Rule 4-501) is published in Chapter 13 of the Bulletin.

**1.1.6 TSE Inc. - Recognition of Indexes and  
Trading of Securities Similar to Index  
Participation Funds**

**THE TORONTO STOCK EXCHANGE - RECOGNITION OF  
INDEXES AND TRADING OF SECURITIES SIMILAR TO  
INDEX PARTICIPATION FUNDS**

**REQUEST FOR COMMENTS**

A request for comments on the proposed amendments to Rules and Policies of the Toronto Stock Exchange relating to the recognition of indexes and trading of securities similar to index participation funds is published in Chapter 13 of the Bulletin.

**1.2 Notice of Hearings**

**1.2.1 Gordon-Daly Grenadier Securities et al -  
s.127(1) and 127.1**

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

**- AND -**

**IN THE MATTER OF  
GORDON-DALY GRENADIER SECURITIES,  
DAVID BREGMAN, ALAN GREENBERG,  
ORON STERNHILL AND WANGYAL TULOTSANG**

**NOTICE OF HEARING  
(Subsections 127(1) and 127.1)**

**TAKE NOTICE** that the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to subsections 127(1) and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the Commission offices, 20 Queen Street West, 17<sup>th</sup> Floor, in the Hearing Room, Toronto, Ontario commencing on the 9th day of August, 2000 at 10:00 a.m. or as soon thereafter as the hearing can be held:

**TO CONSIDER** whether, pursuant to subsections 127(1) and 127.1 of the Act, it is in the public interest for the Commission to make an order:

- (i) that the registration of Gordon-Daly Grenadier Securities ("Gordon-Daly"), David Bregman ("Bregman"), Alan Greenberg ("Greenberg"), Oron Sternhill ("Sternhill") and Wangyal Tulotsang ("Tulotsang") be suspended or restricted for such time as the Commission may direct, or be terminated, or be subject to such terms and conditions as the Commission may order;
- (ii) that trading in securities by Gordon-Daly, Bregman, Greenberg, Sternhill and Tulotsang cease permanently or for such other period as specified by the Commission;
- (iii) that Bregman, Greenberg, Sternhill and Tulotsang, or any of them, be prohibited from becoming or acting as a director or officer of any issuer;
- (iv) that the Respondents be reprimanded;
- (v) that the Respondents pay costs to the Commission; and/or
- (vi) such other order as the Commission considers appropriate.

**BY REASON OF** the allegations set out in the Statement of Allegations of Staff of the Commission and such additional allegations as counsel may advise and the Commission may permit;

**AND TAKE FURTHER NOTICE** that any party to the proceeding may be represented by counsel if that party attends or submits evidence at the hearing;

**AND TAKE FURTHER NOTICE** that upon failure of any party to attend at the time and place aforesaid, the hearing may proceed in the absence of that party and such party is not entitled to any further notice of the proceeding.

July 27th, 2000.

"Rose Gomme"  
for John Stevenson

TO: Gordon-Daly Grenadier Securities  
224 Richmond Street West  
Toronto, ON M5V 1V6

AND TO: David Bregman  
224 Richmond Street West  
Toronto, ON M5V 1V6

AND TO: Alan Greenberg  
224 Richmond Street West  
Toronto, ON M5V 1V6

AND TO: Oron Sternhill  
224 Richmond Street West  
Toronto, ON M5V 1V6

AND TO: Wangyal Tulotsang  
224 Richmond Street West  
Toronto, ON M5V 1V6

**1.2.2 Gordon-Daly Grenadier Securities et al -  
Statement of Allegations**

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

**- AND -**

**IN THE MATTER OF  
GORDON-DALY GRENADIER SECURITIES,  
DAVID BREGMAN, ALAN GREENBERG,  
ORON STERNHILL AND WANGYAL TULOTSANG**

**STATEMENT OF ALLEGATIONS OF STAFF OF  
THE ONTARIO SECURITIES COMMISSION**

Staff of the Ontario Securities Commission ("Staff") make the following allegations:

1. The Respondent, Gordon-Daly Grenadier Securities ("Gordon-Daly") is, and was at all material times, registered under Ontario securities law as a securities dealer. Gordon Daly is a partnership of three corporations, Bethmark Investments Limited, ALG Investments Limited and Alon Investments Limited. The three corporations are wholly owned by each of David Bregman ("Bregman"), Alan Greenberg ("Greenberg") and Oron Sternhill ("Sternhill"), respectively.
2. The Respondent Bregman is, and was at all material times, registered under Ontario securities law as an officer of Gordon-Daly, and is the "executive partner" of Gordon-Daly. The Respondent Greenberg is, and was at all material times, registered under Ontario securities law as an officer of Gordon-Daly, and is the "executive general partner" of Gordon-Daly. The Respondent Sternhill is, and was at all material times, registered under Ontario securities law as an officer of Gordon-Daly, and is the "executive partner" of Gordon-Daly. The Respondent Wangyal Tulotsang ("Tulotsang") has been registered under Ontario securities law since March 10, 1998 as an officer of Gordon-Daly, and is, and was during this time, the controller and the compliance officer of Gordon-Daly.
3. During the period from 1996 to 1999 (the "material time"), virtually all of Gordon-Daly's business consisted of it acquiring stock for its own account and selling that same stock to its clients (referred to below as "principal trading"). During this same period, in excess of 90% of Gordon-Daly's revenue was derived from principal trading in the stock of thirteen issuers (the "Thirteen Issuers") referred to below, all of which traded through the Canadian Dealing Network Inc. (the "CDN").
4. The Thirteen Issuers are as follows:
  1. Black Mountain Minerals Inc. ("Black Mountain");
  2. CD Rom Network Inc. ("CD Rom");
  3. Century Financial Capital Group Inc. ("Century Financial");
  4. Magra Computer Technologies Corp. ("Magra");
  5. Olympic Rom World Inc. ("Olympic");

6. Pan Pacific Strategies Corp. ("Pan Pacific");
7. PlanetSafe Enviro Corp. ("PlanetSafe");
8. Polar Innovative Capital Corp. ("Polar Innovative");
9. Southern Reef Ventures Inc. ("Southern Reef");
10. The Streetwear Corporation ("Streetwear");
11. United Pacific Capital Resources Inc. ("United");
12. Westhope Capital Corp. ("Westhope"); and
13. World Wide Interactive Disks Inc. ("World Wide").

5. In the case of the Thirteen Issuers, Gordon-Daly either held stock in its inventory or had exercised option agreements to acquire the stock in the issuer immediately prior to the commencement of principal trading in the stock with its clients. Gordon-Daly acquired stock in the Thirteen Issuers at prices significantly lower than the selling price to its clients. Gordon-Daly re-sold this stock to its own clients at mark-ups above acquisition costs ranging from approximately 56% to approximately 324%, which mark-ups were excessive.
6. During the material time, Gordon-Daly's gross revenue (i.e. revenue from the sale of stock less acquisition costs) earned from principal trading in the stock of the Thirteen Issuers was approximately \$31 million.
7. Particulars of the principal trading in the Thirteen Issuers by Gordon-Daly are set out below.

**Black Mountain Minerals Inc. ("Black Mountain")**

8. Black Mountain is a reporting issuer in Ontario. During the period from January 14, 1998 to May 28, 1999, Gordon-Daly acquired 5.1 million shares of Black Mountain at a weighted average cost of \$0.70 per share.
9. During the period of September 1, 1997 to December 30, 1999, Gordon-Daly sold substantially all of its Black Mountain shares to its own clients at a weighted average price of \$1.91 per share, generating a gross profit of approximately \$5.5 million. The term "weighted average price", as referred to hereafter, is defined as the total dollar value of shares purchased by all clients, divided by the total number of shares purchased by all clients, excluding cancellations and reversals of trades. During this time, Gordon-Daly accounted for approximately 99% of the reported trading of the Black Mountain shares.
10. Gordon-Daly sold Black Mountain shares to its own clients at a mark-up of approximately 173%, which mark-up was excessive. Black Mountain last traded on June 29, 2000 at \$0.20.

**CD Rom Network Inc. ("CD Rom")**

11. CD Rom is a reporting issuer in Ontario. During the period between November 29, 1994 to May 6, 1997, Gordon-Daly acquired 3.6 million shares of CD Rom at a weighted average price of \$0.59 per share.

12. During the period from October 2, 1995 to December 23, 1999, Gordon-Daly sold substantially all of its CD Rom shares to its own clients at a weighted average price of \$0.92 per share, generating a gross profit of approximately \$600,000. During this time, Gordon-Daly accounted for approximately 94% of the reported trading of CD Rom shares.
13. Gordon-Daly sold CD Rom shares to its own clients at a mark-up of approximately 56%, which mark-up was excessive. CD Rom last traded on June 23, 2000 at \$0.05.

**Century Financial Capital Group Inc. ("Century Financial")**

14. Century Financial is a reporting issuer in Ontario. During the period from April 30, 1999 to October 26, 1999, Gordon-Daly acquired 252,000 shares of Century Financial at a weighted average price of \$1.69 per share.
15. During the period from February 4, 1999 to December 30, 1999, Gordon-Daly sold substantially all of its Century Financial shares to its own clients at a weighted average price of \$2.77 per share, generating a gross profit of approximately \$600,000. During this time, Gordon-Daly accounted for approximately 99% of the reported trading in Century Financial shares.
16. Gordon-Daly sold Century Financial shares to its own clients at a mark-up of approximately 64%, which mark-up was excessive.
17. On or about November 1, 1998, Olympic ROM World Inc. ("Olympic") (referred to below) amalgamated with four companies to form Century Financial. Ten shares of Olympic were exchanged for one new share of Century Financial. Century Financial last traded on July 5, 2000 at \$1.97 per share, which is equivalent to approximately \$.20 per Olympic share.

**Magra Computer Technologies Corp. ("Magra")**

18. Magra is a reporting issuer in Ontario. During the period from October 10, 1996 to August 28, 1998, Gordon-Daly acquired 8.1 million shares of Magra at a weighted average price of \$0.66 per share.
19. During the period from September 12, 1996 to December 31, 1999, Gordon-Daly sold substantially all of its Magra shares to its own clients at a weighted average price of \$1.68 per share, generating a gross profit of approximately \$3.9 million. During this time, Gordon-Daly accounted for approximately 97% of the reporting trading of Magra shares.
20. Gordon-Daly sold Magra shares to its own clients at a mark-up of approximately 155%, which mark-up was excessive. Magra last traded on June 29, 2000 at \$0.09.

**Olympic Rom World Inc. ("Olympic")**

21. Olympic (referred to in paragraph 17) is a reporting issuer in Ontario. During the period from March 28,

1995 to December 8, 1997, Gordon-Daly acquired 5.4 million shares of Olympic at a weighted average price of \$0.54 per share.

22. During the period from August 2, 1995 to December 18, 1998, Gordon-Daly sold substantially all of its Olympic shares to its own clients at a weighted average price of \$1.16 per share, generating a gross profit of approximately \$1.7 million. During this time, Gordon-Daly accounted for approximately 95% of the reported trading of Olympic shares.
23. Gordon-Daly sold Olympic shares to its own clients at a mark-up of approximately 115%, which mark-up was excessive. As noted above in paragraph 17, on or about November 1, 1998 Olympic amalgamated with four companies to form Century Financial. Ten shares of Olympic were exchanged for one new share of Century Financial. Century Financial last traded on July 5, 2000 at \$1.97 per share, which is equivalent to approximately \$.20 per Olympic share.

**Pan Pacific Strategies Corp. ("Pan Pacific")**

24. Pan Pacific is a reporting issuer in Ontario. During the period from November 20, 1995 to December 8, 1997, Gordon-Daly acquired 6.3 million shares of Pan Pacific at a weighted average price of \$0.70 per share.
25. During the period from October 3, 1995 to January 19, 1998, Gordon-Daly sold substantially all of its Pan Pacific shares to its own clients at a weighted average price of \$1.30 per share, generating a gross profit of approximately \$2 million. During this time, Gordon-Daly accounted for approximately 80% of the reported trading of Pan Pacific shares.
26. Gordon-Daly sold Pan Pacific shares to its own clients at a mark-up of approximately 86%, which mark-up was excessive. On January 28, 1998 the Commission ordered Pan Pacific to cease trading in securities for failure to file its annual financial statements for the year ended August 31, 1997. Pan Pacific last traded on January 28, 1998 at \$0.40.

**PlanetSafe Enviro Corp. ("PlanetSafe")**

27. PlanetSafe is a reporting issuer in Ontario. During the period from May 25, 1995 to August 22, 1996, Gordon-Daly acquired 4.9 million shares of PlanetSafe at a weighted average cost of \$0.29 per share.
28. During the period from October 2, 1995 to December 29, 1999, Gordon-Daly sold substantially all of its PlanetSafe shares to its own clients at a weighted average price of \$1.23 per share, generating a gross profit of approximately \$800,000. During this time, Gordon-Daly accounted for approximately 81% of the reported trading in PlanetSafe shares.
29. Gordon-Daly sold PlanetSafe shares to its own clients at a mark-up of approximately 324%, which mark-up was excessive. PlanetSafe last traded on April 18, 2000 at \$0.01.



**Polar Innovative Capital Corp. ("Polar Innovative")**

30. Polar Innovative is a reporting issuer in Ontario. During the period from March 17, 1999 to October 28, 1999, Gordon-Daly acquired 1.7 million shares of Polar Innovative at a weighted average price of \$0.62 per share.
31. During the period from January 8, 1999 to December 30, 1999, Gordon-Daly sold substantially all of its Polar Innovative shares to its own clients at a weighted average price of \$2.00 per share, generating a gross profit of approximately \$1.8 million. During this time, Gordon-Daly accounted for 99% of the reported trading in Polar Innovative shares.
32. Gordon-Daly sold Polar Innovative shares to its own clients at a mark-up of approximately 223%, which mark-up was excessive. Polar Innovative last traded on July 5, 2000 at \$2.00. As at July 6, 2000, Gordon-Daly accounted for approximately 95% of the reported trading in Polar Innovative.

**Southern Reef Venture Inc. ("Southern Reef")**

33. Southern Reef is a reporting issuer in Ontario. During the period from October 15, 1996 to April 29, 1999 Gordon-Daly acquired 7.9 million shares of Southern Reef at a weighted average price of \$0.50 per share.
34. During the period from September 10, 1996 to December 31, 1999, Gordon-Daly sold substantially all of its Southern Reef shares to its own clients at a weighted average price of \$1.22 per share, generating a gross profit of approximately \$4.1 million. During this time, Gordon-Daly accounted for 97% of the reported trading of Southern Reef shares.
35. Gordon-Daly sold Southern Reef shares to its own clients at a mark-up of approximately 144%, which mark-up was excessive. Southern Reef last traded on June 26, 2000 at \$0.10.

**The Streetwear Corporation ("Streetwear")**

36. Streetwear is a reporting issuer in Ontario. On October 29, 1999, Gordon-Daly acquired 250,000 shares of Streetwear at a weighted average cost of \$1.05 per share.
37. During the period from July 14, 1999 to December 31, 1999, Gordon-Daly sold substantially all of its Streetwear shares to its own clients at a weighted average price of \$3.15 per share, generating a gross profit of approximately \$500,000. During this time, Gordon-Daly accounted for 88% of the reported trading in Streetwear shares.
38. Gordon-Daly sold Streetwear shares to its own clients at a mark-up of approximately 200%, which mark-up was excessive. Streetwear last traded on July 5, 2000 at \$2.45. As at July 6, 2000 Gordon-Daly accounted for 95% of the reported trading in Streetwear shares.

**United Pacific Capital Resources Inc. ("United")**

39. United is a reporting issuer in Ontario. During the period from January 11, 1999 to October 8, 1999 Gordon-Daly acquired 1.2 million shares of United Class "B" shares at a weighted average price of \$1.24 per share.
40. During the period from August 28, 1998 to December 23, 1999, Gordon-Daly sold substantially all of its United Class "B" shares to its own clients at a weighted average price of \$2.88 per share, generating a gross profit of approximately \$1.4 million. During this time, Gordon-Daly accounted for approximately 98% of the reported trading of United Class "B" shares.
41. Gordon-Daly sold United shares to its own clients at a mark-up of approximately 132%, which mark-up was excessive. United last traded on March 22, 2000 at \$1.72. As at March 22, 2000, Gordon-Daly accounted for 97% of the reported trading in United.

**Westhope Capital Corp. ("Westhope")**

42. Westhope is a reporting issuer in Ontario. During the period from June 25, 1997 to March 9, 1999, Gordon-Daly acquired 5 million shares of Westhope at a weighted average price of \$0.51 per share.
43. During the period from May 12, 1997 to December 24, 1999, Gordon-Daly sold substantially all of its Westhope shares to its own clients at a weighted average price of \$1.55 per share, generating a gross profit of approximately \$4.1 million. During this time, Gordon-Daly accounted for approximately 98% of the reported trading in Westhope shares.
44. Gordon-Daly sold Westhope shares to its own clients at a mark-up of approximately 204%, which mark-up was excessive. Westhope last traded on June 13, 2000 at \$0.15.

**World Wide Interactive Disks Inc. ("World Wide")**

45. World Wide is a reporting issuer in Ontario. During the period from April 25, 1997 to April 1, 1999, Gordon-Daly acquired 5.1 million shares of World Wide at a weighted average price of \$0.50 per share.
46. During the period from January 13, 1997 to December 30, 1999, Gordon-Daly sold substantially all of its World Wide shares to its own clients at a weighted average price of \$1.47 per share, generating a gross profit of approximately \$3.8 million. During this time, Gordon-Daly accounted for approximately 97% of the reported trading in World Wide shares.
47. Gordon-Daly sold World Wide shares to its own clients at a mark-up of approximately 194%, which mark-up was excessive. World Wide last traded on June 8, 2000 at \$0.15.

**Misrepresentations Made or Authorized by Bregman, Greenberg and Sternhill**

48. Gordon-Daly acted as market-maker for a number of the Thirteen Issuers. Pursuant to s. 155 of the Regulation to the *Securities Act* (the "Act"), a registered dealer who wishes to act as a market-maker must make application for approval to so act in accordance with Form 41.
49. Form 41 requires the applicant to state whether or not it has a relationship with the promoter of the issuer. In each application made, either Bregman or Sternhill stated that Gordon-Daly had no direct or indirect association, dealings or arrangements with the issuer or any promoter of the issuer.
50. In respect of eight of the Thirteen Issuers for which Gordon-Daly was market-maker, the promoter of the issuer was Harry Bregman. Harry Bregman was an original founder of Gordon-Daly and is the father of Bregman and the father-in-law of Sternhill.
51. The eight issuers for which Gordon-Daly was market-maker and Harry Bregman was promoter are:
- Black Mountain Minerals Inc.
  - CD Rom Network Inc.
  - Olympic World Inc.
  - Polar Innovative Capital Corp.
  - Southern Reef Ventures Inc.
  - United Pacific Capital Resources Inc.
  - Westhope Capital Corp.
  - World Wide Interactive Disks Inc.
52. In making the statement that Gordon-Daly had no direct or indirect association, dealings or arrangements with a promoter of the issuer, in respect of those issuers listed above, each of Sternhill and Bregman made statements in certain applications that in a material respect and in light of the circumstances under which the statements were made, were misleading or untrue. Greenberg knew, or ought to have known, that Sternhill and Bregman were making the misleading statements and either authorized, permitted or acquiesced in the making of the misstatements by Sternhill and Bregman. In so doing, each of Sternhill, Bregman and Greenberg acted in breach of Ontario securities law, and in particular section 122(1)(b) of the Act, and contrary to the public interest.
53. Form 41 also requires the applicant to state whether or not the insiders or promoters of the issuer, which are known to the applicant, after reasonable enquiry, are trading clients of the applicant. In each application made, either Bregman or Sternhill stated that the insiders of the issuer are not trading clients of the applicant, Gordon-Daly.
54. In respect of those issuers listed below, insiders of the issuer were trading clients of Gordon-Daly at the time the application to be a market-maker, Form 41, was filed.

Issuer	Insider/Client of Gordon-Daly
1 Black Mountain Minerals Inc.	James McCannell, President & Director Milton Klyman, Director Fred Munger, Secretary-Treasurer & Director Gerald Iscove, Director
2 CD Rom Network Inc.	Gordon Wilton, President & Director Samuel Greenberg, Secretary-Treasurer & Director
3 Olympic Rom World Inc.	Gordon Wilton, President & Director Samuel Greenberg, Secretary-Treasurer & Director Gerald Iscove, Director Milton Klyman, Director
4 PlanetSafe Enviro Corp.	Gerald Iscove, Director Milton Klyman, Director
5 Polar Innovative Capital Corp.	James McCannell, President & Director Milton Klyman Fred Munger, Secretary-Treasurer & Director Gerald Iscove, Director
6 Southern Reef Ventures Inc.	Milton Klyman, President, Secretary-Treasurer & Director Gordon Magrill, Director
7 United Pacific Capital Resources Inc.	James McCannell, President & Director Milton Klyman, Secretary-Treasurer & Director Fred Munger, Director Gerald Iscove, Director
8 Westhope Capital Corp.	James McCannell, President & Director Milton Klyman, Secretary-Treasurer & Director Fred Munger, Director Gordon Magrill, Director
9 World Wide Interactive Disks Inc.	Gordon Wilton, President & Director Milton Klyman, Secretary-Treasurer & Director
55.	In making the statement that the insiders of the issuers listed above were not trading clients of Gordon-Daly, Sternhill and Bregman made statements in an application that in a material respect and in light of the circumstances under which the statements were made, were misleading or untrue. Greenberg knew, or ought to have known, that Sternhill and Bregman were making the misleading statements and either authorized, permitted or acquiesced in the making of the misstatements by Sternhill and Bregman. In so doing, each of Sternhill, Bregman and Greenberg acted in breach of Ontario securities law, and in particular, section 122(1)(b) of the Act, and contrary to the public interest.

**Failure to Keep Books and Records Required Under Ontario Securities Law**

56. During the material time, Gordon-Daly failed to keep such books, records and other documents as are

required under Ontario securities law, and in particular, as are required under section 19 of the Act. In particular, in response to Staff's request to deliver certain books and records pursuant to an order under subsection 19(3) of the Act, Gordon-Daly advised that it was unable to retrieve and produce to Staff the following documents:

- (i) All New Client Application Forms, including updates, and all other account opening documentation for all accounts in the name of Harry Bregman, Jim McCannell, Milton Klyman, Gordon Magrill, Fidelity Commerce Securities Corp., Fred Munger, Gordon Wilton, Jerry Iscove, Irwin Singer in Trust, Double A.J. Limited, J.C. David Securities Ltd. and Sam Greenberg; and
- (ii) The account opening date(s) and, where applicable, closing date(s) for each account of Harry Bregman, Jim McCannell, Milton Klyman, Gordon Magrill, Fidelity Commerce Securities Corp., Fred Munger, Gordon Wilton, Jerry Iscove, Irwin Singer in Trust, Double A.J. Limited, J.C. David Securities Ltd. and Sam Greenberg.

**Conduct Contrary to Public Interest**

- 57. In engaging in the conduct described above, the respondents may have failed to deal fairly, honestly and in good faith with their clients, in breach of the requirements set out in Ontario securities law, and in particular, subsections 2.1(1) and (2) of Rule 31-505, may not have acted in the best interests of their clients, and acted contrary to the public interest. The respondents, Bregman, Greenberg, Sternhill and Tulotsang authorized, permitted or acquiesced in the contraventions by Gordon-Daly, as described above, and acted contrary to the public interest.
- 58. Further, as described above, Sternhill and Bregman made statements in certain Form 41 applications, that in a material respect and in light of the circumstances under which the statements were made, were misleading or untrue, and in breach of Ontario securities law, and contrary to the public interest. Greenberg, as a registered officer of Gordon-Daly, either authorized, permitted or acquiesced in the making of the misstatements by Sternhill and Bregman.
- 59. As described above, Gordon-Daly failed to keep such books, records and other documents as are required under Ontario securities law, and in particular, as are required under section 19 of the Act. The respondents, Bregman, Greenberg, Sternhill and Tulotsang authorized, permitted or acquiesced in the contraventions by Gordon-Daly to keep such records as are required under Ontario securities law.
- 60. Such additional allegations as Staff may make and the Commission may permit.

**1.2.3 Price Warner Securities Ltd. et al - s.127(1) and 127.1**

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

**- AND -**

**IN THE MATTER OF  
PRICE WARNER SECURITIES LTD.,  
IAN ROLIN AND LORNE ROLIN**

**NOTICE OF HEARING  
(Subsections 127(1) and 127.1)**

**TAKE NOTICE** that the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to subsection 127(1) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the Commission offices, 20 Queen Street West, 17<sup>th</sup> Floor, in the Hearing Room, Toronto, Ontario commencing on the 3<sup>rd</sup> day of August, 2000 at 10:00 a.m. or as soon thereafter as the hearing can be held:

**TO CONSIDER** whether, pursuant to subsections 127(1) and 127.1 of the Act, it is in the public interest for the Commission to make an order:

- (i) that the registration of Price Warner Securities Ltd. ("Price Warner") Ian Rolin and Lorne Rolin (together referred to as the "Respondents") be suspended or restricted for such time as the Commission may direct, or be terminated, or be subject to such terms and conditions as the Commission may order;
- (ii) that trading in securities by the Respondents cease permanently or for such other period as specified by the Commission;
- (iii) that the Respondents, Ian Rolin and/or Lorne Rolin, be prohibited from becoming or acting as a director or officer of any issuer;
- (iv) that the Respondents be reprimanded;
- (v) that the Respondents pay costs to the Commission; and/or
- (vi) such other order as the Commission considers appropriate.

**BY REASON OF** the allegations set out in the Statement of Allegations of Staff of the Commission and such additional allegations as counsel may advise and the Commission may permit;

**AND TAKE FURTHER NOTICE** that any party to the proceeding may be represented by counsel if that party attends or submits evidence at the hearing;

**AND TAKE FURTHER NOTICE** that upon failure of any party to attend at the time and place aforesaid, the hearing may proceed in the absence of that party and such party is not entitled to any further notice of the proceeding.

July 27th, 2000.

"Rose Gomme"  
for John Stevenson

TO: Price Warner Securities Ltd.

AND TO: Ian Rolin

AND TO: Lorne Rolin

**1.2.4 Price Warner Securities Ltd. et al -  
Statement of Allegations**

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

**- AND -**

**IN THE MATTER OF  
PRICE WARNER SECURITIES LTD.,  
IAN ROLIN AND LORNE ROLIN**

**STATEMENT OF ALLEGATIONS OF STAFF OF  
THE ONTARIO SECURITIES COMMISSION**

Staff of the Ontario Securities Commission ("Staff") make the following allegations:

1. The Respondent, Price Warner Securities Ltd. ("Price Warner"), is, and was at all material times, registered under Ontario securities law as a securities dealer. The Respondent Ian Rolin is, and was at all material times, registered under Ontario securities law and is the President, compliance officer and a director of Price Warner. The Respondent Lorne Rolin is, and was at all material times, registered under Ontario securities law and is an officer of Price Warner.
2. During the period from 1996 to 1999 (the "material time"), virtually all of Price Warner's business consisted of it acquiring stock for its own account and selling that stock to its clients (referred to below as "principal trading").
3. During the period from 1996 to 1999, approximately 90% of Price Warner's revenue was derived from principal trading in the stock of thirteen issuers (the "Thirteen Issuers"), referred to below, all of which traded on the Canadian Dealing Network Inc. (the "CDN"). As outlined below, in the case of eleven of the Thirteen Issuers, Price Warner, or Price Warner together with another securities dealer, accounted for more than 93% of the reported trading of stock of the Thirteen Issuers on the CDN. The Thirteen Issuers are as follows:
  1. Active Control Technology Inc.
  2. AMT Fine Foods Ltd.
  3. Champion Gold Resources Inc.
  4. CTM Cafés Inc.
  5. Forsys Corporation
  6. Gemstar Communications Inc.
  7. GolfNorth Properties Inc.
  8. Infolink Technologies Ltd.
  9. Microlab Online Inc.
  10. Partner Jet Corp.
  11. Racad Technologies Ltd.
  12. SFP Communications Group Inc.
  13. Triangle Multi-Services Corporation

3. In the case of the Thirteen Issuers, Price Warner either held stock in its inventory or had exercised option agreements to acquire the stock in the issuer immediately prior to the commencement of principal trading in the stock with clients. Price Warner acquired stock in the Thirteen Issuers at prices significantly lower than the selling price to its clients. Price Warner resold the stock to its own clients at mark-ups above acquisition costs ranging from 112% to 574%, which mark-ups were excessive.
4. During the material time, Price Warner's gross revenue (i.e., revenue from sale of stock less acquisition costs) earned from principal trading in the stock of the Thirteen Issuers was approximately \$26.4 million.
5. Particulars of the principal trading in the Thirteen Issuers by Price Warner are set out in Schedule "A" attached.

**Conduct of the Respondents Contrary to the Public Interest**

6. In engaging in the conduct described above, the respondents may have failed to deal fairly, honestly and in good faith with their clients and may not have acted in the best interests of their clients, and acted contrary to the public interest. The respondents, Lorne Rolin and Ian Rolin, authorized, permitted or acquiesced in the contraventions by Price Warner, as described above, and acted contrary to the public interest.
7. Such additional allegations as Staff may make and the Commission may permit.

**SCHEDULE "A"**

**RE: STATEMENT OF ALLEGATIONS - PRICE WARNER**

**Active Control Technology Inc. ("Active")**

1. Active is a reporting issuer in Ontario. During the period from May 29, 1997 to March 20, 1998, Price Warner acquired approximately 1,650,000 shares of Active at a weighted average cost of \$0.43 per share pursuant to certain option agreements.
2. During the period from May 14, 1997 to December 16, 1999, Price Warner sold substantially all of its shares in Active to its own clients at a weighted average price of \$1.70 per share, generating a gross profit to it of approximately \$2.3 million. The term "weighted average price", as referred to hereafter, is defined as the total dollar value of shares purchased by all clients, divided by the total number of shares purchased by all clients, excluding cancellations and reversals of trades. During this time, Price Warner accounted for approximately 58% of the reported trading of Active shares, while another securities dealer accounted for approximately 42% of the reported trading of Active shares.
3. Price Warner sold Active shares to its clients at a mark-up of approximately 295%, which mark-up was excessive. Active last traded on June 30, 2000 at \$0.10.

**AMT Fine Foods Ltd. ("AMT")**

4. AMT is a reporting issuer in Ontario. During the period from February 26, 1998 to September 24, 1998, Price Warner acquired approximately 1,680,000 shares of AMT at a weighted average cost of \$0.77 per share pursuant to certain option agreements.
5. During the period from February 16, 1998 to December 26, 1999, Price Warner sold substantially all its shares in AMT to its own clients. Price sold the shares at a weighted average price of \$1.63 per share, generating a gross profit to it of approximately \$2.2 million. During this time, Price Warner accounted for approximately 67% of the reported trading of AMT shares while another securities dealer accounted for approximately 33% of the reported trading of AMT shares.
6. Price Warner sold AMT shares to its clients at a mark-up of approximately 112%, which mark-up was excessive. AMT last traded on June 28, 2000 at \$0.02.

**Champion Gold Resources Inc. ("Champion")**

7. Champion is a reporting issuer in Ontario. During the period from July 8, 1997 to March 4, 1999, Price Warner acquired approximately 1,150,000 shares of Champion at a weighted average cost of \$0.30 per share pursuant to certain option agreements.
8. During the period from July 15, 1997 to May 31, 1999, Price Warner sold substantially all of its Champion shares to its own clients at a weighted average price of

\$1.47 per share, generating a gross profit to it of approximately \$1.4 million. During this time, Price Warner accounted for approximately 54% of the reported trading of Champion shares, while another securities dealer accounted for approximately 42% of the reported trading of the Champion shares.

9. Price Warner sold Champion shares to its clients at a mark-up of approximately 390%, which mark-up was excessive. Champion last traded on June 13, 2000 at \$0.02.

#### **CTM Cafés Inc. ("CTM")**

10. CTM is a reporting issuer in Ontario. During the period from September 11, 1998 to June 23, 1999, Price Warner acquired approximately 1,380,000 shares of CTM at a weighted average cost of \$0.38 per share pursuant to certain option agreements.
11. During the period from September 11, 1998 to October 27, 1999, Price Warner sold substantially all of its CTM shares to its own clients at a weighted average price of \$2.26 per share, generating a gross profit of approximately \$2.7 million. During this time, Price Warner accounted for approximately 60% of the reported trading of CTM shares, while another securities dealer Limited accounted for approximately 40% of the reported trading of CTM shares.
12. Price Warner sold CTM shares to its clients at a mark-up of approximately 495%, which mark-up was excessive. CTM last traded on July 5, 2000 at \$0.05.

#### **Forsys Corporation ("Forsys")**

13. Forsys is a reporting issuer in Ontario. During the period from January 10, 1997 to November 25, 1997, Price Warner acquired 2,196,607 shares of Forsys at a weighted average cost of \$0.40 per share pursuant to certain option agreements.
14. During the period from December 17, 1996 to August 14, 1998, Price Warner sold substantially all of its Forsys shares to its own clients at a weighted average price of \$1.66 per share, generating a gross profit of approximately \$3 million. During this time, Price Warner accounted for approximately 49% of the reported trading of Forsys shares, while another securities dealer accounted for approximately 48% of the reported trading of Forsys shares.
15. Price Warner sold Forsys shares to its clients at a mark-up of approximately 315%, which mark-up was excessive. Forsys last traded on June 6, 2000 at \$0.02.

#### **Gemstar Communications Inc. ("Gemstar")**

16. Gemstar is a reporting issuer in Ontario. During the period from April 8, 1996 to June 28, 1996, Price Warner acquired approximately 1,650,000 shares of Gemstar at a weighted average cost of \$0.43 per share pursuant to certain option agreements.
17. During the period from March 26, 1996 to June 23, 1999, Price Warner sold substantially all of its Gemstar shares to its own clients at a weighted average price of \$1.52 per share, generating a gross profit of approximately \$2 million. During this material time, Price Warner accounted for approximately 23% of the reported trading of Gemstar shares, while another securities dealer accounted for approximately 42% of the reported trading of Gemstar shares.
18. Price Warner sold Gemstar shares to its clients at a mark-up of approximately 253%, which mark-up was excessive. Gemstar last traded on July 5, 2000 at \$0.30.

#### **GolfNorth Properties Inc. ("GolfNorth")**

19. GolfNorth is a reporting issuer in Ontario. During the period from May 6, 1998 to May 17, 1999, Price Warner acquired 1,922,000 shares of GolfNorth at a weighted average cost of \$0.34 per share.
20. During the period from March 28, 1998 to August 31, 1999, Price Warner sold substantially all of its GolfNorth shares to its own clients at a weighted average price of \$2.29 per share, generating a gross profit of approximately \$3.5 million. During this time, Price Warner accounted for approximately 66% of the reported trading of GolfNorth shares, while another securities dealer accounted for approximately 31% of reported trading of GolfNorth shares.
21. Price Warner sold GolfNorth shares to its clients at a mark-up of approximately 574%, which mark-up was excessive. GolfNorth last traded on July 5, 2000 at \$0.30.

#### **Infolink Technologies Ltd. ("Infolink")**

22. Infolink is a reporting issuer in Ontario. During the period from September 15, 1999 to December 31, 1999, Price Warner acquired 2,200,000 shares of Infolink at a weighted average cost of \$0.25 per share pursuant to certain option agreements.
23. During the period from August 31, 1999 to December 31, 1999, Price Warner sold substantially all of its Infolink shares to its own clients at a weighted average price of \$0.75 per share, generating a gross profit of approximately \$700,000. During this time, Price Warner accounted for approximately 100% of the reported trading of Infolink shares.
24. Price Warner sold Infolink shares to its clients at a mark-up of approximately 200%, which mark-up was excessive. Infolink last traded on July 5, 2000 at \$0.55.

**Microlab Online Inc. ("Microlab")**

- 25. Microlab is a reporting issuer in Ontario. During the period from July 7, 1999 to December 2, 1999, Price Warner acquired 1,600,000 shares of Microlab at a weighted average cost of \$0.28 per share pursuant to certain option agreements.
- 26. During the period from July 7, 1999, to December 29, 1999, Price Warner sold substantially all of its Microlab shares to its own clients at a weighted average price of \$1.05 per share, generating a gross profit of approximately \$1 million. During this period, Price Warner accounted for approximately 81% of the reported trading of Microlab shares, while another securities dealer accounted for approximately 18% of the reported trading of Microlab shares.
- 27. Price Warner sold Microlab shares to its clients at a mark-up of approximately 275%, which mark-up was excessive. Microlab last traded on July 5, 2000 at \$0.36.

**Partner Jet Corp. ("Partner")**

- 28. Partner is a reporting issuer in Ontario. During the period between November 28, 1997 to December 4, 1998, Price Warner acquired approximately 1,066,128 shares of Partner at a weighted average cost of \$0.60 per share pursuant to certain option agreements.
- 29. During the period from October 21, 1997 to December 20, 1999, Price Warner sold substantially all of its Partner shares to its own clients at a weighted average price of \$1.86 per share, generating a gross profit of approximately \$1.5 million. During this time, Price Warner accounted for approximately 47% of the reported trading of the Partner shares, while another securities dealer accounted for approximately 53% of the reporting trading of Partner shares.
- 30. Price Warner sold Partner shares to its clients at a mark-up of approximately 210%, which mark-up was excessive. Partner last traded on April 11, 2000 at \$0.10.

**Racad Technologies Ltd. ("Racad")**

- 31. Racad is a reporting issuer in Ontario. During the period from July 12, 1996 to June 27, 1997, Price Warner acquired approximately 2,226,000 shares of Racad at a weighted average cost of \$0.41 per share pursuant to certain option agreements.
- 32. During the period from June 25, 1996 to a July 7, 1998, Price Warner sold substantially all of its Racad shares to its own clients at a weighted average price of \$1.64 per share, generating a gross profit of approximately \$2.8 million. During this time, Price Warner accounted for approximately 60% of the reported trading of Racad shares, while another securities dealer accounted for approximately 35% of the reported trading of Racad shares.
- 33. Price Warner sold Racad shares to its clients at a

mark-up of approximately 300%, which mark-up was excessive.

- 34. Racad is no longer quoted or reportable on CDN . Racad last traded on July 7, 1998 at \$0.10.

**SFP Communications Group Inc. ("SFP")**

- 35. SFP is a reporting issuer in Ontario. During the period from January 11, 1999 to January 19, 2000, Price Warner acquired approximately 1,760,000 of SFP at a weighted average cost of \$0.62 per share pursuant to certain option agreements.
- 36. During the period from January 11, 1999 to December 31, 1999, Price Warner sold substantially all of its SFP shares to its own clients at a weighted average price of \$1.97 per share, generating a gross profit of approximately \$2.1 million. During this time, Price Warner accounted for approximately 72% of the reported trading of SFP shares, while another securities dealer accounted for approximately 28% of the reported trading of SFP shares.
- 37. Price Warner sold SFP shares to its clients at a mark-up of approximately 213%, which mark-up was excessive. SFP last traded on July 5, 2000 at \$0.58.

**Triangle Multi-Services Corporation ("Triangle")**

- 38. Triangle is a reporting issuer in Ontario. During the period from June 13, 1996 to April 9, 1997, Price Warner acquired 1,140,000 shares of Triangle at a weighted average cost of \$0.45 per share pursuant to certain option agreements.
- 39. During the period from April 30, 1996 to December 20, 1999, Price Warner sold substantially all of its Triangle shares to its own clients at a weighted average price of \$1.43 per share, generating a gross profit of approximately \$1.2 million. During this time, Price Warner accounted for approximately 47% of the reported trading of Triangle shares, while another securities dealer accounted for approximately 46% of the reported trading of Triangle shares.
- 40. Price Warner sold Triangle shares to its clients at a mark-up of approximately 240%, which mark-up was excessive. Triangle last traded on May 18, 2000 at \$0.02.

## 1.3 News Release

### 1.3.1 Gordon-Daly Grenadier Securities et al

July 27, 2000

**COMMISSION TO CONSIDER A SETTLEMENT IN THE  
MATTER OF  
GORDON-DALY GRENADIER SECURITIES,  
DAVID BREGMAN, ALAN GREENBERG,  
ORON STERNHILL AND WANGYAL TULOTSANG**

**Toronto** - The Ontario Securities Commission (the "Commission") announced today that it has issued a Notice of Hearing and Statement of Allegations against Gordon-Daly Grenadier Securities ("Gordon-Daly"), David Bregman ("Bregman"), Alan Greenberg ("Greenberg"), Oron Sternhill ("Sternhill") and Wangyal Tulotsang ("Tulotsang"). A hearing to consider this settlement has been set for August 9, 2000.

Gordon-Daly is registered as a securities dealer. Bregman is registered as an officer of Gordon-Daly, and is the "executive partner" of Gordon-Daly. Greenberg is registered as an officer of Gordon-Daly, and is the "executive general partner" of Gordon-Daly. Sternhill is registered as an officer of Gordon-Daly and is the "executive partner" of Gordon-Daly. Tulotsang was registered under Ontario securities law as an officer of Gordon-Daly during the period from March 10, 1998 to December 16, 1999, and was during this time, the controller and the compliance officer of Gordon-Daly.

#### **Allegations Related to Principal Trading by Gordon-Daly With its Clients at Excessive Mark-Ups.**

The allegations relate to Gordon-Daly's conduct during the period from 1996 to 1999 in relation to its acquisition of stock for its own account, in thirteen issuers (the "Thirteen Issuers") trading on the Canadian Dealing Network Inc. (the "CDN"), and the re-sale of that same stock to its clients (referred to as "principal trading") at excessive mark-ups. Staff of the Commission allege that during the material times, in excess of 90% of Gordon-Daly's revenue was earned from principal trading derived from trading stock of Thirteen Issuers. Staff allege that in the case of the Thirteen Issuers, Gordon-Daly either held stock in its inventory or had exercised option agreements to acquire the stock in the issuer immediately prior to the commencement of principal trading in the stock with its clients. Staff further allege that Gordon-Daly acquired stock in the Thirteen Issuers at prices significantly lower than the selling price to its clients. It is alleged that Gordon-Daly re-sold this stock to its own clients at mark-ups above acquisition costs ranging from approximately 56% to approximately 324%, which mark-ups were excessive during the three year period.

Staff further allege that between 1996 to 1999, Gordon-Daly's gross revenue (i.e., revenue from the sale of stock less acquisition costs) earned from principal trading in the stock of the Thirteen Issuers was approximately \$31 million.

Particulars of the principal trading in the Thirteen Issuers by Gordon-Daly are set out in the attached Statement of Allegations.

Staff allege that in engaging in this conduct, Gordon-Daly and its officers, Bregman, Greenberg, Sternhill and Tulotsang, may have failed to deal fairly, honestly and in good faith with their clients, in breach of the requirements set out in Ontario securities law, and in particular, subsections 2.1(1) and (2) of Rule 31-505, did not act in the best interests of their clients, and otherwise acted contrary to the public interest.

#### **Allegations Related to Misrepresentations Made or Authorized by Bregman, Sternhill and Greenberg**

Staff have further alleged that the respondents, Sternhill and Bregman, made statements in applications for approval by Gordon-Daly to act as market-maker for a number of the Thirteen Issuers, in accordance with Form 41 of the Ontario Securities Act, that in a material respect and in light of the circumstances under which the statements were made, were misleading or untrue, in breach of Ontario securities law, and contrary to the public interest, in particular, Staff have alleged that either Bregman or Sternhill stated that Gordon-Daly had no direct or indirect association, dealings or arrangements with the issuer. Staff have alleged that in respect of eight of the Thirteen Issuers for which Gordon-Daly was market-maker, the promoter of the issuer was Harry Bregman, the original founder of Gordon-Daly, the father of David Bregman, and the father-in-law of Oron Sternhill.

In addition, Form 41 also requires that the applicant state whether or not the insiders or promoters of the issuer, which are known to the applicant, after reasonable inquiry, are trading clients of the applicant. Staff allege that in each application made, Bregman or Sternhill stated that the insiders of the issuers are not trading clients of the applicant, Gordon-Daly. As outlined more particularly in the Statement of Allegations, in respect of certain issuers, insiders of each issuer were trading clients of Gordon-Daly at the time Gordon-Daly filed its applications to be market-maker of the respective issuers. Staff allege that, in making the statement that certain insiders of the issuers were not trading clients of Gordon-Daly, Sternhill and Bregman made statements in the application, that in a material respect in light of the circumstances under which the statements were made, were misleading or untrue. Staff have further alleged that Greenberg knew, or ought to have known, that Sternhill and Bregman were making the misleading statements and that he either authorized, permitted or acquiesced in the making of the misstatements outlined above by Sternhill and Bregman.

#### **Allegations Related to Gordon-Daly's Failure to Keep Proper Books and Records**

Staff have further alleged that Gordon-Daly failed to keep such books, records and other documents as are required under Ontario securities law, and in particular, as required under section 19 of the Act. In particular, Staff have alleged that in response to Staff's request to deliver certain books and records pursuant to an order under subsection 19(3) of the Act, Gordon-Daly advised that it was unable to retrieve and produce to Staff certain documents, including new client application forms, up-dates to client application forms, and all other account opening documentation for all accounts in



respect of certain clients.

The hearing of this matter is scheduled to commence on August 9, 2000, at 10:00 a.m., in the main hearing room of the Commission located on the 17<sup>th</sup> Floor, 20 Queen Street West, Toronto, Ontario. The purpose of the hearing on August 19, 2000 is to seek approval by the Commission of a settlement reached between Staff and the respondents.

Copies of the Notice of Return of Hearing and Statement of Allegations are available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca) or from the Commission, 19<sup>th</sup> Floor, 20 Queen Street West, Toronto, Ontario.

References: Frank Switzer  
Manager, Corporate Relations  
(416) 593-8120

Brian Butler  
Manager, Enforcement Branch  
(416) 593-8156

### **1.3.2 Price Warner Securities Ltd., Ian Rolin and Lorne Rolin**

July 27, 2000

#### **COMMISSION TO CONSIDER A SETTLEMENT IN THE MATTER OF PRICE WARNER SECURITIES LTD., IAN ROLIN AND LORNE ROLIN**

**Toronto** - The Ontario Securities Commission (the "Commission") announced today that it has issued a Notice of Hearing and Statement of Allegations against Price Warner Securities Ltd ("Price Warner"), Ian Rolin and Lorne Rolin. A hearing to consider this settlement has been set for August 3, 2000.

Price Warner is registered as a securities dealer. Ian Rolin, was at all material times, the President, compliance Officer and a Director of Price Warner. Lorne Rolin, was at all material times, registered under Ontario securities law and is an officer of Price Warner.

#### **Allegations Related to Principal Trading by Price Warner With its Clients at Excessive Mark-Ups.**

The allegations relate to Price Warner's conduct during the period from 1996 to 1999 in relation to its acquisition of stock for its own account in thirteen issuers (the "Thirteen Issuers") trading on the Canadian Dealing Network Inc. (the "CDN"), and the re-sale of that same stock to its clients (referred to as "principal trading") at excessive mark-ups. Staff of the Commission allege that during the material times, in excess of 90% of Price Warner's revenue was earned from principal trading and derived from trading stock of the Thirteen Issuers. Staff allege that in the case of the Thirteen Issuers, Price Warner either held stock in its inventory or had exercised option agreements to acquire the stock in the issuer immediately prior to the commencement of principal trading in the stock with its clients. Staff further allege that Price Warner acquired stock in the Thirteen Issuers at prices significantly lower than the selling price to its clients. It is alleged that Price Warner re-sold this stock to its own clients at mark-ups above acquisition costs ranging from approximately 112% to 574%, which mark-ups were excessive.

Staff further allege that during the three year period 1996 - 1999, Price Warner's gross revenue (i.e., revenue from the sale of stock less acquisition costs) earned from principal trading with stock of the Thirteen Issuers was approximately \$26.4 million.

Particulars of the principal trading are set out in the attached Statement of Allegations.

Staff allege that in engaging in this conduct Price Warner and its officers Lorne Rolin and Ian Rolin may have failed to deal honestly, fairly and in good faith with their clients and may not have acted in the best interest of their clients and otherwise acted contrary to the public interest.

The hearing of this matter is scheduled to commence on August 3, 2000, at 10:00 a.m., in the main hearing room of the Commission located on the 17<sup>th</sup> Floor, 20 Queen Street West, Toronto, Ontario. The purpose of the hearing on August 3, 2000 is to seek approval by the Commission of a settlement reached between Staff and the respondents.

Copies of the Notice of Return of Hearing and Statement of Allegations are available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca) or from the Commission, 19<sup>th</sup> Floor, 20 Queen Street West, Toronto, Ontario.

References: Frank Switzer  
Manager, Corporate Relations  
(416) 593-8120

Brian Butler  
Manager, Enforcement Branch  
(416) 593-8156

### **1.3.3 CSA News Release -- Regulators On Track to Introduce Alternative Trading Systems into Canada**

July 28, 2000

#### **REGULATORS ON TRACK TO INTRODUCE ALTERNATIVE TRADING SYSTEMS INTO CANADA**

**Toronto** -- The Canadian Securities Administrators (CSA) have taken another step towards introducing Alternative Trading Systems (ATs) into Canadian capital markets.

The CSA today republished two national instruments and related documents as part of an initiative to create a framework that permits competitive operation of traditional exchanges and ATs in Canada, while ensuring that trading is fair and transparent.

National Instrument 21-101 Marketplace Operation sets out requirements applicable to marketplaces including information consolidation, market integration, access and system capacity requirements and reporting and record keeping requirements. National Instrument 23-101 Trading Rules sets out common trading rules that apply to trading in all marketplaces.

"This initiative will benefit investors by introducing greater competition into the marketplace," said Randee Pavalow, Chair of the CSA Staff Committee on ATs. "It will give investors a choice and improve price transparency, which should result in lower trading costs."

In response to comments on the proposal since it was introduced last year, the CSA have separated the equity and fixed income markets for purposes of market consolidation and market regulation. These changes have been made to better reflect the historical differences between the fixed income market and the equity market.

As part of the proposal, the CSA are also distributing a Request for Proposals (RFP) for the establishment of a data consolidator. The data consolidator is being set up to receive and collect quotation and transaction information from each marketplace and to disseminate consolidated information to market data vendors, news services and other customers.

It is expected that final rules will be in place by this December, allowing ATs to begin trading in 2001.

For more information on the report, please visit the following websites or the office of your securities regulator.

Ontario: [www.osc.gov.on.ca](http://www.osc.gov.on.ca)  
Quebec: [www.cvmq.com](http://www.cvmq.com)  
British Columbia: [www.bcsc.bc.ca](http://www.bcsc.bc.ca)  
Alberta: [www.albertasecurities.com](http://www.albertasecurities.com)  
Manitoba: [www.msc.gov.mb.ca](http://www.msc.gov.mb.ca)

**CONTACT:** Randee Pavalow  
Manager, Market Regulation  
Ontario Securities Commission  
(416) 593-8257

### **1.3.4 OSC Posts Electronic Forms on Web site to Improve Customer Service to Registrants**

July 28, 2000

#### **OSC Posts Electronic Forms on Web Site to Improve Customer Service to Registrants**

**Toronto** - The Ontario Securities Commission has recently posted on its Web site electronic versions of Application Forms 3 and 4 that are used for registration under the *Securities Act*. Form 3 is an application to be used by every business applicant seeking registration or approval from the OSC as a dealer or advisor. Form 4 is an application to be used by every individual applicant seeking registration or approval from the OSC as a partner, director or officer of a dealer or advisor.

Current and prospective registrants will be able to download the forms and type in their responses. This will streamline the registration process and will result in substantial time savings.

"These improvements clearly demonstrate the OSC's commitment to providing high quality and user-friendly customer services," stated Dina Dizon, the OSC's Assistant General Manager of Registration. "Increasingly, Internet technology is driving market innovation and facilitating the creation of more sophisticated financial products and transactions. The OSC will continue to provide a wider range of online services geared towards market participants."

The new forms can be accessed online at [www.osc.gov.on.ca](http://www.osc.gov.on.ca). Registrants are invited to make suggestions with respect to the design of the forms. Suggestions should be forwarded to the OSC Webmaster@osc.gov.on.ca.

**Media Contact:** Frank Switzer  
Manager, Corporate Relations  
(416) 593-8120

**Industry Contact:** Dina Dizon  
Assistant General Manager, Registration  
Capital Markets Branch  
(416) 593-3660

### 1.3.5 Price Warner Securities Ltd., Ian Rolin and Lorne Rolin

August 1, 2000

#### PRICE WARNER SECURITIES LTD. IAN ROLIN AND LORNE ROLIN

**Toronto** - On July 27, 2000 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing and related Statement of Allegations against Price Warner Securities Ltd. ("Price Warner"), Ian Rolin and Lorne Rolin. The hearing to consider the proposed settlement agreement between Staff and the respondents, set for Thursday, August 3, 2000, will commence at 9:30 a.m. (and not 10:00 a.m. as previously stated in the Commission's press release dated July 27, 2000).

The hearing will be held in the main hearing room of the Commission located on the 17<sup>th</sup> Floor, 20 Queen Street West, Toronto, Ontario.

Copies of the Notice of Hearing and Statement of Allegations are available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca) or from the Commission, 19<sup>th</sup> Floor, 20 Queen Street West, Toronto, Ontario.

References: Rowena McDougall  
Senior Communications Officer  
(416) 593-8117

Michael Watson  
Director, Enforcement Branch  
(416) 593-8156

### 1.3.6 OSC Releases Final Results of Corporate Disclosure Survey

August 2, 2000

#### OSC Releases Final Results of Corporate Disclosure Survey

**Toronto** -- The Ontario Securities Commission has released the final results of a corporate disclosure survey conducted by its Continuous Disclosure team last year. The survey is part of an OSC initiative to examine the practice of selective disclosure in the marketplace. In general, the results of the survey indicate that the extent and nature of corporate disclosure policies and practices of issuers are not sufficient to reduce the potential for selective disclosure.

"We have become increasingly concerned about selective disclosure and the potential impact of this practice on market integrity," said John Hughes, Manager of the Continuous Disclosure Team. "Selective disclosure creates opportunities for insider trading. It undermines retail investors' confidence in the market by creating a perception that analysts and institutional investors have access to information that is not available to other investors," he added.

Selective disclosure occurs when corporate officers disclose material corporate information to select groups or individuals such as analysts or institutional investors that has not been disclosed to the public.

Some highlights of the survey are:

- only 29% of the respondents have written corporate disclosure policies;
- only 19% of respondents invite retail investors to the quarterly conference call;
- only 18% of respondents broadcast their quarterly conference call via Internet or by other means;
- 81% of the respondents reported that they have one-on-one meetings with analysts;
- 98% of the respondents reported that they typically comment in some form on draft analyst reports; and
- 27% of the respondents indicated that they express a level of comfort on earnings projections.

In the fall of this year the Commission will publish for comment a policy statement which will suggest practical steps that companies can take to ensure that they meet the letter and spirit of Ontario's regulatory requirements. Some of the areas that we expect to provide guidance on include: the importance of having a written disclosure policy, limiting the number of authorized spokespersons, opening up access to conference calls and using advances in technology to achieve better dissemination of information. The Commission's goal in proposing the policy is to encourage companies to aim for best practice in their disclosure regime, not just minimum level of compliance with the law.

Reference:

John Hughes  
Manager, Continuous Disclosure Team  
(416) 593-3695  
jhughes@osc.gov.on.ca

Rowena McDougall  
Sr. Communications Officer  
(416) 593-8117  
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## Chapter 2

# Decisions, Orders and Rulings

## 2.1 Decisions

### 2.1.1 The Canadian Scholarship Trust Plan et al - MRRS Decision

#### Headnote

MRRS Exemptive Relief Application - Extension of lapse date.

#### Statutes Cited

*Securities Act*, R.S.O. 1990, c.S.5, as am., ss. 62(5)

#### Rules Cited

National Policy 43-201 entitled: Mutual Reliance Review System for Prospectus and AIF's.

National Instrument 81-101 entitled: Mutual Fund Prospectus Disclosure.

National Instrument 81-102 entitled: Mutual Funds.

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,  
MANITOBA, ONTARIO, NEWFOUNDLAND,  
NOVA SCOTIA AND PRINCE EDWARD ISLAND**

**AND**

**IN THE MATTER OF  
THE MUTUAL RELIANCE REVIEW SYSTEM  
FOR EXEMPTIVE RELIEF APPLICATIONS**

**AND IN THE MATTER OF  
THE CANADIAN SCHOLARSHIP TRUST PLAN -  
OPTIONAL PLAN,  
THE CANADIAN SCHOLARSHIP TRUST PLAN -  
MILLENNIUM PLAN**

**AND  
THE CANADIAN SCHOLARSHIP TRUST PLAN -  
MILLENNIUM FAMILY PLAN**

**MRRS DECISION DOCUMENT**

**WHEREAS** the local securities regulatory authority or regulator (the "Decision Maker") in each of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Newfoundland, Nova Scotia and Prince Edward Island (the "Jurisdictions") have received an application from Canadian Scholarship Trust Foundation (the "Foundation"), the sponsor and administrator of The Canadian Scholarship Trust Plan - Optional Plan (the "Optional Plan"), The Canadian Scholarship Trust Plan - Millennium Plan (the "Millennium Plan") and The Canadian Scholarship Trust Plan - Millennium Family Plan (the

"Millennium Family Plan") (collectively, the "Plans"), for a decision under the securities legislation of the Jurisdictions (the "Legislation") extending the lapse date of the prospectus under which the current offering of the Plans is being made (the "Current Prospectus");

**AND WHEREAS** under the Mutual Reliance Review System for Exemptive Relief Applications (the "System") the Ontario Securities Commission is the principal regulator for this application;

**AND WHEREAS** the Foundation has represented to the Decision Makers as follows:

1. The Foundation is a non-profit corporation without share capital incorporated by Letters Patent dated December 15, 1960 under the *Canada Corporations Act*.
2. The Foundation is the sponsor and administrator of the Plans.
3. Each of the Plans is a trust organized under the laws of the Province of Ontario and is a Registered Education Savings Plan under the *Income Tax Act* (Canada) (the "Tax Act").
4. Each of the Plans is a reporting issuer or the equivalent thereof within the meaning of the Legislation. The current offering of the Plans is being made pursuant to a prospectus (the "Current Prospectus") dated April 6, 1999, in respect of the continuous offering of scholarship agreements for the sale of units (the "Units") under the Optional Plan and for the sale of scholarship savings plans (the "Scholarship Savings Plans") under each of the Millennium Plan and the Millennium Family Plan. The date of issuance of the receipt for the Current Prospectus in each Jurisdiction was April 13, 1999. The Current Prospectus was amended April 26, 1999.
5. On April 6, 2000, exemptive relief was granted to the Foundation by the Decision Makers, which extended the time period for the filing of the new prospectus (the "Renewal Prospectus"), and the receiving of a receipt thereof, in each of the Jurisdictions as if the lapse date ("Lapse Date") for the Current Prospectus were June 12, 2000 (the "First MRRS Decision"). This relief was granted to allow sufficient time for Canada Customs and Revenue Agency ("CCRA") and Human Resources Development Canada ("HRDC") to approve amendments to the subscriber contracts (the "Contract Amendments") used by the Foundation in respect of the Plans.
6. The Foundation filed a *pro forma* prospectus (the "Pro Forma Prospectus") for the Plans on May 12, 2000.

7. The application for the First MRRS Extension was premised on the Foundation's good faith belief that it would receive the approval of the Contract Amendments by CCRA and HRDC sufficiently in advance of the First MRRS Extension to allow the Foundation to make any necessary changes to the Pro Forma Prospectus and file the Renewal Prospectus by the requisite dates.
8. On June 14, 2000 the Foundation received notice that CCRA would not be in a position to finalize its comments on the subscriber contracts until after the dates by which the Renewal Prospectus is required to be filed in each of the Jurisdictions.
9. On June 19, 2000 the Foundation received confirmation from CCRA of the date on which it would issue final comments on the form of the subscriber contracts.

**AND WHEREAS** under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

**AND WHEREAS** each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

**THE DECISION** of the Decision Makers pursuant to the Legislation is that:

- (A) The First MRRS Extension is revoked and replaced by this Decision; and
- (B) The time limits provided by the Legislation, as they apply to the distribution of the Units or Scholarship Savings Plans of the Plans, as applicable, under the Current Prospectus, are hereby further extended to the time limits that would be applicable if the Lapse Date for such distribution under the Current Prospectus were July 12, 2000.

June 21<sup>st</sup>, 2000.

"Rebecca Cowdery"

## 2.1.2 Insight Canadian Value Pool et al - MRRS Decision

### Headnote

MRRS Exemptive Relief Application-Extension of lapse date.

### Statutes Cited

*Securities Act*, R.S.O. 1990, c. S.5, as am., ss. 62(5)

### Rules Cited

National Policy 43-201 entitled: Mutual Reliance Review System for Prospectus and AIF's.  
National Instrument 81-101 entitled: Mutual Fund Prospectus Disclosure.  
National Instrument 81-102 entitled: Mutual Funds.

**IN THE MATTER OF THE SECURITIES LEGISLATION OF  
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,  
MANITOBA,  
ONTARIO, QUEBEC, NEW BRUNSWICK, NOVA SCOTIA,  
PRINCE EDWARD ISLAND AND NEWFOUNDLAND**

**AND**

**IN THE MATTER OF  
THE MUTUAL RELIANCE REVIEW SYSTEM FOR  
EXEMPTIVE RELIEF APPLICATIONS**

**AND**

**IN THE MATTER OF  
INSIGHT CANADIAN VALUE POOL, INSIGHT CANADIAN  
GROWTH POOL, INSIGHT CANADIAN SMALL CAP  
POOL,  
INSIGHT CANADIAN DIVIDEND GROWTH POOL,  
INSIGHT U.S. VALUE POOL, INSIGHT U.S. GROWTH  
POOL, INSIGHT INTERNATIONAL VALUE POOL,  
INSIGHT INTERNATIONAL GROWTH POOL, INSIGHT  
GLOBAL EQUITY POOL, INSIGHT CANADIAN FIXED  
INCOME POOL, INSIGHT CANADIAN HIGH YIELD  
INCOME POOL, INSIGHT MONEY MARKET POOL,  
INSIGHT GLOBAL FIXED INCOME POOL,  
INSIGHT GLOBAL SMALL CAP POOL AND  
INSIGHT GLOBAL EQUITY RSP POOL**

**MRRS DECISION DOCUMENT**

**WHEREAS** the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland (the "Jurisdictions") has received an application (the "Application") from C.I. Mutual Funds Inc. (the "Manager"), Insight Canadian Value Pool, Insight Canadian Growth Pool, Insight Canadian Small Cap Pool, Insight Canadian Dividend Growth Pool, Insight U.S. Value Pool, Insight U.S. Growth Pool, Insight International Value Pool,



Insight International Growth Pool, Insight Global Equity Pool, Insight Canadian Fixed Income Pool, Insight Canadian High Yield Income Pool, Insight Money Market Pool, Insight Global Fixed Income Pool, Insight Global Small Cap Pool and Insight Global Equity RSP Pool (together, the "Pools") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the time limits pertaining to the distribution of units under the simplified prospectus (the "Prospectus") of the Pools be extended to those time limits that would be applicable if the lapse date of the Prospectus was August 17, 2000.

**AND WHEREAS** pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

**AND WHEREAS** it has been represented by the Manager to the Decision Makers that:

- (a) The Manager is a corporation incorporated under the laws of Ontario. The Manager is the trustee, manager and promoter of the Pools.
- (b) The Pools are open-ended mutual fund trusts established by the Manager under the laws of Ontario.
- (c) The Pools are reporting issuers under the Legislation and are not in default of any filing requirements of the Legislation or the Regulations made thereunder.
- (d) Units of the Pools are currently offered in each province and territory of Canada pursuant to the Prospectus dated June 17, 1999.
- (e) Pursuant to the Legislation, the earliest lapse date (the "Lapse Date") for distribution of securities of the Pools is June 17, 2000.
- (f) Since the date of the Prospectus, no material change has occurred and no amendments to the Prospectus have been made, except as set out in Amendment No. 1 to the Prospectus dated April 7, 2000. Accordingly, the Prospectus represents up to date information regarding each of the Pools offered. The extension requested will not affect the currency or accuracy of the information contained in the Prospectus of the Pools and accordingly will not be prejudicial to the public interest.
- (g) The Prospectus will have to be substantially amended in order to comply with National Instrument 81-101. Currently, the Manager is revising the Prospectus to comply with plain language and design guidelines. The requested extension of the Lapse Date would facilitate the completion of the redrafting process, and would ensure that the Manager has sufficient time to revise the Prospectus so that it complies with the requirements of National Instrument 81-101.

**AND WHEREAS** pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

**AND WHEREAS** each of the Decision Makers are

satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

The Decision of the Decision Makers pursuant to the Legislation is that the time limits for continuing a distribution of units for a further twelve months after the date prescribed by the Legislation are hereby extended to the time limits that would be applicable if the Lapse Date for the distribution of securities under the Prospectus of the Pools was August 17, 2000.

June 19<sup>th</sup>, 2000.

"Rebecca Cowdery"

**2.1.3 Maxxum Precious Metals Fund et al -  
MRRS Decision**

**Headnote**

MRRS Exemptive Relief Application-Extension of lapse date.

**Statutes Cited**

*Securities Act*, R.S.O. 1990, c. S.5, as am., ss. 62(5)

**Rules Cited**

National Policy 43-201 entitled: Mutual Reliance Review System for Prospectus and AIF's.

National Instrument 81-101 entitled: Mutual Fund Prospectus Disclosure.

National Instrument 81-102 entitled: Mutual Funds.

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,  
MANITOBA  
ONTARIO, QUEBEC, NEW BRUNSWICK, NOVA SCOTIA  
PRINCE EDWARD ISLAND, NEWFOUNDLAND, YUKON  
TERRITORY,  
NORTHWEST TERRITORIES AND NUNAVUT**

**AND**

**IN THE MATTER OF THE MUTUAL RELIANCE REVIEW  
SYSTEM  
FOR EXEMPTIVE RELIEF APPLICATIONS**

**MAXXUM PRECIOUS METALS FUND**

**MAXXUM NATURAL RESOURCE FUND  
MAXXUM MONEY MARKET FUND  
MAXXUM INCOME FUND**

**JANUS GLOBAL EQUITY FUND**

**MAXXUM DIVIDEND FUND**

**MAXXUM CANADIAN EQUITY GROWTH FUND  
MAXXUM CANADIAN BALANCED FUND  
JANUS AMERICAN EQUITY FUND  
(collectively, the "Maxxum Funds")**

**SCUDDER GLOBAL FUND**

**SCUDDER US GROWTH AND INCOME FUND  
SCUDDER GREATER EUROPE FUND**

**SCUDDER PACIFIC FUND**

**SCUDDER EMERGING MARKETS FUND  
SCUDDER CANADIAN EQUITY FUND**

**SCUDDER CANADIAN SMALL COMPANY FUND  
SCUDDER CANADIAN BOND FUND**

**SCUDDER CANADIAN SHORT TERM BOND FUND**

**SCUDDER CANADIAN MONEY MARKET FUND  
(collectively, the "Scudder Funds (Classic Series)")**

**LLIM CANADIAN BOND FUND (LFC)**

**LLIM INCOME PLUS FUND (LFC)**

**LLIM BALANCED STRATEGIC GROWTH FUND (LFC)  
LLIM CANADIAN DIVERSIFIED EQUITY FUND (LFC)  
TEMPLETON CANADIAN EQUITY FUND (LFC)  
TEMPLETON INTERNATIONAL EQUITY FUND (LFC)  
SCUDDER US GROWTH AND INCOME FUND (LFC)  
SCUDDER CANADIAN EQUITY FUND (LFC)  
SCUDDER GREATER EUROPE FUND (LFC)  
SCUDDER PACIFIC FUND (LFC)**

**SCUDDER EMERGING MARKETS FUND (LFC)  
(collectively, the "LFC Funds")**

**MRRS DECISION DOCUMENT**

**WHEREAS** the Canadian securities regulatory authorities or regulators (the "Decision Makers") of the provinces and territories of Canada (collectively, the "Jurisdictions") have received an application from Scudder Maxxum Co. and Maxxum Fund Management Inc. ("SMC" and "MFM", respectively) for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the times prescribed by the Legislation for the filing of *pro forma* prospectuses and final prospectuses (the "Renewal Prospectuses") of the Maxxum Funds, Scudder Funds (Classic Series) and the LFC Funds and for obtaining the receipts for the Renewal Prospectuses, be extended;

**AND WHEREAS** pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System") the Ontario Securities Commission is the principal regulator for this application;

**AND WHEREAS** it has been represented by SMC and MFM to the Decision Makers that:

1. Each of the Maxxum Funds, Scudder Funds (Classic Series) and LFC Funds is a mutual fund established under the laws of Ontario.
2. Units of the Maxxum Funds, the Scudder Funds and the LFC Funds are currently offered in each of the provinces and territories of Canada pursuant to separate simplified prospectuses and annual information forms dated July 15, 1999 (as amended and restated August 1, 1999), July 15, 1999 (as amended and restated July 29, 1999), and August 20, 1999, respectively (the "Current Prospectuses").

3. MFM is the manager of the LFC Funds. SMC is the manager of the Maxxum Funds and Scudder Funds (Classic Series) and has been retained by MFM to provide the LFC Funds with certain administrative and management services. The head office of each of MFM and SMC is located in Ontario.
4. SMC is a general partnership of which the general partners are MFM which holds 12,300,001 partnership units and Scudder Canada Investor Services Co. ("Scudder Canada") which holds 3,075,099 partnership units. MFM is wholly owned by Investors Group Trustco Inc., which in turn is wholly owned by Investors Group Inc. ("Investors"), a publicly traded company. Both MFM and SMC are ultimately controlled by Investors.
5. SMC wishes to take advantage of administrative and economic efficiencies inherent in the simultaneous filing of the Renewal Prospectuses for the Maxxum Funds, the Scudder Funds (Classic Series) and LFC Funds with the Scudder Funds (Advisor Series). The lapse date for the Scudder Funds (Advisor Series) is August 24, 2000 (September 3, 2000 in Ontario).
6. Pursuant to the Legislation, the lapse date for the simplified prospectuses for the Maxxum Funds, the Scudder Funds, and LFC Funds is July 15, 2000, July 15, 2000, and August 20, 2000, respectively, except in Ontario where the lapse dates are July 20, 2000, July 20, 2000, and September 3, 2000, respectively as the receipts for such simplified prospectuses were issued on such dates in 1999.
7. If the lapse dates for the simplified prospectuses are extended, the Renewal Prospectuses for the Maxxum Funds, the Scudder Funds (Classic Series), LFC Funds and the Scudder Funds (Advisor Series) will be standardized, and will assist investors by providing consistent and uniform information to be considered in connection with their investment decision. In addition, an extension of the lapse date to August 24, 2000 will enable SMC to ensure that such funds also conform to the standardized form of the Investors Group family of mutual funds. Finally, the grant of the lapse date extension will ensure that the Renewal Prospectuses for the four families of funds will be filed simultaneously, allowing SMC to file such documents in the most efficient and cost effective way as it will be able to take advantage of the economic and administrative efficiencies of a simultaneous filing.
8. Without the lapse date extension for the Maxxum Funds, the Scudder Funds (Classic Series), and LFC Funds, the administrative and economic efficiencies of a simultaneous filing will be lost. As well, SMC will have insufficient time to conform its Renewal Documents with that of the Investors Group family of mutual funds, as the renewal documents for the Investors Group family of mutual funds are expected to be filed on or before July 15, 2000. Accordingly, the simplified prospectuses for the Maxxum Funds, Scudder Funds (Classic Series) and LFC Funds may need to be subsequently amended to ensure conformity of such documents with the Investors Group family of mutual funds.

9. None of the Maxxum Funds, Scudder Funds (Classic Series) and the LFC Funds are in default of any of the requirements of the Legislation and there have been no material changes in the affairs of the Maxxum Funds, Scudder Funds (Classic Series) and the LFC Funds since the date of the Current Prospectuses, except such changes as have been reflected in an amendment thereto.

**AND WHEREAS** pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (the "Decision");

**AND WHEREAS** each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

**THE DECISION** of the Decision Makers pursuant to the Legislation is that the times provided by the Legislation for the filing of the *pro forma* prospectuses and the Renewal Prospectuses and the receipting thereof, in connection with the distribution of the Units under the Current Prospectuses are hereby extended to the times that would be applicable if the Lapse Date for the distribution of Units of the Maxxum Funds, Scudder Funds (Classic Series) and the LFC Funds pursuant to the Current Prospectuses was August 24, 2000.

June 19th, 2000.

"Rebecca Cowdery"

**2.1.4 Sceptre Balanced Growth Fund et al -  
MRRS Decision**

**Headnote**

MRRS Exemptive Relief Application - Extension of lapse date.

**Statutes Cited**

*Securities Act*, R.S.O. 1990, c.S.5, as am., ss. 62(5)

**Rules Cited**

National Policy 43-201 entitled: Mutual Reliance Review System for Prospectus and AIF's.

National Instrument 81-101 entitled: Mutual Fund Prospectus Disclosure.

National Instrument 81-102 entitled: Mutual Funds.

**IN THE MATTER OF THE SECURITIES LEGISLATION OF  
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,  
MANITOBA,  
ONTARIO, QUÉBEC, NOVA SCOTIA, NEW BRUNSWICK,  
NEWFOUNDLAND AND PRINCE EDWARD ISLAND**

**AND**

**IN THE MATTER OF  
THE MUTUAL RELIANCE REVIEW SYSTEM FOR  
EXEMPTIVE RELIEF APPLICATIONS**

**AND**

**IN THE MATTER OF  
SCEPTRE BALANCED GROWTH FUND, SCEPTRE  
BOND FUND, SCEPTRE CANADIAN EQUITY FUND,  
SCEPTRE EQUITY GROWTH FUND, SCEPTRE  
INTERNATIONAL FUND, SCEPTRE MONEY MARKET  
FUND,  
SCEPTRE U.S. EQUITY FUND**

**MRRS DECISION DOCUMENT**

**WHEREAS** the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island (the "Jurisdictions") has received an application (the "Application") from Sceptre Investment Counsel Limited ("Sceptre"), the manager of Sceptre Balanced Growth Fund, Sceptre Bond Fund, Sceptre Canadian Equity Fund, Sceptre Equity Growth Fund, Sceptre International Fund, Sceptre Money Market Fund and Sceptre U.S. Equity Fund (together, the "Funds") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the time limits pertaining to the distribution of units under the simplified prospectus and annual information form (collectively the "Prospectus") of the Funds be extended to those time limits that would be applicable if the lapse date of the Prospectus was August 30, 2000.

**AND WHEREAS** pursuant to the Mutual Reliance

Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

**AND WHEREAS** it has been represented by Sceptre to the Decision Makers that:

1. Sceptre is a corporation incorporated under the laws of Ontario. Sceptre is the manager, trustee, distributor and promoter of the Funds.
2. The Funds are open-ended mutual fund trusts established by Sceptre under the laws of Ontario.
3. The Funds are reporting issuers under the Legislation and are not in default of any filing requirements of the Legislation or the Regulations made thereunder.
4. The Funds are presently offered for sale on a continuous basis in each of the provinces and territories of Canada through the Prospectus.
5. In connection with the renewal of the Prospectus the Manager faces several issues:
  - (i) Sceptre intends to qualify Sceptre Balanced Fund as a new mutual fund and wishes to consolidate disclosure about the Funds and Sceptre Balanced Fund in one simplified prospectus and annual information form;
  - (ii) Sceptre is hoping to introduce a multi-class structure for the Funds in the new simplified prospectus and annual information form. This multi-class structure would permit Sceptre to charge differing management fees directly to certain unitholders of a Fund and would permit Sceptre the flexibility to allocate administrative and operating expenses depending on the nature of the investor. Sceptre has filed an application with Canada Customs and Revenue Agency requesting an advance tax ruling with respect to this multi-class structure of units for the Funds and is awaiting that ruling; and
  - (iii) Sceptre has encountered some delays in the completion of its NI 81-101 new form prospectus and annual information form. Sceptre does not believe that it is appropriate to file nominally compliant documents for review when further revisions would substantially improve each document's readability and compliance.
6. Since the date of the Prospectus no material change has occurred and no amendments to the simplified prospectus have been made. Accordingly, the Prospectus represents up to date information regarding each of the mutual funds offered. The extension requested will not affect the currency or accuracy of the information contained therein and accordingly will not be prejudicial to the public interest.

7. Under the Legislation, the earliest lapse date (the "Lapse Date") for distribution of securities of the Funds under the prospectus is June 30, 2000.

**AND WHEREAS** pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

**AND WHEREAS** each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

The Decision of the Decision Makers pursuant to the Legislation is that the time limits provided by the Legislation as they apply to a distribution of securities under a prospectus are hereby extended to the time limits that would be applicable if the Lapse Date for the distribution of securities under the Prospectus of the Funds was August 30, 2000.

June 19<sup>th</sup>, 2000.

"Rebecca Cowdery"

## **2.1.5 EXFO Electro-Optical Engineering Inc. - MRRS Decision**

### **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications - NP. 44 - Relief from Eligibility Requirement in s. 41 of NP 44 in order to be able to use PREP Procedures to facilitate a cross-border financing.

### **Applicable Ontario Statutory Provisions**

Securities Act, R.S.O. 1990, c.S.5, as am., s.147.

### **Rules Cited**

National Policy 44 - Prompt Offering Qualification System. Rule Entitled in the *Matter of the Prompt Offering Qualification System*.

**IN THE MATTER OF THE SECURITIES LEGISLATION OF  
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,  
MANITOBA, ONTARIO, QUEBEC, NEW BRUNSWICK, PRINCE  
EDWARD ISLAND, NOVA SCOTIA AND  
NEWFOUNDLAND**

**AND**

**IN THE MATTER OF THE MUTUAL RELIANCE REVIEW  
SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS**

**AND**

**IN THE MATTER OF  
EXFO ELECTRO-OPTICAL ENGINEERING INC.**

### **MRRS DECISION DOCUMENT**

**WHEREAS** the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application (the "Application") from EXFO Electro-Optical Engineering Inc. (the "Corporation") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") exempting the Corporation from the eligibility criteria set out in Section 4.1 of National Policy No. 44 ("NP 44") and articles 37.5, 37.6 and 37.7 of the Regulation respecting Securities under the Legislation of Quebec (the "Quebec Regulation") and from the requirements of sections 61, 67 and 68(1) of the *Securities Act* (British Columbia) (the "BC Legislation"), thereby permitting the use by the Corporation of the PREP Procedures (as such term is defined in NP 44) and similar procedures under the Legislation of Quebec (the "Quebec Procedures") as amended by proposed National Instrument 44-103 ("NI 44-103") entitled "Post Receipt Pricing" in connection with the Corporation's proposed initial public offering of its subordinate voting shares (the "Shares"), each as more fully described below;

**AND WHEREAS** pursuant to the Mutual Reliance System for Exemptive Relief Applications (the "System"), the

Commission des valeurs mobilières du Québec (the "Commission") is the principal regulator for this application;

**AND WHEREAS** the Corporation has represented to the Decision Makers that:

1. The Corporation is a designer, manufacturer and marketer of fiber-optic test, measurement and monitoring instruments for the telecommunications industry.
2. The Corporation was incorporated under the *Canada Business Corporations Act*.
3. The Corporation is not a reporting issuer, or equivalent, under the Legislation and its Shares are not listed or posted for trading on a recognized stock exchange.
4. The offering will consist of newly issued Shares from treasury to the public in Canada and in the United States and the Corporation estimates that approximately 6,000,000 of Shares will be sold in the offering for gross proceeds of approximately US\$108,000,000 (the "Offering"). The underwriters of the Offering in Canada will be Merrill Lynch Canada Inc., RBC Dominion Securities Inc. and CIBC World Markets Inc. The underwriters of the Offering in the United States will be Merrill Lynch & Co., RBC Dominion Securities Inc., CIBC World Markets Inc. and Wit SoundView Corporation.
5. The authorized share capital of the Corporation currently consists of an unlimited number of Class "A", Class "B", Class "C", Class "D", Class "E", Class "F" and Class "G" Shares, of which as of June 5, 2000, 38,000,000 Class "A" Shares, 709,605 Class "F" Shares and 800,000 Class "G" Shares are issued and outstanding.
6. Immediately prior to this Offering, the Corporation will perform a capital reorganization pursuant to which, at such time, its authorized share capital will consist of an unlimited number of subordinate voting shares without par value, an unlimited number of multiple voting shares without par value and an unlimited number of preferred shares series 1 issuable in series without par value, of which 38,000,000 multiple voting shares, 709,605 subordinate voting shares and 800,000 preferred shares series 1 will be issued and outstanding.
7. Subject to resolving any comments received by the securities regulatory authorities in Canada and in the United States, the Corporation anticipates filing, in connection with this Offering: (i) a preliminary prospectus (the "Offering Preliminary Prospectus") with the securities regulatory authorities of each of the provinces of Canada (each an "SRA" and, collectively, the "SRAs") in early June 2000; and (ii) a Form F-1 registration statement (the "Registration Statement") with the SEC in early June 2000.
8. In connection with the Offering in the United States, the Corporation plans to use the procedures permitted by Rule 430A under the *Securities Act of 1933* (the "1933 Act") which will permit the Corporation to omit certain pricing information in the Registration Statement until after it has been declared effective by the SEC.
9. The Corporation has made applications to the Toronto Stock Exchange to list the Shares for trading and to The Nasdaq Stock Market to have the Shares quoted on the Nasdaq National Market.
10. On April 14, 2000, the Corporation filed with the Commission a confidential application pursuant to the procedures established by the Mutual Reliance Review System for Prospectuses and Annual Information Forms (as set out in National Policy 43-201) (the "43-201 Application") confirming and/or requesting that: (i) the Offering Preliminary Prospectus is being pre-filed with the 43-201 Application on a confidential basis; (ii) the Commission will commence its review of the pre-filed Offering Preliminary Prospectus in accordance with the review periods set out in NP 43-201, which review periods will commence on the pre-filing of the Offering Preliminary Prospectus, and that if the comments from the securities regulatory authorities are not completely resolved by the date of the filing of the Offering Preliminary Prospectus, the Corporation will continue to work with the Commission to resolve the comments before the receipt for the final prospectus is issued, but that the review periods set out in NP 43-201 will not commence again with the filing of the Offering Preliminary Prospectus; and (iii) in accordance with the provisions of subsection 199(4) of the Securities Act (Quebec) and the equivalent provisions of the securities legislation of each of the provinces of Canada (the "Legislation"), the authorization of the Commission to include in the Offering Preliminary Prospectus a statement with respect to the listing of the Corporation's Shares.
11. The Corporation furnished a confidential draft submission of the Registration Statement to the SEC pursuant to the SEC's special confidential review procedures extended to foreign issuers.
12. Use of the PREP Procedures and the Quebec Procedures would permit the Corporation and its underwriters to better co-ordinate the pricing, prospectus delivery, confirmation of purchase, closing and settlement processes in Canada with those anticipated to be employed in the United States.
13. Neither the Corporation nor the Shares satisfy the requirements listed in Section 4.1 of NP 44 or in the Quebec Regulation which would otherwise enable the Corporation to use the PREP Procedures and the Quebec Procedures.

**AND WHEREAS** pursuant to the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

**AND WHEREAS** each of the Decision Makers is satisfied that the test contained in the Legislation that provides

the Decision Maker with the jurisdiction to make the Decision has been met and are of the opinion that it would not be prejudicial to the public interest to make the Decision:

**THE DECISION** of the Decision Makers under the Legislation is that the Corporation be and is hereby exempted from the eligibility criteria set out in Section 4.1 of NP 44 and in the Quebec Regulations and the requirements of the BC Legislation and the Corporation is permitted to use the PREP Procedures under NP 44 and the Quebec Procedures (as such procedures are amended by NI 44-103) in connection with the Canadian tranche of the Offering;

provided that:

1. a prospectus complying with NP 44 and the Quebec Regulation is filed under the Legislation pursuant to and in accordance with the requirements and procedures set forth in NP 44 and the Quebec Regulation, as if the Corporation was eligible to use the PREP Procedure under NP 44 and the Quebec Procedures; and
2. such prospectus is supplemented and amended pursuant to and in accordance with the requirements and procedures set forth in NP 44 and the Quebec Regulation, including the filing of amendments complying with the requirements of the Legislation.

DATED on June 29th, 2000.

"Viateur Gagnon"

"Guy Lemoine"

## 2.1.6 Hartco Enterprises Inc., Multimicro Inc. and Hartco Corporation - MRRS Decision

### Headnote

Subsection 74(1) - Application pursuant to Mutual Reliance Review System for Exemptive Relief Applications - Relief granted from registration and prospectus requirement in connection with first trades of a spun off issuer subject to certain conditions.

Section 83.1 - Issuer spun off from a reporting issuer in connection with a plan of arrangement deemed to be a reporting issuer where parent company has been a reporting issuer for more than 12 months and the assets that will make up the business of the spun off issuer have been subject to segmented reporting in the continuous disclosure filings of the parent company. Prospectus level disclosure of the spun off entity to be provided in the information circular.

### Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 25, 53, 72(5), 74(1), & 83.1.

Business Corporations Act, R.S.O. 1990, c. B.16, as am.

### Rules Cited

Rule 45-501 Exempt Distributions.

IN THE MATTER OF THE SECURITIES LEGISLATION  
OF ALBERTA, SASKATCHEWAN, MANITOBA,  
ONTARIO, QUEBEC, NOVA SCOTIA, NEWFOUNDLAND,  
PRINCE EDWARD ISLAND AND NEW BRUNSWICK

AND

IN THE MATTER OF THE  
MUTUAL RELIANCE REVIEW SYSTEM  
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF  
HARTCO ENTERPRISES INC.,  
MULTIMICRO INC.  
AND HARTCO CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Makers") in each of Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Newfoundland, Prince Edward Island and New Brunswick (the "Jurisdictions") have received an application from Hartco Enterprises Inc., ("Hartco"), Multimicro Inc. ("Multimicro") and Hartco Corporation (hereinafter collectively referred to as the "Filers") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that :

1. The registration and prospectus requirements of the

Legislation shall not apply to certain trades made in connexion with or subsequent to a proposed arrangement (the "Arrangement") pursuant to the *Canada Business Corporations Act* (the "CBCA") involving Hartco, Multimicro and Hartco Corporation;

2. In those Jurisdictions in which the Legislation contains the concept of a reporting issuer and provides the authority to deem an issuer a reporting issuer, Hartco Corporation shall be deemed to be a reporting issuer as of the effective time of the Arrangement; and
3. In those Jurisdictions in which the Legislation contains the concept of a reporting issuer but does not provide the authority to deem an issuer a reporting issuer, Hartco Corporation shall be made subject to the reporting requirements of such Legislation;

**AND WHEREAS** pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the *Commission des valeurs mobilières du Québec* is the principal regulator for this application;

**AND WHEREAS** the Filers have represented to the Decision Makers that:

1. All Filers' registered offices are located in the province of Québec.

#### **Hartco**

2. Hartco was constituted by certificate of amalgamation issued pursuant to the provisions of the CBCA on October 25, 1984.
3. Hartco is a corporation governed by the CBCA, and its registered office is in the province of Québec. It is a reporting issuer, or the equivalent, in each province of Canada, except in Newfoundland, and is not in default of any requirements of the Legislation. Its common shares are listed on the Toronto Stock Exchange since December 1984.
4. Hartco's authorized capital consists of an unlimited number of authorized common shares and an unlimited number of class A preferred shares. As of April 22, 2000, there were 12,976,864 issued and outstanding common shares.
5. Hartco operates three (3) business divisions: the department stores division, the computer division and the communications division. Hartco is a key player in the Québec and Maritimes "Junior Department Store" market. As of January 29, 2000, there were 56 department stores operating under the banners of Hart and Bargain Giant in Newfoundland, Nova Scotia, New Brunswick and Québec.
6. Upon completion of the Arrangement, Hartco will be renamed *Hart Stores Inc.*, and will be operating Hartco's department store division.

#### **Multimicro**

7. Multimicro is a wholly-owned subsidiary of Hartco. It

was incorporated under the CBCA on December 30, 1996.

8. Multimicro's authorized capital consists of an unlimited number of class A common shares and an unlimited number of class B, C, D and E redeemable preferred shares. Hartco is the holder of all outstanding shares of Multimicro.
9. Multimicro is the largest franchisor of computer solution integrators and computer retailers in Canada with three (3) networks comprising 168 locations situated across Canada. Multimicro provides its franchise networks with distribution and support on brand name information technology products, such as microcomputer systems, networking equipment, software and related products and services. Multimicro's network of computer resellers operates under the names MicroAge, Northwest Digital and CTI Solutions in the corporate and government markets and CompuSmart and Compucentre in the retail market.
10. Multimicro also owns and operates The Telephone Booth, a specialty retailer of telephones and accessories with 28 stores in Québec, Ontario and Alberta through its wholly-owned subsidiary Cabtel Corporation. Multimicro is also the franchisor of TeleSolutions which is a communications solutions reseller network for the corporate and small business market. TeleSolutions franchise locations are presently open in Toronto and Québec and a corporate location is operational in Montreal.

#### **Hartco Corporation ("NewCo")**

11. Hartco Corporation was incorporated on April 5, 2000 under the CBCA specifically for the sole purpose of carrying out the Arrangement. It will be the corporation resulting from the amalgamation of Hartco Corporation and Multimicro (the resulting entity being referred hereinafter as "Hartco Corporation").
12. Upon completion of the Arrangement, Hartco Corporation will be operating Hartco's computer and communication divisions.

#### **Description of the Arrangement**

13. The Arrangement provides for the pro rata spin-off distribution to the shareholders of Hartco of its interest in Multimicro, which will thereby effect the separation of Hartco's businesses into two distinct publicly traded companies. As a result, holders of common shares of Hartco will hold directly, on the effective date of the Arrangement, common shares of Hartco, renamed Hart Stores Inc. ("Hart Stores"), which will carry on Hartco's Department Store Division, and common shares of Hartco Corporation, which will carry on Hartco's Computer and Communications Divisions.
14. The board of directors of Hartco reviewed the proposed arrangement at its last meeting held on April 6, 2000 and recommended that the Arrangement be submitted to the approval of the shareholders at a meeting held on June 15, 2000 (the "Meeting").



15. At the Meeting, shareholders of Hartco approved the Arrangement in a proportion of 75.2% of the total 12,976,864 issued and outstanding common shares of Hartco.
16. Pursuant to the Arrangement, the steps set forth below will occur in the following order:
  - (a) The articles of Hartco Corporation ("**NewCo**") shall be amended to create an unlimited number of preferred shares of NewCo (the "**NewCo Preferred Shares**");
  - (b) The articles of Hartco shall be amended to (i) create an unlimited number of reorganization shares of Hartco (the "**Hartco Reorganization Shares**") and an unlimited number of common shares of New Hartco (the "**New Hartco Common Shares**"); and (ii) to change the name of Hartco to *Hart Stores Inc.* and *Magasins Hart Inc.*, in its French version;
  - (c) Each of the Hartco Reorganization Shares shall be transferred by the holder thereof to NewCo in exchange for the issuance to the holder of one common share of NewCo (the "**NewCo Common Share**") for every Hartco Reorganization Share;
  - (d) Pursuant to a share transfer agreement entered into by and among Hartco and Hartco Corporation, Hartco shall be deemed to have transferred each of the issued and outstanding common shares of Multimicro to NewCo in exchange for the issuance by NewCo of one Preferred Share;
  - (e) Hartco shall redeem all of the issued and outstanding Hartco Reorganization Shares and issue to NewCo in consideration therefor a promissory note payable on demand (the "**Hartco Redemption Note**"). NewCo shall also redeem the sole issued and outstanding NewCo Preferred Share and issue to Hartco in consideration therefor a promissory note payable on demand (the "**NewCo Redemption Note**"). Both notes shall then be set off against each other and cancelled;
  - (f) NewCo and Multimicro will then amalgamate to form Amalco which, in turn, shall continue as one corporation under the CBCA under the name *Hartco Corporation*, which and will operate the computer and communications divisions of Hartco.
17. Certificates representing common shares of Hartco shall be deemed for all purposes to be certificates representing common shares of Hart Stores following the implementation of the Arrangement and no new certificates shall be issued in connection therewith.
18. Subject to satisfying all closing conditions and obtaining all applicable regulatory approvals as provided in the Arrangement Agreement, it is anticipated that the Arrangement will be completed on or about July 3, 2000.
19. An application has been made to have New Hartco Common Shares as well as Amalco Common Shares listed on the TSE. Both listings have been conditionally approved. It is anticipated that Amalco will also be a reporting issuer in all applicable Canadian Jurisdictions where Hartco was a reporting issuer.
20. On May 3, 2000, an interim order (the "**Interim Order**") was granted the by Québec Superior Court (the "**Court**").
21. As ordered in the Interim Order, Hartco presented the Arrangement for Final Order on June 16, 2000 at the Montreal Courthouse, since the Arrangement has been approved by at least 66 2/3% of the votes cast at the Meeting.
22. On June 16, 2000, a final order (the "**Final Order**") was granted by the Court, approving the Arrangement.
23. Hartco sent the Circular to shareholders of Hartco on May 12, 2000. The Circular contained prospectus-level disclosure of the business and affairs of each of Hartco, Multimicro and Hartco Corporation, the particulars of the Arrangement as well as the consolidated financial information for Hartco and *pro forma* financial statements for Hart Stores and *pro forma* financial statements for Hartco Corporation for the financial years ended January 29, 2000.
24. The steps under the Arrangement, involve or may involve a number of trades and/or distributions of securities including, but no limited to, the following:
  - (a) the creation and issuance by Hartco of Hartco Reorganization Shares and New Hartco Common Shares on the basis of one Hartco Reorganization Share and one New Hartco Common Share for each Hartco Common Share held;
  - (b) the transfer of each of the Hartco Reorganization Shares by the holder thereof to NewCo in exchange for the issuance to the holder of one NewCo Common Share for every Hartco Reorganization Share;
  - (c) the redemption by Hartco of all the issued and outstanding Hartco Reorganization Shares and the issuance to NewCo in consideration therefor of the Hartco Redemption Note;
  - (d) the redemption by NewCo of the sole issued and outstanding NewCo Preferred Share and the issuance to Hartco in consideration therefor of the NewCo Redemption Note;
25. The assets of Hartco Corporation have been the subject of continuous disclosure on an ongoing basis for more than 12 months pursuant to Hartco's responsibilities as a reporting issuer.

26. It is a condition of the Arrangement that the Amalco Common Shares and the New Hartco Common Shares, to be issued pursuant to the Arrangement, may be resold in Canada without restriction at the effective time of the Arrangement, and it is considered essential by the parties to the Arrangement that the shareholders of Hartco do not lose the ability to liquidate their holdings as a result of the Arrangement.
27. The shareholders will have the right to dissent from the Arrangement under Section 190 of the CBCA and the Circular contained full disclosure of this right.
28. Exemptions from registration and prospectus requirements of the Legislation in respect of trades made in connection with the Arrangement, and exemptions from prospectus requirements of the Legislation in respect of the first trades in Amalco Common Shares and New Hartco Common Shares following the Arrangement, are not otherwise available in all Jurisdictions.
29. Hartco Corporation may not fit within the definitions of reporting issuer of all of the applicable Jurisdictions at the effective time of the Arrangement.

**AND WHEREAS** pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively the "Decision");

**AND WHEREAS** the Decision Makers are of the opinion that it would not be prejudicial to the public interest to grant this decision;

**AND WHEREAS** each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the Jurisdiction to make the Decision has been met;

**THE DECISION** of the Decision Makers pursuant to the Legislation is that:

- (a) all trades or distributions made in connection with the Arrangement shall not be subject to the registration and prospectus requirements of the Legislation;
- (b) the resale or the first trades of Amalco Common Shares and New Hartco Common Shares acquired by shareholders and option holders in connection with the Arrangement in a Jurisdiction shall be deemed distributions under the Legislation of such Jurisdiction except that where:
- (i) if the seller is in a special relationship (where such expression is defined in the Legislation) with New Hartco or Amalco, as the case may be, the seller has reasonable grounds to believe that New Hartco or Amalco, as the case may be, is not in default of any requirements of the Legislation;
- (ii) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or consideration is paid in respect of the first trades;

- (iii) New Hartco or Amalco, as the case may be, is a reporting issuer at the time of such first trades; and
- (iv) such first trades are not from the holdings of any person, company or combination of persons or companies holding a sufficient number of securities of New Hartco or Amalco, as the case may be, to affect materially in the control of New Hartco or Amalco, but any holding of any person, company or combination of persons or companies holding more than 20% of the outstanding voting securities of New Hartco or Amalco shall, in the absence of evidence to the contrary, be deemed to affect materially the control of New Hartco or Amalco;
- (c) in those Jurisdictions, where applicable, the shares acquired pursuant to the Arrangement shall not be subject to a hold period immediately preceding the alienation of such shares;
- (d) in those Jurisdictions in which an issuer can be deemed to be a reporting issuer under the Legislation, Amalco shall be deemed to be a reporting issuer as of the effective time of the Arrangement;
- (e) in those Jurisdictions in which an issuer cannot be deemed to be a reporting issuer under the Legislation, Amalco shall be made subject to the reporting requirements of the Legislation of such Jurisdictions as of the effective time of the Arrangement.

**DATED** at Montreal, Québec, on 11TH July, 2000.

"Jacques Labelle"

## 2.2 Orders

### 2.2.1 Growmark Inc. - s.144

#### Headnote

Section 144 - variation of ruling granted December 6, 1994 to exempt GROWMARK from sections 25 and 53 of the Act with respect to distribution of securities to member co-operatives of GROWMARK.

#### Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as amended, ss. 25, 53, 74, 144.

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

AND

IN THE MATTER OF GROWMARK, INC.

ORDER  
(Section 144)

**WHEREAS** the Commission issued a ruling (the "Old Ruling") pursuant to subsection 74(1) of the Act on December 6, 1994 entitled "In the Matter of GROWMARK, Inc.", in connection with the acquisition by GROWMARK, Inc. ("GROWMARK") of substantially all of the assets of United Co-operatives of Ontario ("UCO");

**AND WHEREAS** the Old Ruling exempted certain distributions of securities by GROWMARK to certain supply co-operatives resident in Ontario which were then members of UCO; in particular, the Old Ruling exempted (1) the distribution by GROWMARK to such co-operatives of Common Stock, Series O, and Class D Preferred Stock, Series O, and (2) subsequent distributions of Class D Preferred Stock, Series O as part of patronage distributions to patrons, from sections 25 and 53 of the Act;

**AND WHEREAS** GROWMARK is proposing to reorganize its share capital, which reorganization (the "Reorganization") will include the issuance to the member co-operatives of GROWMARK resident in Ontario (the "Ontario Members") of (1) one share of Common Stock and one share of Class D Preferred Stock, Series A upon the conversion of each share of Common Stock, Series O, and (2) one share of Class D Preferred Stock, Series A upon the conversion of each share of Class D Preferred Stock, Series O;

**AND WHEREAS** GROWMARK is applying to the Commission for an order pursuant to section 144 of the Act revoking the Old Ruling and replacing the Old Ruling with an amended and restated ruling pursuant to subsection 74(1) of the Act that (1) the distribution of shares of Common Stock and Class D Preferred Stock, Series A as part of the Reorganization, and (2) subsequent distributions of Class D Preferred Stock, Series A as part of patronage distributions to patrons, shall not be subject to sections 25 and 53 of the Act;

**AND UPON** considering the application and

recommendation of the staff of the Commission;

**AND UPON** it being represented by GROWMARK to the Commission that:

1. GROWMARK is a corporation which was incorporated under the laws of Delaware under the name "FS Services Inc." in 1962; in 1980, its name was changed to "GROWMARK, Inc."; GROWMARK operates on a co-operative basis, carrying on business as a federated agricultural co-operative, primarily in Illinois, Wisconsin and Iowa; although GROWMARK is not a resident of Canada, it carries on business on a co-operative basis in Ontario.
2. The member companies of GROWMARK consist of approximately 290 agricultural co-operatives located primarily in Illinois, Wisconsin, Iowa and Ontario; there are approximately 29 Ontario Members, and each is incorporated under the *Co-operative Corporations Act* (Ontario) (R.S.O. 1990, c. C.35).
3. GROWMARK is not a reporting issuer in the Province of Ontario or in any other province or territory of Canada and has no present intention of becoming a reporting issuer in Ontario.
4. Currently, the total number of shares of all classes of stock which GROWMARK has the authority to issue is 6,792,400 shares, consisting of six classes of Preferred Stock, four of which are divided into series and one class of Common Stock, divided into three series.
5. The only shares of GROWMARK held by the Ontario Members are shares of Common Stock, Series O and Class D Preferred Stock, Series O.
6. In the Reorganization, GROWMARK will reduce the number of different series of stock in order to streamline its share capital and revise its governance process for the election of directors; the member stockholders of GROWMARK will be asked to approve the Reorganization at a meeting to be held on August 30, 2000; approval of the Reorganization requires the affirmative vote of a majority of all outstanding voting stock and the affirmative vote of a majority of each outstanding class or series of voting stock.
7. As part of the Reorganization, the shares held by Ontario Members will be converted as follows:
  - (a) each share of Common Stock, Series O will be converted into one share of Common Stock and one share of Class D Preferred Stock, Series A; and
  - (b) each share of Class D Preferred Stock, Series O will be converted into one share of Class D Preferred Stock, Series A.

8. The Reorganization will be effected automatically upon the filing of GROWMARK's amended Certificate of Incorporation with the Delaware Secretary of State.
9. Following completion of the Reorganization, the total number of shares of all classes of stock which GROWMARK will have the authority to issue will be 5,471,500 shares, consisting of: 2,000,000 shares of Class B Preferred Stock (\$.15 par value per share); 20,000 shares of Class C Preferred Stock (\$100 par value per share); 3,000,000 shares of Class D Preferred Stock, Series A (\$100 par value per share); 150,000 shares of Class D Preferred Stock, Series G (\$100 par value per share); 300,000 shares of Class F Preferred Stock (\$25 par value per share); and 1,500 shares of Common Stock (no par value per share).
10. A share of Common Stock will evidence membership in GROWMARK; holders of such shares will have no rights to vote, no rights to dividends and no preferences on liquidation, dissolution or winding up but holders will be eligible to receive annual distributions (the "Patronage Distributions") on the basis of their patronage with GROWMARK during the year; the amount of the Patronage Distributions will be equal to the net earnings of GROWMARK for the year, after setting aside sufficient funds to pay any preferred share dividends and such reasonable reserves and surplus funds as the Board of Directors determines to be necessary for GROWMARK's business; upon liquidation, dissolution or winding up of GROWMARK, holders of Common Stock will be entitled to the assets remaining after payment of all indebtedness and amounts to the holders of preferred stock, on the basis of prior patronage with GROWMARK; shares of Common Stock will be redeemed automatically upon the termination of a holder's membership in GROWMARK without any payment to the holder.
11. Shares of Class D Preferred Stock, Series A are evidence of capital contributions to GROWMARK by holders of Common Stock, and will be issued to holders of Common Stock, including Ontario Members, as part of Patronage Distributions; holders of Class D Preferred Stock, Series A will be entitled to one vote per share at any meeting of the stockholders of GROWMARK and to receive payment of the par value of such shares upon liquidation, dissolution or winding up of GROWMARK, subject to the rights of holders of Class B Preferred Stock and Class C Preferred Stock; no dividends or distributions of earnings, either capital or patronage, will be payable to holders of shares of Class D Preferred Stock, Series A; the shares of Class D Preferred Stock, Series A will not generally be transferred or distributed by the holders except to GROWMARK or to other member co-operatives of GROWMARK, rather they are held until redemption for their par value by GROWMARK.
12. The provisions, described above, with respect to voting, dividends, distributions, redemption and rights on liquidation, dissolution or winding up, attaching to the Common Stock and the Class D Preferred Stock, Series A will be substantially similar to the rights attaching to the Common Stock, Series O and Class D

Preferred Stock, Series O, respectively, subject to the following differences:

- (a) shares of Common Stock will carry no voting rights unlike shares of Common Stock, Series O which carry one vote per share at stockholder meetings, however, in connection with the Reorganization, each share of Common Stock will also receive one share of Class D Preferred Stock, Series A which will carry one vote per share; and
- (b) shares of Common Stock will be redeemed automatically upon the termination of a holder's membership in GROWMARK without any payment to the holder. There is no such redemption provision attaching to the Common Stock, Series O.

**AND UPON** the Commission being satisfied that to do so would not be prejudicial to the public interest;

**IT IS ORDERED** pursuant to section 144 of the Act that the Old Ruling be revoked in its entirety and replaced with the following:

**IT IS RULED** pursuant to subsection 74(1) of the Act that the following transactions shall not be subject to section 25 and 53 of the Act:

- A. as part of the Reorganization
  - (i) the issuance to Ontario Members of one share of Common Stock and one share of Class D Preferred Stock, Series A upon the conversion of each share of Common Stock, Series O; and
  - (ii) the issuance to Ontario Members of one share of Class D Preferred Stock, Series A upon the conversion of each share of Class D Preferred Stock, Series O;
- B. subsequent distributions by GROWMARK of Class D Preferred Stock, Series A to Ontario Members as part of Patronage Distributions to patrons;

provided that:

1. in connection with the completion of the Reorganization, GROWMARK will send to each Ontario Member a copy of this Order and a statement to the effect that as a result of this Order certain protections, rights and remedies provided by the Act, including statutory rights of rescission or damages, will not be available to Ontario Members;
2. GROWMARK will prepare and send annually to each Ontario Member, but not to the Commission, GROWMARK's annual report containing audited financial statements and quarterly unaudited financial statements, at the same time as such statements are provided to members of GROWMARK resident in the United States;
3. GROWMARK will notify each Ontario Member

that the transfer restrictions set forth in the subscription agreements executed by GROWMARK and each of the Ontario Members in December, 1994 (the "Subscription Agreements") will continue to apply to shares of Common Stock and Class D Preferred Stock, Series A issued to the Ontario Member in connection with the Reorganization;

4. the exemptions contained in this ruling shall cease to be effective if any of the restrictions on transfer of the Common Stock and Class D Preferred Stock, Series A contained in the Restated Certificate of Incorporation, Restated Bylaws or Subscription Agreements are amended in any material respect without written notice to and consent of the Commission; and
5. subsequent trades of shares issued in reliance upon this Order will be a distribution of such shares within the meaning of the Act unless made to Ontario Members or to GROWMARK.

July 28th, 2000.

"J.A. Geller"

"J.F. Howard"

## 2.2.2 Guardian Global Technology Fund et al - s.59(1)

### Headnote

Exemption from the fees otherwise due under subsection 14(1) of Schedule 1 of the Regulation to the *Securities Act* on a distribution of units made by an "underlying" fund directly (i) to a "clone" fund, (ii) to the "clone" fund's counterparties for hedging purposes and (iii) on the reinvestment of distributions on such units.

### Regulations Cited

Regulation made under the *Securities Act*, R.R.O. 1990, Reg. 1015, as am., Schedule 1, ss. 14(1), 14(4) and 59(1).

### IN THE MATTER OF THE SECURITIES ACT R.S.O. 1990, CHAPTER S.5, AS AMENDED (THE "ACT")

AND

IN THE MATTER OF

GUARDIAN GLOBAL TECHNOLOGY FUND  
GUARDIAN AMERICAN EQUITY FUND LTD.  
GUARDIAN GLOBAL EQUITY FUND

ORDER

(Subsection 59(1) of Schedule I of the Regulation  
under the Act (the "Regulation"))

UPON the application of Guardian Group of Funds Ltd. ("Guardian") Guardian RSP Global Technology Fund, Guardian RSP American Equity Fund, Guardian RSP Global Equity Fund which Guardian currently manages and other similar funds that it may establish in the future (the "RSP Funds") and Guardian Global Technology Fund, Guardian American Equity Fund Ltd and Guardian Global Equity Fund which Guardian currently manages and other similar funds that it may establish in the future (the "Underlying Funds") for an order pursuant to subsection 59(1) of Schedule I of the Regulation under the Act exempting the Underlying Funds from the payment of the annual filing fees payable under section 14 of Schedule I of the Regulation in respect of the distribution of units or shares (collectively, the "Units") of the Underlying Funds to (i) counterparties in respect of Units purchased to hedge their exposure to the RSP Funds (the "Hedge Units") and (ii) the RSP Funds (including, in both cases the reinvestment of distributions (the "Reinvested Units")).

AND UPON considering the application and the recommendation of the staff of the Commission.

AND UPON Guardian having represented to the Commission that;

1. The RSP Funds are open-end mutual fund trusts and the Underlying Funds are open-end mutual fund trusts or corporations, established under the laws of Ontario. Guardian is a corporation established under the laws of Ontario.

2. Guardian is the manager of the RSP Funds and the Underlying Funds. Guardian is the trustee of the RSP Funds and Underlying Funds.
3. All distributions by the Underlying Funds of (i) Units to the RSP Funds, (ii) Hedge Units and (iii) Reinvested Units, are made in Ontario.
4. The existing RSP Funds and the Underlying Funds are or will be reporting issuers and are not in default of any requirement of the securities acts or regulations applicable in each of the provinces and territories of Canada. The units of the RSP Funds and the Units of the Underlying Funds are or will be qualified for distribution pursuant to a simplified prospectus and annual information form in those jurisdictions.
5. As part of their investment strategy the RSP Funds enter into forward contracts or other derivative instruments (the "Forward Contracts") with one or more financial institutions or dealers (the "Counterparties") that link the returns to an Underlying Fund.
6. Counterparties may hedge their obligations under the Forward Contracts by investing in Hedge Units of the applicable Underlying Funds.
7. The RSP Funds may also invest a portion of their assets directly in Units of the Underlying Funds which constitute foreign property under the Income Tax Act (Canada) (the "Fund on Fund Investments").
8. Applicable securities regulatory approvals for the Fund on Fund Investments and the RSP Funds' investment strategies have been obtained.
9. Annually, each of the RSP Funds will be required to pay filing fees to the omission in respect of the distribution of its units in Ontario pursuant to Section 14 of Schedule I of the Regulation and will similarly be required to pay fees based on the distribution of its units in other relevant Canadian jurisdictions pursuant to applicable securities legislation in each of those jurisdictions.
10. Annually, each of the Underlying Funds will be required to pay filing fees in respect of the distribution of its Units in Ontario, including Units issued to the RSP Funds and the Hedge Units, pursuant to Section 14 of Schedule I of the Regulation and will similarly be required to pay fees based on the distribution of its Units in other relevant Canadian jurisdictions pursuant to the applicable securities legislation in each of those jurisdictions.
11. A duplication of filing fees pursuant to Section 14 of Schedule I of the Regulation may result when (a) assets of an RSP Fund are invested in the applicable Underlying Fund (b) Hedge Units are distributed and (c) Reinvested Units are distributed.

**AND UPON** the Commission being satisfied that to do so would not be prejudicial to the public interest.

**IT IS ORDERED** by the Commission pursuant to subsection 59(1) of Schedule I of the Regulation that the

Underlying Funds are exempt from the payment of filing fees on an annual basis pursuant to section 14 of Schedule I of the Regulation in respect of the distribution of Units of the Underlying Funds to the RSP Funds, the distribution of Hedge Units to Counterparties and the distribution of the Reinvested Units, provided that each Underlying Fund shall include in its notice filed under subsection 14(4) of Schedule I of the Regulation a statement of the aggregate gross proceeds realized in Ontario as a result of the issuance by the Underlying Funds of (1) Units to the RSP Fund, (2) Hedge Units and (3) Reinvested Units; together with a calculation of the fees that would have been payable in the absence of this Order.

May 23rd, 2000.

"H. I. Wetston"

"R. Stephen Paddon"

**2.2.3 Microbix Biosystems Inc. and Bedford  
Capital Financial Corporation - s.144**

**Headnote**

Section 144 - variation of ruling previously granted in respect of relief from registration and prospectus requirements of the Act in respect of certain trades to consultants - resale restrictions respecting first trades in securities acquired pursuant to ruling varied to permit first trades made in accordance with provisions of subsection 9.1(1) of Commission Rule 45-503.

**Statutes Cited**

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 25, 53, 74(1) and 144.

**Regulations Cited**

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am.

**Rules Cited**

Ontario Securities Commission Rule 45-503 *Trades to Employees, Executives and Consultants* (1999), 22 OSCB 117, ss. 2.2 and 9.1(1).

**IN THE MATTER OF THE SECURITIES ACT, R.S.O. 1990  
CHAPTER S. 5, AS AMENDED (the "Act")**

**AND**

**IN THE MATTER OF  
MICROBIX BIOSYSTEMS INC. AND  
BEDFORD CAPITAL FINANCIAL CORPORATION**

**ORDER  
(Section 144)**

**UPON** the application of Bedford Capital Financial Corporation ("Bedford") to the Ontario Securities Commission (the "Commission") for an order, pursuant to subsection 144(1) of the Act, to vary the ruling of the Commission made under subsection 74(1) of the Act, *In the Matter of Microbix Biosystems Inc.* (1996), 19 O.S.C.B. 5295 (the "Prior Ruling") whereby the Commission ruled, among other things, that certain trades in options (the "Options") of Microbix Biosystems Inc. ("Microbix") to Bedford shall not be subject to sections 25 and 53 of the Act provided that the first trade in common shares (the "Common Shares") of Microbix acquired upon exercise of the Options is made in accordance with subsection 72(4) of the Act and section 24 of the Regulation as if the Common Shares had been acquired pursuant to an exemption referred to in subsection 72(4) of the Act (the "Resale Restriction");

**AND WHEREAS** the effect of the Resale Restriction is to impose a one-year hold period commencing from the date the Common Shares are issued to Bedford upon the exercise of the Options;

**AND WHEREAS**, subsequent to the Prior Ruling, the Commission adopted Rule 45-503 *Trades to Employees, Executives and Consultants* ("Rule 45-503") which, pursuant to section 2.2 of Rule 45-503, provides that sections 25 and 53 do not apply to a trade by an issuer in a security's own issue to a consultant of the issuer;

**AND WHEREAS**, pursuant to clause 1.2(1)(a) of Rule 45-503, trades in a security of an issuer to a consultant, include, among other things, trades made to the consultant's consultant company;

**AND WHEREAS**, pursuant to subsection 9.1(1) of Rule 45-503, a consultant who has received securities under section 2.2 of Rule 45-503 is free to trade those securities if, among other things, the issuer has been a reporting issuer for at least 12 months;

**AND WHEREAS** Bedford has applied to vary the Resale Restriction provision of the Prior Ruling to make the exercise of the Options and resale of the Common Shares subject to the same requirements as if the Options had been issued pursuant to section 2.2 of Rule 45-503;

**AND UPON** considering the application and the recommendation of staff of the Commission;

**AND UPON** Bedford having represented to the Commission that:

1. Microbix has been a reporting issuer under the Act for at least 12 months;
2. Bedford holds 150,000 Options of Microbix, each of which entitle Bedford to purchase one Common Share of Microbix at a price of \$0.45 per share;
3. Bedford is a corporation incorporated under the law of Liberia and is in the process of winding up and distributing its assets to its shareholders;
4. pursuant to Liberian law, this process must be completed by May, 2001;
5. assuming that Rule 45-503 had been in force and effect at the time of the trade in Options to Bedford, Microbix could have relied on the registration and prospectus exemptions set out in section 2.2 of Rule 45-503 to trade the Options to Bedford;
6. Bedford is not an "associated consultant" or an "investor consultant" (as defined in Rule 45-503);
7. unless the Prior Ruling is amended, it will be impracticable for Bedford to wind up and distribute its assets to its shareholders in accordance with Liberian law; and
8. Microbix is aware that Bedford has applied to vary the Prior Ruling and consents to such application being made.

**AND UPON** the Commission being satisfied to do so would not be prejudicial to the public interest;

IT IS ORDERED, pursuant to section 144 of the Act, that the Prior Ruling is hereby varied by striking out "is made in accordance with subsection 72(4) of the Act and section 24 of the Regulation as if the Common Shares had been acquired pursuant to an exemption referred to in subsection 72(4) of the Act" in the third, fourth and fifth lines of the last paragraph of the Prior Ruling and substituting it with "shall be a distribution unless it is made in accordance with the provisions of subsection 9.1(1) of Commission Rule 45-503 *Trades to Employees, Executives and Consultants* ("Rule 45-503"), as if the Options had been acquired pursuant to the prospectus exemptions referred to in section 2.2 of Rule 45-503".

August 1st, 2000.

"J.A. Geller"

"R. Stephen Paddon"

## 2.2.4 AIM American Premier Fund et al - s.59(1)

### Headnote

exemption from the fees otherwise due under subsection 14(1) of Schedule 1 of the Regulation to the *Securities Act* on a distribution of units made by an "underlying" fund directly (i) to a "clone" fund, (ii) to the "clone" fund's counterparties for hedging purposes and (iii) on the reinvestment of redistributions on such units.

### Regulations Cited

Regulation made under the *Securities Act*, R.R.O. 1990, Reg. 1015, as am., Schedule 1, ss. 14(1), 14(4) and 59(1).

### IN THE MATTER OF

The Securities Act R.S.O. 1990, Chapter s.5, as amended  
(the "ACT")

### AND

### IN THE MATTER OF

AIM AMERICAN PREMIER FUND, AIM EUROPEAN  
GROWTH FUND,  
AIM GLOBAL GROWTH & INCOME FUND,  
AIM GLOBAL THEME CLASS OF AIM GLOBAL FUND  
INC.  
AIM GLOBAL HEALTH SCIENCES FUND, AIM GLOBAL  
TECHNOLOGY FUND  
AIM GLOBAL TELECOMMUNICATIONS CLASS OF AIM  
GLOBAL FUND INC.  
AIM DENT DEMOGRAPHIC TRENDS CLASS OF AIM  
GLOBAL FUND INC.  
AIM GLOBAL AGGRESSIVE GROWTH CLASS OF AIM  
GLOBAL FUND INC.  
AIM INTERNATIONAL GROWTH CLASS OF AIM  
GLOBAL FUND INC.

### ORDER

(Subsection 59(1) of Schedule I of the Regulation  
made under the Act (the "Regulation"))

UPON the application of AIM Funds Management Inc. ("AIM") and AIM RSP American Premier Fund, AIM RSP European Growth Fund, AIM RSP Global Growth & Income Fund, AIM RSP Global Theme Fund, AIM RSP Global Health Sciences Fund, AIM RSP Global Technology Fund and AIM RSP Global Telecommunications Fund which AIM currently manages and other similar funds that it may establish in the future (the "RSP Funds") and AIM American Premier Fund, AIM European Growth Fund Ltd., AIM Global Growth & Income Fund, AIM Global Theme Class of AIM Global Fund Inc., AIM Global Health Sciences Fund, AIM Global Technology Fund and AIM Global Telecommunications Class of AIM Global Fund Inc. which AIM currently manages and other similar funds that it may establish in the future (the "Underlying Funds") for an order pursuant to subsection 59(1) of Schedule I of the Regulation under the Act exempting the Underlying Funds from the payment of the annual filing fees payable



under section 14 of Schedule I of the Regulation in respect of the distribution of units or shares (collectively, the "Units") of the Underlying Funds to (i) counterparties in respect of Units purchased to hedge their exposure to the RSP Funds (the "Hedge Units") and (ii) the RSP Funds (including, in both cases the reinvestment of distributions (the "Reinvested Units")).

**AND UPON** considering the application and the recommendation of the staff of the Commission.

**AND UPON** AIM having represented to the Commission that;

1. The RSP Funds are open-end mutual fund trusts and the Underlying Funds are or will be, open-end mutual fund trusts or corporations established under the laws of Ontario. AIM is a corporation established under the laws of Ontario.
2. AIM is the manager of the RSP Funds and the Underlying Funds. AIM is the trustee of the RSP Funds and Underlying Funds.
3. All distributions by the Underlying Funds of (i) Units to the RSP Funds, (ii) Hedge Units and (iii) Reinvested Units, are made in Ontario.
4. The existing RSP Funds and the Underlying Funds are or will be reporting issuers and are not in default of any requirement of the securities acts or regulations applicable in each of the provinces and territories of Canada. The units of the RSP Funds and the Units of the Underlying Funds are or will be qualified for distribution pursuant to a simplified prospectus and annual information form in those jurisdictions.
5. As part of their investment strategy the RSP Funds enter into forward contracts or other derivative instruments (the "Forward Contracts") with one or more financial institutions or dealers (the "Counterparties") that link the returns to an Underlying Fund.
6. Counterparties may hedge their obligations under the Forward Contracts by investing in Hedge Units of the applicable Underlying Funds.
7. The RSP Funds may also invest a portion of their assets directly in Units of the Underlying Funds which constitute foreign property under the Income Tax Act (Canada) (the "Fund on Fund Investments").
8. Applicable securities regulatory approvals for the Fund on Fund Investments and the RSP Funds' investment strategies have been obtained.
9. Annually, each of the RSP Funds will be required to pay filing fees to the Commission in respect of the distribution of its units in Ontario pursuant to Section 14 of Schedule I of the Regulation and will similarly be required to pay fees based on the distribution of its units in other relevant Canadian jurisdictions pursuant to applicable securities legislation in each of those jurisdictions.

10. Annually, each of the Underlying Funds will be required to pay filing fees in respect of the distribution of its Units in Ontario, including Units issued to the RSP Funds and the Hedge Units, pursuant to Section 14 of Schedule I of the Regulation and will similarly be required to pay fees based on the distribution of its Units in other relevant Canadian jurisdictions pursuant to the applicable securities legislation in each of those jurisdictions.

11. A duplication of filing fees pursuant to Section 14 of Schedule I of the Regulation may result when (a) assets of an RSP Fund are invested in the applicable Underlying Fund (b) Hedge Units are distributed and (c) Reinvested Units are distributed.

**AND UPON** the Commission being satisfied that to do so would not be prejudicial to the public interest.

**IT IS ORDERED** by the Commission pursuant to subsection 59(1) of Schedule I of the Regulation that the Underlying Funds are exempt from the payment of filing fees on an annual basis pursuant to section 14 of Schedule I of the Regulation in respect of the distribution of Units of the Underlying Funds to the RSP Funds, the distribution of Hedge Units to Counterparties and the distribution of the Reinvested Units, provided that each Underlying Fund shall include in its notice filed under subsection 14(4) of Schedule I of the Regulation a statement of the aggregate gross proceeds realized in Ontario as a result of the issuance by the Underlying Funds of (1) Units to the RSP Fund, (2) Hedge Units and (3) Reinvested Units; together with a calculation of the fees that would have been payable in the absence of this Order.

May 23rd, 2000.

"Howard I. Wetston"

"R. Stephen Paddon"

**2.2.5 David Deonarine Singh - s.127(1)**

IN THE MATTER OF THE *SECURITIES ACT*  
R.S.O. 1990, c. S.5, as amended

- and -

IN THE MATTER OF DAVID DEONARINE SINGH

**ORDER**  
**(Subsection 127(1))**

**WHEREAS** on October 14, 2000, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to subsection 127(1) of the *Securities Act* (the "Act") in respect of Clifford Paul Tindall and David Deonarine Singh;

**AND WHEREAS** David Deonarine Singh entered into a settlement agreement dated July , 2000 (the "Settlement Agreement") in which he agrees to a proposed settlement of the proceeding, subject to the approval of the Commission;

**AND UPON** reviewing the Settlement Agreement and the statement of allegations of Staff of the Commission, and upon hearing submissions from counsel for David Deonarine Singh and from Staff of the Commission;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this Order;

**IT IS ORDERED THAT:**

- (i) the Settlement Agreement dated July 25, 2000, attached to this Order, is hereby approved;
- (ii) pursuant to clause 6 of subsection 127(1) of the Act, David Deonarine Singh is hereby reprimanded;
- (iii) pursuant to clause 2 of subsection 127(1) of the Act, Singh will cease trading in securities for a period of five years effective the date of this Order, with the exception of trading in personal accounts held in his name only;
- (iv) pursuant to clause 8 of subsection 127(1) of the Act, Singh is prohibited from becoming or acting as a director or officer of any issuer for a period of four years effective this date of the Order; and
- (v) pursuant to clause 127.1(2)(b) of the Act, Singh is ordered to pay, within 60 days , \$25,000 to the Commission in respect of a portion of the Commission's costs with respect to this matter.

July 31st, 2000.

"J.A. Geller"

"Robert W. Davis"

**2.2.6 David Deonarine Singh - Settlement Agreement**

IN THE MATTER OF THE *SECURITIES ACT*  
R.S.O. 1990, c. S.5, AS AMENDED (the "Act")

- and -

IN THE MATTER OF DAVID DEONARINE SINGH

**SETTLEMENT AGREEMENT**

**I. INTRODUCTION**

1. In a Notice of Hearing (the "Notice") issued by the Ontario Securities Commission (the "Commission") on October 14, 1999, the Commission announced that it proposed to hold a hearing to consider whether, pursuant to section 127(1) of the *Securities Act* (the "Act"), it is in the public interest for the Commission:
  - a. to make an order that the registration of the Respondent, Clifford Paul Tindall ("Tindall") be terminated, suspended or restricted for such period as the Commission may order or that terms and conditions be imposed on his registration;
  - b. To make an order that the Respondents cease trading in securities, permanently or for such time as the Commission may direct;
  - c. To make an order that one or both of the Respondents be reprimanded; and/or
  - d. To make such order as the Commission may deem appropriate.

**II. JOINT SETTLEMENT RECOMMENDATION**

2. Staff of the Commission ("Staff") agree to recommend settlement of the proceeding initiated in respect of the respondent David Deonarine Singh ("Singh") by the Notice in accordance with the terms and conditions set out below. Singh consents to the making of an order against him in the form attached as Schedule 'A' on the basis of the facts set out below.

**III. STATEMENT OF FACTS**

**Acknowledgment**

3. For the purposes of this proceeding, and of any other proceeding commenced by a securities regulatory agency, Singh agrees with the facts set out in this Part III.

**Facts**

***Singh's Conduct in Relation to Tindall***

4. Singh was, at all material times, registered under the Act as the President and Secretary of Fortune Financial Corporation ("Fortune"), which was at the material time a registered securities dealer, and of Fortune Investment Corp. ("FIC"), which was at the material time, a registered mutual fund dealer. Singh was the branch manager in the office at which Tindall worked. Singh was also the ultimately designated person with the Montreal Exchange, and Supervisory Procedures Officer with the Commission for these registrants.
5. Tindall was, at all material times, registered under the Act as a salesperson employed by Fortune. Tindall was also, at all material times, registered under the Act as a Vice President, a Director, or as an Executive Vice President and Director of Fortune.
6. From November 1994, to November 1995, Tindall solicited his Fortune clients to invest monies in promissory notes issued by Jack Rashid ("Rashid"), a relative of Tindall, and later Advanced Radar Technologies Inc. (Canada) ("ART Canada"), a company that Tindall had incorporated. The monies raised were to be used to finance a radar braking technology (hereinafter referred to as "ART") developed by Rashid's family.
7. The promissory notes were "securities". These securities had not been previously issued. The sale of the securities therefore constituted a distribution. No prospectus was filed with or received by the Commission and no prospectus exemption was available. Tindall's activity was therefore in contravention of subsection 53(1) of the Act.
8. In early July, 1995, after Tindall had a number of his clients invest in ART, Tindall advised Singh of his activities of actively soliciting his Fortune clients to invest in ART. Singh knew or ought to have known that Tindall's activities were improper. Rather than taking steps to ensure that no clients had been prejudiced or harmed by these activities, and taking measures to ensure that Tindall did not engage in any further misconduct, Singh suggested that Tindall make sure there were "proper documentation between him [Tindall] and his clients as to what was going on" and that Tindall "have the proper documents drawn up." Singh further suggested that Tindall call Fortune's securities lawyer.
9. Tindall subsequently incorporated a company called ART (Canada) for which he issued promissory notes which bore altered dates and other false information. These new promissory notes gave appearance that the ART investment could benefit from the commercial paper exemption contained in clause 35(2)4 and paragraph 73(1)(a) of the Act.
10. The securities sold by Tindall were not approved by his sponsoring dealer, Fortune. Tindall brought it to Singh's attention that the ART investment might also be

unlawful. Upon learning this, Singh failed to take adequate steps to prevent Tindall from selling investments that were neither approved by Fortune nor in compliance with Ontario securities law.

11. In July 1995, First Marathon Securities Ltd. (now National Bank Financial Corp.) ("FMSL"), Fortune's carrying broker, became aware of Tindall's involvement with ART and expressed serious concerns. A meeting was held on July 12<sup>th</sup>, 1995, in which Tindall made a number of representations to FMSL, each of which was untrue. At a subsequent meeting held on October 31<sup>st</sup>, 1995, Tindall admitted to having lied to FMSL previously. Specifically, Tindall admitted to lying with regard to the number of clients he had involved in ART; the nature of the investment; and his remuneration in respect to the ART investment. Singh, having been made aware that Tindall had lied to FMSL, then took no steps to discipline, control or monitor Tindall.
12. It was subsequently discovered that ART was a fraud. By that time, Tindall had raised in excess of US \$2.3 million from 41 clients. None of Tindall's clients recovered any funds, with the exception of Tindall's brother and one other.
13. Singh failed to adequately address all client complaints made to Fortune in respect of Tindall's activities. In some cases Singh did not respond to the complaints at all.

***Other Conduct***

14. Singh permitted representatives of Fortune who were registered to sell only mutual funds to trade securities for which they were not registered, by allowing them to use his representative number. Singh then paid part or all of the commission to the representative by way of personal cheque.
15. Singh's assistant instructed a sales representative who was transferring to Fortune from another dealer to place trades using the code of the Vice-President of Compliance, without that individual's knowledge.
16. In December 1996, Singh purchased 150,000 shares of O'Donnell Investment Management Corporation. The shares were issued pursuant to a private placement and were subject to a hold period that expired on May 13, 1998. Singh sold all of the shares between May 28 and June 4, 1997. In doing so during the hold period, his sale of shares was therefore a distribution, pursuant to subsection 72(4) of the Act.
17. Singh's conduct as set out above contravened Ontario securities law and was contrary to the public interest.

**IV POSITION OF SINGH**

18. Singh's position as provided to Staff is described below.
19. In or around July 1995, Singh was informed by Tindall that Tindall had introduced some of his clients to a relative in Detroit for a private investment. Tindall told Singh that ART had nothing to do with Fortune, or FMSL.
20. At the time, Singh believed Tindall's representations about his involvement with ART. Singh suggested to Tindall that he should obtain a legal opinion to ensure that the investors in ART were provided proper documentation to reflect their investment. Singh further suggested that Tindall should inform the OSC about his activities with respect to ART.
21. After being informed about ART, Singh relayed the information to Jennifer Dewling, VP of Operations at Fortune and suggested that FMSL should also be informed. Each of Dewling and Singh contacted FMSL.
22. On July 17, 1995, Tindall provided FMSL with a written statement concerning his activities in ART. Tindall's statement indicated in part that there were only four individuals who had invested in ART, that he had not raised or assisted in raising any other funds for ART and that he had not received nor had he been promised any remuneration from Rashid or ART. Tindall certified that the information contained in the statement was accurate and complete. Tindall undertook to keep both FMSL and Fortune informed of any changes.
23. The Vice-President of Compliance approached Singh to discuss the use of Singh's code by other representatives. Upon being advised by the Vice-President of Compliance that this was improper, Singh took steps to stop this practice.
24. On or about June 25, 1997, Fortune's Vice-President of Compliance brought to Singh's attention the sale of O'Donnell Investment Management Corporation shares that were in violation of the hold period. Singh offered to reverse the trade and agreed to cooperate with the Commission in correcting the error promptly. The Vice-President of Compliance then wrote a letter to the Commission, dated August 11, 1997, stating that Singh was anxious to have the issue cleared up and was willing to do whatever the Commission felt was necessary to correct the situation.

**V. TERMS OF SETTLEMENT**

25. Singh agrees to the following terms of settlement:
- (i) pursuant to clause 6 of subsection 127(1) of the Act, Singh will be reprimanded by the Commission;
  - (ii) pursuant to clause 2 of subsection 127(1) of the Act, Singh will cease trading in securities for a period of five years from the date of approval of this settlement agreement with the exception of

trading in personal accounts held in his name only;

- (iii) pursuant to clause 8 of subsection 127(1) of the Act, Singh is prohibited from becoming or acting as a director or officer of any issuer for a period of four years effective the date of the Order of the Commission approving the proposed settlement agreement herein, resigning from any such position within sixty days of the making of this order; and
- (iv) Singh will make a payment, within sixty days, of \$25,000 to the Commission in respect of a portion of the Commission's costs with respect to this matter forthwith.

**VI. CONSENT**

26. Singh hereby consents to an order of the Commission incorporating the provisions of Part IV above in the form of an order annexed hereto as Schedule "A".

**VII. STAFF COMMITMENT**

27. If this settlement is approved by the Commission, Staff will not initiate any complaint to the Commission or request the Commission to hold a hearing or issue any other order in respect of any conduct or alleged conduct of Singh in relation to the facts set out in Part III of this agreement.
28. If this settlement is approved by the Commission, Staff will not initiate any other proceeding against Singh in relation to the facts set out in Part III of this agreement.

**VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT**

29. Approval of the settlement set out in this agreement shall be sought at the public hearing of the Commission scheduled for July 31, 2000, or such other date as may be agreed to by Staff and Singh, in accordance with the procedures described in this agreement.
30. Staff and Singh agree that if this agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted respecting Singh in this matter, and Singh agrees to waive his rights to a full hearing and appeal of the matter under the Act.
31. Staff and Singh agree that if this settlement is approved by the Commission, no party to this agreement will make any public statement inconsistent with this agreement.
32. If, at the conclusion of the settlement hearing, and 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) each of Staff and Singh will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the Notice and Statement of

Allegations, unaffected by this agreement or the settlement negotiations;

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

**VII. DISCLOSURE OF AGREEMENT**

- 33. Counsel for Staff or for Singh may refer to any part or all of this agreement in the course of the hearing convened to consider this agreement. Otherwise, this agreement and its terms will be treated as confidential by all parties to the agreement until approved by the Commission, and forever if, for any reason whatsoever, this settlement is not approved by the Commission, except with the written consent of all parties or as may be required by law.
- 34. Any obligations of confidentiality shall terminate upon approval of this settlement by the Commission.

**VIII. EXECUTION OF AGREEMENT**

- 35. This agreement may be signed in one or more counterparts which together shall constitute a binding agreement.

July 25th, 2000.

"DAVID DEONARINE SINGH"

STAFF OF THE ONTARIO SECURITIES  
COMMISSION  
Per:

"Brian Butler"  
Acting For: Michael Watson  
Director

**Schedule "A"**

**IN THE MATTER OF THE SECURITIES ACT  
R.S.O. 1990, c. S.5, as amended**

- and -

**IN THE MATTER OF DAVID DEONARINE SINGH**

**ORDER  
(Subsection 127(1))**

**WHEREAS** on October 14, 2000, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to subsection 127(1) of the *Securities Act* (the "Act") in respect of Clifford Paul Tindall and David Deonarine Singh;

**AND WHEREAS** David Deonarine Singh entered into a settlement agreement dated July , 2000 (the "Settlement Agreement") in which he agrees to a proposed settlement of the proceeding, subject to the approval of the Commission;

**AND UPON** reviewing the Settlement Agreement and the statement of allegations of Staff of the Commission, and upon hearing submissions from counsel for David Deonarine Singh and from Staff of the Commission;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this Order;

**IT IS ORDERED THAT:**

- (i) the Settlement Agreement dated July 25, 2000, attached to this Order, is hereby approved;
- (ii) pursuant to clause 6 of subsection 127(1) of the Act, David Deonarine Singh is hereby reprimanded;
- (iii) pursuant to clause 2 of subsection 127(1) of the Act, Singh will cease trading in securities for a period of five years effective the date of this Order, with the exception of trading in personal accounts held in his name only;
- (iv) pursuant to clause 8 of subsection 127(1) of the Act, Singh is prohibited from becoming or acting as a director or officer of any issuer for a period of four years effective this date of the Order; and
- (v) pursuant to clause 127.1(2)(b) of the Act, Singh is ordered to pay, within 60 days, \$25,000 to the Commission in respect of a portion of the Commission's costs with respect to this matter.

**DATED** at Toronto this day of July, 2000.

**2.2.7 RTO Enterprises Inc. and Donald K. Johnson - s.113**

**Headnote**

Disclosure requirements applicable to dissident proxy solicitation - Applicant exempted from requirement in section 112 of the OBCA to deliver a dissident's information circular, provided that proxy solicitation made to no more than fifteen securityholders and copy of order provided forthwith to issuer

**Statutes Cited**

*Business Corporations Act*, R.S.O. 1990, c. B.16, as am., ss. 112(1)(b) and 113

*Securities Act*, R.S.O. 1990, c. S.5, as am., ss. 86(1) and 86(2)(a)

**IN THE MATTER OF THE BUSINESS CORPORATIONS ACT,  
R.S.O. 1990, CHAPTER B.16, AS AMENDED (the "OBCA"),**

**AND**

**IN THE MATTER OF RTO ENTERPRISES INC.**

**AND**

**IN THE MATTER OF DONALD K. JOHNSON**

**ORDER**  
(Section 113)

**UPON** the application (the "Application") of Donald K. Johnson (the "Applicant") to the Ontario Securities Commission (the "Commission") for an order pursuant to section 113 of the OBCA exempting the Applicant from the requirements of clause 112(1)(b) of the OBCA in connection with the Annual and Special Meeting of Shareholders of RTO Enterprises Inc. ("RTO") scheduled to be held on June 29, 2000 (the "Meeting");

**AND UPON** considering the Application and the recommendation of the staff of the Commission;

**AND UPON** the Applicant having represented to the Commission as follows:

1. RTO is a corporation existing under the OBCA and is a reporting issuer not in default under the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"). Its common shares (the "Shares") are listed and posted for trading on The Toronto Stock Exchange.
2. The Applicant is a director of RTO who beneficially owns 3,145,639 Shares representing approximately 14.4% of the outstanding Shares.
3. The Applicant wishes to communicate prior to the Meeting with not more than fifteen holders of Shares in order to discuss various matters relating to the

composition of senior management and the structure of RTO's board of directors, including changing certain directors and officers of RTO (the "Communications").

4. The Applicant proposes to engage in such Communications for *bona fide* purposes relating to his investment in RTO. The Communications will include enough information to reasonably permit the recipients of the Communications to make an informed decision regarding the subject matter of the Communications.
5. The Communications may constitute a solicitation of proxies within the meaning of section 86 of the Act. Pursuant to clause 86(2)(a) of the Act, the Applicant is exempt from the requirement in subsection 86(1) of the Act to deliver an information circular to holders of Shares (the "Shareholders") to whom the Communications are made, provided that the total number of Shareholders whose proxies he solicits does not exceed fifteen, with two or more joint registered owners of one or more Shares being counted as one Shareholder.
6. The Communications also may constitute a solicitation of proxies within the meaning of subsection 112(1) of the OBCA for which no exemption would be available from the requirement to deliver a dissident's information circular to, among others, Shareholders to whom the Communications were made.

**AND UPON** the Commission being satisfied in the circumstances of this particular case that there is adequate justification for so doing;

**IT IS ORDERED** pursuant to section 113 of the OBCA that the Applicant is exempt from the requirements of clause 112(1)(b) of the OBCA with respect to the Meeting, provided that:

- (1) the Communications are held with not more than fifteen Shareholders, with two or more joint registered owners of one or more Shares being counted as one Shareholder;
- (2) the Applicant does not otherwise solicit proxies in respect of the Meeting; and
- (3) a copy of this order is provided to RTO forthwith.

June 20th, 2000.

"J.A. Geller"

"Stephen N. Adams"

**2.2.8 Clarington Navellier US All Cap Fund et al - s.59(1)**

**Headnote**

Exemption from the fees otherwise due under subsection 14(1) of Schedule 1 of the Regulation to the *Securities Act* On a distribution of units made by an "underlying" fund directly (i) to a "clone" fund, (ii) to the "clone" fund's counterparties for hedging purposes and (iii) on the reinvestment of redistributions on such units.

**Regulations Cited**

Regulation made under the *Securities Act*, R.R.O. 1990, Reg. 1015, as am., Schedule 1, ss. 14(1), 14(4) and 59(1).

**IN THE MATTER OF THE SECURITIES ACT  
R.S.O. 1990, CHAPTER S.5, AS AMENDED (the "ACT")**

and

**IN THE MATTER OF  
CLARINGTON NAVELLIER US ALL CAP FUND  
CLARINGTON TECHNOLOGY FUND  
CLARINGTON GLOBAL EQUITY FUND  
CLARINGTON GLOBAL COMMUNICATIONS FUND**

**ORDER**

**(Subsection 59(1) of Schedule I of the Regulation  
made under the Act (the "Regulation"))**

**UPON** the application of ClaringtonFunds Inc. ("Clarington") and Clarington RSP Navellier US All Cap Fund, Clarington RSP Technology Fund, Clarington RSP Global Equity Fund and Clarington RSP Global Communications Fund which Clarington currently manages and other similar funds that it may establish in the future (the "RSP Funds") and Clarington Navellier US All Cap Fund, Clarington Technology Fund, Clarington Global Equity Fund and Clarington Global Communications Fund which Clarington currently manages and other similar funds that it may establish in the future (the "Underlying Funds") for an order pursuant to subsection 59(1) of Schedule I of the Regulation under the Act exempting the Underlying Funds from the payment of the annual filing fees payable under section 14 of Schedule I of the Regulation in respect of the distribution of units of the Underlying Funds to (i) counterparties in respect of units purchased to hedge their exposure to the RSP Funds (the "Hedge Units") and (ii) the RSP Funds (including, in both cases the reinvestment of distributions (the "Reinvested Units")).

**AND UPON** considering the application and the recommendation of the staff of the Commission.

**AND UPON** Clarington having represented to the Commission that;

1. The RSP Funds and the Underlying Funds are or will be, open-end mutual fund trusts established under the laws of Ontario. Clarington is a corporation established under the laws of Ontario.

2. Clarington is the manager of the RSP Funds and the Underlying Funds. Clarington is the trustee of the RSP Funds and Underlying Funds.
3. All distributions by the Underlying Funds of (i) units to the RSP Funds, (ii) Hedge Units and (iii) Reinvested Units, are made in Ontario.
4. The existing RSP Funds and the Underlying Funds are or will be reporting issuers and are not in default of any requirement of the securities acts or regulations applicable in each of the provinces and territories of Canada. The units of the RSP Funds and the Underlying Funds are or will be qualified for distribution pursuant to a simplified prospectus and annual information form in those jurisdictions.
5. As part of their investment strategy the RSP Funds enter into forward contracts or other derivative instruments (the "Forward Contracts") with one or more financial institutions or dealers (the "Counterparties") that link the returns to an Underlying Fund.
6. Counterparties may hedge their obligations under the Forward Contracts by investing in Hedge Units of the applicable Underlying Funds.
7. The RSP Funds may also invest a portion of their assets directly in units of the Underlying Funds which constitute foreign property under the Income Tax Act (Canada) (the "Fund on Fund Investments").
8. Applicable securities regulatory approvals for the Fund on Fund Investments and the RSP Funds' investment strategies have been obtained.
9. Annually, each of the RSP Funds will be required to pay filing fees to the Commission in respect of the distribution of its units in Ontario pursuant to Section 14 of Schedule I of the Regulation and will similarly be required to pay fees based on the distribution of its units in other relevant Canadian jurisdictions pursuant to applicable securities legislation in each of those jurisdictions.
10. Annually, each of the Underlying Funds will be required to pay filing fees in respect of the distribution of its units in Ontario, including units issued to the RSP Funds and the Hedge Units, pursuant to Section 14 of Schedule I of the Regulation and will similarly be required to pay fees based on the distribution of its units in other relevant Canadian jurisdictions pursuant to the applicable securities legislation in each of those jurisdictions.
11. A duplication of filing fees pursuant to Section 14 of Schedule I of the Regulation may result when (a) assets of an RSP Fund are invested in the applicable Underlying Fund (b) Hedge Units are distributed and (c) Reinvested Units are distributed.

**AND UPON** the Commission being satisfied that to do so would not be prejudicial to the public interest.

IT IS ORDERED by the Commission pursuant to subsection 59(1) of Schedule I of the Regulation that the Underlying Funds are exempt from the payment of filing fees on an annual basis pursuant to section 14 of Schedule I of the Regulation in respect of the distribution of units of the Underlying Funds to the RSP Funds, the distribution of Hedge Units to Counterparties and the distribution of the Reinvested Units, provided that each Underlying Fund shall include in its notice filed under subsection 14(4) of Schedule I of the Regulation a statement of the aggregate gross proceeds realized in Ontario as a result of the issuance by the Underlying Funds of (1) units to the RSP Fund, (2) Hedge Units and (3) Reinvested Units; together with a calculation of the fees that would have been payable in the absence of this Order.

May 23rd, 2000

"Howard I. Wetston"

"R. Stephen Paddon"

## **2.2.9 Global Strategy Income Plus Fund et al - s.59(1)**

### **Headnote**

Exemption from the fees otherwise due under subsection 14(1) of Schedule 1 of the Regulation to the *Securities Act* on a distribution of units made by an "underlying" fund directly (i) to a Top fund, (ii) on the reinvestment of redistributions on such units.

### **Regulations Cited**

Regulations made under the *Securities Act*, R.R.O. 1990, Reg. 1015, as am., Schedule 1, ss. 14(1), 14(4) and 59(1).

**IN THE MATTER OF THE SECURITIES ACT  
R.S.O. 1990, CHAPTER S. 5, AS AMENDED (THE "ACT")**

**AND**

**IN THE MATTER OF  
GLOBAL STRATEGY INCOME PLUS FUND  
GLOBAL STRATEGY CANADIAN COMPANIES FUND  
GLOBAL STRATEGY DIVERSIFIED WORLD EQUITY  
FUND  
GLOBAL STRATEGY GROWTH & INCOME FUND  
GLOBAL STRATEGY FINANCIAL INC.**

**ORDER**

**(Subsection 59(1) of Schedule I of the Regulation  
made under the above statute (the "Regulation"))**

**UPON** the application of Global Strategy Financial Inc. ("GSFI"), the manager and trustee of Global Strategy Income Plus Fund, Global Strategy Canadian Companies Fund, Global Strategy Diversified World Equity Fund and Global Strategy Growth & Income Fund, and other funds managed by GSFI from time to time (collectively, the "Top Funds") and Global Strategy World Balanced Fund, Global Strategy World Companies Fund, and other similar funds managed by GSFI from time to time (collectively, the "Underlying Funds") to the Ontario Securities Commission (the "Commission") for an order pursuant to subsection 59(1) of Schedule I of the Regulation exempting the Underlying Funds from paying duplicate filing fees on an annual basis in respect of the distribution of units of the Underlying Funds to the Top Funds and on the reinvestment of distributions on such units;

**AND UPON** considering the application and the recommendation of the staff of the Commission;

**AND UPON** GSFI having represented to the Commission that:

1. GSFI is the manager and trustee of the Top Funds and the Underlying Funds. GSFI is a corporation amalgamated under the laws of Ontario.
2. Each of the Top Funds and the Underlying Funds is, or will be, an open-ended unincorporated mutual fund trust established under the laws of Ontario.



3. The units of the Top Funds and the Underlying Funds are, or will be, qualified for distribution pursuant to simplified prospectuses and annual information forms filed across Canada.
4. Each of the Top Funds and the Underlying Funds is, or will be, a reporting issuer under the securities laws of each of the provinces and territories of Canada. None of the Top Funds or the Underlying Funds is in default of any requirements of the securities legislation, regulations or rules applicable in each of the provinces and territories of Canada.
5. Under its applicable investment strategy, the Top Funds may purchase units of the Underlying Funds (the "Fund on Fund Investments").
6. Annually, each of the Top Funds will be required to pay filing fees to the Commission in respect of the distribution of its units in Ontario pursuant to section 14 of Schedule I of the Regulation and will similarly be required to pay fees based on the distribution of its units in other relevant Canadian jurisdictions pursuant to the applicable securities legislation in each of those jurisdictions.
7. Annually, each of the Underlying Funds will be required to pay filing fees in respect of the distribution of its units in Ontario, including units issued to the Top Funds, pursuant to section 14 of Schedule I of the Regulation and will similarly be required to pay fees based on the distribution of its units in other relevant Canadian jurisdictions pursuant to the applicable securities legislation in each of those jurisdictions.
8. A duplication of filing fees pursuant to Section 14 of Schedule I of the Regulation may result when (a) assets of a Top Fund are invested in the applicable Underlying Fund and (b) a distribution is paid by an Underlying Fund on units of the Underlying Fund held by the applicable Top Fund which are reinvested in additional units of the Underlying Fund (the "Reinvested Units").

"Howard I. Wetston"

"R. Stephen Paddon"

**AND UPON** the Commission being satisfied to do so would not be prejudicial to the public interest;

**IT IS ORDERED** by the Commission pursuant to subsection 59(1) of Schedule I of the Regulation that the Underlying Funds are exempt from the payment of duplicate filing fees on an annual basis pursuant to section 14 of Schedule I of the Regulation in respect of the distribution of units of the Underlying Funds to the Top Funds and in connection with the distribution of Reinvested Units, provided that each Underlying Fund shall include in its notice filed under subsection 14(4) of Schedule I of the Regulation a statement of the aggregate gross proceeds realized in Ontario as a result of the issuance by the Underlying Funds of (1) units distributed to the Top Fund and (2) Reinvested Units; together with a calculation of the fees that would have been payable in the absence of this order.

May 23rd, 2000.

## 2.3 Rulings

### 2.3.1 Enerconnect Limited Partnership - s.74(1)

#### Headnote

S. 74(1) - prospectus and registration relief for trades by a limited partnership to its limited partners of partnership interests having an aggregate acquisition cost of less than \$150,000 - limited partners are corporations formed by municipal electric utilities as required by the *Electricity Act* (Ontario) to hold assets relating to supply and distribution of electricity - Form 45-501F1 to be filed and fees paid as if trades were made in reliance on an exemption listed in s.72(1)(a) - certain conditions imposed.

#### Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am. s. 25, 35(1)3.v, 53, 72(1)(a)(v), 72(5).

#### Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am.

#### Policies Cited

Rule 45-501 - *Prospectus Exempt Distributions*.

**IN THE MATTER OF THE SECURITIES ACT  
R.S.O. 1990, CHAPTER S.5, AS AMENDED (the "Act")**

**AND**

**IN THE MATTER OF  
ENERCONNECT LIMITED PARTNERSHIP**

**RULING  
(Subsection 74(1))**

**UPON** the application of ENERconnect Limited Partnership (the "Applicant") to the Ontario Securities Commission (the "Commission") pursuant to subsection 74(1) of the Act for a ruling that trades by the Applicant of partnership interests to its limited partners (the "Purchasers") at an aggregate acquisition cost to each Purchaser of less than \$150,000 will not be subject to sections 25 or 53 of the Act;

**AND UPON** considering the application and the recommendation of the staff of the Commission;

**AND UPON** the Applicant having represented to the Commission that:

1. The Applicant is a limited partnership which was formed under the laws of the Province of Ontario on November 11, 1997. The Applicant is not a reporting issuer under the Act.

2. The capital of the Applicant consists of limited partnership points ("Points"), each Point representing one dollar of contributed capital. Each Point carries the right to one vote at any meeting of limited partners. Limited partners share in any distribution of surplus or distribution on liquidation, pro rata in accordance with the number of Points held by them.
3. As at May 17, 2000, there were 3,501,200 Points issued and outstanding.
4. ENERconnect Inc. (the "General Partner"), a company incorporated under the laws of the Province of Ontario, is the general partner of the Applicant.
5. The Applicant's business is to provide competitive power procurement and power procurement services to its limited partners and other customers in the competitive and deregulated electricity marketplace to be established under the *Electricity Act* (Ontario).
6. The Applicant was formed under the auspices of the Municipal Electric Association, a non profit organization consisting of all of Ontario's municipal electric utilities (the "MEA"). All 222 of the Applicant's limited partners are municipal electric utilities who are MEA members. At the time of the formation of the Applicant each municipal electric utility that became a limited partner was a public utility or hydro-electric commission formed under the *Public Utilities Act* (Ontario) or the *Power Corporation Act* (Ontario).
7. Original contributions to the Applicant by its limited partners were made pursuant to ss. 35(1)3.v and 72(1)(a)(v) of the Act as the limited partners were considered public commissions purchasing interests in the Applicant for their own account.
8. Under the *Electricity Act* (Ontario), as of November 7, 2000, each municipality will be required to carry on the business of electricity distribution through a corporation incorporated by it under the *Business Corporations Act* (Ontario) (the "OBCA").
9. The *Electricity Act* (Ontario) empowers a municipality to transfer all assets, rights and liabilities formerly used by its commission in connection with the distribution of electricity to an OBCA company formed by the municipality.
10. Prior to November 7, 2000, each municipality will cause its commission's limited partnership interest in the Applicant to be transferred, along with the commission's other electricity assets, to the OBCA corporation formed by it.
11. The Applicant's limited partners which are OBCA corporations will not qualify as municipal corporations or public boards or commissions for the purposes of ss. 35(1)3.v and 72(1)(a)(v) of the Act and, consequently, the issuance of additional partnership interests to such limited partners will be subject to the prospectus and registration requirements of the Act.

12. The Purchasers wish to acquire and the Applicant wishes to issue to the Purchasers additional Points for an aggregate cost to each Purchaser of less than \$150,000. Each of the Purchasers is controlled by, and a vast majority of the Purchasers are wholly owned by, the municipalities which incorporated them, and each of the Purchasers is a limited partner of the Applicant having previously acquired Points for their own account from their respective municipal electrical utilities.

**AND UPON** the Commission being satisfied that to do so would not be prejudicial to the public interest;

**IT IS RULED** pursuant to subsection 74(1) of the Act that trades by the Applicant of Points to Purchasers at an aggregate acquisition cost to a Purchaser of less than \$150,000 are not subject to sections 25 and 53 of the Act, provided that:

- (a) prior to such trades, a copy of this ruling is delivered to the Purchaser acquiring the Points together with a statement that as a result of this ruling certain protections, rights and remedies provided by the Act, including statutory rights of rescission or damages will not be available to the Purchaser in respect of the acquisition of the Points;
- (b) in respect of the trades the Applicant files Form 45-501F1 and pays the fee that is to accompany the filing of a Form 45-501F1 pursuant to and calculated in accordance with s. 7.3 of Ontario Securities Commission Rule 45-501 - *Prospectus Exempt Distributions* ("Rule 45-501") as if the trades had been made in reliance on s. 72(1)(a)(v) of the Act;
- (c) the first trade in the Points acquired pursuant to this ruling shall be a distribution, unless such trade is made in accordance with subsection 72(4) of the Act as modified by section 2.18(3) of Rule 45-501 as if such Points had been acquired pursuant to an exemption referred to in subsection 72(4) of the Act;
- (d) the aggregate acquisition cost of all the trades which may be made by the Applicant in reliance on this ruling is limited to the amount of \$3,000,000; and
- (e) this ruling shall expire on the date which is 270 days from the date of this ruling.

July 28th, 2000.

"J. A. Geller"

"J. F. Howard"

### 2.3.2 Genomics One Corporation - s.74(1)

#### Headnote

First trade relief - Quebec company listed on Montreal Exchange acquiring all shares of 3 Ontario private companies in exchange for shares of Quebec company. Relief granted for first trades executed over a stock exchange outside of Ontario despite that Ontario residents constitute more than 10% of the total number of shareholders of the Quebec company. Ontario residents will hold less than 4% of the shares.

#### Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., ss 53, 74(1).

#### Rules Cited

72-501 Prospectus Exemption for First Trade Over a Market Outside Ontario.

**IN THE MATTER OF THE SECURITIES ACT,  
R.S.O. 1990, CHAPTER S.5, AS AMENDED (the "Act")**

**AND**

**IN THE MATTER OF  
GENOMICS ONE CORPORATION**

**RULING  
(Section 74(1))**

**UPON** the application of Genomics One Corporation ("Genomics") to the Ontario Securities Commission (the "Commission") for an order pursuant to section 74(1) of the Act that the first trade in the Acquisition Shares (as defined below) acquired pursuant to the Acquisition (as defined below) shall not be subject to section 53(1) of the Act, provided that such trade is made through the facilities of a stock exchange outside Ontario;

**AND UPON** considering the application and the recommendation of the staff of the Commission;

**AND UPON** Genomics having represented to the Commission as follows:

1. Genomics is a public corporation incorporated under the laws of Canada.
2. Genomics is a biotechnology company focusing on the development of technology platforms for genomic manipulations and gene discovery. Genomics' platform technologies also have applications in the development of products for research, therapeutics, diagnostics and industrial processes.
3. The Shares (as defined below) are listed and posted for trading on the Montreal Exchange.
4. Genomics is a reporting issuer only in the Province of Quebec and has no immediate intention of becoming a reporting issuer in the Province of Ontario.

5. According to the information provided by General Trust of Canada, as of July 10, 2000, Genomics had issued and outstanding an aggregate of 16,095,514 common shares (the "Shares") which were held beneficially by an aggregate of 4,689 shareholders. In Ontario, there were 793 beneficial shareholders holding an aggregate of 486,636 Shares (representing approximately 16.9% of the total number of Genomics beneficial shareholders and approximately 3% of the outstanding Shares).
6. After completion of the Acquisition and the issuance of the Acquisition Shares (as described below), there will be an aggregate of 16,235,580 Shares (16,375,646 Shares if the warrants are fully exercised) beneficially held by an aggregate of 4,692 shareholders. In Ontario, there will be 796 beneficial shareholders holding an aggregate of 626,702 Shares (766,768 Shares if the warrants are fully exercised) (representing approximately 17% of the total number of Genomics beneficial shareholders and approximately 3.9% of the outstanding Shares (4.7% if the warrants are fully exercised)).
7. Bio/Can Scientific Inc. is incorporated under the *Canada Business Corporations Act* and Gordon Technologies Inc. and Biospark Scientific Inc. are corporations incorporated under the *Business Corporations Act* (Ontario) (collectively, "TargetCos"). TargetCos are suppliers of biotechnology laboratory products in Canada as well as developers and manufacturers of products for use in the biotechnology field.
8. TargetCos are private companies as defined in the Act.
9. All of the issued and outstanding shares of TargetCos are held by Dr. Sydney Abrahams, Ms. Andrea Abrahams and Dr. Reginald Gorczynski (collectively, the "Vendors").
10. Genomics proposes to purchase (the "Acquisition") from the Vendors all of the issued and outstanding shares held by the Vendors in the capital stock of TargetCos.
11. The Vendors are all in the Province of Ontario.
12. (a) Pursuant to a letter of intent dated April 4, 2000, as amended by an amending agreement dated May 19, 2000, and as further amended following recent negotiations, Genomics will pay, in consideration for the shares acquired pursuant to the Acquisition \$3,108,000.00 broken down as follows: \$1,000,006.70 in cash, 140,066 Shares and a number of warrants to purchase common shares of Genomics which will be determined according to the formula below (the "Acquisition Shares").  
  

$$(15.05 - \text{exercise price of warrants}) \times 140\,066$$

$$\text{exercise price of warrants}$$

(b) The price of the Shares was determined by application of the price at which trading on such Shares closed on the day preceding the date of signature of the letter of intent. The warrants will be exercisable for a period of two years and the exercise price will be the closing price of the Shares on the Montreal Exchange on the day preceding the closing of the Acquisition. The maximum number of Shares issuable pursuant to the above mentioned formula will not exceed 140,066 Shares.
13. The Acquisition Shares will be issued pursuant to the prospectus exemptions provided for in section 72(1)(j) of the Act and will be exempt from the take-over bid requirements contained in sections 95 through 100 of the Act by virtue of compliance with section 93(1)(d) thereof. Section 93(1)(d) of the Act applies because: (i) TargetCos are not reporting issuers in the Province of Ontario; (ii) there is no published market for the shares of TargetCos and (iii) the number of holders of securities of TargetCos is not more than fifty.
14. Genomics has given the following principal reasons for the Acquisition:
  - (a) the acquisition of the distribution network of the TargetCos would significantly enhance Genomic's ability to distribute its products throughout Canada and in the United States; and
  - (b) Genomics will have access to new technological capability and products in the field of immunology to complement its own expertise in the areas of genomics and molecular biology.
15. Genomics has given the following principal reasons for the issuance of the Acquisition Shares:
  - (a) providing for Acquisition Shares as opposed to an all cash payment for the Acquisition would prevent a significant drain on the cash reserves of Genomics; and
  - (b) in the absence of an ability to issue the Acquisition Shares, the cash cost of the Acquisition would be sufficiently high that Genomics would be unable to complete the Acquisition as well as proceed with other elements of its business plan.
16. If Genomics was a reporting issuer in Ontario, the requirements contained in section 72(5) would govern the first trade in the Acquisition Shares. However, Genomics cannot rely upon the first trade exemption contained in section 72(5) of the Act because, as already indicated above, Genomics is not a reporting issuer under the Act.
17. With respect to the Acquisition Shares to be issued to the Vendors in connection with the Acquisition, OSC Rule 72-501 provides that section 53 of the Act would not apply to the first trade of the Acquisition Shares if at the time of Acquisition:
  - (a) Genomics is not a reporting issuer in Ontario;

- (b) persons or companies who were in Ontario and who beneficially owned Shares of Genomics
    - (i) did not beneficially own more than 10 percent of the outstanding Shares, and
    - (ii) did not represent in number more than 10 percent of the total number of holders of Shares; and
  - (c) the first trade in the Acquisition Shares is executed
    - (i) through the facilities of a stock exchange outside of Ontario.
18. Although only approximately 3.9% of the total number of outstanding Shares (4.7% if the warrants are fully exercised) will be beneficially held in Ontario upon completion of the Acquisition, Genomics cannot rely upon the first trade exemption contained in OSC Rule 72-501 because the number of beneficial shareholders of Shares who will be in Ontario upon completion of the Acquisition will be approximately 17%.

**AND UPON** the Commission being satisfied that to do so would not be prejudicial to the public interest;

**IT IS RULED** pursuant to section 74(1) of the Act that the first trade in the Acquisition Shares shall not be subject to section 53(1) of the Act, provided that such trade is made through the facilities of a stock exchange outside Ontario.

July 28th, 2000.

"J. A. Geller"

"J. F. Howard"

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## Chapter 3

# Reasons: Decisions, Orders and Rulings

### 3.1 Reasons for Decision

#### 3.1.1 David Deonarine Singh

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

AND

IN THE MATTER OF DAVID DEONARINE SINGH

Hearing: July 31, 2000

Panel: J.A. Geller, Q.C. - Vice-Chair  
R. W. Davis - Commissioner

Counsel: Sarah Oseni - For the Staff of the  
Mark Mason Ontario Securities  
Commission

Lou Morreale - For David  
Deonarine Singh

#### DECISION AND REASONS

Mr. Singh was the branch manager of Fortune Financial Corporation ("Fortune"), of the office at which Clifford Paul Tindall ("Tindall") worked. Fortune was a registered securities dealer. Mr. Singh was also the ultimate designated person with the Montreal Exchange, and he was the supervisory procedures officer with the Commission for Fortune and Fortune Investment Corporation ("FIC"), a registered mutual fund dealer. He was the President and Secretary of each of Fortune and FIC.

In these capacities, he had, in our view, a clear obligation to ensure that compliance systems were in place to ensure that the improper and illegal actions of Tindall admitted by Singh were detected and stopped, if not prevented in the first place. They clearly were not. He should have known what the legal requirements were, and on being advised by Tindall that the latter had engaged in misconduct, should have taken immediate and effective steps to ensure that such conduct did not continue. He did not do so either the first time Mr. Singh became aware of Tindall's misconduct, or on being advised of Tindall's subsequent misconduct.

Such a cavalier approach to the performance by Mr. Singh of his obligations is just not acceptable conduct. Indeed, it shows either a misunderstanding of what his obligations were, or a callous disregard for those obligations, and for the harm which could be, and was, done to investors to whom Mr. Singh

owed the obligation of performing his duties in a careful and correct manner.

Mr. Singh's explanation contained in the Settlement Agreement are just not good enough. Choosing not to investigate adequately is not a satisfactory excuse. Either is willful blindness.

We have also considered the other breaches of Ontario securities law admitted by Mr. Singh in the Settlement Agreement. We are concerned, for instance, that someone in Mr. Singh's position appears not to have appreciated the requirements of Ontario securities law with respect to hold periods. In addition Mr. Singh either did not know that persons registered to sell only mutual funds were not permitted to trade in other securities, or, more probably in our view, did not care if they did so.

In our view, it is necessary to remove Mr. Singh from participation as an intermediary in the marketplace and as an officer or director of any issuer for a substantial period for the protection of that marketplace and investors.

We have considered whether the periods provided for are adequate for this purpose. Had the matter gone to a hearing, the periods decided on by the panel might well have been longer, but we have taken into account the desirability of encouraging appropriate settlements, and Mr. Singh's willingness to admit his improper behaviour, leading to a speedy resolution of this part of the proceedings.

Accordingly, we approve the Settlement Agreement between Mr. Singh and the Staff of the Commission dated July 25, 2000.

We will make the order requested, which includes a reprimand by the Commission.

July 31, 2000

"J.A. Geller"

"Robert W. Davis"

### 3.1.2 Richard Thomas Slipetz

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

AND

IN THE MATTER OF RICHARD THOMAS SLIPETZ

Hearing: June 28, 2000

Panel: J.A. Geller, Q.C. - Vice-Chair  
M.P. Carscallen, F.C.A. - Commissioner  
R.S. Paddon, Q.C. - Commissioner

Counsel: Sarah Oseni - for the Staff of  
the Ontario  
Securities  
Commission

Michael Grayson, Q.C. - For R.T. Slipetz

#### DECISION AND REASONS

These proceedings were commenced by a notice of hearing dated March 6, 2000, accompanied by a statement of allegations in which the staff ("Staff") of the Commission alleged the following.

1. The respondent, Richard Thomas Slipetz ("Slipetz"), is an individual who was at all material times registered with the Ontario Securities Commission (the "Commission") as a salesperson.
2. Slipetz worked for Sutherland Securities Inc. ("Sutherland") during the period commencing on or about January 3, 1995 and ending on or about April 8, 1997.
3. Slipetz worked for Fortune Financial Corporation during the period commencing on or about April 21, 1997 and ending on or about June 17, 1998.

#### Conduct Relating to T.D.

4. T.D. is an individual who was a client of Slipetz.
5. In early 1997, T.D. gave Slipetz a cheque payable to Sutherland in the amount of \$3,000 for purposes of making an RRSP contribution. At Slipetz's request, T.D. initialled the payee and amount portions of the cheque.
6. Before the cheque was cashed, Slipetz was substituted for Sutherland as the payee.
7. Slipetz advised T.D. that his money was invested, but that the paperwork was probably delayed. T.D.'s subsequent calls to Slipetz were not returned.
8. Slipetz made no investment on behalf of T.D. with respect to the \$3,000.

#### Conduct Relating to M.C.

9. M.C. is an individual who was a client of Slipetz.
10. In or about February, 1998, M.C. gave Slipetz a cheque in the amount of \$685 for purposes of making an investment. The payee of the cheque was left blank.
11. M.C. did not receive written confirmation of her investment, but was advised by Slipetz that her money was invested.
12. M.C. confronted Slipetz after she learned that it appeared that Chick 'N' Deli had been inserted as the payee of her cheque. Slipetz advised M.C. that the money was placed in the wrong account and that he was working to rectify the problem. M.C.'s subsequent calls to Slipetz were not returned.
13. Slipetz made no investment on behalf of M.C. with respect to the \$685.

#### Conduct Relating to L.M.

14. L.M. is an individual who was a client of Slipetz.
15. In or about October, 1997, L.M. gave Slipetz two cheques totalling \$15,000 for purposes of obtaining shares of Infinity Funds Management ("Infinity") for both L.M. and L.M.'s wife. Slipetz had advised L.M. that he and his wife could only purchase shares of Infinity through Slipetz. Accordingly, the two cheques were made payable to Slipetz. L.M. understood that Slipetz was to hold the shares of Infinity for the benefit of L.M. and his wife.
16. Slipetz neither purchased shares of Infinity nor made any other investment on behalf of L.M. or his wife with respect to the \$15,000.

#### Conduct Relating to R.T.

17. R.T. is an individual who was a client of Slipetz.
18. In or about May, 1997, R.T. made arrangements with Slipetz to make an investment of \$600 for her daughter. R.T. gave a cheque to Markiewitz, an associate of Slipetz. At the request of Markiewitz, R.T. made the cheque payable to Slipetz.
19. R.T. did not receive confirmation that an account had been opened for her daughter. After speaking with Slipetz several times, R.T.'s subsequent calls to Slipetz were not returned.
20. Slipetz made no investment on behalf of R.T. or her daughter with respect of \$600.

#### Conduct Contrary to the Public Interest

21. Slipetz converted funds given to him for purposes of investment by each of T.D., M.C., L.M., and R.T. to his own personal use. Such conduct is contrary to the public interest."



At the hearing, Ms. Oseni, on behalf of Staff, called the following witnesses:

Rosanne Tzogas  
Molly Conlin  
Thomas Demoe  
Lloyd Miller  
Ralph Markiewitz

Mr. Grayson, on behalf of Mr. Slipetz, advised us that he wished to call Mr. Slipetz to testify on his own behalf. However, Ms. Oseni brought to our attention an order made, pursuant to Rule 3 of the Commission's Rules of Practice, by Commissioner Howard at a Pre-Hearing Conference held pursuant to that Rule, in which Commissioner Howard ordered that Mr. Slipetz deliver to Staff copies of all documents that he intended to produce or enter as evidence at the hearing, and a list of all witnesses that Mr. Slipetz intended to call to testify on his behalf at the hearing with a signed witness statement or will say for each such witness, as required under the Rules of Practice. The order went on to provide that failure to provide disclosure of any witness, document or thing would render that evidence inadmissible for the purposes of the hearing, unless leave of the Commission was obtained.

Mr. Grayson acknowledged that Mr. Slipetz had failed to comply with the order, despite Mr. Grayson's advice to Mr. Slipetz that he was obliged to do so, and asked us to adjourn the hearing to allow Mr. Slipetz now to comply with the order, so that "there be an appearance of fairness". We declined to adjourn the hearing, or to grant leave for Mr. Slipetz to testify or to introduce documents. Mr. Slipetz willfully failed to comply with the requirements of the Commission's Rules of Practice and the order made by Commissioner Howard. We do not accept the argument that it is necessary to permit him to testify notwithstanding that failure in order that there be an appearance of fairness. Indeed, in our view it would be unfair to permit Mr. Slipetz to delay the proceedings in this manner, or to make a farce of the Commissions' Rules of Practice. In our view, Mr. Slipetz' failure to comply can hardly be presented as an innocent mistake which would justify leniency in this regard.

However, Mr. Grayson did cross-examine Staff's witnesses, but did not, in our view, in any way shake their testimony, which, in our view, proved Staff's allegations against Mr. Slipetz in all material respects.

We find that Mr. Slipetz held himself out to the witnesses Tzogas, Conlin, Demoe and Miller as an investment professional who could be relied on to advise the witness well and take care of the witness' interests, and on whom the witness could depend for disinterested investment advice. He sought and obtained the trust of these witnesses. As a result, Slipetz was in a fiduciary relationship with these witnesses and had, in equity, a strict obligation to deal fairly, honestly and in good faith with them. This obligation existed as a matter of general law. (See: *Hodgkinson v. Simms* [1994] 3 S.C.R. 337 at 419; *Burke v. Corry* (1959), 19 D.L.R. (2d) 252; *In the Matter of E.A. Manning et al.* (1995), 18 O.S.C.B 5317 at 5339.) We find that Mr. Slipetz breached his fiduciary duty, and, instead of acting in the best interests of those to whom he owed the duty, took advantage of and cheated them.

We find that, instead of investing moneys which he received from these witnesses solely for investment purposes, Mr. Slipetz misappropriated these moneys and used them for his own purposes. In our view, such an action goes to the very essence of the duties and responsibilities of a registrant under the *Securities Act*. (See: *In the Matter of Thomas Douglas Thomson* (1969), 4 O.S.C.B. 160 at 164.) We can think of no more serious type of a failure by a registrant to comply with his obligations under the Act to his customers.

When his defalcations were found out by these customers, Mr. Slipetz lied to them about what had happened, and made no attempt to make good their losses (except, in the case of Mr. Miller, after Mr. Slipetz' employer had agreed to do so). He showed no remorse for his actions. Mr. Grayson argued that, in the case of three of the witnesses, Mr. Slipetz' employer had compensated them for their losses, and that, because they had suffered no losses, in effect no harm had been done. We reject this argument as in any way mitigating the seriousness of Mr. Slipetz' actions.

Mr. Slipetz' actions were grossly abusive of these four investors. For us to indicate in any way that we did not regard them as being extremely serious could, in our view, diminish the confidence of investors in the capital markets of Ontario. Under section 1.1 of the Act, the purposes of the act are to provide protection to investors from unfair, improper or fraudulent practices, and to foster fair and efficient capital markets, and confidence in capital markets.

Mr. Grayson argued that we should not "take away this man's livelihood." Instead, he said, the Commission should give Mr. Slipetz "a chance to continue on with a reprimand from this Commission and let him have his license on probation."

We have no doubt that, in light of Mr. Slipetz' actions, sanctions under subsection 127(1) of the Act are required. The question is what sanctions would be appropriate.

The relevant considerations were described by the Commission in *In the Matter of Mithras Management Ltd. et al* (1988), 11 OSCB 1600 at 1610,

"Under sections 26, 123 and 124 [now section 127] of the Act, the role of this Commission is to protect the public interest by removing from the capital markets – wholly or partially, permanently or temporarily, as the circumstances may warrant – those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under Section 118 of the Act. We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In so doing we must, of necessity, look to past conduct as a guide to what we believe a persons's future conduct might reasonably be expected to be; we are not prescient, after all. And in so doing, we may well conclude that a person's past conduct has been so abusive of the capital markets as to warrant our

apprehension and intervention, even if no particular breach of the Act has been made out."

Similarly, in *In the Matter of Gregory McGroarty et al.* (1990),

13 OSCB 3887 at 3934, the Commission stated:

"we would say first that this present proceeding is not, as respondent's counsel seemed to characterize it, the trial of a provincial or criminal offence in which the prosecutor must make out every element of the offence charged before a conviction can be registered. Ours is an administrative proceeding, the focus of which is the protection of the public and not the punishment of an individual."

We are satisfied that a reprimand is by no means sufficient. Nor do we think that permitting Mr. Slipetz to continue to engage in the securities business, merely imposing some conditions on his activities, will be sufficient to protect the marketplace. As was said by the Commission in *In the Matter of Paul John Rockel* (1966) O.S.C.B. 6 at 7:

The Commission recognizes that the cancellation of registration is a severe economic penalty, generally a penalty to be applied in cases where the public itself has been abused or where it is clear that a man's moral standard is such that he cannot be trusted to trade in securities, which experience has shown to be a business subject to great temptation.

In the matter before us, the public has been abused, and, in our view, Mr. Slipetz' moral standard is such that he cannot be trusted to trade in securities. Unless he is removed from the capital markets there is, in our view, every reason to believe that he will continue to act with a disregard for his obligations to his customers or for their best interests. We see no reason to believe that Mr. Slipetz has learned his lesson, or that, if tempted in the future, he will not again take advantage of his customers in one manner or another.

Staff has asked us to make an order, under subsection 127(1) of the Act, that Mr. Slipetz be prohibited from trading in securities permanently, and that he be reprimanded. We do so, subject to the condition that Mr. Slipetz will be permitted to make trades for a registered retirement savings plan of which he is the sole beneficiary, through a broker or dealer registered under the Act.

August 1st, 2000.

"J.A. Geller"

"Morley P. Carscallen"

"R. Stephen Paddon"

## Chapter 4

# Cease Trading Orders

### 4.1.1 Temporary Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Rescinding Order
Ram Petroleums Limited	July 21/2000	Aug 2/2000	—	---
Wollasco Minerals Inc.	July 21/2000	Aug 2/2000	—	---
Swisslink Financial Corporation	July 21/2000	Aug 2/2000	—	---
Moneysworth & Best Shoe Care Inc.	July 21/2000	Aug 2/2000	—	---
Link Mineral Ventures Ltd.	July 21/2000	Aug 2/2000	—	---

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**Chapter 5**  
**Rules and Policies**

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THERE IS NO MATERIAL FOR THIS CHAPTER  
IN THIS ISSUE

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## Chapter 6

# Request for Comments

### 6.1 Request for Comments

#### 6.1.1 CSA Staff Notice 31-401 - Registration Forms Relating to the National Registration Database

**CSA/ACVM**

Canadian Securities  
Administrators

Authorities canadiennes  
en valeurs mobilières

#### CANADIAN SECURITIES ADMINISTRATORS STAFF NOTICE 31-401

#### Registration Forms Relating to the National Registration Database

The Canadian Securities Administrators (the "CSA") are requesting comment on three forms (the "Forms") relating to the application for registration of dealer firms, adviser firms and individuals to replace Form 3, Form 4 and Form 1-U-2000. The Forms are available at [http://www.osc.gov.on.ca/en/Regulation/Rulemaking/Notices/csanotices/csa\\_list.html](http://www.osc.gov.on.ca/en/Regulation/Rulemaking/Notices/csanotices/csa_list.html).

The Forms will be used for the electronic filing of applications in all jurisdictions except Quebec following the implementation of the National Registration Database system ("NRD"). Although the Commission des valeurs mobilières du Québec (the "CVMQ") is not a participant in the NRD, the CVMQ will adopt the Forms concurrent with their adoption by the other provincial and territorial securities regulatory authorities.

The NRD will be a Web-based system which will permit firm and individual registrants to file application information in electronic format. Information on the NRD will be accessible to regulators, registrants and, to a limited extent, the public.

The CSA request comments on the Forms at this time to facilitate the development of the NRD. Rules and instruments associated with the implementation of NRD will be published for comment at a later date. The Forms will be republished for comment at that time.

#### Comments

Interested parties are invited to make written submissions with respect to the Forms. Submissions received by September 15, 2000 will be considered.

Submissions should be addressed to all of the Canadian securities regulatory authorities listed below and sent, in duplicate, in care of the Ontario Securities Commission, as

indicated below:

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Securities Commission  
The Manitoba Securities Commission  
Ontario Securities Commission  
Office of the Administrator, New Brunswick  
Registrar of Securities, Prince Edward Island  
Nova Scotia Securities Commission  
Securities Commission of Newfoundland  
Registrar of Securities, Northwest Territories  
Registrar of Securities, Yukon  
Registrar of Securities, Nunavut

c/o John Stevenson, Secretary  
Ontario Securities Commission  
20 Queen Street West  
Suite 800, Box 55  
Toronto, Ontario M5H 3S8  
[jstevenson@osc.gov.on.ca](mailto:jstevenson@osc.gov.on.ca)

Submissions should also be addressed to the Commission des valeurs mobilières du Québec as follows:

Claude St Pierre, Secrétaire  
Commission des valeurs mobilières du Québec  
800 Victoria Square  
Stock Exchange Tower  
P.O. Box 246, 22<sup>nd</sup> Floor  
Montréal, Québec H4Z 1G3  
[claud.stpierre@cvmq.com](mailto:claud.stpierre@cvmq.com)

A diskette (or an e-mail attachment) containing the submission (in DS or Windows format, preferably WordPerfect) should also be submitted.

Comment letters submitted in response to requests for comments are placed on the public file in certain jurisdictions and form part of the public record, unless confidentiality is requested. Comment letters will be circulated among the securities regulatory authorities, whether or not confidentiality is requested. Although comment letters requesting confidentiality will not be placed on the public file, freedom of information legislation in certain jurisdictions may require the securities regulatory authorities in those jurisdictions to make comment letters available. Persons submitting comment letters should therefore be aware that the press and members of the public may be able to obtain access to any comment letters.

Questions may be referred to any of:

Elle Koor  
Senior Accountant, Compliance  
Ontario Securities Commission  
(416) 593 8077  
ekoor@osc.gov.on.ca

Wayne Alford  
Legal Counsel  
Alberta Securities Commission  
(403) 297-2092  
wayne.alford@seccom.ab.ca

Ross McLennan  
Director, Registration  
British Columbia Securities Commission  
(604) 899-6685 or (800) 373-6393 (in B.C.)  
rmclennan@bcsc.bc.ca



## REGISTRATION FORM - DEALER FIRMS

Include instructions for completion.

## Definition of Terms

Is this an:     Initial Application     Amendment

## GENERAL INFORMATION

NRD No.:

1. Full Name of the Dealer:  
(if sole proprietor state last, first and middle name)

(a) Name under which you primarily conduct your dealer business (if different from above):

(b) Has the applicant, or to the best of the applicant's information and belief, has any affiliate of the applicant, operated under, or carried on business under, any name other than the name shown in this application? .....  Yes     No

If "yes" list on Schedule "D", Section I - *Other Business names Previously Used*, any other names under which the firm has previously conducted business (firm history required for last 10 years).

(c) List on Schedule "D", Section II - *Other Business Names Currently in Use*, any other names under which the firm currently conducts business (e.g. trade names).

## Head Office

2. Head Office Business Address (*do not use a P.O. Box*)  
(number, street, city, province/territory, postal code)

(a) Mailing Address (if different than above) (*do not use a P.O. Box*)  
(number, street, city, province/territory, postal code)

(b) Days of the week business is normally conducted at head office:  
 Monday to Friday  
 Other (specify): \_\_\_\_\_

(c) Hours business is conducted at this location  
(from \_\_\_\_\_ to \_\_\_\_\_)

(d) Area Code + Telephone Number

(e) Fax Number

(f) Do you have a Website address? .....  Yes     No  
If "yes", list all addresses below:

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

## REGISTRATION FORM - DEALER FIRMS

**Authorized Firm Representative***(i.e. an employee whom you have authorized to receive information and respond to questions about this Form)*

3. Name of Authorized Firm Representative (last, first and middle name):  
Title of Authorized Firm Representative:

Complete the following information for the Authorized Firm Representative:

- (a) Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)
- (b) Area Code + Telephone
- (c) e-mail Address
- (d) Fax Number

**Branches** For each Branch Office location please complete the following information:Check only one box:  Add  Delete  Amendment

4. NRD Branch No.
- (a) Name of Branch Manager
- (b) Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)
- (c) Mailing Address (if different from above) (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)
- (d) Area Code + Telephone Number
- (e) Fax Number
- (f) Website Address

**Sub-branches** For each Sub-Branch Office location please complete the following information:Check only one box:  Add  Delete  Amendment

5. NRD Sub-Branch No.
- (a) Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)
- (b) Mailing Address (if different from above) (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)
- (c) Area Code + Telephone Number
- (d) Fax Number
- (e) Website Address
- (f) State which location supervises this Sub-Branch:  
Business Address (do not use a P.O. Box) (number, street, city, province/territory, postal code)

## REGISTRATION FORM - DEALER FIRMS

## SRO AND SECURITIES COMMISSION

6. Indicate by checking the appropriate box(es) each Self Regulatory Organization (SRO), Exchange and/or Securities Commission in which the applicant is a member/registered or applying for membership/registration:

## Currently Registered

## Registering

- British Columbia Securities Commission
- Alberta Securities Commission
- Saskatchewan Securities Commission
- Manitoba Securities Commission
- Ontario Securities Commission
- Commission des valeurs mobilières du Québec
- New Brunswick Office of the Administrator
- Nova Scotia Securities Commission
- Prince Edward Island Registrar of Securities
- Newfoundland Securities Division
- Northwest Territories Securities Registries
- Yukon Territory Registrar of Securities
- Nunavut
  
- Investment Dealers Association of Canada
- Mutual Fund Dealers Association
- Canadian Venture Exchange (CNDX)
- Montreal Exchange
- Toronto Stock Exchange
- Toronto Futures Exchange
- Winnipeg Commodity Exchange

- British Columbia Securities Commission
- Alberta Securities Commission
- Saskatchewan Securities Commission
- Manitoba Securities Commission
- Ontario Securities Commission
- Commission des valeurs mobilières du Québec
- New Brunswick Office of the Administrator
- Nova Scotia Securities Commission
- Prince Edward Island Registrar of Securities
- Newfoundland Securities Division
- Northwest Territories Securities Registries
- Yukon Territory Registrar of Securities
- Nunavut
  
- Investment Dealers Association of Canada
- Mutual Fund Dealers Association
- Canadian Venture Exchange (CNDX)
- Montreal Exchange
- Toronto Stock Exchange
- Toronto Futures Exchange
- Winnipeg Commodity Exchange

7. Indicate by checking the appropriate box(es) each Self Regulatory Organization (SRO,) Securities Commission and/or Other Regulator in which the applicant is a member/registered:

- NASD
- SEC
- US State Regulators
- Other Regulators - specify: \_\_\_\_\_  
(e.g. OSFI, Financial Services Commission of Ontario, etc.)
  
- Other (specify - other than noted in Item #6): \_\_\_\_\_

## REGISTRATION FORM - DEALER FIRMS

## REGISTRATION CATEGORY

8. Indicate by checking the appropriate box(es) each category of registration in which the applicant is registered or registering:

	Currently Registered	Registering
	<input type="checkbox"/> Securities Dealer <input type="checkbox"/> Investment Dealer <input type="checkbox"/> Mutual Fund Dealer <input type="checkbox"/> Limited Market Dealer <input type="checkbox"/> Scholarship Plan Dealer <input type="checkbox"/> Underwriter <input type="checkbox"/> Investment Dealer <input type="checkbox"/> Exchange Contract Dealer <input type="checkbox"/> Commodities Dealer <input type="checkbox"/> Real Estate Securities Dealer <input type="checkbox"/> International Dealer	<input type="checkbox"/> Securities Dealer <input type="checkbox"/> Investment Dealer <input type="checkbox"/> Mutual Fund Dealer <input type="checkbox"/> Limited Market Dealer <input type="checkbox"/> Scholarship Plan Dealer <input type="checkbox"/> Underwriter <input type="checkbox"/> Investment Dealer <input type="checkbox"/> Exchange Contract Dealer <input type="checkbox"/> Commodities Dealer <input type="checkbox"/> Real Estate Securities Dealer <input type="checkbox"/> International Dealer

## AUDITORS

9. Indicate the name of the audit firm, contact person, address, telephone and fax numbers and e-mail address of the firm's auditor:

Contact Person (Name and Title) .....

Firm .....

Address .....

Area Code + Telephone Number .....

e-mail Address .....

Fax Number .....

10. Is a letter from the auditors acknowledging that this audit firm is the auditor for the applicant on file at the firm? .....  Yes  No

If not, why .....

## BUSINESS STRUCTURE

11. State the fiscal year end date for the dealer firm month \_\_\_\_\_ day \_\_\_\_\_

12. Indicate legal status of the applicant:

- Corporation
- Partnership
- Limited Partnership
- Sole Proprietorship
- Other (specify) .....

## REGISTRATION FORM - DEALER FIRMS

13.	<p>If other than a sole proprietor, indicate date and place applicant obtained its legal status (i.e. list all provinces/states or countries where incorporated, where partnership agreements were filed, or where applicant entity was formed):</p> <p>Province/State of establishment: _____ Date of establishment: _____ (MM/DD/YYYY)</p> <p>Province/State of establishment: _____ Date of establishment: _____ (MM/DD/YYYY)</p> <p>Province/State of establishment: _____ Date of establishment: _____ (MM/DD/YYYY)</p>																																
14.	<p>Supporting documents submitted to Principal Regulator include:</p> <table border="0"> <tr> <td>Articles of Incorporation/Sole Proprietor</td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td>Participation in Contingency Trust Fund</td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td>Financial Institution Bond</td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td>Statement of Policies or Forms 69/70</td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td>Policies and Procedures Manual</td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td>Audited Financial Statements</td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td>Proof of Adequate Capital</td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> <tr> <td>Subordination Agreement in Proper Format</td> <td><input type="checkbox"/> Yes</td> <td><input type="checkbox"/> No</td> <td><input type="checkbox"/> N/A</td> </tr> </table>	Articles of Incorporation/Sole Proprietor	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	Participation in Contingency Trust Fund	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	Financial Institution Bond	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	Statement of Policies or Forms 69/70	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	Policies and Procedures Manual	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	Audited Financial Statements	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	Proof of Adequate Capital	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A	Subordination Agreement in Proper Format	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Articles of Incorporation/Sole Proprietor	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																														
Participation in Contingency Trust Fund	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																														
Financial Institution Bond	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																														
Statement of Policies or Forms 69/70	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																														
Policies and Procedures Manual	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																														
Audited Financial Statements	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																														
Proof of Adequate Capital	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																														
Subordination Agreement in Proper Format	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A																														
15.	<p>Does the applicant hold or maintain any funds or securities or provide carrying services for any other dealer? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p>																																
16.	<p>Does the applicant refer or introduce customers to any other dealer? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "yes", complete Schedule "D", Section III - <i>Introducing/Carrying Arrangements</i>.</p>																																
17.	<p>Does applicant have any arrangement with any other person, firm or organization under which:</p> <p>(a) Any books or records of the applicant are kept or maintained by such other person, firm or organization? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(b) Accounts, funds or securities of the applicant are held or maintained by such other person, firm or organization? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(c) Accounts, funds or securities of customers of the applicant are held or maintained by such other person, firm or organization? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>For purposes of (b) and (c) above, do not include a bank or other acceptable location.</i></p> <p>If "yes" to any part of this item, complete a separate Schedule "D", Section III - <i>Introducing/Carrying Arrangements</i>.</p>																																

## REGISTRATION FORM - DEALER FIRMS

## CONTROL ISSUES

18. (a) Directly or indirectly, does the applicant control, is the applicant controlled by, or is the applicant under common control with, any partnership, corporation or other organization that is engaged in the securities or investment advisory business? .....  Yes  No
- If "yes" to Item 18(a), complete Schedule "D", Section IV - *Control Issues - Part 1*.
- (b) Directly or indirectly, is the applicant controlled by any bank, bank holding company, trust company, credit union or foreign bank? .....  Yes  No
- If "yes" to Item 18(b), complete Schedule "D", Section IV - *Control Issues - Part 2*.

## SHAREHOLDER(S)

19. Complete Schedules "A" and "B" indicating all direct, indirect and beneficial owners of the dealer firm.

## CRIMINAL DISCLOSURE

20. Is there currently an outstanding charge (other than for a minor traffic violation), or indictment against the applicant or an affiliate or associate of the applicant? .....  Yes  No
- If "yes" complete Schedule "C".
21. Has the applicant or any affiliate of the applicant:
- (a) ever been convicted of, pleaded guilty or "no contest" to an offence under the laws of any province, state or country? .....  Yes  No
- If "yes", complete Schedule "C".
- (b) ever been charged with an offence under the laws of any province, state or country? .....  Yes  No
- If "yes", complete Schedule "C".
22. Has the applicant or any affiliate or associate of the applicant:
- (a) ever been convicted of, pleaded guilty or "no contest" to a misdemeanour involving: securities, or an investment-related business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses? .....  Yes  No
- If "yes", complete Schedule "C".
- (b) ever been charged with a misdemeanour specified in 22(a)? .....  Yes  No
- If "yes", complete Schedule "C".

## REGISTRATION FORM - DEALER FIRMS

## REGULATORY DISCLOSURE

23. Has the applicant or any affiliate of the applicant ever:
- (a) been found to have been involved in a violation of its regulations or statutes under the *Securities Act* of any province/territory in Canada? .....  Yes  No  
If "yes", complete Schedule "E".
- (b) been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted? .....  Yes  No  
If "yes", complete Schedule "E".
24. Is the applicant or, to the best of the applicant's information and belief, is any affiliate of the applicant, now or has any such person or company been:
- (a) registered or licensed in any capacity in any other province, state or country which requires registration or licensing to deal or trade in securities or exchange contracts? .....  Yes  No  
If "yes" complete Schedule "E".
- (b) registered or licensed in any other capacity in any other province, state or country under any legislation which requires registration or licensing to deal with the public in any capacity? (e.g. as an insurance agent, real estate agent, private investigator, mortgage broker, etc.) .....  Yes  No  
If "yes" complete Schedule "E".
- (c) refused registration or a licence mentioned in Item #18 (a) and/or (b) above or has any registration or licence been suspended, terminated or cancelled in any category mentioned in Item #5 above? .....  Yes  No  
If "yes" complete Schedule "E".
- (d) denied the benefit of any exemption from registration provided by the *Securities Act* (or former *Commodity Contract Act*), or similar exemption provided by securities acts or regulations of any other province, state or country? .....  Yes  No  
If "yes" complete Schedule "E".
- (e) the subject of a cease trade or cease distribution order pursuant to the *Securities Act* of any province or denied any or a similar provision in the *Securities Acts* or regulations of any province, state [or] country? .....  Yes  No  
If "yes" complete Schedule "E".

## REGISTRATION FORM - DEALER FIRMS

25.	Is the applicant or, to the best of the applicant's information and belief, is any affiliate of the applicant, now or has any such person or company been:	
(a)	a member of any Stock Exchange, the Investment Dealers Association (IDA), the Mutual Fund Dealers Association (MFDA), Investment Bankers, or similar organization, in any province, state or country? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If "yes" complete Schedule "E".	
(b)	refused membership in any Stock Exchange, the Investment Dealers Association (IDA), the Mutual Fund Dealers Association (MFDA), Investment Bankers, or similar organization, in any province, state or country? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If "yes" complete Schedule "E".	
(c)	suspended as member of any Stock Exchange, the Investment Dealers Association (IDA), the Mutual Fund Dealers Association (MFDA), Investment Bankers, or similar organization, in any province, state or country? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If "yes" complete Schedule "E".	
<b>CIVIL JUDICIAL DISCLOSURE</b>		
26.	Has the applicant or any affiliate of the applicant ever been the defendant or respondent in any proceedings in any civil court in any jurisdiction in any part of the world wherein fraud, theft, deceit, misrepresentation or similar conduct was alleged? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If "yes", complete Schedule "F".	
<b>FINANCIAL DISCLOSURE</b>		
27.	Has the applicant or any affiliate of the applicant:	
(a)	at any time declared bankruptcy, or made a voluntary assignment in bankruptcy? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If "yes" complete Schedule "G".	
(b)	at any time had a receiver or receiver manager appointed to hold its assets? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If "yes" complete Schedule "G".	
28.	Has a bonding company ever denied, paid out on, or revoked a fidelity / surety bond? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If "yes" complete Schedule "G".	
29.	Does the applicant have any unsatisfied judgements or liens against it? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If "yes" complete Schedule "G".	



**REGISTRATION FORM - DEALER FIRMS**

**TYPES OF BUSINESS**

30. Check types of business engaged in (or to be engaged in, if not yet active) by applicant.

- Exchange member engaged in exchange commission business
- Dealer making inter-dealer markets in corporate securities over-the-counter
- Dealer retailing corporate equity securities over-the-counter
- Dealer selling corporate debt securities
- Dealer selling mutual funds
- Dealer selling variable life insurance or annuities
- Trading in Options
- Dealer selling securities of only one issuer or associate issuers (other than mutual funds)
- Investment advisory services
- Dealer selling tax shelters or limited partnerships in primary distributions
- Dealer selling tax shelters or limited partnerships in the secondary market
- Trading securities for own account
- Private placements of securities
- Dealer involved in a networking or similar arrangement with a:
  - bank, trust company, or credit union
  - insurance company or agency
- Other (give details on Schedule "D", Section V - *Other Business*).

DATED at .....

Name of Applicant .....

this ..... day of ..... 20.....

By .....

Signature of applicant, partner or officer

Print Name and Title .....

**AFFIDAVIT**

In the matter of the *Securities Act*

I, .....  
Name in Full

of the .....

in the County of .....

in the Province/Territory of .....

**MAKE OATH AND SAY**

1. I am the applicant (or partner or officer of the applicant) herein for registration and I signed the application.
2. The statements of fact made in the application are true.

SWORN before me at the ..... }

in the..... of..... }

this day of ..... 20..... }

Signature of Deponent

(A Commissioner, etc.)

**SCHEDULE "A"**  
**Direct Owners and Officers**

Use Schedule "A" in response to Item #19 to provide information on the direct owners and officers of the applicant.

**Applicant**

Name of Applicant:

Applicant NRD No.:

Date:

1. List below the names of:

- (a) each Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer, President, Chairman and individuals with similar status of functions;
- (b) in the case of an applicant that is a corporation, each shareholder that directly owns 5% or more of a class of a voting security of the applicant, unless the applicant is a reporting issuer;
- (c) in the case of an applicant that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 5% or more of the partnership's capital;
- (d) in the case of a trust that directly owns 5% or more of a class of voting shares of the applicant, or that has the right to receive upon dissolution, or has contributed, 5% or more of the applicant's capital, the trust and each trustee.

2. Are there any indirect owners of the applicant?  Yes  No

If "yes", please complete Schedule "B".

**Instructions for completing the table:**

3. In the "DE/FE/I" column, enter "DE" if the owner is a domestic entity; or "FE" if owner is an entity incorporated or domiciled in a foreign country; or enter "I" if the owner is an individual.

4. Complete the "Title or Status" column by entering board/management titles; status as a partner, trustee, sole proprietor, or shareholder; and for shareholders, the class of shares owned.

5. Ownership codes are:

- |     |                       |
|-----|-----------------------|
| N/A | less than 5%          |
| A   | 5% but less than 10%  |
| B   | 10% but less than 25% |
| C   | 25% but less than 50% |
| D   | 50% but less than 75% |
| E   | 75% or more           |

6. In the "Control Person" column, enter "yes" if person has "control" and "no" if the person does not have control.

7. In the "RI" column enter "RI" if the owner is a reporting issuer

Full Legal Name (Individuals: last name, first name, middle name)	DE/FE/I	Title or Status	Date Title or Status Acquired		Ownership Code	Control Person	RI	NRD No.
			MM	YYYY				

**SCHEDULE "B"  
Indirect Owners**

Use Schedule "B" in response to Item #19 and Schedule "A" (if applicable) to provide information on the indirect owners and officers of the applicant.

**Applicant:**

Name of Applicant:

Applicant NRD No.:

Date:

1. List below the names of:

- (a) in the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sales of 25% or more of a class of a voting share of that corporation;
- (b) in the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25% or more of the partnership's capital; and
- (c) in the case of an owner that is a trust, the trust and each trustee.

**Instructions for completing the table:**

- 2. In the "DE/FE/I" column, enter "DE" if the owner is a domestic entity; or "FE" if owner is an entity incorporated or domiciled in a foreign country; or enter "I" if the owner is an individual.
- 3. Complete the "Status" column by entering status as partner, trustee, shareholder, etc., and if shareholder, class of shares owned.
- 4. Ownership codes are:  
 C 25% but less than 50%  
 D 50% but less than 75%  
 E 75% or more  
 F Other General Partners
- 5. In the "Control Person" column, enter "yes" if person has "control" and "no" if the person does not have control.
- 6. In the "RI" column enter "RI" if the owner is a reporting issuer

Full Legal Name (Individuals: last name, first name, middle name)	DE/FE/I	Entity in Which Interest is Owned	Title or Status	Date Title or Status Acquired		Ownership Code	Control Person	RI	NRD No.
				MM	YYYY				

**SCHEDULE "C"**  
**Criminal Disclosure Reporting**

This Criminal Disclosure Reporting (CDR) is in response to affirmative responses to (check item(s) being responded to):

Item(s): 20    21(a)    21(b)    22(a)    22(b)

**SECTION I**

The person(s) or entity(ies) for whom this CDR is being filed is (are):

- the Applicant  
 Applicant and one or more affiliate(s)  
 One or more affiliate(s)

If this CDR is being filed for an affiliate, give the full name of the affiliate below.

If the affiliate is registered with the NRD, provide the NRD number. If not, indicate by checking the appropriate check box.

**Applicant**

Name of Applicant

Applicant NRD No.

**Affiliate**

This affiliate is:     Firm     Individual

Name of Affiliate

(For individuals: last name, first name, middle name)

NRD No.

Registered:     yes     no

- This CDR should be removed from the Dealer Firm registration form because the affiliate(s) is no longer associated with the broker dealer.

If the affiliate is registered through the NRD, has the affiliate submitted a CDR for the event? If the answer is "yes", no other information on this CDR must be provided regarding the affiliate. ....  yes     no

**NOTE:** The completion of this form does not relieve the affiliate of its obligation to update its NRD records.

**SECTION II**

1. If charge(s) were brought against an organization over the which the applicant or affiliate exercise(d) control: enter the name of the organization; whether or not the organization was a securities-related business; and the applicant's or affiliate's position, title or relationship.

**Event Disclosure Detail (use this for both organizational and individual charges)**

2. (a) Date first charged \_\_\_\_\_  
MM/DD/YYYY

Exact Date

If not, provide explanation: \_\_\_\_\_

(b) Event Disclosure Detail (include: Charge(s); Description of Charge(s) and for each charge provide:

- number of counts
- felony or misdemeanor
- please for each charge
- product type if charge is securities/investment related

(c) Did any of the Charge(s) within the Event involve a Felony? .....  yes     no

(d) Current status of the Event?     Pending     On Appeal     Final

(e) Event Status Date (complete unless status is Pending)

\_\_\_\_\_ MM/DD/YYYY

Exact Date

If not, provide explanation: \_\_\_\_\_

**SCHEDULE "C"**  
**Criminal Disclosure Reporting**

**Disposition Disclosure Detail**

3. Include for each charge:
- disposition type (e.g. convicted, acquitted, dismissed, pre-trial, etc.);
  - date;
  - sentence/penalty;
  - duration (if sentence suspension, probation, etc.);
  - start date of penalty;
  - penalty/fine amount; and
  - date paid

4. Provide a brief summary of circumstances leading to the charge(s) as well as the disposition. Include the relevant dates when the conduct which was the subject of the charge(s) occurred.

## SCHEDULE "D"

Use this Schedule "D" to report details for items listed below. Report only new information or changes/updates to previously submitted details. Do not repeat previously submitted information.

Item(s) 1(b) 1(c) 16 17(a) 17(b) 17(c) 18(a) 18(b)

This is an  INITIAL or  AMENDED filing for the Form - Dealer Firm

**Applicant**

Name of Applicant:

Applicant NRD No.:

Date:

**SECTION I Other Business Names Previously Used**

List each of the other business names previously used and the jurisdiction(s) in which they were used.

1. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

2. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

3. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

4. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

**SECTION II Other Business Names Currently in Use - e.g. Trade Names**

List each of the other business names currently in use and the jurisdiction(s) in which they are used.

1. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

2. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

3. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

4. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

**SECTION III Introducing/Carrying Arrangements**

Complete the "Effective Date" box with the month, day and year that the arrangement or agreement became effective. When reporting a change or termination of an arrangement or agreement, enter the "Termination Date" of the change. Complete a separate form for each introducing/carrying arrangement.

Name of Firm or Organization:

NRD No. (if any)

Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

Effective Date:

Termination Date:

\_\_\_\_\_  
month/day/year

\_\_\_\_\_  
month/day/year

Mailing Address (if different from above) (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

Name of Individual (if applicable) (Last, First, Middle):

NRD No. (if any)

Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

Effective Date:

Termination Date:

\_\_\_\_\_  
month/day/year

\_\_\_\_\_  
month/day/year

## SCHEDULE "D"

Mailing Address (if different from above) (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

Briefly describe the nature of the arrangement:

## SECTION IV Control Issues - Part 1

Complete the following information for Item 18(a).

1 Name of Partnership, Corporation or Organization: NRD No. (if any)

This Partnership, Corporation or Organization:  
 controls applicant  
 is controlled by applicant  
 is under common control with applicant.

Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

Effective Date:

Termination Date:

month/day/year

month/day/year

Mailing Address (if different from above) (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

Is Partnership, Corporation or Organization a foreign entity? .....  Yes  No

If "yes", provide country of domicile or incorporation: .....

Check "yes" or "no" for the activities of this Partnership, Corporation or Organization:

Securities Activities .....  Yes  No

Investment Advisory Activities .....  Yes  No

Describe the control relationship:

2 Name of Partnership, Corporation or Organization: NRD No. (if any)

This Partnership, Corporation or Organization:  
 controls applicant  
 is controlled by applicant  
 is under common control with applicant.

Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

Effective Date:

Termination Date:

month/day/year

month/day/year

Mailing Address (if different from above) (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

Is Partnership, Corporation or Organization a foreign entity? .....  Yes  No

If "yes", provide country of domicile or incorporation: .....

**SCHEDULE "D"**

Check "yes" or "no" for the activities of this Partnership, Corporation or Organization:  
 Securities Activities .....  Yes  No  
 Investment Advisory Activities .....  Yes  No

Describe the control relationship:

<b>3</b>	Name of Partnership, Corporation or Organization:	NRD No. (if any)
----------	---	------------------

This Partnership, Corporation or Organization:  
 controls applicant  
 is controlled by applicant  
 is under common control with applicant.

Business Address ( <i>do not use a P.O. Box</i> ) (number, street, city, province/territory, postal code)	Effective Date: _____	Termination Date: _____
	month/day/year	month/day/year
Mailing Address (if different from above) ( <i>do not use a P.O. Box</i> ) (number, street, city, province/territory, postal code)		

Is Partnership, Corporation or Organization a foreign entity? .....  Yes  No  
 If "yes", provide country of domicile or incorporation: .....

Check "yes" or "no" for the activities of this Partnership, Corporation or Organization:  
 Securities Activities .....  Yes  No  
 Investment Advisory Activities .....  Yes  No

Describe the control relationship:

**SECTION IV Control Issues - Part 2**

Complete the following information for Item 18(b).

<b>1</b>	Name of Financial Institution:	NRD No. (if any)
----------	--------------------------------	------------------

Type of Institution ( <i>i.e. bank, bank holding company, trust company, credit union</i> )	Effective Date: _____	Termination Date: _____
	month/day/year	month/day/year

Business Address (*do not use a P.O. Box*)  
(number, street, city, province/territory, postal code)

Mailing Address (if different from above) (*do not use a P.O. Box*)  
(number, street, city, province/territory, postal code)

Briefly describe the control relationship:



## SCHEDULE "D"

<b>2</b>	Name of Financial Institution:	NRD No. (if any)	
Type of Institution <i>(i.e. bank, bank holding company, trust company, credit union)</i>		Effective Date: _____	Termination Date: _____
		month/day/year	month/day/year
Business Address <i>(do not use a P.O. Box)</i> (number, street, city, province/territory, postal code)			
Mailing Address (if different from above) <i>(do not use a P.O. Box)</i> (number, street, city, province/territory, postal code)			
Briefly describe the control relationship:			
<b>3</b>	Name of Financial Institution:	NRD No. (if any)	
Type of Institution <i>(i.e. bank, bank holding company, trust company, credit union)</i>		Effective Date: _____	Termination Date: _____
		month/day/year	month/day/year
Business Address <i>(do not use a P.O. Box)</i> (number, street, city, province/territory, postal code)			
Mailing Address (if different from above) <i>(do not use a P.O. Box)</i> (number, street, city, province/territory, postal code)			
Briefly describe the control relationship:			
<b>SECTION V Other Business</b>			
Description of Primary Business			
Describe your primary business (not investment dealer business):			

**SCHEDULE "E"**  
**Regulatory Disclosure Reporting**

This Regulatory Disclosure Reporting (RDR) is in response to affirmative responses to (check item(s) being responded to):

Item(s):  23(a)  23(b)  24(a)  24(b)  24(c)  24(d)  24(e)  25(a)  25(b)  25(c)

**SECTION I**

The person(s) or entity(ies) for whom this RDR is being filed is (are):

- the Applicant
- Applicant and one or more affiliate(s)
- One or more affiliate(s)

If this RDR is being filed for an affiliate, give the full name of the affiliate below.

If the affiliate is registered with the NRD, provide the NRD number. If not, indicate by checking the appropriate check box.

**Applicant**

Name of Applicant

Applicant NRD No.

**Affiliate**

This affiliate is:  Firm  Individual

Name of Affiliate

(For individuals: last name, first name, middle name)

NRD No.

Registered:  yes  no

- This RDR should be removed from the Dealer Firm registration form because the affiliate(s) is no longer associated with the broker dealer.

If the affiliate is registered through the NRD, has the affiliate submitted a RDR for the event? If the answer is "yes", no other information on this RDR must be provided regarding the affiliate. ....  yes  no

**NOTE:** The completion of this form does not relieve the affiliate of its obligation to update its NRD records.

**SECTION II**

1. Regulatory action initiated by:

- Provincial/Territorial Regulator
- SRO
- Foreign jurisdiction

Full name of regulator, SRO, or foreign regulatory authority:

\_\_\_\_\_

2. Principal Sanction (check appropriate item):

- |   |   |
|---|---|
| <input type="checkbox"/> Reprimand        | <input type="checkbox"/> Penalty(ies)/Fine(s) |
| <input type="checkbox"/> Undertaking      | <input type="checkbox"/> Denial               |
| <input type="checkbox"/> Suspension       | <input type="checkbox"/> Terms and Conditions |
| <input type="checkbox"/> Cease and Desist | <input type="checkbox"/> Other _____          |

**SCHEDULE "E"**  
**Regulatory Disclosure Reporting**

3. Note which regulator, and the date where the applicant or affiliate was previously registered or licensed to deal or trade in securities or exchange contracts; and in any other capacity under any legislation which requires registration or licensing to deal with the public in any capacity? (e.g. as an insurance agent, real estate agent, private investigator, mortgage broker, etc.)

**Regulator**

**Date Previously Registered  
(Month/Date/Year)**

- British Columbia Securities Commission .....
- Alberta Securities Commission .....
- Saskatchewan Securities Commission .....
- Manitoba Securities Commission .....
- Ontario Securities Commission .....
- Commission des valeurs mobilières du Québec .....
- New Brunswick Office of the Administrator .....
- Nova Scotia Securities Commission .....
- Prince Edward Island Registrar of Securities .....
- Newfoundland Securities Division .....
- Northwest Territories Securities Registries .....
- Yukon Territory Registrar of Securities .....
- Nunavut .....
  
- Investment Dealers Association of Canada .....
- Mutual Fund Dealers Association .....
- Canadian Venture Exchange (CNDX) .....
- Montreal Exchange .....
- Toronto Stock Exchange .....
- Toronto Futures Exchange .....
- Winnipeg Commodity Exchange .....
  
- NASD .....
- SEC .....
- US State Regulators - specify which state: \_\_\_\_\_ .....
- Other Regulators - specify: \_\_\_\_\_ .....
- (e.g. OSFI, Financial Services Commission of Ontario, etc.)
  
- Other(specify) \_\_\_\_\_

4. Dated Initiated \_\_\_\_\_  Exact Date  
 (MM/DD/YYYY)  Not Exact Date  
 Provide explanation \_\_\_\_\_

5. Describe the allegations related to this regulatory action.

6. Current Status?  Pending  On Appeal  Final

**If Final or On Appeal - complete all items below. For Pending Actions, complete Item 10 only.**

7. How was the matter resolved (check appropriate item):  
 Dismissed  
 Settled  
 Order  
 Other \_\_\_\_\_

8. Resolution Date \_\_\_\_\_  Exact Date  
 (MM/DD/YYYY)  Not Exact Date  
 Provide explanation \_\_\_\_\_

**SCHEDULE "E"**  
**Regulatory Disclosure Reporting**

9. What sanction(s) were ordered (provide details of the amount of fines, duration of suspensions, length of time to rectify deficiency, etc.)?

10. Provide a brief summary of details related to the action status and/or disposition and include relevant terms, conditions and dates.

**SCHEDULE "F"**  
**Civil Proceedings Disclosure Reporting**

This Civil Judicial Disclosure Reporting (CPDR) is in response to affirmative response to Item #26.

**SECTION I**

The person(s) or entity(ies) for whom this CPDR is being filed is (are):

- the Applicant
- Applicant and one or more affiliate(s)
- One or more affiliate(s)

If this CPDR is being filed for an affiliate, give the full name of the affiliate below.

If the affiliate is registered with the NRD, provide the NRD number. If not, indicate by checking the appropriate check box.

**Applicant**

Name of Applicant

Applicant NRD No.

**Affiliate**

This affiliate is:

Firm

Individual

Name of Affiliate

(For individuals: last name, first name, middle name)

NRD No.

Registered:  yes  no

- This CPDR should be removed from the Dealer Firm registration form because the affiliate(s) is no longer associated with the broker dealer.

If the affiliate is registered through the NRD, has the affiliate submitted a CPDR for the event? If the answer is "yes", no other information on this CPDR must be provided regarding the affiliate. . . . .  yes  no

**NOTE:** The completion of this form does not relieve the affiliate of its obligation to update its NRD records.

**SECTION II**

1. Court action initiated by: (name of regulator/SRO/exchange, agency, firm, private plaintiff, etc.)

2. Principal relief sought:

3. Other relief sought:

4. Filing date of court action:

\_\_\_\_\_  
(MM/DD/YYYY)

Exact Date

Not Exact Date

Provide explanation \_\_\_\_\_

5. Principal product type:

Other product types:

6. Formal action was brought in: (include name of court, location of court - city or county and province/territory and country, case number)

7. Describe the allegations related to this civil action.

**SCHEDULE "F"**  
**Civil Proceedings Disclosure Reporting**

8. Current status?     Pending     On Appeal     Final

9. If **pending**, date notice/process was served:

\_\_\_\_\_     Exact Date  
(MM/DD/YYYY)     Not Exact Date  
Provide explanation \_\_\_\_\_

10. If on **appeal**, action appealed to (provide name of court): \_\_\_\_\_

Date Appeal filed: \_\_\_\_\_  
(MM/DD/YYYY)

11. If **final**, how was the matter resolved (provide all details).

**SCHEDULE "G"**  
**Bankruptcy, Bond and Judgement/Lien Disclosure Reporting**

This Disclosure Reporting page is in response to affirmative response to (check item(s) being responded to):

Item(s):             27(a)    27(b)    28     29

**SECTION I**

The person(s) or entity(ies) for whom this Disclosure Reporting page is being filed is (are):

- the Applicant  
 Applicant and one or more affiliate(s)  
 One or more affiliate(s)

If this Disclosure Reporting page is being filed for an affiliate, give the full name of the affiliate below.

If the affiliate is registered with the NRD, provide the NRD number. If not, indicate by checking the appropriate check box.

**Applicant**

Name of Applicant

Applicant NRD No.

**Affiliate:**            This affiliate is:     Firm                             Individual

Name of Affiliate  
(For individuals: last name, first name, middle name)

NRD No.

Registered:  yes     no

- This Disclosure Reporting page should be removed from the Dealer Firm registration form because the affiliate(s) is no longer associated with the broker dealer.

If the affiliate is registered through the NRD, has the affiliate submitted a Disclosure Reporting page for the event? If the answer is "yes", no other information on this Disclosure Reporting page must be provided regarding the affiliate. . . . .  yes     no

**NOTE:** The completion of this form does not relieve the affiliate of its obligation to update its NRD records.

**SECTION II            Bankruptcy Disclosure**

1. Action type: (check appropriate item)

- Bankruptcy  
 Compromise  
 Declaration  
 Liquidated  
 Receivership  
 Voluntary Assignment  
 Other \_\_\_\_\_

2. Action date:

\_\_\_\_\_ (MM/DD/YYYY)

- Exact Date  
 Not Exact Date  
Provide explanation \_\_\_\_\_

3. If the financial action relates to an organization over which the applicant or affiliate exercise(d) control, enter the name of the organization and the applicant's or affiliate's position, title or relationship.

Was the organization investment related?                             yes                             no

4. Court action brought in (name of court), location of Court (city or county and province/territory or country) and docket/case number:

5. Is action currently pending?     yes     no

**SCHEDULE "G"**  
**Bankruptcy, Bond and Judgement/Lien Disclosure Reporting**

6. If not pending, provide Disposition type (check appropriate item):

- Direct payment procedure  
 Discharged  
 Dismissed  
 Dissolved  
 Satisfied/Released  
 Trustee appointed  
 Other \_\_\_\_\_

7. Disposition date:

\_\_\_\_\_  
 (MM/DD/YYYY)

- Exact Date  
 Not Exact Date  
 Provide explanation \_\_\_\_\_

8. Provide a brief summary of events leading to the action and if not discharged, explain.

9. If a Trustee was appointed or a direct payment procedure was begun, enter the amount paid or agreed to be paid by you; or the name of the Trustee:

Currently open?  yes  no

Date direct payment initiated/filed or Trustee appointed:

\_\_\_\_\_  
 (MM/DD/YYYY)

- Exact Date  
 Not Exact Date  
 Provide explanation \_\_\_\_\_

10. Provide details to any status/disposition. Include details as to creditors, terms, conditions, amounts due and settlement schedule (if applicable).

**SECTION III Bond Disclosure**

1. Name of Applicant

Applicant NRD Number:

2. Firm Name (Policy Holder):

3. Bonding Company Name:

4. Disposition Types (check appropriate item):

- Denied  Payout  Revoked

5. Disposition date:

\_\_\_\_\_  
 (MM/DD/YYYY)

- Exact Date  
 Not Exact Date  
 Provide explanation \_\_\_\_\_

6. If disposition resulted in payout, list payout amount and date paid:

7. Summarize the details of circumstances leading to the necessity of the bonding company action.



SCHEDULE "G" Bankruptcy, Bond and Judgement/Lien Disclosure Reporting	
SECTION IV	Judgement/Lien Disclosure
1. Name of Applicant	Applicant NRD Number:
2. Judgement/Lien Amount:	
3. Judgement/Lien Holder:	
4. Judgement/Lien Type (check appropriate item) <input type="checkbox"/> Civil <input type="checkbox"/> Default <input type="checkbox"/> Tax	
5. Date filed: _____ <input type="checkbox"/> Exact Date (MM/DD/YYYY) <input type="checkbox"/> Not Exact Date Provide explanation _____	
6. Is Judgement/Lien outstanding? <input type="checkbox"/> yes <input type="checkbox"/> no  If no, provide status date: _____ <input type="checkbox"/> Exact Date (MM/DD/YYYY) <input type="checkbox"/> Not Exact Date Provide explanation _____  If no, how was the matter resolved (check appropriate item) <input type="checkbox"/> Discharged <input type="checkbox"/> Released <input type="checkbox"/> Removed <input type="checkbox"/> Satisfied	
7. Name of court, location of Court ( <i>city or county and province/territory or country</i> ) and docket/case number:	
8. Provide a brief summary of events leading to the action and any payment schedule details including current status (if applicable).	

## REGISTRATION FORM - ADVISER

Include instructions for completion.

## Definition of Terms

Is this an:     Initial Application     Amendment

## GENERAL INFORMATION

NRD No.

1. Full Name of the Adviser:  
(if sole proprietor state last, first and middle name)

(a) Name under which you primarily conduct your advisory business, if different from above:

(b) Has the applicant, or to the best of the applicant's information and belief, has any affiliate of the applicant, operated under, or carried on business under, any name other than the name shown in this application? .....  Yes     No

If "yes" list on Schedule "D", Section I - *Other Business names Previously Used*, any other names under which the firm has previously conducted business (firm history required for last 10 years).

(c) List on Schedule "D", Section II - *Other Business Names Currently in Use*, any other names under which the firm currently conducts business (e.g. trade names)

**Head Office**

2. Head Office Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

(a) Mailing Address (if different than above) (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

(b) Days of the week business is normally conducted at head office:  
 Monday to Friday  
 Other (specify): \_\_\_\_\_

(c) Hours business is conducted at this location  
(from \_\_\_\_\_ to \_\_\_\_\_ )

(d) Area Code + Telephone Number

(e) Fax Number

(f) Do you have a Website address? .....  Yes     No  
If "yes", list all addresses below:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

## REGISTRATION FORM - ADVISER

**Authorized Firm Representative***(i.e. an employee whom you have authorized to receive information and respond to questions about this Form)*

3. Name of Authorized Firm Representative (last, first and middle name):

Title of Authorized Firm Representative:

*Complete the following information for the Authorized Firm Representative:*(a) Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

(b) Area Code + Telephone

(c) e-mail Address

(d) Fax Number

**Branches:** For each Branch Office location please complete the following information:Check only one box:  Add  Delete  Amendment

4. NRD Branch No.

(a) Name of Branch Manager

(b) Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)(c) Mailing Address (if different from above) (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

(d) Area Code + Telephone Number

(e) Fax Number

(f) Website Address

**Sub-branches:** For each Sub-Branch Office location please complete the following information:Check only one box:  Add  Delete  Amendment

5. NRD Sub-Branch No.

(a) Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)(b) Mailing Address (if different from above) (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

(c) Area Code + Telephone Number

(d) Fax Number

(e) Website Address

(f) State which location supervises this Sub-Branch:  
Business Address (do not use a P.O. Box) (number, street, city, province/territory, postal code)

## REGISTRATION FORM - ADVISER

## SRO AND SECURITIES COMMISSION

6.	Indicate by checking the appropriate box(es) each Self Regulatory Organization (SRO) and/or Securities Commission in which the applicant is a member/registered or applying for membership/registration:	
	<b>Currently Registered</b>	<b>Registering</b>
	<input type="checkbox"/> British Columbia Securities Commission <input type="checkbox"/> Alberta Securities Commission <input type="checkbox"/> Saskatchewan Securities Commission <input type="checkbox"/> Manitoba Securities Commission <input type="checkbox"/> Ontario Securities Commission <input type="checkbox"/> Commission des valeurs mobilières du Québec <input type="checkbox"/> New Brunswick Office of the Administrator <input type="checkbox"/> Nova Scotia Securities Commission <input type="checkbox"/> Prince Edward Island Registrar of Securities <input type="checkbox"/> Newfoundland Securities Division <input type="checkbox"/> Northwest Territories Securities Registries <input type="checkbox"/> Yukon Territory Registrar of Securities <input type="checkbox"/> Nunavut  <input type="checkbox"/> Investment Dealers Association of Canada <input type="checkbox"/> Mutual Fund Dealers Association <input type="checkbox"/> Canadian Venture Exchange (CNDX) <input type="checkbox"/> Montreal Exchange <input type="checkbox"/> Toronto Stock Exchange <input type="checkbox"/> Toronto Futures Exchange <input type="checkbox"/> Winnipeg Commodity Exchange	<input type="checkbox"/> British Columbia Securities Commission <input type="checkbox"/> Alberta Securities Commission <input type="checkbox"/> Saskatchewan Securities Commission <input type="checkbox"/> Manitoba Securities Commission <input type="checkbox"/> Ontario Securities Commission <input type="checkbox"/> Commission des valeurs mobilières du Québec <input type="checkbox"/> New Brunswick Office of the Administrator <input type="checkbox"/> Nova Scotia Securities Commission <input type="checkbox"/> Prince Edward Island Registrar of Securities <input type="checkbox"/> Newfoundland Securities Division <input type="checkbox"/> Northwest Territories Securities Registries <input type="checkbox"/> Yukon Territory Registrar of Securities <input type="checkbox"/> Nunavut
7.	Indicate by checking the appropriate box(es) each Self Regulatory Organization (SRO,) Securities Commission and/or Other Regulator in which the applicant is a member/registered:  <input type="checkbox"/> SEC <input type="checkbox"/> US State Regulators  <input type="checkbox"/> Other (specify - other than noted in Item #6): _____	

## REGISTRATION CATEGORY

8.	Indicate by checking the appropriate box(es) each category of registration in which the applicant is registered or registering:	
	<b>Currently Registered</b>	<b>Registering</b>
	<input type="checkbox"/> Securities Dealer <input type="checkbox"/> Investment Dealer <input type="checkbox"/> Mutual Fund Dealer <input type="checkbox"/> Limited Market Dealer <input type="checkbox"/> Scholarship Plan Dealer <input type="checkbox"/> Underwriter <input type="checkbox"/> Exchange Contract Dealer <input type="checkbox"/> Commodities Dealer <input type="checkbox"/> Real Estate Securities Dealer <input type="checkbox"/> International Dealer <input type="checkbox"/> Securities Issuer	<input type="checkbox"/> Investment Counsel <input type="checkbox"/> Portfolio Manager <input type="checkbox"/> Securities Advisers <input type="checkbox"/> Financial Advisers

## REGISTRATION FORM - ADVISER

## AUDITORS

9. Indicate the name of the audit firm, contact person, address, telephone and fax numbers and e-mail address of the firm's auditor:
- Contact Person (Name and Title) .....
- Firm .....
- Address .....
- Area Code + Telephone Number .....
- e-mail Address .....
- Fax Number .....
10. Is a letter from the auditors acknowledging that this audit firm is the auditor for the applicant on file at the firm? .....  Yes  No
- If not, why .....

## BUSINESS STRUCTURE

11. State the fiscal year end date for the adviser firm month \_\_\_\_\_ day \_\_\_\_\_
12. Indicate legal status of the applicant:
- Corporation
- Partnership
- Limited Partnership
- Sole Proprietorship
- Other (specify) \_\_\_\_\_
13. If other than a sole proprietor, indicate date and place applicant obtained its legal status (i.e. province/state or country where incorporated, where partnership agreement was filed, or where applicant entity was formed):
- Province/State of establishment: \_\_\_\_\_ Date of establishment: \_\_\_\_\_  
(MM/DD/YYYY)
- Province/State of establishment: \_\_\_\_\_ Date of establishment: \_\_\_\_\_  
(MM/DD/YYYY)
- Province/State of establishment: \_\_\_\_\_ Date of establishment: \_\_\_\_\_  
(MM/DD/YYYY)
14. Supporting documents submitted to primary jurisdiction include:
- |   |                              |                             |                              |
|---|------------------------------|-----------------------------|------------------------------|
| Articles of Incorporation/Sole Proprietor | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Participation in Contingency Trust Fund   | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Financial Institution Bond                | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Statement of Policies or Forms 69/70      | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Policies and Procedures Manual            | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Audited Financial Statements              | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Proof of Adequate Capital                 | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| Subordination Agreement in Proper Format  | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |

## REGISTRATION FORM - ADVISER

## INFORMATION ABOUT YOUR ADVISORY BUSINESS

The following questions are geared to assist us in understanding your business and to assist us in preparing for on-site compliance examinations.

**Employees**

15. How many employees do you have (do not include any clerical workers)?

- 1 - 5
- 6 - 10
- 11 - 50
- 51 - 250
- 251 - 500
- 501 - 1,000
- more than 1,000

If more than 1,000 please state how many \_\_\_\_\_

16. How many of these employees:

(a) perform investment advisory functions (including research)?

- 1 - 5
- 6 - 10
- 11 - 50
- 51 - 250
- 251 - 500
- 501 - 1,000
- more than 1,000

If more than 1,000 please state how many \_\_\_\_\_

(b) solicit advisory clients?

- 1 - 5
- 6 - 10
- 11 - 50
- 51 - 250
- 251 - 500
- 501 - 1,000
- more than 1,000

If more than 1,000 please state how many \_\_\_\_\_

**Clients**

17. In the past fiscal year, to how many clients did you provide advisory services?

- 0
- 1 - 10
- 11 - 25
- 26 - 100
- 101 - 250
- 251 - 500
- more than 500

If more than 500 please state how many \_\_\_\_\_

## REGISTRATION FORM - ADVISER

18. Indicate the type of client you have by checking the appropriate categories below. This chart indicates the type of client as a percentage of the total number of clients.

	Up to 10%	11-25%	26-50%	51-75%	over 76%
Individuals (other than high net worth individuals)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
High net worth individuals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Banking institutions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Investment companies (including mutual funds)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pension funds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other pooled investment vehicles (e.g. hedge funds)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Charitable Organizations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Corporations or other businesses not noted above	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Government entities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (specify): _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Compensation Arrangements**

19. You are compensated for your investment advisory services by (check all that apply):

- a percentage of assets under your management
- hourly charges
- subscription fees (for a newsletter of periodical)
- fixed fees (other than subscription fees)
- commissions
- performance based fees
- Other (specify): \_\_\_\_\_

**Assets Under Management**

20. Do you provide continuous and regular supervisory or management services to securities portfolios?

- Yes  No

If "yes", what is the amount of your assets under management and total number of accounts?

	Dollar Amount (Canadian \$)	Total Number of Accounts
Discretionary	\$ _____	_____
Non-Discretionary	\$ _____	_____
TOTAL Assets Under Management	\$ _____	_____

Please refer to Schedule "x" for an explanation on the calculation of assets under management.

**Advisory Activities**

21. What type of advisory services do you provide (check all that apply):

- Financial planning services
- Portfolio management for individuals and/or small businesses
- portfolio management for investment companies (including mutual funds)
- Portfolio management for businesses or institutional clients (other than investment companies)
- Pension consulting services
- Publication of periodicals or newsletters
- Other (specify): \_\_\_\_\_

## REGISTRATION FORM - ADVISER

22. If you provide financial planning services, to how many clients did you provide these services during the last fiscal year?
- 0  
 1 - 10  
 11 - 25  
 26 - 100  
 101 - 250  
 251 - 500  
 more than 500

If more than 500 please state how many \_\_\_\_\_

23. If you participate in a wrap fee programme, do you (check all that apply):
- sponsor the wrap fee programme?  
 act as a portfolio manager for the wrap fee programme?
- If you are a portfolio manager for wrap fee programmes, complete Schedule "D", Section IV - *Wrap Fee Programmes*.

## Location of Books and Records

24. Do you maintain some or all of your books and records as required under securities laws somewhere other than your head office location (principal place of business)? .....  Yes  No
- If "yes", complete Schedule "D", Section III - *Books and Records*.

## OTHER BUSINESS ACTIVITIES

This section deals with your other business activities.

25. You are actively engaged in business as a (check all that apply):
- Securities Dealer  
 Investment Dealer  
 Mutual Fund Dealer  
 Futures Commission Merchant, Commodity Pool Operator, or Commodity Trading Adviser  
 Real Estate Broker or Agent  
 Insurance Broker or Agent  
 Bank  
 Other (specify): \_\_\_\_\_
26. Are you actively engaged in any other business not listed in Item #25? .....  Yes  No
- If "yes", is this other business your primary business? .....  Yes  No
- If "yes", describe this other business on Schedule "D", Section IX - *Other Business*.
27. Do you sell products or provide services other than investment advice to your advisory clients? .....  Yes  No



**REGISTRATION FORM - ADVISER**

**FINANCIAL INDUSTRY AFFILIATIONS AND ACTIVITIES**

This section refers to information about you and your related parties. A related party is considered:

- all of your officers, partners and directors;
- all persons with direct or indirect control;
- any other person providing investment advice on your behalf; and
- all of your current employees (excluding administrative and clerical staff).

28. Which of the following do you have as a related party (check all that apply):

- Investment Dealer
- Investment Company (including Mutual Funds)
- Other Investment Adviser
- Futures Commission Merchant, Commodity Pool Operator, or Commodity Trading Adviser
- Banking Institution
- Accountant or Accounting Firm
- Lawyer or Law Firm
- Insurance Company or Agency
- Real Estate Broker or Agent
- Sponsor or Syndicator of Limited Partnerships

If you have other investment advisers as related parties complete Schedule "D", Section VI - *Affiliated Advisers*, listing all such relationships.

29. Are you or any related party a general party in a limited partnership? .....  Yes  No

If "yes", for each limited partnership, complete Schedule "D", Section VII - *Limited Partnerships*.

**INTEREST IN CLIENT TRANSACTIONS**

***Proprietary Interest in Client Transactions***

30. Do you or any related party:

- (a) buy securities for yourself from advisory clients, or sell securities you own to advisory clients (principal transactions)? .....  Yes  No
- (b) buy or sell for yourself securities (other than mutual funds) that you also recommend to advisory clients? .....  Yes  No
- (c) recommend securities or other investment products to advisory clients in which you or any related party has some other ownership interest? .....  Yes  No

***Sales Interest in Client Transactions***

31. Do you or any related party:

- (a) as a dealer or sales representative of a dealer, execute securities trades for brokerage customers in which advisory client securities are sold to or bought from the brokerage customer (agency cross transactions)? .....  Yes  No
- (b) recommend purchase of securities to advisory clients for which you or any related party serves as underwriter, general or managing partner? .....  Yes  No
- (c) recommend purchase or sale of securities to advisory clients for which you or any related party has any other sales interest (other than receipt of sales commissions)? .....  Yes  No

## REGISTRATION FORM - ADVISER

**Investment or Brokerage Discretion**

32. Do you or any related party have discretionary authority to determine the:
- (a) securities to be bought or sold for a client's account? .....  Yes  No
- (b) amount of securities to be bought or sold for a client's account? .....  Yes  No
- (c) dealer to be used for a purchase or sale of securities for a client's account? .....  Yes  No
- (d) commission rates to be paid to a dealer for a client's securities transactions? .....  Yes  No
33. Do you or any related party recommend dealers to clients? .....  Yes  No
34. Do you or any related party receive research or other products or services other than execution from a dealer or a third party connection with client securities transactions? .....  Yes  No
35. Do you or any related party, directly or indirectly, compensate any person for client referrals? .....  Yes  No

**CUSTODY**

36. Do you have custody of any advisory clients':
- (a) cash or bank accounts? .....  Yes  No
- (b) securities? .....  Yes  No
37. Do any of your related parties have custody of any of your advisory clients':
- (a) cash or bank accounts? .....  Yes  No
- (b) securities? .....  Yes  No
38. If you answered "yes" to either Item 36(a) or 37(b), is that related party a dealer? .....  Yes  No

**SHAREHOLDER(S)**

39. Complete Schedules "A" and "B" indicating all direct, indirect and beneficial owners of the Firm.

**CONTROL PERSONS**

40. Does any person not named in Item 1 or on Schedules "A" and "B", directly or indirectly control your management or policies? .....  Yes  No
- If "yes" complete Schedule "D", Section VIII - *Control Persons*.

**CRIMINAL DISCLOSURE**

41. Is there currently an outstanding charge (other than for a minor traffic violation), or indictment against the applicant or an affiliate or associate of the applicant? .....  Yes  No
- If "yes" complete Schedule "C"

## REGISTRATION FORM - ADVISER

42.	Has the applicant or any affiliate of the applicant:
(a)	ever been convicted of, pleaded guilty or "no contest" to an offence under the law? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", complete Schedule "C".
(b)	ever been charged with an offence under the law? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", complete Schedule "C".
43.	Has the applicant or any affiliate or associate of the applicant:
(a)	ever been convicted of, pleaded guilty or "no contest" to a misdemeanour involving: securities, or an investment-related business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", complete Schedule "C".
(b)	ever been charged with a misdemeanour specified in 16(a)? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", complete Schedule "C".
<b>REGULATORY DISCLOSURE</b>	
44.	Has the applicant or any affiliate of the applicant ever:
(a)	been found to have been involved in a violation of its regulations or statutes under the <i>Securities Act</i> of any province/territory in Canada? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", complete Schedule "E".
(b)	been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", complete Schedule "E".
45.	Is the applicant or, to the best of the applicant's information and belief, is any affiliate of the applicant, now or has any such person or company been:
(a)	registered or licensed in any capacity in any other province, state or country which requires registration or licensing to deal or trade in securities or exchange contracts? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "E".
(b)	registered or licensed in any other capacity in any other province, state or country under any legislation which requires registration or licensing to deal with the public in any capacity? (e.g. as an insurance agent, car dealer, real estate agent, private investigator, mortgage broker, etc.). ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "E".
(c)	refused registration or a licence mentioned in Item #9 above or has any registration or licence been suspended, terminated or cancelled in any category mentioned in Item #9 above? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "E".

## REGISTRATION FORM - ADVISER

(d)	denied the benefit of any exemption from registration provided by the <i>Securities Act</i> (or former <i>Commodity Contract Act</i> ) of British Columbia, or similar exemption provided by securities acts or regulations of any other province, state or country? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "E".
(e)	the subject of a cease trade or cease distribution order pursuant to the Securities Act of any province or denied any or a similar provision in the Securities Acts or regulations of any province, state or country? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "E".
46.	Is the applicant or, to the best of the applicant's information and belief, is any affiliate of the applicant, now or has any such person or company been:
(a)	a member of any Stock Exchange, the Investment Dealers Association, the Mutual Fund Dealers Association (MFDA), Investment Bankers or similar organization, in any province, state or country? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "E".
(b)	refused membership in any Stock Exchange, the Investment Dealers Association, the Mutual Fund Dealers Association (MFDA) or similar organization, in any province, state or country? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "E".
(c)	suspended as member of any Stock Exchange, the Investment Dealers Association, the Mutual Fund Dealers Association (MFDA) or similar organization, in any province, state or country? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "E".
<b>CIVIL JUDICIAL DISCLOSURE</b>	
47.	Has the applicant or any affiliate of the applicant ever been the defendant or respondent in any proceedings in any civil court in any jurisdiction in any part of the world wherein fraud, theft, deceit, misrepresentation or similar conduct was alleged? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", complete Schedule "F".
<b>FINANCIAL DISCLOSURE</b>	
48.	Has the applicant or any affiliate of the applicant:
(a)	at any time declared bankruptcy, or made a voluntary assignment in bankruptcy? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "G".
(b)	at any time had a receiver or receiver manager appointed to hold its assets? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "G".
49.	Has a bonding company ever denied, paid out on, or revoked a fidelity / surety bond? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "G".
50.	Does the applicant have any unsatisfied judgements or liens against it? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "G".

REGISTRATION FORM - ADVISER

DATED at .....  
Name of Applicant .....  
this ..... day of ..... 20.....  
By .....  
Signature of applicant, partner or officer .....  
Print Name and Title .....

AFFIDAVIT

In the matter of the *Securities Act*  
I, .....  
Name in Full .....  
of the .....  
in the County of .....  
in the Province/Territory of .....  
MAKE OATH AND SAY  
1. I am the applicant (or partner or officer of the applicant) herein for registration and I signed the application.  
2. The statements of fact made in the application are true.  
SWORN before me at the ..... }  
in the ..... of ..... }  
this day of ..... 20 ..... } Signature of Deponent  
..... }  
(A Commissioner, etc.)

**SCHEDULE "A"**  
**Direct Owners and Officers**

Use Schedule "A" in response to Item #39 to provide information on the direct owners and officers of the applicant.

**Applicant**

**Name of Applicant:**

**Applicant NRD No.:**

**Date:**

1. List below the names of:
  - (a) each Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer, President, Chairman and individuals with similar status of functions;
  - (b) in the case of an applicant that is a corporation, each shareholder that directly owns 5% or more of a class of a voting security of the applicant, unless the applicant is a reporting issuer;
  - (c) in the case of an applicant that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 5% or more of the partnership's capital;
  - (d) in the case of a trust that directly owns 5% or more of a class of voting shares of the applicant, or that has the right to receive upon dissolution, or has contributed, 5% or more of the applicant's capital, the trust and each trustee.
2. Are there any indirect owners of the applicant? .....  Yes  No  
If "yes", please complete Schedule "B".

**Instructions for completing the table:**

3. In the "DE/FE/I" column, enter "DE" if the owner is a domestic entity; or "FE" if owner is an entity incorporated or domiciled in a foreign country; or enter "I" if the owner is an individual.
4. Complete the "Title or Status" column by entering board/management titles; status as a partner, trustee, sole proprietor, or shareholder; and for shareholders, the class of shares owned.
5. Ownership codes are:  
 N/A      less than 5%  
 A        5% but less than 10%  
 B        10% but less than 25%  
 C        25% but less than 50%  
 D        50% but less than 75%  
 E        75% or more
6. In the "Control Person" column, enter "yes" if person has "control" and "no" if the person does not have control.
7. In the "RI" column enter "RI" if the owner is a reporting issuer

Full Legal Name (Individuals: last name, first name, middle name)	DE/FE/I	Title or Status	Date Title or Status Acquired		Ownership Code	Control Person	RI	NRD No.
			MM	YYYY				

**SCHEDULE "B"**  
**Indirect Owners**

Use Schedule "B" in response to Item #39 and Schedule "A" (if applicable) to provide information on the indirect owners and officers of the applicant.

**Applicant**

Name of Applicant:

Applicant NRD No.:

Date:

1. List below the names of:

(a) in the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sales of 25% or more of a class of a voting share of that corporation;

(b) in the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25% or more of the partnership's capital; and

(c) in the case of an owner that is a trust, the trust and each trustee.

**Instructions for completing the table:**

2. In the "DE/FE/I" column, enter "DE" if the owner is a domestic entity; or "FE" if owner is an entity incorporated or domiciled in a foreign country; or enter "I" if the owner is an individual.

3. Complete the "Status" column by entering status as partner, trustee, shareholder, etc., and if shareholder, class of shares owned.

4. Ownership codes are:

C 25% but less than 50%

D 50% but less than 75%

E 75% or more

F Other General Partners

5. In the "Control Person" column, enter "yes" if person has "control" and "no" if the person does not have control.

6. In the "RI" column enter "RI" if the owner is a reporting issuer

Full Legal Name (Individuals: last name, first name, middle name)	DE/FE/I	Entity in Which Interest is Owned	Title or Status	Date Title or Status Acquired		Ownership Code	Control Person	RI	NRD No.
				MM	YYYY				

**SCHEDULE "C"**  
**Criminal Disclosure Reporting**

This Criminal Disclosure Reporting (CDR) is in response to affirmative responses to *(check item(s) being responded to)*:

Item(s):    41   42(a)   42(b)   43(a)   43(b)

**SECTION I**

The person(s) or entity(ies) for whom this CDR is being filed is (are):

- the Applicant  
 Applicant and one or more affiliate(s)  
 One or more affiliate(s)

If this CDR is being filed for an affiliate, give the full name of the affiliate below.

If the affiliate is registered with the NRD, provide the NRD number. If not, indicate by checking the appropriate check box.

**Applicant**

Name of Applicant

Applicant NRD No.

**Affiliate**

This affiliate is:     Firm                       Individual

Name of Affiliate

(For individuals: last name, first name, middle name)

NRD No.

Registered:    yes       no

- This CDR should be removed from the Adviser registration form because the affiliate(s) is no longer associated with the Adviser.

If the affiliate is registered through the NRD, has the affiliate submitted a CDR for the event? If the answer is "yes", no other information on this CDR must be provided regarding the affiliate. . . . .  yes    no

**NOTE:** The completion of this form does not relieve the affiliate of its obligation to update its NRD records.

**SECTION II**

1. If charge(s) were brought against an organization over the which the applicant or affiliate exercise(d) control: enter the name of the organization; whether or not the organization was a investment-related business; and the applicant's or affiliate's position, title or relationship.

**Event Disclosure Detail: (use this for both organizational and individual charges)**

2. (a) Date first charged \_\_\_\_\_  
MM/DD/YYYY

Exact Date

If not, provide explanation: \_\_\_\_\_

(b) Event Disclosure Detail (include: Charge(s); Description of Charge(s) and for each charge provide:

- number of counts
- felony or misdemeanour
- please for each charge
- product type if charge is securities/investment related

(c) Did any of the Charge(s) within the Event involve a Felony? . . . . .  yes    no

(d) Current status of the Event?                       Pending                       On Appeal                       Final

(e) Event Status Date *(complete unless status is Pending)*

\_\_\_\_\_   
MM/DD/YYYY

Exact Date

If not, provide explanation: \_\_\_\_\_



**SCHEDULE "C"**  
**Criminal Disclosure Reporting**

**Disposition Disclosure Detail**

3. Include for each charge:
- disposition type (e.g. convicted, acquitted, dismissed, pre-trial, etc.);
  - date;
  - sentence/penalty;
  - duration (if sentence suspension, probation, etc.);
  - start date of penalty;
  - penalty/fine amount; and
  - date paid

4. Provide a brief summary of circumstances leading to the charge(s) as well as the disposition. Include the relevant dates when the conduct which was the subject of the charge(s) occurred.

**SCHEDULE "D"**

Use this Schedule "D" to report details for items listed below. Report only new information or changes/updates to previously submitted details. Do not repeat previously submitted information.

Item(s) 1(b) 1(c) 24 26 28 29 40

This is an  INITIAL or  AMENDED filing for the Form - Adviser Firm

**Applicant**

Name of Applicant:

Applicant NRD No.:

Date:

**SECTION I Other Business Names Previously Used**

List each of the other business names previously used and the jurisdiction(s) in which they were used.

1. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

2. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

3. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

4. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

**SECTION II Other Business Names Currently in Use - e.g. Trade Names**

List each of the other business names currently in use and the jurisdiction(s) in which they are used.

1. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

2. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

3. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

4. Name: \_\_\_\_\_ Jurisdiction: \_\_\_\_\_

**SECTION III Books and Records**

Complete the "Effective Date" box with the month, day and year that the arrangement or agreement became effective. When reporting a change or termination of an arrangement or agreement, enter the "Termination Date" of the change.

Firm or Organization Name where books and records are kept:

NRD No. (if applicable):

Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

Effective Date:

Termination Date:

\_\_\_\_\_  
month/day/year

\_\_\_\_\_  
month/day/year

Mailing Address (if different from above) (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

Area Code + Telephone

e-mail Address

Fax Number

Is the location for books and records noted above (please check one):

- one of your branch offices  
 an affiliated company  
 a third party unaffiliated record keeper  
 other (specify): \_\_\_\_\_

**SCHEDULE "D"**

Briefly describe the nature of the arrangement and which books and records are kept at this location.

**SECTION IV Wrap Fee Programmes**

If you are a portfolio manager for one or more wrap fee programmes, list the name of each programme and its sponsor.

Name of Wrap Fee Programme: \_\_\_\_\_ Name of Sponsor: \_\_\_\_\_

Name of Wrap Fee Programme: \_\_\_\_\_ Name of Sponsor: \_\_\_\_\_

Name of Wrap Fee Programme: \_\_\_\_\_ Name of Sponsor: \_\_\_\_\_

Name of Wrap Fee Programme: \_\_\_\_\_ Name of Sponsor: \_\_\_\_\_

**SECTION VI Affiliated Advisers**

Complete the following information for each adviser with whom you are affiliated.

Legal Name of Affiliated Adviser \_\_\_\_\_ NRD # (if applicable): \_\_\_\_\_

Legal Name of Affiliated Adviser \_\_\_\_\_ NRD # (if applicable): \_\_\_\_\_

Legal Name of Affiliated Adviser \_\_\_\_\_ NRD # (if applicable): \_\_\_\_\_

Legal Name of Affiliated Adviser \_\_\_\_\_ NRD # (if applicable): \_\_\_\_\_

**SECTION VII Limited Partnership Participation**

Name of Limited Partnership: \_\_\_\_\_

Are your clients solicited to invest in the limited partnership? .....  Yes  No

Approximately what percentage of your clients have invested in this limited partnership? \_\_\_\_\_%

What is the cost per unit of limited partnership interests sold in your last fiscal year? \$ \_\_\_\_\_

What is the total value of the limited partnership? \$ \_\_\_\_\_

**SECTION VIII Controls Persons**

List each control person named in Item 1 or on Schedules "A" or "B" that directly or indirectly control your management or policies.

Name of Firm or Organization \_\_\_\_\_ NRD # (if applicable): \_\_\_\_\_

Business Address (do not use a P.O. Box)  
(number, street, city, province/territory, postal code)

Name of Individual (if applicable) (last, first and middle name) \_\_\_\_\_ NRD # (if applicable): \_\_\_\_\_

**SCHEDULE "D"**

Describe the nature of the control:

**SECTION IX Other Business**

Description of Primary Business

Describe your primary business (not investment dealer business):



**SCHEDULE "E"**  
**Regulatory Disclosure Reporting**

3. Note which province, state or country the applicant or affiliate was previously registered or licensed to deal or trade in securities or exchange contracts; and in any other capacity under any legislation which requires registration or licensing to deal with the public in any capacity? (e.g. as an insurance agent, car dealer, real estate agent, private investigator, mortgage broker, etc.)

- British Columbia Securities Commission
- Alberta Securities Commission
- Saskatchewan Securities Commission
- Manitoba Securities Commission
- Ontario Securities Commission
- Commission des valeurs mobilières du Québec
- New Brunswick Office of the Administrator
- Nova Scotia Securities Commission
- Prince Edward Island Registrar of Securities
- Newfoundland Securities Division
- Northwest Territories Securities Registries
- Yukon Territory Registrar of Securities
- Nunavut
  
- Investment Dealers Association of Canada
- Mutual Fund Dealers Association
- Canadian Venture Exchange (CNDX)
- Montreal Exchange
- Toronto Stock Exchange
- Toronto Futures Exchange
- Winnipeg Commodity Exchange
  
- NASD
- SEC
- US State Regulators
- Other Regulators - specify: \_\_\_\_\_  
(e.g. OSFI, Financial Services Commission of Ontario, etc.)
  
- Other(specify)\_\_\_\_\_

4. Dated Initiated \_\_\_\_\_ (MM/DD/YYYY)  Exact Date  
 Not Exact Date  
 Provide explanation \_\_\_\_\_

5. Describe the allegations related to this regulatory action.

6. Current Status?  Pending  On Appeal  Final

**If Final or On Appeal - complete all items below. For Pending Actions, complete Item 10 only.**

7. How was the matter resolved (check appropriate item):

- Dismissed
- Settled
- Order
- Other \_\_\_\_\_

8. Resolution Date \_\_\_\_\_ (MM/DD/YYYY)  Exact Date  
 Not Exact Date  
 Provide explanation \_\_\_\_\_

9. What sanction(s) were ordered (provide details of the amount of fines, duration of suspensions, length of time to rectify deficiency, etc.)?

10. Provide a brief summary of details related to the action status and/or disposition and include relevant terms, conditions and dates.

**SCHEDULE "F"**  
**Civil Judicial Disclosure Reporting**

This Civil Judicial Disclosure Reporting (CJDR) is in response to affirmative response to Item #47.

**SECTION I**

The person(s) or entity(ies) for whom this CJDR is being filed is (are):

- the Applicant  
 Applicant and one or more affiliate(s)  
 One or more affiliate(s)

If this CJDR is being filed for an affiliate, give the full name of the affiliate below.

If the affiliate is registered with the NRD, provide the NRD number. If not, indicate by checking the appropriate check box.

**Applicant**

Name of Applicant

Applicant NRD No.

**Affiliate**

This affiliate is:

 Firm Individual

Name of Affiliate

(For individuals: last name, first name, middle name)

NRD No.

Registered:  yes  no

- This CJDR should be removed from the Adviser registration form because the affiliate(s) is no longer associated with the Adviser.

If the affiliate is registered through the NRD, has the affiliate submitted a CJDR for the event? If the answer is "yes", no other information on this CJDR must be provided regarding the affiliate. . . . .  yes  no

**NOTE:** The completion of this form does not relieve the affiliate of its obligation to update its NRD records.

**SECTION II**

1. Describe the allegations related to this civil action.

2. Current status?  Pending  On Appeal  Final

3. If **pending**, date notice/process was served:

\_\_\_\_\_ (MM/DD/YYYY)

- Exact Date  
 Not Exact Date  
Provide explanation \_\_\_\_\_

4. If on **appeal**, action appealed to (provide name of court): \_\_\_\_\_

Date Appeal filed: \_\_\_\_\_ (MM/DD/YYYY)

5. If **final**, how was the matter resolved (provide all details).

**SCHEDULE "G"**  
**Bankruptcy, Bond and Judgement/Lien Disclosure Reporting**

This Disclosure Reporting page is in response to affirmative response to (check item(s) being responded to):

Item(s):             48(a)    48(b)    49         50

**SECTION I**

The person(s) or entity(ies) for whom this Disclosure Reporting page is being filed is (are):

- the Applicant  
 Applicant and one or more affiliate(s)  
 One or more affiliate(s)

If this Disclosure Reporting page is being filed for an affiliate, give the full name of the affiliate below.

If the affiliate is registered with the NRD, provide the NRD number. If not, indicate by checking the appropriate check box.

**Applicant**

Name of Applicant

Applicant NRD No.

**Affiliate:**            This affiliate is:     Firm                             Individual

Name of Affiliate  
(For individuals: last name, first name, middle name)

NRD No.

Registered:    yes         no

- This Disclosure Reporting page should be removed from the Adviser registration form because the affiliate(s) is no longer associated with the adviser.

If the affiliate is registered through the NRD, has the affiliate submitted a Disclosure Reporting page for the event? If the answer is "yes", no other information on this Disclosure Reporting page must be provided regarding the affiliate.     yes         no

**NOTE:** The completion of this form does not relieve the affiliate of its obligation to update its NRD records.

**SECTION II                            Bankruptcy Disclosure**

1. Action type: (check appropriate item)

- Bankruptcy  
 Compromise  
 Declaration  
 Liquidated  
 Receivership  
 Voluntary Assignment  
 Other \_\_\_\_\_

2. Action date:

\_\_\_\_\_

(MM/DD/YYYY)

Exact Date

Not Exact Date

Provide explanation \_\_\_\_\_

3. If the financial action relates to an organization over which the applicant or affiliate exercise(d) control, enter the name of the organization and the applicant's or affiliate's position, title or relationship.

Was the organization investment related?

yes

no

4. Court action brought in (name of court), location of Court (city or county and province/territory or country) and docket/case number:

5. Is action currently pending?

yes

no



**SCHEDULE "G"**  
**Bankruptcy, Bond and Judgement/Lien Disclosure Reporting**

6. If not pending, provide Disposition type (check appropriate item):

- Direct payment procedure  
 Discharged  
 Dismissed  
 Dissolved  
 Satisfied/Released  
 Trustee appointed  
 Other \_\_\_\_\_

7. Disposition date:

\_\_\_\_\_  
(MM/DD/YYYY)

- Exact Date  
 Not Exact Date  
Provide explanation \_\_\_\_\_

8. Provide a brief summary of events leading to the action and if not discharged, explain.

9. If a Trustee was appointed or a direct payment procedure was begun, enter the amount paid or agreed to be paid by you; or the name of the Trustee:

Currently open?  yes  no

Date direct payment initiated/filed or Trustee appointed:

\_\_\_\_\_  
(MM/DD/YYYY)

- Exact Date  
 Not Exact Date  
Provide explanation \_\_\_\_\_

10. Provide details to any status/disposition. Include details as to creditors, terms, conditions, amounts due and settlement schedule (if applicable).

**SECTION III Bond Disclosure**

1. Name of Applicant

Applicant NRD Number:

2. Firm Name (Policy Holder):

3. Bonding Company Name:

4. Disposition Types (check appropriate item):

- Denied  Payout  Revoked

5. Disposition date:

\_\_\_\_\_  
(MM/DD/YYYY)

- Exact Date  
 Not Exact Date  
Provide explanation \_\_\_\_\_

6. If disposition resulted in payout, list payout amount and date paid:

7. Summarize the details of circumstances leading to the necessity of the bonding company action.

**SCHEDULE "G"**  
**Bankruptcy, Bond and Judgement/Lien Disclosure Reporting**

**SECTION IV Judgement/Lien Disclosure**

1. Name of Applicant	Applicant NRD Number:
2. Judgement/Lien Amount:	
3. Judgement/Lien Holder:	
4. Judgement/Lien Type (check appropriate item) <input type="checkbox"/> Civil <input type="checkbox"/> Default <input type="checkbox"/> Tax	
5. Date filed: _____ <input type="checkbox"/> Exact Date (MM/DD/YYYY) <input type="checkbox"/> Not Exact Date Provide explanation _____	
6. Is Judgement/Lien outstanding? <input type="checkbox"/> yes <input type="checkbox"/> no  If no, provide status date: _____ <input type="checkbox"/> Exact Date (MM/DD/YYYY) <input type="checkbox"/> Not Exact Date Provide explanation _____  If no, how was the matter resolved (check appropriate item) <input type="checkbox"/> Discharged <input type="checkbox"/> Released <input type="checkbox"/> Removed <input type="checkbox"/> Satisfied	
7. Name of court, location of Court ( <i>city or county and province/territory or country</i> ) and docket/case number:	
8. Provide a brief summary of events leading to the action and any payment schedule details including current status (if applicable).	

## REGISTRATION FORM - INDIVIDUALS

Include instructions for completion.

Definition of Terms

Is this an:       Initial Application       Amendment

## GENERAL INFORMATION

NRD No.:

- |     |   |
|-----|---|
| 1.  | Last Name, First, Second and Third Names  |
| (a) | Legal Names (if different from above)   |
| (b) | Have you had a name change? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No<br>If "yes", complete Schedule "D", Section I - <i>Other Names(s) Previously Used.</i> |
| (c) | Home Address<br>(number, street, city, province/territory, postal code)   |
| (d) | Mailing Address (if different than above)<br>(number, street, city, province/territory, postal code)  |
| (e) | Area Code + Telephone Number  |
| (f) | Social Insurance Number   |

**Personal Information**

- |     |   |
|-----|---|
| 2.  | Date of Birth<br>(Day, Month, Year)   |
| (a) | Place of Birth<br>(City, Province, Country)   |
| (b) | Sex   |
| (c) | Height  |
| (d) | Weight  |
| (e) | Colour of Eyes  |
| (f) | Colour of Hair  |
| (g) | Photograph of Individual held at firm? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No<br>If "no", explain why ..... |

**Citizenship Information**

- |    |   |
|----|---|
| 3. | What is your Citizenship?<br><input type="checkbox"/> Canadian<br><input type="checkbox"/> Other (specify): ..... |
|----|---|

## REGISTRATION FORM - INDIVIDUALS

(a) If not a Canadian citizen, complete the following information:  
 Are you a permanent resident? .....  Yes  No  
 Number of years of continuous residency in Canada? \_\_\_\_\_ year(s)

(b) Please provide the following Passport information:  
 Passport Number: .....  
 Country: .....  
 Date of Issue: ..... Place of Issuance: .....  
 (Day, Month, Year)

## RESIDENTIAL INFORMATION

4. Please provide all residential addresses for the past 10 years.

Present Address \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
 (number, street, city, province/territory/state, postal code/zip code, country)

Previous Address \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
 (number, street, city, province/territory/state, postal code/zip code, country)

Previous Address \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
 (number, street, city, province/territory/state, postal code/zip code, country)

Previous Address \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
 (number, street, city, province/territory/state, postal code/zip code, country)

Previous Address \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
 (number, street, city, province/territory/state, postal code/zip code, country)

Previous Address \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
 (number, street, city, province/territory/state, postal code/zip code, country)

## EDUCATION

5. Please complete the following information:

<i>Instruction</i>	<i>Name of last school attended in each level</i>	<i>Degree or Diploma</i>	<i>Date Obtained</i>
High School or Secondary Level			
Post-Secondary, College or University			
Professional Education			
Other (specify):			

## REGISTRATION FORM - INDIVIDUALS

## EMPLOYMENT

Provide details of the dealer you are currently employed.

6.	Legal Name of Current Dealer:	NRD # of Dealer:
7.	The location from which I work is the:	
	<input type="checkbox"/> Head Office Location <input type="checkbox"/> Branch Location; or <input type="checkbox"/> Sub-Branch Location	
	The address for the location from which I work is as follows:	
(a)	Business Address (number, street, city, province/territory, postal code)	
(b)	Mailing Address (if different than above) (number, street, city, province/territory, postal code)	
(c)	Website Address (if applicable to business)	
(d)	e-mail Address	
(e)	Area Code + Telephone Number	
(f)	Fax Number	
8.	Date employment commenced with the Dealer noted in Item #6 above. .... (MM/DD/YYYY)	
9.	Present position in the firm:	
	<input type="checkbox"/> Sales Representative <input type="checkbox"/> Manager <input type="checkbox"/> Compliance Officer <input type="checkbox"/> Partner <input type="checkbox"/> Director <input type="checkbox"/> Adviser <input type="checkbox"/> Other (specify): .....	

## SPOUSAL INFORMATION

10.	Name of Spouse: .....
	Name of Spouse's Employer: .....
	Position Held: .....

## REGISTRATION FORM - INDIVIDUALS

## PROFICIENCY REQUIREMENTS

11. Please note which courses have been successfully completed or received exemption:

Courses	Completed	Date Completed MM/DD/YYYY	Exempt	Date Exempted and by Which Jurisdiction
ACE Traders Exam	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Branch Managers' Examination (IFIC)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Branch Managers' Qualifying Exam (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Canadian Commodity Futures Exam (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Canadian Commodity Supervisors Exam (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Canadian Futures Exam Program (CSI), Part I	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Canadian Futures Exam Program (CSI), Part II	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Canadian Investment Funds Course (IFIC)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Canadian Investment Finance Course (CSI)				
Part I	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Part II	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Canadian Investment Management (CSI)(Course 2)				
Part 1	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Part II	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Canadian Option Course (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Canadian Operations Course	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Canadian Securities Course (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
CATS Exam – Oral, Written	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Chartered Financial Analysts Course (AIMR) (1 <sup>st</sup> yr)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Chartered Financial Analysts Course (AIMR) (2 <sup>nd</sup> yr)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Chartered Financial Analysts Course (AIMR)(completed)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Conduct and Practices Handbook Exam (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Derivatives Fundamentals Course (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Effective Management in the Securities Industry (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Examination based on Manual for Registered Reps (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Fundamentals of Portfolio Management Course (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Futures Licensing Course (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Investment Funds in Canada Course (ICB)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Investment Management Techniques Course (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
National Commodities Futures Examination (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
New Entrants Exam (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Officers' Partners' or Directors' Examination (IFIC)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Options Licensing Course (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Options Supervisory Course	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Partners, Directors and Senior Officers Qualifying Exam	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Portfolio Management Technique	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Principals of Mutual Fund Investments	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Professional Financial Planning Course (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Qualifying Examination for Registered Options Principal	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Real Estate Pre-Licensing Course (UBC)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Registered Options Principals Exam Program (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Technical Analysis Course	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Traders Training Course (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
VCT Examination	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Wealth Management Techniques Course (CSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....
Other (Specify) _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....	<input type="checkbox"/> Yes <input type="checkbox"/> No	.....

**REGISTRATION FORM - INDIVIDUALS**

12.	Proof of passing course(s) as indicated above is held at the firm? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "no", why not? .....
13.	Please indicate student number if applicable: IFIC Student # _____ CSI Student # _____ AIMR Student # _____ ICB Student # _____ Other Student # (please specify): _____
14.	Has any Securities Regulator or SRO refused you an exemption for a proficiency course(s)? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", state which regulator refused to grant the exemption, the name of the course and the reason for not granting the exemption. ....

**EMPLOYMENT HISTORY**

15. The following information constitutes full disclosure of your business activities, including any periods of self-employment and unemployment, for 10 years immediately prior to the date of this application, excluding any summer employment while a full time student, but including all securities or commodities industry employment during and *prior to the ten-year period*.

Name & Address of Employer	Name & Title of Immediate Supervisor	Nature of Employment & Duties of Applicant	Reasons for Leaving	From Month/Year	To Month/Year
<i>Present:</i>					
<i>Previous:</i>					

## REGISTRATION FORM - INDIVIDUALS

## SECURITIES REGULATORS AND SELF REGULATORY ORGANIZATIONS

16. Indicate by checking the appropriate box(es) each Self Regulatory Organization (SRO), Exchange and/or Securities Commission in which the applicant: (1) is currently registered/member; and/or (2) is applying for registration/membership.

Currently Registered/a Member	Applying for Registration/Membership
<input type="checkbox"/> British Columbia Securities Commission <input type="checkbox"/> Alberta Securities Commission <input type="checkbox"/> Saskatchewan Securities Commission <input type="checkbox"/> Manitoba Securities Commission <input type="checkbox"/> Ontario Securities Commission <input type="checkbox"/> Commission des valeurs mobilières du Québec <input type="checkbox"/> New Brunswick Office of the Administrator <input type="checkbox"/> Nova Scotia Securities Commission <input type="checkbox"/> Prince Edward Island Registrar of Securities <input type="checkbox"/> Newfoundland Securities Division <input type="checkbox"/> Northwest Territories Securities Registries <input type="checkbox"/> Yukon Territory Registrar of Securities <input type="checkbox"/> Nunavut  <input type="checkbox"/> Investment Dealers Association of Canada <input type="checkbox"/> Mutual Fund Dealers Association <input type="checkbox"/> Canadian Venture Exchange (CNDX) <input type="checkbox"/> Montreal Exchange <input type="checkbox"/> Toronto Stock Exchange <input type="checkbox"/> Toronto Futures Exchange <input type="checkbox"/> Winnipeg Commodity Exchange	<input type="checkbox"/> British Columbia Securities Commission <input type="checkbox"/> Alberta Securities Commission <input type="checkbox"/> Saskatchewan Securities Commission <input type="checkbox"/> Manitoba Securities Commission <input type="checkbox"/> Ontario Securities Commission <input type="checkbox"/> Commission des valeurs mobilières du Québec <input type="checkbox"/> New Brunswick Office of the Administrator <input type="checkbox"/> Nova Scotia Securities Commission <input type="checkbox"/> Prince Edward Island Registrar of Securities <input type="checkbox"/> Newfoundland Securities Division <input type="checkbox"/> Northwest Territories Securities Registries <input type="checkbox"/> Yukon Territory Registrar of Securities <input type="checkbox"/> Nunavut  <input type="checkbox"/> Investment Dealers Association of Canada <input type="checkbox"/> Mutual Fund Dealers Association <input type="checkbox"/> Canadian Venture Exchange (CNDX) <input type="checkbox"/> Montreal Exchange <input type="checkbox"/> Toronto Stock Exchange <input type="checkbox"/> Toronto Futures Exchange <input type="checkbox"/> Winnipeg Commodity Exchange

17. Indicate by checking the appropriate box(es) each Self Regulatory Organization (SRO,) Securities Commission and/or Other Regulator in which the applicant is a member/registered (other than included in Item# 16 above):

- NASD  
 SEC  
 US State Regulators  
  
 Other Regulators - specify: \_\_\_\_\_  
 (e.g. OSFI, Financial Services Commission of Ontario, etc.)  
  
 Other(specify)\_\_\_\_\_



## REGISTRATION FORM - INDIVIDUALS

## TYPE OF REGISTRATION

18. Please indicate the type of registration or approval requested:

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Salesperson</li> <li><input type="checkbox"/> Partner</li> <li><input type="checkbox"/> Trading/Partner</li> <li><input type="checkbox"/> Director</li> <li><input type="checkbox"/> Trading/Director</li> <li><input type="checkbox"/> Trading/Advising Officer</li> <li><input type="checkbox"/> Non-Trading/Advising Officer</li> <li><input type="checkbox"/> Compliance Officer</li> <li><input type="checkbox"/> Branch Manager</li> <li><input type="checkbox"/> Designated/Alternate Registered Options Principal</li> <li><input type="checkbox"/> Designated/Alternate Registered Futures Principal</li> <li><input type="checkbox"/> Designated/Alternate Registered Futures/Options Principal</li> <li><input type="checkbox"/> Industry Investor</li> <li><input type="checkbox"/> Non-industry Investor</li> <li><input type="checkbox"/> Registered Mutual Funds Representative</li> <li><input type="checkbox"/> Registered Representative (Retail)</li> <li><input type="checkbox"/> Registered Representative (Non-Retail)</li> <li><input type="checkbox"/> Investment Representative (Retail)</li> <li><input type="checkbox"/> Investment Representative (Non-Retail)</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> ACE Trade</li> <li><input type="checkbox"/> ACE Trade/RR</li> <li><input type="checkbox"/> Assistant ACE Trader</li> <li><input type="checkbox"/> CATS Trader</li> <li><input type="checkbox"/> VCT Trader</li> <li><input type="checkbox"/> Trader - Trade CDNX</li> <li><input type="checkbox"/> Independent - Commodities Options Trader</li> <li><input type="checkbox"/> Independent - Commodities Floor Trader</li> <li><input type="checkbox"/> Portfolio Manager</li> <li><input type="checkbox"/> Associate Portfolio Manager</li> <li><input type="checkbox"/> Investment Advisor (British Columbia only)</li> <li><input type="checkbox"/> Investment Counsel</li> <li><input type="checkbox"/> Portfolio Manager</li> <li><input type="checkbox"/> Securities Adviser</li> <li><input type="checkbox"/> Advising Employee</li> <li><input type="checkbox"/> Ultimate/Alternate Designated Person</li> <li><input type="checkbox"/> Other (specify): _____</li> </ul> |
|---|--|

*Type of Securities*

19. Please note the type of securities you will be dealing in:

- Securities (other than Forward Contracts)
- Exchange Contracts (Commodities)
- Equity Options
- Forward Contracts
- Mutual Fund Securities
- Scholarship Plan Securities
- Real Estate Securities
- Security Issuer Securities
- Other (specify): \_\_\_\_\_

## REGISTRATION FORM - INDIVIDUALS

## PRIOR REGISTRATION OR LICENSING

20. Are you now or have you ever been registered or licensed or applied for registration or a license in any capacity under any act or regulation thereof, regulating trading in securities or exchange contracts (commodities or commodity future contracts) of any province, territory, state or country? .....  Yes  No  
If "yes" complete Schedule "B".
21. Have you **ever** been refused registration or licensing or approval for membership by any regulator or SRO? .....  Yes  No  
If "yes", complete Schedule "B".
22. Are you now, or have you ever been a partner, shareholder, director or officer of any company or of a partnership which has been registered or licensed or is now registered or licensed (except as an issuer if you are or have been solely a shareholder) in any capacity under any act or regulation thereof, regulating trading in securities or exchange contracts (commodities or commodity futures contracts) of any province, territory, state or country? .....  Yes  No  
If "yes" please complete Schedule "B".

## CRIMINAL DISCLOSURE

**INSTRUCTION:**

*Offences under such federal statutes as the **Income Tax Act (Canada)** and the **Immigration Act (Canada)** constitute criminal offences and must be disclosed when answering this question. Where you have pleaded guilty or been found guilty of an offence, such offence must be reported even though an absolute or conditional discharge has been granted.*

*It is considered inappropriate to omit reference to an offence under any statute other than the **Young Offenders Act (Canada)**. Wrongful omission of an offence may be treated as a non-disclosure of material information.*

*It should be noted that pleas or findings of guilt for impaired driving are **Criminal Code (Canada)** matters and must be disclosed.*

*You are not required to disclose any offence for which a pardon has been granted under the **Criminal Records Act (Canada)** and such pardon has not been revoked. Under such circumstances, the appropriate response would be "No".*

*If you are in doubt as to previous dealings you have had with law enforcement agencies and the applicability of this question with respect to such encounters, you should obtain the advice of an authorized officer of your sponsor or a legal adviser.*

## REGISTRATION FORM - INDIVIDUALS

23.	<p><b>Past Offences Involving Securities, Commodities, Insurance or Real Estate</b></p> <p>Have you ever since attaining the age of 18 been charged with or pleaded guilty or been found guilty under any law of any province, territory, state or country of any offence relating to trading in securities, exchange contracts (commodities or commodity futures contracts), insurance or real estate or with the theft thereof, or with any related offence, or been a party to any proceedings taken on account of fraud arising out of any trade in or advice in respect thereof? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "yes" complete Schedule "C".</p>
24.	<p><b>Past Offences Involving Other Criminal Offences or Contraventions</b></p> <p>Have you, since attaining the age of 18, ever pleaded guilty or been found guilty under any law of any province, territory, state or country for contraventions or other criminal offences not noted in Item #15 above? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "yes" complete Schedule "C".</p>
25.	<p><b>Current Charges or Indictments</b></p> <p>Are you <i>currently the subject of a charge or indictment</i>, under any law of any province, territory, state or country for contraventions, criminal offences or other conduct of the type described in Item #15 or #16 above? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "yes" complete Schedule "C".</p>
26.	<p><b>Partnership or Company Offences or Current Charges or Indictments</b></p> <p>Has any partnership or company of which you are or were at the time of such event a partner, officer, director or a holder of voting securities carrying more than 5% of the votes carried by all outstanding voting securities, ever pleaded guilty or been found guilty, or is any such partnership or company currently the subject of a <i>charge or indictment</i>, under any law of any province, territory, state or country for contraventions, criminal offences or other conduct of the type described in Item #23 or #24 above? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If "yes" complete Schedule "C".</p>

## REGISTRATION FORM - INDIVIDUALS

## REGULATORY DISCIPLINARY ACTION

27. Have you **ever** been refused registration or a licence, or has your registration or licence been suspended or cancelled, under any act or regulation thereof, regulating trading in securities or exchange contracts (commodities or commodity futures contracts) of any province, territory, state or country? .....  Yes  No

If "yes" complete Schedule "E".

28. Have you **ever** been refused registration or a licence, or has your registration or licence been suspended or cancelled, under any legislation which requires registration or licensing to deal with the public in any **capacity other than trading in securities or exchange contracts (commodities or commodity futures contracts)** in any province, territory, state or country? .....  Yes  No

If "yes" complete Schedule "E".

29. Are you now or have you **ever** been a partner, shareholder, director or officer of a company or of a partnership which has, during the time of your association with it, been refused registration (except a registration as an issuer if you are or have been solely a shareholder) or a licence, or whose registration has been suspended or cancelled under the act, or regulation thereof, regulating trading in securities or exchange contracts (commodities or commodity futures contracts) of any province, territory, state or country? .....  Yes  No

If "yes" complete Schedule "E".

30. Have you been denied the benefit of any exemption from registration or licensing provided by any act or regulation thereof regulating trading in securities or exchange contracts (commodities or any commodity futures contracts) of any province, territory, state or country? .....  Yes  No

If "yes" complete Schedule "E".

31. Has any prior or current registration or licensing to deal or trade in securities or exchange contracts (commodities or commodity futures contracts) held by you or any partnership or company of which you were at the time of such event a partner, officer or director or holder of voting securities carrying more than 5 percent of the votes carried by all outstanding voting securities **ever** been the subject of disciplinary action undertaken by any authority regulating or supervising trading in securities or exchange contracts (commodities or commodity futures contracts)? .....  Yes  No

If "yes" complete Schedule "E".

## REGISTRATION FORM - INDIVIDUALS

## CIVIL PROCEEDINGS

32. (a) Has any claim been made against you successfully or, to your knowledge, is any claim pending in any civil or alternative dispute resolution proceedings before a court or other tribunal in any province, territory, state or country which was, or is, based in whole or in part on fraud, theft, deceit, misrepresentation or similar conduct? .....  Yes  No
- (b) Has any claim been made against any partnership or company of which you are or were at the time of such event, or at the time such proceedings were commenced, a partner, director, officer or holder of voting securities carrying more than 5% of the votes carried by all outstanding voting securities? .....  Yes  No

## TERMINATIONS

33. Have you ever voluntarily resigned, been discharged or permitted to resign after allegations were made that accused you of:
- (a) violating investment related statutes, regulations, rules or industry standards of conduct? .....  Yes  No
- (b) fraud or the wrongful taking of property? .....  Yes  No
- (c) failure to supervise in connection with investment related statutes, regulations, rules or industry standards of conduct? .....  Yes  No
- If you answered "yes" to any of these questions in Item #33, please complete Schedule "H".

## FINANCIAL DISCLOSURE

If you answer "yes" to any of the following questions complete Schedule "G".

## Bankruptcy

34. Under the law of any province, territory, state or country have you ever:
- (a) been declared bankrupt or made a voluntary assignment in bankruptcy? .....  Yes  No
- (b) made a proposal under any legislation relating to bankruptcy or insolvency? .....  Yes  No
- (c) been subject to or instituted any proceedings, arrangement or compromise with creditors including, having a receiver and/or manager appointed to hold your assets? .....  Yes  No

## REGISTRATION FORM - INDIVIDUALS

35.	Has any partnership or corporation of which you are or were at the time of such event a partner, director, officer or holder of voting securities carrying more than 5% of the votes carried by all outstanding voting securities <b>ever</b> :
(a)	been declared bankrupt or made a voluntary assignment in bankruptcy? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No
(b)	made a proposal under any legislation relating to bankruptcy or insolvency? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No
(c)	been subject to proceedings under any legislation relating to the winding up, dissolution or companies' creditors arrangements? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No
(d)	been subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver and/or manager appointed to hold its assets? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Surety Bond or Fidelity Bond</b>	
36.	Have you <b>ever</b> applied for a surety bond or fidelity bond and been refused? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", complete Schedule "G". Are you presently bonded? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Judgement or Garnishment</b>	
37.	Has any judgement or garnishment <b>ever</b> been rendered against you or is any judgement or garnishment outstanding against you, in any civil court in any province, state or country for damages or other relief in respect of a fraud or for any reason whatsoever? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes" complete Schedule "G".
<b>BUSINESS ACTIVITIES</b>	
38.	Will you be actively engaged in the business of the firm with which you are now applying and devote the major portion of your time thereto? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No
39.	Are you engaged in any other business or have any other employment for gain except your occupation with the firm with which you are now applying? ..... <input type="checkbox"/> Yes <input type="checkbox"/> No If "yes", complete Schedule "G".

REGISTRATION FORM - INDIVIDUALS

SHAREHOLDERS

40. Are you a partner, director, officer, shareholder or other contributor of capital of a partnership or of a company having as its principal business that of a broker, dealer or adviser in securities, options or exchange contracts (commodities or commodity futures contracts) other than the firm with which you are now applying? . . . . .  Yes  No

If "yes", complete Schedule "A".

DATED at . . . . .  
Name of Applicant . . . . .  
this . . . . . day of . . . . . 20 . . . . .  
By . . . . .  
Signature of applicant, partner or officer  
Print Name and Title . . . . .

AFFIDAVIT

In the matter of the *Securities Act*  
I, . . . . .  
Name in Full  
of the . . . . .  
in the County of . . . . .  
in the Province/Territory of . . . . .

MAKE OATH AND SAY

- 1. I am the applicant (or partner or officer of the applicant) herein for registration and I signed the application.
- 2. The statements of fact made in the application are true.

SWORN before me at the . . . . . }  
in the . . . . . of . . . . . }  
this day of . . . . . 20 . . . . . } Signature of Deponent  
. . . . . }  
(A Commissioner, etc.)

**SCHEDULE "A" (Individual)  
Direct Owners and Officers**

Use Schedule "A" in response to Item #40 to provide information if you are a partner, director, officer, shareholder or other contributor of capital of a partnership or of a company having as its principal business that of a broker, dealer or adviser in securities, options or exchange contracts (commodities or commodity futures contracts) other than the firm with which you are now applying.

**Applicant**

Name of Applicant  
(last name, first name, middle name)

Applicant NRD No.

SIN #

Firm NRD No.

**SECTION I**

1. State the number, value, class and percentage of shares or the amount of partnership interest you own or propose to acquire upon approval. If acquiring shares upon approval, state source (e.g. treasury shares, or if upon transfer, state name of transferor).
2. State the value of subordinated debentures or bonds of the firm to be held by you or any other subordinated loan to be made by you to the firm.
3. State the source of the funds you propose to invest in the firm and provide full details.
4. Are the funds to be invested (or proposed to be invested) guaranteed directly or indirectly by any person, partnership or company? .....  Yes  No  
If "yes", provide full details.
5. Are you or will you upon approval be the beneficial owner of the shares, bonds, debentures, partnership interest or other notes held by you? .....  Yes  No  
If "no", state name, residential address and occupation of the beneficial owner.
6. Have you either directly or indirectly given up any rights with respect to such shares or amount of the partnership interest, or do you, on approval of this application, intend to give up any rights, including any hypothecation, pledging or deposit as collateral of the shares or amount of partnership interest with any bank, other institution or other person? .  Yes  No  
If "yes", provide full details.



**SCHEDULE "B" (Individual)  
Reporting of Prior Registration or Licensing**

This Disclosure Reporting is in response to affirmative responses to (check item(s) being responded to):

Item(s): 20 21 22

**Applicant**

Name of Applicant  
(last name, first name, middle name)

Applicant NRD No.

SIN #

Firm NRD No.

**SECTION I Prior Registration/Licensing**

1. Note which province, state or country the applicant was previously registered or licensed to deal or trade in securities or exchange contracts; and in any other capacity under any legislation which requires registration or licensing to deal with the public in any capacity? (e.g. as an insurance agent, real estate agent, private investigator, mortgage broker, etc.)

- British Columbia Securities Commission
- Alberta Securities Commission
- Saskatchewan Securities Commission
- Manitoba Securities Commission
- Ontario Securities Commission
- Commission des valeurs mobilières du Québec
- New Brunswick Office of the Administrator
- Nova Scotia Securities Commission
- Prince Edward Island Registrar of Securities
- Newfoundland Securities Division
- Northwest Territories Securities Registries
- Yukon Territory Registrar of Securities
- Nunavut
- Other jurisdictions (specify): \_\_\_\_\_

2. For all securities regulatory authorities and/or self-regulatory organizations which granted registration as noted in Item #12, note the type of registration held, dates of registration and name of company through which registration was granted. State whether the registration is currently in effect.

Regulatory Authority \_\_\_\_\_ Type of Registration \_\_\_\_\_ Date \_\_\_\_\_ Firm \_\_\_\_\_ In effect:  
MM/DD/YYYY  Yes  No

Regulatory Authority \_\_\_\_\_ Type of Registration \_\_\_\_\_ Date \_\_\_\_\_ Firm \_\_\_\_\_ In effect:  
MM/DD/YYYY  Yes  No

Regulatory Authority \_\_\_\_\_ Type of Registration \_\_\_\_\_ Date \_\_\_\_\_ Firm \_\_\_\_\_ In effect:  
MM/DD/YYYY  Yes  No

**SCHEDULE "B" (Individual)  
Reporting of Prior Registration or Licensing**

3. If you have **ever** been refused registration or licensing, or approval for membership in any SRO and/or Exchange, note which one refused such registration/membership below:

- British Columbia Securities Commission
- Alberta Securities Commission
- Saskatchewan Securities Commission
- Manitoba Securities Commission
- Ontario Securities Commission
- Commission des valeurs mobilières du Québec
- New Brunswick Office of the Administrator
- Nova Scotia Securities Commission
- Prince Edward Island Registrar of Securities
- Newfoundland Securities Division
- Northwest Territories Securities Registries
- Yukon Territory Registrar of Securities
- Nunavut
- Investment Dealers Association of Canada
- Mutual Fund Dealers Association
- Canadian Venture Exchange (CNDX)
- Montreal Exchange
- Toronto Stock Exchange
- Toronto Futures Exchange
- Winnipeg Commodity Exchange
- Other (specify): \_\_\_\_\_

4. Provide details why you were refused registration and/or membership in the above noted Item #3.

**SECTION II Other Business Relationships**

1. If you are currently or have ever been engaged as a partner, shareholder, director, officer, or proprietor of any company (please exclude non-investment related activity which is exclusively charitable, civic, religious or fraternal and is recognized as tax exempt) please provide the following information:

- Name of the other business: .....
- Whether the business is investment related .....
- Address of the other business .....
- Nature of the other business .....
- Your position, title or relationship with the other business .....
- Start date and end dates of your relationship .....
- Briefly describe your duties relating to the other business .....

2. Confirmation by the applicant's firm that there are no conflicts with this business relationship:

- There are no conflicts with this business relationship.

Name of Signing Authority: .....

**SCHEDULE "C" (Individual)  
Criminal Disclosure Reporting**

This Criminal Disclosure Reporting (CDR) is in response to affirmative responses to *(check item(s) being responded to)*:

Item(s):    23    24    25    26

**Applicant**

Name of Applicant  
(last name, first name, middle name)

Applicant NRD No.

SIN #

Firm NRD No.

**SECTION I**

1. If charge(s) were brought against an organization over the which the applicant exercise(d) control: enter the name of the organization; whether or not the organization was a securities-related business; and the applicant's position, title or relationship.

2. Formal charge(s) were brought in: (include name of court, location of court - city or county and province/territory and country, case number).

**Event Disclosure Detail (use this for both organizational and individual charges)**

3. (a) Date first charged \_\_\_\_\_  
MM/DD/YYYY

Exact Date  
If not, provide explanation: \_\_\_\_\_

- (b) Event Disclosure Detail (include: Charge(s); Description of Charge(s) and for each charge provide:
- number of counts
  - felony or misdemeanour
  - please for each charge
  - product type if charge is securities/investment related

(c) Did any of the Charge(s) within the Event involve a Felony? .....  yes     no

(d) Current status of the Event?                     Pending     On Appeal     Final

(e) Event Status Date:  
(complete unless status is Pending)

\_\_\_\_\_ MM/DD/YYYY

Exact Date  
If not, provide explanation: \_\_\_\_\_

**SCHEDULE "C" (Individual)  
Criminal Disclosure Reporting**

**Disposition Disclosure Detail**

4. Include for each charge:
  - disposition type (e.g. convicted, acquitted, dismissed, pre-trial, etc.);
  - date;
  - sentence/penalty;
  - duration (if sentence suspension, probation, etc.);
  - start date of penalty;
  - penalty/fine amount; and
  - date paid
  
5. Provide a brief summary of circumstances leading to the charge(s) as well as the disposition. Include the relevant dates when the conduct which was the subject of the charge(s) occurred.

**SCHEDULE "D" (Individual)  
Change of Name(s)**

Use this Schedule "D" to report details for item listed below. Report only new information or changes/updates to previously submitted details. Do not repeat previously submitted information.

Item:  1(b)

**Applicant:**

Name of Applicant  
(last name, first name, middle name)

Applicant NRD No.

SIN #

Firm NRD No.

**SECTION I Other Name(s) Previously Used**

Name changes resulting from marriage, divorce, court order or any other process should be listed below, plus appropriate dates.

1. Name Change:  _____ Last Name, First, Second and Third Names	Reason for change: <input type="checkbox"/> Marriage <input type="checkbox"/> Divorce <input type="checkbox"/> Court Order <input type="checkbox"/> Other - specify _____	Date Changed:  _____ MM/DD/YYYY
2. Name Change:  _____ Last Name, First, Second and Third Names	Reason for change: <input type="checkbox"/> Marriage <input type="checkbox"/> Divorce <input type="checkbox"/> Court Order <input type="checkbox"/> Other - specify _____	Date Changed:  _____ MM/DD/YYYY
3. Name Change:  _____ Last Name, First, Second and Third Names	Reason for change: <input type="checkbox"/> Marriage <input type="checkbox"/> Divorce <input type="checkbox"/> Court Order <input type="checkbox"/> Other - specify _____	Date Changed:  _____ MM/DD/YYYY
4. Name Change:  _____ Last Name, First, Second and Third Names	Reason for change: <input type="checkbox"/> Marriage <input type="checkbox"/> Divorce <input type="checkbox"/> Court Order <input type="checkbox"/> Other - specify _____	Date Changed:  _____ MM/DD/YYYY

**SCHEDULE "E" (Individual)  
Regulatory Disclosure Reporting**

This Regulatory Disclosure Reporting (RDR) is in response to affirmative responses to *(check item(s) being responded to)*:

Item(s):            27                      28                      29                      30                      31

**Applicant:**

Name of Applicant (last name, first name, middle name)	Applicant NRD No.
---	-------------------

SIN #	Firm NRD No.
-------	--------------

**SECTION I**

1. Regulatory action initiated by:
- Provincial/Territorial Regulator
  - SRO
  - Foreign jurisdiction

Full name of regulator, SRO, or foreign regulatory authority: \_\_\_\_\_

2. Principal Sanction (check appropriate item):

- |   |   |
|---|---|
| <input type="checkbox"/> Reprimand        | <input type="checkbox"/> Penalty(ies)/Fine(s)     |
| <input type="checkbox"/> Undertaking      | <input type="checkbox"/> Refusal for Registration |
| <input type="checkbox"/> Suspension       | <input type="checkbox"/> Terms and Conditions     |
| <input type="checkbox"/> Cease and Desist | <input type="checkbox"/> Other _____              |

3. Dated Initiated \_\_\_\_\_

(MM/DD/YYYY)

- Exact Date  
 Not Exact Date  
Provide explanation \_\_\_\_\_

4. Employing Firm when activity occurred which led to the regulatory action:

5. Principal Product Type:

Other Product Types:

6. Describe the allegations related to this regulatory action.

7. Current Status?                       Pending             On Appeal             Final

**If Final or On Appeal - complete all items below. For Pending Actions, complete Item 10 only.**

8. How was the matter resolved (check appropriate item):

- Dismissed
- Settled
- Order
- Other \_\_\_\_\_

9. Resolution Date \_\_\_\_\_  Exact Date

(MM/DD/YYYY)

- Not Exact Date  
Provide explanation \_\_\_\_\_

**SCHEDULE "E" (Individual)  
Regulatory Disclosure Reporting**

10. What sanction(s) were ordered (provide details of the amount of fines, duration of suspensions, length of time to rectify deficiency, etc.)?

11. Provide a brief summary of details related to the action status and/or disposition and include relevant terms, conditions and dates.

**SCHEDULE "F" (Individual)  
Civil Proceedings Disclosure Reporting**

This Civil Proceedings Disclosure Reporting (CPDR) is in response to affirmative response to *(check item(s) being responded to)*:

Item(s): 32(a) 32(b)

**Applicant:**

Name of Applicant  
(last name, first name, middle name)

Applicant NRD No.

SIN #

Firm NRD No.

**SECTION I**

1. Court action initiated by: (name of regulator/SRO/exchange, agency, firm, private plaintiff, etc.)

2. Principal relief sought:

3. Other relief sought:

4. Filing date of court action:

\_\_\_\_\_  
(MM/DD/YYYY)

Exact Date

Not Exact Date

Provide explanation \_\_\_\_\_

5. Principal product type:

Other product types:

6. Formal action was brought in: (include name of court, location of court - city or county and province/territory and country, case number)

7. Employing firm when activity occurred which led to the civil proceedings:

8. Describe the allegations related to this civil action.



**SCHEDULE "F" (Individual)**  
**Civil Proceedings Disclosure Reporting**

9. Current status?     Pending     On Appeal     Final

10. If **pending**, date notice/process was served:

\_\_\_\_\_   
 (MM/DD/YYYY)

- Exact Date
- Not Exact Date
- Provide explanation \_\_\_\_\_

11. If on **appeal**, action appealed to (provide name of court): \_\_\_\_\_

Date Appeal filed: \_\_\_\_\_   
 (MM/DD/YYYY)

12. If **final**, how was the matter resolved (provide all details).

**SCHEDULE "G" (Individual)**  
**Bankruptcy, Bond and Judgement/Garnishment Disclosure Reporting**

This Disclosure Reporting page is in response to affirmative response to (check item(s) being responded to):

Item(s):       34(a)  43(b)  34(c)    35(a)  35(b)  35(c)  35(d)  
 36       37       39

**Applicant**

Name of Applicant (last name, first name, middle name)	Applicant NRD No.
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SIN #	Firm NRD No.
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**SECTION I      Bankruptcy Disclosure**

1. Action type: (check appropriate item)

- |                                      |   |
|--------------------------------------|---|
| <input type="checkbox"/> Bankruptcy  | <input type="checkbox"/> Receivership         |
| <input type="checkbox"/> Compromise  | <input type="checkbox"/> Voluntary Assignment |
| <input type="checkbox"/> Declaration | <input type="checkbox"/> Other _____          |
| <input type="checkbox"/> Liquidated  |   |

2. Action date:

- |              |   |
|--------------|---|
| _____        | <input type="checkbox"/> Exact Date     |
| (MM/DD/YYYY) | <input type="checkbox"/> Not Exact Date |
|              | Provide explanation _____               |

3. If the financial action relates to an organization over which you exercise(d) control, enter the name of the organization and your position, title or relationship.

Was the organization investment related?       yes       no

4. Court action brought in (name of court), location of Court (city or county and province/territory or country) and docket/case number:

5. Is action currently pending?       yes       no

6. If not pending, provide Disposition type (check appropriate item):

- |   |
|---|
| <input type="checkbox"/> Direct payment procedure |
| <input type="checkbox"/> Discharged               |
| <input type="checkbox"/> Dismissed                |
| <input type="checkbox"/> Dissolved                |
| <input type="checkbox"/> Satisfied/Released       |
| <input type="checkbox"/> Trustee appointed        |
| <input type="checkbox"/> Other _____              |

7. Disposition date:

- |              |   |
|--------------|---|
| _____        | <input type="checkbox"/> Exact Date     |
| (MM/DD/YYYY) | <input type="checkbox"/> Not Exact Date |
|              | Provide explanation _____               |

8. Provide a brief summary of events leading to the action and if not discharged, explain.

**SCHEDULE "G" (Individual)**  
**Bankruptcy, Bond and Judgement/Garnishment Disclosure Reporting**

9. If a Trustee was appointed or a direct payment procedure was begun, enter the amount paid or agreed to be paid by you; or the name of the Trustee:

Currently open?  yes  no

Date direct payment initiated/filed or Trustee appointed:

\_\_\_\_\_  
 (MM/DD/YYYY)  Exact Date  
 Not Exact Date  
 Provide explanation \_\_\_\_\_

10. Provide details to any status/disposition. Include details as to creditors, terms, conditions, amounts due and settlement schedule (if applicable).

**SECTION II Bond Disclosure**

1. Name of Applicant Applicant NRD Number:

2. Firm Name (Policy Holder):

3. Bonding Company Name:

4. Disposition Types (check appropriate item):  
 Denied  Payout  Revoked

5. Disposition date:  
 \_\_\_\_\_  
 (MM/DD/YYYY)  Exact Date  
 Not Exact Date  
 Provide explanation \_\_\_\_\_

6. If disposition resulted in payout, list payout amount and date paid:

7. Summarize the details of circumstances leading to the necessity of the bonding company action.

**SECTION III Judgement/Garnishment Disclosure**

1. Name of Applicant Applicant NRD Number:

2. Judgement/Garnishment Amount:

3. Judgement/Garnishment Holder:

4. Judgement/Garnishment Type (check appropriate item)  
 Civil  Default  Tax  Other (specify): \_\_\_\_\_

5. Date filed:  
 \_\_\_\_\_  
 (MM/DD/YYYY)  Exact Date  
 Not Exact Date  
 Provide explanation \_\_\_\_\_

**SCHEDULE "G" (Individual)**  
**Bankruptcy, Bond and Judgement/Garnishment Disclosure Reporting**

6. Is Judgement/Garnishment outstanding?  yes  no

If no, provide status date:

\_\_\_\_\_  
(MM/DD/YYYY)

- Exact Date  
 Not Exact Date  
Provide explanation \_\_\_\_\_

If no, how was the matter resolved (check appropriate item)

- Discharged  Released  Removed  Satisfied

7. Name of court, location of Court (*city or county and province/territory or country*) and docket/case number:

8. Provide a brief summary of events leading to the action and any payment schedule details including current status (if applicable).

**SECTION IV Business Activities**

1. If you are engaged in any other business or have any other employment provide **full details** including the full name and address of the business, the nature of the business, your title or position and the amount of time you devote to the business.

**SCHEDULE "H" (Individual)  
Termination Disclosure Reporting**

This Termination Disclosure Reporting (TDR) is in response to affirmative responses to *(check item(s) being responded to):*

Item(s): 33(a) 33(b) 33(c)

**Applicant**

Name of Applicant  
(last name, first name, middle name)

Applicant NRD No.

SIN #

Firm NRD No.

**SECTION I**

1. Firm name:

2. Termination Type:

- Discharged  
 Permitted to Resign  
 Voluntary Resignation

3. Termination Date \_\_\_\_\_  
MM/DD/YYYY

Exact Date  
If not, provide explanation: \_\_\_\_\_

4. Describe the allegations related to this termination.

5. Principal product type:

Other product types:

6. Describe the circumstances relating to the termination. Include event dates and facts to sufficiently describe conduct leading to the termination.

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## Chapter 7

# Insider Reporting

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This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see [www.carswell.com](http://www.carswell.com)).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website ([www.sedi.ca](http://www.sedi.ca)).

## Chapter 8

# Notice of Exempt Financings

### Exempt Financings

The Ontario Securities Commission reminds Issuers of exempt financings that they are responsible for the completeness, accuracy and timely filing of Forms 20 and 21 pursuant to section 72 of the Securities Act and section 14 of the Regulation to the Act. The information provided is not verified by staff of the Commission and is published as received except for confidential reports filed under paragraph E of the Ontario Securities Commission Policy Statement No. 6.1.

### Reports of Trades Submitted on Form 45-501f1

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
28Jun00 to 17Jul00	Acuity Pooled Canadian Equity Fund - Trust Units	452,860	22,241
14Jul00	Arrow Capital Advance Fund - Class "1" Trust Units	482,266	3,777
14Jul00 & 21Jul00	Arrow Capital Advance Fund - Class "A" Trust Units	1,246,000	120,514
21Jun00	Associates Corporation of North America - Exchangeable Floating Rate Senior Notes due 26Jun01	US\$1,000,000	1,000,000
10Jul00	Axalis Technologies, Inc. - Common Stock	US\$184,800	8,400
14Jul00	Blackberry Global Tactical Opportunities Fund Limited Partnership - Limited Partnership Units	2,000,000	200
30Jun00	BPI American Opportunities Fund - Units	1,787,195	11,930
20Jul00	CAI Capital Corporation - Redeemable Class A and B Preferred Shares Series I	3,300, 15,200	33, 152 Resp.
28Jun00	Capstone Turbine Corporation - Common Shares	US\$2,889,600	180,600
14Jul00	Carphone Warehouse Group PLC - Ordinary Shares	3,343,006	750,000
05Jul00	CHC Helicopter Corporation - 11¾% Senior Subordinate Notes due 2007	£2,000,000	2,000,000
16Jun00	China Unicom Limited - American Depository Shares and Ordinary Shares	15,513,833, 4,771,984	523,000, 1,616,000 Resp.
14Jul00	# Coast Pacific RLP-97 Exploration Inc. - Flow-Through Shares	54,000	216,000
01Jul00	D.E. Shaw Valence International Fund 1 - Subscription	US\$3,996,769	3,996,769
28Jun00	Dialog Semiconductor plc - American Depository Shares	US\$81,454	
07Jul00	E.R.S.S. Limited Partnership - Units	750,000	18,000



**Notice of Exempt Financings**

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
29Jun00	E-Zone Networks, Inc. - Series A - 2, A - 1 Preferred Shares and Promissory Notes	44,887,935, \$1,480,800	13,333,333, 27,084,401, \$1,480,800
26Jul00	# Embraer - empresa Brasileira de Aeronautica S.A. - American Depositary Shares	US\$3,052,500	165,000
16Jun00 to 26Jun00	Engineering.com, Inc. - Units	450,000	225,000
27Jun00	Genuity Inc. - Class A Common Shares	US\$44,000	4,000
11Jul00	Granada Media plc - Ordinary Shares	2,298,038	200,000
12Jul00	iGroove.com, Inc. - Convertible Promissory Notes and Preferred Stock Warrants	US\$125,000	125,000
13Jul00	J.L. Albright III Venture Fund - Limited Partnership Interests	6,025,000	6,025,000
13Jul00	Landmark Global Financial Corporation - Special Warrants and Facilitator Warrants	570,002	950,000, 1,000,000
12Jul00	Lecia Geosystems Holdings AG - Registered Shares	2,882,828	8,000
21Jun00	Lifepoints Achievement Fund,, Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	150,919	1,165
23Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Fixed Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	224,296	2,855
30Jun0	Lifepoints Achievement Fund, Lifepoints Progress Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Units	29,931	695
23Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	13,380	108
28Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	12,765	102
27Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Units	35,075	266
26Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	4,496	36
29Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	2,772	22
28Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	57,124	444

Notice of Exempt Financings

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
23Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	2,426	18
19Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Units	30,949	238
19Jun00	Lifepoints Achievement Fund, Lifepoints Opportunity Fund, Lifepoints Progress Fund - Units	12,856	101
20Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	2,829	21
26Jun00	Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	232	1
27Jun00	Lifepoints Opportunity Fund - Units	1,350	10
19Jun00	Lifepoints Opportunity Fund - Units	21,740	163
23Jun00	Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund - Units	24,353	167
29Jun00	Lifepoints Progress Fund - Units	740,000	6,032
21Jun00	Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	864	6
19Jun00	Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	777	5
22Jun00	Lifepoints Progress Fund, Russell Overseas Equity Fund - Units	222	1
26Jun00	Marvell Technology Group Ltd. - Common Stock	US\$62,550	4,170
15Jul00	Media Ventures Productions Limited Partnership - Limited Partnership Units	12,662,197	12,340
14Jul00	Nuvo Network Management Inc. - Special Warrants	4,050,000	4,263,153
14Jul00	OmniVision Technologies, Inc. - Shares of Common Shares	US\$52,000	4,000
18Jul00	Online Direct Inc. - Units	3,369,999	5,184,614
17Jul00	Orezone Resources Inc. - Units	200,000	1,000,000
24Jul00	Peninsula Gold Explorations Ltd. - Special Warrants	860,000	688,000
27Jun00	Prudential Pubic Limited Company - American Depositary Shares	US\$44,512	1,000
26Jun00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Opportunity Fund, Lifepoints Progress Fund, Lifepoints Achievement Fund - Units	240,106	1,834

Notice of Exempt Financings

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
19Jun00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Opportunity Fund, Lifepoints Progress Fund, Lifepoints Achievement Fund - Units	303,070	2,252
23Jun00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Opportunity Fund, Lifepoints Achievement Fund - Units	160,078	833
30Jun00	Russell Canadian Equity Fund, Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Achievement Fund - Units	33,762	181
30Jun00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund - Units	136,566	913
28Jun0	Russell Canadian Equity Fund, Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Opportunity Fund - Units	36,948	227
04Jul00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Opportunity Fund, Lifepoints Progress Fund, Lifepoints Achievement Fund - Units	241,970	1,767
27Jun00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund - Units	65,458	384
22Jun00	Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	8,852	63
20Jun00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Opportunity Fund, Lifepoints Progress Fund, Lifepoints Achievement Fund - Units	179,339	1,200
21Jun00	Russell Canadian Equity Fund - Units	22,499	96
22Jun00	Russell Canadian Equity Fund, Russell Overseas Equity Fund, Lifepoints Opportunity Fund, Lifepoints Achievement Fund - Units	30,332	171
30Jun00	Russell Canadian Fixed Income Fund - Units	37,500	327
27Jun00	Russell Canadian Equity Fund, Lifepoints Achievement Fund, Russell Overseas Equity Fund - Units	50,000	384
27Jun00	Russell Canadian Equity Fund - Units	9,042	38
19Jun00	Russell Canadian Equity Fund - Units	671	2

**Notice of Exempt Financings**

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
29Jun00	Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	1,679	13
22Jun00	Russell Canadian Fixed Income Fund - Units	18,357	161
29Jun00	Russell Overseas Equity Fund, Lifepoints Opportunity Fund, Lifepoints Progress Fund - Units	20,027	141
21Jun00	Russell Overseas Equity Fund - Units	7,712	53
27Jun00	Santa Fe International Corporation - Ordinary Shares	US\$690,000	20,000
19Jul00	Slovakian Gram Minerals Corp. - Common Shares	210,000	700,000
29Jun00	Storage Networks, Inc. - Common Shares	\$US1,090,800	40,400
26Jun00	Stratos Lightwave, Inc. - Shares of Common Stock	US\$273,000	13,000
29Jun00	Syntroleum Corporation - Common Shares	US\$17,500	1,000
12Jul00	Triton Network Systems, Inc. - Shares of Common Stock	11,115	500
13Jul00	Virata Corporation - Shares of Common Stock	526,145	5,000
30Jun00	YMG Institutional Fixed Income Fund - Units	1,467,999	151,480

**Resale of Securities - (Form 45-501f2)**

<u>Date of Resale</u>	<u>Date of Orig. Purchase</u>	<u>Seller</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
5Jul00	24Apr98	Investors Group Trust Co. Ltd. as Trustee for Investors Corporate Bond Fund	CARDS Trust - 5.51 % Series 1998-2 Debentures due 21Jun03	489,185,000	5,000,000

**Notice of Intention to Distribute Securities Pursuant to Subsection 7 of Section 72 - (Form 23)**

<u>Seller</u>	<u>Security</u>	<u>Amount</u>
Prospector Ventures Inc.	Canadian Royalties Inc. - Common Shares	550,000
Melnick, Larry	Champion Gold Resources Inc. -Subordinate Voting Shares	149,500
Viceroy Resources Corporation	Channel Resources Ltd. - Common Shares	7,077,850
Belkin Enterprises Ltd.	Hillsborough Resources Limited - Common Shares	3,657,980
D'Souza, Victor	Imperial Plastech Inc. - Common Shares	500,000
Qwest Energy I Corp.	Qwest Energy I Corp. - Units, Common Shares, and Preferred Shares	695,590,750,104,250 Resp.

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**Chapter 9**  
**Legislation**

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IN THIS ISSUE

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## Chapter 11

# IPOs, New Issues and Secondary Financings

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**Issuer Name:**

@rgentum Short Term Asset Portfolio  
@rgentum Income Portfolio  
@rgentum Canadian Equity Portfolio  
@rgentum Canadian Performance Portfolio  
@rgentum U.S. Master Portfolio  
@rgentum International Master Portfolio  
@rgentum Discovery Portfolio

**Type and Date:**

Amendment #2 dated July 19th, 2000 to Simplified Prospectus and Annual Information Form dated May 3rd, 1999  
Received July 27th, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Registered Dealers

**Promoter(s):**

@rgentum Management and Research Corporation  
Project #161468

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**Issuer Name:**

Co-operators Canadian Conservative Focused Equity Fund

Co-operators Canadian Core Equity Fund  
Co-operators Canadian Balanced Fund  
Co-operators Canadian Bond Fund  
Co-operators Canadian Money Market Fund  
Co-operators/Warburg Pincus International Equity Fund  
Co-operators/Warburg Pincus Global Telecommunications Fund  
Co-operators/Warburg Pincus U.S. Capital Appreciation Fund  
Co-operators/Warburg Pincus Global Post-Venture Capital Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Simplified Prospectus dated July 26th, 2000  
Mutual Reliance Review System Receipt dated July 28th, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Registered Dealer

**Promoter(s):**

Co-operators Mutual Funds Limited  
Project #285656

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**Issuer Name:**

Core Holdings Fund  
Defined Technology Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Simplified Prospectus dated July 31st, 2000  
Mutual Reliance Review System Receipt dated August 1st, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Merrill Lynch Canada Inc.

**Promoter(s):**

Atlas Asset Management Inc.  
Project #286356

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**Issuer Name:**

Coretec Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Prospectus dated August 1st, 2000  
Mutual Reliance Review System Receipt dated August 2nd, 2000

**Offering Price and Description:**

\$\* - \* Common Shares

**Underwriter(s), Agent(s) or Distributor(s):**

National Bank Financial Inc.  
CIBC World Markets Inc.  
Griffiths McBurney & Partners  
Sprott Securities Inc.

**Promoter(s):**

N/A  
Project #286704

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**Issuer Name:**

Coubran Resources Ltd.  
Principal Regulator -

**Type and Date:**

Preliminary Prospectus dated July 31st, 2000  
Mutual Reliance Review System Receipt dated August 1st, 2000

**Offering Price and Description:**

\$250,000 - 1,000,000 Common Shares

**Underwriter(s), Agent(s) or Distributor(s):**

Goepel McDermid Inc.

**Promoter(s):**

Quest Ventures Ltd.  
Project #286497



**Issuer Name:**

Fidelity Canadian Aggressive Fund Series F  
Fidelity Canadian Growth Company Fund Series F  
Fidelity Canadian Large Cap Fund Series F  
Fidelity Disciplined Equity Fund Series F  
Fidelity True North Fund Series F  
Fidelity American Opportunities Fund Series F  
Fidelity RSP American Opportunities Fund Series F  
Fidelity Growth America Fund Series F  
Fidelity RSP Growth America Fund Series F  
Fidelity Small Cap America Fund Series F  
Fidelity Emerging Markets Portfolio Fund Series F  
Fidelity European Growth Fund Series F  
Fidelity RSP European Growth Fund Series F  
Fidelity Far East Fund Series F  
Fidelity RSP Far East Fund Series F  
Fidelity International Portfolio Fund Series F  
Fidelity RSP International Portfolio Fund Series F  
Fidelity Japanese Growth Fund Series F  
Fidelity RSP Japanese Growth Fund Series F  
Fidelity Latin American Growth Fund Series F  
Fidelity Overseas Fund Series F  
Fidelity RSP Overseas Fund Series F  
Fidelity Focus Consumer Industries Fund Series F  
Fidelity Focus Financial Services Fund Series F  
Fidelity RSP Focus Financial Services Fund Series F  
Fidelity Focus Health Care Fund Series F  
Fidelity RSP Focus Health Care Fund Series F  
Fidelity Focus Natural Resources Fund Series F  
Fidelity Focus Technology Fund Series F  
Fidelity RSP Focus Technology Fund Series F  
Fidelity Focus Telecommunications Fund Series F  
Fidelity RSP Focus Telecommunications Fund Series F  
Fidelity Canadian Asset Allocation Fund Series F  
Fidelity Global Asset Allocation Fund Series F  
Fidelity RSP Global Asset Allocation Fund Series F  
Fidelity Canadian Balanced Fund Series F  
Fidelity Canadian Bond Fund Series F  
Fidelity Canadian Short Term Bond Fund Series F  
Fidelity American High Yield Fund Series F

**Type and Date:**  
Preliminary Simplified Prospectus dated July 26<sup>th</sup>, 2000  
Mutual Reliance Review System Receipt dated July 27<sup>th</sup>, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value  
**Underwriter(s), Agent(s) or Distributor(s):**  
N/A

**Promoter(s):**

N/A  
Project #285395

**Issuer Name:**

Great-West Lifeco Inc.  
Principal Regulator - Manitoba  
**Type and Date:**  
Preliminary Short Form Prospectus dated July 26<sup>th</sup>, 2000  
Mutual Reliance Review System Receipt dated July 26<sup>th</sup>, 2000  
**Offering Price and Description:**  
\$200,000,000 - 6.75% Debentures Due August 10, 2015  
**Underwriter(s), Agent(s) or Distributor(s):**  
BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
RBC Dominion Securities Inc.  
Scotia Capital Inc.  
TD Securities Inc.  
National Bank Financial Inc.  
Casgrain & Company Limited  
**Promoter(s):**  
N/A  
Project #285322

**Issuer Name:**

Hydrogenics Corporation  
Principal Regulator - Ontario  
**Type and Date:**  
Preliminary Prospectus dated July 31<sup>st</sup>, 2000  
Mutual Reliance Review System Receipt dated August 1<sup>st</sup>, 2000  
**Offering Price and Description:**  
\$\* - \* Common Shares  
**Underwriter(s), Agent(s) or Distributor(s):**  
Salomon Smith Barney Canada Inc.  
CIBC World Markets Inc.  
BMO Nesbitt Burns Inc.  
**Promoter(s):**  
N/A  
Project #286530

**Issuer Name:**

NCE Petrofund  
Principal Regulator - Alberta  
**Type and Date:**  
Preliminary Short Form Prospectus dated July 26<sup>th</sup>, 2000  
Mutual Reliance Review System Receipt dated July 28<sup>th</sup>, 2000  
**Offering Price and Description:**  
\$30,000,000 - \* Trust Units  
**Underwriter(s), Agent(s) or Distributor(s):**  
Dundee Securities Corporation  
National Bank Financial Inc.  
Canaccord Capital Corporation  
Goepel McDermaid Inc.  
Yorkton Securities Inc.  
**Promoter(s):**  
N/A  
Project #285760

**Issuer Name:**

North American Detectors Inc.

**Type and Date:**

Preliminary Prospectus dated July 31st, 2000  
Mutual Reliance Review System Receipt dated August 1st, 2000

**Offering Price and Description:**

\$2,926,929 - 29,269,293 Common Shares issuable upon the exercise of 29,269,293 Special Warrants

**Underwriter(s), Agent(s) or Distributor(s):**

N/A

**Promoter(s):**

Steven Chepa  
Project #286466

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**Issuer Name:**

Shiningbank Energy Income Fund

Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated July 27th, 2000  
Mutual Reliance Review System Receipt dated July 28th, 2000

**Offering Price and Description:**

\$25,620,000 - 2,100,000 Trust Units

**Underwriter(s), Agent(s) or Distributor(s):**

CIBI World Markets Inc.  
BMO Nesbitt Burns Inc.  
Merrill Lynch Canada Inc.

**Promoter(s):**

N/A  
Project #285761

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**Issuer Name:**

Stuart Energy Systems Corporation

Principal Regulator - Ontario

**Type and Date:**

Preliminary Prospectus dated July 31st, 2000  
Mutual Reliance Review System Receipt dated August 2nd, 2000

**Offering Price and Description:**

\$\* - \* Common Shares

**Underwriter(s), Agent(s) or Distributor(s):**

CIBC World Markets Inc.  
BMO Nesbitt Burns Inc.  
RBC Dominion Securites Inc.  
HSBC Securities (Canada) Inc.  
TD Securities Inc.

**Promoter(s):**

N/A  
Project #286756

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**Issuer Name:**

WiredMerchant.com Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Prospectus dated July 31st, 2000  
Mutual Reliance Review System Receipt dated August 1st, 2000

**Offering Price and Description:**

\$7,500,000 - 10,000,000 Common Shares and 10,000,000 Warrants Issuable Upon Exercise of 10,000,000 Special Warrants

**Underwriter(s), Agent(s) or Distributor(s):**

Yorkton Securities Inc.

**Promoter(s):**

Ecompark Inc.  
Project #286468

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**Issuer Name:**

@rgentum International Master RSP Portfolio  
Principal Jurisdiction - Quebec

**Type and Date:**

Amendment #1 dated July 19th, 2000 to Simplified Prospectus and Annual Information Form dated January 25th, 2000  
Accepted 1st day of August, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Registered Dealer

**Promoter(s):**

@rgentum Management and Research Corporation  
Project #215988

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**Issuer Name:**

Artisan RSP Most Conservative Portfolio  
Artisan RSP Conservative Portfolio  
Artisan RSP Moderate Portfolio  
Artisan RSP Aggressive Portfolio  
Artisan RSP Most Aggressive Portfolio  
Artisan Most Conservative Portfolio  
Artisan Conservative Portfolio  
Artisan Moderate Portfolio  
Artisan Aggressive Portfolio  
Artisan Most Aggressive Portfolio  
Artisan Canadian Equity Portfolio  
Artisan Canadian T-Bill Portfolio  
Artisan U.S. Equity Portfolio  
Artisan International Equity Portfolio  
Artisan Global Fixed Income Portfolio  
Principal Regulator - Manitoba

**Type and Date:**

Amendment #1 dated July 13th, 2000 to Simplified Prospectus and Annual Information Form dated July 13th, 2000  
Mutual Reliance Review System Receipt dated 28th day of July, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Loring Ward Investment Counsel Ltd.  
Equion Financial Limited  
Equion Securities Canada Limited  
Brightside Financial Services Inc.  
Fenlon Financial (1997) Inc.  
F.P.C. Investments Inc.  
DPM Securities Inc.  
DPM Financial Planning Group Inc.  
The Height of Excellence Financial Planning Group Inc.  
Financial Concept Corporation  
Summit Aurum Financial Group Inc.  
Kronish De Grosbois Inc.  
C.M. Oliver Financial Corporation  
Pro-Fund Distributors Ltd.  
F.C.G. Securities Corporation  
C.M. Oliver Financial Corporation

**Promoter(s):**

Loring Ward Investment Counsel Ltd.

**Project #165839**

**Issuer Name:**

MacDonald Dettwiler & Associates Ltd.  
Principal Regulator - British Columbia

**Type and Date:**

Amendment #1 dated July 21st, 2000 to Prospectus dated June 30th, 2000

Mutual Reliance Review System Receipt dated 26th day of July, 2000

**Offering Price and Description:**

**Underwriter(s), Agent(s) or Distributor(s):**

RBC Dominion Securities Inc.  
Scotia Capital Inc.  
TD Securities Inc.  
CIBC World Markets Inc.  
Geopel McDermid Inc.

**Promoter(s):**

N/A

**Project #268481**

**Issuer Name:**

AltaRex Corp.

**Type and Date:**

Final Prospectus dated August 1st, 2000  
Received 2nd day of August, 2000

**Offering Price and Description:**

\$\* - \* Common Shares

**Underwriter(s), Agent(s) or Distributor(s):**

National Bank Financial Inc.

**Promoter(s):**

N/A

**Project #247727**

**Issuer Name:**

Axxent Inc. (Formerly OCI Communications Inc.)  
Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated July 26th, 2000  
Mutual Reliance Review System Receipt dated 27th day of July, 2000

**Offering Price and Description:**

12,521,750 Class B Non-Voting Shares

**Underwriter(s), Agent(s) or Distributor(s):**

Griffiths McBurney & Partners  
CIBC World Markets Inc.  
Yorkton Securities Inc.  
Scotia Capital Inc.  
Credit Suisse First Boston Securities Canada Inc.

**Promoter(s):**

N/A

**Project #276295**

**Issuer Name:**

C-COM Satellite Systems Inc.

Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated July 21st, 2000

Received 25th day of July, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Yorkton Securities Inc.

**Promoter(s):**

N/A

Project #264780

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**Issuer Name:**

CHIP Four Term Trust

Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated July 24th, 2000

Received 26th day of July, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Scotia Capital Inc.

National Bank Financial Inc.

TD Securities Inc.

**Promoter(s):**

Canadian Home Income Plan Corporation

Project #277559

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**Issuer Name:**

CST Coldswitch Technologies Inc.

Principal Regulator - British Columbia

**Type and Date:**

Final Prospectus dated June 26th 2000

Received 29th day of June, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Canaccord Capital Corporation

**Promoter(s):**

John Kidder

Project #245844

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**Issuer Name:**

International Datacasting Corporation

Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated July 24th, 2000

Received 25th day of July, 2000

**Offering Price and Description:**

Mutual Reliance Review System

**Underwriter(s), Agent(s) or Distributor(s):**

Montreal Trust Company

**Promoter(s):**

N/A

Project #270658

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**Issuer Name:**

SamsCD.Com Inc.

Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated July 12th, 2000

Received 14th day of July, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

\$8,000,000 - 8,800,000 Class A Common Shares and  
4,400,000 Common Share Purchase Warrants issuable upon  
the conversion of 8,800,000 Series A Special Shares

**Promoter(s):**

Robert J. Foster

Yorkton Securities Inc.

Project #271699

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**Issuer Name:**

Axia NetMedia Corporation

Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated May 8th, 2000

Received 8th day of May, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Yorkton Securities Inc.

Canaccord Capital Corporation

Griffiths McBurney & Partners

Acumen Capital Finance Partners Limited

**Promoter(s):**

N/A

Project #256864

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**Issuer Name:**

National Bank of Canada

Principal Regulator - Quebec

**Type and Date:**

Final Short Form Prospectus dated July 3rd, 2000

Mutual Reliance Review System Receipt dated 4th day of July,  
2000

**Offering Price and Description:**

\$175,000,000.00 Maximum ( 7,000,000 Shares ) -  
\$125,000,000 Minimum (5,000,000 Shares)

**Underwriter(s), Agent(s) or Distributor(s):**

National Bank Financial Inc.

RBC Dominion Securities Inc.

BMO Nesbitt Burns Inc.

Scotia Capital Inc.

CIBC World Markets Inc.

Merrill Lynch Canada Inc.

TD Securities Inc.

BLC Securities Inc.

Trillon Securities Corporation

**Promoter(s):**

N/A

Project #278907

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**Issuer Name:**

S&P MidCap 400 Synthetic Fund  
SCMU Index Fund  
TSE 300 Index Fund  
TSE 60 Index Fund  
Class O Units  
Class I Units  
Class P Units  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus and Annual Information Form  
dated July 31st, 2000  
Mutual Reliance Review System Receipt 1st day of August,  
2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A

Project #259141

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**Issuer Name:**

National Bank of Canada (NP #44 - Shelf)  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Short Form Prospectus dated April 13th 2000  
Withdrawn 31st day of July, 2000

**Offering Price and Description:**

**Underwriter(s), Agent(s) or Distributor(s):**

National Bank Financial Inc.  
CIBC World Markets Inc.

**Promoter(s):**

N/A

Project #256317

## Chapter 12

# Registrations

### 12.1.1 Securities

Type	Company	Category of Registration	Effective Date
Change in Category	Mawer Investment Management Attention: Donald Thomas Ferris 603 - 7 <sup>th</sup> Ave. SW Suite 900 Calgary, AB T2P 2T5	From: Extra Provincial Adviser Investment Counsel and Portfolio Manager  To: Extra Provincial Adviser Limited Market Dealer Investment Counsel & Portfolio Manager	Aug 1/00
New Registration	Dattner, Linda Anne Attention: Linda Anne Dattner 1696 Avenue Road Box 1509 Toronto, ON M5M 3Y4	Limited Market Dealer	July 14/00
New Registration	JGM Securities, LLC Attention: Rene Sorell c/o Cartan Limited Suite 4700, Toronto Dominion Bank Tower Toronto Dominion Centre Toronto, ON M5K 1E6	International Dealer	July 31/00
New Recognition	Jeffrey Royer 2404064 Nova Scotia Company 4711 Yonge Street, Suite 500 Toronto, ON M2N 6K8	Exempt Purchaser	July 28/00
New Registration	York Hedge Fund Strategies Inc. Attention: Wendy Ann Brodtkin 130 Bloor Street, Suite 600 Toronto, ON M5S 1N5	Limited Market Dealer	July 28/00
Change of Name	BMO Harris Investment Management Inc. Attention: Richard Otto Grape 77 King St, West, Suite 4200 Toronto, ON M5K 1J5	From: Jones Heward Investment Management Inc.  To: BMO Harris Investment Management Inc.	May 25/00
New Registration	Howell Investment Management Inc. Attention: Gordon Arthur Howell 39 Riverside Crescent Toronto, ON M6S 1B5	Investment Counsel & Portfolio Manager	Aug 2/00

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## SRO Notices and Disciplinary Proceedings

### 13.1 SRO Notices and Disciplinary Proceedings

#### 13.1.1 TSE Inc. - Amendment to the In-House Client Priority Rule (Rule 4-501) - Regulatory Notice No. 2000 -

##### REGULATORY NOTICE

No. 2000 -

AUGUST 1, 2000

*Suggested Routing: Compliance, Institutional, Retail, Trading*

##### REQUEST FOR COMMENTS

##### AMENDMENT TO THE IN-HOUSE CLIENT PRIORITY RULE (RULE 4-501)

##### Executive Summary and Request for Comments

Client priority within a firm is a fundamental underpinning of market integrity. A broker's core duty is to treat its clients fairly and diligently attempt to obtain the best possible execution of their orders. Rule 4-501 (the TSE's in-house client priority rule) prohibits *trading ahead* of a client (taking out a bid or offer before trading a client order, resulting in the firm obtaining a better fill than the client) and *trading along* with a client (competing with the client for fills at a particular price). The rule is currently enforced in the CATS allocation algorithm, which allocates fills to a firm's client orders at a price ahead of its pro orders.

Last year, the TSE approved reintroducing price/time priority in CATS on the understanding that the rule would be programmed into the allocation algorithm. In programming the new rule, it has become evident that it will not be possible to also program the in-house rule without causing potentially unfair treatment of pro orders, as the two rules are incompatible. **This required the TSE to revisit the application of the client priority rule in the context of moving to a time priority trading system.**

An analysis of the implications of a decision not to program the in-house rule also highlights the limitations of relying on a trading system for compliance. In particular, the system can only apply the rule to orders in the system. The firm remains responsible for applying the rules to orders outside the system (e.g. client orders that have been withheld in an attempt to obtain price improvement).

Therefore, attempting to system enforce the client priority rule will hinder the TSE in its ability to introduce new trading methodologies (such as anonymity) that cannot be implemented effectively without a move to time priority. It would also result in, at best, partial compliance as it would only be enforced for allocations within the TSE Book. The rule could easily be avoided by trading in another market or ATS

unless Participating Organizations have internal procedures and policies to ensure compliance. Therefore, a new solution needed to be found that ensured that client orders would continue to be protected, while recognizing that automated trading and order management have considerably changed the trading environment from the time the rule was first adopted. In particular, the current rule is stricter than it needs to be to ensure client orders are treated fairly.

On July 26, the Board of Directors approved an amendment to Rule 4-501. A copy of the new rule and related policy statement are attached. The policy statement provides guidance to Participating Organizations on the application of the rule to specific fact situations.

The new rule continues to prohibit Participating Organizations and Approved Traders from knowingly trading ahead of a client order. POs will have satisfied their in-house client priority obligations if they send an order immediately to a trading system, or, in the case of client orders that are withheld, the firm has information firewalls in place so that other pro traders cannot misuse information concerning client orders.

In addition, the rule expressly sets out a Participating Organization's responsibility to diligently attempt to obtain best execution of client orders, which is inherent in agency law. This is needed in anticipation of the introduction of alternative trading systems in Canada, to ensure that firms send client orders to the market or trading system in which they will get the best fill.

The Board of Directors has determined that the rule is in the public interest and the best interests of the Canadian capital markets. The changes to the Rules will be effective upon approval by the Ontario Securities Commission following public notice and comment. Comments on the changes to the Rules should be in writing and delivered within 30 days of the date of this notice to:

Timothy Baikie  
TSE Regulation Services  
2 First Canadian Place  
Toronto, Ontario  
M5X 1J2  
Fax: (416) 947-4398  
E-mail: [tbaikie@tse.com](mailto:tbaikie@tse.com)

A copy should also be provided to:

Randee Pavalow  
Manager, Market Regulation  
Capital Markets Branch  
Ontario Securities Commission  
Suite 800, Box 55  
20 Queen Street West  
Toronto, Ontario  
M5H 3S8  
Fax: (416) 593-8240



## Background

Last year, the Board approved reintroducing price/time priority in CATS. The best-priced buy or sell order would have priority of execution, and at a particular price orders would be filled on a first-in, first-out basis.<sup>1</sup> The rationale for the change from the current equal-by-Participating Organization sharing algorithm is that time priority would

- simplify the trading engine, to allow future changes to be made more quickly;
- allow the TSE to introduce other initiatives, such as anonymity in the current market, that cannot be programmed effectively under a sharing algorithm; and
- result in an allocation algorithm that can be more easily understood by retail and institutional investors (investors are less likely to find an allocation algorithm to be fair if they cannot understand it).

In programming time priority, it has become evident that it will not be possible to also program the TSE's in-house client priority rule without causing potentially unfair treatment of pro orders, as the two rules are incompatible. This required the TSE to revisit the application of the client priority rule in the context of moving to a time priority trading system.

Client priority within a firm is a fundamental underpinning of market integrity. A broker's core duty is to treat its clients fairly and diligently attempt to obtain the best possible execution of their orders. In analyzing potential solutions, TSE Regulation Services wanted to ensure that client orders would continue to be protected, while recognizing that automated trading and order management have considerably changed the trading environment from the time the rule was first adopted.

### The Current Client Priority Rule

At common law, an agent cannot appropriate for himself or herself an opportunity that could go to the client, unless the client specifically consents. The TSE's in-house rule applies this to the trading context. It prohibits *trading ahead* of a client (taking out a bid or offer before trading a client order, resulting in the firm obtaining a better fill than the client) and *trading along* with a client (competing with the client for fills at a particular price).

The rule requires the firm to cede priority to client orders in all cases, even if the pro committed to a market first or is trading without knowledge of any client orders. The only exceptions are if the client consents or if the Participating Organization is trading at a price at which the client is unwilling to trade (i.e. a higher price than a client's buy limit or a lower price than a client's sell limit).

The TSE's rule was first adopted in 1985, when the Exchange repealed priority for any client order on the Floor. It is currently system enforced in CATS.

<sup>1</sup> The allocation algorithm would continue to give priority to crosses and to the ability of the Registered Trader to participate in small trades as compensation for guaranteeing small client orders a complete fill at the bid or offer.

## Incompatibility of Time Priority and Client Priority

In programming time priority, it has become evident that it will not be possible to also program the in-house client priority rule without causing potentially unfair treatment of pro orders.

The reason for this is that time priority allocation is by *order* and not by *firm*. In a sharing algorithm, each firm receives its share of the allocation. The place of a particular firm in the queue, or particular order for that matter, is irrelevant unless an order established the limited time priority under the current rules. Therefore, it is a relatively simple matter to program the system so that a firm's fill is allocated to its client orders ahead of its pro orders.

Even if a pro order has established limited time priority in a sharing algorithm, enforcing the rule is straightforward. For example, the following is the market in a security:

1000	01N	20.00
5000	02C	20.00
500	01N	20.00
2000	03N	20.00
1000	01C	20.00

In this example, the non-client order at the top of the queue has priority for 1000 shares, which is tracked separately from the balance of the order. If 1000 shares came in to sell, the fill would go to 01's client order at the end of the queue pursuant to the in-house client priority rule. The non-client order would remain at the top of the queue and its priority would be reduced to 0. However, since allocation is now equal by Participating Organization, it does not have priority over any other order in the Book and just shares in allocations. Any reallocation of a pro order's fills to client orders in the Book does not cause the pro order to reduce size or move in the queue. Its priority is simply reduced.

With time priority, the issue is more problematic. If a fill for a pro order at the top of the queue is reallocated to a client order further down in the Book, what happens to the pro order?

Leaving it at the top of the queue disadvantages other orders. The person placing the second order assumed that they would be able to trade once the 1000 shares ahead of them had traded. If the pro trader's firm has a lot of client orders in the Book, it could tie up priority as the order would not move from the top of the queue until it and all of the firm's client orders were filled.

The alternative is to move the pro order once the firm has received fills to the extent of the original size of the order. This could be a move to the bottom of the queue, or somewhere in the middle (attempting to put it in the place of the client order that got filled). In the example, moving the unfilled balance of the 01 client order to the bottom of the queue would result in it ranking behind another non-client order from the same firm entered later.

### The Regulatory Issue

The issue is whether the TSE should continue to enforce compliance with the rule through its allocation rules or make compliance completely a firm responsibility. As the client priority rule is incompatible with a time priority system, the

current allocation rules would have to be maintained if system enforcement is deemed necessary.

Even today, members cannot rely solely on the TSE's allocation rules to ensure they comply with the client priority rule. The rule is an order handling rule applicable at the firm level, not merely a TSE allocation rule. It requires firms to reallocate pro fills to unfilled client orders even if the pro order was committed to the market before the client gave the order, or if the pro receives a fill in one market and the client's order is unfilled in another. For this reason, system enforcing the rule cannot ensure full compliance, as the system cannot apply the rule until orders have been entered.

Although system enforcing the rule only goes so far (as the TSE can only apply it to orders in the Book), until now it has probably ensured reasonably widespread compliance as the vast majority of Canadian client order flow in interlisted stocks (especially retail clients) is sent to the TSE for execution. This assumption cannot underpin the rule in an era of new competition from ATSS that will not be required to system enforce the rule.

Keeping the current sharing algorithm in order to system enforce the client priority rule will hinder the TSE in its ability to introduce new trading methodologies (such as anonymity) that respond to the needs of market participants. It would result in, at best, partial compliance as it would only be enforced for allocations within the TSE Book. The rule could easily be avoided by trading in another market unless Participating Organizations have internal procedures and policies to ensure compliance.

Even if all markets enforced the rule, it could still result in unfairness to clients. A Participating Organization could send its client orders to a relatively illiquid market and its pro orders to a more liquid market where they get executed faster and/or at better prices.

Further, an analysis of rules of other markets shows that while all markets have some form of an in-house rule, none has incorporated it into their allocation rules (except for the NYSE in a limited way, which requires the specialist to allocate to certain pro orders after all other orders at that price have been filled).

In short, Participating Organizations can no longer rely on TSE systems to ensure their compliance with rules governing how they handle client orders. A new solution must be found.

### The New Rule

The rule provides that Participating Organizations have satisfied their client priority obligations if they send an order immediately to a trading system. This means in the TSE trading system priority of pro orders vis-à-vis their own client orders will be determined on a first-in, first-out basis. A pro who committed to the Book ahead of a client will be entitled to trade ahead of the client.

The rationale for the change is that once a broker has sent an order to a trading system, it has relinquished control over allocations among its orders. The system will allocate on a neutral basis according to pre-determined rules. This contrasts with a Floor (non-automated) trading environment, where a floor trader who receives a fill allocates it among the various

orders he or she holds in hand and can use that discretion to favour pro orders.

In an automated trading system, an order does not have standing until it is entered into the system. In the case of time priority, that order ranks behind all orders committed before it. The TSE believes that clients perceive a first-in, first-out algorithm as fairer than the current algorithm because it is intuitive and easy to understand. *For this reason, the TSE does not believe clients will perceive it to be unfair if a pro order from their firm that is ahead of them in the queue trades first, provided the client's order has not been held back so that the pro can position himself or herself ahead of it.*

### A Further Issue: Withheld Client Orders

Under the new rule, client priority will only be an issue if a client's order is not sent directly to the TSE or another market. A trader may hold up an order for a legitimate reason, such as attempting to get the client a better fill. In such case, the trader cannot be permitted to position himself or herself ahead of any withheld order or inform other pros of the order. The new rule will continue to prohibit this, and will require firms to have reasonable procedures in place to minimize misuse of information about client orders.

The rule will not be violated if a pro order is entered ahead of a withheld client order, provided that the pro trader has no knowledge of any client orders the firm is handling and the firm has information firewalls in place. If the trade is truly blind, the pro has not taken a trading opportunity from the client.

In addition, the rule will expressly set out a Participating Organization's responsibility to diligently attempt to obtain best execution of client orders, which is inherent in agency law. This is needed in anticipation of the introduction of alternative trading systems in Canada, to ensure that firms send client orders to the market or trading system in which they will get the best fill.

Finally, the rule allows a client to specifically consent to a pro trading ahead or alongside an order. As the rule is for the benefit of the client, the client can waive it. This will virtually always be in the context of an institutional order, where the institution agrees to split fills with the firm. The consent of the client and the terms of the consent must be noted on the order ticket. This is consistent with the TSE's interpretation of the current rule.

### Implications for Participating Organizations

Because the new rule does not apply if client orders are sent directly to a trading system and prohibits persons with knowledge of withheld orders from trading ahead of those orders, firms will not have to reallocate pro fills. They will have to adopt internal procedures and policies to ensure that information about client orders is not misused, but these would not be as extensive as the systems that would have to be put into place to comply with the current in-house client priority rule and, for most firms, will represent modifications of compliance reviews and procedures already in place.

**Alternatives Considered**

The TSE considered keeping the current rule but not system-enforcing it in a time priority environment. This would mean that firms would have to reallocate *all* pro fills at a price to its client orders further back in the queue, even if the pro committed to the Book first.

Given current trading volumes, these reallocations would have to be automated, requiring in-house systems similar to those of US dealers that are Nasdaq market makers. (The NASD's current in-house client priority rule is similar to the TSE's current rule). Therefore, retaining the current rule would require firms to make significant investments in technology to ensure compliance. However, as noted above, concerns about fair treatment of client orders are diminished if allocations are done by a trading system and not by the firm. In many (but not all) cases, the rule is stricter than it needs to be to ensure client orders are treated fairly. Therefore, the rule is tailored to those situations where a pro trader is taking advantage of information concerning client orders, and requires firms to put procedures in place to minimize the possibility of this occurring.

**Rules of Other Jurisdictions**

The Canadian Venture Exchange and the Investment Dealers Association have in-house client priority rules that are substantially similar to the current TSE rule.

The New York Stock Exchange has a rule similar to the new TSE rule. It provides that a trader *with knowledge* of an unexecuted client order cannot trade ahead of that order on the NYSE. A proposed amendment to the rule would cover trading on any market ahead of an unexecuted client order, and would presume the pro to have knowledge of the order if the firm does not have reasonable procedures in place to prevent misuse of information concerning customer orders.

Nasdaq has recently adopted a rule that is similar to current TSE rule, but it is limited to market making firms trading ahead of customer limit orders. It provides that the firm's duty is not satisfied if a client order is sent to a marketplace for execution; the firm must continually monitor the status of the order and ensure that it does not trade ahead of it. Before the current rule was adopted, Nasdaq had no in-house client priority rule.

The Australian Stock Exchange has a rule that provides that Participating Organizations have satisfied their client priority obligations if they enter a client order immediately into the ASX's trading system. If an order is withheld (which apparently may only be done on the instruction of the client), the firm is permitted to trade ahead provided such trading is pursuant to a firm allocation policy that has been previously disclosed to the client and to which the client has given informed consent. The firm must also have internal procedures in place to prevent misuse of information about client orders by pro traders.

None of the markets canvassed enforces the in-house rule through their allocation rules except for the NYSE in a limited way. SEC rules provide that certain pro orders ("G" orders) must be ranked behind all other orders at a price. The rule applies only to trading on exchanges, not on Nasdaq.

**Reliance on Unpublished Reports**

TSE Regulation Services retained a consultant to meet with compliance staff of a number of large, integrated firms. The consultant provided a report concluding that firms currently monitor for instances of traders intentionally trading ahead of client orders but will not be able to comply with the current in-house rule (absent system-enforcement by the TSE) in any systematic manner without considerable investments in technology as they would have to reallocate numerous inadvertent violations (where a pro order with time priority is filled ahead of a client order further back in the queue). The consultant concluded that firms will be able to comply with the new rule with some modification of current supervision and compliance procedures.

TSE Regulation Services also did an extensive in-house analysis of the background of the current rule and its application to particular fact circumstances, of legal opinions received by the TSE, and of equivalent rules of other markets.

**References**

ASX Rule 5.8(4) and 5.8(7) and related Guidance Note (Feb. 2, 2000)

CDNX Rule C.2.17 and C.2.22

IDA By-law 29.3A

Nasdaq Interpretation Memo IM-2110-2; NASD Rule 2110

NYSE Rule 92; *Securities Exchange Act of 1934* § 11(a)(1)(G).

*Questions regarding this notice should be directed to Timothy Baikie (416/947-4570; tbaikie@tse.com) or Patrick Ballantyne (pballant@tse.com).*

BY ORDER OF THE BOARD OF DIRECTORS.

LEONARD PETRILLO  
VICE PRESIDENT,  
GENERAL COUNSEL & SECRETARY

## APPENDIX "A"

Rule 4-501 is repealed and replaced with the following:

**4-501 Best Execution of Client Orders**

- (1) A Participating Organization shall diligently execute all client orders on the most advantageous terms for the client as expeditiously as practicable under prevailing market conditions.
- (2) A Participating Organization shall give priority to its client orders over all of its non-client orders in the same security and on the same side of the market, unless the non-client order is executed at a price above the client's limit price (for a buy order) or below the client's limit price (for a sell order).
- (3) A Participating Organization shall give priority to its client market and tradeable limit orders over its non-client orders in the same security and on the same side of the market.
- (4) Rules 4-501(2) and (3) shall not apply to allocations made by a trading system, provided that any client orders of the Participating Organization were entered immediately upon receipt by the Participating Organization and were not subsequently changed or removed from the system (other than changes or removals made on the instruction of the client).
- (5) Rules 4-501(2) and (3) shall not apply to client orders where the client has specifically given the Participating Organization discretion with respect to execution of an order or where an Approved Trader is making a bona fide attempt to obtain best execution for a client order, provided that
  - (a) no Approved Trader with knowledge of that order trades in that security on the same side of the market before the client order is fully executed; and
  - (b) the Participating Organization has implemented a reasonable system of internal policies and procedures to prevent misuse of information about client orders.
- (6) Rules 4-501(2) and (3) shall not apply with respect to a particular client order where the client has specifically consented to the Participating Organization trading ahead or alongside that order.
- (7) The Participating Organization shall record the specific consent referred to in Rule 4-501 (6) on the order ticket.

## APPENDIX "B"

Policy 4-501 is enacted as follows:

**4-501 Best Execution of Client Orders**

Rule 4-501 obliges Participating Organizations to use their best efforts to obtain the best execution possible of client orders. The rule also restricts Participating Organizations from trading in the same securities as their clients in order to minimize the conflict of interest that occurs when a firm competes with its clients for executions.

The rule governs two types of activities. The first is *trading ahead* of a client order, which is taking out a bid or offering that the client could have obtained had the client order been entered first. By trading ahead, the pro order obtains a better price at the expense of the client order.

The second activity governed by the rule is *trading along* with a client, or competing for fills at the same price.

*A Broker's Legal Obligations*

Agency law imposes certain obligations on those who act on behalf of others. Among those obligations is a prohibition on an agent appropriating for itself an opportunity that could go to the principal (client) unless the principal specifically consents.

At common law, the client can consent to the Participating Organization trading ahead or alongside. Such consent must be specific to an order, and not contained in a general consent in a client account agreement. For example, an institutional client may consent to splitting fills with the Participating Organization or may consent to the Participating Organization trading ahead in order to move the market to the agreed-upon price for a block trade (e.g. permitting the Participating Organization as pro to move the market down to the price at which it will buy a block from the client).

Consent can also be implied. If the Participating Organization operates in accordance with established rules, and those rules have a valid purpose (e.g. to foster more liquid, efficient markets for all participants), the consent of the client to the firm's trading in compliance with those rules will likely be implied by a court asked to impugn a transaction, provided the firm is not attempting to disadvantage the client. In other words, a court will likely imply that a client would consent to a firm unintentionally trading ahead of him or her in compliance with these rules. A court would be highly unlikely to imply consent to a pro intentionally taking a trading opportunity from a client; such consent must be specific to the order.

*In-House Client Priority*

The Rule provides that the firm must give priority of execution to client orders, subject to certain exceptions necessary to ensure overall efficiency of order handling.

In no case can a trader intentionally obtain execution of a pro order ahead of a client order without the specific consent of the client, unless the trade is at a better price than the client's limit. A trader can never intentionally trade ahead of a client market or tradeable limit order without the specific consent of the client.

Examples of "intentional" trades include, but are not limited to:

- Withholding a client order from the Book (or removing an order already in the Book) in order to enter a competing pro order ahead of it, thereby obtaining time priority.
- Choosing to enter a client order in a relatively illiquid market and entering a pro order in a more liquid market where it is likely to obtain faster execution.
- Adding terms to an order (other than on the instructions of the client) so that the order ranks behind pro orders in the regular market at that price.

The rule contains an exception for allocations in a trading system provided that the firm enters client orders immediately and does not interfere with the system allocation in any way. The rationale is that a pro who has committed to the Book ahead of a client is not taking a trading opportunity from the client as the client's trading opportunity does not arise until he or she gives an order.

The rule also contains an exception where a client order has been withheld in a bona fide attempt to get better execution for the client, provided that any pro who is trading ahead of the client order does not have knowledge of that order and that the firm has reasonable procedures in place to ensure that information concerning client orders is not used improperly within the firm. These procedures could take the form of physically separating client and pro traders or requiring prior approval of pro trades, such approval to be withheld if the firm is working a competing client order.

The rule also allows the firm to trade ahead of the client if the client has consented. Such consent must be specific to a particular order, and details of the agreement with the client must be noted on the order ticket.

**Participating Organizations have overriding agency responsibilities to their clients and cannot use technical compliance with the rule to establish fulfillment of their obligations if they have not otherwise acted reasonably and diligently to obtain best execution of their client orders.** Firms should obtain legal advice that their own order handling procedures comply with their obligations to their clients.

*Application of the Rule in Particular Circumstances*

**At our firm, the traders handling OMS orders are on a desk immediately beside the pro trading desk. While one of the OMS traders is reviewing a client order prior to entry, the pro trader enters an order in the same security on the same side of the market and at the same price (a "competing order") in the Book. The pro trader honestly had no knowledge of the client order. Is this permitted?**

On these facts, this is not permitted and the firm would have to reallocate any fills the pro order receives to the client order. Lack of knowledge on the part of the pro trader is not sufficient. The firm must also have procedures in place to ensure that traders cannot take advantage of information about client orders. If the client and pro traders are in close physical proximity, it would be difficult, if not impossible, to

determine whether the pro trader did or did not have knowledge of the client order.

The firm would need to do more. For example, the OMS traders could be physically separated from the pro traders. Alternatively, the firm could require the pro trader to receive approval prior to entering any order. Of course, the person giving such approval would have to ensure that the firm is not working any competing client orders.

**I am working a client limit order to buy ABC at \$25.00. Can I enter a pro buy order at \$25.05? It's a better price than the client's limit.**

No. The rule does not permit a trader to compete as pro with a client order he or she is working at any price unless the consent of the client has been obtained.

**I was working a client limit order to buy DEF and have entered the tag end in the Book at \$25.00. Can I enter a pro buy order that ranks after it (either behind it in the queue or at a lower price)? The rule says I can't "trade" before the order has been fully executed.**

Yes you can, provided your order ranks behind the client and will not trade at all before the client order has been completely filled. Because the pro order is ranked behind the client, it is not competing with the client for a fill. You could not enter a competing order at the same price in an ATS or another market, as you could not be certain that it would not trade before the client order is filled.

**I am an institutional trader facilitating a large block order for a client. Because I shorted 10,000 to the client to fill part of the order, the client has agreed that I can trade ahead for 10,000 shares. The client has also agreed that we can split trades 50/50 for the next 10,000 shares. Is this permitted?**

Yes. The client's consent must be specific to an order and can't be general (e.g. in the account agreement). The terms of the consent (trade ahead for 10,000, split next 10,000 50/50) must be noted on the order ticket and kept with the firm's record of orders.

**My firm has client orders (that I am not handling) entered in another market, where they have been some time without trading. Can I enter a competing order on the TSE?**

The *in-house* rule does not apply to allocations by a trading system, provided a trader has not held up the orders prior to entry. However, the firm has an overall *best execution* obligation. The firm would not be meeting this obligation if it does not send client orders to the market in which they would receive the most favourable execution. The failure to obtain best execution is exacerbated if the firm sends its own pro orders to a different market in which they are executed more quickly or at better prices.

This obligation is not absolute. If a firm makes a reasonable determination to route client orders to a particular market that it has determined is most likely to provide those orders with best execution, the rule is not violated if from time to time a particular order might have received a better or faster fill in

another market. However, a trader working an order must consider all markets in which the stock trades. If, for example, the TSE is normally the most active and liquid market in a particular security but on a given day another market is more active, the trader would not be meeting the best execution obligation if the order was sent to the TSE without considering whether it would obtain better execution on the other market. This is not to say that a firm or trader must necessarily route an order to the most active market, but must diligently attempt to obtain the best possible execution for the client, taking into account prevailing market conditions.

**In the above example, the orders in the other market were entered by retail clients of our discount affiliate through our Internet order entry service. The clients directed us to put their orders in the other market. Have we met our best execution obligation?**

Yes, as it was the client and not the firm who made the decision to trade in the other market, provided the firm has not influenced that decision. For example, if the default on the order entry screen is to trade in a particular market and it is cumbersome or time consuming for the client to choose another market, it is questionable whether the client has truly made a decision to route the order to any market.

**A client has given me a market buy order. I believe that he could get a better fill in a fairly short timeframe by joining the bid, but he has told me that he wants a fill immediately. Have I met my best execution obligation if I enter it as a market order?**

The firm has met its best execution obligations if it diligently follows the instructions of its client provided it did not solicit those instructions.

**In reviewing the Book, I see that my firm has client orders on the bid at \$25. Can I enter a buy order improving the bid by 5 cents?**

Yes you can, provided you cannot obtain any details of orders your firm is working in that stock. The reason is that the clients may have limits of \$25.05 (or higher) and the person working the order may have chosen to enter it with a lower limit in an attempt to obtain a better fill. A pro trader could compete with those orders only on a completely blind basis.

**I am an OMS trader. I have set filters so that I can review certain orders prior to entry on the TSE. This normally takes seconds and the orders go to the Book. Is this "holding up" the order? Would my firm have to reallocate pro fills if there are pro orders ahead of it in the Book?**

You have held up the order. However, if your firm has procedures in place to ensure that the pro traders cannot obtain knowledge of any orders you are handling, they have not violated the rule and the firm does not have to reallocate fills. However, you are not permitted to enter an order that competes with an order you have held up.

### **13.1.2 Frederick Monte Ponech - Discipline Penalties Imposed**

**BULLETIN #2751**  
July 21, 2000

#### **Discipline Penalties Imposed on Frederick Monte Ponech - Violation of By-law 29.1 - Conduct Unbecoming**

##### **Person Disciplined**

The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on **Frederick Monte Ponech** at the relevant time a Registered Representative with Merit Investment Corporation (now Rampart Securities Inc.), a Member of the Association, at its office located in Toronto, Ontario.

##### **By-laws, Regulations, Policies Violated**

By written decision dated July 19, 2000, the Ontario District Council has concluded a disciplinary proceeding concerning allegations made by the Association Enforcement Division staff that Mr. Ponech had contravened Association rules through the following conduct :

1. During the time period from May 1 to May 28, 1997, the Respondent effected six trades in the account of Ms. Carolyn McAllister upon the instructions of a third party, Mr. Steven Lucas, when no written authorization to permit such trading activity existed and thereby engaged in business conduct which is unbecoming or detrimental to the public interest contrary to By-law 29.1.
2. During the time period May 1 to May 28, 1997, the Respondent failed to use due diligence to learn the essential facts relative to every order accepted when he made recommendations on Ms. McAllister's account to purchase 6,000 shares of Scorpion Minerals Inc. and 8,500 shares of Tullaree Resources Ltd. based on unreliable and unsubstantiated pieces of information contrary to Regulation 1300.1(a).
3. During the period May 1 to May 28, 1997, the Respondent failed to use due diligence to ensure that every order accepted for the account of Ms. McAllister was within the bounds of good business practice when he exceeded his mandate and invested over \$10,000 in speculative investments contrary to Regulation 1300.1(b).
4. During the time period May 1 to May 28, 1997, the Respondent failed to use due diligence to ensure that recommendations made for the account of Ms. McAllister were appropriate for the client and in keeping with her investment objectives contrary to Regulation 1300.1(c).

At the conclusion of the case for the Association, it was agreed that the contested hearing be converted into an uncontested hearing pursuant to Association By-law 20.14.

The District Council found against Mr. Ponech on counts 3 and 4, counts 1 and 2 were dismissed.

**Penalty Assessed**

The discipline penalty assessed against Mr. Ponech is an Order of a fine of \$6,500 plus a supervision order requiring a review of Mr. Ponech's trades, monthly, for six months. He must also pay \$4,000 in costs to the Association. As a condition of his continued registration, Mr. Ponech must re-write and pass the Conduct and Practices Handbook examination administered by the Canadian Securities Institute.

**Summary of Facts**

Mr. Ponech took instructions from a third party to effect six trades on behalf of a client despite the fact that there was no written authorization from the client to permit such activity. Also, Mr. Ponech recommended stocks where there was no reliable data to suggest that the companies were profitable or approaching profitability. He relied heavily on unsubstantiated communications with principals of the two companies rather than a proper, systematic analysis of the merits of the proposed investments.

"Susanne M. Barrett"  
Association Secretary

**IN THE MATTER OF  
THE INVESTMENT DEALERS ASSOCIATION OF  
CANADA**

**AND**

**FREDERICK MARTIN PONECH**

**DECISION OF THE ONTARIO DISTRICT COUNCIL**

**District Council:** The Honourable Frederic Kaufman,  
Q. C. Chair  
Robert J. Guilday  
David Kerr

**Appearances:** Jeffrey Kehoe,  
for the Investment Dealers  
Association of Canada

Andrew E. Bernstein  
For the Respondent, Frederick Martin  
Ponech

Frederick Martin Ponech, Respondent  
In attendance

**Reasons for Decision**

The hearing in this matter was re-convened on July 10, 2000 pursuant to a Notice of Hearing dated November 26, 1999. The Notice of Hearing contained the following charges:

**Count #1**

During the time period from May 1 to May 28, 1997, the Respondent effected six trades in the account of Ms. Carolyn McAllister upon the instructions of a third party, Mr. Steven Lucas, when no written authorization to permit such trading activity existed and thereby engaged in business conduct which is unbecoming or detrimental to the public interest contrary to By-law 29.1.

**Count #2**

During the time period May 1 to May 28, 1997 the Respondent failed to use due diligence to learn essential facts relative to every order accepted when he made recommendations on Ms. McAllister's account to purchase 6,000 shares of Scorpion and 8,500 shares of Tullaree based on unreliable and unsubstantiated pieces of information contrary to Regulation 1300.1(a).

**Count #3**

During the time period May 1 to May 28, 1997 the Respondent failed to use due diligence to ensure that every order accepted for the account of Ms. McAllister was within the bounds of good business practice when he exceeded his mandate and invested over \$10,000 in speculative investments contrary to Regulation 1300.1(b).

**Count #4**

During the time period May 1 to May 28, 1997, the Respondent failed to use due diligence to ensure that recommendations made for the account of Ms. McAllister were appropriate for the client and in keeping with her investment objectives contrary to Regulation 1300.1(c).

At the conclusion of the case for the Association, we agreed to convert the contested hearing into an uncontested hearing pursuant to Association by-law 20.14.

Having considered submissions, the panel was satisfied that the Association had established both count three and count four.

We have now had an opportunity to read the joint proposal by the parties. We feel that it's a good proposal, and we will rule accordingly and make a finding against Mr. Ponech on Counts 3 and 4 of the hearing.

We will dismiss Counts 1 and 2 as stated in the Notice of Hearing, and we will accept the penalties proposed by the parties. That is to say the penalty of: \$6,500 plus \$4,000 in costs; a supervision order requiring a review of Mr. Ponech's trades, monthly, for six months; a requirement that Mr. Ponech write and pass the Conduct and Practices Handbook.

We approve of the arrangement made by the parties that Mr. Ponech may commence working as an investment dealer without paying any amount of his fine or costs award for three months. He will thereafter pay \$1,066.67 per month, for nine months, until the balance is paid off.

Dated this 19th day of July 2000.

"Frederick Kaufman" Q.C., Chair

"Robert J. Guilday", Member

"David Kerr", Member

**13.1.3 Joseph Michael Shaughnessy - Ruling of the Ontario District Council**

**IN THE MATTER OF  
THE INVESTMENT DEALERS ASSOCIATION OF  
CANADA  
AND  
JOSEPH MICHAEL SHAUGHNESSY**

**RULING OF THE ONTARIO DISTRICT COUNCIL**

**Hearing:** November 30 and December 21 and 22, 1999

**District Council:** Philip Anisman, Chair  
Thomas A. Flanagan  
Brigitte J. Geisler

**Counsel:** Stephanie McManus, for the Investment Dealers Association of Canada

Davis Harris, for the respondent,  
Joseph Michael Shaughnessy

**A. Introduction**

This hearing was convened to consider a motion brought by Mr. Shaughnessy to quash or stay this proceeding based on delay preceding the Notice of Hearing dated August 9, 1999 (the "Notice of Hearing"). This request was addressed as a preliminary matter with the agreement of Ms. McManus, counsel for the Investment Dealers Association of Canada (the "Association"); see (1999) 22 O.S.C.B. 6021 (September 24) at 6022.

The hearing to consider the respondent's motion was initially convened on November 30, 1999 and was adjourned to December 21, 2000; see (1999) 22 O.S.C.B. 8480 (December 24). The parties having agreed to adduce their evidence-in-chief by means of affidavits, the District Council ruled that the affidavits be exchanged and filed prior to the hearing and the affiants called at the hearing to be cross-examined and to answer any questions that the District Council might have. Following this procedure, affidavits sworn by Mr. Shaughnessy and Fredrick Ponech as witnesses for Mr. Shaughnessy and by Lawrence Boyce, Jane Collins, Michael Haddad and Charles MacDermid as witnesses for the Association were filed, and each of the affiants testified at the hearing.

In the course of the hearing it became apparent that there might be information in the Association's files relating to matters raised in evidence. As a result, the District Council requested Mr. Boyce to review relevant files of the TSE and the Association. It also requested Ms. Collins to examine her firm's records and to advise the District Council of the results. Both returned and gave additional evidence before the hearing adjourned on December 22.

In addition, the District Council asked Ms. McManus to review the TSE investigation file relating to Mr. Shaughnessy and produce copies of specified documents, if any were found.



On December 23, 1999 Ms. McManus faxed a letter to the members of the District Council and to Mr. Harris, counsel for Mr. Shaughnessy. The letter identified fourteen documents, only two of which appeared to relate to the District Council's request. It said Ms. McManus had become aware of the TSE file in which they were contained in August, 1999 and had not disclosed them to the respondent.

The following day, December 24, 1999, Mr. Harris faxed a letter objecting to the introduction of documentary evidence, beyond that requested by the District Council, after the conclusion of the hearing. As it appeared from counsels' letters that only two of the listed documents might come within the categories requested, the District Council, by letter dated December 30, 1999, asked for submissions on these documents before it opened the envelope containing them and ruled that a motion would be necessary to introduce additional new evidence at this stage of the proceeding.

On the basis of written submissions received from counsel on January 5 and 6, 2000, the District Council ruled on January 17, 2000, that one document, a copy of a blank form letter to Mr. Shaughnessy, would not be admitted into evidence as it did not come within the District Council's request, and that the other, a handwritten note dated December 4, 1995 relating to Mr. Shaughnessy, would be admitted into evidence if it was properly identified by its author in an affidavit, with Mr. Shaughnessy entitled to have the hearing reconvened for the limited purpose of cross-examining the affiant or calling evidence in reply.

In her letter of January 5, 2000 Ms. McManus withdrew nine of the remaining twelve documents. She submitted that the other three, which were identified as new client application forms ("NCAFs") for three of Mr. Shaughnessy's former clients, were relevant to the proceeding and should be admitted. In its ruling of January 17, the District Council reiterated that a motion would be required before these documents could be introduced. On January 27, 2000, Ms. Hession, on behalf of the Association, abandoned a motion to admit these NCAFs and filed a copy of an affidavit sworn by Charles MacDermid on January 26, 2000 identifying the handwritten note as his. In a letter dated February 4, 2000, Mr. Harris advised that he did not wish to cross-examine Mr. MacDermid on this affidavit or to recall Mr. Shaughnessy to give evidence in reply.

## **B. Overview of the Facts**

The Notice of Hearing alleges three violations, namely, that:

- (1) in December 1994, Mr. Shaughnessy did not disclose material information in an application for approval and that this omission was conduct unbecoming a registered representative contrary to paragraph 29.1 of the Association's By-laws (the "First Charge");
- (2) between January and September 1995, Mr. Shaughnessy failed to use due diligence to learn the essential facts relating to new accounts for eight clients, Walter Derksen, Mary Derksen, Lidia Green, Richard Massey, William Reeves, Wolfgang Thomas, Jack Costello and Claude Pinard, contrary to the know your client obligations in paragraph 1300.1(a) of the Association's Regulations (the "Second

Charge"); and

- (3) between January and September 1995, Mr. Shaughnessy conducted unauthorized trades in the accounts of three of those clients, Mary and Walter Derksen and Lidia Green, contrary to paragraph 1300.4 of the Regulations (the "Third Charge").

Mr. Shaughnessy was employed as a registered representative with six securities firms from June 1969 until December 1994, when he left Merit Investment Corporation ("Merit") to join Research Capital Corporation ("Research Capital"). His employment with Research Capital was terminated on September 15, 1995. A uniform termination notice ("UTN") dated September 26, 1995 was received by the TSE on December 28, 1995, but a copy was not provided to Mr. Shaughnessy. By letter dated September 26, 1995 to the Manager of Member Registration Mr. Shaughnessy advised the TSE of his dismissal and the failure to provide him with a copy of the UTN and offered to meet to discuss the circumstances relating to it.

At the time, Mr. Shaughnessy believed that he was dismissed because of a difference of view with Kevin McQuaid, Vice President and Director of Operations at Research Capital, over trading by him on behalf of a client; Mr. McQuaid, incorrectly in Mr. Shaughnessy's view, had characterized the trading as "front running" and reversed the transaction. Mr. Shaughnessy's belief is consistent with the UTN which states that his dismissal was based on "insubordinate behaviour involving a failure to comply with compliance requests involving activities in personal account" and also on a failure "to meet production expectations". Although these matters were addressed in the evidence on this motion, they are not referred to in the Notice of Hearing.

A letter dated October 10, 1995 from Lawrence Boyce, Director, Division of Investigative Services at the TSE, advised Mr. Shaughnessy that an investigation into the circumstances surrounding his termination with Research Capital had been requested by the Member Registration section and that the investigator was Charles MacDermid. Mr. Shaughnessy wrote Mr. MacDermid on October 25, 1995 outlining in some detail his understanding of the events that led to his termination. The letter focussed on the trades that had been reversed by Mr. McQuaid, presenting Mr. Shaughnessy's understanding of those events. It also stated that he was "negotiating a position as Sales Manager/Branch Manager with a member firm ... [and] am led to believe that I would not be allowed to apply for the position until your investigation is complete." He requested that the investigation be expedited, "as I have mentioned to my prospective employers that I must deal with this matter before I can entertain their job offer", and he offered to discuss any questions that Mr. MacDermid might have at the earliest opportunity.

Mr. Shaughnessy testified that he called Mr. MacDermid approximately every two weeks between October 1995 and January 1996 in attempts to have the investigation resolved. He said he requested Mr. MacDermid to provide him with a copy of the UTN filed by Research Capital, but Mr. MacDermid did not do so. He also said Mr. MacDermid informed him that his registration could not be transferred while the investigation was pending and stated that he would not be able to deal with Mr. Shaughnessy's case for some time. Mr. MacDermid did

not recall the request for the UTN or a conversation regarding the effect of the investigation on a transfer of Mr. Shaughnessy's licence, but said he would have provided the UTN, if so requested, and that he would not have made the statements concerning a transfer as they did not reflect the TSE's policy or practice. Mr. Shaughnessy's evidence concerning the frequency of his calls is uncontradicted and is supported by Mr. MacDermid's note of December 4, 1995, referred to above, describing a return call to Mr. Shaughnessy in which he "updated him on status" and noted Mr. Shaughnessy's willingness to "assist where possible & direct me to the right people."

Apart from his conversations with Mr. Shaughnessy and requests for information to Mr. Shaughnessy and Research Capital in October and November 1995 (evidenced by Mr. Shaughnessy's letter of October 25, 1995 and reply letters dated October 25, 1995 and November 20, 1995 from Mr. McQuaid), Mr. MacDermid did not pursue the investigation into Mr. Shaughnessy's termination. He failed to address this matter, as explained by him, Mr. Haddad and Mr. Boyce, because he was responsible for two or three<sup>1</sup> more significant investigations and gave Mr. Shaughnessy's matter a lesser priority. Mr. MacDermid had charge of the investigation until January 31, 1997, when responsibility for the investigation was transferred from the TSE to the Association.

During this period Mr. Shaughnessy had a number of job opportunities. He approached Levesque Beaubien in October 1995, but the approach did not lead to an offer. His letter of October 25, 1995 referred to an offer, which was from Union Securities. He also received an offer to join Brawley Cathers Limited ("Brawley Cathers") as a registered representative, which was withdrawn because of the outstanding investigation. At some point he considered applying for employment as a mutual fund salesman, but did not do so.

Because of transitional delays relating to the transfer to it in January 1997 of supervisory responsibility over members' conduct, the Association did not reactivate the investigation into Mr. Shaughnessy's termination until late March 1998. Mr. Shaughnessy's file was assigned to Adele Robertson, an Association investigator, on March 31, 1998 and Mr. Shaughnessy was so advised in a letter of the same date from Fredric L. Maefs, Director of the Association's Enforcement Division. From this date onward the investigation was pursued in a reasonable manner.

The District Council was provided with evidence of correspondence between Ms. Robertson and Mr. Shaughnessy's counsel between July and November, 1998 relating to the Association's request to interview Mr. Shaughnessy and Mr. Shaughnessy's reasons for not appearing. In August 1998, in the course of this correspondence, Ms. Robertson identified the nature of the investigation in general terms, stating that it was based on the UTN "and additional correspondence" and that it related to allegations that Mr. Shaughnessy "did not speak to several clients before opening their accounts ... failed to advise

Research Capital Corporation and the TSE that he was being sued by a client from his former employer and ... lied to a compliance officer about witnessing a client signing a margin agreement."<sup>2</sup> She provided him with a copy of the UTN on September 25, 1998, and interviewed him on November 3, 1998. Although the District Council was not referred to all of them, the materials provided to it also contain interviews of other parties, including Dena Panageators, one of Mr. Shaughnessy's assistants at Research Capital, and Mr. McQuaid.

On December 4, 1998 the matter was assigned to Association enforcement counsel. Mr. Shaughnessy was advised that charges were contemplated in approximately May, 1999. Disclosure was made to Mr. Harris, as Mr. Shaughnessy's counsel, in early June, 1999. The Notice of Hearing was issued on August 9, 1999 with a return date of August 31, 1999 for the hearing.

The period between the opening of the investigation by the TSE on October 10, 1995 and the issuance of the Notice of Hearing on August 9, 1999 is approximately forty-six months, just shy of four years. Mr. Shaughnessy's submission is that this delay has deprived the District Council of jurisdiction to hear the matters identified in the Notice of Hearing or, alternatively, justifies an order by the District Council staying the proceeding. He bases this submission on the length of the delay and on prejudice to his ability to defend the case against him which would deprive him of a fair hearing. In addition, he asserts that the length of the investigation has prevented him from earning a living because he was unable to transfer his registration to another employer and has also harmed his personal and professional reputation.

### **C. Applicable Legal Principles**

The arguments presented by counsel raise common law and constitutional issues on which there are conflicting authorities. In brief, Mr. Harris argued that the investigative delay in this case deprived Mr. Shaughnessy of his right to liberty and security under section 7 of the *Canadian Charter of Rights and Freedoms* (the "Charter"), contrary to principles of fundamental justice, entitling him to a stay of proceedings.<sup>3</sup> Alternatively, he argued that the delay, presumptively and in fact, unfairly stigmatized Mr. Shaughnessy and deprived him of the ability to defend against the allegations in the Notice of Hearing resulting in a breach of natural justice and the District Council losing jurisdiction to hear this matter. Finally, he submitted that the delay constituted an abuse of the District Council's process and should be stayed for this reason, as well.

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<sup>1</sup> Mr. Haddad, who was then Manager of Investigations for the TSE, testified there were three; Mr. MacDermid said two

<sup>2</sup> The latter allegation does not form part of the Notice of Hearing; the former two are reflected in the three charges contained in it.

<sup>3</sup> Section 7 guarantees to everyone "the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

1. *Charter*, Section 7

The District Council has previously held that the Association is not a government body within subsection 32(1)(b) of the *Charter* with respect to investigative and disciplinary activities under its By-laws; see *In the Matter of Derivative Services Inc.*, (1999) 22 O.S.C.B. 5544 (September 3) at 5553-54. In *Derivative Services* the particular activity under consideration was an investigation into compliance by the respondents with an order of the Ontario District Council; it involved only the enforcement by the Association of its own requirements, imposed on a member firm and its officer under its own by-laws. The activities at issue in *Derivative Services* thus did not constitute implementation by the Association of a specific government policy or program. Following the Supreme Court's decision in *Eldridge v. A.G.B.C.*, (1997) 151 D.L.R. (4th) 577 at 602-608, the District Council recognized that the Association may be subject to the *Charter* when it performs a function delegated to it by a securities commission or otherwise under legislation; 22 O.S.C.B. at 5554.

Mr. Harris argued, in effect, that this proceeding comes within the latter category as the investigation was initiated by the TSE and continued by the Association after the TSE's member regulation operations were transferred to the Association; see *Member Consolidation Proposal - The TSE and The IDA*, (1996) 19 O.S.C.B. 7019 (December 20). He submitted that the TSE is subject to the *Charter* and that the Association also became so when it accepted responsibility for the investigation of Mr. Shaughnessy. Neither the *Member Consolidation Proposal* nor any agreement between the Association and the TSE was entered in evidence.

On the basis of the material before it, the District Council is of the view that the assumption by the Association of responsibility for member regulation did not involve a delegation to it of the TSE's legislative authority. Rather, the Association agreed to apply its own rules to persons subject to its jurisdiction. This is implicit in the District Council's *Derivative Services* decision and is reflected in the fact the Notice of Hearing alleges that Mr. Shaughnessy violated the Association's By-laws and Regulations.<sup>4</sup>

This conclusion does not preclude consideration of the *Charter* in a proceeding like this one. In *Derivative Services* the District Council stated that the "values reflected in the rights and freedoms guaranteed by the *Charter* may be relevant to the conduct of a hearing ... where they are relevant, *Charter* values influence procedural and other determinations made by a District Council in the context of a hearing"; 22 O.S.C.B. at 5553.<sup>5</sup> *Charter* values, as well as common law

principles, may thus be taken into account by the District Council when exercising its discretion to determine issues relating to the conduct of a hearing and the events leading up to it, including pre-notice delay. It is therefore necessary to address the values contained in section 7 of the *Charter*, as defined in decisions interpreting the scope of the rights to liberty and security of the person and the principles of fundamental justice.

Counsel referred the District Council to two lines of case law on the scope and requirements of section 7. Mr. Harris relied primarily on *Blencoe v. B.C. Human Rights Commission*, (1998) 160 D.L.R. (4th) 303 (B.C.C.A.) which stayed a proceeding involving a delay of approximately thirty-three months. Emphasizing the human dignity and privacy values which underlie the section 7 rights to liberty and security of the person, the majority held that the stigma from complaints of sexual misconduct made to the B.C. Human Rights Commission was created, prolonged and exacerbated by the delay, requiring a stay to be entered. A similar approach, with similar results, again in the human rights context, has been adopted by the Saskatchewan Court of Appeal; see *Sask. Human Rights Commission v. Kodellas*, [1989] 5 W.W.R. 1. In both cases the courts focussed on the impact of the complaints on the respondent, equating the alleged misconduct to a criminal charge, and held section 7 applicable to the administrative tribunal. Both concluded that the parties were deprived of their section 7 rights contrary to fundamental justice because the matter had not been addressed in a hearing within a reasonable time.

Ms. McManus relied primarily on a decision of the Manitoba Court of Appeal, *Nisbett v. Manitoba Human Rights Commission*, (1993) 101 D.L.R. (4th) 744, which rejected the approach in *Kodellas*, concluding that administrative proceedings under human rights legislation do not implicate section 7 and refusing to adopt an analysis relying on stigma and the reputational harm to an individual as a basis for prohibiting an administrative hearing, despite finding a delay of almost three years unreasonable. This conclusion has been accepted by the Federal Court of Appeal; see *Belloni v. Canadian Airlines International Ltd.*, [1996] 1 F.C. 638.

As the Ontario Court of Appeal has not decided this issue,<sup>6</sup> the District Council finds itself in the position of choosing between two lines of judicial authority in courts of equivalent jurisdiction outside of Ontario. This is particularly difficult in view of the fact that *Blencoe* is under appeal to the Supreme Court of Canada, which heard argument on January 24, 2000, and has not yet rendered judgment.<sup>7</sup> It is necessary,

<sup>4</sup> It is worth noting, as well, that Mr. Shaughnessy sought, and presumably obtained, approval from the Association when he transferred his employment to Research Capital in 1995, as is shown on the uniform application form contained in Exhibit J to his affidavit.

<sup>5</sup> This statement followed the District Council's holding that it does not have authority to refuse to apply an Association By-law on the basis of inconsistency with the *Charter*. In addition, the District Council is not a "court" within section 24 of the *Charter*, and thus has no authority to

grant a remedy under subsection 24(1); see, e.g., P. Hogg, 2 *Constitutional Law of Canada* (Looseleaf ed. 1997), §37.2(f); cf. *In the Matter of Derivative Services Inc.*, (1999) 22 O.S.C.B. at 5550-51.

<sup>6</sup> But see *Ford Motor Co. of Canada v. Ontario Human Rights Commission*, [1999] O.J. No. 2530, in which the Ontario Divisional Court preferred *Nisbett* over *Blencoe*.

<sup>7</sup> As the Supreme Court of Canada denied leave to appeal from the decisions in *Nisbett*, see (1993) 166 N.R. 78, and *Belloni*, see (1996) 205 N.R. 399, and granted leave to appeal from *Misra v. Council of College of Physicians and Surgeons of Saskatchewan*, [1988] 5 W.W.R. 333 (Sask. C.A.), see (1989) 102 N.R. 156 (appeal

therefore, to address this issue on the basis of principle.

The *Blencoe* and *Kodellas* courts equated complaints of sexual harassment with criminal charges of sexual assault, emphasizing the seriousness of such charges and their impact on an accused's reputation and psychological well-being, and treated remedial proceedings before a human rights tribunal as quasi-penal; see *Blencoe*, 160 D.L.R. (4<sup>th</sup>) at 329 (para. 82) and 336 (para. 109); *Kodellas*, [1989] 5 W.W.R. at 14, per Bayda C.J.S. Accordingly, their section 7 analysis does not take into account the differences in purpose, process and social goals reflected in the enactment of regulatory rather than penal legislation.<sup>8</sup> If applied to the securities market, this reasoning could treat a proceeding to discipline a registrant for improper trading practices as equivalent to a charge of fraud under the *Criminal Code*, s. 380, even though the stigma and potential consequences may differ dramatically.<sup>9</sup> As held in *Nisbett*, there is a significant difference between regulatory and criminal proceedings as they affect the values reflected in the liberty and security rights in section 7; see *Nisbett*, 101 D.L.R. (4<sup>th</sup>) at 750 ("nature of the proceeding ... is critical").

Nor are all regulatory proceedings or processes identical. *Belloni*, *Blencoe*, *Kodellas* and *Nisbett* all involved alleged violations of human rights legislation, the latter three of sexual misconduct. Allegations under human rights legislation, and particularly of sexual misconduct, may affect more directly the dignity and privacy of the individuals involved, both complainants and respondents, than securities self-regulatory requirements. This is not to suggest that securities regulatory proceedings do not have serious consequences. Indeed, they may have a significant effect on a person's career and ability to earn a livelihood, with a concomitant impact on the person's reputation, self-respect and sense of self-worth. But as their focus is on the economic interests of individual respondents, they are generally speaking further from the core of the values protected by section 7, reflected for example in lower expectations of privacy in the context of regulatory investigations; see, e.g., *R. v. Fitzpatrick*, [1995] 4 S.C.R. 154; *B.C.S.C. v. Branch*, (1995) 123 D.L.R. (4<sup>th</sup>) 463 (S.C.C.); and see *In the Matter of Derivative Services Inc.*, 22 O.S.C.B. at 5549 and 5555. While these considerations may not be

determinative of the application of section 7 in the context of a regulatory hearing, as opposed to an investigation, they are relevant factors.

The courts in the *Blencoe* and *Kodellas* decisions focussed primarily on the impact on the respondents, emphasizing liberty and security rights, and largely disregarded the requirement relating to fundamental justice. They treated delay alone as both infringing the rights and depriving the respondent of fundamental justice by doing so, imposing, in effect, a limitation period based on psychological impact on the respondent, which is not always susceptible of clear proof as it is necessarily largely subjective, and precluding a determination of the allegations on their merits.<sup>10</sup>

It is far from clear that an allegation which goes to a hearing within, say, a year or so would have less of an impact on a respondent. Nor is it clear how the principles of fundamental justice come into play in these determinations. In fact, these principles did not receive separate consideration in *Blencoe*.<sup>11</sup>

Without canvassing all of the authorities referred to in the cases cited to it, the District Council is on balance inclined to the view that a regulatory proceeding, including a securities regulatory proceeding, may affect the security rights protected by section 7, although this has not yet been decided by the Supreme Court, see, e.g., P. Hogg, 2 *Constitutional Law of Canada* (Looseleaf ed. 1999), §44.7(b) and 44.8, and Ontario case law suggests otherwise; see, e.g., *Re Malartic Hygrade Gold Mines (Canada) Ltd.*, (1986) 54 O.R. (2d) 544 (Div'l Ct.) at 549-50 (property rights not protected); *Biscotti et al. v. Ontario Securities Commission*, (1990) 74 O.R. (2d) 119 (Div'l Ct.) at 123 (no right to "engage in a particular type of professional activity or regulated economic sector" under section 7), affirmed (1991) 1 O.R. (3d) 409 (C.A.) at 412, leave to appeal denied (1991) 136 N.R. 407 and 408 (S.C.C.). But the analysis cannot stop here.

Even if section 7 is applicable to administrative proceedings, and to regulatory proceedings in the securities industry, it is necessary to consider whether conduct that affects a person's liberty or security does so in a manner that is inconsistent with principles of fundamental justice. This may

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discontinued in 1992), it might be inferred that it is likely to reverse the decision in *Blencoe*, but any such prediction would be no more than guesswork.

<sup>8</sup> These considerations were addressed by Bayda C.J.S., dissenting on this issue, in his discussion of remedy under section 24 of the *Charter*; see [1989] 5 W.W.R. at 24-30.

<sup>9</sup> The section 7 analysis in *Blencoe* and *Kodellas* also appears inconsistent with the reasoning in *Wigglesworth v. R.*, (1987) 45 D.L.R. (4<sup>th</sup>) 235 (S.C.C.), which held R.C.M.P. disciplinary proceedings not subject to section 11 of the *Charter*, distinguishing "disciplinary matters which are regulatory, protective or corrective and which are primarily intended to maintain discipline, professional integrity and professional standards" from penal offences subject to section 11; 45 D.L.R. (4<sup>th</sup>) at 251-52. But *Wigglesworth* expressly left the issue open with respect to section 7; see *ibid.* at 249 and 253.

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<sup>10</sup> The fact that the proceedings were stayed may take on particular significance in the human rights context in view of the quasi-constitutional character of human rights legislation which arguably supports greater emphasis on a complainant's rights; see, e.g., *Ville de Montréal v. Commission des droits de la personne et des droits de la jeunesse*, (2000) 253 N.R. 107 (S.C.C.) at 128-29; cf. *Kodellas*, [1989] 5 W.W.R. at 27-28, per Bayda C.J.S., dissenting.

<sup>11</sup> In *Kodellas* the court found that unreasonable delay both extended the normal period of stigmatization and reduced Mr. Kodellas' chances of a fair hearing and held that these two forms of prejudice were inconsistent with fundamental principles of justice; see [1989] 5 W.W.R. at 23 and 45. The effect of this holding on stigmatization is to decide both the infringement of a right to liberty or security and compliance with the principles of fundamental justice on the basis of a single question, namely, the reasonableness of the delay.

also be so, even if section 7 is not applicable. In short, the values of fundamental justice remain relevant; see, e.g., *Re Howe*, (1994) 19 O.R. (3d) 483 (C.A.) at 497, *per Laskin J.A.*, dissenting.

This requires a tribunal to address more than delay alone. In the criminal context it has been consistently held that investigative delay is not alone sufficient to stay a charge; an accused must demonstrate that the delay has a prejudicial effect on his ability to make full answer and defence and thus to obtain a fair trial; see, e.g., *R. v. L.*, (1991) 64 C.C.C. (3d) 321 (S.C.C.); *cf. U.S.A. v. Comisso*, (2000) 47 O.R. (3d) 257 (C.A.). It would be anomalous if the standard in a regulatory proceeding were more stringent. In this respect, *Nisbett* is to be preferred for its attempt to address the principles of fundamental justice in light of the impact of the delay on a respondent's ability to obtain a fair hearing.<sup>12</sup>

## 2. Natural Justice and Fair Hearing

There is no doubt that delay in initiating proceedings may affect their fairness. Both Mr. Harris and Ms. McManus accepted that the principles of natural justice apply to a hearing before the District Council and that their breach will result in a loss of jurisdiction to conduct a hearing. The issue between them is the standard applicable to determine whether such a breach has occurred.

Although arguing that the delay in this case has actually prejudiced Mr. Shaughnessy's ability to present a defence, Mr. Harris submitted that the correct standard is contained in *NLK Consultants Inc. v. B.C. Human Rights Commission*, [1999] B.C.J. No. 380 (B.C.S.C.), which held that an unreasonable delay of almost five years itself constituted a breach of natural justice, as well as permitting an inference of actual prejudice from witnesses' fading memories. In adopting this standard, the court in *NLK Consultants* applied the approach in *Blencoe* to natural justice principles applicable at common law.

The District Council does not accept this position. *NLK Consultants* is the only case cited to it in which delay alone or potential prejudice are treated as a breach of natural justice sufficient to deprive a respondent of a fair hearing. In the District Council's view, the correct test is the one in *Nisbett*; the District Council will lose jurisdiction to hear a matter only if a respondent presents evidence of actual prejudice from the delay that significantly hinders the respondent's ability to make full answer and defence to the allegations in the notice of hearing; see *Nisbett*, 101 D.L.R. (4<sup>th</sup>) at 757 ("evidence of prejudice of sufficient magnitude to impact on the fairness of the hearing"); see also, e.g., *Ford Motor Co. of Canada v. Ontario Human Rights Commission*, [1999] O.J. No. 2530, para. 9. As long as there is sufficient evidence to allow a fair hearing, a matter can proceed. This test takes into account the fact that human memory is fallible. As "fading memory" is inherent in any adjudicative process, something more than the possibility that it will exist is necessary; see, e.g., *Belloni v.*

*Canadian Airlines International Ltd.*, [1996] 1 F.C. at 642.

In this respect, the principles of natural justice applicable to investigative and other delay in issuing a notice of hearing are consistent with the principles of fundamental justice embodied in section 7 of the *Charter*.

## 3. Abuse of Process

Common law principles of abuse of process derive from the inherent jurisdiction of a superior court; see, e.g., *Bennett v. B.C.S.C.*, (1992) 94 D.L.R. (4th) 339 (B.C.C.A.) at 354, leave to appeal denied (1992) 97 D.L.R. (4th) vii (S.C.C.). Although the District Council is not a court and has no jurisdiction beyond that granted by the Association's By-laws, see, e.g., *In the Matter of Derivative Services Inc.*, (1999) 22 O.S.C.B. at 5552-53, the jurisdiction granted by By-law 20 necessarily implies authority to control its own process. In the District Council's view, therefore, the By-laws confer on it implied authority to address issues of this nature in the context of a hearing.

Both counsel accepted that the District Council has discretion to stay its proceedings, but they differed on the standard for abuse of process. Mr. Harris relied primarily on *Thomson v. B.C. College of Physicians and Surgeons*, [1998] B.C.J. No. 1750 (B.C.S.C. Chambers). The *Thomson* decision cited *Blencoe* as authority for judicial intervention to prevent unfairness resulting from delay in the administrative law context, especially "where the allegations have the potential to destroy the social and economic well being of the person accused" (para. 43). But it did not apply this standard in its analysis of abuse of process (as opposed to section 7 of the *Charter*). Rather, it emphasized the fact that the College had relied on criminal proceedings which ultimately resulted in an acquittal and only then brought disciplinary proceedings. Its holding thus turned on the College's decision to defer to alternative proceedings and on the harshness of a second, administrative proceeding based on the same facts after a substantial delay, in this case of approximately six years. A similar approach has been adopted by the Saskatchewan Court of Appeal; see *Misra v. Council of College of Physicians and Surgeons of Saskatchewan*, [1988] 5 W.W.R. 333.

Neither of these decisions supports the view that delay alone can constitute an abuse of process. Acceptance of this position would require the courts, and the District Council, to create limitation periods on an *ad hoc* basis, where they otherwise do not exist; see, e.g., *R. v. L.*, above; *R. v. Young*, (1984) 46 O.R. (2d) 520 (C.A.) at 551. In fact, there is no limitation period in the Association's By-laws for disciplinary proceedings against members and approved persons, so long as they remain such.<sup>13</sup>

Ms. McManus advocated the two-pronged test adopted in *Re Robinson*, (1986) 32 D.L.R. (4th) 589 (B.C.S.C. Chambers), that abuse of process requires demonstration both of serious prejudice to an accused's right to a fair trial and that

<sup>12</sup> *Nisbett*, in effect, equates the principles of fundamental justice in this context with the principles of natural justice at common law. They also include concepts of abuse of process; see, e.g., *R. v. Young*, (1984) 46 O.R. (2d) 520 (C.A.) at 542; *Cicci v. B.C.S.C.*, [1993] B.C.J. No. 2823 (B.C.C.A. Chambers), para. 25.

<sup>13</sup> Paragraph 20.21 of the By-laws provides a five year limitation period for former members and approved persons, but it begins to run only when their status as members or approved persons ceases.

the delay resulted from an "oblique" or "ulterior" purpose on the part of the police, the prosecutor or other responsible official. This test would arguably require both a breach of natural justice and a delay intended to impede a respondent's ability to prepare a defence. Accordingly, Ms. McManus argued that there has been no showing of bad faith on the part of TSE or Association investigators.

While the District Council accepts that the delay in this proceeding involved no bad faith on the part of the TSE or the Association, it is not satisfied that the test in *Robinson* is the only one. In the District Council's view, the standard for determining an abuse of its process is the one applied by the Ontario Court of Appeal in the *Young* decision; see 46 O.R. (2d) at 551.<sup>14</sup> The District Council has a residual discretion to stay proceedings where compelling a respondent to undergo a disciplinary hearing "would violate those fundamental principles of justice which underlie the community's sense of fair play and decency." This discretion enables the District Council "to prevent abuse ... of [its] process through oppressive or vexatious proceedings." As with abuse of process at common law, it will be exercised only in clear cases.

Under the test in *Young* a showing of prejudice to a respondent's ability to make full answer and defence or of damage to his reputation may be relevant, but they are not essential; see *R. v. Young*, 46 O.R. (2d) at 551 and 553-54; and see *Amato v. R.*, (1982) 140 D.L.R. (3d) 405 (S.C.C.) at 438-44, *per Estey J.*, dissenting (entrapment). Nor is an ulterior purpose required; any decision by a responsible official not to proceed against an individual that results in lengthy delay and serious unfairness, even if not intended to prejudice a respondent, may constitute an abuse of process.

In *R. v. Young*, for example, a determination by the Ministry of Revenue to proceed against the accused for a violation of a taxing statute by means of an assessment, with which it did not proceed for unexplained reasons, provided a sufficient basis for the Court of Appeal to declare a subsequent prosecution under the *Criminal Code* for fraud, based on the same facts, approximately five years later, to be an abuse of process, even though the police officer and Crown counsel who determined to lay the subsequent charge had no ulterior motive; 46 O.R. (2d) at 553. Similarly, in *Misra* disciplinary proceedings were held oppressive and unfair to the respondent "notwithstanding the lack of fault" and good faith on the College's part when it decided to defer to the criminal process; [1985] 5 W.W.R. at 349. The *Thomson* decision, referred to by Mr. Harris, may be explained on a similar basis.

Once again, there is consistency between the principles of fundamental justice and common law standards of abuse of process based on delay in initiating penal or disciplinary proceedings. The flexibility of these concepts of fair process is demonstrated by their application to the interplay between criminal, administrative and self-regulatory contexts; the court in *Young* relied on an earlier administrative decision as a basis

for staying a criminal charge, while in *Misra* and *Thomson* an earlier decision by self-regulatory authorities to look to the criminal process, was treated as a basis for staying subsequent disciplinary proceedings.

#### **D. Application to the Evidence**

In his affidavit and oral evidence Mr. Shaughnessy referred to a difference of view with Mr. McQuaid which he said caused his dismissal by Research Capital. His affidavit also referred to his having witnessed a margin agreement in 1995 on which he was questioned during his interview by the Association's investigator. This conduct does not form part of the Notice of Hearing, and it is not necessary to address it here.

In the District Council's view, the standards applicable to pre-notice delay must be applied to each of the charges contained in the Notice of Hearing.

##### **1: The First Charge: Inaccurate Application Form**

The First Charge is that Mr. Shaughnessy omitted material information from an application for approval dated December 23, 1994, sworn by Mr. Shaughnessy and filed with the TSE on the same day. Question 16 on the application form asks whether any civil claims based on fraud, deceit or misrepresentation are outstanding against an applicant. Mr. Shaughnessy's application stated that there were no outstanding civil proceedings against him, when in fact he was a defendant in an action initiated in November, 1993 alleging that he participated in a conspiracy to defraud and made misrepresentations to the plaintiffs, while employed by Merit as a registered representative.

In a letter dated January 27, 1995 Mr. Shaughnessy informed the TSE of this "error", stating that it was an oversight and that he had advised Mr. McQuaid of it. On February 8, 1995, the TSE acknowledged receipt of a letter dated January 27, 1995 from Research Capital and advised that its records had been updated to reflect the change. In a letter dated February 9, 1995 to the TSE, Mr. McQuaid, apparently following prior discussions, acknowledged that Research Capital had been "made aware" of the action involving Mr. Shaughnessy on January 26, 1995 and that "inadvertently an error was made on the Uniform Application Form." The copy of the TSE's letter of February 8, 1995, which was provided to Mr. Shaughnessy in June 1999 and included as an exhibit to his affidavit, contains two handwritten notes of the TSE registration officer, both dated the same day. One states "the attached is fine. We won't do anything about his application and the 'oversight' that he didn't reflect this claim on his application." The second states "no need to send to investigative services."

In his letter of October 25, 1995, Mr. McQuaid advised Mr. MacDermid, the TSE investigator, of Mr. Shaughnessy's failure to disclose the action in his original application form and stated that the matter "came to light when the client sent us a letter." This matter was identified by Ms. Robertson, the Association's investigator, in her letter of August 13, 1998 to Mr. Shaughnessy's counsel and was addressed in his interview on November 3, 1998.

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<sup>14</sup> This standard, derived from the Ontario Court of Appeal's decision under the *Charter*, was adopted by the Supreme Court of Canada as a matter of common law in *R. v. Jewitt*, [1985] 2 S.C.R. 128.

a. Fair Hearing

In his evidence Mr. Shaughnessy stated that he noticed the omission himself and denied any recollection of a letter of complaint. He said that when he was hired by Research Capital, he had advised Ron Hamilton, his branch manager there, in the presence of Mr. Ponech, of the outstanding proceeding and that Mr. Hamilton had full knowledge of the claim. In his evidence, Mr. Ponech recalled Mr. Shaughnessy telling Mr. Hamilton that there was a matter pending, but said he did not realize that it was a lawsuit until the hearing of this motion and that Mr. Hamilton had not asked. Mr. Shaughnessy testified that he was not aware of Mr. Hamilton's current employment or location and thus because of the delay would have difficulty calling him as a witness to confirm his evidence. Both Mr. Shaughnessy's and Mr. Ponech's recollection of the meeting with Mr. Hamilton appeared clear, including the name and location of the restaurant at which they met over lunch.

On the basis of the evidence, the District Council is unable to conclude that the delay in issuing the Notice of Hearing has caused actual prejudice to Mr. Shaughnessy's ability to provide full answer and defence to the First Charge. Both his and Mr. Ponech's recollections seem reasonably full. On the basis of their oral evidence, it does not appear that their recollection has been dimmed substantially by the delay.

While Mr. Shaughnessy said he did not know Mr. Hamilton's "whereabouts" or how to contact him, he testified that he had not attempted to find him. It is not clear that he will not be able to locate Mr. Hamilton, if he tries. In any event, the possibility that he may not be able to locate Mr. Hamilton is balanced by the fact that he would not be entitled to compel Mr. Hamilton's attendance at a hearing before the District Council; nor would the District Council itself, unless Mr. Hamilton is currently employed by a member of the Association.

Mr. Harris argued that the failure to produce the client complaint prejudiced Mr. Shaughnessy's ability to defend against this charge. In the District Council's view, the manner in which the issue was raised does not appear to have great relevance, in view of the disclosure made by Mr. Shaughnessy and its acceptance by Research Capital and the TSE in 1995.

More importantly, it is premature to determine whether it does. In her submissions Ms. McManus said that all of the evidence relating to the First Charge was not put before the panel on this preliminary motion. As a result, the District Council is not now in a position fully to evaluate the impact of the delay on Mr. Shaughnessy's ability to obtain a fair hearing. The significance of the complaint letter will only be apparent in light of all of the evidence concerning this charge that may be presented at a hearing.

Mr. Shaughnessy has thus not demonstrated that a delay will affect his ability to defend against the First Charge to the extent of depriving him of a fair hearing. If this were the only issue, the District Council would deny the request for a stay with respect to this charge.

b. Abuse of Process

The First Charge also presents an abuse of process issue. After the TSE was notified of the omission in Mr. Shaughnessy's application form, it determined not to proceed against him and not even to refer the matter for investigation. As a result, this matter was not identified in Mr. Boyce's letter of October 10, 1995, which informed Mr. Shaughnessy of the TSE's investigation, identifying only the circumstances surrounding his termination. Thus it seems clear that on the merits, the TSE initially determined not to pursue this matter, and it was not taken up by Mr. MacDermid.

It was apparently raised subsequently in connection with the Association's investigation. At the hearing Ms. McManus characterized this alleged violation as purely technical and argued that Mr. Shaughnessy admitted failing to answer the question correctly. In her submission, the only matter in issue is his credibility concerning the manner in which the correction arose, and the absence of the letter is not material. She said that the Association would not have pursued this matter alone, and argued that the Association was entitled to resurrect it when investigating other more serious matters and to proceed on it against Mr. Shaughnessy.

In the District Council's view, resurrecting Mr. Shaughnessy's admitted failure to disclose in this manner is an abuse of process. The omission appears to be a technical one. When it was discovered, whether as a result of a client complaint or Mr. Shaughnessy's review of the form, it was corrected immediately with the approval and to the satisfaction of both Research Capital and the TSE. As Ms. McManus admitted, the Association would not have proceeded against Mr. Shaughnessy on this matter if it were the only one. Yet the other charges are unrelated to it in substance or otherwise. In these circumstances, the First Charge suggests the piling on of a relatively minor offence and imposes additional difficulties on Mr. Shaughnessy's ability to deal with the other, more serious charges. Although there is no indication of any improper motive in bringing this charge forward, the District Council is of the view that it satisfies the standard for ordering a stay.

This case is factually not on all fours with those referred to above. In the *Young* case, for example, the assessment selected by the Ministry of Revenue, or a prosecution under the tax legislation, would not have had as serious consequences as the charge laid against Mr. Young five years later under the *Criminal Code*. Nevertheless, there was no bad faith or improper conduct on the part of governmental officials in failing to proceed with their original plan or in the laying of criminal charges subsequently. Rather, the objective impact of the conduct on Mr. Young's position, after a substantial period of time, led the court to conclude that the charges in question were inconsistent with the fundamental principles of justice underlying the community's sense of fair play and decency. In this case, even though the First Charge is the one that could have been pursued by the TSE in 1995, the District Council has concluded that resurrecting it in the current circumstances is clearly inconsistent with a sense of fair play and decency. It has therefore determined to stay the First Charge.



2. The Second Charge: Know Your Client

a. Prejudice to a Fair Hearing

The Notice of Hearing alleges that between January and September 1995, Mr. Shaughnessy "failed to use due diligence to learn the essential facts" relating to accounts opened for eight individuals. The parties agree that Mr. Shaughnessy did not meet or talk to five of the eight individuals, namely, the two Derksens, Green, Costello and Pinard, before or after opening their accounts. This fact is not in issue. Mr. Shaughnessy admitted this conduct prior to his dismissal by Research Capital, as evidenced in Mr. McQuaid's letter of October 25, 1995. He confirmed this when interviewed by the Association's investigator on November 3, 1998 and again confirmed it in his oral evidence on this motion. He has consistently stated that one of his assistants, Penny Ford or Dena Panageators, filled out the information on the NCAFs for these clients, which Mr. Shaughnessy then signed as the responsible registered representative.

Mr. Shaughnessy's recollection of the events relating to the opening of these accounts seems reasonably full, although he has at various times stated that he could not remember all the details. He recalled the events leading to the investments for each of these clients, the former three, the Derksens and Green, involving the purchase of shares in Spartec International Corporation ("Spartec") and the latter two, Costello and Pinard, a transfer of shares of Global Ecosystems. Mr. Shaughnessy described in some detail visiting the offices of Spartec and viewing it as an undesirable investment which he would not recommend and for which he required the three clients to provide a waiver document before agreeing to allow them to purchase Spartec shares. He described the transactions for Costello and Pinard as having been referred to him by William Dubreuil who, he said, had previously sold them shares in another corporation and wished to make up for it by providing them, in effect, with a gift of shares in a corporation called Global Ecosystems.

While accepting this admission, Mr. Harris argued that the evidence of Mr. Shaughnessy's assistants and of his "partner", Mr. Ponech, were necessary to Mr. Shaughnessy's defence, particularly with respect to issues of mitigation. He submitted that as a result of the delay, Mr. Ponech's and Ms. Panageators' memories had faded and that Ms. Ford was not available as a witness. The evidence presented with respect to these matters does not demonstrate that Mr. Shaughnessy would be unable to meet the Second Charge with respect to these five clients sufficiently to deprive him of a fair hearing.

Mr. Ponech was never in a position to provide evidence relating to the opening of the accounts for these clients. Both he and Mr. Shaughnessy testified that they acted as "partners" and assisted each other with their clients. Mr. Ponech, however, did not interview or prepare NCAFs for Mr. Shaughnessy's clients, but only for his own. He testified that he did not know any of the parties identified and did not deal with them.

It appears that Ms. Panageators filled out the NCAFs for the Derksens and Green and Ms. Ford for Costello and Pinard. In view of the nature of these clients' accounts, it is unlikely that Mr. Ponech would have had any reason to deal with them and in fact did not. As a result, whatever the quality of his

memory, it appears that he would have no evidence to give on issues relevant to the Second Charge.

Mr. Harris referred to Ms. Panageators' interview pointing to several responses to questions which she could not answer because she did not remember. He submitted that if she could have recalled the events, her evidence would have supported Mr. Shaughnessy's position. Ms. Panageators did not testify before the District Council on this motion. There is not, therefore, any basis for a direct assessment of the quality of her memory. Nor is there any basis for concluding that her failure to recollect specific events will operate to the benefit of the Association, rather than Mr. Shaughnessy. On the basis of the evidence presented on this motion, the District Council was unable to conclude that Ms. Panageators' memory loss would prejudice Mr. Shaughnessy's ability to defend against the Second Charge.

Mr. Shaughnessy gave evidence that he discussed the accounts opened for Costello and Pinard with Ms. Ford and that her recollection refreshed his. He stated, however, that she is unwilling to attend at a hearing and testify on his behalf. There is no basis in the evidence to infer that Ms. Ford's unwillingness to testify is a result of the delay in issuing the Notice of Hearing. Mr. Shaughnessy might very well have found himself in the same position with respect to her evidence without the delay. The District Council has no authority to compel anyone other than a member or an employee of a member to testify in such a hearing. No evidence was presented on when Ms. Ford left the industry, if she has.

Mr. Shaughnessy was unable to remember anything about the remaining three clients, Massey, Reeves and Thomas. Although he had been able to identify NCAFs for the other five clients in his interview on November 3, 1998, he had not been presented with NCAFs for Massey, Reeves or Thomas. Nor, it appears, were any such documents provided to Mr. Shaughnessy in fulfilment of the Association's disclosure obligations.

Mr. Harris argued that if documents had not been disclosed, the District Council should infer that they did not exist. He argued that the unavailability of these NCAFs prejudiced Mr. Shaughnessy. Ms. McManus informed the District Council in her oral submissions that she intended to call Mr. McQuaid to prove the elements of the Second Charge relating to Massey, Reeves and Thomas and suggested that other documents, as well, might be available and would be disclosed prior to any hearing on the merits.

As a result of the post-hearing correspondence, the NCAFs for Massey, Reeves and Thomas have now been provided to Mr. Shaughnessy.<sup>15</sup> In any event, their disappearance would not necessarily have operated to Mr. Shaughnessy's detriment. A lack of NCAFs might just as easily assist in his defence with respect to these clients. The District Council is not persuaded that Mr. Shaughnessy is unable to defend against the Second Charge relating to Massey, Reeves and Thomas.

<sup>15</sup> They were not adduced as evidence on this motion, as the post-hearing motion to introduce them was withdrawn.



In the District Council's view, Mr. Shaughnessy has not demonstrated that the pre-notice delay has caused him prejudice sufficient to deprive him of natural justice with respect to the Second Charge. Nor has he adduced evidence, beyond the delay itself, that would suggest an abuse of process with respect to this charge.

b. Personal Prejudice

Relying on the reasoning in the *Blencoe* decision, Mr. Harris submitted that the pre-notice delay prejudiced Mr. Shaughnessy in ways unrelated to the evidence to be presented at the hearing. He submitted that the delay has prevented Mr. Shaughnessy from obtaining other employment in the securities industry as a result of the impending investigation, and has damaged his reputation, thus stigmatizing him in a manner analogous to that accepted by the British Columbia Court of Appeal in *Blencoe* as a basis for staying the proceeding there. In the District Council's view, this type of prejudice does not provide a basis for granting a stay.<sup>16</sup> Even if it did, the evidence presented on this motion does not persuade it that a stay should be granted.

Mr. Shaughnessy testified that he received two job offers after his dismissal by Research Capital. The first related to a position in a new office to be opened in Ontario by a TSE member firm, Union Securities, with Mr. Shaughnessy acting as a sales or branch manager, as well as a registered representative. This appears to be the position referred to in Mr. Shaughnessy's letter of October 25, 1995 to Mr. MacDermid. Mr. Shaughnessy ultimately was not offered this position, for reasons of which he is unaware.

Mr. Shaughnessy also entered into discussions concerning a position as a registered representative with another TSE member firm, Brawley Cathers. For a short period of time Brawley Cathers provided him with an office and use of a phone, while considering employing him as a registered representative. Although Mr. Shaughnessy recollected that this occurred in 1998, Ms. Collins, the controller for Brawley Cathers responsible for transfers of registration, recalled that it was early in 1996. On this issue the District Council prefers Ms. Collins' evidence.

Ms. Collins testified that Brawley Cathers decided not to offer Mr. Shaughnessy a position because of the investigation. She said she learned of it from Research Capital and the Ontario Securities Commission, prior to calling Mr. MacDermid for confirmation. Ms. Collins concluded that Brawley Cathers would have been required to strictly supervise Mr. Shaughnessy, if it employed him while the investigation was pending. Because of Brawley Cathers' lack of resources, it was unable to supervise his activities strictly and decided not to employ him.

Mr. Shaughnessy attributed his inability to obtain these positions to a refusal by the TSE to approve the transfer of his registration while the investigation was pending. He did not

recall any discussion relating to supervision. Mr. Boyce, Mr. Haddad and Mr. MacDermid all testified that it was not TSE policy to refuse to approve a transfer of registration during the course of an investigation, but only to require strict supervision of a registered representative during that period. Mr. MacDermid did not recall any conversation in which he said that Mr. Shaughnessy's registration would not be transferred and testified that he would not have said this in light of the TSE's policy. Mr. Boyce testified, as well, that the TSE did not receive a request to transfer Mr. Shaughnessy's registration to another firm. In response to a question from the Chair of the District Council, however, Mr. Boyce admitted that the TSE might not approve a transfer that allows a person who is being investigated to assume a supervisory position like branch manager.

On the basis of this evidence, the District Council finds that the TSE did not refuse to approve a transfer of Mr. Shaughnessy's registration, although the fact that he was the subject of an investigation did affect the job offer from Brawley Cathers. While it may also have influenced the offer from Union Securities, there was no evidence presented on Union Securities' decisionmaking process.

These were not, however, the only positions considered by Mr. Shaughnessy in the period following his dismissal by Research Capital. He testified that he had contacted Levesque Beaubien in October 1995, but did not pursue a position with this firm because of the discussions with Union Securities. There was no evidence that he attempted to renew discussions with this firm after the Union Securities position fell through.

Mr. Shaughnessy also testified that he considered applying for a position as a salesperson in the mutual fund industry with a firm in Kitchener. He checked with the Ontario Securities Commission and was told that he could transfer his registration to become a mutual fund salesman within five years of the registration. The District Council infers that such a transfer would not have required TSE approval. Mr. Shaughnessy did not pursue this alternative. He stated that he "opted out of it," but did not remember why.

After his concurrent dismissal by Research Capital, Mr. Ponech returned to Merit, his former firm. He testified that Mr. Shaughnessy did not wish to return to Merit, implying that he might have been able to.

The evidence does not support an inference that Mr. Shaughnessy's lack of employment resulted from the delay in issuing the Notice of Hearing. The two job offers that he identified, with Union Securities and Brawley Cathers, occurred no later than early 1996, within six months of his dismissal by Research Capital. While the fact of the investigation might have prevented him from obtaining a supervisory position with Union Securities, it would not have precluded approval of a transfer as a registered representative. In any event, it appears that Mr. Shaughnessy might have had other job opportunities that he did not pursue.

The evidence also does not demonstrate that his inability to obtain employment subsequent to Brawley Cathers' offer is attributable to the investigation. Two letters to the Association in August 1998 from Mr. Shaughnessy's former counsel suggest otherwise. In a letter dated August 11, 1998, John

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<sup>16</sup> It may, however, be a relevant factor to an exercise of the District Council's discretion to stay its proceedings, if the conduct of the Association otherwise gives rise to an abuse of process argument; cf., e.g., *R. v. Young*, 46 O.R. (2d) at 553-554.

Eversley stated that Mr. Shaughnessy had "no present intentions to apply to re-enter the industry"; in a subsequent letter dated August 20, 1998, Mr. Eversley stated that Mr. Shaughnessy had "voluntarily relinquished his status as a Registered Representative." Mr. Shaughnessy, in his affidavit and oral evidence, disavowed the accuracy of both of these statements. On the evidence as a whole, the District Council is unable to conclude that the existence of the investigation, and more particularly, the pre-notice delay, prevented Mr. Shaughnessy from obtaining another position in the securities industry.

Nor can the District Council find that the pre-notice delay resulted in stigmatization of Mr. Shaughnessy. In his affidavit, Mr. Shaughnessy testified that he "suffered the stigma and indignity of not being able to work in my profession" since September 1995. In cross-examination he stated that Bay Street is reasonably small; in 1995, when he became unemployed, the rumour mill started and people, including friends employed by member firms, would give him strange looks. He said that the rumour on the street was that he had lost his licence and he had been told this by various people. He suggested that it was for this reason that no one would hire him, because the view was that he had problems. He also referred to the frustration of not knowing what the charges against him were and the fact that no one would cooperate with him, including a refusal by Research Capital and the TSE to provide him with a copy of his UTN. When asked about these rumours, Mr. Ponech responded that he had not discussed these matters with others, but that he saw nothing unusual about them, other than the normal gossip on the street.

While the District Council can sympathize with Mr. Shaughnessy's feelings and his apprehensions, the reputational loss that he describes falls far short of stigma of the nature suffered by Mr. Blencoe. Moreover, the evidence does not indicate that the rumours described by Mr. Shaughnessy resulted from the investigation, rather than his dismissal by Research Capital. His testimony was only that they began when he became unemployed and that he had lost his licence, neither of which appears to come from the fact that he was subject to an investigation. In the District Council's view, the evidence is not sufficient to demonstrate that the pre-notice delay in this case resulted in stigmatization of Mr. Shaughnessy analogous to that accepted in *Blencoe* or *Kodellas*.

### 3. The Third Charge: Unauthorized Trades

The third alleged violation in the Notice of Hearing is that between January and September 1995, Mr. Shaughnessy "conducted unauthorized trades in the accounts of" the Derksens and Green. The alleged trades were in shares of Spartec, mentioned in connection with the Second Charge. Mr. Shaughnessy's evidence was that he had investigated Spartec and would not recommend purchase of its shares. As a result, he required his assistant to prepare waiver documents for these clients to be executed prior to their purchasing the shares. The waiver was intended to confirm that the clients were buying the shares without receiving advice from him or Research Capital, and, he said, Mr. Hamilton was aware of it. He stated that he dictated the waiver and it was typed by his assistant, who provided it to the clients. He could not recollect which of his assistants

prepared the waiver, but he believed that the assistant informed the clients of the need for it. Mr. Shaughnessy did not personally advise them of his views of Spartec.

Mr. Shaughnessy does not have a copy of this waiver document, nor was one provided to him by the Association as part of its disclosure. Mr. McQuaid's letter of November 20, 1995 to Mr. MacDermid refers to Mr. Shaughnessy's "protecting himself by having the clients sign a letter acknowledging that they wanted to purchase Spartec," a copy of which was said to be enclosed, but Mr. MacDermid did not recall receiving a waiver letter. One of the documents provided by Ms. McManus following the hearing was a blank form letter addressed to Mr. Shaughnessy stating that the person wished to purchase shares in Spartec, but Mr. Harris in his letter of January 6, 2000, said it was not the waiver document.<sup>17</sup> Mr. Ponech testified that he recalled seeing a waiver document but did not remember for whom it was intended. Ms. Panageators appears to have been the assistant who prepared the NCAFs for the Derksens and Green, but the District Council was not referred to the transcript of her interview in connection with the waiver.

A waiver document of the nature described by Mr. Shaughnessy could address the charge of unauthorized trading. Having a copy of it would clearly assist him to do so. Nevertheless, the District Council is not satisfied on the evidence presented on this motion that the lack of such a document would deprive Mr. Shaughnessy of natural justice with respect to the Third Charge, especially in view of his testimony and Mr. Ponech's. While it is possible that the unavailability of a waiver document may affect Mr. Shaughnessy's ability to defend against this charge, a firm finding on this issue can only be reached in light of all of the evidence relevant to it. The District Council, therefore, has determined not to stay the Third Charge.

### 4. Disclosure of Particulars

Mr. Harris also submitted that the investigation was unfairly conducted because Mr. Shaughnessy was not advised of the particular matters being investigated and was not provided with a copy of his UTN until 1998. Although in some circumstances it may be desirable to do so, there is no obligation on the Association to provide particulars of matters being investigated to a person who is the subject of the investigation. It need only advise such a person in writing of the matters under investigation; see By-laws, para. 19.5; see also *In the Matter of Derivative Services Inc.*, (2000) 23 O.S.C.B. 3492 (May 12) at 3498; cf. *Ontario Securities Commission v. Biscotti*, (1988) 40 B.L.R. 160 (Ont. H.C.J.) at 173-76. In this case any disclosure obligation relating to the investigation appears to have been satisfied by Ms. Robertson's letter of August 13, 1998, quoted in paragraph 28 of Mr. Shaughnessy's affidavit.

### 5. Conduct of the Investigation

The District Council has addressed the evidence before it in light of the relevant legal standards which require

<sup>17</sup> As this was not the waiver document, and no motion was brought, it was not admitted into evidence on the delay motion.

evidence of actual prejudice to a respondent's ability to conduct a defence against allegations in the notice of hearing. As a result, it has not been necessary to address the conduct of the investigation by the TSE and the Association.

The Association led evidence to justify the forty-six month delay between the opening of the TSE's investigation and the issuance of the Notice of Hearing. After the investigation was opened, Mr. MacDermid requested information from Mr. Shaughnessy and Research Capital in October and November 1995 and received Mr. Shaughnessy's letter of October 25, 1995 and the two responses from Mr. McQuaid. He had taken no further steps in this investigation prior to 1997, when responsibility for it was transferred to the Association. The reason for this failure to pursue the investigation was the fact that Mr. MacDermid was also responsible for two or three other investigations, which were complex and considered more serious than Mr. Shaughnessy's and which he gave priority. There were four other investigators at the TSE during this period, all of whom were fully occupied. The explanation for the delay while the investigation was being conducted by the TSE, therefore, was based on the TSE's limited resources and the allocation of priorities among investigations.

When the investigation was transferred to the Association, there was a further delay before it was assigned to the Association investigator on March 31, 1998, after which it proceeded at a reasonable pace in view of the correspondence and other communications between the investigator and Mr. Shaughnessy's counsel. This delay of approximately fifteen months was because of transitional issues resulting from the transfer, reflecting institutional and resource requirements of the Association.

If the Association were required to demonstrate that the delay was reasonable, the explanation given would not have done so. The allegations against Mr. Shaughnessy appear not to have involved complex matters; once an investigator was assigned, it was completed in approximately eight months, despite the delays preceding the interview of Mr. Shaughnessy in November. In the District Council's view, it is incumbent on the Association to pursue its investigations efficiently in view of the unsettling effects an outstanding investigation can have on an individual who is its target.

#### **E. Conclusion**

The District Council has determined to stay the First Charge and to dismiss the motion with respect to the Second and Third Charges, but without prejudice to Mr. Shaughnessy's entitlement to address these matters again in light of new evidence or issues that may be raised at the hearing on the merits.

This motion has demonstrated to the District Council that prejudice from pre-notice delay can best be determined at a hearing on the merits, when all of the evidence is presented; see, e.g., *Cicci v. B.C.S.C.*, [1993] B.C.J. No. 2823 (B.C.C.A. Chambers), para. 30. The prejudice to Mr. Shaughnessy's ability to defend against the Second and Third Charges remains largely speculative; at this point it is still no more than a possibility based on inference, even with the amount of evidence presented on this motion. A hearing on the merits is necessary to demonstrate the nature and degree of any real prejudice to him.

This was the procedure followed by the board of inquiry in *Ford Motor Company of Canada v. Ontario Human Rights Commission*, [1999] O.J. No. 2530 (Div. Court). The District Council is of the view that as a general matter the appropriate procedure to be followed to address pre-notice delay is to hold the hearing on the merits so that all issues can be resolved in light of the complete case presented by all parties. For these reasons, the District Council is prepared to consider submissions relating to any actual prejudice that may be demonstrated in the course of the hearing on the merits.<sup>18</sup>

#### **F. Ruling**

For all of these reasons the District Council rules that:

1. the First Charge is stayed;
2. the motion is dismissed with respect to the Second Charge and the Third Charge; and
3. a hearing to consider the remaining matters on the merits shall be scheduled at the earliest convenient date.

Dated this 26<sup>th</sup> day of July, 2000

"Philip Anisman", Chair

"Thomas A. Flanagan", Member

"Brigitte J. Geisler", Member

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As noted above, the Supreme Court of Canada heard argument in the appeal in *Blencoe* on January 24, 2000, but has not yet released its decision. The District Council's ruling also allows Mr. Shaughnessy an opportunity to address the Supreme Court's decision at the hearing on the merits with respect to relevant issues.

### 13.1.4 TSE Inc. - Recognition of Indexes and Trading of Securities Similar to Index Participation Funds

#### TORONTO STOCK EXCHANGE REQUEST FOR COMMENTS

#### RECOGNITION OF INDEXES AND TRADING OF SECURITIES SIMILAR TO INDEX PARTICIPATION FUNDS

On July 26, 2000, the Board of Directors of The Toronto Stock Exchange Inc. (the "Exchange") approved amendments to the Rules and Policies of the Exchange related to the recognition of Indexes and the trading of Index Participation Units ("IPUs") and securities similar to IPUs.

The changes to the Rules and Policies are effective as of July 26, 2000 and will remain in effect on an interim basis pending approval of the changes by the Ontario Securities Commission (the "OSC") following public notice and comment. Comments on the changes to the Rules and Policies should be in writing and delivered within 30 days of the date of this notice to:

James E. Twiss  
Legal and Policy Counsel  
Regulatory & Market Policy  
The Toronto Stock Exchange  
2 First Canadian Place  
Toronto, Ontario. M5X 1J2  
Fax: (416) 947-4398  
e-mail: jtwiss@tse.com

A copy should also be provided to:

Randee Pavalow  
Manager, Market Regulation  
Capital Markets Branch  
Ontario Securities Commission  
Suite 800, Box 55,  
20 Queen Street West  
Toronto, Ontario. M5H 3S8  
Fax: (416) 593-8240

#### Summary of Amendments

The amendments to the Rules and Policies provide that:

- an index may be recognized by an administrative act of the Exchange (rather than by the adoption of a resolution of the Board of Directors);
- a Specialist may be appointed for market making activities for securities which are similar to IPUs; and
- securities which are similar to IPUs are eligible for Program Trading and Exchange for Physicals.

#### Background:

##### *Definition of "Index"*

On June 27, 2000, the Board of Directors specifically recognized the Dow Jones Canada 40 Index (the "Dow 40 Index") as an index for the purposes of the Rules. Staff of the OSC confirmed that the recognition of the Dow 40 Index constituted an administrative act by the Exchange that required neither approval by the OSC nor public comment. The Exchange believes that the recognition of additional indexes should be made by the Exchange rather than requiring approval of the Board of Directors.

In determining whether to recognize an index, the sole criteria to be applied by the Exchange will be whether the person maintaining the index provides:

- adequate public disclosure of the current rules and composition of the index; and
- adequate prior public disclosure of any changes in the rules governing the index or changes in the composition or weighting of the components of the index.

Public disclosure of information regarding the index will ensure that the investment community is aware of any buying and selling opportunities that may arise as a result of an adjustment in the index. This will tend to reduce volatility at or near the close of the market in trading of affected securities on the date of the adjustment to the index. The objective of the Exchange is to allow index rebalancing by investors to be carried out in as orderly a market as possible.

##### *Appointment of Specialists*

Presently, a Participating Organization may be appointed as a "Specialist" to undertake market making activities for Index Participation Funds. A Specialist has the same rights and obligations as a Registered Trader appointed for other types of securities. However, the Minimum Guaranteed Fill for Index Participation Units is, and historically has been, 15,000 units in order to facilitate trading by institutions and trading in listed derivatives.

The Exchange has received applications, and anticipates receiving additional applications, to list securities which will seek to track the return of indexes calculated from other markets or securities which do not trade on the Exchange. These securities will not qualify as Index Participation Units for the purposes of the Rules as the investment portfolio of the issuers will not be comprised of securities which are listed on the Exchange. However, it is also anticipated that derivatives based on these funds or the underlying indexes may be listed on the Montreal Exchange or other markets. As such, a Minimum Guaranteed Fill comparable to that used for Index Participation Units is considered desirable both by the issuers and the Exchange. The Exchange is therefore proposing an amendment to the Rules to permit the appointment of a Participating Organization as a Specialist for trading of:

- units of a trust which is a mutual fund trust for the purposes of the *Income Tax Act* (Canada) where substantially all of the assets of the fund are the same as the underlying interest of an option or future listed on an

exchange; and

- shares of a listed security for which, in the opinion of the Exchange, the requirements of the market making activities make it appropriate to appoint a Participating Organization.

The Exchange intends to limit the appointment of a Specialist to listed securities which are Exchange-traded products which are similar in structure to IPUs or have trading patterns and requirements which are similar to IPUs. In addition, the Exchange will seek the concurrence of the OSC prior to appointing a Specialist for a security where the Exchange has determined that the requirements of the market making activities for that security make it appropriate to appoint a Participating Organization.

*Amendment of Policies on Program Trading and Exchange for Physicals*

If the Exchange lists units in a mutual fund trust where substantially all of the assets of the fund are the same as the underlying interest of an option or future listed on an exchange (including securities based on indexes in other markets and for which options and futures are listed on the Montreal Exchange), participants in the Exchange's markets should be able to trade these instruments in essentially the same manner as if they were Index Participation Units. In particular:

- a trade in units of such a mutual fund trust should be exempt from the short sale rule if the trade offsets a pre-existing derivatives position; and
- an exchange between a futures contract and the applicable number of units of such mutual fund trust should be able to be completed in accordance with the procedures established for exchange for physicals.

The Program Trading Policies were amended to remove references to Toronto 35 Index Participation Units ("TIPS 35") and TSE 100 Index Participation Units ("TIPS 100") together with the related indexes, options and futures. With the merger on March 6, 2000 of the Toronto 35 Index Participation Fund and the TSE 100 Index Participation Fund into the S&P/TSE 60 Index Participation Fund, references to TIPS 35 and TIPS 100 are redundant as are references to the related indexes, options and futures. The Program Trading Policies were reformulated using generic language which would be applicable for any Index Participation Unit based on an index recognized by the Exchange, including any IPU that may be based on the Dow 40 Index, or any units of a mutual fund trust where substantially all of the assets of the funds are the same as the underlying interest of an option or future listed on an exchange.

**Text of the Amendments to the Rules and Policies**

Appendix "A" is the text of the amendments to the Rules, passed by the Board of Directors of the Exchange on July 26, 2000, regarding the change in the approval process for an Index and the circumstances when the Exchange may appoint a Specialist for a listed security. Appendix "B" is the text of amendments to the Policies, passed by the Board of Directors of the Exchange on July 26, 2000, regarding changes to Program Trading and Special Terms Trading.

**Questions**

Questions should be directed to Regulatory and Market Policy by contacting either Patrick Ballantyne, Director, at (416) 947-4281 or James E. Twiss, Legal and Policy Counsel, at (416) 947-4333.

BY ORDER OF THE BOARD OF DIRECTORS

LEONARD P. PETRILLO  
VICE PRESIDENT, GENERAL COUNSEL AND SECRETARY

APPENDIX "A"

THE RULES  
of  
THE TORONTO STOCK EXCHANGE

The Rules of The Toronto Stock Exchange are hereby amended by:

1. Repealing the definitions of "Index", "IPU Specialist" and "IPU Specialist Agreement" and substituting the following:

"Index" means an index comprised of listed securities which is recognized for the purposes of this definition by the Exchange.

"Specialist" means a Participating Organization which has entered into a Specialist Agreement.

"Specialist Agreement" means an agreement between the Exchange and one or more Participating Organizations providing for market making and other duties by the Participating Organization or Participating Organizations in connection with a listed security.

2. Repealing Rule 4-608 and substituting the following:

**Appointment of Specialist**

- (1) Notwithstanding any other provision of this Division, the Exchange may appoint a Participating Organization as a Specialist in connection with responsibility for the trading of:
  - (a) IPU's of a particular trust;
  - (b) units of a trust which is a mutual fund trust for the purposes of the *Income Tax Act* (Canada) where substantially all of the assets of the fund are the same as the underlying interest of an option or future listed on an exchange; or
  - (c) shares of a listed security for which, in the opinion of the Exchange, the requirements of the market making activities make it appropriate to appoint a Participating Organization.
- (2) The application for appointment as a Specialist shall be in the form required by the Exchange from time to time.
- (3) Except as otherwise provided in the Specialist Agreement, all Exchange Requirements pertaining to Registered Traders shall apply to a Specialist, including but not limited to, procedures for allocation of Specialist appointments, determination of responsibilities of Specialists and review of performance of Specialists.
- (4) Where more than one Participating Organization is appointed by the Exchange as Specialist for a particular security, the obligations of the Participating Organizations may be joint and several as specified in the Specialist Agreement.

- (5) The Exchange may revoke or suspend approval of a Specialist, subject to the provisions of Part 7.
- (6) The trading activities of the Specialist in securities the subject of the Specialist Agreement shall be performed by an Approved Trader employed by the Specialist.

THIS RULE AMENDMENT MADE this 26th day of July, 2000.

"Daniel F. Sullivan", Chair

"Leonard P. Petrillo", Secretary

APPENDIX "B"  
THE POLICIES  
of  
THE TORONTO STOCK EXCHANGE

The Policies of The Toronto Stock Exchange are hereby amended as follows:

1. Policy 4-1001 is repealed and the following substituted:

(1) **Definition of Program Trading for Short Sale Exemption**

For purposes of Rule 4-1001, a program trade is:

(a) a simultaneous trade in listed securities comprising at least 80 percent of the component share weighting of an Index that offsets a pre-existing position in:

- (i) a future, the underlying interest of which is the Index,
- (ii) an option, the underlying interest of which is the Index, or
- (iii) an option, the underlying interest of which is the Index Participation Unit in respect of the Index;

(b) a trade in Index Participation Units that offsets a pre-existing position in:

- (i) a future, the underlying interest of which is the Index in respect of the Index Participation Unit,
- (ii) an option, the underlying interest of which is the Index in respect of the Index Participation Unit, or
- (iii) listed securities comprising at least 80 percent of the component share weighting of the Index in respect of the Index Participation Unit; or

(c) a trade in units of a trust which is a mutual fund trust for the purposes of the *Income Tax Act* (Canada) where substantially all of the assets of the fund are the same as the underlying interest of an option or future listed on an exchange that offsets a pre-existing position in:

- (i) the applicable future,
- (ii) the applicable option, or
- (iii) listed securities comprising at least 80 percent of the component share weighting of the portfolio of the mutual fund.

(2) **Acceptable Hedge Ratios**

The Participating Organization making the trade shall make a reasonable determination of the equivalent spot, future, option, stock, IPU or mutual fund unit positions. The Exchange will apply the following guidelines in considering whether a determination is reasonable.

1. **Units Against Baskets** - The number of IPU or mutual fund units that can be shorted against the assumption of a long position in the underlying securities must be in accordance with the prescribed number of units per basket as reported by the Exchange, which number may change from time to time. As the prescribed number of units may not be an integral multiple of a board lot, the number of units may be rounded up to the nearest integral multiple of a board lot.

2. **Baskets Against Units** - The basket of securities that can be shorted against the assumption of a long position in the applicable IPU or mutual fund must be in accordance with the prescribed number of units per basket as reported by the Exchange, which number may change from time to time.

3. **Units Against Futures** - The IPU or mutual fund unit equivalents to a futures contract must be in accordance with the prescribed number of units per basket as reported by the Exchange, which number may change from time to time.

4. **Units Against Options** - Each long 50 call and short 50 put position (synthetic future) with the same strike and expiry has an equivalent position offset of short the prescribed number of units to a basket.

5. **Baskets Against Options** - One short basket has an equivalent options offset of long 50 calls and short 50 puts of the same strike and expiry. For other option positions, approximate deltas should be used. As a guide, at-the-money options would have an approximate delta value of 0.50, in-the-money options should have deltas greater than 0.50 and out-of-the-money options should be less than 0.50.

6. **Baskets Against Futures** - One short basket has an equivalent futures offset of 25 long futures contracts if the underlying interest of which is the S&P/TSE 60 Index and such other number of futures contracts as is acceptable to the Exchange if the underlying interest is other than the S&P/TSE 60 Index.

2. Policy 4-1003 is repealed and the following substituted:

**4-1003 Offsetting Orders on Expiry**

(1) **Definition of Program Trading for Must-Be-Filled Orders**

For purposes of Rule 4-1003, a program trade is a simultaneous trade undertaken on the expiry date of an option or future in listed securities comprising at least 70 percent of the component share weighting of an Index where such trade offsets a pre-existing position in a future or an option the underlying interest of which is the Index.

(2) **Must-Be-Filled Order Reporting Requirements**

The following requirements apply to Must-Be-Filled Orders:

1. **Entry of Orders** – A Must-Be-Filled Order shall be entered on the day prior to the expiry date (normally a Thursday) between 4:00 p.m. and 5:30 p.m. or at such other times as may be required or permitted by the Exchange (the "reporting time"). An order for a program trade may be entered at a time other than the reporting time only with the consent of the Exchange.

A Must-Be-Filled Order may be cancelled prior to the end of the reporting time through normal cancellation and correction procedures. After the end of the reporting time, each Must-Be-Filled Order is committed and may be withdrawn from the trading system only with the consent of the Exchange.

The Exchange may release a ticker notice regarding material imbalances in orders for a particular listed security after the end of the reporting time.

2. **Prearranged Trades** – A Participating Organization with both sides of a program trade arranged may enter the orders at a time other than during the reporting time. The trading system will seek out such orders and will cross them automatically where possible.

3. **Automatic Matching** - The trading system will automatically match all program trades, market orders and better-priced limit orders where possible. Any imbalance after matching of these orders will be included in the regular opening following the normal allocation rules and receive the calculated opening price. Market orders and better-priced limit orders will be filled first against an imbalance of large program trades.

3. Policy 4-1103(3) is amended by repealing the preamble to the Policy and substituting the following:

If a person to whom this Policy applies seeks to exchange a futures contract for the equivalent number of listed securities underlying the futures contract (including an equivalent number of units of the applicable Index Participation Fund or mutual fund), the following provisions shall apply.

THIS POLICY AMENDMENT MADE this 26th day of July, 2000.

"Daniel F. Sullivan", Chair

"Leonard P. Petrillo", Secretary

13.1.5 **Richard Schonfeldt**

**NOTICE TO PUBLIC**

**Subject: The Toronto Stock Exchange Sets Contested Hearing Date  
In the Matter of Richard Schonfeldt**

The Toronto Stock Exchange Inc. ("TSE") will convene a Hearing in the matter of Richard Schonfeldt before a Panel of the Hearing Committee of the TSE (the "Panel") on August 17, 2000, at 10:00 a.m., or as soon thereafter as the Hearing can be held, in the Quebec Room, 4<sup>TH</sup> Floor, The Toronto Stock Exchange Inc., The Exchange Tower, 2 First Canadian Place, Toronto, Ontario. The Hearing is open to the public.

The purpose of this Hearing is to determine whether Richard Schonfeldt contravened or failed to comply with section 11.26(1) of the General By-law of the TSE. In particular, the TSE alleges that:

RICHARD SCHONFELDT, on December 31, 1998, while an Approved Person employed with Levesque Securities Inc. a Member of the Exchange (now known as National Bank Financial Inc., a Participating Organization of The Toronto Stock Exchange Inc.), entered one or more purchase orders for the account of a customer near the close of trading on the last trading day of the month when there was reason to believe that the intended purpose of such action was to effect a high closing price or closing quotation in a listed security contrary to section 11.26(1) of the General By-law of The Toronto Stock Exchange.

The decision of the Panel and the terms of any penalties imposed will be published by the TSE in a Notice to Participating Organizations.

Reference: Tom Atkinson  
Director, Investigations and Enforcement Division  
Toronto Stock Exchange Regulation Services  
(416) 947-4310



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**Chapter 25**  
**Other Information**

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**25.1.1 Securities**

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**Transfer Within Escrow**

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<u>COMPANY NAME</u>	<u>DATE</u>	<u>FROM</u>	<u>TO</u>	<u>NO. AND TYPE OF SHARES</u>
Copper Hill Corporation	July 24, 2000	Alex Turpin	Pearl Resources Inc.	60,000 Common Shares

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