The Ontario Securities Commission

OSC Bulletin

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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)

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Table of Contents

Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

FEBRUARY 6, 2004

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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
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20 Queen Street West
Toronto, Ontario
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Robert L. Shirriff, Q.C.	—	RLS
Suresh Thakrar	—	ST
Wendell S. Wigle, Q. C.	—	WSW

SCHEDULED OSC HEARINGS

DATE: TBA	**Ricardo Molinari, Ashley Cooper, Thomas Stevenson, Marshall Sone, Fred Elliott, Elliott Management Inc. and Amber Coast Resort Corporation** s. 127 E. Cole in attendance for Staff Panel: TBA
DATE : TBA	**Patrick Fraser Kenyon Pierrepont Lett, Milehouse Investment Management Limited, Pierrepont Trading Inc., BMO Nesbitt Burns Inc.*, John Steven Hawkyard+ and John Craig Dunn** s. 127 K. Manarin in attendance for Staff Panel: HLM/MTM/ST * BMO settled Sept. 23/02 + April 29, 2003
March 8 & 9 10am – 4pm March 10, 2004 10am – 2 pm	**ATI Technologies Inc., Kwok Yuen Ho, Betty Ho, JoAnne Chang, David Stone, Mary de La Torre, Alan Rae and Sally Daub** s. 127 M. Britton in attendance for Staff Panel: PMM/MTM/PKB
May 2004	**Gregory Hyrniw and Walter Hyrniw** s. 127 Y. Chisholm in attendance for Staff Panel: TBA

ADJOURNED SINE DIE

Buckingham Securities Corporation, Lloyd Bruce, David Bromberg, Harold Seidel, Rampart Securities Inc., W.D. Latimer Co. Limited, Canaccord Capital Corporation, BMO Nesbitt Burns Inc., Bear, Stearns & Co. Inc., Dundee Securities Corporation, Caldwell Securities Limited and B2B Trust

Global Privacy Management Trust and Robert Cranston

Philip Services Corporation

Robert Walter Harris

Andrew Keith Lech

S. B. McLaughlin

Livent Inc., Garth H. Drabinsky, Myron I. Gottlieb, Gordon Eckstein, Robert Topol

1.1.2 Correction to Date for Comment Period for Request for Comment on Proposed National Instrument 31-101 – Requirements under the National Registration System and Proposed National Policy 31-201 – National Registration System

CORRECTION TO DATE FOR COMMENT PERIOD FOR REQUEST FOR COMMENT ON PROPOSED NATIONAL INSTRUMENT 31-101 – REQUIREMENTS UNDER THE NATIONAL REGISTRATION SYSTEM AND PROPOSED NATIONAL POLICY 31-201 – NATIONAL REGISTRATION SYSTEM

A Request for Comment on Proposed National Instrument 31-101 – Requirements under the National Registration System and proposed National Policy 31-201 – National Registration System was published in the OSC Bulletin on January 9, 2004 (27 OSCB 618). It incorrectly stated that the deadline for submitting comments is March 30, 2004. The correct deadline for submitting comments is April 8, 2004.

1.1.3 RS Amendment to the Policies made under Universal Market Integrity Rules - Public Access to Hearings - Notice of Commission Approval

MARKET REGULATION SERVICES INC.
AMENDMENT TO THE POLICIES MADE UNDER UNIVERSAL MARKET INTEGRITY RULES
PUBLIC ACCESS TO HEARINGS

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission has approved an amendment to the Policy 10.8 under the Universal Market Integrity Rules adding section 9.7 "Public Access to Hearing". In addition, the Alberta Securities Commission, the British Columbia Securities Commission, the Manitoba Securities Commission and the Commission des valeurs mobilieres du Quebec have also approved the amendment. A copy and description of the amendments were published on October 11, 2002 at (2002), 25 OSCB 6780. One comment was received dated October 8th, 2002. The final version of the amendment and a summary of the comment received are published in Chapter 13 of this Bulletin.

1.1.4 RS Amendment to the Universal Market Integrity Rules Definition of "Regulated Person" - Notice of Commission Approval

MARKET REGULATION SERVICES INC.

AMENDMENT TO THE UNIVERSAL MARKET INTEGRITY RULES

DEFINITION OF "REGULATED PERSON"

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission has approved an amendment to the Universal Market Integrity Rules to expand the definition of a "Regulated Person" to include a person who is subject to the rules of a marketplace that has retained RS to be its regulation services provider. In addition, the Alberta Securities Commission, the British Columbia Securities Commission, the Manitoba Securities Commission and the Commission des valeurs mobilieres du Quebec have also approved the amendment. A copy and description of the amendments were published on October 31, 2003 at (2003), 26 OSCB 7197. No comments were received. The final version of the amendment is published in Chapter 13 of this Bulletin.

1.2 Notices of Hearing

1.2.1 Mark Edward Valentine - Amended Amended Statement of Allegations

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

AND

IN THE MATTER OF
MARK EDWARD VALENTINE

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

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

Background

a) Mark Valentine

1. Mark Edward Valentine was the Chairman, a Director and the largest shareholder of Thomson Kernaghan & Co. Ltd. ("TK"). He resides in Toronto, Ontario. Valentine is a Registered Representative with the Investment Dealers' Association ("IDA").

2. TK is a corporation incorporated pursuant to the laws of Ontario and is registered with the IDA as an Investment Dealer in the provinces of Ontario, British Columbia, Alberta and Quebec.

b) The Funds

3. Valentine is the President, Director and a shareholder of VMH Management Ltd. ("VMH"), an Ontario corporation. VMH was the General Partner of the Canadian Advantage Limited Partnership ("CALP"), an Ontario limited partnership which operated as a private investment fund.

4. Advantage (Bermuda) Fund Ltd. ("CALP Offshore Fund") is a mutual fund company incorporated under the laws of Bermuda and is CALP's corresponding offshore fund.

5. Valentine is the President, Director and a shareholder of VC Advantage Limited ("VC Ltd."), an Ontario corporation. VC Ltd. was the General Partner of the VC Advantage Fund Limited Partnership ("VC Fund"), an Ontario limited partnership which operated as a private investment fund.

6. VC Advantage (Bermuda) Fund Ltd. ("VC Offshore Fund") is a mutual fund company incorporated under the laws of Bermuda and is the VC Fund's corresponding offshore fund.

7. Collectively, CALP, CALP Offshore Fund, VC Fund and VC Offshore Fund will be referred to as the "Funds".

8. Pursuant to written partnership agreements and offering memoranda, Valentine, acting through VMH and VC Ltd. (together, the "Management Companies"), was authorized to recommend, advise on and enter into all investments on behalf of the Funds and did so.

9. The majority of the limited partners (unitholders) of the Funds were individual retail clients of TK. The Funds performed all of their securities transactions through trading accounts held at TK. Valentine was the Registered Representative at TK for these accounts.

10. Neither Valentine nor the Management Companies are registered with the Commission as Investment Counsel/Portfolio Managers.

c) Hammock Group Ltd.

11. Valentine has a beneficial interest in Hammock Group Ltd., a corporation registered pursuant to the laws of Bermuda. Hammock had a trading account at TK, and Valentine was the Registered Representative for that account. The Hammock account was not designated as a pro account on the books and records of TK.

d) Cameron Brett Chell

12. Cameron Brett Chell is a known associate of Valentine. Chell was a shareholder and the Chairman of VC Ltd., and owned and operated Chell Group Corporation ("Chell Corp."), an internet-related company. The shares of Chell Corp. traded on the NASDAQ exchange.

13. Among other things, Chell also co-founded Jawz Inc. ("JAWZ"), an internet-related company whose shares traded on the NASDAQ exchange.

14. Chell was formerly a registered salesperson at McDermid St. Lawrence Securities Ltd. in Calgary, Alberta. In November of 1998 Chell entered into a settlement agreement with the Alberta Stock Exchange admitting to violations of the General By-Law of the Exchange and agreeing to an order that he:

    i) be prohibited against Exchange approval in any capacity for five years;

    ii) be placed under strict supervision for a period of two years following re-registration in any capacity; and

iii) be fined $25,000.

15. Chell is not currently a registrant of either the Alberta or the Ontario Commissions.

The "Death Spiral" Financing of JAWZ

16. In August of 2000, Valentine caused CALP to enter into a financing transaction with JAWZ.

17. In this transaction, in return for its investment, CALP acquired floorless warrants to purchase shares of JAWZ. The warrants provided that CALP would receive increasing numbers of JAWZ shares as the share price declined. This type of financing creates a strong incentive for the investor to sell securities short in a relatively illiquid market, which is often referred to as "death spiral" or "toxic" financing.

18. On November 7, 2000, TK's research department issued a research report regarding JAWZ shares which rated them as a "buy". TK did not disclose in this report, or to any of its clients holding JAWZ shares at that time, the fact that JAWZ had entered into this type of financing, the fact that the warrants were held by a TK client, or the fact that the Chairman of TK was the President of the General Partner of the holder of the "death spiral" warrants.

TK's Financial Difficulties

a) The Trilon Loans

19. By the spring of 2001, TK was in financial difficulty. In particular, it was at least $3,000,000 short of the risk-adjusted capital ("RAC") that it was required by the IDA to maintain for the protection of its clients. Valentine, along with other senior officers of TK, approached Trilon Bancorp Inc. to obtain a short-term loan which would permit TK to meet its RAC requirement.

20. On March 30, 2001, Trilon advanced the sum of $5,000,000 to TK Holdings Inc. These funds were used to purchase $5,000,000 worth of preferred shares of TK. The loan was to be repaid in full by June 30, 2001. This transaction was properly reported to the IDA. On July 3, 2001 the loan was repaid in full.

21. In July of 2001, Valentine and other senior officers of TK approached Trilon for a further loan to assist TK in meeting its RAC requirement. Trilon agreed to provide a US$5,000,000 loan facility with an initial advance of US$3,000,000. The funds were advanced to Valentine personally, and the loan facility was to be repaid in full by December 31, 2001. TK guaranteed all of Valentine's obligations under the loan facility.

22. On July 31, 2001, US $3,000,000 was advanced to Valentine, and US $816,945 ($1,250,579.41) of this sum was placed in a trading account at TK held in the name of Trilon Securities Corp. TK reported to the IDA that the $1,250,579.41 represented a subordinated loan made by Valentine to TK. TK did not disclose to the IDA that further funds had been advanced by Trilon to Valentine, and did not disclose to the IDA that it had guaranteed Valentine's entire obligation to Trilon.

23. Valentine was unable to repay the US $3,000,000 advance by the due date of December 31, 2001. He therefore negotiated several further advances of funds and extensions of the repayment deadline under the loan facility, first to January 7, 2002, and then to January 11, 2002, March 31, 2002 and finally July 15, 2002. As of that date, the amount outstanding on the loan was approximately US $5,600,000. Valentine defaulted on the loan on July 15, 2002.

b) The Research Capital Sale

24. As the Trilon loans were not sufficient to sustain TK's financial position, by the spring of 2002, TK had entered into negotiations to sell the majority of its client accounts to Research Capital Corporation. Client accounts managed by Valentine and those associated with him were not included in the proposed transaction. Rather, the negotiations contemplated that Valentine and his associates would continue to operate their business under the TK name after the sale.

25. In order to facilitate the sale, TK stipulated to Valentine that after March 31, 2002, the profits and liabilities of his inventory account would change from being split 50/50 between Valentine and the remainder of TK's shareholders, to being the sole liability of Valentine.

The March 28, 2002 Transactions

26. On March 28, 2002, Valentine conducted two series of transactions. Each series of transactions involved numerous trades and included trading in the Funds' accounts, in Valentine's personal accounts and in the accounts of other TK clients.

27. At the time of these transactions, the Funds were not permitted to acquire further securities due to amendments made to their partnership agreements.

a) The Chell Corp. Transaction

28. On March 28, 2002, Valentine's pro account received 1,060,000 shares of Chell Corp. that belonged to CALP without any cash payment by Valentine. Valentine claimed that the shares were provided to repay a debt of US $1,060,000 owed

by CALP to him personally. The shares were thus transferred at a value of US $1 per share.

29. Valentine's explanation for CALP's debt to him was that CALP had borrowed US $360,000 from him in July 2001, and another US $700,000 from him in January 2002.

30. On the same date, pursuant to sell orders placed March 26, 2002, after receiving the Chell Corp. shares from CALP, Valentine effected the following transactions:

    a) Valentine sold 1,000,000 Chell Corp. shares at a price of US $2 per share to his inventory account;

    b) Valentine sold 375,000 Chell Corp. shares at a price of US $2 per share from his inventory account to the VC Fund;

    c) Valentine sold 375,000 Chell Corp. shares at a price of US $2 per share from his inventory account to the VC Offshore Fund;

    d) Valentine sold 250,000 Chell Corp. shares at a price of US $2 per share from his inventory account to another TK retail client; and

    e) Of the US $2 million in proceeds in his pro account from these sales, Valentine transferred US $450,000 ($717,000) to his trader receivable account to reduce his liabilities to TK.

31. On April 30, 2002, the VC Fund sold 200,000 shares of Chell Corp. at a price of US $2.09 per share.

32. At the time, there was an agreement between Valentine and the VC Fund that Valentine would buy 250,000 shares of Chell Corp. per quarter from the VC Fund commencing July 1, 2002 at a price of US $2.20 per share. The agreement was supposedly guaranteed by the Management Companies.

33. Valentine has not provided sufficient evidence to support the validity of a loan by him to CALP of US $360,000 in June of 2001 or a loan of US $700,000 in January of 2002.

34. TK reported to the IDA that the Chell Corp. transactions affected its RAC by creating excess margin in Valentine's own accounts of $1,412,189, and by creating a margin requirement in the Funds' accounts of $434,000. Further, the amount owing in Valentine's trader receivable account was decreased by $717,000 (US $450,000).

b) The IKAR Transaction

35. On March 28, 2002, CALP paid $1.3 million to Hammock to purchase a debenture issued by a company named IKAR Minerals. The debenture was dated March 1998 and had expired in March of 2000.

36. Valentine claimed that the rationale for the transaction was to settle a debt that CALP owed to Hammock of $1,582,830. Valentine explained that this debt had been incurred as follows:

    a) In July, 2001, Hammock paid CALP US $537,068 for 652,573 shares of JAWZ at a price of US $0.823 per share. JAWZ shares were then trading at a price of US $0.59 per share. Valentine explained this step as Hammock assisting CALP in meeting its margin requirement at TK. In consideration for its help, CALP guaranteed the JAWZ investment by promising that any losses Hammock might suffer from its eventual sale of the JAWZ shares would be reimbursed by CALP;

    b) Over the next three weeks, Hammock sold the JAWZ shares at an average price of US $0.218 per share, generating a loss of US $386,895.54 which Valentine claimed that CALP was obliged to reimburse pursuant to its "guarantee";

    c) In a separate transaction, Valentine stated that CALP had sold 900,000 shares of a firm called Global Path short to Hammock at a price of US $1.33 per share for net proceeds of US $1,196,500. Valentine claimed that CALP made the short sale "believing that it was to receive Global Path shares as partial compensation for its JAWZ losses";

    d) CALP was unable to deliver the Global Path shares and was therefore indebted to Hammock for total of US $1,582,830 as a result of the JAWZ guarantee and the undeliverable Global Path shares;

    e) "To allow Hammock to recoup the bulk of its out of pocket cost in supporting the funds", Valentine executed the following "solution";

        i) Valentine's company VMH was the owner of the IKAR debenture which it "gifted" to Hammock;

        ii) Hammock in turn sold the expired debenture to CALP for $1.3 million as payment for the

"debt" which CALP owed to Hammock;

iii) The expired debenture had value because IKAR's principal had recently promised Valentine to make up the $1.3 million loss by converting the IKAR debenture into shares of a new company, Patriot Energy Corporation. This promise was purportedly given because Valentine had personally made a $250,000 private placement investment in Patriot Energy; and

iv) Valentine claimed that as a result, CALP was the beneficiary of a "gift" from him through VMH of the IKAR position.

37. In fact, however, Hammock did not purchase JAWZ shares from CALP but rather from Valentine's inventory account. Therefore CALP could not have guaranteed Hammock's JAWZ investment, and correspondingly was not liable for Hammock's US $386,330.70 loss in the JAWZ transaction.

38. CALP did not sell 900,000 shares of Global Path to Hammock but rather sold 1,000,000 shares of Global Path to Valentine's inventory account. The price per share and net proceeds of this transaction were not US $1.33 and US $1,196,500 respectively, but rather US $0.65 and US $635,000.

39. Hammock did not purchase 900,000 Global Path shares at a price of US $1.33 per share from CALP but rather from Valentine's inventory account. The price per share and net proceeds of this transaction were not US $1.33 and US $1,196,500 respectively but rather US $1.05 and $945,000.

40. The Global Path trade did not fail as delivery slips confirm the transfer of share certificates.

TK's Investigation

41. On May 7, 2002, TK's Management Committee requested an explanation from Valentine about the Chell Corp. and IKAR transactions and commenced an internal investigation into the trades.

42. On June 13, 2002, as a result of its internal investigation, TK took disciplinary actions against Valentine and suspended his employment. At that time, TK also took steps to exclude him from TK's premises.

43. On June 19, 2002, TK delivered its Investigation Report to the IDA which reported on its findings into the impugned transactions.

44. TK's investigation found:

- that the propriety of certain of the trades was "questionable";
- that there was "inadequate documentation" for other trades;
- that Valentine had failed to provide any documents to support still other trades; and
- that "the rationale was not supportable" for one entire series of trades.

45. On June 19, 2002 TK decided to reverse the Chell Corp. and IKAR transactions.

TK's Bankruptcy

46. On July 11, 2002, TK informed the IDA that it could no longer meet its outstanding liabilities to its clients and its registration as an Investment Dealer was suspended. On the same date, the Canadian Investor Protection Fund brought a motion for an order declaring TK bankrupt and appointing Ernst & Young Inc. as the trustee of its estate. The motion was granted and a receiving order was made on July 12, 2002.

Valentine's Breach of the Commission's Temporary Cease Trade Order

47. On June 17, 2002, the Commission issued a Temporary Order in this matter pursuant to s. 127(1) of the *Securities Act* (the "Act"). This order suspended Valentine's registration under Ontario securities law and ordered him to cease trading in securities until the later of fifteen days or the conclusion of a hearing under s. 127(6) of the Act.

48. On June 24, 2002, Staff issued a Notice of Hearing and Statement of Allegations in this matter.

49. On July 8, 2002, the Commission issued a further Temporary Order in this matter pursuant to s. 127(7) of the Act (the "July Order"), which extended the original Temporary Order until January 31, 2003. The July Order suspended Valentine's registration, removed his exemptions under the Act and required him to cease trading in securities with the exception that he was permitted to trade in certain securities for his own account if:

(a) the securities were securities referred to in clause 1 of subs. 35(2) of the Act; or

(b) the securities were listed and posted for trading on the Toronto Stock Exchange or New York Stock Exchange; and

(c) Valentine did not, either directly or indirectly, own more than one percent of the outstanding securities of the issuer.

50. In the period between July 25, 2002 and August 16, 2002, Valentine traded in securities not exempted in the July Order. Specifically, between July 26, 2002 and August 16, 2002, Valentine opened an account at Refco Futures (Canada) Ltd., in Toronto, Ontario and traded in futures contracts listed on the Chicago Mercantile Exchange.

51. On August 16, 2002, after it was publicly reported that Valentine had been arrested in Germany by the United States Federal Bureau of Investigation, authorities at Refco advised Staff of the Commission of the existence of Valentine's account at Refco and he ceased trading in the account.

Conduct Contrary to the Public Interest

52. Valentine's conduct was contrary to the public interest for the reasons set out below.

a) The JAWZ Transaction

53. Valentine created a culture of conflict and non-compliance at TK and breached Ontario securities laws in respect of the JAWZ transactions by:

a) filling multiple roles as the President of the Funds' General Partners, as the Registered Representative of the Funds' accounts, and as Chairman and controlling shareholder of TK;

b) as a registrant and as the Chairman of TK, failing to deal fairly, honestly and in good faith with his clients contrary to s. 2.1(2) of OSC Rule 31-505 by:

i) motivating some TK clients to sell JAWZ shares short as a result of "death spiral financing" that he arranged and motivating other TK clients to buy and hold JAWZ shares as a result of TK's "buy" recommendation;

ii) failing to disclose to all TK clients that JAWZ had recently received "death spiral financing";

iii) failing to disclose to all TK clients that JAWZ had recently received "death spiral financing" from another TK client; and

iv) failing to disclose to all TK clients that companies controlled by the Chairman of TK were the General Partners of the providers of the "death spiral financing" to JAWZ.

b) The Chell Corp. Transaction

54. Valentine created a culture of conflict and non-compliance at TK and breached Ontario securities laws in respect of the Chell Corp. transactions by:

a) playing multiple roles as the President of the Funds' General Partners, as the Registered Representative of the Funds' trading accounts, as the Chairman and controlling shareholder of TK and as a trader in Chell Corp. shares on his own behalf in his pro and inventory accounts at TK;

b) failing to deal fairly, honestly and in good faith with his clients contrary to s. 2.1(2) of OSC Rule 31-505, by:

i) appropriating shares belonging to a client without supportable consideration;

ii) causing one client to provide shares to his pro account at a value of US $1 per share and immediately thereafter selling those shares to his inventory account at a price of US $2 per share;

iii) causing other clients to immediately buy those shares from his inventory account at US $2 per share;

iv) causing a client to sell shares at US $2.09 per share on April 26,2002 in the face of a put agreement at US $2.20 per share on July 1, 2002 in favour of that client;

v) orchestrating a transaction which provided a substantial benefit to TK's Risk Adjusted Capital and to his own accounts and which had a corresponding detrimental effect on his clients' accounts;

c) breaching the fiduciary and contractual duties that Valentine owed to the unitholders of the Funds by:

i) purportedly providing loans to the Funds;

ii) placing shares belonging to CALP into his pro account without supportable consideration;

iii) selling his shares of Chell Corp. to the VC Fund and the VC Offshore Fund;

iv) selling shares of Chell Corp. to the VC Fund and the VC Offshore Fund at a price of US $2 per share when he had obtained them at a value of US $1 per share;

v) entering into a put agreement to buy shares from the VC Fund;

vi) causing the VC Fund to sell shares at a price of US $2.09 per share on April 26, 2002 in the face of a purported put agreement to buy the same shares at a price of US $2.20 per share beginning July 1, 2002;

iv) unnecessarily creating a margin requirement in the Funds' accounts;

d) Valentine failed to maintain the books and records necessary to record properly the business transactions and financial affairs which he carried out in the course of the Chell Group transaction, contrary to s. 19(1) of the Act and s. 113(1) of Ont. Reg. 1015.

c) The IKAR Transaction

55. Valentine created a culture of conflict and non-compliance at TK and breached Ontario Securities laws in respect of the IKAR transaction by:

a) playing multiple roles as the President of the Funds' General Partners, as the Registered Representative of the Funds' trading accounts, as the Chairman and controlling shareholder of TK, as the Registered Representative of Hammock's trading account, and as a beneficial owner of Hammock;

b) failing to deal fairly, honestly and in good faith with his clients, contrary to s. 2.1(2) of OSC Rule 31-505 by;

i) causing his client to guarantee an investment made by another of his clients thereby placing one client's interests ahead of those of another;

ii) causing his client to guarantee an investment made by a company of which he is the beneficial owner, thereby putting his own interests ahead of those of his client;

iii) causing his client to pay valuable consideration for a worthless security to another client, thereby placing one client's interests ahead of those of another;

iv) causing his client to pay valuable consideration for a worthless security to a company of which he is a beneficial owner, thereby placing his own interests ahead of those of his client;

c) breaching the fiduciary and contractual duties that Valentine owed to the unitholders of the Funds by:

i) causing CALP to guarantee an investment made by a company of which he is a beneficial owner;

ii) causing CALP to give valuable consideration for a worthless security to a company of which he is a beneficial owner;

d) If, as Valentine claimed, CALP agreed to reimburse any losses suffered by Hammock in its sale of shares of JAWZ, Valentine made representations that CALP would refund Hammock a portion of the purchase price of a security contrary to s. 38(1) of the Act;

e) Valentine failed to maintain the books and records necessary to record properly the business transactions and financial affairs which he carried out in the course of the IKAR transaction, contrary to s. 19(1) of the Act and s. 113(1) of Ont. Reg. 1015.

d) Other Conduct

56. Valentine failed to ensure that the terms of the second Trilon loan were properly disclosed to the IDA, as required by IDA By-law 17. This failure had the effect of hiding the poor financial circumstances of TK from the IDA.

57. Neither Valentine nor the Management Companies are registered as Investment Counsel/Portfolio Managers, but nevertheless acted as advisors to the Funds in the JAWZ, Chell Corp. and IKAR transactions as detailed above, contrary to s. 25 of the Act.

58. Valentine failed to designate the Hammock account as a pro account, contrary to IDA Policy No. 2, Section II(C)(4).

59. Valentine breached the terms of the July 2002 Temporary Cease Order contrary to s. 122(1)(c) of the Act.

60. Such additional allegations as Staff may advise and the Commission may permit.

January 29, 2004.

1.3 News Releases

1.3.1 Notice of the Office of the Secretary in the Matter of Dimitrios Boulieris

FOR IMMEDIATE RELEASE
January 29, 2004

NOTICE OF THE OFFICE OF THE SECRETARY

IN THE MATTER OF
AN APPLICATION FOR A HEARING AND REVIEW OF DECISIONS OF
THE ONTARIO DISTRICT COUNCIL
OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA
PURSUANT TO SECTION 21.7 OF SECURITIES ACT, R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
DISCIPLINE PROCEEDINGS PURSUANT TO BY-LAW 20 OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA

BETWEEN

STAFF OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA

AND

DIMITRIOS BOULIERIS

TORONTO – The Decision and Reasons of the Panel of the Commission in the above-noted matter was released yesterday, Wednesday, January 28, 2004.

A copy of the Decision and Reasons is available at **www.osc.gov.on.ca**

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1.3.2 OSC Releases Amended Statement of Allegations in the Matter of Mark Edward Valentine

FOR IMMEDIATE RELEASE
January 29, 2004

OSC RELEASES AMENDED STATEMENT OF ALLEGATIONS IN THE MATTER OF MARK EDWARD VALENTINE

TORONTO – Staff of the Ontario Securities Commission have issued a further amended Statement of Allegations in the matter of Mark Edward Valentine.

A copy of the Amended Amended Statement of Allegations, dated January 29, 2004, is available on the Commission's website at **www.osc.gov.on.ca**

For Media Inquiries: Eric Pelletier
Manager, Media Relations
416-595-8913

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.3.3 Notice of the Office of the Secretary in the Matter of Mark Edward Valentine

FOR IMMEDIATE RELEASE
February 2, 2004

NOTICE OF THE OFFICE OF THE SECRETARY

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

AND

IN THE MATTER OF
MARK EDWARD VALENTINE

TORONTO – Following the hearing in this matter today, the Commission issued an order extending the temporary order of the Commission dated July 28, 2003. The extended temporary order is on the same terms and conditions as the July 28, 2003 order and is effective until the earlier of July 31, 2004 and the commencement of the hearing of the matter on the merits. The Reasons of the Panel will be released in due course.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For Media Inquiries: Eric Pelletier
Manager, Media Relations
416-595-8913

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.3.4 Notice of the Office of the Secretary in the Matter of First Federal Capital (Canada) Corporation and Monte Morris Friesner

FOR IMMEDIATE RELEASE
February 3, 2004

NOTICE OF THE OFFICE OF THE SECRETARY

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

AND

IN THE MATTER OF
FIRST FEDERAL CAPITAL (CANADA) CORPORATION
AND MONTE MORRIS FRIESNER

TORONTO – The Decision and Reasons of the Panel of the Commission in the above-noted matter was released today, Tuesday, February 3, 2004.

A copy of the Decision and Reasons is available at **www.osc.gov.on.ca**

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For Media Inquiries: Eric Pelletier
Manager, Media Relations
416-595-8913

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.3.5 OSC Releases Decision Regarding First Federal Capital (Canada) Corporation and Monte Morris Friesner

For Media Inquiries: Eric Pelletier
Manager, Media Relations
416-595-8913

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

FOR IMMEDIATE RELEASE
February 4, 2004

OSC RELEASES DECISION REGARDING FIRST FEDERAL CAPITAL (CANADA) CORPORATION AND MONTE MORRIS FRIESNER

TORONTO – Enforcement Staff of the Ontario Securities Commission report the release of the Commission's decision in the matter of First Federal Capital (Canada) Corporation and Monte Morris Friesner.

In this case, the Commission examined the contents of a website operated by First Federal, as well as written materials sent to potential investors. The materials contained references to a number of financial products, including "Asset Securitization Management Portfolios" and "prime bank guarantees", referred to collectively as "Trading Programs".

In summarizing the contents of the materials, the Commission wrote:

> It is clearly a scheme that, simplistically speaking, says: "Give us your money. We'll find others to invest it for you in accordance with our Trading Program. We have access to experts who know what they're doing although the vast majority of persons have no idea. The returns you're going to make are fantastic."

The Commission concluded that the materials contained "misleading representations and exorbitant investment promises". They went on to find that First Federal and Friesner had engaged in illegal trading and advising in securities by operating the website and distributing the materials.

In determining the appropriate sanctions in this case, the Commission reviewed evidence of Friesner's criminal record, including previous convictions on fraud-related charges in both Ontario and the United States. They characterized the conduct of the respondents as "reprehensible".

As a result, they ordered that First Federal and Friesner must both cease trading in securities permanently, and banned Friesner from ever acting as corporate officer or director. In addition, both First Federal and Friesner must pay the costs of Enforcement Staff's investigation into and prosecution of this case. The final amount of costs will be determined at a hearing to be scheduled by the Commission's Secretary.

A copy of the Commission's reasons for decision in this case is available online at **www.osc.gov.on.ca**. For more information regarding prime bank instruments, see the Investor Alert titled ""Prime Bank" Investment Schemes", in the Investor Communication section of the OSC website.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 National Bank of Canada - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief granted to certain vice presidents and nominal officers of a reporting issuer from the insider reporting requirements subject to conditions articulated in CSA Staff Notice 55-306.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 1(1), 107, 108, 121(2)(a)(ii).

Regulations Cited

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

Rules Cited

National Instrument 55-101 - Exemption From Certain Insider Reporting Requirements.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NEWFOUNDLAND AND LABRADOR, AND NOVA SCOTIA

AND

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

AND

IN THE MATTER OF
NATIONAL BANK OF CANADA

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Newfoundland and Labrador and Nova Scotia (collectively, the "Jurisdictions") has received an application from National Bank of Canada ("National Bank") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirement contained in the Legislation to file insider reports shall not apply to certain individuals who are insiders of National Bank by reason of having a nominal vice-president title or another nominal title inferring a similar level of authority or responsibility given to employees who perform functions similar to those performed by employees with a nominal vice-president title (a "Nominal Title");

AND WHEREAS under 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, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 "Definitions" or in Québec Commission Notice 14-101;

AND WHEREAS National Bank has represented to the Decision Makers that:

1. National Bank is a Schedule 1 Canadian chartered bank governed by the *Bank Act* (Canada) with its head office in Montréal.

2. National Bank is a reporting issuer in each province and territory of Canada where such concept exists. National Bank's common shares trade on the Toronto Stock Exchange.

3. As at October 31, 2002, National Bank had approximately 140 subsidiaries, four of which were, at such date, "major subsidiaries" as such term is defined in National Instrument 55-101 ("NI 55-101"). National Bank Group Inc., National Bank Financial & Co. Inc., National Bank Financial Inc. and National Bank Financial Ltd. constitute the "major subsidiaries" of National Bank.

4. As at October 9, 2003, there were approximately 650 individuals who were insiders of National Bank by reason of being a senior officer or a director of National Bank or a subsidiary of National Bank of whom:

   i) approximately 215 are insiders of National Bank pursuant to the Legislation who are exempt from the insider reporting requirements of the Legislation with respect to securities of National Bank pursuant to NI 55-101 or exemption orders previously granted by certain of the Decision Makers;

   iii) approximately 258 are employees of major subsidiaries of National Bank who have been given a Nominal Title.

5. National Bank has made this application to seek relief from the insider reporting requirement for individuals who meet the following criteria (the "Nominal Criteria"):

   i) the individual is a nominal vice-president or a person acting in a similar capacity;

   ii) the individual is not in charge of a principal business unit, division or function of National Bank or a "major subsidiary" of National Bank (as such term is defined in NI 55-101);

   iii) the individual does not in the ordinary course of business, receive or have access to information regarding material facts or material changes concerning National Bank before the material facts or material changes are generally disclosed; and

   iv) the individual is not an insider of National Bank in any capacity other than as result of holding a Nominal Title.

6. Current and future employees of National Bank (or any subsidiary of National Bank that is now or in the future becomes a major subsidiary of National Bank) who meet the "Nominal Criteria" are collectively referred to as "Nominal Vice-Presidents".

7. National Bank and its subsidiaries have established and regularly review policies, procedures and codes: (a) to identify undisclosed material information concerning National Bank, (b) that prohibit improper use of such information, (c) to educate employees on the use of undisclosed material information, (d) that restrict employees to trading in National Bank securities only during designated "open windows", and (e) that establish security mechanisms in order to protect the confidentiality of all privileged information. Such policies, procedures and codes will continue to apply regardless of the relief granted under this Decision.

8. A special committee comprised of members of the Corporate Secretary of National Bank and the senior management of National Bank Financial Inc. (the "Special Committee") has determined that any insider of National Bank must meet the Nominal Criteria in order to qualify as a Nominal Vice-President and has considered the job requirements and principal functions of all such insiders to determine, on a case-by-case basis, which of them are Nominal Vice-Presidents. The Special Committee has undertaken to assess any future employees of National Bank or of any of its major subsidiaries who is an insider on the same basis as set out herein to determine whether they should be considered Nominal Vice-Presidents and, therefore, benefit from the relief granted under this Decision.

9. The Special Committee will apply the same analysis each time a Vice-President is appointed or an existing Vice-President makes a lateral change. It will review and update the National Bank's Nominal Vice President analysis annually. If an individual who is designated as Nominal Vice-President no longer satisfies the Nominal Criteria, the Special Committee will ensure that the individual is informed about his or her renewed obligation to file an insider report on trades in securities of National Bank.

10. In connection with this application, National Bank has provided the Decisions Makers with a summary of its internal policies, procedures and codes. Designated and authorized persons at National Bank and its subsidiaries are responsible for the administration and application of such policies, procedures and codes.

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 under the Legislation is that the requirement contained in the Legislation to file insider reports shall not apply to present and future Nominal Vice-Presidents of National Bank or its major subsidiaries so long as:

   i) each such individual satisfies the Nominal Criteria;

   ii) National Bank agrees to make available to the Decision Makers, upon request, to the extent permitted by law, a list of all individuals who are relying on the exemption granted by this Decision as at the time of the request; and

   iii) the relief granted will cease to be effective on the date when National Instrument 55-101 is amended.

January 16, 2004.

"Stéphane Garon"

2.1.2 PATHFINDER Income Fund - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – variation of MRRS order – closed-end investment trust exempt from prospectus requirements in connection with the sale of units repurchased from exiting unitholders pursuant to a redemption program – first trade in repurchased units deemed a distribution unless made in compliance with MI 45-102.

Applicable Ontario Statutory Provisions

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

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

AND

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

AND

IN THE MATTER OF
PATHFINDER *INCOME FUND*

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (collectively, the "**Decision Makers**") in each of British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador and Yukon (the "**Jurisdictions**") has received an application from PATHFINDER *Income Fund* (the "**Trust**") for a decision by each Decision Maker (collectively, the "Decision"), under the securities legislation of the Jurisdictions (the "**Legislation**"), varying the MRRS Decision Document dated February 17, 2003 entitled *In the Matter of PATHFINDER Income Fund* (the "**Original Decision**") which decided that the requirement contained in the Legislation to be registered to trade in a security and to file and obtain a receipt for a preliminary prospectus and final prospectus (the "**Registration and Prospectus Requirements**") did not apply to the trades of Units (as defined below) of the Trust which have been repurchased by the Trust pursuant to either the mandatory market purchase program or discretionary market purchase program of the Trust (collectively, the "**Programs**"), nor to the first trade or resale of such repurchased Units (the "**Repurchased Units**") which have been distributed by the Trust;

AND WHEREAS the Trust has requested a Decision that the requirement contained in the Legislation to file and obtain a receipt for a preliminary prospectus and final prospectus (the "**Prospectus Requirements**") shall not apply to the trades of Units of the Trust which have been repurchased by the Trust pursuant to the Redemption Program (as defined below), nor to the first trade or resale of such repurchased Units which have been distributed by the Trust;

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, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions;

AND WHEREAS THE TRUST has represented to the Decision Makers that:

1. The Trust is an unincorporated closed-end investment trust established under the laws of the Province of Ontario by a declaration of trust made as of September 25, 2002 and amended and restated as of December 1, 2003 (the "**Declaration of Trust**").

2. The Trust is not considered to be a "mutual fund" as defined in the Legislation because the holders ("**Unitholders**") of its units ("**Units**") are not entitled to receive on demand an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets of the Trust as contemplated in the definition of "mutual fund" in the Legislation.

3. The Trust became a reporting issuer or the equivalent thereof in the Jurisdictions on September 26, 2002 upon obtaining a receipt for its final prospectus dated September 25, 2002 (the "**Prospectus**"). As of the date hereof, the Trust is not in default of any requirements under the Legislation.

4. Each Unit represents an equal, undivided interest in the net assets of the Trust and is redeemable at net asset value of the Trust ("**Net Asset Value**") per Unit on November 30 of each year commencing in 2003.

5. Each whole Unit is entitled to one vote at all meetings of Unitholders and is entitled to participate equally with all other Units with respect to any and all distributions made by the Trust.

6. Middlefield PATHFINDER Management Limited, which was incorporated pursuant to the Business Corporations Act (Ontario), is the manager and the trustee of the Trust.

7. The Units are listed and posted for trading on the Toronto Stock Exchange (the "**TSX**") under the trading symbol "PAZ.UN".

8. Pursuant to the Declaration of Trust and subject to the Trust's right to suspend redemptions, Units may be surrendered for redemption (the "**Redemption Program**") by a Unitholder at any time in the month of November of each year to the Trust's registrar and transfer agent, and each Unit properly surrendered for redemption by a Unitholder not later than 5:00 p.m. (Toronto time) on the fifth business day prior to November 30th of such year (the "**Redemption Valuation Date**") will, subject to an investment dealer finding purchasers for Units properly surrendered for redemption upon the authorization of the Unitholder and at the direction of the Trust, be redeemed by the Trust pursuant to the Redemption Program for a price (the "**Redemption Price**") equal to the Net Asset Value of the Trust divided by the number of Units then outstanding determined as of the applicable Redemption Valuation Date.

9. A Unitholder who has surrendered Units for redemption will be paid the Redemption Price for such Units by the tenth business day following the Redemption Valuation Date.

10. Purchases of Units made by the Trust under the Redemption Program are exempt from the issuer bid requirements of the Legislation pursuant to exemptions contained therein.

11. The Trust desires, and the Declaration of Trust has been amended in accordance with its terms to provide that the Trust shall have the ability, to sell through one or more securities dealers Units purchased by the Trust pursuant to the Redemption Program, in lieu of cancelling such Units and subject to obtaining all necessary regulatory approvals.

12. In order to effect sales of Units purchased by the Trust pursuant to the Redemption Program, the Trust intends to sell, in its sole discretion and at its option, any Units purchased by it under the Redemption Program primarily through one or more securities dealers and through the facilities of the TSX (or such other exchange on which the Units are then listed).

13. The Trust amended its Declaration of Trust in accordance with its terms in order to enable the Trust to resell Units that it acquires pursuant to the Redemption Program, in order to benefit and provide added protection to Unitholders.

14. Prospective Purchasers who subsequently acquire such Units will have equal access to all of the continuous disclosure documents of the Trust, which will be filed on SEDAR, commencing with the Prospectus.

AND WHEREAS under the System, this MRRS Decision Document evidences the Decision of each of the Decision Makers;

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

THE DECISION of the Decision Makers pursuant to the Legislation is that the Original Decision is hereby varied as follows:

(a) All references in the Original Decision to relief from the "Registration and Prospectus Requirements" are deleted and replaced with a reference to the "Prospectus Requirements".

(b) Paragraph 1 of the Original Decision is deleted and replaced with the following:

"The Trust is an unincorporated closed-end investment trust established under the laws of the Province of Ontario by a declaration of trust made as of September 25, 2002 and amended and restated as of December 1, 2003 (the "**Declaration of Trust**")."

(c) All references in the Original Decision to "Programs" shall include a reference to the Redemption Program;

(d) All references in the Original Decision to "Repurchased Units" shall include those Units that are purchased by the Trust pursuant to the Redemption Program;

(e) Paragraph 13 of the Original Decision is deleted and replaced with the following:

"Repurchased Units which the Trust does not sell within 16 months of the purchase of such Repurchased Units will be cancelled."

January 28, 2004.

"Robert W. Korthals" "Paul K. Bates"

2.1.3 NPS Allelix Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Issuer has only one security holder – issuer deemed to have ceased being a reporting issuer.

Applicable Ontario Statutory Provisions and Rules

Securities Act, R.S.O. 1990, c. S.5, as am., s. 83.
National Instrument 21-101 Marketplace Operation, (2001) 24 OSCB 6591.

January 26, 2004

Blake, Cassels & Graydon LLP
Barristers & Solicitors
Box 25, Commerce Court West
199 Bay Street
Toronto, Ontario M5L 1A9

Attention: Erin Burkett

Dear Ms. Birkett:

Re: NPS Allelix Inc. (the "Applicant") - application to cease to be a reporting issuer under the securities legislation of Alberta, Ontario, Newfoundland and Labrador, Nova Scotia, Quebec, and Saskatchewan (the "Jurisdictions")

The Applicant has applied to the local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions for a decision under the securities legislation (the Legislation") of the Jurisdictions to be deemed to have ceased to be a reporting issuer in the Jurisdictions.

As the Applicant has represented to the Decision Makers that,

- the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by less than 15 security holders in each of the jurisdictions in Canada and less than 51 security holders in total in Canada;
- no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;
- the Applicant is applying for relief to cease to be a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and
- the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

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 orders that the Applicant is deemed to have ceased to be a reporting issuer.

"Iva Vranic"

2.1.4 Thomson and TSA - MRRS Decision

Headnote

MRRS - relief from registration requirement granted in respect of certain trades in shares made pursuant to an employee share offering by a French issuer and held through a collective shareholding vehicle analogous to a French "classic plan" employee savings fund - relief from registration and prospectus requirements granted in respect of certain trades of units of such fund provided that such trades shall be deemed a distribution or a primary distribution to the public - relief granted to the manager of the collective shareholding vehicle from the adviser registration requirement.

Applicable Ontario Statutory Provisions

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

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, ONTARIO, QUÉBEC,
MANITOBA AND NEW BRUNSWICK

AND

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

AND

IN THE MATTER OF
THOMSON, TSA AND THOMSON GESTION

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Ontario, Québec, Manitoba and New Brunswick (the "Jurisdictions") has received an application from Thomson (the "Issuer") and its former controlling shareholder, TSA (the "Selling Shareholder"), for a decision pursuant to Canadian securities legislation of the Jurisdictions (the "Legislation") that:

(i) in Québec, the prospectus requirement shall not apply to

(A) trades by the Selling Shareholder of ordinary shares of the Issuer ("Shares") to Qualifying Employees (defined in paragraph 4 below) who choose to participate (the "Canadian Participants") in the Issuer's global employee share offering ("THOM Invest 2003") and are resident in Québec or to the subsequent transfer of such Shares to Thomson Gestion, a French employee savings fund (the "Fund", *a fonds commun de placement d'entreprise* or "FCPE");

(B) certain trades of Shares by the Fund to Canadian Participants resident in Québec upon the redemption of Units by Canadian Participants resident in Québec; and

(C) the first trade (alienation) in any Shares acquired by Canadian Participants resident in Québec under THOM Invest 2003 where such trade is made through the facilities of a stock exchange outside of Canada; and

(ii) the registration requirement shall not apply to the trades described in paragraph (i) to or by Canadian Participants resident in the Jurisdictions; and

(iii) the registration requirement and the prospectus requirement shall not apply to certain trades of the securities of the Fund (the "Units") made to or with Canadian Participants resident in the Jurisdictions pursuant to THOM Invest 2003;

(iv) the manager of the Fund (the "Manager") is exempt from the adviser registration requirements to the extent that its activities in relation to THOM Invest 2003 require compliance with the adviser registration requirements.

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, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Québec Commission Notice 14-101;

AND WHEREAS the Issuer and the Selling Shareholder have represented to the Decision Makers as follows:

1. The Issuer is a corporation formed under the laws of the Republic of France. The ordinary shares of the Issuer are listed on Euronext Paris S.A. and on the New York Stock Exchange (in the form of American Depositary Shares). The Issuer is not and has no current intention of becoming a reporting issuer (or equivalent) under the Legislation.

2. Thomson Multimedia Ltd. and other Canadian affiliates of the Issuer (the "Canadian Affiliates", together with the Issuer, the Selling Shareholder and other affiliates of the Issuer, the "Thomson Group") are direct or indirect controlled subsidiaries of the Issuer and are not or have no current intention of becoming reporting issuers (or equivalent) under the Legislation.

3. The Selling Shareholder is a corporation formed under the laws of the Republic of France and is wholly owned by the French state. The Selling Shareholder is currently approximately a 2.3% shareholder of the Issuer. Prior to a recent share sale to institutional investors on November 4, 2003 under French privatization law and as part of a combined offering, consisting of the share sale to institutional investors and THOM Invest 2003, the Selling Shareholder held approximately 20.8% of the outstanding Shares of the Issuer. The Selling Shareholder is not and has no current intention of becoming a reporting issuer (or equivalent) under the Legislation.

4. Current employees of the Thomson Group and former employees of the group who have been employed for at least five years (the "Former Employees", and together with the current employees of the Thomson Group, the "Qualifying Employees") are invited to participate in THOM Invest 2003, pursuant to a French ministerial order enacted under French privatization law.

5. The Fund is a French employee share fund ("*fonds commun de placement d'entreprise*") established by the Thomson Group and the Fund Manager to facilitate the participation of Qualifying Employees in THOM Invest 2003 and to simplify custodial arrangements for such participation. The Fund is not and has no current intention of becoming a reporting issuer (or equivalent) under the Legislation. The Fund is a collective shareholding vehicle of a type commonly used in France for the conservation of shares held by employee investors and has been registered and approved by the French Commission des Opérations de Bourse (the "COB"). Only Qualifying Employees are allowed to hold Units of the Fund, and such holdings will be in an amount proportionate to the number of Shares held by the Fund on behalf of the Canadian Participants.

6. Effective November 24, 2003, the COB has been replaced by the Autorité des Marchés Financiers (the "AMF") and until implementation by the AMF of the new general regulation, the COB rules remain applicable.

7. The Manager is an asset management company governed by the laws of the Republic of France. The Manager has been registered with the COB to manage French investment funds and complies with the rules of the COB. The Manager is not and has no current intention of becoming a reporting issuer (or equivalent) under the Legislation.

8. The sale of Shares by the Selling Shareholder will be made through a combined offering, consisting of a global institutional offering in France and elsewhere and THOM Invest 2003.

9. The purchase price for the Shares in THOM Invest 2003 has been determined with reference to the French institutional offering price (the "Reference Price"), less a 20% discount. The Reference Price, as determined by a French ministerial order, was €18.25 per Share. Consequently, the discounted share price offered to Qualifying Employees is €14.60 per Share.

10. Payment for the Shares may be made upon delivery, or, in the case of certain Canadian Participants, in four instalments over a three-year period (20% upon delivery of the Shares, 20% at the end of year one, 30% at the end of year two and 30% at the end of year three);

11. Pursuant to the terms of the French privatization law under which THOM Invest 2003 is being conducted, in the event of a Canadian Participant's default in payment at the time of subscription, the purchase order will be immediately cancelled. Non-payment of any instalment under THOM Invest 2003 will result in the rescission of the sale. Upon the occurrence of a default for non-payment in the these circumstances, the Shares will revert to the Selling Shareholder and will be sold on a stock exchange. The proceeds of the sale will be applied to repay (i) any amounts owed to the Selling Shareholder by the Canadian Participant and (ii) the expenses incurred in connection with the sale, including any applicable administrative fees. The balance of the proceeds from such sale, if any, will be paid to the Canadian Participant. If the proceeds from the sale are insufficient to cover the amount due, the Canadian Participant will be liable for the outstanding amount. Such default in payment procedure is disclosed in the information package provided to employees referred to under paragraph 27.

12. The Shares subscribed for by the Canadian Participants will be contributed to the Fund and the Canadian Participant will receive one Unit for each contributed Share.

13. Subject to a future implementation of a dividend reinvestment plan, dividends paid on the Shares will be distributed directly to Canadian Participants.

14. The Shares cannot be sold for a period of two or three years depending upon the payment method

of the purchase price for such Shares (the "Hold Period").

15. At the end of the Hold Period, a Canadian Participant may (i) redeem Units with the Fund in exchange for the Shares or cash; or (ii) continue to hold the Units and redeem them at a later date.

16. In the event of an over-subscription of the Shares available under THOM Invest 2003, the French Minister of the Economy, Finance and Industry will reduce the number of Shares which should be allocated to each subscriber in approximate proportion to the amount of his or her initial subscription.

17. The Fund will be established for the purpose of implementing THOM Invest 2003. The Fund's portfolio will consist exclusively of Shares and, from time to time, a minor percentage of the Fund's assets will be in cash or cash equivalents which are held for purposes of facilitating Unit redemptions. The Fund will not engage in any of the investment practices described in sections 2.3 through 2.6 of National Instrument No. 81-102 except as described herein.

18. Shares issued under THOM Invest 2003 will be deposited in the Fund through BNP Paribas Securities Services (the "Custodian"), a French bank subject to French banking legislation. Under French law, the Custodian must be selected by the Manager from among a limited number of companies identified on a list by the French Minister of the Economy, Finance and Industry and its appointment must be approved by the AMF. The Custodian carries out orders to purchase, trade and sell securities in the portfolio and takes all necessary action to allow the Fund to exercise the rights relating to the securities held in its portfolio.

19. The Manager's asset management activities in connection with THOM Invest 2003 and the Fund is limited to receiving the Shares from the Custodian on behalf of the Canadian Participants, and selling such Shares as necessary in order to fund redemption requests. The Manager is also responsible for preparing accounting documents and publishing periodic informational documents as provided by the rules of the Fund. The Manager's activities in no way affect the underlying value of the Shares, and the Manager will not be involved in providing advice to any Canadian Participants.

20. The initial value of a Unit in the Fund corresponds to the market price for the Shares when the Shares are transferred to the Fund. The Unit value of the Fund will be calculated on a daily basis and reported to the AMF, based on the net assets of the Fund divided by the number of Units outstanding. In the future, the number of Units may be adjusted to reflect any dividend reinvestments contributed to the Fund for the benefit of Canadian participants, effective from the first date on which the net asset value is calculated and whenever Shares are contributed to the Fund for this purpose. Upon such adjustments being made, a holder will be credited with additional Units.

21. Upon redemption of the Units, the Canadian Participant may choose to receive the underlying Shares or be paid in cash on the basis of the net market price of the Shares corresponding to the Canadian Participant's Units, less the applicable redemption charges. All management charges relating to the Fund will be paid by the Issuer.

22. The Shares may be resold by the Canadian Participants following the Hold Period through the facilities of any of the stock exchanges on which the Shares are then traded.

23. There are approximately 1,357 Qualifying Employees resident in Canada in the provinces of British Columbia (13), Alberta (12), Ontario (408), Québec (913), Manitoba (6) and New Brunswick (5) all of whom together account for less than 3% of the Qualifying Employees worldwide.

24. The Canadian-resident Qualifying Employees will not be induced to subscribe for Shares by expectation of employment or continued employment.

25. The total amount invested by a Qualifying Employee cannot exceed €145,912.40 approximately C$227,302.40), although a lower limit may be established for Canadian Participants by the Canadian Affiliates.

26. None of the Issuer, the Selling Shareholder, the Manager or any of their employees, agents or representatives will provide investment advice to the Qualifying Employees with respect to an investment in the Shares or the Units.

27. The Canadian-resident Qualifying Employees will receive an information package in the French or English language, as applicable, which will include a summary of the terms of THOM Invest 2003 and a description of relevant Canadian income tax consequences. Upon request, Canadian-resident Qualifying Employees may receive copies of a prospectus filed with the United States Securities and Exchange Commission (the "SEC") and/or the French *Document de Référence and Note d'opération* filed with the COB in respect of the Shares, as well as the Update of the *Document de Référence* filed with the AMF and a copy of the Fund's rules (which are analogous to company by-laws).

28. Canadian-resident Qualifying Employees will also receive copies of the continuous disclosure materials relating to the Issuer furnished to shareholders resident in the United States by virtue of the registration of the Shares with the SEC.

29. It is not expected that there will be any market for the Shares or the Units in Canada. The Units will not be listed on any exchange.

30. As of the date hereof and after giving effect to THOM Invest 2003, Canadian-resident holders of Shares do not and will not beneficially own more than 10% of the Shares and do not and will not represent in number more than 10% of the total number of holders of Shares as shown on the books of the Issuer.

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:

(a) in Québec, the prospectus requirement shall not apply to the following trades made pursuant to THOM Invest 2003:

(1) trades in Shares by the Selling Shareholder to Canadian Participants resident in Québec; and

(2) trades in Shares by Canadian Participants resident in Québec to the Fund; and

(3) trades of Shares by the Fund to Canadian Participants resident in Québec upon the redemption of Units by Canadian Participants resident in Québec;

provided that, in each case, the first trade (alienation) in any such Share acquired pursuant to this Decision to a person or a company, other than a trade in Shares enumerated in this paragraph, shall be deemed a distribution or a primary distribution to the public under the Legislation in Québec;

(b) in Québec, the prospectus requirement shall not apply to the first trade (alienation) in Shares acquired by a Canadian Participant resident in Québec pursuant to THOM Invest 2003 provided that such trade is executed through the facilities of a stock exchange outside of Canada;

(c) the registration requirement shall not apply to the following trades made pursuant to THOM Invest 2003

(1) trades in Shares by the Selling Shareholder to Canadian Participants; and

(2) trades in Shares by Canadian Participants to the Fund; and

(3) trades of Shares by the Fund to Canadian Participants upon the redemption of Units by Canadian Participants; and

(2) a trade in Shares acquired by a Canadian Participant pursuant to THOM Invest 2003 provided that such trade is executed through the facilities of a stock exchange outside of Canada;

(d) the registration requirement and prospectus requirement shall not apply trades of the Units of the Fund made to or with Canadian Participants, provided that the first trade (alienation) in any such Unit acquired pursuant to this Decision to a person or company, other than a trade in Units enumerated in this paragraph, shall be deemed a distribution or a primary distribution to the public under the Legislation of such Jurisdiction; and

(e) the Manager shall be exempt from the adviser registration requirement, where applicable, in order to carry out the activities described in paragraph 19 above.

January 26, 2004.

"Eve Poirier"

2.1.5 Investors Group Trust Co. Ltd. and Investors Group Corporate Class Inc. - MRRS Decision

Headnote

MRRS exemptive relief application – Revocation and replacement of MRRS decision document dated July 9, 2003 granting certain funds relief from the mutual fund conflict of interest restrictions for the purposes of allowing continued holding of securities of related parties – New decision document granting the same relief but expanded to include new related parties and additional funds – Funds allowed to make and hold investments in securities of related parties subject to the establishment of a fund governance mechanism to ensure the holdings, purchases and sales of securities of related companies for the funds have been made free from any influence by a related company and without taking into account any consideration relevant to a related company.

Statutes Cited

Securities Act (Ontario), R.S.O. 1990 c. S.5 as am., ss. 111(2)(a), 111(2)(c), 111(3) and 144.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, BRITISH COLUMBIA, ALBERTA,
SASKATCHEWAN, NOVA SCOTIA AND
NEWFOUNDLAND AND LABRADOR

AND

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

AND

IN THE MATTER OF
INVESTORS GROUP TRUST CO. LTD. ("IGTC")
INVESTORS GROUP CORPORATE CLASS INC. ("IGCC")
AND
THE MUTUAL FUNDS LISTED IN SCHEDULE "A" TO THIS DECISION

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (collectively, the "Decision Makers") in each of the Provinces of Ontario, British Columbia, Alberta, Saskatchewan, Nova Scotia and Newfoundland and Labrador (collectively, the "Jurisdictions") has received an application from:

(i) IGTC, as trustee for and on behalf of certain mutual funds offered to the public listed in Schedule "A" to this Decision and any additional mutual funds established from time to time for which IGTC is trustee (collectively, the "Fund Trusts") and

(ii) IGCC, on its own behalf and on behalf of its classes offered as mutual funds to the public listed in Schedule "A" to this Decision and any additional classes established as mutual funds from time to time (collectively the "Corporate Class Funds"),

for a decision (the "Decision") pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the provisions prohibiting a mutual fund from knowingly making and holding an investment:

(i) in a person or company who is a substantial security holder of the mutual fund, its management company (or, in British Columbia, the mutual fund manager) or distribution company, or

(ii) in an issuer in which any person, or company who is a substantial security holder of the mutual fund, its management company (or, in British Columbia, the mutual fund manager) or its distribution company, has a significant interest (the provisions of (i) and (ii) being collectively referred to as the "Mutual Fund Conflict of Interest Investment Restrictions")

do not apply to the Fund Trusts and the Corporate Class Funds (collectively referred to as the "IG Funds" in respect of their investments in securities of certain Related Parties (as hereinafter defined);

AND WHEREAS the Decision Maker is each of the Jurisdictions has received an application from IGTC for a Decision under the Legislation revoking and replacing the MRRS Decision Document dated July 9, 2003 entitled *In the Matter of Investors Dividend Fund, Investors Mutual of Canada and Investors Canadian Balanced Fund* (the "Prior Decision") which decided that the provision of the Legislation prohibiting a mutual fund from knowingly holding an investment in a person or company who is a substantial security holder of the mutual fund, its management company or distribution company, did not apply to the three IG Funds in respect of their continued holding of securities of Canada Life Financial Corporation ("CLFC") and Canada Life Assurance Company ("CLAC") following the completion of Great-West Lifeco Inc.'s ("GWL") acquisition of all the common shares of CLFC by way of a capital reorganization of CLFC;

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, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions;

AND WHEREAS the Applicants have represented to the Decision Makers that:

1. IGTC is a corporation incorporated under *The Manitoba Corporations Act* and it acts as trustee for 94 Fund Trusts that are qualified for distribution to the public in all provinces and territories in Canada which, as such, are reporting issuers or equivalent in all of those jurisdictions. None of the Fund Trusts are on the list of defaulting issuers maintained under the Legislation.

2. IGCC is a corporation incorporated under the *Canada Business Corporations Act* (the "CBCA") and it offers 46 Corporate Class Funds that are qualified for distribution to the public in all provinces and territories in Canada which, as such, are reporting issuers or equivalent in all of those jurisdictions. None of the Corporate Class Funds are on the list of defaulting issuers maintained under the Legislation.

3. Investors Group Inc. ("IGI") is a corporation incorporated under the CBCA.

4. All of the outstanding shares of IGTC are indirectly owned by IGI. All of the outstanding common shares of IGCC have been issued to Investors Group Corporate Class Trust, which holds these common shares in trust for the mutual fund shareholders of IGCC, excluding the holders of Series "S" Shares.

5. Investors Group Financial Services Inc. and Les Services Investors Limitée (collectively the "Distribution Companies") are the distribution companies for the IG Funds. All of the outstanding shares of the Distribution Companies are indirectly owned by IGI. As a result, IGI is a substantial security holder, within the meaning of the Legislation, of the Distribution Companies.

6. I.G. Investment Management, Ltd. ("IGIM") and Investors Group Investment Management (Quebec) Ltd. ("IGIM Quebec", and together with IGIM, the "Management Companies"), are the management companies for the IG Funds. All of the outstanding shares of the Management Companies are indirectly owned by IGI. As a result, IGI is a substantial security holder, within the meaning of the Legislation, of the Management Companies.

7. A portfolio adviser, who may in turn retain a sub-adviser, has been retained for each IG Fund. The Management Companies as well as I.G. International Management Limited, I.G. Investment Management (Hong Kong) Ltd. and Mackenzie Financial Corporation, all of the outstanding shares of which are directly or indirectly owned by IGI, act as portfolio advisers and/or sub-advisers for certain of the IG Funds (collectively, the "Portfolio Managers"). For other IG Funds, third party investment management firms have been retained to act as portfolio adviser and/or sub adviser.

8. Power Financial Corporation ("PFC") is a reporting issuer or equivalent in all provinces and territories of Canada. Its securities trade on the Toronto Stock Exchange (the "TSX"). As at August 26, 2003, PFC held 59.5% of the voting shares of IGI. As such, PFC is a substantial security holder, within the meaning of the Legislation, of the Distribution Companies and the Management Companies.

9. Power Corporation of Canada ("PCC") is a reporting issuer or equivalent in all provinces and territories of Canada. Its securities trade on the TSX. As at July 10, 2003, PCC held 67.1% of the voting shares of PFC. As such, PCC is a substantial security holder, within the meaning of the Legislation, of the Distribution Companies and the Management Companies.

10. Under the Legislation, PFC owns or is deemed to own, directly or indirectly, more than 10% of the outstanding shares of GWL, CLFC, CLAC and Canada Life Capital Trust (collectively the "Power Investee Issuers"). As such PFC and PCC have a significant interest in each of the Power Investee Issuers within the meaning of the Legislation. For the purpose of this Decision the term "Related Parties" shall mean PCC, PFC and the Power Investee Issuers.

11. In the absence of the Decision, the Mutual Fund Conflict of Interest Investment Restrictions would preclude the IG Funds from making an investment in the securities of Related Parties.

12. The Prior Decision does not allow any of the three IG Funds to which it applied to purchase any additional shares of CLFC or CLAC or any securities of any other Related Parties.

13. One of the conditions included in the Prior Decision requires that the continued holding of CLFC and CLAC securities by IG Funds be reviewed by the three members (the "Independent Members") of the Investment and Conduct Review Committee (the "ICRC") of IGTC who are independent from IGTC and its affiliated corporations, at least once every three months.

14. IGTC and IGCC believe that it would be in the best interests of security holders of the IG Funds to be permitted to invest in the securities of Related Parties, in keeping with the investment objectives of the IG Funds, up to the limits allowed by applicable Legislation other than the Mutual Fund Conflict of Interest Investment Restrictions.

15. IGTC, as trustee of the Fund Trusts, has agreed to charge the Independent Members of the ICRC with the responsibility to review the Fund Trusts' investments in securities of Related Parties.

16. IGCC has agreed to establish a three person independent review committee (the "IRC") which will be comprised entirely of directors of IGCC who are wholly independent of IGI and its affiliated corporations which will have the responsibility of reviewing the Corporate Class Funds' investments in securities of Related Parties.

17. The mandate of the ICRC, in the case of IGTC and the Fund Trusts, and of the IRC, in the case of IGCC and the Corporate Class Funds (collectively, the "Independent Oversight Committees"), will be, among other things:

    (i) to review holdings of securities of the Related Parties, as well as any purchases or sales of securities of the Related Parties at least once every three months to ensure that the decisions of the Portfolio Managers are in the best interests of the IG Funds

    (ii) to ensure that the Portfolio Managers of the IG Funds are free from any undue influence by any of the Related Parties.

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the Decision of each Decision Maker;

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

THE DECISION of the Decision Makers pursuant to the Legislation is that (i) the Prior Decision is hereby revoked and replaced with the following Decision with effect as of, and from, the date hereof, and (ii) the IG Funds are exempt from the Mutual Fund Conflict of Interest Investment Restrictions so as to enable the IG Funds to invest in, or continue to hold an investment in, the securities of the Related Parties,

PROVIDED THAT:

(a) the Decision, as it relates to the jurisdiction of a Decision Maker, will terminate one year after the publication in final form of any legislation or rule of that Decision Maker dealing with mutual fund governance in a manner that conflicts with or makes inapplicable any provision of this Decision;

(b) IGTC, in the case of the Fund Trusts, and IGCC, in the case of the Corporate Class Funds, have appointed the Independent Members of the ICRC and the IRC respectively to review the IG Funds' purchases, sales and continued holding of the securities of Related Parties by the Fund Trusts and the Corporate Class Funds respectively;

(c) each of the Independent Members of the ICRC and each of the members of the IRC is not an associate of IGIM, or of any associate or affiliate of IGIM, or of any of the Portfolio Managers of the IG Funds;

(d) the member of the ICRC that is not independent in the manner described in paragraph (c) above does not vote on any issue concerning the holding, purchase or sale by the IG Funds of the securities of the Related Parties;

(e) the Independent Oversight Committees each have a written mandate describing their duties and standard of care which, as a minimum, sets out the conditions to this Decision;

(f) the members of the Independent Oversight Committees exercise their powers and discharge their duties honestly, in good faith and in the best interests of investors in the IG Funds and, in doing so, exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;

(g) none of the IG Funds relieves the members of the Independent Oversight Committees from liability for loss that arises out of a failure to satisfy the standard of care set out in paragraph (f) above;

(h) none of the IG Funds indemnifies the members of the Independent Oversight Committees against any legal fees, judgments and amounts paid in settlement as a result of a breach of the standard of care set out in paragraph (f) above;

(i) the cost of any indemnification or insurance coverage paid for by IGTC, IGCC, the Portfolio Managers, or any associate or affiliate of IGTC, IGCC or of the Portfolio Managers to indemnify or insure the members of the Independent Oversight Committees in respect of a loss that arises out of a failure to satisfy the standard of care set out in paragraph (f) is not paid either directly or indirectly by the IG Funds;

(j) the members of the Independent Oversight Committees review the IG Funds' purchases, sales and continued holdings of the securities of Related Parties on a regular basis, but not less frequently than every three months;

(k) the Independent Members of the ICRC, in the case of the Trust Funds, and the IRC, in the case of the Corporate Class Funds, form the opinion, after reasonable inquiry, that the decisions made on behalf of each IG Fund by its Portfolio Manager to purchase, sell or to continue to hold securities of Related Parties were and continue to be in the best interests of the IG Funds, and to:

  (i) represent the business judgment of the IG Funds' Portfolio Managers, uninfluenced by considerations other than the best interests of the IG Funds;

  (ii) have been made free from any influence by any of the Related Parties and without taking into account any consideration relevant to the Related Parties; and

  (iii) not exceed the limitations of the applicable legislation, other than the Mutual Fund Conflict of Interest Investment Restrictions;

(l) the determination made by the Independent Members of the ICRC, in the case of the Fund Trusts, and the IRC, in the case of the Corporate Class Funds, pursuant to paragraph (k) is included in detailed written minutes provided to IGIM or IGIM Quebec, as the case may be, not less frequently than every three months;

(m) the reports required to be filed pursuant to the Legislation with respect to every purchase and sale of securities of the Related Parties are filed on SEDAR in respect of the relevant IG Funds;

(n) the Independent Members of the ICRC, in the case of the Trust Funds, and the IRC, in the case of the Corporate Class Funds, advise the Decision Makers in writing of:

  (i) any determination by them that the condition set out in paragraph (k) has not been satisfied with respect to the continued holding of the securities of Related Parties;

  (ii) any determination by them that any other condition of this Decision has not been satisfied;

  (iii) any action they have taken or proposed to take following the determinations referred to above; and

  (iv) any action taken, or proposed to be taken, by IGIM, IGIM Quebec or the Portfolio Managers of the IG Funds in response to the determinations referred to above; and

(o) the existence, purpose, duties and obligations of the Independent Members of the ICRC, in the case of the Trust Funds, and the members of the IRC, in the case of the Corporate Class Funds, the names of their members, whether and how they are compensated by the IG Funds, and the fact that they meet the requirements of the condition set out in paragraph (c) are disclosed:

  (i) in a press release issued, and a material change report filed, prior to reliance on the Decision;

  (ii) on the earlier of:

1. the filing of an amendment in the normal course to the simplified prospectus and annual information form of the IG Funds, or the prospectus in the case of the Investors Real Property Fund ("IRPF"), after the date of this Decision and

2. the time of filing of the pro forma simplified prospectus and annual information form of the IG Funds, or the prospectus in the case of IRPF, after the date of this Decision

in the annual information forms of the IG Funds, along with disclosure of the existence of the relief granted under this Decision and of the general role of the Independent Members of the ICRC, in the case of the Trust Funds, and the IRC, in the case of the Corporate Class Funds, respectively, under item 3 of Part B of the simplified prospectus of the IG Funds, and in the prospectus in the case of IRPF; and

(iii) on IGI's internet website.

January 20, 2004.

"Paul M. Moore" "H. Lorne Morphy"

Schedule A

Fund Trusts

Investors Government Bond Fund
Investors Japanese Growth Fund
Investors Mortgage Fund
Investors Canadian Large Cap Value Fund
Investors US Large Cap Growth Fund
Investors Real Property Fund
Investors Summa Fund
Investors Income Portfolio
Investors Income Plus Portfolio
Investors Retirement Growth Portfolio
Investors European Growth Fund
Investors World Growth Portfolio
Investors Global Bond Fund
IG AGF Canadian Growth Fund
IG Goldman Sachs U.S. Equity Fund
IG Templeton World Allocation Fund
IG AGF Canadian Growth Fund II
IG AGF International Equity Fund
Investors Canadian Small Cap Fund
Investors Latin American Growth Fund
Investors Canadian High Yield Income Fund
IG Sceptre Canadian Equity Fund
IG Beutel Goodman Canadian Balanced Fund
IG Beutel Goodman Canadian Small Cap Fund
Investors Canadian Small Cap Growth Fund
Investors Global Science & Technology Fund
Investors Retirement High Growth Portfolio
IG Templeton International Equity Fund
IG Mackenzie Select Managers Canada Fund
IG AGF US Growth Fund
IG Mackenzie Income Fund
Investors US Large Cap Value RSP Fund
Investors Japanese Growth RSP Fund
Investors Global e.Commerce Fund
Investors European Mid-Cap Growth Fund
IG FI Global Equity Fund
IG FI Canadian Allocation Fund
iProfile Canadian Equity Pool
iProfile International Equity Pool
iProfile Fixed Income Pool
iProfile Money Market Pool
Allegro Moderate Conservative Portfolio
Allegro Moderate Aggressive Portfolio
Allegro Aggressive Portfolio
Investors Global Financial Services Fund
Investors Global Science & Tech RSP Fund
Mackenzie Universal U.S. Growth Leaders Fund
Investors Mutual of Canada
Investors North American Growth Fund
Investors US Large Cap Value Fund
Investors Dividend Fund
Investors Canadian Equity Fund
Investors Canadian Money Market Fund
Investors Global Fund
Investors Growth Portfolio
Investors Growth Plus Portfolio
Investors Retirement Plus Portfolio
Investors Pacific International Fund
Investors Asset Allocation Fund
Investors Corporate Bond Fund
IG Templeton World Bond Fund
IG Mackenzie Universal Emerging Markets Fund
IG AGF U.S. Growth Fund II
IG AGF Canadian Balance Fund
IG AGF International Bond Fund
Investors US Opportunities Fund
Investors Canadian Natural Resource Fund
IG Sceptre Canadian Bond Fund
IG Sceptre Canadian Balanced Fund
IG Beutel Goodman Canadian Equity Fund
Investors US Money Market Fund
Investors Canadian Enterprise Fund
Investors Canadian Balanced Fund
Investors Quebec Enterprise Fund
IG Mackenzie Ivy European Fund
IG AGF Canadian Diversified Growth Fund
IG AGF Asian Growth Fund
IG Mackenzie Maxxum Dividend Fund
Investors European Growth RSP Fund
Investors Global RSP Fund
Investors Mergers & Acquisitions Fund
IG FI U.S. Equity Fund
IG FI Canadian Equity Fund
Investors Canadian High Yield Money Market Fund
iProfile US Equity Pool
iProfile Emerging Markets Pool
iProfile Global RSP Equity Pool
Allegro Conservative Portfolio
Allegro Moderate Portfolio
Allegro Moderate Aggressive Registered Portfolio
Allegro Aggressive Registered Portfolio
Investors Pan Asian Growth Fund
IG AGF US Growth RSP Fund
Mackenzie Universal Global Future Fund

Corporate Class Funds

Investors Canadian Large Cap Value Class of Investors Group Corporate Class Inc.
Investors Canadian Equity Class of Investors Group Corporate Class Inc.
Investors Canadian Enterprise Class of Investors Group Corporate Class Inc.
Investors Canadian Small Cap Class of Investors Group Corporate Class Inc.
Investors U.S. Small Cap Class of Investors Group Corporate Class Inc.
Investors Quebec Enterprise Class of Investors Group Corporate Class Inc.
Investors Summa Class of Investors Group Corporate Class Inc.
Investors Canadian Small Cap Growth Class of Investors Group Corporate Class Inc.

IG Beutel Goodman Canadian Equity Class of Investors Group Corporate Class Inc.
IG FI Canadian Equity Class of Investors Group Corporate Class Inc.
IG AGF Canadian Diversified Growth Class of Investors Group Corporate Class Inc.
Investors U.S. Large Cap Value Class of Investors Group Corporate Class Inc.
Investors U.S. Large Cap Growth Class of Investors Group Corporate Class Inc.
IG AGF U.S. Growth Class of Investors Group Corporate Class Inc.
Investors Global Class of Investors Group Corporate Class Inc.
Investors Pacific International Class of Investors Group Corporate Class Inc.
Investors Latin American Growth Class of Investors Group Corporate Class Inc.
Investors European Mid-Cap Growth Class of Investors Group Corporate Class Inc.
IG Templeton International Equity Class of Investors Group Corporate Class Inc.
IG AGF Asian Growth Class of Investors Group Corporate Class Inc.
IG Mackenzie Ivy European Class of Investors Group Corporate Class Inc.
IG Mackenzie Ivy Foreign Equity Class of Investors Group Corporate Class Inc.
Investors Global Financial Services Class of Investors Group Corporate Class Inc.
Investors Global Science & Technology Class of Investors Group Corporate Class Inc.
Investors Global Health Care Class of Investors Group Corporate Class Inc.
IG Mackenzie Universal U.S. Growth Leaders Class Inc. of Investors Group Corporate Class Inc.
Investors Global Consumer Companies Class of Investors Group Corporate Class Inc.
IG Sceptre Canadian Equity Class of Investors Group Corporate Class Inc.
IG Mackenzie Select Managers Canada Class of Investors Group Corporate Class Inc.
IG AGF Canadian Growth Class of Investors Group Corporate Class Inc.
Investors U.S. Opportunities Class of Investors Group Corporate Class Inc.
IG FI U.S. Equity Class of Investors Group Corporate Class Inc.
IG Goldman Sachs U.S. Equity Class of Investors Group Corporate Class Inc.
Investors North American Growth Class of Investors Group Corporate Class Inc.
Investors Japanese Growth Class of Investors Group Corporate Class Inc.
Investors European Growth Class of Investors Group Corporate Class Inc.
Investors Pan Asian Growth Class of Investors Group Corporate Class Inc.
IG FI Global Equity Class of Investors Group Corporate Class Inc.
IG AGF International Equity Class of Investors Group Corporate Class Inc.
IG Mackenzie Universal Emerging Markets Class of Investors Group Corporate Class Inc.
Investors Mergers & Acquisitions Class of Investors Group Corporate Class Inc.
Investors Global e.Commerce Class of Investors Group Corporate Class Inc.
Investors International Small Cap Class of Investors Group Corporate Class Inc.
Managed Yield Class of Investors Group Corporate Class Inc.
Investors Global Natural Resources Class of Investors Group Corporate Class Inc.
Investors Global Infrastructure Class of Investors Group Corporate Class Inc.

2.1.6 Eagle Precision Technologies Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer deemed to have ceased to be a reporting issuer.

Applicable Ontario Statutory Provision

Securities Act, R.S.O. 1990, c. S.5, as am. s. 83.

January 28, 2003

Goodmans LLP
250 Yonge Street
Suite 2400
Toronto, Ontario M5B 2M6

Attention: Victor Liu

Dear Mr. Liu:

RE: Eagle Precision Technologies Inc. (the "Applicant")
Application to Cease to be a Reporting Issuer under the securities legislation of the Provinces of Alberta, Saskatchewan, Ontario and Québec (the "Jurisdictions")

The Applicant has applied to the local securities regulatory authority or regulator (the "**Decision Maker**") in each of the Jurisdictions for a decision under the securities legislation (the "**Legislation**") to be deemed to have ceased to be a reporting issuer in the Jurisdictions.

As the Applicant has represented to the Decision Makers that:

1. the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by less than 15 security holders in each of the jurisdictions in Canada and less than 51 security holders in total in Canada;

2. no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 - *Marketplace Operation*;

3. the Applicant is applying for relief to cease to be a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and

4. the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

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 orders that the Applicant is deemed to have ceased to be a reporting issuer.

"Cameron McInnis"

2.1.7 Pacific Growth Equities, LLC - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
PACIFIC GROWTH EQUITIES, LLC

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Pacific Growth Equities, LLC (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of Delaware in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in San Francisco, California.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.8 Ryan, Beck & Co., Inc. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
RYAN, BECK & CO., INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Ryan, Beck & Co., Inc. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of New Jersey in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in Livingston, New Jersey.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an

account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

October 2, 2003.

“David M. Gilkes”

2.1.9 Iridian Asset Management LLC - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International adviser exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
IRIDIAN ASSET MANAGEMENT LLC

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Iridian Asset Management LLC (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of Delaware in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international adviser. The head office of the Applicant is located in Westport, Connecticut.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.10 UBS Financial Services Inc. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
UBS FINANCIAL SERVICES INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of UBS Financial Services Inc. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of Delaware in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an

account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.11 Thornburg Investment Management Inc. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International adviser exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
THORNBURG INVESTMENT MANAGEMENT INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Thornburg Investment Management Inc. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of Delaware in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international adviser. The head office of the Applicant is located in Santa Fe, New Mexico.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.12 LSV Asset Management - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International adviser exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
LSV ASSET MANAGEMENT

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of LSV Asset Management (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is a partnership registered under the laws of the State of Delaware in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international adviser. The head office of the Applicant is located in Chicago, Illinois.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an

account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.13 SG Yamaichi Asset Management Co., Ltd. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International adviser exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
SG YAMAICHI ASSET MANAGEMENT CO., LTD.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of SG Yamaichi Asset Management Co., Ltd. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of Japan. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international adviser. The head office of the Applicant is located in Tokyo, Japan.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.14 Pali Capital, Inc. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
PALI CAPITAL, INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Pali Capital, Inc. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of New York in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an

account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.15 Cazenove Incorporated - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
CAZENOVE INCORPORATED

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Cazenove Incorporated (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of Delaware in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.16 ANZ Securities, Inc. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
ANZ SECURITIES, INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of ANZ Securities, Inc. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of New York in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an

account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.17 Lotsoff Capital Management - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International adviser exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
LOTSOFF CAPITAL MANAGEMENT

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Lotsoff Capital Management (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is a partnership registered under the laws of the State of Illinois in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international adviser. The head office of the Applicant is located in Chicago, Illinois.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.18 Morgan Keegan & Company, Inc. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
MORGAN KEEGAN & COMPANY, INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Morgan Keegan & Company, Inc. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of State of Tennessee in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in Memphis, Tennessee.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an

account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.19 RG Properties Ltd. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer deemed to have ceased being a reporting issuer.

Applicable Ontario Statutory Provision

Securities Act, R.S.O. 1990, c. S.5, as am. s. 83.

January 27, 2004

Lang Michener LLP
1500 – 1055 West Georgia Street
P.O. Box 1117
Vancouver, B.C. V6E 4N7

Attention: Sharon Wong

Dear Ms. Wong:

Re: RG Properties Ltd. (the "Applicant") – Application to Cease to be a Reporting Issuer under the securities legislation of Alberta and Ontario (the "Jurisdictions")

The Applicant has applied to the local securities authority or regulator (the "Decision Maker") in each of the Jurisdictions for a decision under the securities legislation (the "Legislation") to be deemed to have ceased to be a reporting issuer in the Jurisdictions.

As the Applicant has represented to the Decision Makers that,

1. the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by less than 15 security holders in each of the jurisdictions in Canada and less than 51 security holders in total in Canada,

2. no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 Marketplace Operation,

3. the Applicant is applying for relief to cease to be a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer, and

4. the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

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 orders that the Applicant is deemed to have ceased to be a reporting issuer.

"Cameron McInnis"

2.1.20 2861399 Canada Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer deemed to have ceased being a reporting issuer.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am. s. 83.

November 12, 2003

2861399 Canada Inc.
1250 René-Lévesque Blvd. West
38th Floor
Montreal Qc.
H3B 4W8

Attention: Mr. Michel Cordeau

Re: 2861399 Canada Inc. (the "Applicant") – Application to cease to be a Reporting Issuer under the securities legislation of Alberta, Saskatchewan, Ontario, Québec, Nova Scotia, Newfoundland & Labrador (the "Jurisdictions")

Dear Mr. Cordeau:

The Applicant has applied to the local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions for a decision under the securities legislation (the "Legislation") of the Jurisdictions to be deemed to have ceased to be a reporting issuer in the Jurisdictions.

As the Applicant has represented to the Decision Makers that:

- the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by less than 15 security holders in each of the jurisdictions in Canada and less than 51 security holders in total in Canada;

- no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 Marketplace Operation;

- the Applicant is applying for relief to cease to be a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and

- the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer;

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 orders that the Applicant is deemed to have ceased to be a reporting issuer.

"Stéphanie Lachance"

2.1.21 Open Text Corporation - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – securities of issuer registered under section 12 of the 1934 Act – issuer not required to register under United States Investment Company Act of 1940 – relief granted from requirement to file annual and interim financial statements prepared in accordance with Canadian GAAP and audited in accordance with Canadian GAAS – relief granted from requirement to include in a short form prospectus annual and interim financial statements prepared in accordance with Canadian GAAP and audited in accordance with Canadian GAAS – relief conditional upon issuer preparing annual and interim financial statements in accordance with US GAAP and audited in accordance with US GAAS.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 77, 78, 80(b)(iii).

Regulations Cited

R.R.O. 1990, Reg. 1015, as am., s. 2.

Instruments Cited

National Instrument 44-101 Short Form Distributions (2000) 23 O.S.C.B. (supp.) 867.

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

AND

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

AND

IN THE MATTER OF
OPEN TEXT CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador (collectively, the "Jurisdictions") has received an application from Open Text Corporation (the "Applicant") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that:

(i) the requirements in the Legislation (the "CD GAAP and GAAS Requirements") to file annual and interim financial statements prepared in accordance with Canadian GAAP and, in the case of the annual financial statements, audited in accordance with Canadian GAAS; and

(ii) the requirements contained in the Legislation (the "Prospectus GAAP and GAAS Requirements") to include in a short form prospectus annual and interim financial statements prepared in accordance with Canadian GAAP and, in the case of the annual financial statements, audited in accordance with Canadian GAAS,

will not apply to the Applicant;

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 unless otherwise defined, the terms herein have the meanings set out in National Instrument 14-101 Definitions;

AND WHEREAS the Applicant has represented to the Decision Makers that:

1. The Applicant is a global supplier of collaboration and knowledge management software for the enterprise.

2. The Applicant is a corporation incorporated under the laws of Ontario, Canada and has its registered office in Waterloo, Ontario.

3. The Applicant's shares are listed on the Toronto Stock Exchange and quoted on the Nasdaq National Market.

4. The Applicant is a reporting issuer in all of the provinces in Canada, other than Newfoundland and Labrador.

5. To the best of its knowledge, the Applicant is not in default of any requirements of the Legislation.

6. The Applicant is qualified to file a short form prospectus under National Instrument 44-101 *Short Form Prospectus Distributions*.

7. The Applicant has a class of securities registered under Section 12 of the 1934 Act. The Applicant is not registered or required to be registered as an investment company under the *Investment Company Act of 1940* (the "Investment Company Act 1940") of the United States of America.

8. The Applicant's year end for fiscal 2003 is June 30, 2003. On November 19, 2003, the Applicant filed with the Decision Makers its interim financial statements for the interim period ended September 30, 2003.

9. The Applicant currently prepares its annual and interim financial statements in accordance with Canadian GAAP, without reconciliation to generally accepted accounting principles in the United States that the SEC has identified as having substantial authoritative support, as supplemented by Regulation S-X and Regulation S-B under the 1934 Act ("US GAAP"). The Canadian GAAP annual financial statements of the Applicant are currently audited in accordance with Canadian GAAS.

10. The Applicant also prepares its annual and interim financial statements in accordance with US GAAP, without reconciliation to Canadian GAAP. The US GAAP annual financial statements are currently audited in accordance with United States generally accepted audited standards, as supplemented by the SEC's rules on auditor independence ("US GAAS").

11. The Applicant proposes to file interim and annual financial statements prepared in accordance with US GAAP and, in the case of annual statements, audited in accordance with US GAAS, to satisfy its continuous disclosure requirements with respect to financial statements in each of the Jurisdictions.

12. The Applicant proposes to re-file its interim financial statements for the interim period ended September 30, 2003. The re-filed interim financial statements will be prepared in accordance with US GAAP and the notes to the interim financial statements will:

(a) explain the material differences between Canadian GAAP and US GAAP that relate to recognition, measurement and presentation;

(b) quantify the effect of material differences between Canadian GAAP and US GAAP that relate to recognition, measurement and presentation, including a tabular reconciliation between net income reported in the financial statements and net income computed in accordance with Canadian GAAP; and

(c) provide disclosure consistent with Canadian GAAP requirements to the extent not already reflected in the financial statements.

In addition, the Applicant proposes to file a supplement to the Management Discussion and Analysis ("MD&A") relating to the interim period

ended September 30, 2003 that will restate, based on financial information of the Applicant prepared in accordance with or reconciled to Canadian GAAP, those parts of those MD&A that:

(d) are based on financial statements of the Applicant prepared in accordance with US GAAP; and

(e) would contain material differences if they were based on financial statements of the Applicant prepared in accordance with Canadian GAAP;

13. The Applicant will continue to comply with the requirements of its jurisdiction of incorporation (Ontario) as they relate to the preparation and audit of annual financial statements in accordance with Canadian GAAP and Canadian GAAS, respectively (and the delivery thereof), which requirements are prescribed by the *Business Corporations Act* (Ontario).

14. The Applicant is satisfied that it has obtained and applied the necessary level of expertise of US GAAP to support the preparation of US GAAP financial statements.

15. The Applicant's audit committee has taken steps to ensure it has, or has access to, the necessary expertise in relation to US GAAP and that management has put in place systems to ensure that the appropriate levels and numbers of staff have and will maintain the level of expertise in US GAAP necessary to prepare reliable, high quality financial statements.

16. The Applicant's audit committee has satisfied itself as to the adequacy of the expertise of the audit engagement team and the audit firm in relation to the application of US GAAP and US GAAS.

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

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

THE DECISION of the Decision Makers (other than the Decision Maker in British Columbia) under the Legislation is that the CD GAAP and GAAS Requirements will not apply to the Applicant's annual and interim financial statements required to be filed under the Legislation provided that:

(a) the Applicant's common shares are registered under Section 12 of the 1934 Act and the Applicant is not registered or required to register as an investment company under the *Investment Company Act 1940*;

(b) the Applicant's annual and interim financial statements required to be filed under the Legislation are prepared in accordance with US GAAP and, in the case of annual financial statements, audited in accordance with US GAAS;

(c) the Applicant re-files its interim financial statements and MD&A for the period ended September 30, 2003 in accordance with representation 12, above;

(d) the Applicant's financial year end remains June 30;

(e) the notes to the Applicant's annual comparative financial statements for its 2004 and 2005 financial years, and the notes to the interim financial statements for the interim periods ended December 31, 2003, March 31, 2004 and all interim periods during the 2005 financial year:

(i) explain the material differences between Canadian GAAP and US GAAP that relate to recognition, measurement and presentation;

(ii) quantify the effect of material differences between Canadian GAAP and US GAAP that relate to recognition, measurement and presentation, including a tabular reconciliation between net income reported in the financial statements and net income computed in accordance with Canadian GAAP; and

(iii) provide disclosure consistent with Canadian GAAP requirements to the extent not already reflected in the financial statements;

(f) any comparative financial information contained in the financial statements referred to in paragraphs (c) and (e), above, are presented in accordance with US GAAP and supported by an accompanying note that

(i) explains the material differences between Canadian GAAP and US GAAP that relate to the recognition, measurement and presentation; and

(ii) quantifies the effect of material differences between Canadian GAAP and US GAAP that relate to recognition, measurement and presentation, including a tabular reconciliation between net income as previously reported in the financial statements in accordance with Canadian GAAP and net income as restated and presented in accordance with US GAAP;

(g) the notes to the financial statements identify the accounting principles used to prepare the financial statements;

(h) the Applicant files a supplement to the MD&A relating to each of the financial statements referred to in paragraph (e) above that will restate, based on financial information of the Applicant prepared in accordance with or reconciled to Canadian GAAP, those parts of those MD&A that:

(i) are based on financial statements of the Applicant prepared in accordance with US GAAP; and

(ii) would contain material differences if they were based on financial statements of the Applicant prepared in accordance with Canadian GAAP;

(i) the Applicant uses US GAAP generally on a going-forward basis for all of its financial statements filed under its continuous disclosure requirements in the Jurisdictions;

(j) the Applicant files an auditor's report on the annual financial statements filed under paragraph (e) above that is prepared in accordance with US GAAS and that:

(i) contains an unqualified opinion,

(ii) identifies all financial periods presented for which the auditor has issued an auditor's report; if the Applicant has changed its auditor and one or more of the comparative periods presented in the financial statements were audited by a different auditor, the auditor's report must refer to any former auditor's report(s) on the comparative periods, and

(iii) identifies the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements; and

(k) this Decision, as it relates to the jurisdiction of a Decision Maker, will terminate upon publication in final form of any legislation or rule of that Decision Maker dealing with acceptable accounting principles and auditing standards, including proposed National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* provided that any requirement of such legislation or rule that is the same or substantially similar to those in paragraphs (e), (f) or (h) above will not apply to the Applicant's annual and interim financial statements required to be filed under the Legislation in respect of any financial year, or any interim period thereof, after the Applicant's 2005 financial year.

January 21, 2004.

"Paul M. Moore" "Lorne Morphy"

AND THE FURTHER DECISION of the Decision Makers is that the Prospectus GAAP and GAAS Requirements will not apply to the Applicant's annual and interim financial statements included in a short form prospectus filed under National Instrument 44-101, provided that:

(a) the Applicant is in compliance with the conditions (a) through (j) of the Decision, above;

(b) the Applicant's annual and interim financial statements included in the prospectus are prepared in accordance with US GAAP and, in the case of annual financial statements, audited in accordance with US GAAS;

(c) the notes to the financial statements identify the accounting principles used to prepare the financial statements;

(d) the annual financial statements of the Applicant included in the prospectus are accompanied by an auditor's report that is prepared in accordance with US GAAS and that:

(i) contains an unqualified opinion,

(ii) identifies all financial periods presented for which the auditor has issued an auditor's report; if the Applicant has changed its auditor and one or more of the comparative periods presented in the financial statements were audited by a different auditor, the auditor's report must refer to any former auditor's report(s) on the comparative periods, and

(iii) identifies the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements; and

(e) this Decision, as it relates to the jurisdiction of a Decision Maker, will terminate upon publication in final form of any legislation or rule of that Decision Maker dealing with acceptable accounting principles and auditing standards, including proposed National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* provided that any requirement of such legislation or rule that is the same or substantially similar to those in paragraphs (e), (f) or (h) of the above Decision will not apply to the Applicant's annual and interim financial statements required to be filed under the Legislation in respect of any financial year, or any interim period thereof, after the Applicant's 2005 financial year.

January 21, 2004.

"Cameron McInnis"

2.1.22 Nexen Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Application.

– issuer exempt from certain disclosure requirements of NI 51-101 subject to conditions, including the condition to provide a modified statement of reserves data and other information relating to its oil and gas activities containing the information contemplated by, and consistent with, US Disclosure Requirements and US Disclosure Practices.

– issuer exempt from requirement of NI 51-101 that reserves evaluator be independent from issuer, subject to conditions.

Applicable National Instrument

National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities – s. 2.1, s. 3.2, s. 4.2(1)(a)(ii) and (iii), s. 4.2(1)(b) and (c), s. 5.3, s. 5.8, s. 5.9, s. 5.15(a), s. 5.15(b)(i), s. 5.15(b)(iv) and s. 8.1(1).

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NOVA SCOTIA, NEWFOUNDLAND AND LABRADOR, YUKON, NORTHWEST TERRITORIES AND NUNAVUT

AND

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

AND

IN THE MATTER OF
NEXEN INC.

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (the Decision Maker) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (the Jurisdictions) has received an application from Nexen Inc. (the Filer) for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer be exempted from the following requirements contained in the Legislation:

   1.1 to disclose information concerning oil and gas activities in accordance with sections 2.1, 4.2(1)(a)(ii) and (iii), 4.2(1)(b) and (c), 5.3, 5.8, 5.9, 5.15(a), 5.15(b)(i) and (iv) of National Instrument 51-101 *Standards of Disclosure for*

Oil and Gas Activities (NI 51-101) (collectively, the Canadian Disclosure Requirements);

1.2 that the qualified reserves evaluator appointed under section 3.2 of NI 51-101 be independent of the Filer (the Independent Evaluator Requirement); and

1.3 in Québec, to comply with National Policy Statement No. 2-B *Guide for Engineers and Geologists Submitting Oil and Gas Reports to Canadian Provincial Securities Administrators* (NP 2-B) until such time as NI 51-101 is implemented in Québec;

2. AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief applications (the System) the Alberta Securities Commission is the principal regulator for this application;

3. AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions* or Appendix 1 of Companion Policy 51-101CP;

4. AND WHEREAS the Filer has represented to the Decision Makers that:

4.1 the Filer's head office is in Calgary, Alberta;

4.2 the Filer is an oil and gas issuer that produced an average of more than 100,000 BOEs of oil and gas (converted in the ratio 6 Mcf of gas to 1 bbl of oil) per day in its most recent financial year;

4.3 since 1971, the Filer has had securities registered under the 1934 Act and it files with the SEC an annual report on Form 10-K and related forms;

4.4 the Filer is a reporting issuer or equivalent in each of the Jurisdictions;

4.5 the Filer files its Form 10-K as an annual information form in Canada;

4.6 the Filer's common shares are listed on both the Toronto Stock Exchange and the New York Stock Exchange;

4.7 the Filer is active in capital markets outside Canada where it competes for capital with foreign issuers, routinely offering securities in the United States (US);

4.8 the Filer believes that a significant portion of its securities are held, or its security holders are located, outside Canada;

4.9 the Filer understands that, for purposes of making an investment decision or providing investment analysis or advice, a significant portion of its investors, lenders and investment analysts in both Canada and the US routinely compare the Filer to US and international oil and gas issuers, and accordingly comparability of its disclosure to their disclosure is of primary relevance to market participants;

4.10 the Filer is subject to different disclosure requirements related to its oil and gas activities under US securities legislation (US Disclosure Requirements) than under the Legislation;

4.11 disclosure concerning oil and gas activities routinely provided by issuers in the US (US Disclosure Practices) differs from the Canadian Disclosure Requirements;

4.12 compliance in Canada with Canadian Disclosure Requirements, and conformity in the US with US Disclosure Requirements and US Disclosure Practices, would require that the Filer either

4.12.1 prepare two separate versions of much of its public disclosure with respect to its oil and gas activities, or

4.12.2 file, to the extent that the SEC permits, information that differs from the US Disclosure Requirements and accompany that information with a cautionary statement addressed to the US investor;

exposing the Filer to increased costs, resulting in information that could confuse investors and other market participants, and possibly disadvantaging the Filer in competing for investment capital in the US;

4.13 the Filer's internally-generated reserves data are as reliable as independently-generated reserves data for the following reasons:

4.13.1 the Filer has qualified reserves evaluators within the meaning of NI 51-101; and

4.13.2 the Filer has a well-established reserves evaluation process that is at least as rigorous as would be the case were it to rely solely upon independent reserves evaluators or auditors; and

4.14 the Filer has adopted written evaluation practices and procedures which

4.14.1 set out definitions and standards for the Filer's internal reserves evaluation work,

4.14.2 apply the definitions and standards under US Disclosure Requirements;

4.14.3 meet the generally accepted industry practice in the US as promulgated by the Society of Petroleum Engineers (SPE); and

4.14.4 meet the standards of the COGE Handbook modified to the extent necessary to reflect US Disclosure Requirements;

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

6. 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;

7. THE DECISION of the Decision Makers under the Legislation is that:

7.1 The Filer is exempt from the Canadian Disclosure Requirements for so long as:

7.1.1 **Annual Filings –** the Filer files with the securities regulatory authorities the following not later than the date on which it is required by the Legislation to file audited financial statements for its most recent financial year:

7.1.1.1 a modified statement of reserves data and other information relating to its oil and gas activities containing the information contemplated by, and consistent with, US Disclosure Requirements and US Disclosure Practices, and for this purpose, US Disclosure Requirements or US Disclosure Practices include:

(i) the information required by the FASB Standard,

(ii) the information required by SEC Industry Guide 2 *Disclosure of Oil and Gas Operations*, as amended from time to time, and

(iii) any other information concerning matters addressed in Form 51-101F1 that is required by FASB or by the SEC;

7.1.1.2 a modified report of qualified reserves evaluators in a form acceptable to the regulator which the Filer may

(i) include in its Form 10-K under Item 7 Management Discussion & Analysis, or

(ii) file as a separate document from its Form 10-K; and

7.1.1.3 except in British Columbia, a modified report of management and directors on reserves data and other information in a form acceptable to the regulator, which the Filer may

(i) include in its Form 10-K under Item 7 Management Discussion & Analysis, or

(ii) file as a separate document from its Form 10-K.

7.1.2 **Method of Calculating Reserves –** the Filer's estimates of reserves and related standardized measure of discounted future net cash flows (the standardized measure) (or, where applicable, related future net revenue) are prepared or audited in accordance with the standards of the COGE Handbook modified to the extent necessary to reflect the Filer's written evaluation practices and procedures in conjunction with the terminology and standards of the US Disclosure Requirements;

7.1.3 **Consistent Disclosure –** subject to changes in US Disclosure Requirements or US Disclosure Practices, the Filer is consistent in its application of standards relating to oil and gas information and its disclosure of such information, within and between reporting periods;

7.1.4 **Non-Conventional Oil and Gas Activities** –

7.1.4.1 the Filer may present information about its non-conventional oil and gas activities applying the FASB Standard despite any indication to the contrary in the FASB Standard;

7.1.4.2 the Filer may present information about its non-conventional oil and gas activities in a form that is consistent with US Disclosure Practices;

7.1.5 **Disclosure of this Decision and Effect** – the Filer

7.1.5.1 at least annually, files on SEDAR (either as a separate document or in its annual information form) a statement:

(i) of the Filer's reliance on this Decision,

(ii) that explains generally the nature of the information that the Filer has disclosed or intends to disclose in the year in reliance on this Decision and that identifies the standards and the source of the standards being applied (if not otherwise readily apparent), and

(iii) to the effect that the information that the Filer has disclosed or intends to disclose in the year in reliance on this Decision may differ from the corresponding information prepared in accordance with NI 51-101 standards (if that is the case), and briefly describes the principal differences that investors should be aware of between the standards applied and the requirements of NI 51-101; and

7.1.5.2 includes, reasonably proximate to all other written disclosure that the Filer makes in Canada in reliance on this Decision, a statement:

(i) of the Filer's reliance on this Decision,

(ii) that explains generally the nature of the information being disclosed and identifies the standards and the source of the standards being applied (if it is not otherwise readily apparent),

(iii) that the information disclosed may differ from the corresponding information prepared in accordance with NI 51-101 standards, and

(iv) that reiterates or incorporates by reference the disclosure referred to in paragraph 7.1.5.1(iii);

7.1.6 **Voluntary Extra Disclosure –**if the Filer makes public disclosure of a type contemplated in NI 51-101 or Form 51-101F1, but not required by US Disclosure Requirements, and:

7.1.6.1 if the disclosure is of a nature and subject matter referred to in Part 5 of NI 51-101 (other than in a provision included in the definition of Canadian Disclosure Requirements), the disclosure is made in compliance with Part 5 of NI 51-101,

7.1.6.2 if the disclosure includes estimates that are in substance estimates of reserves or related future net revenue in categories not required under US Disclosure Requirements,

(i) the disclosure

(A) applies the relevant categories set out in the COGE Handbook, or

(B) sets out the categories being used in enough detail to make them understandable to a reader, identifies the source of those categories, states that those categories differ from the categories set out in the COGE Handbook (if that is the case) and either explains any

differences (if any) or incorporates by reference disclosure referred to in paragraph 7.1.5.1(iii) if that disclosure explains the differences,

(ii) if the disclosure includes an estimate of future net revenue or standardized measure, it also includes the corresponding estimate of reserves (although disclosure of an estimate of reserves would not have to be accompanied by a corresponding estimate of future net revenue or standardized measure),

(iii) if the disclosure includes an estimate of reserves for a category other than proved reserves (or proved oil and gas reserve quantities), it also includes an estimate of proved reserves (or proved oil and gas reserve quantities) based on the same price and cost assumptions with the price assumptions disclosed,

(iv) unless the extra disclosure is made involuntarily (as contemplated in section 8.4(b) of Companion Policy 51-101CP), the Filer includes disclosure of the same type in subsequent annual SEDAR filings for so long as the information is material, and

(v) for the purpose of paragraph 7.1.6.2 (iv), if the triggering disclosure was an estimate for a particular property, unless that property is highly material to the Filer, its subsequent annual disclosure of that type of estimate also includes aggregate estimates for the Filer and by country (or, if appropriate and not misleading, by foreign geographic area), not only estimates for that property, for so long as the information is material;

7.2 **Disclosure Concerning Prospects –**

7.2.1 if the Filer discloses information concerning a prospect that is material to the Filer, the Filer discloses the information required by section 5.9 of NI 51-101 unless disclosure of that information

7.2.1.1 would place the Filer in contravention of law or of a contractual obligation prohibiting disclosure of that information, or

7.2.1.2 would, in the Filer's discretion reasonably applied, likely be detrimental to its competitive interests;

7.2.2 if the Filer does not disclose information in reliance on section 7.2.1 of this Decision, the Filer will include with the information that it discloses about the prospect a statement to the effect that additional information concerning the prospect required by section 5.9 of NI 51-101 has not been disclosed because

7.2.2.1 of a legal obligation,

7.2.2.2 it would likely be detrimental to the Filer's competitive interests, or

7.2.2.3 the information does not yet exist,

as applicable.

7.3 the Filer is exempt from the Independent Evaluator Requirement for so long as:

7.3.1 **Internal Procedures** – the Filer maintains internal procedures that will permit preparation of the modified reports as described in subsections 7.1.1.2 and 7.1.1.3 herein;

7.3.2 **Explanatory and Cautionary Disclosure** – the Filer discloses

7.3.2.1 at least annually, the Filer's reasons for considering the reliability of its internally-generated reserves data to be equivalent to that attained by adhering strictly to the requirements of NI 51-101, including a discussion of:

(i) the manner in which the Filer's internally-generated reserves data are determined, reviewed and approved, its relevant disclosure control procedures and the related role, responsibilities and composition of responsible management, the board of directors of the Filer and (if applicable) the reserves committee of the board of directors of the Filer;

(ii) the involvement of independent qualified reserves evaluators or auditors in the Filer's reserves evaluation process; and

(iii) the Filer's reasons for filing the reports to the directors of the Filer from the internal qualified reserves evaluators instead of the reports to the directors of the Filer from the independent qualified reserves evaluators or auditors; and

7.3.2.2 in each document that discloses any information derived from internally-generated reserves data and reasonably proximate to that disclosure, the fact that the reserves data were internally - generated; and

7.3.3 **Disclosure of Conflicting Independent Reports** – if, despite this Decision, the Filer obtains a final report on reserves data from an independent qualified reserves evaluator or auditor that contains information that is materially different from the Filer's public disclosure record in respect of such reserves data, the Filer discloses that fact and updates its public disclosure accordingly;

7.4 the Filer is exempt from the prospectus and annual information form requirements of the Legislation that require a Filer to disclose information in a prospectus or annual information form in accordance with NI 51-101, but only to the extent that the Filer relies on and complies with this Decision; and

7.5 in Québec, until NI 51-101 comes into force in Québec, the Filer is exempt from the requirements of NP 2-B and may satisfy requirements under the Legislation of Québec that refer to NP 2-B by complying with the requirements of NI 51-101 as varied by this Decision.

8. This Decision, as it relates to either the Canadian Disclosure Requirements or the Independent Evaluator Requirement, will terminate in a Jurisdiction one year after the effective date in that Jurisdiction of any substantive amendment to the Canadian Disclosure Requirements or the Independent Evaluator Requirement, respectively, unless the Decision Maker otherwise agrees in writing.

January 30, 2004.

"Glenda A. Campbell" "David W. Betts"

2.1.23 First Chicago Investment Corporation - MRRS Decision

Headnote

Rule 61-501 – Related party transaction – amendment to share terms. Issuer proposing to amend share terms to add a convertibility feature. 94% of the shares of the class are owned by a related party or its affiliates. Relief from the minority approval requirement in respect of such class of affected securities granted. Minority approval is being obtained from all other classes of affected securities. Relief from the valuation requirement in respect of the transaction also granted. All holders of securities of the same class are being treated equally. Conversion feature is exercisable only at the option of the holder. The public record of the issuer, including the information circular relating to the special meeting to approve the amendment, contains all the information necessary for the holders of affected securities to make an informed decision.

Rule Cited

Rule 61-501 – Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions, ss. 5.5, 5.7 and 9.1.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO AND QUÉBEC

AND

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

AND

IN THE MATTER OF
FIRST CHICAGO INVESTMENT CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Ontario and Québec (the "Jurisdictions") has received an application from First Chicago Investment Corporation (the "Issuer") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that, in connection with an amendment to the terms of its Series A Junior Preferred Shares, the Issuer be exempt from the requirement to obtain minority approval from the holders of the Series A Junior Preferred Shares and from the formal valuation requirement (the "Valuation Requirement") in Ontario Securities Commission Rule 61-501 ("Rule 61-501") and Québec Policy Statement Q-27 ("Policy Q-27");

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, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Québec Commission Notice 14-101;

AND WHEREAS the Issuer has represented to the Decision Makers as follows:

1. The Issuer is a corporation amalgamated under the laws of the province of Alberta and its primary business is to conduct financing and investing activities.

2. The Issuer is a reporting issuer (or the equivalent) in each of the provinces of Canada and is not in default of any of the requirements of the Legislation

3. The authorized capital of the Issuer consists of an unlimited number of: (i) senior preferred shares issuable in series (the "Senior Preferred Shares"); (ii) junior preferred shares issuable in series (the "Junior Preferred Shares"); (iii) dividend shares (the "Dividend Shares"); (iv) multiple voting shares (the "MVS"); and (v) subordinate voting shares (the "SVS").

4. The Senior Preferred Shares as a class are entitled to a preference over the Junior Preferred Shares, the Dividend Shares, the SVS and the MVS with respect to dividends and in the event of a distribution of assets on a liquidation, dissolution or winding up of the Issuer.

   The Junior Preferred Shares as a class rank junior to the Senior Preferred Shares and senior to the Dividend Shares, the SVS and the MVS with respect to dividends and in the event of a distribution of assets on a liquidation, dissolution or winding up of the Issuer.

   The Dividend Shares are non-voting shares, the holders of which are entitled to receive cumulative, preferential dividends. The Dividend Shares rank junior to the Senior Preferred Shares and Junior Preferred Shares, and senior to the SVS and the MVS with respect to dividends and in the event of a distribution of assets on a liquidation, dissolution or winding up of the Issuer. The Dividend Shares are redeemable by the Issuer after July 30, 2006 at a price of $11.75 per share.

   The SVS carry one vote per share and the holders are entitled to receive a dividend (in equal amounts and at the same time as the MVS, and in certain circumstances the Series A Junior Preferred Shares) if, as and when declared by the directors of the Issuer. Subject to the preference accorded to holders of Senior Preferred Shares and Junior Preferred Shares, the holders of SVS share equally with the holders of MVS (and holders of Series A Junior Preferred Shares on a

distribution in excess of $5.00 per SVS and MVS) on a distribution of the assets on a liquidation, dissolution or winding up of the Issuer.

The MVS carry 25 votes per share and the holders are entitled to receive a dividend (in equal amounts and at the same time as the SVS and, in certain circumstances, the Series A Junior Preferred Shares) if, as and when declared by the directors of the Issuer. Subject to the preference accorded to the holders of the Senior Preferred Shares and Junior Preferred Shares, the holders of the MVS share equally with the holders of the SVS (and holders of Series A Junior Preferred Shares on a distribution in excess of $5.00 per SVS and MVS) on a distribution of the assets on a liquidation, dissolution or winding up of the Issuer. The MVS are convertible at any time into SVS on a one-for-one basis.

5. The Issuer has created one series of (i) Senior Preferred Shares, designated "Series A" (the "Series A Senior Preferred Shares") which are non-voting, redeemable at the Issuer's option at any time, and carry a cumulative dividend of 75% of the average prime rate; and (ii) Junior Preferred Shares, designated as "Series A" (the "Series A Junior Preferred Shares") which have one vote per share, carry a cumulative dividend of 75% of the average prime rate, participate equally with the SVS and MVS on a per share basis in any dividends exceeding $0.375 on the SVS and MVS per annum, and on payments made on liquidation, dissolution or winding up of the Issuer in excess of $5.00 per SVS and MVS.

6. As at December 31, 2003, there were 1,200,000 Series A Senior Preferred Shares, 2,631,865 Series A Junior Preferred Shares, 8,235,222 Dividend Shares, 1,108,805 MVS and 1,776,772 SVS issued and outstanding.

7. Each of the Series A Senior Preferred Shares, Dividend Shares, MVS and SVS are listed on the Toronto Stock Exchange.

8. The Coastal Group ("Coastal") holds 2,475,000 Series A Junior Preferred Shares, 500,000 MVS and 915,000 SVS, representing 49.46% of the voting rights of all classes of shares. Consequently, Coastal is a "related party" of the Issuer within the meaning of Rule 61-501 and Policy Q-27.

9. J. Ian Flatt and Gordon Flatt directly or indirectly, individually or collectively, own or exercises control over Coastal. J. Ian Flatt, Gordon Flatt, Andrew Kim, Lori Tange, and Miranda Weicker are officers of Coastal or its subsidiaries and are directors and/or officers of the Issuer.

10. The Issuer is proposing to amend the terms of the Series A Junior Preferred Shares to make the Series A Junior Preferred Shares convertible, at the option of the holder, into SVS on a one-for-one basis (the "Amendment"). Coastal has indicated to the Issuer that if the Series A Junior Preferred Shares are so amended, it will convert its 2,475,000 Series A Junior Preferred Shares into 2,475,000 SVS. The Amendment constitutes a "related party transaction" pursuant to Rule 61-501 and Policy Q-27 because Coastal is a "related party" to the Issuer.

11. The MVS and SVS are "participating securities" within the meaning of Rule 61-501 and Policy Q-27; the Senior Preferred Shares and the Dividend Shares are not. The Junior Preferred Shares may be "participating securities" within the meaning of Rule 61-501 and Policy Q-27 as a result of their right to participate equally with the SVS and MVS on a per share basis in any dividends exceeding $0.375 on the SVS and MVS per annum, and on payments made on liquidation, dissolution or winding up of the Issuer in excess of $5.00 per SVS and MVS.

12. Absent the relief from the requirement to obtain minority approval from the holders of the Series A Junior Preferred Shares provided herein, the Issuer must obtain minority approval of the Amendment from the holders of the Series A Junior Preferred Shares, as required under Rule 61-501 and Policy Q-27. Approximately 94% of the Series A Junior Preferred Shares will be excluded from such minority approval vote, being Series A Junior Preferred Shares held by (i) Coastal, (ii) related parties of Coastal and (iii) persons or companies acting jointly or in concert with (i) or (ii) in respect of the Amendment (the "Majority Holders"). It is possible that none of the minority holders of the Series A Junior Preferred Shares will attend at the shareholders meeting and the Amendment would fail to receive the required minority approval.

13. All holders of the Series A Junior Preferred Shares will be treated the same if the Amendment is completed. All such holders will receive the ability to convert their Series A Junior Preferred Shares into SVS at their option.

14. In order to amend the articles of the Issuer to provide for the Amendment, the Issuer will require the following shareholder votes:

    (i) not less than two-thirds of the votes cast by holders of Series A Junior Preferred Shares, SVS and MVS, voting as a group; and

    (ii) not less than two-thirds of the votes cast by holders of Series A Junior Preferred Shares, Dividend Shares, SVS and MVS, each voting as a class.

In addition, the Issuer will seek approval of the Amendment by a majority of the votes cast by holders of SVS and MVS, each voting as a class and excluding the Majority Holders of SVS and MVS (the "SVS and MVS Minority Approval").

15. Shareholders of the Issuer will receive an information circular in connection with the special meeting at which the Amendment will be considered (the "Information Circular") containing the information required pursuant to section 5.4 of Rule 61-501 and Policy Q-27, including the details of the Amendment and the terms of the Senior Preferred Shares, Junior Preferred Shares, Dividend Shares, MVS and SVS.

16. Absent the relief from the Valuation Requirement provided herein, the Issuer must obtain a formal valuation of the Series A Junior Preferred Shares and the SVS, as required under Rule 61-501 and Policy Q-27. A formal valuation will create additional expense which will outweigh the benefit of the information it provides since the public record for the Issuer (including the Information Circular) contains or will contain all of the relevant information holders of Series A Junior Preferred Shares, Dividend Shares, SVS and MVS require in order to make an informed decision.

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 under the Legislation is that, in connection with the Amendment, the Issuer shall be:

(a) exempt from the requirement to obtain minority approval from the holders of the Series A Junior Preferred Shares, provided that the Amendment receives SVS and MVS Minority Approval as described in paragraph 14 above; and

(b) exempt from the Valuation Requirement,

provided that the Issuer complies with the other applicable provisions of Rule 61-501 and Policy Q-27.

January 15, 2004.

"Ralph Shay"

2.1.24 Petro-Canada - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Application. Issuer exempt from certain disclosure requirements of NI 51-101 subject to conditions. Issuer exempt from requirement of NI 51-101 that reserves evaluator be independent from issuer, subject to conditions.

Applicable National Instrument

National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities - s. 2.1, s. 3.2, s. 4.2(1)(a)(ii) and (iii), s. 4.2(1)(b) and (c), s. 5.3, s. 5.8, s. 5.15(a), s. 5.15(b)(i), s. 5.15(b)(iv) and s. 8.1(1).

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NOVA SCOTIA, NEWFOUNDLAND AND LABRADOR, YUKON, NORTHWEST TERRITORIES AND NUNAVUT

AND

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

AND

IN THE MATTER OF
PETRO-CANADA

MRRS DECISION DOCUMENT

1. **WHEREAS** the local securities regulatory authority or regulator (the Decision Maker) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (the Jurisdictions) has received an application from Petro-Canada (the Filer) for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer be exempted from the following requirements contained in the Legislation:

   1.1 to disclose information concerning oil and gas activities in accordance with sections 2.1, 4.2(1)(a)(ii) and (iii), 4.2(1)(b) and (c), 5.3, 5.8, 5.15(a), 5.15(b)(i) and 5.15(b)(iv) of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101) (collectively, the Canadian Disclosure Requirements);

   1.2 that the qualified reserves evaluator appointed under section 3.2 of NI 51-101 be independent of the Filer (the Independent Evaluator Requirement); and

1.3 in Québec, to comply with National Policy Statement No. 2-B *Guide for Engineers and Geologists Submitting Oil and Gas Reports to Canadian Provincial Securities Administrators* (NP 2-B) until such time as NI 51-101 is implemented in Québec;

2. **AND WHEREAS** under the Mutual Reliance Review System for Exemptive Relief applications (the System), the Alberta Securities Commission is the principal regulator for this application;

3. **AND WHEREAS**, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions*, Québec Commission Notice 14-101 or Appendix 1 of Companion Policy 51-101CP;

4. **AND WHEREAS** the Filer has represented to the Decision Makers that:

4.1 the Filer's head office is in Calgary, Alberta;

4.2 the Filer is an oil and gas issuer that produced an average of more than 100,000 BOEs of oil and gas (converted in the ratio 6 Mcf of gas to 1 bbl of oil) per day in its most recent financial year;

4.3 the Filer is a reporting issuer or equivalent in each of the Jurisdictions;

4.4 the Filer currently has registered securities under the 1934 Act;

4.5 the Filer's common shares are listed on both the Toronto Stock Exchange and the New York Stock Exchange;

4.6 the Filer is active in capital markets outside Canada where it competes for capital with foreign issuers;

4.7 the Filer believes that a significant portion of its securities are held, or its security holders are located, outside Canada;

4.8 the Filer understands that, for purposes of making an investment decision or providing investment analysis or advice, a significant portion of its investors, lenders and investment analysts in both Canada and the US routinely compare the Filer to US and international oil and gas issuers, and accordingly comparability of its disclosure to their disclosure is of primary relevance to market participants;

4.9 the Filer is subject to different disclosure requirements related to its oil and gas activities under US securities legislation (US Disclosure Requirements) than under the Legislation;

4.10 disclosure concerning oil and gas activities routinely provided by issuers in the US (US Disclosure Practices) differs from the Canadian Disclosure Requirements;

4.11 compliance in Canada with Canadian Disclosure Requirements, and conformity in the US with US Disclosure Requirements and US Disclosure Practices, would require that the Filer either:

4.11.1 prepare two separate versions of much of its public disclosure with respect to its oil and gas activities, or

4.11.2 file, to the extent that the SEC permits, information that differs from the US Disclosure Requirements and accompany that information with a warning addressed to the US investor;

exposing the Filer to increased costs, resulting in information that could confuse investors and other market participants, and possibly disadvantaging the Filer in competing for investment capital in the US;

4.12 the Filer's internally-generated reserves data are as reliable as independently-generated reserves data for the following reasons:

4.12.1 the Filer has qualified reserves evaluators within the meaning of NI 51-101; and

4.12.2 the Filer has a well-established reserves evaluation process that is at least as rigorous as would be the case were it to rely upon independent reserves evaluators or auditors; and

4.13 the Filer has adopted written evaluation practices and procedures using the COGE Handbook modified to the extent necessary to reflect the definitions and standards under US Disclosure Requirements;

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

6. **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;

7. **THE DECISION** of the Decision Makers under the Legislation is that:

7.1 The Filer is exempt from the Canadian Disclosure Requirements for so long as:

7.1.1 **Annual Filings –** the Filer files with the securities regulatory authorities the following not later than the date on

which it is required by the Legislation to file audited financial statements for its most recent financial year:

7.1.1.1. a modified statement of reserves data and other information relating to its oil and gas activities containing the information contemplated by, and consistent with, US Disclosure Requirements and US Disclosure Practices, and for this purpose, US Disclosure Requirements or US Disclosure Practices include:

(i) the information required by the FASB Standard,

(ii) the information required by SEC Industry Guide 2 "Disclosure of Oil and Gas Operations", as amended from time to time, and

(iii) any other information concerning matters addressed in Form 51-101F1 that is required by FASB or by the SEC;

7.1.1.2 a modified report of qualified reserves evaluators in a form acceptable to the regulator; and

7.1.1.3 except in British Columbia, a modified report of management and directors on reserves data and other information in a form acceptable to the regulator;

7.1.2 **Use of COGE Handbook –** the Filer's estimates of reserves and related future net revenue (or, where applicable, related standardized measure of discounted future net cash flows (the standardized measure)) are prepared or audited in accordance with the standards of the COGE Handbook modified to the extent necessary to reflect the terminology and standards of the US Disclosure Requirements;

7.1.3 **Consistent Disclosure** - subject to changes in US Disclosure Requirements or US Disclosure Practices, the Filer is consistent in its application of standards relating to oil and gas information and its disclosure of such information, within and between reporting periods;

7.1.4 Non-Conventional Oil and Gas Activities -

7.1.4.1 the Filer may present information about its non-conventional oil and gas activities applying the FASB Standard despite any indication to the contrary in the FASB Standard;

7.1.4.2 the Filer may present information about its non-conventional oil and gas activities in a form that is consistent with US Disclosure Practices;

7.1.5 **Disclosure of this Decision and Effect** - the Filer:

7.1.5.1 at least annually, files on SEDAR (either as a separate document or in its annual information form) a statement:

(i) of the Filer's reliance on this Decision,

(ii) that explains generally the nature of the information that the Filer has disclosed or intends to disclose in the year in reliance on this Decision and that identifies the standards and the source of the standards being applied (if not otherwise readily apparent), and

(iii) to the effect that the information that the Filer has disclosed or intends to disclose in the year in reliance on this Decision may differ from the corresponding information prepared in accordance with NI 51-101 standards (if that is the case), and explains the difference (if any); and

7.1.5.2 includes, reasonably proximate to all other written disclosure that the Filer makes in reliance on this Decision, a statement:

(i) of the Filer's reliance on this Decision,

(ii) that explains generally the nature of the information being disclosed and identifies the standards and the source of the standards being applied (if it is not otherwise readily apparent),

(iii) that the information disclosed may differ from the corresponding information prepared in accordance with NI 51-101 standards, and

(iv) that reiterates or incorporates by reference the disclosure referred to in paragraph 7.1.5.1(iii);

7.1.6 **Voluntary extra disclosure** - if the Filer makes public disclosure of a type contemplated in NI 51-101 or Form 51-101F1, but not required by US Disclosure Requirements, and:

7.1.6.1 if the disclosure is of a nature and subject matter referred to in Part 5 of NI 51-101 (other than in a provision included in the definition of Canadian Disclosure Requirements), and if there are no US Disclosure Requirements specific to that type of disclosure, the disclosure is made in compliance with Part 5 of NI 51-101,

7.1.6.2 if the disclosure includes estimates that are in substance estimates of reserves or related future net revenue in categories not required under US Disclosure Requirements,

(i) the disclosure:

(A) applies the relevant categories set out in the COGE Handbook, or

(B) sets out the categories being used in enough detail to make them understandable to a reader, identifies the source of those categories, states that those categories differ from the categories set out in the COGE Handbook (if that is the case) and either explains any differences (if any) or incorporates by reference disclosure referred to in paragraph 7.1.5.1(iii) if that disclosure explains the differences,

(ii) if the disclosure includes an estimate of future net revenue or standardized measure, it also includes the corresponding estimate of reserves (although disclosure of an estimate of reserves would not have to be accompanied by a corresponding estimate of future net revenue or standardized measure),

(iii) if the disclosure includes an estimate of reserves for a category other than proved reserves (or proved oil and gas reserve quantities), it also includes an estimate of proved reserves (or proved oil and gas reserve quantities) based on the same price and cost assumptions with the price assumptions disclosed,

(iv) unless the extra disclosure is made involuntarily (as contemplated in section 8.4(b) of Companion Policy 51-101CP), the Filer includes disclosure of the same type in subsequent annual filings for as long as the information is material, and

(v) for the purpose of paragraph 7.1.6.2(iv), if the triggering disclosure was an estimate for a particular property, unless that property is highly material to the Filer, its subsequent annual disclosure of that type of estimate also includes aggregate estimates for the Filer and by country (or, if appropriate and not misleading, by foreign geographic area), not only estimates for that property, for so long as the information is material;

7.2 the Filer is exempt from the Independent Evaluator Requirement for so long as:

7.2.1 **Internal Procedures** - the Filer maintains internal procedures that will permit preparation of the modified report of qualified reserves evaluator, and preparation of the modified report of management and directors on reserves data and other information;

7.2.2 **Explanatory and Cautionary Disclosure** - the Filer discloses

7.2.2.1 at least annually, the Filer's reasons for considering the reliability of internally-generated reserves data to be not materially less than would be afforded by strict adherence to the requirements of NI 51-101, including a discussion of:

(i) factors supporting the involvement of independent qualified evaluators or auditors and why such factors are not considered compelling in the case of the Filer, and

(ii) the manner in which the Filer's internally - generated reserves data are determined, reviewed and approved, its relevant disclosure control procedures and the related role, responsibilities and composition of responsible management, the board of directors of the Filer and (if applicable) the reserves committee of the board of directors of the Filer; and

7.2.2.2 in each document that discloses any information derived from internally-generated reserves data and reasonably proximate to that disclosure, the fact that no independent qualified reserves evaluator or auditor was involved in the preparation of the reserves data; and

7.2.3 **Disclosure of Conflicting Independent Reports** - the Filer discloses and updates its public disclosure if, despite this Decision, it obtains a final report on reserves data from an independent qualified reserves evaluator or auditor that contains information that is materially different from the Filer's public disclosure record in respect of such reserves data;

7.3 the Filer is exempt from the prospectus and annual information form requirements of the Legislation that require a Filer to disclose information in a prospectus or annual information form in accordance with NI 51-101, but only to the extent that the Filer relies on and complies with this Decision; and

7.4 in Québec, until NI 51-101 comes into force in Québec, the Filer is exempt from the requirements of NP 2-B and may satisfy requirements under the Legislation of Québec that refer to NP 2-B by complying with the requirements of NI 51-101 as varied by this Decision.

8. This Decision, as it relates to either the Canadian Disclosure Requirements or the Independent Evaluator Requirement, will terminate in a Jurisdiction one year after the effective date in that Jurisdiction of any substantive amendment to the Canadian Disclosure Requirements or the Independent Evaluator Requirement, respectively, unless the Decision Maker otherwise agrees in writing.

January 16, 2004.

"Glenda A. Campbell" "Stephen R. Murison"

2.2 Orders

2.2.1 Eagle Precision Technologies Inc. - ss. 1(6) of the OBCA

Headnote

Subsection 1(6) of the OBCA – Order deeming the issuer to have ceased to be offering its securities to the public.

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as amended.
Securities Act, R.S.O. 1990, c. S.5, as amended.

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

AND

IN THE MATTER OF
EAGLE PRECISION TECHNOLOGIES INC.

ORDER

WHEREAS Eagle Precision Technologies Inc. (the Applicant) has applied to the Ontario Securities Commission (the Commission) for an order pursuant to the *Business Corporations Act* (Ontario) (the OBCA) to be deemed to have ceased to be offering its securities to the public.

AND WHEREAS the Applicant has represented to the Commission as follows:

1. the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by less than 15 security holders in each of the jurisdictions in Canada and less than 51 security holders in total in Canada;

2. no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 - *Marketplace Operation*;

3. the Applicant is applying for relief to cease to be a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and

4. the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer.

AND WHEREAS this Order evidences the decision of the Commission;

AND WHEREAS the Commission is satisfied that the test contained in the Legislation that provides the Commission with the jurisdiction to make the Order has been met;

IT IS HEREBY ORDERED by the Ontario Securities Commission pursuant to subsection 1(6) of the OBCA that the Applicant is deemed to have ceased to be offering its securities to the public for the purposes of the OBCA.

January 20, 2004.

"Robert W. Korthals" "Paul K. Bates"

2.2.2 Mandate National Mortgage Corporation - s. 83

Headnote

Issuer deemed to have ceased to be a reporting issuer. Issuer has less than 15 security holders in Ontario holding less than 2% of the outstanding securities of the issuer. Issuer is a reporting issuer in British Columbia and Alberta, and security holders will therefore continue to have access to continuous disclosure information about the issuer via SEDAR.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., s. 83.

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

AND

IN THE MATTER OF
MANDATE NATIONAL MORTGAGE CORPORATION

ORDER
(Section 83)

UPON the application of Mandate National Mortgage Corporation ("Mandate") to the Ontario Securities Commission (the "Commission") for an order pursuant to section 83 of the Act that Mandate be deemed to have ceased to be a reporting issuer under Ontario securities legislation;

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

AND UPON Mandate having represented to the Commission that:

1. Mandate carries on business under the Canada Business Corporations Act and its management and head office are located in Vancouver, British Columbia.

2. The issued and outstanding capital of Mandate consists of 10,000,000 common shares without par value, of which 699,861 are issued and outstanding and 10,000,000 Class "A" Non-Voting Retractable Redeemable Preferred shares without par value, of which 149,073 are issued and outstanding.

3. Mandate's outstanding securities, including debt securities, are beneficially owned, directly or indirectly, by less than 15 security holders in Ontario.

4. Shareholders resident in Ontario hold in aggregate less than 2% of the outstanding shares.

5. Mandate became a reporting issuer under the Act by filing a prospectus dated August 15, 1990. The offering for which the prospectus was filed did not complete and Mandate has not otherwise accessed the Ontario capital markets for funds. Mandate does not intend to seek financing by way of an offering to the public in Ontario.

6. None of the securities of Mandate are traded on a marketplace as defined in National Instrument 21-101.

7. Mandate is a reporting issuer in the provinces of British Columbia and Alberta. All information relating to Mandate will continue to be available on SEDAR.

8. Except for in British Columbia and Alberta, Mandate will not be a reporting issuer or the equivalent in any jurisdiction in Canada immediately following the granting of the relief contained in this decision.

9. Mandate is not in default of any of its requirements as a reporting issuer in Ontario, British Columbia or Alberta.

AND UPON the Commission being satisfied that to grant this order would not be prejudicial to the public interest;

IT IS ORDERED pursuant to section 83 of the Act that Mandate is deemed to have ceased to be a reporting issuer for the purposes of Ontario securities legislation.

January 23, 2004.

"H. Lorne Morphy" "Mary Theresa McLeod"

2.2.3 TD Asset Management Inc. - s. 113

Headnote

Relief from certain mutual fund conflict of interest investment restrictions to permit a mutual fund to invest in securities of a related party – Proportion of assets to be invested in shares of the related party to be determined based on the proportion that such shares are weighted in the specified target index whose performance the mutual fund seeks to enhance.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as amended, ss. 111(2)(a), 111(3) and 113.

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

AND

IN THE MATTER OF
EMERALD ENHANCED CANADIAN
EQUITY POOLED FUND TRUST
AND
EMERALD ENHANCED CANADIAN
MARKET CAPPED POOLED FUND TRUST

ORDER
(Section 113)

UPON the application (the "Application") of TD Asset Management Inc. ("TDAM") to the Ontario Securities Commission (the "Commission") for an order pursuant to clause (a) of section 113 of the Act that clause 111(2)(a) and subsection 111(3) of the Act do not apply with respect to investments made by the Emerald Enhanced Canadian Equity Pooled Fund Trust (the "Enhanced Equity Fund"), the Emerald Enhanced Canadian Market Capped Pooled Fund Trust (the "Enhanced Capped Fund") and any other enhanced equity funds for which TDAM becomes the manager after the date of this application (collectively, the "Enhanced Funds") in the shares of The Toronto-Dominion Bank (the "Bank").

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

AND UPON TDAM having represented to the Commission that:

1. TDAM is a registrant, registered as a limited market dealer and as an investment counsel and portfolio manager under the Act.

2. TDAM is the manager of the Enhanced Equity Fund and the Enhanced Capped Fund and may in the future be the manager of other Enhanced Funds.

3. The Canada Trust Company ("Canada Trust") is the trustee of the Enhanced Equity Fund and the Enhanced Capped Fund and Canada Trust or another affiliate of the Bank may in the future be the trustee of other Enhanced Funds.

4. TDAM and Canada Trust are wholly-owned subsidiaries of the Bank.

5. Each of the Enhanced Funds is or will be an open-ended mutual fund established under the laws of Ontario under a Trust Agreement between TDAM and Canada Trust or another affiliate of the Bank or under a Declaration of Trust.

6. Each of the Enhanced Funds is or will be a "mutual fund in Ontario" under the Act.

7. Neither the Enhanced Equity Fund nor the Enhanced Capped Fund is currently a "reporting issuer" under the Act but these Funds and other Enhanced Funds may become "reporting issuers".

8. Units of each of the Enhanced Funds are or will be offered under an exemption from the requirement to file a prospectus under the Act but units of the Enhanced Funds may in the future also be offered under a prospectus filed under the Act.

9. The investment objective of the Enhanced Equity Fund is, over the long term, to enhance the performance of the Fund in relation to the performance of an index or group, determined by TDAM, of approximately three hundred (300) participating securities listed on the Toronto Stock Exchange (the "Canadian Equity Index").

10. The investment objective of the Enhanced Capped Fund is, over the long term, to enhance the performance of the Fund in relation to the performance of the S&P/TSX Capped Composite Index or another index or group, determined by TDAM, of approximately three hundred (300) participating securities of corporations listed on the Toronto Stock Exchange (the "Capped Index"). The maximum relative weight of any security in the Capped Index will be capped in accordance with the criteria of the Capped Index.

11. The investment objective of an Enhanced Fund is or will be to enhance the performance of an index that is or will be a "permitted index" within the meaning of National Instrument 81-102.

12. Securities of the Bank are included in the indices the performance of which the Enhanced Equity Fund and the Enhanced Capped Fund seek to enhance and may be included in the indices the performance of which other Enhanced Funds seek to enhance.

13. Clients of TDAM who purchase units of the Enhanced Funds have entered or will enter into an investment management agreement in which the client specifically consented or will specifically consent to the purchase of securities of the Bank by the Enhanced Funds.

14. The Enhanced Funds will invest in securities, other than shares of the Bank, included in the Canadian Equity Index, the Capped Index or any other relevant index, in accordance with the investment management process used by TDAM in managing the Enhanced Funds but will invest in shares of the Bank on a capitalization weighted basis, whereby the Enhanced Fund will invest in shares of the Bank in substantially the same proportion that such shares are weighted in the index.

15. The investment in shares of the Bank by an Enhanced Fund represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Enhanced Fund.

16. In no circumstances will discretion be exercised by TDAM with respect to the proportion of shares of the Bank held in an Enhanced Fund.

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 section 113(a) of the Act that clause 111(2)(a) and subsection 111(3) of the Act do not apply to the Enhanced Funds' investments in securities of the Bank provided that the proportion of an Enhanced Fund's assets to be invested in shares of the Bank is determined on a capitalization weighted basis, whereby the Enhanced Fund invests in shares of the Bank in substantially the same proportion that such shares are weighted in the index and not pursuant to the exercise of discretion by TDAM.

January 30, 2004.

"Theresa McLeod" "Paul K. Bates"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 Reasons for Decision

3.1.1 Dimitrios Boulieris

IN THE MATTER OF
AN APPLICATION FOR A HEARING AND REVIEW
OF DECISIONS OF THE ONTARIO DISTRICT COUNCIL
OF
THE INVESTMENT DEALERS ASSOCIATION OF CANADA
PURSUANT TO SECTION 21.7 OF SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
DISCIPLINE PROCEEDINGS PURSUANT TO
BY-LAW 20 OF THE INVESTMENT DEALERS
ASSOCIATION OF CANADA

BETWEEN

STAFF OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA

AND

DIMITRIOS BOULIERIS

Hearing:	November 24 & 28, 2003	
Panel:	Paul M. Moore, Q.C.	- Commissioner (Chair of the Panel)
	Suresh Thakrar	- Commissioner
	Paul K. Bates	- Commissioner
Counsel:	Kate G. Wootton	- For the Staff of the Ontario Securities Commission
	Ricardo Codina Elsa Renzella	- For the Staff of the Investment Dealers Association, the Applicant
	Darryl T. Mann	- For Dimitrios Boulieris, the Respondent

DECISION AND REASONS

I. The Proceeding

[1] This is an application for a hearing and review of two decisions of the Ontario District Council (District Council) of the Investment Dealers Association of Canada (IDA) pursuant to section 21.7 of the Ontario *Securities Act* R.S.O., 1990, c. S.5 (the Act). The two decisions are dated September 30, 2002 (Decision on the Merits) and January 17, 2003 (Penalty Decision) and relate to a hearing (the Hearing) concerning discipline proceedings commenced against Dimitrios Boulieris (the Respondent) by the staff of the IDA (Association Staff) pursuant to by-law 20 of the Investment Dealers Association of Canada.

[2] Association Staff requests this hearing and review on the basis that:

1. In dismissing Count 1(a) of the notice of Hearing and particulars initiating the proceedings, District Council erred in principle in that they misapprehended what the allegations were in Count 1(a), and how they could be proven. Association Staff argues that District Council overlooked evidence that the Respondent had facilitated the business of First Union Kreditanstalt S.A. (First Union);

2. District Council erred by imposing a penalty that was unfit and inappropriate in light of the Respondent's participation in the market manipulation;

3. District Council erred by not ordering the disgorgement of commissions received by the Respondent; and

4. District Council fettered its discretion in not imposing a fine on the Respondent.

[3] Association Staff argued that District Council erred by imposing a penalty that undermines specific and general deterrence for similar misconduct in the capital markets, and that District Council took into account irrelevant factors when concluding that the Respondent was not part of the market manipulation.

[4] Association Staff also argued that District Council erred in concluding that it could not order the disgorgement of commissions received by the Respondent on the basis that no evidence was presented as to who received the benefit of the commissions earned by the trading of shares of First Florida Communications Inc. (First Florida) and that it fettered its discretion by not imposing a fine on the Respondent on the basis that no fine had been requested by Association Staff.

II. Complaint against the Respondent

[5] Association Staff initiated the discipline proceedings against the Respondent pursuant to the IDA

by-law 20. In its notice of Hearing and particulars, Association Staff alleged that the Respondent engaged in conduct unbecoming by:

1. knowingly acting as an agent or facilitator for a company engaged in soliciting for the purpose of selling securities while not registered to do so with the Commission [Count 1(a)]; and

2. trading for a client who had advised the Respondent that he was attempting to manipulate the market price of a security [Count 1(b)].

III. Overview

[6] Between July 1998 and July 1999, the Respondent was a registered representative employed with First Delta Securities (First Delta), formerly a member firm of the IDA in Toronto.

[7] Harold Arviv (Arviv) was a client of the Respondent. He told the Respondent that he intended to manipulate the shares of First Florida. Subsequently, Arviv and entities related or associated with him referred persons to him. One of those entities, First Union, sent him confirmations of purchases by persons referred by First Union.

[8] First Florida was a telecommunications company incorporated in the state of Florida. Its shares were listed on the United States Over-the-Counter Bulletin Board (OTC BB) between May 27, 1998 and November 19, 1999.

[9] On March 24, 1999, the Royal Canadian Mounted Police and staff of the Commission executed a search warrant at the business premise of First Union located in Toronto. Various documents were seized including sales scripts that were used in the promotion of First Florida shares to offshore investors.

[10] First Union was not registered as a dealer pursuant to section 25 of the Act and therefore was not permitted to solicit clients for the sale of securities.

[11] It was alleged that the Respondent facilitated the business of First Union by accepting confirmations from First Union and then putting trades through that were on the same terms as those that First Union had negotiated with their clients.

[12] The essence of that allegation was that the Respondent was facilitating a non-registered entity doing something for which it was required to be registered in Ontario, namely soliciting clients for the purchase of securities.

[13] The second allegation was that the Respondent traded for Arviv, who was also connected to First Union. The Respondent traded for Arviv after being told by him that he was going to be manipulating the stock for First Florida. The Respondent subsequently traded on behalf of Arviv and traded for accounts that he knew to be associated with him.

IV. The Decision of District Council

[14] In the Decision on the Merits, District Council held that the Respondent engaged in conduct unbecoming by carrying out the trading of a client who told him that the client would attempt to manipulate the market price of a security. All other allegations were dismissed.

[15] In the Penalty Decision, District Council imposed the following sanctions on the Respondent:

1. successful rewriting of the examination based on the *Conduct and Practices Handbook for Securities Industry Professionals* (CPH) prior to being reapproved to work in the investment industry; and

2. strict supervision for a period of two years upon the Respondent's re-employment with any member of the IDA.

[16] The Respondent was also ordered to pay costs in the amount of $5000.

[17] With respect to Count 1(b), District Council found that the Respondent had indeed engaged in conduct unbecoming by trading for Arviv. However, they also found that he did not participate in the manipulation.

V. Submissions of Association Staff

[18] Association Staff argued that evidence illustrated that while the Respondent may not have had complete knowledge of what Arviv was doing, he certainly had sufficient knowledge to extract himself from the situation, and his failure to do so was an indication that he was a willing and consenting participant to what Arviv was doing. He did have enough knowledge to know that the manipulation was happening.

[19] Association Staff seeks from the panel an order setting aside the parts of the Decision on the Merits related to Count 1(a) of the notice of Hearing and particulars and either:

a) making a finding that the Respondent had engaged in conduct unbecoming a registered representative by knowingly acting as an agent or facilitator for First Union; or

b) in the alternative, remitting this matter back to District Council for a re-hearing; or

c) in the further alternative, making an order setting aside the Penalty Decisionand imposing a just and appropriate penalty in the circumstances; or

d) making such other or further order as counsel may request and the Commission may deem just.

VI. Submissions of the Respondent

[20] The Respondent submitted that District Council specifically noted the absence of any evidence from the Respondent's clients who purchased First Florida shares and who had opened accounts with the Respondent at First Delta. The Respondents further argued that none of the non-resident clients, whose identities, accounts, and transactions are particularized in a schedule to the notice of Hearing, testified at the Hearing, nor was any evidence proffered by Association Staff as to any efforts to interview these clients or otherwise secure their evidence.

[21] The Respondent also submitted that District Council had particular regard to the evidence that the Respondent did not simply execute purchase orders in connection with First Florida but that he spoke with each client prior to opening any account. Moreover, the Respondent did not open an account for each referral but only for some of the referrals.

[22] The Respondent further argued that District Council acted reasonably, given the absence of any evidence from the clients as well as any evidence as to the manner in which the orders from these clients were solicited. District Council was unable to find that the Respondent had knowingly acted as an agent or a facilitator for a company engaged in soliciting for the purpose of selling securities while not registered to do so with the Commission, as alleged by Association Staff.

VII. Law

A. Statutory Provisions

[23] Section 21.7(1) of the Act reads as follows:

> s. 21.7 (1) The Executive Director or a person or company directly affected by, or by the administration of, a direction, decision, order or ruling made under a by-law, rule, regulation, policy, procedure, interpretation or practice of a recognized stock exchange, recognized self-regulatory organization, recognized quotation and trade reporting system or recognized clearing agency may apply to the Commission for a hearing and review of the direction, decision, order or ruling.
>
> s. 21.7 (2) Section 8 applies to the hearing and review of the direction, decision, order or ruling.

[24] Section 8(3) of the Act reads as follows:

> s.8 (3) Upon a hearing and review, the Commission may by order confirm the decision under review or make such other decision as the Commission considers proper.

[25] Section 20.10 of IDA by-law 20 provides:

20.10 The applicable District Council shall have power:

a) to impose upon a registered representative, investment representative, sales manager, branch manager, assistant or co-branch manager, partner, director or officer of a Member or any other person who may be subject to the jurisdiction of the Association any one or more of the following penalties:

(i) a reprimand;

(ii) a fine not exceeding the greater of:

(1) $1,000,000.00 per offence; and

(2) an amount equal to three times the pecuniary benefit which accrued to such person as a result of committing the violation;

(iii) suspension of approval of the person for such specified period and upon such terms as the District Council may determine;

(iv) revocation of approval of such person;

(v) prohibition of approval of the person in any capacity for any period of time;

(vi) such conditions of approval or continued approval as may be considered appropriate by the District Council;

if, in the opinion of the District Council, the person:

(1) has failed to comply with or carry out the provisions of any federal or provincial statute relating to trading or advising in respect of securities or commodities or of any regulation or policy made pursuant thereto;

(2) has failed to comply with the provisions of any By-law, Regulation, Ruling or Policy of the Association;

(3) has engaged in any business conduct or practice which such District Council in its discretion considers unbecoming or not in the public interest; or

(4) is otherwise not qualified whether by integrity, solvency, training or experience.

B. Relevant Cases

[26] Where the basis of the application is a decision of a recognized stock exchange, recognized self-regulatory organization or similar body pursuant to s. 21.7, the Commission will accord deference to factual determinations central to its specialized competence: *Re Shambleau* (2002), 25 O.S.C.B. 1850 at 1852; affirmed (2003), 26 O.S.C.B. 1629 (Ont. Div.Ct.).

[27] In *Hretchka v. British Columbia (Attorney General)*, [1972] S.C.R. 119, the Deputy Superintendent of the British Columbia Securities Commission (BCSC) issued an order prohibiting any trading in shares of a mining company by Hretchka, his wife and her investment company. The Deputy Superintendent had given notice of the hearing to consider the temporary cease trading order to Hretchka only, and had inaccurately stated the purpose of the hearing in the notice. A hearing was held before the Superintendent and subsequently the Deputy Superintendent, in effect, continued the order. The parties requested a review of this decision. The BCSC, at a full hearing with all parties represented, confirmed the order of the Deputy Superintendent, varying it in certain particulars. In considering the nature of a hearing and review under section 30(2) of the British Columbia Securities Act (BCSA) in 1972 (now section 165(4)), which is similar to section 8(3) of the Act, the British Columbia Court of Appeal ruled that the BCSC was not limited to determining whether the order of the Deputy Superintendent was valid, but could also make its own order. The Supreme Court of Canada refused to grant leave to appeal in this finding and quoted, with approval, part of the Court of Appeal judgment which pointed out that section 30 of the BCSA, in providing for a review as well as a hearing, and in permitting the BCSC to make such "other direction, decision, order or ruling as the Commission deems proper," went "far beyond appellate jurisdiction in the strict sense of deciding whether a lower decision be right or wrong."

[28] *Hretchka* involved the exercise of a power delegated to the Deputy Superintendent by the BCSC, but the reasoning also applies to powers conferred directly on the Executive Director by the Act. By reason of section 21.7(2) of the Act, the Commission exercises original jurisdiction (as opposed to a limited appellate jurisdiction) when exercising its powers of review under section 21.7(1) of the Act.

[29] The Commission may "confirm the decision under review or make such other decision as the Commission considers proper." The Commission is, therefore, free to substitute its judgment for that of the District Council. The hearing and review is treated much like a trial *de novo* where the panel may admit new evidence as well as review the earlier proceedings and the applicant does not have the onus of showing that the District Council was in error in making the decision that is the subject of the application. See *Security Trading Inc. and the Toronto Stock Exchange* (1994), 17 O.S.C.B. 6097 at 6105 and *Re Security Trading Inc.,* [1995] T.S.E.D.D. No.2; *Picard and Fleming - Brokers*, November (1953), O.S.C.B. 14; *BioCapital Biotechnology and Healthcare Fund and BioCapital Mutual Fund Management Inc.* (2001), 24 O.S.C.B. 2659 at 2662.

[30] In this regard, a hearing and review may be considered broader in scope than an appeal, which is usually limited to determining whether there has been an error in law or a rule of natural justice has been contravened. See *Re C. Cole & Co Ltd., Coles Books Stores Ltd. and Cole's Sporting Goods Ltd.*, [1965] 1 O.R. 331; affirmed [1965] 2 O.R. 243 (C.A.).

[31] However, in practice the Commission takes a restrained approach. The Commission will interfere with a decision of a self-regulatory organization (SRO) if any of the following grounds are present:

1. the SRO has proceeded on an incorrect principle;

2. the SRO has erred in law;

3. the SRO has overlooked some material evidence;

4. new and compelling evidence is presented to the Commission that was not presented to the SRO; or

5. the SRO's perception of the public interest conflicts with that of the Commission's.

See *Re Canada Malting* (1986), 9 O.S.C.B. 3565 at 3587 and *Security Trading Inc. and the Toronto Stock Exchange* (1994), 17 O.S.C.B. 6097 at 6105.

[32] The Commission will not substitute its own view of the evidence for that taken by an SRO just because the Commission might have reached a different conclusion. See *Re Cavalier Energy Ltd.* (1991), 14 O.S.C.B. 1480 at 1482; *Re Lafferty, Harwood & Partners Ltd. and Board of Governors of the Toronto Stock Exchange* (1973), O.S.C.B. 26, confirmed (1975), 8 O.R. (2d) 604 at 607 (Ont. Div. Ct.); and *GHZ Resource Corporation v. Vancouver Stock*

Exchange (1993), 1 B.C.J. No. 3106 at para. 7 (B.C. C.A).

C. Degree of Proof

[33] The degree of proof required in disciplinary proceedings involving a registrant is such that before a tribunal reaches a conclusion of fact, the tribunal must be reasonably satisfied that the fact occurred; and whether the tribunal is so satisfied depends on the totality of the circumstances including the nature and consequences of the facts to be proved, the seriousness of an allegation made, and the gravity of the consequences that will flow from a particular finding. See *Re Bernstein and College of Physicians and Surgeons of Ontario* (1977), 15 O.R. (2d) 447 at 470 (Ont. Div. Ct.); and *Re Coates et al. and Registrar of Motor Vehicle Dealers and Salesmen* (1988), 65 O.R. (2d) 526 at 536 (Ont. Div. Ct.).

[34] *Bernstein* stands for the proposition that grave charges against a person cannot be established to the reasonable satisfaction of a discipline committee by fragile or suspect testimony. The evidence to establish the charges have to be of such quality and quantity as to lead a discipline committee acting with care and caution to the fair and reasonable conclusion that the person is guilty of those charges. The degree of proof required must be nothing short of clear and convincing and based upon cogent evidence which is accepted by the tribunal. See *Bernstein* at 485 and *Coates* at 536.

VIII. Analysis

[35] District Council found that there was market manipulation. This is not an issue that the Commission must decide.

[36] The issue before the District Council was not whether the Respondent participated in the market manipulation but whether the Respondent facilitated the process.

[37] There was clear and cogent evidence of the Respondent's direct role in the trading. He was a necessary party to permit the market manipulation. Granted, the Respondent did not act as a mere conduit. But the fact that the Respondent talked to the referred persons, or that they became his clients, does not change or sanitize the facts: the Respondent knew that Arviv intended to manipulate the stock, that Arviv or entities working with him, such as First Union, had solicited the referrals, and that the trades executed by the Respondent were in accordance with the solicitations. Confirmations that referrals instructed or permitted the Respondent to turn into orders after he talked with them would not have appeared without someone soliciting the referrals.

[38] First Union was not registered as a dealer and therefore was not permitted to solicit clients for the sale of securities. First Union also sought the Respondent's assistance to execute purchases to be made by the referrals it made. From January to March 1999, First Union faxed various trade confirmations to the Respondent relating to the purchase of First Florida shares by the referrals. These confirmations stated that the purchase order was referred by First Union through the courtesy of First Delta. The confirmations also set out information regarding each purchaser's name and address, the number of First Florida shares to be purchased, and the purchase price.

[39] The confirmations contained a First Delta account number that had been assigned to each referral prior to any account being opened at First Delta. The Respondent had sent unassigned First Delta account numbers to Arviv by fax and acknowledged that First Union probably obtained these unassigned First Delta account numbers from Arviv.

[40] The purchases for the clients were made by the Respondent on the same terms that were set out in the confirmations received by the Respondent.

[41] Although the Respondent maintained that the purchase price was not pre-determined by First Union (as set out in the confirmations) but was set by the market, on twenty-one separate occasions the referrals bought First Florida shares at prices that were not within the market range for the day of the purchase.

[42] The Respondent clearly facilitated the business of First Union evidenced by the confirmations sent, and the business referred to, the Respondent. The business was that of a financial intermediary for which registration is required in Ontario. It is not necessary in reaching this conclusion to understand how referred persons were solicited by First Union or what the Respondent and the referred persons discussed.

[43] Of the 44 purchases executed for the referral accounts, 21 of the trades were crossed in-house with accounts related to Arviv and for which the Respondent was the registered representative.

[44] Clearly, the Respondent's role was directly related to the trading of First Florida shares and its manipulation. Evidence established that the First Florida shares were the subject of a "pump and dump" scheme.

[45] The Respondent was the registered representative for accounts at First Delta. Others connected with Arviv had accounts at BMO Nesbitt Burns, Yorkton Securities, Haywood Securities, and Merrill Lynch (U.S.). These accounts, along with the accounts at First Delta (collectively known control group accounts), carried out a large and significant portion of the trading in First Florida shares between January and June 1999, the period of the manipulation.

[46] The Respondent was the registered representative for two corporate accounts at First Delta. Arviv's wife had trading authority for one of the accounts. The Respondent knew that Arviv had influence over that account and that he was the beneficial owner of the other account.

[47] In January 1999, these two accounts at First Delta held 1,078,600 First Florida shares, which represented

approximately 93.7% of First Florida's free trading shares and 97.02% of First Florida's shares deposited with the Depository Trust Company (DTC). The shares deposited with the DTC represent all First Florida shares deposited with securities dealers in Canada and the U.S.A.

[48] The Respondent derived monetary compensation as a result of his involvement. There was undisputed evidence at the penalty part of the Hearing, on consent of both parties, that the Respondent earned commissions from the trading of First Florida and as to the quantum. This evidence showed the total commissions for all trades in First Florida shares with respect to the accounts for which the Respondent was the Registered Representative. The commissions amounted to $85,669.70. That includes the portion belonging to First Delta. The Respondent's share was 50 percent or $42,834.85.

[49] The Respondent's actions were willful and egregious. They related to his fitness and honesty as a registrant and an individual employed by a member of the IDA.

[50] Where a registrant has willfully facilitated a market manipulation, he should face severe consequences, including removal from the marketplace for an appropriate period and disgorgement of moneys received as a consequence of his conduct. Otherwise, confidence in the capital markets will suffer and the market will be at risk of further disreputable conduct, and harm from the registrant.

[51] The District Council misapprehended the public interest in having strong sanctions in view of the Respondent's willful conduct.

[52] Discipline proceedings were also brought against First Delta and four of its directors and officers. The allegations were, in essence, that they failed to supervise the Respondent and that they did not have adequate policies and procedures in place. A settlement agreement was entered into with First Delta and three of the directors and officers. It was considered by District Council and approved. Proceedings against the fourth director and officer were dropped.

[53] During the 12 months the Respondent was employed at First Delta, he generated $665,412.34 in commissions. First Delta retained one-half of that amount. In the settlement agreement, First Delta agreed to pay a fine of $600,000 and its membership in the IDA was terminated. One of the directors and officers was fined $50,000 and suspended for a period of 6 months. The two other directors and officers were each fined $30,000 and suspended for 30 days.

IX. The Decision

[54] In dismissing Count 1(a), District Council misapprehended the essential business and operational elements necessary to prove that count.

[55] District Council erred by imposing a penalty that was completely unfit and inappropriate in light of the Respondent's facilitation of the market manipulation.

[56] District Council should have ordered the disgorgement of commissions received by the Respondent. There was undisputed evidence of the amount of the commissions. We agree with Association Staff that District Council could have imposed a fine on the Respondent and that its reason for not doing so – namely that this had not been explicitly asked for – was not a valid reason. The notice of Hearing gave notice that the District Council had the power to impose a fine not exceeding the greater of $1,000,000 and three times the pecuniary benefit.

[57] It is not desirable in this case to send the matter back to District Council. No further evidence or argument is necessary in order for us to make the orders that we are making.

[58] In deciding the appropriate fine, we are taking into account the fact that the Respondent was young and with little experience. In addition, he was operating in an environment that lacked adequate supervision and the proper guidance required to foster appropriate behaviour. As admitted by First Delta in the settlement agreement, "First Delta has violated Association Regulation 1300.1(a) by failing to exercise due diligence in learning the essential facts relative to several of its clients, their accounts and the trade orders made for those accounts." Three directors and officers "violated Association Regulation 1300.2 by permitting new client accounts to be opened without approval and by failing to adequately supervise accounts for which Boulieris was the registered representative" and one director and officer "violated Association Regulation 1300.2 at the material time by failing to maintain effective account supervision procedures for First Delta." Nevertheless, as we have previously stated the Respondent's conduct was willful and egregious.

[59] The Respondent applied for a transfer of his registration approximately a year prior to the Penalty Decision. With the blocking of the transfer, the Respondent has effectively been suspended since October 2001.

[60] We are making an order:

a) setting aside the parts of the Decision on the Merits related to Count 1(a) of the notice of Hearing and particulars;

b) imposing a fine of $128,504.55 on the Respondent, payable to the IDA, equal to the sum of, (i) $42,834.85, being the portion of the commissions earned by the Respondent for the purchase of First Florida shares during the applicable period, and (ii) $85,669.70 being two times the pecuniary benefit which accrued to the Respondent from trading in shares of First Florida during the applicable period; and

c) suspending the approval of the Respondent until October 1, 2008 (being equivalent to a period of seven years, commencing October 1, 2001).

[61] We confirm District Council's order:

a) as to costs;

b) as to the successful rewriting by the Respondent of the examination based on the *Conduct and Practices Handbook for Securities Industry Professionals*; and

c) as to strict supervision for two years upon the Respondent's re-employment with any member of the IDA.

January 28, 2004.

"Paul M. Moore" "Paul K. Bates" "Suresh Thakrar"

3.1.2 First Federal Capital (Canada) Corporation and Monte Morris Friesner

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

AND

IN THE MATTER OF
FIRST FEDERAL CAPITAL (CANADA) CORPORATION
AND
MONTE MORRIS FRIESNER

Hearing: May 29, 2003

Panel:	Paul M. Moore, Q.C.	- Vice-Chair (Chair of the Panel)
	M. Theresa McLeod	- Commissioner
	Harold P. Hands	- Commissioner
Counsel:	Alexandra Clark	- For Staff of the Ontario Securities Commission
	Ronald Pelletier	- For First Federal Capital (Canada) Corp. & M. Friesner

DECISION AND REASONS

I. The Proceeding

[1] This proceeding was a hearing under sections 127 and 127.1 of the *Securities Act*, R.S.O., 1990, c. S.5 (the Act) as to whether it would be in the public interest to make one or more of the orders referred to in the amended notice of hearing dated April 2, 2003[1] in the matter of First Federal Capital (Canada) Corporation (First Federal) and Monte Morris Friesner (Friesner).

[2] On December 11, 2000, the Commission ordered, pursuant to clause 2 of section 127(1) of the Act, that all trading in securities by First Federal and Friesner cease for a period of 15 days. On December 12, 2000, the Commission issued a notice of hearing in this matter commencing December 20, 2000. On December 20, 2000, the Commission adjourned the hearing *sine die*, to be brought back before the Commission on seven days notice by either party, and extended the order of December 11, 2000 until the hearing was concluded and a decision rendered or until otherwise ordered by the Commission.

[3] On April 2, 2000, staff of the Commission issued an amended statement of allegations in this matter, amending the statement of allegations accompanying the original notice of hearing.

[4] The purpose of the hearing was for the Commission to consider whether, pursuant to sections 127(1) and 127.1 of the Act, it is in the public interest for the Commission:

[1] As set out in paragraph 4.

i) to make an order that the respondents cease trading in securities, permanently or for such time as the Commission may direct;

ii) to make an order that the respondents be reprimanded;

iii) to make an order that Friesner resign all positions that he holds as a director or officer of an issuer;

iv) to make an order that Friesner be prohibited from becoming or acting as director or officer of an issuer permanently or for such time as the Commission may direct;

v) to make an order that the respondents pay the costs of staff's investigation in relation to this matter;

vi) to make an order that the respondents pay the costs of this proceeding incurred by or on behalf of the Commission; and

vii) to make such other order as the Commission may deem appropriate.

II. The Allegations

[5] In essence, staff of the Commission alleged that First Federal and Friesner:

i) acted as advisers, as defined in the Act, without being registered under section 25 of the Act;

ii) traded securities, namely investment contracts evidenced in account agreements and related documents for its Asset Securitization Management Portfolios that were administered, created and managed by First Federal (the Trading Program), without being registered to trade securities under section 25 of the Act;

iii) made inappropriate statements to potential investors regarding the Trading Program (such as: "the investors' assets are guaranteed," and, "First Federal cannot perceive any circumstances in which the investor receives a return of less than 70% per annum"); and made promises regarding the risk-free nature of the Trading Program; and

iv) distributed the Trading Program without a prospectus contrary to section 53 of the Act.

[6] Staff further alleged that Friesner authorized, permitted or acquiesced in First Federal's conduct in connection with the Trading Program.

[7] Staff alleged that this conduct of the respondents contravened Ontario securities law and was contrary to the public interest.

III. Submissions of Counsel

A. Submissions of staff

[8] Staff submitted that

i) the Trading Program offered by the respondents was a security in that it was an investment contract;

ii) the offering of an investment contract to Mr. Samson was an act in furtherance of a trade, and therefore trading in a security;

iii) it was not necessary that an actual trade in the investment contract be consummated in order for the offering to constitute an act in furtherance of a trade; and

iv) the evidence established that the respondents held themselves out as being in the business of advising, and, therefore, acted as advisers, as well as trading in securities, contrary to section 25 of the Act.

B. Submissions of respondents

[9] The respondents submitted that

i) the facts and evidence do not disclose that there was a trading in or an advising of a distribution of securities;

ii) any trading required there to be consummated trades, and there was no evidence of such;

iii) portfolio securities were to be traded by the trading and settlement bank, not the respondents. The documentation explicitly disclaimed that the respondents were trading or advising and that the investor should do its own due diligence on its bankers; and

iv) Friesner was not responsible for the conduct of First Federal.

IV. Facts

[10] The following facts were agreed between staff and the respondents:

The Respondents

i) First Federal was incorporated under the laws of Ontario on January 7, 1999. First Federal is not a reporting issuer and has never been registered in any capacity under the Act.

ii) Friesner resides in Toronto, Ontario and was at all material times a director, the president and chief executive officer of First Federal. Friesner has never been registered in any capacity under the Act.

Chronology of events

iii) From approximately January 1999 to February 2000, and again from June 2000 to December 2000, First Federal operated a web site at www.firstfederalcanada.com (the web site). The web site first came to the attention of staff in or about September 1999.

iv) On January 19, 2000, Colin McCann, an investigator with the Commission, using a fictitious identity referred to as "B. Samson" (Mr. Samson), contacted the email address listed on the web site and requested information on investment products and services offered by First Federal. No response was received by Mr. Samson until on or about May 18, 2000.

v) By letter dated February 18, 2000 addressed to Friesner and First Federal, McCann advised that it was the opinion of staff that the content of the web site dealing with the solicitation of investment products may contravene the Act. Staff requested further information in order to reach a precise determination.

vi) In a telephone conversation with McCann on February 21, 2000, Friesner stated that he would shut down the web site until the matter could be resolved and Friesner could meet with staff. The web site was shut down that day.

vii) By email dated May 18, 2000, Friesner responded to the January 19, 2000 email from Mr. Samson asking him to advise as to the kind of secured investments he would be most interested.

viii) By email dated May 25, 2000, Mr. Samson advised Friesner that he was interested in investments with a higher than bank return and any other similar investments.

ix) By letter dated June 28, 2000, addressed to Mr. Samson and received by staff on July 13, 2000, Friesner provided Mr. Samson with a number of documents pertaining to the Trading Program which Mr. Samson had inquired about and expressed an interest in.

x) In or about June 2000, the web site was reinstated, which was confirmed by McCann on July 13, 2000. The content of the web site had been changed since it was shut down on February 21, 2000.

xi) Staff had no further communications with or from the respondents after receiving Friesner's letter of June 28, 2000 until after obtaining the temporary cease trade order.

xii) In particular, on or about December 11, 2000, without notice to the respondents, staff obtained the cease trade order.

xiii) After receiving notice of the cease trade order, First Federal closed down its web site and the web site has not been reinstated to date.

xiv) With the consent of the respondents on December 20, 2000, staff obtained an order extending the cease trade order "until the hearing is concluded and a decision rendered or until otherwise ordered by the Commission." This cease trade order is still in effect.

V. Evidence

[11] The hearing was held on May 29, 2003. No witnesses were called. However, in addition to an agreed statement of facts, several documents were tendered in evidence.

[12] The following extracts are from the web site on September 9, 1999 (italics added):

> First Federal Capital (Canada) Corporation is a very innovative, privately owned corporation specialized in Asset Management, Credit Facilities, Credit Enhancement Loans, High Yield Investments.
>
> First Federal Capital (Canada) Corporation benefits from the international experience of Pan Arab PetroChem Corporation's considerable client deposit base, and its worldwide network of agents and representative offices, *and from its particular skills in asset management*.
>
> This accumulated expertise, the cornerstone of our past development, will continue to be the constant element in our approach. *Our aim is to*

enable our clients to benefit, as partners, from the positive results of our asset-management techniques; the traditional quality of the banks we utilize, and of our client's deposits in the various banks *we have chosen for them* around the Globe.

Economic analysis of developers and their countries requiring attention from an investment standpoint is aimed at identifying investment opportunities, as they arise at any moment throughout the world. *We are thus able to offer our clients sound investments almost anywhere, and with practically no limits as to the complexity of the solutions.*

Our investment analysis is a continuous process. A strategy committee first establishes global investment parameters. The investment committee then makes an in depth study of the latest economic and financial events to identify investment sectors. *The investment committee's conclusions*, which define our position on yield and profit rates in different countries, major currencies, Corporate and Financial Bonds which are completely guaranteed, are immediately distributed to all our representative offices and departments *for the benefit of institutional and private investors.*

Our global view of economic and financial systems can include new and emerging markets that offer attractive investment opportunities. For accounts not managed by our banks, investment parameters established for asset allocation are essential to our managers for portfolio monitoring *and advice to our clients*.

In addition to direct investments, First Federal Capital (Canada) Corporation *offers its own investment products.* These instruments are targeted towards specific sectors or particular objectives, spreading investments across different categories of securities, geographical areas, investment sectors and innovative financial instruments.

The frequency and rapidity of political and economic changes tend to make investment decisions difficult for private clients. The minimum amounts necessary to take advantage of favorable rates and conditions often discourage private clients from changing positions held, preventing them from the active management indispensable for consistent results. Moreover, sophisticated financial techniques are by their very nature out of reach of many private clients. *These techniques however, are often applied in our Secured Investments, and may even constitute the basis of some of them.*

The wide range of our secured investments matches clients' requirements, representing satisfactory and inexpensive solutions, *which assure continuous and qualified management of assets*, irrespective of their size.

Whether *managed entirely by our experts* or in association with the world's leading specialists, these investments reflect the image of our clients, their investment policies being molded on ours. In most cases, the specialists commissioned by us would be beyond the reach of a private client. Individuals can thus benefit from the same conditions and *advice* as institutional investors.

As far as investments are concerned, we have always been active in the creation and management of corporate bonds and Equity issues *which are completely guaranteed*, and offer an annuity or interest of up to twenty-five percent per annum, as well as consortiums set up to acquire short or long-term participation in companies.

[13] On May 18, 2000, Friesner emailed Mr. Samson asking, "Kindly advise us, as to what kind of Secured Investments you would be most interested in."

[14] On May 25, 2000, Mr. Samson emailed Friesner, "As I recall, you were offering some investments with a higher than bank return and which were affiliated with an Arab Petro-bank. These (and any other) similar type of investments are of interest to me."

[15] On June 28, 2000, Friesner wrote to Mr. Samson enclosing documents for First Federal's Asset Securitization Management Portfolio.

[16] The letter states in part:

> The Asset Securitization Management Portfolio (ASMP) I have arranged with several European Banks is a safe and secure method of creating a Credit Facility (Funding), with benefits (Funds Generated) to the investor that can be utilized immediately. This general format is the same that I have successfully implemented in the past. The Investors' Funds are guaranteed, as they are on deposit with their own bank in a Custodial and Non-Depletion Bank Account. The Bank is expected to be an "AAA" rated bank (according to Standard and Poor's), and should be coded to a Federal Reserve. The Custodial and Non-Depletion Bank Account is in the Investor's own name, and is under his signatory control.
>
> THE INVESTOR can be a Partnership, Joint Venture, Corporation, Charity or even a Singular Party. The Investor controls the funds and the account via the signatory.
>
> The benefits generated are disbursed between the Investor, Bank Representatives, and the Introducing Parties. The Investor receives an estimated 70% return per annum on the amount of

funds invested for the contracted period. We cannot perceive any circumstances in which the Investor receives a return of less than 70% per annum. 20% percent is shared amongst all the parties involved, such as, accountants, lawyers, bank fees and introducing parties. The net amount generated to the Investor, including interest earned on the account will be approximately 50% to 55% per annum.

The above Secured Investment Portfolio has been open to new and old investors as of January 5, 1999 when the Banks' Representative submitted to First Federal Capital (Canada) Corporation the itinerary for the ASMP. I am submitting to you with this letter of introduction the memoranda, which will explain and clarify this investment.

Please review the following paragraphs, as an introduction to the Investment:

Procedure:

Requirement
- $10,000,000.00 USD on deposit with a major bank
- Proof of Funds letter from Investor's bank

Characteristics
- A custodial and Non-Depletion Bank Account under control of Investor.

Trading:

The Investor will sign a Trading Contract directly with the Trading Settlement Bank (rated "AA") or better as per Standard and Poor's. The Trading and Settlement Bank will trade Bank Subordinate Notes and other securities on behalf of the Investor, on a best effort basis. The term of the Contract will be for a period of one (1) year, but maybe renewed for the following year.

The signatory (Investor) will attend at the Trading and Settlement Bank to meet with the Director of the Bank, and should conduct a complete due diligence in order to satisfy himself as to the validity and security of the investment. The Signatory can withdraw at any time, without any liability and without any reason, if he is not completely satisfied.

The safety of the Investor's capital (Funds) on deposit at his own bank is as secure as his own bank is in the financial community. The benefit (Profit) that is available should be of interest to your investors, and also to you as an investor. Complete due diligence and information that a knowledgeable investor desires to confirm, is made available at all times, since the Investor meets directly with the Director of the Trading and Settlement Bank.

Any major bank can administrate a Custodial and Non-Depletion Account, and the following banks have agreed to maintain a Custodial and Non-Depletion Bank Account and also have approved the Asset Management Joint Venture Agreement and Custodial and Non-Depletion Account Memorandum:

- ➢ Royal Bank of Canada
- ➢ ING - The Netherlands
- ➢ RaboBank - The Netherlands
- ➢ AGN/AMRO - The Netherlands
- ➢ TD Trust - Toronto
- ➢ Bank of America
- ➢ Chase Manhattan Bank
- ➢ Citicorp

[17] Included with the June 28, 2000 letter was a document entitled "Asset Securitization Management Portfolio Synopsis". It states in part:

> In recent years there has been a blossoming of many Asset Securitization Management Portfolios (programs), also known as Secured Investment Portfolios (programs). These portfolios are based on the continuous buying and selling of bank issued debenture instruments, and offer a superior return on investment for investors who are able to provide a minimum of $10,000,000.00, as outlined by the working capital. More recently, portfolios have cropped up that allow also the small investor to take advantage of this type of investing. However, $1,000,000.00 is still the minimum accepted in most of these portfolios, which become a partnership or Joint Venture.
>
> A secure portfolio, with compounding of investment funds, can make the investor profits of between 50% and 70% or MORE, with ZERO RISK! The money never leaves the investor's Custodial bank! If the portfolio works the investor gets the promised return, and if the portfolio does not work the investor still has the money in his bank. The investor has lost nothing more than the time necessary to fill in the forms. It is a pure *'win or not lose'* situation.
>
> . . . .
>
> Many of these institutions participate in fashioning *'self-liquidating credit enhancement loans'*, where the spread between the low issue price and the eventual collection of the principal and interest is used by the project being financed. This is still pretty much an insider's game. These Asset Securitization Management Portfolios are still

known and understood by a very few privileged and wealthy investors. It is probably safe to say that 99% of the investing public in the United States has never heard of these types of Asset Securitization Management Portfolio (trading programs).

If you were to walk into any American bank or brokerage firm and inquire about these types of portfolios, you would likely be told that such programs do not exist. There is no such thing as a *'bank subordinate note or debenture'* or a *'prime bank guarantee'* and that letters of credit are used only for trade transactions. Meanwhile, in the executive suites of these same firms, the top executives are actively pursuing investments in the very programs that the lower ranks are not even aware of.

After talking to a number of bankers and brokers about these portfolios, it is clear that the rich and powerful would be pleased if this information were kept secret. In the United States the supply of money or credit is regulated by the Federal Reserve Corporation, a privately held corporation. It is not an agency of the federal government. The Federal Reserve Corporation is an independent body that came into existence through an act of Congress in 1913, and with the cooperation of certain key international banks, referred to as *'prime banks'* (coded to the Federal Reserve).

. . . .

This is a very private business; not advertised anywhere, nor covered by the press. Generally, these portfolios are only open to the most connected, wealthy entities with substantial cash to put up for investment. The privacy of this business is maintained from the original issuing bank all the way down to the retail buyer. As such it is evident, one of the keys to the profitability of these Asset Securitization Management Portfolios is having the resources and the contacts to be able to purchase these bank debenture instruments at a level as close to the issuing bank as possible (at the highest discount), and having the resources and contacts to sell the investments to the retail buyer at the highest price level.

As you can imagine, these contacts are very jealously guarded. So the real secret of successful investing is not just in knowing *'the how, why and where'* of these types of transactions. The most important piece of the puzzle is in knowing the Bank Representatives, Bankers, or Intermediaries, who can weave these opportunities and the necessary resources into a secure, profitable and responsible investment portfolio.

. . . .

Many investment professionals have the ingrained belief that they already know everything significant that is going on in the world financially. When they are advised of these types of portfolios, their automatic reaction is that it must be a *'scheme'*.

. . . .

It is just so hard for the uninitiated to believe that such huge profits are possible. After all, the typical pension funds' manager struggles each year to beat the Standard and Poor average of 9% per year. Talking about 70% is simply light years outside the realm of experience and seems unbelievable to them.

[18] Also included with the June 28, 2000 letter was a document entitled "Memorandum Asset Securitization Management Portfolio (addendum A-1) (Secured investment Portfolio Currency Deposit)". It states in part:

All the Benefits generated on the Currency Deposit portfolio is deposited into the Custodial and Non-Depletion Account, and will be distributed accordingly, upon direct Payment Disbursement Directions.

. . . .

4. The Investment Funds will be deposited at a major bank in Europe, United States or Canada with a rating of an "AA" or better-rated bank, according to Standard and Poors, in order to be utilized in the creating of the Secured Investment Portfolio. The Account will be in the name of the Partnership or Company (Syndicate) that owns the Currency, and only their authorized signatory controls that account.

. . . .

WE DO NOT CONDUCT ANY FORM OF TRADING, NOR DO WE REPRESENT IN ANY MANNER THAT WE ARE THE TRADERS. THE TRADING AND SETTLEMENT BANK IS IN FULL CONTROL OF ALL TRADING AND SECURED INVESTMENT PORTFOLIOS.

. . . .

13. As a concise part of all Agreements, the Jurisdiction and signing of all Agreement will be conducted at the Corporate Offices of First Federal Capital (Canada) Corporate located at 25 King Street West, Suite 2900, Commerce Court North, Toronto, Ontario, M5L 1E2

. . . .

15. The Fee of 1/8% of the Portfolio will be paid to First Federal Capital (Canada) Corporation and Nederlandse Frugalman Private Trust, each on a weekly basis to the full term of the Trading. A Payment Direction must be signed by the Signatories to their Custodial Bank releasing the above funds.

16. The Trading and Settlement Bank will pay this amount. The Company of Investor does not pay any form of Commission or Fee at any time to either First Federal Capital (Canada) Corporation, or to Nederlandse Frugalman Private Trust.

17. The Company (Syndicate) will be responsible to pay out any fees out of the Benefit to the introducing Parties, Brokers, Accountants, Barristers and Solicitors and their own bank fees.

VI. The Respondents' Position

[19] The respondents argued the following:

i) They could not have been advising or trading in securities because the Trading Program did not constitute a security or an investment contract, particularly by reason that there was no bag of silver coins as in *Pacific Coast Coin Exchange* v. *Ontario Securities Commission,* [1978] 2 S.C.R. 112, 80 D.L.R.(3d) 529, or any other identifiable asset. Furthermore, the alleged Trading Program could not be bought, sold, pledged, or assigned. In addition, there was no identifiable issuer of the alleged Trading Program and all of the alleged trading would have taken place through a third party, the Trading and Settlement Bank (the Bank).

ii) The decision of the British Columbia Securities Commission in *Re Hrappstead,* [1999] 15 B.C.S.C.W.S 13, is not binding in Ontario and is inconsistent with Ontario law as evidenced by *Re Costello* (2003), 26 O.S.C.B 1617, *Re Canadian Shareholders Association* (1992), 15 O.S.C.B 617, *Re McGuire* (1995), 18 O.S.C.B 4623, *Re Dodsley* (2003), 26 O.S.C.B 1799 and *Re Donas*, [1995] 14 B.C.S.C.W.S 39.

iii) Even if the alleged Trading Program was a security, the conduct complained of did not constitute advising in securities because the web site contained nothing more than investment information and the documents mailed to Mr. Samson were authored by third parties and contained nothing more than investment information. Specifically, there was no proposal individually tailored to a particular customer or class of customers.

iv) Any fees or commissions to be paid to First Federal were to be paid by the Bank. It was no more than a referral fee. Specifically, there was no evidence that the investor/customer would pay any money, fees or commissions to the respondents either directly or through the payment of commissions or a portion of any profits that may be earned.

v) Posting of information on the Internet does not constitute trading if the document contains a prominently displayed disclaimer. In this regard, the web site clearly stated that First Federal did not represent itself as a trader, nor did it sell, purchase of trade in any securities or bonds. In addition, the documentation mailed to Mr. Samson clearly stated (in bold, capitalized letters) that First Federal did not conduct any form of trading.

vi) There was no act in furtherance of a trade because the activity in question did not have sufficient proximate connection to an *actual* trade (*Costello*). There was no evidence of any actual trading in this case. To the extent that *Dodsley* and *Hrappstead* suggest an act in furtherance of a trade does not require an actual trade, those cases are inconsistent with a plain reading of the Act and of the Commission's decision in *Costello*.

vii) Even assuming no actual trade was required, there was no evidence from which one could determine whether there is a proximate connection between the impugned conduct and any trade that might have taken place. Furthermore, there was no evidence that any trade which might have taken place would not have been exempt under the Act.

viii) The web site belonged to First Federal and the materials mailed to Mr. Samson were mailed on behalf of First Federal. Since First Federal was not a reporting issuer, Friesner should not be held responsible for what, in essence, was corporate activity. Friesner merely acted in his capacity as an officer and director of First Federal.

VII. Applicable Statutory Provisions

[20] Section 25(1) of the Act provides:

> No person or company shall,
>
> a) trade in a security or act as an underwriter unless the person or company is registered as a dealer, or is registered as a salesperson or as a partner or as an officer of a registered dealer and is acting on behalf of the dealer; or
>
> c) act as an adviser unless the person or company is registered as an adviser, or is registered as a representative or as a partner or as an officer of a registered adviser and is acting on behalf of the adviser,

[21] Section 1(1) of the Act provides:

> "adviser" means a person or company engaging in *or holding himself, herself or itself out as* (italics added) engaging in the business of advising others as to the investing in or the buying or selling of securities.
>
> "distribution", where used in relation to trading in securities, means,
>
> a) a trade in securities of an issuer that have not previously been issued,
>
> "security" includes,
>
> n) any investment contract
>
> whether any of the foregoing relate to an issuer or proposed issuer.
>
> "trade" or "trading" includes,
>
> i) any sale or disposition of a security for valuable consideration, whether the terms of payment be on margin, instalment of otherwise, but does not include a purchase of a security or, except as provided in clause (d), a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a debt made in good faith,
>
> ii) any participation as a trader in any transaction in a security through the facilities of any stock exchange or quotation and trade reporting system,
>
> iii) any receipt by a registrant of an order to buy or sell a security,
>
> iv) any transfer, pledge or encumbrancing of securities of an issuer from the holdings of any person or company or combination of persons or companies described in clause (c) of the definition of "distribution" for the purpose of giving collateral for a debt made in good faith, and
>
> v) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the forgoing.

[22] Section 53(1) of the Act provides:

> No person or company shall trade in a security on his, her or its own account on behalf of any other person or company where such trade would be a distribution of such security, unless a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director.

[23] Section 122(3) of the Act provides:

> Every director or officer of a company or of a person other than an individual who authorizes, permits or acquiesces in the commission of an offence under subsection (1) by the company or person, whether or not a charge has been laid or a finding of guilt has been made against the company or person in respect of the offence under subsection (1), is guilty of an offence. . . .

VIII. Relevant Cases

A. Investment Contract

[24] In *Securities and Exchange Commission v. W.J. Howey Co. et al.* 328 US 293 (1946), the Supreme Court of the United States enunciated a three-part test to determine whether a scheme constitutes an investment contract. The three requirements are that the scheme involve (i) an investment of money, (ii) in a common enterprise, (iii) with profits solely to come from the efforts of others.

[25] In *Howey*, Mr. Justice Murphy stated with respect to the meaning of "investment contract":

> [i]t had been broadly construed by state courts so as to afford the investing public a full measure of protection. Form was disregarded for substance and emphasis was placed upon economic reality. An investment contract thus came to mean a contract or scheme "the placing of capital or laying out of money in a way intended to secure income

> or profit from its employment". . . . In other words, an investment contract for purposes of the *Securities Act* means a contract, transaction or scheme whereby a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third party, it being immaterial whether the shares in the enterprise are evidenced by formal certificates or by nominal interest in the physical assets employed in the enterprise. . . . It embodies a flexible rather than a static principle, one that is capable of adaptation to meet the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits.

[26] He stated:

> [i]t follows that the arrangements whereby the investors' interests are made manifest involve investment contracts, *regardless of the legal terminology in which such contracts are clothed*" (italics added) . . . the test is whether the scheme involves an investment of money in a common enterprise with profits to come solely from the efforts of others.

[27] This test was refined and endorsed by the Supreme Court of Canada in *Pacific Coast* at page 540. In that case, the court observed:

> . . . to give a strict interpretation of the word "solely" . . . would not serve the purpose of the legislation. Rather we adopt a more realistic test, whether the efforts made by those others than the investor are the undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise . . . .The expression "common enterprise" has been defined to mean . . . one in which the fortunes of the investor are interwoven with and dependent upon the efforts and success of those seeking the investment of third parties.

B. Acting as Adviser

[28] In *Donas*, the British Columbia Securities Commission clarified that there are two aspects to the question of whether an individual or company is acting as an adviser. The first issue to consider is whether an opinion or recommendation is being offered:

> [t]he nature of the information given or offered by a person is the key factor in determining whether that person is advising with respect to investment in or the purchase or sale of securities. A person who does nothing more than provide factual information about an issuer and its business activities is not advising in securities. A person who recommends an investment in an issuer or the purchase or sale of an issuer's securities, or who distributes or offers an opinion on the investment merits of an issuer or an issuer's securities, is advising in securities.

[29] The second issue to consider is whether the respondent offered the recommendation in a manner that reflected a business purpose, reference *Costello* and *Maguire.* Where a respondent expects to be remunerated in some respect with respect to his activities, a business purpose is reflected, reference *Hrappstead* and *Costello*. There is, however, no requirement that any investor actually follow the recommendation, pay a commission, or invest with the respondent, reference *Hrappstead* and *Re Etherington* (2002), 25 O.S.C.B. 5323.

[30] Documentation made it clear that First Federal was to receive fees from the Trading Program. Whether the fees were payable by the Bank out of its own funds or out of the funds deposited into the deposit account by the investor is not entirely clear. What is relevant, however, in determining whether there was a commercial purpose for First Federal in giving advice is the fact that it was to receive remuneration because of its activities, regardless of the specific manner or the specific person from whom the remuneration would be paid. We note, incidentally, that the documentation required a direction to be signed by the investor, directing the Bank to pay fees to First Federal.

[31] The use of a web site on the internet to solicit investors and to offer advice, in and of itself, may be suggestive of a business purpose.

[32] The distribution of a recommendation to a large number of potential investors, such as through the use of the Internet or other forms of advertisement, has also been held to be reflective of a business purpose, reference *Donas* and *Maguire*.

[33] The provision of recommendations and information formulated by others may, nevertheless, constitute advising on behalf of the person providing the information. As was stated by this Commission in *Dodsley* at page1801:

> [c]ounsel for Dodsley argued that the nature of the information provided by Dodsley was authored by third parties and Dodsley simply recommended or offered an opinion on the merits of investing in commodities generally and that each person is asked to exercise his or her own judgement as to the merits of an investment. We do not accept that position. While certain of the materials were authored by third parties, much was authored by Dodsley and that which was authored by third parties was sent in a package which contained hand-written notes of Dodsley and was sent in a manner in which he expressly or impliedly make recommendations as to investments.

C. Disclaimer

[34] In *Dodsley* the Commission confirmed that the inclusion of disclaimers to the effect that the author is not engaging in trading or advising is not sufficient to insulate a

respondent from the requirement to register. The Commission stated:

> [i]t was also argued that the disclaimer contained in the material expressly advised clients that Dodsley's services are other than as an adviser. Again, we do not accept that position in that the material distributed by Dodsley and its contents are not consistent with the content of the disclaimer. Further, we are of the view that having regard to the purpose of section 25 of the Act, it would be inappropriate for one who acts in contravention of section 25 to seek to avoid its requirements simply through a disclaimer. To give any credit to such a disclaimer, in the circumstances, is to avoid the very purpose for which section 25 of the Act was enacted.

IX. Analysis

A. Disclaimer

[35] The disclaimer in the web site was clearly not adequate to bring First Federal within the exemption of section 22(2) of NP 47-201. There is no language saying the Trading Program is not available to Ontario residents and no precautions were entered in evidence by the respondents to ensure Ontario residents did not participate. In fact, First Federal pursued Mr. Samson who Friesner knew was an Ontario resident. The Investment Dealers' Association Member Regulation - 098 does not assist the respondents. The web site goes well beyond providing "investment information" because of the hyperbole used in promoting investments.

[36] The disclaimer in the Trading Program is contradicted by the facts.

B. Investment Contract

[37] The web site material included the statement "our aim is to enable our clients to benefit as partners from the positive results of our asset management techniques." There was to be a clear sharing of benefits of the Trading Program between investors, the Bank and First Federal. There is a promised return of at least 70% per year with 20% shared with the parties involved, including First Federal. This clearly brings the activities within the purview of *Howey*.

[38] The respondents promised fantastic returns. They stated that it is their special expertise and knowledge of matters not generally known to investors that will enable the investors to earn the fantastic returns. They charge a fee for their services which is extreme: 1/8 of a percent of "the portfolio" per week payable to "each of" First Federal and Nederlandse Frugalman Private Trust, likely a related party of First Federal or Friesner.

[39] There is a close parallel between the investment scheme in the *Hrappstead* case and the activities carried out by First Federal in this case. First the promoter would "introduce" the investor to the parties who would generate the profits. There was a common enterprise with both Nederlandse and First Federal receiving compensation. There were misleading representations and exorbitant investment promises. Both held themselves out as being in the business of advising others as to the investing in securities.

[40] The Trading Program is an investment contract and, therefore, a security. It provides for the investment of moneys (minimum US$10 million) from investors in a trading scheme with profits to come from the efforts of others.

[41] It is evidenced by several documents, all of which are provided by the respondents.

[42] The Trading Program and the arrangements for the management and trading of moneys provided by the investor together constitute the security in our case, and not just the assets of the portfolio of securities that would result from the investment of funds through the Trading Program.

[43] The Trading Program revealed in the documents, when carefully analyzed, is incomprehensible. In some respects it is incredible. That does not mean it is not an investment contract and therefore not a security. It clearly is a scheme that, simplistically speaking, says: "Give us your money. We'll find others to invest it for you in accordance with our Trading Program. We have access to experts who know what they're doing although the vast majority of persons have no idea. The returns you're going to make are fantastic." We find this to be an investment contract within the meaning of *Howey* and *Pacific Coast*.

[44] The fact that the website contained very poor disclosure on the type of underlying investments the trading and settlement bank might make is no reason to conclude that there were no underlying assets forming the *corpus* of the thing to be managed, such as bags of silver in ***Pacific Coast*** or a citrus grove in the *Howey* case.

C. Act in Furtherance of a Trade

[45] The Trading Program was offered to investors on the Internet. Such offering was an act in furtherance of anticipated trades that would result from investors committing to the Trading Program. As an act in furtherance of anticipated trades, the offering itself constituted trading in the investment contract.

[46] In the case before us there was no evidence that any investment contract was ever entered into by a potential investor. Certainly, Mr. Samson never made an investment. However, in *Hrappstead*, the British Columbia Securities Commission found that an act in furtherance of a trade does not require a completed sale of a security. This Commission came to a similar conclusion in *Dodsley*.

[47] The respondent argued that *Costello* stood for the proposition that if no trades actually occurred, there was no trade in the form of an act in furtherance of a trade. That, however, is a misreading of *Costello*. In *Costello* there

were actual trades that were anticipated when acts of Costello occurred and those trades ultimately were actually carried out by registered persons or by persons exempt from registration. *Costello* held that if the acts of Costello were acts in furtherance of those trades (which, incidentally, the Commission found them not to be) then those acts in furtherance of the exempt trades, or of trades for which registration was not required, would themselves have been exempt.

[48] In *Costello*, the Commission distinguished between actual trades that had happened and acts by Costello that might or might not be acts in furtherance of those actual trades. The Commission stated at paragraph 47:

> There is no bright line separating acts, solicitations and conduct directly and indirectly in furtherance of a trade from acts, solicitations and conduct not in furtherance of a trade. Whether a particular act is in furtherance of an actual trade is a question of fact that must be answered in the circumstances of each case. A useful guide is whether the activity in question had a sufficiently proximate connection to an actual trade.

[49] The Commission used the term "actual trade" in *Costello* because the Commission was dealing with actual trades by other parties and actions by Costello that may or may not have been in furtherance of those actual trades. In the case at hand the activities of First Federal and Friesner, amounting to the offering of investment contracts, were acts in furtherance of entering into those investment contracts. There is a direct proximate connection between the offering and any trade that was anticipated as a result of those solicitations.

[50] It is nonsensical to deem an act in furtherance of a trade only to exist, as a trade within the extended meaning of paragraph (d) of the definition in the Act, if as and when an ultimate, actual trade occurs. Rather, we believe the intention of the Act is that the act in furtherance of a trade becomes a trade within the extended meaning at the time the act occurs. We have no difficulty in concluding that the precedents were correct in treating an act in furtherance of a trade as a trade regardless of whether the anticipated trade actually occurred.

[51] In summary, *Costello* does not stand for the proposition that there never could be an act in furtherance of a trade where the trade anticipated by the act in furtherance does not ultimately occur. Such a reading down of *Costello* would artificially limit the effectiveness and purpose of the Act: to regulate those who trade, or purport to trade, in securities.

D. Exemptions

[52] The respondents argued that there was no evidence that any trade which was anticipated or which might have taken place would not have been exempt under the Act. However, as this Commission observed in *Lydia Diamond Exploration of Canada Ltd., Jurgen Prince von Anhalt and Emilia Prince von Anhalt* 2003, 26 O.S.C.B. 2511 at paragraphs 83 and 84, once it is established that a respondent has engaged in an activity for which registration is required and for which a respondent argues that it had an exemption, the onus is on the respondent to prove facts establishing the availability of the exemption.

[53] The Trading Program required the investor to deposit US$10 million with the investor's own Bank to be used as capital by the Bank in trading for the investor in accordance with the trading strategy of First Federal. It is not clear how this would be done.

[54] Although the investor was required to deposit a minimum of US$10 million to participate in the Trading Program, this sum was the investor's capital. There was no evidence, apart from fees payable, that the investor had to pay any purchase price or other cost for the Trading Program.

[55] Sophisticated investors are not approached with investment opportunities through the Internet. Relatively unsophisticated retail investors are the target of solicitations through the Internet. The reach of the Internet is far and wide. We have no reason to believe that First Federal intended only to attract the interest of accredited investors with respect to whom there may exist exemptions from the registration and prospectus requirements of Ontario securities law. Indeed, an examination of the material that was contained on the web site refers to unsophisticated people and retail investors that are unaware of how the bank market operates.

E. Non Compliance with Ontario Securities Law

[56] Section 122(3) of the Act deals with a director or officer of a company who authorizes, permits or acquiesces in the commission of an offence under the Act. It does not require that a charge be laid or a finding of guilt be made against the company prior to its application.

[57] We are not dealing with allegations under section 122 of the Act. We are dealing with the question of whether it is in the public interest to issue one or more orders under sections 127 and 127.1 of the Act with respect to the respondents. While we will not be making a finding whether an offence has occurred contrary to section 122 of the Act, we are entitled to make a finding of whether or not Ontario securities law has been complied with for purposes of section 127.

[58] Although a breach of the Act is not a precondition to any order under section 127, certain orders may be made in cases where the Commission is satisfied that Ontario securities law has not been complied with.

[59] Friesner was the president, the chief executive officer and a director of First Federal. He was the only contact person listed on the web site and the only person to contact Mr. Samson on behalf of First Federal. No evidence was led by Friesner to suggest others were responsible for the web site or for First Federal's decisions. Friesner authorized and signed the letter to Mr. Samson

which promoted the Trading Program and solicited Mr. Samson's participation in an investment contract contrary to the provisions of Ontario securities law. He referred to the actor in the letter as "I" and not "First Federal" in some instances. There is reason to conclude that First Federal may have been merely an alter ego for Friesner.

[60] The evidence clearly establishes that Friesner was acting as the directing officer and agent of First Federal in respect of the conduct impugned in this matter. There is no doubt in our minds that in determining whether to issue one or more orders under section 127 and section 127.1 and the extent of the orders, it is appropriate to take into account the conduct of Friesner as well as First Federal.

F. Advising

[61] First Federal held itself out as being in the business of advising as evidenced by several statements on its web site.

[62] Posting information on a web site, including the holding out of being in the business of advising, solicitations, and offerings of securities, is not an isolated act, because the posting is available to persons who can access the Internet and is available during the time the information remains posted.

[63] When it comes to determine whether or not the respondents held out that First Federal was in the business of advising, the assets and securities that are relevant are more than the Trading Program and other investments provided by First Federal. They also include all the other securities such as public and private debt that are referred to in the documentation and promotional literature contained on the web site.

X. Sanctions

[64] Friesner has a criminal record. In 1966 he received a suspended sentence and nine months probation for possession of property obtained by crime. He failed to comply with probation. In 1969 he was sentenced to two years less a day for uttering a forged document in attempted fraud. He was convicted of other offences, namely common assault, arson, assault causing bodily harm, theft over $200, on various occasions up to 1986.

[65] In 1993 he was indicted in the United States District Court for the District of Oklahoma on 21 counts relating to advising a scheme and artifice to defraud, and to obtain money by means of false and fraudulent pretences, representations and promises, from various individuals and businesses who were seeking multi-million dollar commercial loans.

[66] It was part of the scheme and artifice to defraud that Friesner would represent that he could obtain for the individuals and businesses sufficient collateral for them to obtain multi-million dollar loans sought by them. Friesner would represent to clients that for performing his services he would not require an advance fee but instead would obtain his commission when the loan was closed by charging a fee of 1/8 of one per cent of the completed loan amount. Furthermore, Friesner would falsely represent to clients that some international bank or financial institution (which varied from victim to victim) had been contacted and was ready to provide the letter of credit or other collateral necessary for clients' multi-million dollar loans, but that the bank or financial institution required a fee – usually US$250,000 – before the confirmation of the letter of credit or other collateral could be provided by the bank.

[67] In 1994, based on the convictions, Friesner was sentenced to seven years imprisonment and ordered to pay a restitution sum based on his ability to pay but not in the full amount of the loss of clients, estimated to be approximately US$1,250,000.

[68] While the scheme and artifice relating to the 21 counts for which Friesner was indicted was not identical to the scheme evident in the documentation relating to the Trading Program, there were some similarities.

[69] In making an order in the public interest under section 127 of the Act, the Commission's jurisdiction is to be exercised in a protective and preventative manner. As this Commission stated in *Re Mithras Management Ltd.* (1990), 13 O.S.C.B. 1600 at 1610-1611:

> [u]nder sections 26, 123, and 124 of the Act, the role of this Commission is to protect the public interest by removing from the capital market – wholly or partially, permanently or temporarily, as the circumstances may warrant – those who's conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of the 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 person's future conduct might reasonably be expected to be; we are not prescient after all.

[70] This view was endorsed by the Supreme Court of Canada in *Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission),* (2001) 2 S.C.R. 132, 199 D.L.R. (4th)at 59 at paragraph 43:

> Rather, the purpose of an order under s. 127 is to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets. The role of the OSC under s. 127 is to protect the public interest by removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets: *Re Mithras Management Ltd.* (1990), 13 O.S.C.B

[71] A respondent's past criminal conduct may be an important indicator of the need for protective action. In particular, criminal conduct in securities-related matters may call for "a vigorous package of preventative sanctions": *Re Banks* (2003), 26 O.S.C.B. 3377 at 3387 and *Re Kinlin* (2000), 23 O.S.C.B. 6535.

[72] Where impugned conduct involves actions undertaken as a director or officer of an issuer, sanctions removing a respondent from these roles will often be appropriate: *Banks*. Respondents who persist in trading and advising without registration even after contact by the staff of the Commission raise a public interest concern and require preventative sanctions: *Etherington*.

[73] There is nothing redeeming in the conduct of the respondents. We found no mitigating factors with respect to the conduct and attitude of the respondents. The fact that we had no evidence of actual loss by investors in respect of the Trading Program and other investments referred to in the materials before us did not impress us.

[74] The agreed statement of facts and the materials before us which were taken largely from First Federal's web site and correspondence between First Federal and Mr. Samson do no disclose all of the facts that undoubtedly would be available if actual investments by investors had been completed. We suspect, but have no evidence before us, that when implemented, there could occur a sting to the investor in implementing the scheme evidenced in the documentation similar to the methodology employed by Friesner in the schemes for which he was convicted in Oklahoma.

[75] Nevertheless, the documentation in the matter before us, on its own, contains sufficient statements of hyperbole, outrageous promises, and misleading statements to satisfy us, as a matter of fact, that the proposed Trading Program was not *bona fide*. On the face of the documents, the investment proposals were not credible. The amounts of money one supposedly could make by putting up money are astronomical by reference to any kind of historical returns that any asset class has ever been able to generate. It would have been helpful to have examples from the respondents where the scheme had been in operation at earlier times and who the parties were to lend some credibility to the Trading Program. The documents raise a lot of concerns. Those concerns were not answered by the respondents and nothing we heard explained away or showed us that we were wrong or somehow misinterpreted what the documents purported.

[76] Much of the documentation packaged by First Federal included the names of reputable Canadian financial institutions. There was no evidence that those institutions consented to participate with First Federal or Friesner in the Trading Program. Indeed, based on our experience with the Canadian capital markets, we would be concerned to learn that this information was given with the informed consent of those institutions.

[77] Where disreputable securities-related activities have occurred in the past, and there is reason to believe, based on past conduct, that a respondent might attempt to pursue highly questionable securities-related activities in the future, there is no reason why there should be any carve-outs from a cease trade order. To this effect, we note that investors (including Ontario investors) suffered loss as the result of securities-related fraud evidenced in Friesner's past convictions.

[78] Accordingly, we determine that it is in the public interest to order that:

1. First Federal and Friesner cease trading in securities permanently;

2. Friesner resign all positions that he holds as officer or director of an issuer; and

3. Friesner be prohibited from becoming or acting as an officer or director of an issuer in the future.

[79] We have not specifically ordered a reprimand of the respondents. In our view, the severity of the sanctions we are ordering speak for themselves and express the view of the Commission that the conduct of the respondents was reprehensible.

XI. Costs

[80] We are satisfied that First Federal and Friesner have not complied with Ontario securities law in that the provisions of section 25 of the Act requiring registration to advise and to trade securities, and section 63 with respect to prospectuses have not been complied with. In addition, we are satisfied that Friesner authorized, permitted and acquiesced in the non-compliance by First Federal with Ontario securities law. Indeed, it was Friesner's conduct that caused the non-compliance.

[81] Accordingly, we determine that it is in the public interest to order that the respondents pay the costs of the Commission's investigation and hearing with respect to this matter.

[82] Staff presented us with a bill of costs from April 1, 2000 to May 26, 2003. No claim for costs was made from the period starting September 6, 1999, when investigating staff of the Commission opened the file in this matter and up to April 1, 2000. The bill of costs only runs to May 26, 2003 and does not include any costs incurred for the days leading up to and the day of this hearing. Those three days would have been intense with respect to time and effort and expense on the part of staff in the preparation and conduct of the hearing.

[83] Staff applied to the calculation of costs, the methodology applied by staff in *Re Donnini* (2002), 25 O.S.C.B. 6225. While the Ontario Divisional Court sent the question of costs in *Donnini* back for consideration by the Commission, it did not criticize the methodology adopted in *Donnini.* There is a suggestion that additional evidence and procedures should be available to clarify the amount of costs in that case.

[84] We were not provided with a detailed breakdown of the time of the three Staff lawyers who had carriage of this case. We believe that such information would be helpful in satisfying ourselves as to the proper amount of costs incurred by the Commission in this matter.

[85] We were advised that three lawyers worked on the file individually and sequentially and there was not much double-teaming other than some hand-off instructions when a new person came on the file. Further information on this would be helpful.

[86] The file passed from Ms. Oseni, who left the litigation branch of the Commission, to Mr. Guttensohn, to Ms. Wootton, who left on maternity leave, and then to Ms. Clark, who joined the staff of the Commission in 2002. There is no claim for Mr. Guttensohn's time as he maintained a "watching brief" on the file.

[87] Subsequent to the hearing, counsel for the respondent requested that, if the hearing panel is inclined to make an order for costs against one or more of the respondents pursuant to section 127.1 of the Act, counsel be given the opportunity to obtain further information and make further submissions in light of *Donnini*.

[88] We agree with the request. Accordingly, we invite the parties to arrange for the exchange of information and invite counsel to arrange a costs hearing through the Secretary.

February 3, 2004.

"Paul M. Moore" "M. Theresa McLeod" "Harold P. Hands"

Chapter 4

Cease Trading Orders

4.1.1 Temporary, Extending & Rescinding Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Extending Order	Date of Lapse/Revoke
Black Pearl Minerals Consolidated Ltd.	03 Feb 04	13 Feb 04		

4.2.1 Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
Atlas Cold Storage Income Trust	02 Dec 03	15 Dec 03	15 Dec 03		
Richtree Inc.	23 Dec 03	05 Jan 04	05 Jan 04		

4.3.1 Issuer CTO's Revoked

Company Name	Date of Revocation
Grand Oakes Resources Corp.	**03 Feb 04**

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesScource (see 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).

Chapter 8

Notice of Exempt Financings

Exempt Financings

The Ontario Securities Commission reminds issuers and other parties relying on exemptions that they are responsible for the completeness, accuracy, and timely filing of Forms 45-501F1 and 45-501F2, and any other relevant form, pursuant to section 27 of the *Securities Act* and OSC Rule 45-501 ("Exempt Distributions").

REPORTS OF TRADES SUBMITTED ON FORM 45-501F1

Transaction Date	Purchaser	Security	Total Purchase Price ($)	Number of Securities
29-Jan-2004	20 Purchasers	Acadian Gold Corporation - Common Shares	240,573.06	89,011.00
31-Oct-2003	3 Purchasers	Acuity Funds Ltd. - Notes	822,036.00	3.00
31-Aug-2003	5 Purchasers	Acuity Funds Ltd. - Notes	1,150,000.00	5.00
16-Dec-2003	Chak-Keung Law	Acuity Pooled Balanced Fund - Trust Units	153,000.00	878.00
05-Jan-2004	Albert Ferra	Acuity Pooled Canadian Equity Fund - Trust Units	50,000.00	2,235.00
22-Dec-2003 29-Dec-2003	3 Purchasers	Acuity Pooled Fixed Income Fund - Trust Units	719,000.00	50,765.00
23-Dec-2003 29-Dec-2003	5 Purchasers	Acuity Pooled High Income Fund - Trust Units	950,500.00	52,792.00
23-Dec-2003	The VenGrowth Advanced Life Sciences Fund Inc.	Aegera Oncology Inc. - Debentures	8,000,000.00	8,000,000.00
09-Jan-2004	Frank Davies	Alhambra Resources Ltd. - Units	30,000.00	50,000.00
31-Dec-2003	Ontario Teachers' Pension Plan Board	AltaLink Investments, L.P. - Debentures	282,500,000.00	2.00
26-Jan-2004	Credit Risk Advisors	American Tower Corporation - Notes	656,700.00	10.00
09-Dec-2003	Manufacturers Life Insurance	Aspen Insurance Holdings Limited - Shares	56,250.00	2,500.00
21-Jan-2004	PSSI Paralegal Support Services Inc.	Astris Energi Inc. - Units	155,694.00	239,529.00
15-Dec-2003	4 Purchasers Trust	Austin Developments Corp. - Units	128,250.00	475,000.00
22-Jan-2004	14 Purchasers	Avenue Financial Corporation - Units	305,000.00	3,050,000.00

13-Jan-2004	7 Purchasers	Bell Coast Capital Corp. - Units	120,200.00	375,625.00
05-Dec-2003	Peter Webster and Kathryn Reinke	BPI Global Opportunites III Fund - Units	20,000.00	217.00
16-Dec-2003	Polar Securities Inc.	Brooks Automation Inc. - Common Shares	167,200.00	8,800.00
08-Jan-2004	Bruce Galloway Klister Credit Corp.	Business Propulsion Systems Inc. - Common Shares	350,000.00	875,000.00
15-Jan-2004	John Dermastja & Rosemary Ragno	CareVest First Mortgage Investment Corporation - Preferred Shares	50,000.00	50,000.00
15-Jan-2004	David R. Geach	CareVest Second Mortgage Investment Corporation - Preferred Shares	18,453.00	18,453.00
11-Nov-2003	Humber River Regional Hospital Foundation	CC&L Arrowstreet American Equity Fund - Trust Units	30,000.00	4,261.00
10-Jan-2003 18-Dec-2003	27 Purchasers	CC&L Bond Fund - Trust Units	4,149,993.11	380,214.00
08-Jan-2003 18-Jan-2003	13 Purchasers	CC&L Canadian Equity Fund - Trust Units	3,541,627.00	301,921.00
10-Jan-2003 10-Sep-2003	9 Purchasers	CC&L Canadian Equity Fund - Trust Units	86,325.44	16,800.00
19-Feb-2003 19-Dec-2003	10 Purchasers	CC&L Dedicated Enterprise Fund - Trust Units	4,030,000.00	483,945.00
03-Jan-2003 29-Dec-2003	101 Purchasers	CC&L Diversified Fund - Trust Units	64,335.19	6,661.00
06-Jan-2003 24-Dec-2003	99 Purchasers	CC&L Genesis Fund - Trust Units	12,960,121.43	12,258,622.00
04-Feb-2003	10 Purchasers	CC&L Global Fund - Trust Units	1,263,100.00	107,579.20
02-Jan-2003	228 Purchasers	CC&L Group Balanced Plus Fund - Trust Units	17,771,061.47	13,947,145.65
02-Jan-2003 31-Dec-2003	477 Purchasers	CC&L Group Bond Fund - Trust Units	11,255,116.89	1,030,003.00
01-Feb-3004 31-Dec-2003	253 Purchasers	CC&L Group Canada Plus Fund - Trust Units	3,199,073.88	411,952.00
02-Jan-2003 10-Dec-2003	344 Purchasers	CC&L Group Canadian Equity Fund - Units	15,841,811.34	1,041,320.00
03-Mar-2003 31-Dec-2003	145 Purchasers	CC&L Group Global Fund - Trust Units	1,496,932.01	245,469.00
05-Mar-2003 19-Dec-2003	14 Purchasers	CC&L Long Bond Fund - Trust Units	2,545,733.36	248,889.00
02-Jan-2003 31-Dec-2003	239 Purchasers	CC&L Money Market Fund - Trust Units	14,772,795.18	1,477,280.00

06-Jan-2003 31-Dec-2003	101 Purchasers	CC&L Money Market Fund - Trust Units	12,615,814.38	1,261,581.00
12-Mar-2003 23-Dec-2003	13 Purchasers	CC&L Money Market Fund - Trust Units	635,693.62	63,569.00
31-Dec-2003	MineralFields B.C. 2003 Limited Partnership	Chapleau Resources Ltd. - Units	500,000.00	714,285.00
13-Jan-2004	Joseph Berlingieri;William Nisker	Cogient Corp. - Common Shares	30,000.00	200,000.00
08-Jan-2004	14 Purchasers	Corridor Resources Inc. - Units	2,999,990.00	3,000,000.00
31-Dec-2003	Michael Arnsby	Cross Lake Minerals Ltd. - Flow-Through Shares	50,000.00	250,000.00
30-Sep-2003 31-Dec-2003	45 Purchasers	C.A.Delaney Capital Management Ltd. - Units	6,869,904.00	66,533.00
15-Dec-2003	Manulife Financial Group	Diageo Finance B.V. - Notes	2,999,070.00	1.00
16-Jun-2003 30-Sep-2003	Jan Maarschalkerweerd	Digital Pioneer Technologies Corp. - Notes	225,000.00	2.00
31-Dec-2003	Devin Nielsen	Discovery Drilling Funds IV Limited Partnership - Units	10,000.00	10.00
11-Dec-2003	Salida Capital Corp.	Dominion Resources, Inc. - Notes	5,000,000.00	50,000.00
16-Feb-2004	4 Purchasers	DragonWave Inc. - Shares	615,923.38	3,224,730.00
15-Oct-2003 12-Dec-2003	7 Purchasers	Dynex Capital Limited Partnership - Units	1,900,000.00	1,900.00
30-Dec-2003	Gary Lorne Firman	Energize Oil & Gas Ltd. - Common Shares	20,000.00	50,000.00
25-Nov-2003	34 Purchasers	Energy Fundamentals Group Limited Partnership - Units	4,877,100.00	48,771.00
01-Jan-2003	17 Purchasers	Equity International Investment Trust - Units	20,640.68	73,107.00
23-Dec-2003	11 Purchasers	European Minerals Corporation - Units	747,795.00	706,000.00
01-Jan-2003 31-Dec-2003	1 Purchaser	Fleming Canada Offshore Select Trust - Units	212.08	2,240.00
14-Jan-2004	3 Purchasers	FreshXtend Technologies Corp - Common Shares	233,845.00	4,676,900.00
01-Apr-2003 01-Jun-2003	Northwater Market - Neutral Trust Royal Bank of Canada	FrontPoint Offshore Fixed Income Opportunities Fund Ltd. - Shares	4,950,000.00	4,950.00
09-Jan-2004	Royal Bank of Canada	FrontPoint Offshore Value Discovery Fund, Ltd. - Shares	1,458,580.00	1,150.00
15-Jan-2004	15 Purchasers	Full Riches Investments Ltd. - Subscription Receipts	1,415,050.00	4,043,000.00

31-Dec-2003	Thomas V. Milroy Augen Limited Partnership 2003	Gibraltar Reclamation Trust Limited Partnership - Limited Partnership Units	750,000.00	750.00
01-Jan-2004	Centre for International Governance Innovation	Goldman Sachs Global Tactical Trading Plc - Units	1,500,000.00	14,597.00
01-Jan-2004	Greybrook Corporation	Goldman Sachs Hedge Fund Portfolio Plc - Units	2,317,069.00	20,642.00
03-Dec-2003 31-Dec-2003	18 Purchasers	Goodwood Fund - Units	1,907,348.50	101,995.00
19-Jan-2004	Edward Pong Hubert J. Mockler Geocanex Ltd.	Greenstone Resources Ltd. - Common Shares	65,436.00	436,240.00
16-Jan-2003	Canadian Imperial Bank of Commerce	High Yield & Mortgage Plus Fund - Trust Units	14,212,500.00	596,335.00
21-Jan-2004	Cinram International Inc.	HSBC Short Term Investment Fund - Units	1,000,000.00	10.00
16-Jan-2004 22-Jan-2004	5 Purchasers	IMAGIN Diagnostics, Inc. - Common Shares	27,000.00	27,000.00
15-Jan-2004	6 Purchasers	International Club Network Limited - Units	1,500,000.00	500,000.00
23-Jan-2004	4 Purchasers	International Minerals Corporation - Units	1,311,000.00	345,000.00
17-Dec-2003	Numeric Investors L.P.	International Steel Group Inc. - Common Shares	19,600.00	700.00
15-Jan-2004	3 Purchasers	Kingwest Avenue Portfolio - Units	1,039,660.00	50,020.00
23-Dec-2003	12 Purchasers	Kraton Polymers LLC - Notes	590,000.00	12.00
31-Dec-2003	Lancaster Balanced Fund II	Lancaster Fixed Income Fund - Trust Units	2,288,999.00	189,596.00
05-Dec-2003	6 Purchasers	Landmark Global Opportunities Fund - Units	224,564.00	1,715.00
05-Dec-2003	Katherine A. Robb	Landmark Global Opportunities Fund - Units	100,000.00	746.00
01-Jan-2003 31-Dec-2003	26 Purchasers	Leeward Bull & Bear Fund L.P. - Limited Partnership Units	4,232,851.44	2,666.00
02-Jan-2004	Morinco Properties Ltd. Royal Palm Investments Ltd. Charlotte Ginsberg	MCAN Performance Strategies - Limited Partnership Units	650,000.00	6,342.00
20-Jan-2003	4 Purchasers	Metconnex Canada Inc. - Shares	1,302,107.22	7,938,691.00
20-Jan-2004	Business Development Bank of Canada	METCONNEX INC. - Shares	3.03	2,334,909.00
16-Jan-2003	Leslie A. Potter	Microsource Online, Inc. - Common Shares	1,800.00	300.00

16-Jan-2003	Deborah Haight	Microsource Online, Inc. - Common Shares	30,000.00	5,000.00
16-Jan-2003	Nicole Cyr	Microsource Online, Inc. - Common Shares	6,000.00	1,000.00
25-Nov-2003	Aimfunds Mgmt.;Royal Bank of Canada	Millar Western Forest Products Ltd. - Notes	1,600,000.00	2.00
31-Dec-2003	GlobeInvest Capital Management Inc.	MineralFields 2003-II Limited Partnership - Units	14,500.00	14,500.00
31-Dec-2003	14 Purchasers	MineralFields 2003-II Limited Partnership - Units	83,100.00	83,100.00
01-Jan-2003	5 Purchasers	Montrachet Investments Limited Partnership - Units	920,000.00	92,000.00
01-Dec-2003	Mirabaud Canada Inc.	Moore Global Fixed Income Fund - Common Shares	24,999.75	5.00
13-Jan-2004	Creststreet Power and Income Fund LP	Mount Copper Wind Power Energy Inc. - Shares	1.00	18,429,997.00
31-Jul-2003 30-Sep-2003	7 Purchasers	Mountainview Asset Management Ltd. - Units	315,000.00	31,500.00
04-Apr-2003 05-Sep-2003	4 Purchasers	Mountainview Asset Management Ltd. - Units	20,000.00	1,929.00
01-Mar-2003 12-Dec-2003	28 Purchasers	Mountainview Asset Management Ltd. - Units	1,659,079.26	108,281.00
19-Dec-2002	GWD Ventures Inc.	MyAdGuys.com Inc. - Notes	390,625.00	1.00
12-Jan-2004	NBCN Clearing Inc.	N-able Technologies Inc. - Shares	75,000.00	50,000.00
12-Jan-2004	NBCN Clearing Inc.	N-able Technologies Inc. - Shares	0.50	50,000.00
15-Jan-2004	Kazim Anwar	N-able Technologies Inc. - Shares	30,000.00	20,000.00
15-Jan-2004	kazim Anwar	N-able Technologies Inc. - Shares	0.20	20,000.00
14-Jan-2004	Kevin Beattie	N-able Technologies Inc. - Shares	30,000.00	20,000.00
14-Jan-2004	Kevin Beattie	N-able Technologies Inc. - Shares	0.20	20,000.00
08-Jan-2004	Douglas Berchtold	N-able Technologies Inc. - Shares	30,000.00	20,000.00
08-Jan-2004	Douglas Berchtold	N-able Technologies Inc. - Shares	0.20	20,000.00
15-Jan-2004	1455413 Ontario Inc.	N-able Technologies Inc. - Shares	30,000.00	20,000.00

15-Jan-2004	1455413 Ontario	N-able Technologies Inc. - Shares	0.20	20,000.00
12-Jan-2004	CAIL Inc.	N-able Technologies Inc. - Shares	30,000.00	20,000.00
12-Jan-2004	CAIL Inc.	N-able Technologies Inc. - Shares	0.20	20,000.00
14-Jan-2004	William C. Behrndt;III	Navlynx Technologies Inc. - Units	450,415.00	10.00
30-Jan-2004	3 Purchasers	Nectar Merger Corporation - Notes	994,050.00	3.00
19-Jan-2004	5 Purchasers	Nemi Northern Energy & Mining Inc. - Units	619,999.35	953,845.00
16-Jan-2004	5 Purchasers	Nevada Pacific Gold Ltd. - Units	2,299,000.00	2,090,000.00
15-Jan-2004	1 Purchasers	Nevsun Resources Ltd. - Common Shares	1,020,000.00	150,000.00
02-Jan-2003 29-Dec-2003	341 Purchasers	New Star EAFE Fund - Trust Units	3,568,956.22	158,678.00
10-Jan-2003 15-Dec-2003	29 Purchasers	New Star EAFE Fund - Trust Units	678.10	58.00
19-Jan-2004	85 Purchasers	Newport Alternative Income Fund - Units	12,686,516.50	78,324.00
01-Jan-2003 31-Dec-2003	48 Purchasers	Nexus North American Balanced Fund - Trust Units	5,427,680.42	518,413.00
15-Jan-2003 31-Dec-2003	56 Purchasers	Nexus North American Balanced Fund - Trust Units	14,502,407.38	1,447,292.00
01-Jan-2003 31-Dec-2003	8 Purchasers	Nexus North American Equity Fund - Trust Units	1,061,120.51	95,780.00
19-Dec-2003	CI Mutual Funds;The Manufacturers Life Insurance Company	Noranda Operating Trust - Notes	30,000.00	2.00
14-Jan-2004	56 Purchasers	Northern Mining Explorations Ltd. - Subscription Receipts	3,985,999.50	5,314,666.00
13-Jan-2004	3 Purchasers	NOVA Chemicals Corporation - Notes	3,500,000.00	3.00
16-Jan-2004	Dennis Hayhoe	O'Donnell Emerging Companies Fund - Units	10,000.00	1,313.00
09-Jan-2004	Andrew Sherwood;Bradley Summer	O'Donnell Emerging Companies Fund - Units	37,034.08	5,165.00
13-Jan-2004	Charles Gibson	One Signature Financial Corporation - Common Shares	10,000.00	20,000.00
19-Dec-2003	Altimara Management Ltd.;Ontario Teachers Pension Plan	Orbitz, Inc. - Common Shares	1,170,000.00	45,000.00

23-Dec-2003	Orisar Inc.	Orisar Inc. - Warrants	206,031.00	824,124.00
20-Jan-2004	Ontario Municipal Employees Retirement Board	O&Y Real Estate Investment Trust - Notes	20,000,000.00	1.00
13-Jan-2004	Peter Rockandel	Pacific North West Capital Corp. - Units	50,000.00	50,000.00
03-Jan-2003 19-Dec-2003	596 Purchasers	Pescara Partners Inc. - Units	12,741,866.31	1,211,253.00
16-Jan-2004	John A. Welts	Phoenix Matachewan Mines Inc. - Units	5,000.00	25,000.00
15-Jan-2004	Canadian Imperial Bank of Commerce	Preferred Securities Fund - Units	4,687,500.00	200,000.00
11-Mar-2003 05-Sep-2003	4 Purchasers	Private Client Balanced Fund - Trust Units	28,000.00	2,529.00
03-Mar-2003 30-Dec-2003	15 Purchasers	Private Client Balanced Fund - Trust Units	74,338.16	7,489.00
17-Nov-2003	Timothy & Patsy Porter	Private Client Balanced Fund - Trust Units	250,000.00	27,285.00
03-Oct-2003 19-Dec-2003	Isobel and Barnett Danson;Donald Fraser	Private Client Balanced Fund - Trust Units	16,620.57	1,752.00
26-Feb-2003	Proctor & Redfern Limited	Private Client Bond Fund - Trust Units	25,000.00	2,349.00
12-Mar-2003	3701298 Canada Inc.	Private Client Canadian Equity Fund - Trust Units	85,000.00	10,503.00
31-Dec-2003	Angus Childrens Trust	Private Client Canadian Equity Fund - Trust Units	232.79	22.00
31-Dec-2003	Angus Childrens Trust	Private Client Canadian Equity Fund - Trust Units	502.41	47.00
17-Jan-2003 15-Dec-2003	12 Purchasers	Private Client Global Equity Fund - Trust Units	1,262.32	203.00
31-Dec-2003	Angus Childrens Trust	Private Client Global Equity Fund - Trust Units	437.20	68.00
27-Feb-2003 14-Oct-2003	4 Purchasers	Private Client Income Fund - Trust Units	519,113.44	39,948.00
30-Sep-2003 31-Dec-2003	Angus Childrens Trust	Private Client Income Fund - Trust Units	2,482.13	182.00
28-Feb-2003	Sharon Malone Langman;William Langman	Private Client Small Cap Fund - Trust Units	23,721.00	2,407.00
19-Dec-2003	3 Purchasers	Pubnico Point Wind Farm Inc. - Shares	2,523,260.00	10,093.00
24-Nov-2003	Creststreet 2003 Limited Patnership	Pubnico Point Wind Farm Inc. - Shares	200,000.00	800.00

13-Jan-2004	Creststreet Power & Income Fund LP	Pubnico Point Wind Farm Inc. - Shares	1.00	107,548.00
22-Jan-2004	Nat Frankel Construction Ltd. Aegon Capital Management Inc. The Ierullo Family Trust	Rock Creek Resources Ltd. - Shares	625,000.00	250,000.00
01-Jan-2003 31-Dec-2003	19 Purchasers	Rosseau Limited Partnership - Limited Partnership Units	4,202,686.41	1,150.00
19-Dec-2003 08-Jan-2004	7 Purchasers	Sahelian Goldfields Inc. - Special Warrants	1,126,183.31	193,060,000.00
16-Jan-2004	13 Purchasers	Sand Gold Resources Corporation - Units	210,000.00	525,000.00
05-Nov-2003 19-Dec-2003	SRA Balanced Fund	Scheer, Rowlett & Associates Money Market Fund - Trust Units	105,645.00	10,565.00
03-Nov-2003 30-Dec-2003	Great-West London Life (Balanced)	Scheer, Rowlett & Associates Balanced Fund - Trust Units	126,645.00	12,381.00
03-Nov-2003 30-Dec-2003	Great-West London Life (SRA Bond)	Scheer, Rowlett & Associates Bond Fund - Trust Units	23,670.00	2,252.00
03-Nov-2003 30-Dec-2003	Great-West London Life (SRA Cdn Equity)	Scheer, Rowlett & Associates Canadian Equity Fund - Trust Units	127,290.00	10,610.00
03-Nov-2003 30-Dec-2003	Great-West London Life (SRA Short-term Bond)	Scheer, Rowlett & Associates Short Term Bond Fund - Trust Units	6,665.00	660.00
21-Jan-2004	7 Purchasers	Schooner Trust - Certificate	41,718,059.00	7.00
05-Dec-2003 31-Dec-2003	37 Purchasers	Seamark Pooled Funds - Units	67,258,440.36	67,258,440.00
19-Dec-2003	3 Purchasers	Simmons Company - Notes	250,000.00	3.00
19-Jan-2003	J.L. Albright III Venture Fund	SIRIT Technologies Inc. - Common Shares	4,635,714.30	15,452,381.00
09-Dec-2003	Dynamic Power Hedge Fund Interward Capital Corporation	South Atlantic Ventures Ltd. - Common Shares	3,500,000.00	700,000.00
20-Jan-2004	18 Purchasers	Stealth Minerals Limited - Units	1,009,599.60	1,682,666.00
05-Jan-2003	Terra Payments Inc.	Terra Payments Inc. - Units	3,000,000.00	800,000.00
31-Dec-2003	14 Purchasers	The McElvaine Investment Trust - Trust Units	1,879,901.22	98,552.00
31-Dec-2003	3 Purchasers	The McElvaine Limited Partnership - Units	180,000.00	0.00
31-Dec-2003	David Forster 1473220 Ontario Ltd. Paul Campbell	The McElvaine Limited Partnership - Units	180,000.00	5,198.00

29-Jan-2004	4 Purchasers	Thermadyne Holdings Corporation - Notes	3,990,000.00	4.00
09-Jan-2004	Michelle McKinnon Trust	Thistle Mining Inc. - Units	14,100.00	47,000.00
21-Jan-2004	Hong Ling	Tiger Pacific Mining Corp. - Units	70,000.00	700,000.00
08-Jan-2004	Mariposa Capital Inc. Mortgage	Trez Capital Corporation -	150,000.00	150,000.00
19-Sep-2003	Mariposa Capital Inc. Mortgage	Trez Capital Corporation -	200,000.00	200,000.00
31-Dec-2003	Pamela Phillips	Tri Origin Exploration Ltd. - Flow-Through Shares	13,000.00	50,000.00
05-Dec-2003	Peter Webster	Trident Global Opportunities Fund - Units	25,000.00	230.00
31-Dec-2003	43 Purchasers	Tyhee Development Corp. - Units	2,458,018.90	3,781,566.00
20-Jan-2004	Trudell Medical Limited	Viron Therapeutics Inc. - Convertible Debentures	75,000.00	75,000.00
09-Jan-2004	Strategic Advisors Corp.	VoiceIQ Inc. - Units	325,000.00	250,000.00
09-Jan-2004	Jones;Gable and Co. Ltd.	ZI Corporation - Stock Option	0.00	400,000.00

NOTICE OF INTENTION TO DISTRIBUTE SECURITIES AND ACCOMPANYING DECLARATION UNDER SECTION 2.8 OF MULTILATERAL INSTRUMENT 45-102 RESALE OF SECURITIES - FORM 45-102F3

Seller	Security	Number of Securities
John Buhler	Buhler Industries Inc. - Common Shares	348,300.00
John Buhler	Buhler Industries Inc. - Common Shares	3,000,000.00
Larry Melnick	Champion Natural Health.com Inc. - Shares	1,335.00
Chengfeng Zhou	China Ventures Inc. - Shares	7,874,000.00
Robert Poile, Keofferam L.P	ClubLink Corporation - Common Shares	3,313,000.00
CMG Reservoir Simulation Foundation	Computer Modelling Group Ltd. - Common Shares	501,900.00
Vision J.M.P. inc	Cossette Communication Group Inc. - Shares	44,950.00
Communigestar Inc.	Cossette Communication Group Inc. - Shares	22,300.00
Conertmedia Inc.	Cossette Communication Group Inc. - Shares	22,925.00
Communipro Ltee	Cossette Communication Group Inc. - Shares	222,735.00
F.D.L. & Associates Ltee.	Cossette Communication Group Inc. - Shares	41,350.00
Lauren Communications Ltd.	Cossette Communication Group Inc. - Shares	1,350.00
James A. Estill	EMJ Data Systems Ltd. - Common Shares	33,200.00
Kalimantan Investment Corporation	Kalimantan Gold Corporation Limited - Common Shares	1,881,333.00

Paros Enterprises	Morguard Corporation - Common Shares	2,000,000.00
Vic Alboini	Northern Financial Corporation - Common Shares	10,000,000.00
W. David Lyons	Pan-Ocean Energy Corporation Limited - Shares	1,465,445.00
Robert Letellier	PharmaGap Inc. - Common Shares	40,000.00
Sabre Energy Ltd.	Sustainable Energy Technologies Ltd. - Common Shares	3,960,966.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
ATI Technologies Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated January 29, 2004
Mutual Reliance Review System Receipt dated January 30, 2004
Offering Price and Description:
U.S.$500,000,000.00 - Common Shares Preferred Shares Debt Securities
Warrants Stock Purchase Contracts Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #609168

Issuer Name:
Brascan SoundVest Diversified Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 30, 2004
Mutual Reliance Review System Receipt dated January 30, 2004
Offering Price and Description:
Maximum: $ * - * Units
Price: $ * per Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
First Associates Investments Inc.
Trilon Securities Inc.
Promoter(s):
Brascan Diversified Income Management Ltd.
Project #609686

Issuer Name:
CML Healthcare Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 30, 2004
Mutual Reliance Review System Receipt dated January 30, 2004
Offering Price and Description:
$ * - * Units Price: $ * per Unit
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
Orion Securities Inc.
Promoter(s):
CML Healthcare Inc.
Project #609648

Issuer Name:
Coastal Contacts Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated January 30, 2004
Mutual Reliance Review System Receipt dated January 30, 2004
Offering Price and Description:
Maximum Offering: $5,000,000
Minimum Offering: $4,000,000
Price $ * per Common Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
-
Project #609782

Issuer Name:
Erdene Gold Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 27, 2004
Mutual Reliance Review System Receipt dated January 29, 2004
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
Haywood Securities Inc.
Toll Cross Securities Inc.
Promoter(s):
Peter C. Akerley
Terence D. Coughlan
Project #608746

Issuer Name:
Fairway Diversified Income and Growth Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 29, 2004
Mutual Reliance Review System Receipt dated February 2, 2004
Offering Price and Description:
$ * (Maximum) * Units Price: $10.00 per Unit
Minimum Purchase: 250 Units
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Wellington West Capital Inc.
Berkshire Securities Inc.
Promoter(s):
Fairway Advisors Inc.
Fairway Capital Management Corp.
Project #609787

Issuer Name:
Firm Capital Mortgage Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated January 28, 2004
Mutual Reliance Review System Receipt dated January 28, 2004
Offering Price and Description:
$22,536,800.00 - 1,970,000 Units Price: $11.44 per Unit
Underwriter(s) or Distributor(s):
TD Securities Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
Desjardins Securities Inc.
Canaccord Capital Corporation
Sprott Securities Inc.
Promoter(s):
-
Project #608653

Issuer Name:
IMC Ventures Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated January 27, 2004
Mutual Reliance Review System Receipt dated January 28, 2004
Offering Price and Description:
$4,800.00 - 11,200,000 Units
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
Promoter(s):
-
Project #608452

Issuer Name:
Retrocom Mid-Market Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 23, 2004
Mutual Reliance Review System Receipt dated January 28, 2004
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Promoter(s):
Retrocom Investment Management Inc.
Project #608202

Issuer Name:
Royal Gold, Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary MJDS Prospectus dated January 23, 2004
Mutual Reliance Review System Receipt dated January 28, 2004
Offering Price and Description:
15,000,000 Shares of Common Stock
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #608139

Issuer Name:
Royal Gold, Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary MJDS Prospectus dated January 23, 2004
Mutual Reliance Review System Receipt dated January 28, 2004
Offering Price and Description:
US$300,000,000.00 - Common Stock Preferred Stock Depository Shares Warrants
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #608143

Issuer Name:
Russel Metals Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated January 28, 2004
Mutual Reliance Review System Receipt dated January 28, 2004
Offering Price and Description:
$45,000,000.00 - 5,000,000 Common Shares Price: $9.00 per Common Share
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
RBC Dominion Securities Inc.
Scotia Capital Inc.
National Bank Financial Inc.
Westwind Partners Inc.
Promoter(s):
-
Project #608722

Issuer Name:
SCORE Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated February 2, 2004
Mutual Reliance Review System Receipt dated February 2, 2004
Offering Price and Description:
Up to $3,000,000,000.00 - of Credit Card Receivables-Backed Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #609988

Issuer Name:
Sparton Resources Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated February 3, 2004
Mutual Reliance Review System Receipt dated February 3, 2004
Offering Price and Description:
$3,600,000.00 - 7,200,000 Special Warrant Shares and 7,200,000 Share Purchase Warrants
issuable upon the exercise of 7,200,000 previously issued Special Warrants
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
-
Project #610238

ISSUERS:
Norbourg Fixed Income Fund
Norbourg Money Market Fund
Norbourg Canadian Tactical Asset Allocation Fund
Norbourg Emerging Growth Companies Fund
Norbourg International Balanced Fund
Norbourg Balanced Fund
Norbourg Convertible Debentures Fund
Norbourg Equity-Special Situations Fund
Principal Jurisdiction - Quebec
DATES:
Preliminary Simplified Prospectuses dated November 21st, 2003
Mutual Reliance Review System Receipt dated November 21st, 2003
UNDERWRITER(S):
-
PROMOTER(S):
Norbourg Asset Management Inc.
PROJECT NUMBER:
588819

Issuer Name:
Barclays Advantaged Corporate Bond Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 29, 2004
Mutual Reliance Review System Receipt dated January 29, 2004
Offering Price and Description:
$200,000,000 Maximum (20,000,000 Units @ $10 per Unit)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Promoter(s):
Barclays Global Investors Canada Limited
Project #599585

Issuer Name:
Clarington Diversified Income Fund
Clarington U.S. Value Class
Clarington Global Core Portfolio
Clarington U.S. Core Portfolio
Clarington Canadian Core Portfolio
Clarington Canadian Value Fund
Clarington Canadian Income Fund II
Clarington Canadian Growth Fund
Clarington Global Value Class
Clarington RSP Global Income Fund
Clarington Global Health Sciences Class
Clarington Global Income Fund
Clarington Short-Term Income Class
Clarington Navellier U.S. All Cap Class
Clarington Global Equity Class
Clarington Canadian Equity Class
Clarington RSP Global Equity Fund
Clarington RSP Navellier U.S. All Cap Fund
Clarington Navellier U.S. All Cap Fund
Clarington RSP Global Communications Fund
Clarington Canadian Bond Fund
Clarington Canadian Dividend Fund
Clarington Global Equity Fund
Clarington International Equity Fund
Clarington Asia Pacific Fund
Clarington Canadian Small Cap Fund
Clarington Global Communications Fund
Clarington Canadian Income Fund
Clarington Global Small Cap Fund
Clarington Money Market Fund
Clarington Canadian Equity Fund
Clarington Canadian Balanced Fund
Clarington U.S. Smaller Company Growth Fund
Clarington U.S. Growth Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated January 21, 2004 to the Amended and Restated Annual Information Forms dated September 25, 2003, amending and restating the Annual Information Forms dated July 23, 2003
Mutual Reliance Review System Receipt dated January 30, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Clarington Funds Inc.
ClaringtonFunds Inc.
Promoter(s):
Clarington Funds Inc.
Project #553091

Issuer Name:
Clarington Income Trust Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated January 21, 2004 to Final Simplified Prospectuses and Annual Information Forms dated September 25, 2003
Mutual Reliance Review System Receipt dated January 30, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
ClaringtonFunds Inc.
ClaringtonFunds Inc.
Promoter(s):
ClaringtonFunds Inc.
Project #567182

Issuer Name:
diversiTrust Income+ Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 29, 2004
Mutual Reliance Review System Receipt dated January 30, 2004
Offering Price and Description:
Trust Units @ $10.00 per Trust Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Dundee Securities Corporation
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Raymond James Ltd.
Berkshire Securities Inc.
First Associates Investments Inc.
Wellington West Capital Inc.
Promoter(s):
Dynamic Mutual Funds Ltd.
Project #601165

Issuer Name:
Dynamic Value Fund of Canada
Dynamic Value Balanced Fund
(formerly StrategicNova Canadian Balanced Fund)
Dynamic Dividend Value Fund
(formerly Dynamic Dividend Growth Fund)
Dynamic Canadian Dividend Fund Ltd.
(formerly StrategicNova Canadian Dividend Fund Ltd.)
Dynamic American Value Fund
Dynamic European Value Fund
Dynamic Far East Value Fund
Dynamic International Value Fund
Dynamic U.S. Small Cap Value Fund
(formerly StrategicNova U.S. Small Cap Fund)
Dynamic RSP American Value Fund
Dynamic RSP European Value Fund
Dynamic RSP Far East Value Fund
Dynamic RSP International Value Fund
Dynamic Power Canadian Growth Fund
Dynamic Power American Growth Fund
Dynamic Power American Growth Fund I Ltd.
(formerly StrategicNova U.S. Large Cap Growth Fund Ltd.)
Dynamic Power Small Cap Fund
(formerly StrategicNova Canadian Small Cap Fund)
Dynamic Power Balanced Fund
Dynamic Power Bond Fund
Dynamic RSP Power American Growth Fund
Dynamic Focus+ Canadian Fund
Dynamic Focus+ American Fund
Dynamic Focus+ Global Fund
Dynamic Focus+ Balanced Fund
Dynamic Focus+ Diversified Income Trust Fund
Dynamic Focus+ Wealth Management Fund
Dynamic Focus+ Energy Income Trust Fund
Dynamic Focus+ Real Estate Fund
Dynamic Focus+ Resource Fund
Dynamic Focus+ Small Business Fund
Dynamic Focus+ World Equity Fund
(formerly StrategicNova World Equity Fund)
Dynamic Focus+ World Equity Fund I
(formerly StrategicNova World Large Cap Fund)
Dynamic RSP Focus+ World Equity Fund
(formerly StrategicNova World Equity RSP Fund)
Commonwealth Canadian Balanced Fund
(formerly Commonwealth Canadian Fund)
Commonwealth World Balanced Fund Ltd.
(formerly StrategicNova Commonwealth World Balanced Fund Ltd.)
Commonwealth RSP World Balanced Fund
(formerly StrategicNova World Strategic Asset Allocation RSP Fund)
Dynamic Fund of Funds
Dynamic Canadian Precious Metals Fund
Dynamic Canadian Technology Fund
(formerly StrategicNova Canadian Technology Fund)
Dynamic Global Precious Metals Fund
Dynamic Global Resource Fund
Dynamic Global Real Estate Fund
Canada Dominion Resource Fund Ltd.
(formerly StrategicNova Canada Dominion Resource Fund Ltd.)
Dynamic Greater China Fund

(formerly StrategicNova Asia-Pacific Fund)
Dynamic SAMI Fund
(formerly StrategicNova SAMI Fund)
Dynamic World Convertible Debentures Fund
(formerly StrategicNova World Convertible Debentures Fund)
Dynamic Dividend Fund
Dynamic Dividend Income Fund
Dynamic Dollar-Cost Averaging Fund
Dynamic Income Fund
Dynamic Canadian Bond Fund
(formerly StrategicNova Canadian Bond Fund)
Dynamic Canadian High Yield Bond Fund I
(formerly StrategicNova Canadian High Yield Bond Fund)
Dynamic Canadian High Yield Bond Fund II
Dynamic Canadian Government Bond Fund
(formerly StrategicNova Canadian Government Bond Fund)
Dynamic Global Bond Fund
Dynamic Money Market Fund
(formerly StrategicNova Canadian Money Market Fund)
Dynamic Canadian Value Class
Dynamic American Value Class
Dynamic International Value Class
Dynamic Power Canadian Growth Class
Dynamic Power American Growth Class
Dynamic Power Global Growth Class
(formerly Dynamic Power International Growth Class)
Dynamic Focus+ Canadian Class
Dynamic Focus+ American Class
Dynamic Focus+ Global Financial Services Class
Dynamic Money Market Class
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated January 22, 2004
Mutual Reliance Review System Receipt dated February 2, 2004
Offering Price and Description:
Series A securities, Series F securities and Series I units
Underwriter(s) or Distributor(s):
Dynamic Mutual Funds Ltd.
Goodman & Company, Investment Counsel Ltd.
Promoter(s):
Dynamic Mutual Funds Ltd.
Project #586034

Issuer Name:
Emissary U.S. Small/Mid Cap
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated January 22, 2004 to the Final Simplified Prospectus and Annual Information Form dated March 6, 2003
Mutual Reliance Review System Receipt dated January 30, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Opus 2 Securities Inc.
Promoter(s):
Opus 2 Securities Inc.
Project #509743

Issuer Name:
Excel Canadian Balanced Fund
Excel India Fund
Excel China Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated January 30, 2004
Mutual Reliance Review System Receipt dated February 3, 2004
Offering Price and Description:
Mutual Fund Units @ Net Asset Value per Unit
Underwriter(s) or Distributor(s):
Excel Funds Management Inc.
Promoter(s):
-
Project #602539

Issuer Name:
Gateway Casinos Income Fund
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated February 2, 2004
Mutual Reliance Review System Receipt dated February 2, 2004
Offering Price and Description:
$62,800,000.00 - 4,000,000 Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
First Associates Investments Inc.
Promoter(s):
Gateway Casinos Inc.
Project #607981

Issuer Name:
Guest-Tek Interactive Entertainment Ltd.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated January 30, 2004
Mutual Reliance Review System Receipt dated February 2, 2004
Offering Price and Description:
$44,587,500.00 - 4,350,000 Common Shares @$10.25 per Common Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
GMP Securities Ltd.
Research Capital Corporation
Promoter(s):
-
Project #600949

Issuer Name:
Guyana Goldfields Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 29, 2004
Mutual Reliance Review System Receipt dated January 30, 2004
Offering Price and Description:
7,333,333 Special Warrant Shares and 3,666,669 Share Purchase Warrants issuable upon the exercise of 7,333,333 previously issued Special Warrants
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
-
Project #593611

Issuer Name:
Hydrogenics Corporation
Principal Regulator - Ontario
Type and Date:
Final Short Form Base Prep Prospectus dated January 27, 2004
Mutual Reliance Review System Receipt dated January 28, 2004
Offering Price and Description:
11,000,000 Common Shares - Cdn. $* per share
Underwriter(s) or Distributor(s):
Citigroup Global Markets Canada Inc.
National Bank Financial Inc.
TD Securities Inc.
Promoter(s):
-
Project #604312

Issuer Name:
LOR CAPITAL INC.
Principal Regulator - Quebec
Type and Date:
Final CPC Prospectus dated January 28, 2004
Mutual Reliance Review System Receipt dated January 30, 2004
Offering Price and Description:
MINIMUM OFFERING: $1,250,000 or 6,250,000 Common Shares
MAXIMUM OFFERING: $1,900,000 or 9,500,000 Common Shares
Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
Michael Weinberg
Project #598809

Issuer Name:
Mackenzie Cundill American Capital Class
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated January 19, 2004 to the Final Simplified Prospectus dated November 6, 2003 and Amendment #2 dated January 19, 2004 to the Annual Information Form dated November 6, 2003
Mutual Reliance Review System Receipt dated January 28, 2004
Offering Price and Description:
Series A, F, I and O Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
Mackenzie Financial Corporation
Project #576528

Issuer Name:
MD International Value Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated January 20, 2004
Mutual Reliance Review System Receipt dated January 28, 2004
Offering Price and Description:
Mutual Fund @ Net Asset Value
Underwriter(s) or Distributor(s):
MD Management Limited
MD Management Limited
Promoter(s):
MD Funds Management Inc.
Project #599472

Issuer Name:
Meritas Money Market Fund
Meritas Canadian Bond Fund
Meritas Balanced Portfolio Fund
Meritas Jantzi Social Index Fund
Meritas U.S. Equity Fund
Meritas International Equity Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated January 30, 2004
Mutual Reliance Review System Receipt dated February 2, 2004
Offering Price and Description:
Mutual Fund Units @ Net Asset Value per Unit
Underwriter(s) or Distributor(s):
Meritas Financial Inc.
Promoter(s):
Meritas Financial Inc.
Project #600478

Issuer Name:
Mitec Telecom Inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated February 3, 2004
Mutual Reliance Review System Receipt dated February 3, 2004
Offering Price and Description:
$30,000,000 - 10,909,091 Common Shares Price: $2.75 per common share
Underwriter(s) or Distributor(s):
Desjardins Securities Inc.
Orion Securities Inc.
BMO Nesbitt Burns Inc.
Research Capital Corporation
Promoter(s):
-
Project #608400

Issuer Name:
North Hatley Capital Inc.
Principal Regulator - Quebec
Type and Date:
Final CPC Prospectus dated January 26, 2004
Mutual Reliance Review System Receipt dated January 29, 2004
Offering Price and Description:
Minimum Offering: $500,000 or 5,000,000 Common Shares
Maximum Offering: $1,700,000 or 17,000,000 Common Shares
Price: $0.10 per share
Underwriter(s) or Distributor(s):
Desjardins Securities Inc.
Promoter(s):
-
Project #596757

Issuer Name:
Pro-Vest Growth & Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 29, 2004
Mutual Reliance Review System Receipt dated January 29, 2004
Offering Price and Description:
30,000,000 units @ $10/units
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Wellington West Capital Inc.
Promoter(s):
Sentry Select Capital Corp.
Project #600349

Issuer Name:
Skylon Growth & Income Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 30, 2004
Mutual Reliance Review System Receipt dated January 30, 2004
Offering Price and Description:
Unuts
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
RBC Capital Markets
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Wellington West Capital Inc.
Promoter(s):
Skylon Advisors Inc.
Project #602544

Issuer Name:
STRATA Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 29, 2004
Mutual Reliance Review System Receipt dated January 30, 2004
Offering Price and Description:
(Preferred Securities and Capital Units)
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Wellington West Capital Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Acadian Securities Incorporated
Middlefield Capital Corporation
Research Capital Corporation
Promoter(s):
Middlefield Group Limited
Middlefield Strata Administration Limited
Project #601912

Issuer Name:
Suntec Capital Inc.
Principal Regulator - Alberta
Type and Date:
Final CPC Prospectus dated January 26, 2004
Mutual Reliance Review System Receipt dated January 28, 2004
Offering Price and Description:
$1,000,000.00 - 4,000,000 Common Shares Price: $0.25 per Common Share
Underwriter(s) or Distributor(s):
First Associates Investments Inc.
Promoter(s):
-
Project #596056

Issuer Name:
The VenGrowth II Investment Fund Inc.
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated January 30, 2004 to Final Prospectus dated January 14, 2004
Mutual Reliance Review System Receipt dated February 3, 2004
Offering Price and Description:
Class A Shares
Offering Price: Net Asset Value per Class A Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
APSFA/AGFFP Sponsor Corp.
Project #600456

Issuer Name:
World Financial Split Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 27, 2004
Mutual Reliance Review System Receipt dated January 28, 2004
Offering Price and Description:
30,000,000 Preferred Shares @ $10.00 per share and 30,000,000 Class A Shares @ $15.00 per share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Canaccord Capital Corporation
Raymond James Ltd.
First Associates Investments Inc.
Promoter(s):
Mulvihill Capital Management Inc.
Project #597600

Issuer Name:
Hathaway High Yield Bond Fund
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Simplified Prospectus and Annual Information Form dated November 5, 2003
Withdrawn on January 16th, 2004
Offering Price and Description:
Series A Units
Underwriter(s) or Distributor(s):
Dynamic Mutual Funds Ltd.,
Goodman & Company, Investment Counsel Ltd.
Dynamic Mutual Funds Ltd.
Promoter(s):
Dynamic Mutual Funds Ltd.,
Project #586064

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Correction to Registrant Table Published in OSCB 2704, January 23, 2004:			
Change in Category of Registration	Banwell Financial Inc.	From: Mutual Fund Dealer To: Mutual Fund Dealer and Limited Market Dealer	December 16, 2003
Name change	From: Canada Life Securities Inc. To: GRS Securities Inc./Valeurs Mobilieres GRS Inc.		January 5, 2004
New Registration	Formula Growth Limited/Formula Growth, Societe Limitee	Limited Market Dealer	January 30, 2004
New Registration	AIC Private Portfolio Group Inc./Services de gestion privee AIC Inc.	Investment Dealer/Equities and Options	January 29, 2004
Change in Category of Registration	Optimal Models And Decisions Inc.	From: Commodity Trading Manager to Investment Counsel and Portfolio Manager, Commodity Trading Counsel and Commodity Trading Manager	January 26, 2004
New Registration	Quadrexx Asset Management Inc.	Investment Counsel and Portfolio Manager	February 2, 2004
New Registration	Aim Private Asset Management, Inc.	International Adviser, Investment Counsel and Portfolio Manager	January 30, 2004
New Registration	Hampton Securities (USA), Inc.	International Dealer	January 28, 2004

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 RS Amendment to the Universal Market Integrity Rules Policy 10.8, Section 9.7 Public Access to Hearings

MARKET REGULATION SERVICES INC.

AMENDMENT TO THE UNIVERSAL MARKET INTEGRITY RULES

POLICY 10.8, SECTION 9.7 PUBLIC ACCESS TO HEARINGS

Summary

Effective January 30, 2004, the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission, Ontario Securities Commission and the Commission des valeurs mobilières du Québec approved an amendment to the Policies under the Universal Market Integrity Rules ("UMIR") to provide for public access to hearings subject to certain limitations.

Background to the Amendment

While public access to hearings was implied in Policy 10.8, it was desirable that a specific provision be added to require public access to the various forms of hearings except in certain circumstances. The amendment essentially incorporates the standard established for public access to hearings under the *Statutory Powers Procedure Act* (Ontario) ("SPPA"). That statute applied to hearings conducted by the Toronto Stock Exchange ("TSX") under the rules and by-laws of the TSX as the TSX was created by statute in the Province of Ontario. As Market Regulation Services Inc. ("RS") is a recognized self-regulatory organization incorporated under the *Canada Business Corporations Act*, RS does not exercise a statutory power of decision and is therefore not subject to the SSPA nor comparable legislation in any of the other jurisdictions in which RS is recognized as a self-regulatory organization.

Changes from the Original Proposal

While section 1.2 of Policy 10.8 presently provides that a Hearing Panel shall change any practice or procedure set out in Policy 10.8 to comply with applicable statutory requirements, the original proposal set out in Market Integrity Notice 2002-017 dated September 30, 2002 has been modified by the addition of a subsection that specifically provides that in respect of a hearing in Quebec the hearing shall be public provided the Hearing Panel, on its own initiative or at the request of a party, may order the hearing be held in camera or ban the publication or release of any information or documents it indicates in the interest of morality or public order. The addition of this subsection specifically recognizes the requirements imposed on disciplinary hearings by recognized self-regulatory organizations under section 182.1 of the *Securities Act* (Quebec).

Impact of the Amendment

The amendment provides "public access" to a hearing conducted by RS. In the case of an oral hearing, the hearing would be open to the public. The public would be given reasonable access to documents submitted for a written hearing at the office of RS during ordinary business hours. In the case of an electronic hearing, the public shall have reasonable access to the proceedings.

Public access to a hearing may be denied if:

- a specific Rule or Policy provides that a hearing be conducted in the absence of the pubic;
- the Hearing Panel determines that the exclusion of the public from an oral or electronic hearing is necessary for the maintenance of order at the hearing; or
- the Hearing Panel determines that intimate financial or personal matters may be disclosed at the hearing and that the desirability of avoiding disclosure of such personal matters outweighs the desirability of public access to the hearing.

For a hearing in Quebec, the Hearing Panel, on its own initiative or at the request of a party, may order the hearing be held in camera or ban the publication or release of any information or documents it indicates in the interest of morality or public order.

Under the amendment, unless otherwise provided by the Hearing Panel or the terms of a specific Rule or Policy, the public will have access to a hearing to consider:

- approval or rejection of a Settlement Agreement entered into between RS and any person with respect to a violation of UMIR;
- a disciplinary matter undertaken pursuant to a Notice of Hearing issued by RS as against any person alleged not to have complied with a requirement of UMIR; and
- a hearing to consider any procedural applications or motions in relation to a disciplinary proceeding.

Text of the Amendment

The text of the amendment to the Policies under UMIR to provide for public access to hearings is set out in Appendix "A". Appendix "B" is a marked version of the amendment that highlights the changes from the original proposal as set out in Market Integrity Notice 2002-017 dated September 30, 2002.

Responses to the Request for Comments

In response to the Request for Comments on the proposed amendments set out in Market Integrity Notice 2002-017, RS received one comment letter. The comment letter and the response of RS have been summarized in Appendix "C".

Questions

Questions concerning this notice may be directed to:

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Market Policy and General Counsel,
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ROSEMARY CHAN
VICE PRESIDENT, MARKET POLICY AND GENERAL COUNSEL

Appendix "A"

Universal Market Integrity Rules

TEXT OF AMENDMENT RELATED TO PUBLIC ACCESS TO HEARINGS

The Policies to the Universal Market Integrity Rules are amended by adding the following as section 9.7 of Policy 10.8:

9.7 Public Access to Hearing

(1) Subject to subsection (2), each hearing shall be conducted in a manner:

(a) in the case of an oral hearing, to be open to the public;

(b) in the case of a written hearing, to provide the public with reasonable access to the documents submitted at the office of the Market Regulator during ordinary business hours; and

(c) in the case of an electronic hearing, to provide the public with reasonable access to the proceedings.

(2) A hearing shall be conducted in the absence of the public in the case of an oral or electronic hearing or without access to the documents submitted in the case of a written hearing if:

(a) a specific Rule or Policy provides that a hearing be conducted in the absence of the public or without access to the documents submitted;

(b) in the opinion of the Hearing Panel, the absence of the public from an oral or electronic hearing is necessary for the maintenance of order at the hearing; and

(c) in the opinion of the Hearing Panel, intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public.

(3) Despite subsection (2), a hearing by a Hearing Panel in Quebec shall be public provided the Hearing Panel, on its own initiative or at the request of a party, may order the hearing be held in camera or ban the publication or release of any information or documents it indicates in the interest of morality or public order.

Appendix "B"

Universal Market Integrity Rules

TEXT OF THE AMENDMENT MARKED TO THE PROPOSAL SET OUT IN MARKET INTEGRITY NOTICE 2002-017 DATED SEPTEMBER 30, 2002

The Policies to the Universal Market Integrity Rules are amended by adding the following as section 9.7 of Policy 10.8:

9.7 Public Access to Hearing

(1) Subject to subsections (2) and (3), each hearing shall be conducted in a manner:

(a) in the case of an oral hearing, to be open to the public;

(b) in the case of a written hearing, to provide the public with reasonable access to the documents submitted at the office of the Market Regulator during ordinary business hours; and

(c) in the case of an electronic hearing, to provide the public with reasonable access to the proceedings.

(2) A hearing shall be conducted in the absence of the public in the case of an oral or electronic hearing or without access to the documents submitted in the case of a written hearing if:

(a) a specific Rule or Policy provides that a hearing be conducted in the absence of the public or without access to the documents submitted;

(b) in the opinion of the Hearing Panel, the absence of the public from an oral or electronic hearing is necessary for the maintenance of order at the hearing; and

(c) in the opinion of the Hearing Panel, intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public.

(3) Despite subsection (2), a hearing by a Hearing Panel in Quebec shall be public provided the Hearing Panel, on its own initiative or at the request of a party, may order the hearing be held in camera or ban the publication or release of any information or documents it indicates in the interest of morality or public order.

Appendix "C"

Universal Market Integrity Rules

COMMENTS IN RESPONSE TO PROPOSED AMENDMENTS REGARDING PUBLIC ACCESS TO HEARINGS

Commentator	Specific Comments	Response to Comment
Simon Romano	The commenter suggested that the public be provided with the ability wherever possible to review the documents submitted via the Internet. The commentator suggested that in the alternative the public should be able to request copies of the documents be mailed to them without charge.	As a matter of course, and in accordance with Policy 10.8, notices of hearing, statements of allegations and orders and decisions (both in summary and full text) are provided on the RS website. RS does not provide on the website background documents or documents relied upon by parties at hearings as such material is often not readily available in electronic form or would be too cumbersome to maintain on the website.

13.1.2 RS Amendment to the Universal Market Integrity Rules Definition of "Regulated Person"

MARKET REGULATION SERVICES INC.

AMENDMENT TO THE UNIVERSAL MARKET INTEGRITY RULES

DEFINITION OF "REGULATED PERSON"

Summary

Effective February 6, 2004, the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission, Ontario Securities Commission and the Commission des valeurs mobilières du Québec approved an amendment to the Universal Market Integrity Rules ("UMIR") to expand the definition of a "Regulated Person" to include a person who is subject to the rules of a marketplace that has retained RS to be its regulation services provider.

Background to the Amendment

If a recognized exchange or a recognized quotation and trade reporting system retains RS to be its regulation services provider pursuant to an agreement contemplated by section 7.2 of National Instrument 23-101, RS is able to enforce through disciplinary proceedings the market quality rules of that marketplace ("Marketplace Rules") as such rules are defined as a "Requirement" for the purposes of UMIR. Prior to the amendment, the enforcement provisions of UMIR were applicable to Participants, Access Persons and to various persons to whom restrictions or responsibilities have been extended in accordance with Rule 10.3 or 10.4 of UMIR. Under Rules 10.3 and 10.4, the application of UMIR is extended to:

- a related entity of a Participant or Access Person;
- a director, officer, partner or employee of the Participant or Access Person; and
- a director, officer, partner or employee of a related entity of a Participant or Access Person.

There was a possibility that a Marketplace Rule may be applicable to a person not otherwise covered by UMIR. For example, under clause 13.0.8(1)(c) of *The Toronto Stock Exchange Act* (Ontario), the Toronto Stock Exchange ("TSX") is given the power to regulate the conduct of members of the TSX and "other persons or companies authorized to trade by the exchange and of their current and former directors, officers, employees and agents and other persons or companies currently or formerly associated with them in the conduct of business…". As such, the TSX may have marketplace rules that apply to persons not presently covered by the definition of "Regulated Person" such as "persons or companies currently or formerly associated with them in the conduct of business".

In order to ensure that RS may undertake a disciplinary action as against a person who has breached a Marketplace Rule in its capacity as the regulation services provider for the marketplace, the definition of "Regulated Person" was amended to specifically recognize that Marketplace Rules for which RS has enforcement responsibilities may apply to persons that are not described in Rule 10.3 or 10.4 of UMIR.

Impact of the Amendment

The extension of the definition of Regulated Person to include persons who are subject to the Marketplace Rules of any marketplace that has retained RS to be its regulation services providers, simply clarifies the jurisdiction of RS to use the powers and procedures under UMIR and its Policies with respect to investigation and enforcement in connection with violations of Marketplace Rules. In particular, each person who is subject to a Marketplace Rule also will be subject to:

- the requirement under Rule 10.2 of UMIR to assist in an investigation including the provision of information or documents requested by RS as part of the investigation;
- the powers and remedies available to RS under Rule 10.5 of UMIR; and
- the indemnification and limitation of liability of RS under Rule 11.10 of UMIR for any act, deed, matter or thing made, done or permitted by a Regulated Person.

Changes to the French-language version of the Definition

During the rule approval process, a number of editorial changes were suggested to the French-language version of the definition of a "Regulated Person". The changes to the French version do not involve any additional changes to the English-language definition. The changes to the French version are being made simply to improve the quality of the translation. These editorial changes are included in Appendix "B" of the French language version of this Market Integrity Notice which is available on the RS website at www.rs.ca/fr/home.

Appendices

The text of the amendment to UMIR to expand the definition of "Regulated Person" is set out in Appendix "A". Appendix "B" is a marked version of the definition of "Regulated Person" to highlight the changes introduced by the amendment.

Responses to the Request for Comments

No comments were received by Market Regulation Services Inc. in response to the Request for Comments on the proposed amendments set out in Market Integrity Notice 2003-022 dated October 24, 2003.

Questions

Questions concerning this notice may be directed to:

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ROSEMARY CHAN,
VICE PRESIDENT, MARKET POLICY AND GENERAL COUNSEL

Appendix "A"

Universal Market Integrity Rules

Definition of "Regulated Person"

The Universal Market Integrity Rules are amended as follows:

1. Rule 1.1 is amended by adding the following as clause (e) of the definition of "Regulated Person":

   (e) any person subject to a Marketplace Rule of a marketplace for which the Market Regulator is the regulation services provider or was the regulation services provider at the time of the conduct.

Appendix "B"

Universal Market Integrity Rules

Definition of "Regulated Person" Marked to Reflect the Amendment

"Regulated Person" means, in respect of the jurisdiction of a Market Regulator in connection with the conduct of a person:

(a) any marketplace for which the Market Regulator is the regulation service provider or was the regulation service provider at the time of the conduct;

(b) any Participant or Access Person of a marketplace for which the Market Regulator is the regulation service provider or was the regulation service provider at the time of the conduct;

(c) any person to whom responsibility for compliance with the Rules by other persons are extended in accordance with Rule 10.3 or to whom responsibility had been extended at the time of the conduct; ~~and~~

(d) any person to whom the application of the Rules are extended in accordance with Rule 10.4 or to whom the Rules had been extended at the time of the conduct~~.~~ And

(e) any person subject to a Marketplace Rule of a marketplace for which the Market Regulator is the regulation services provider or was the regulation services provider at the time of the conduct.

Chapter 25

Other Information

25.1 Exemptions

25.1.1 Mulvihill Fund Services Inc. - ss. 74(1)

Headnote

Subsection 74(1) - Exemption from sections 25 and 53 of the Act in connection with the writing of over-the-counter covered call options by the issuer, subject to certain conditions.

Statutes Cited

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

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

AND

IN THE MATTER OF
WORLD FINANCIAL SPLIT CORP.

RULING AND EXEMPTION
(Subsection 74(1) of the Act)

UPON the application of Mulvihill Fund Services Inc. ("Mulvihill"), as manager of World Financial Split Corp. (the "Company"), to the Ontario Securities Commission (the "Commission") for a ruling pursuant to subsection 74(1) of the Act that the writing of certain over-the-counter covered call options and cash covered put options (collectively, the "OTC Options") by the Company is not subject to sections 25 and 53 of the Act;

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

AND UPON Mulvihill having represented to the Commission as follows:

1. The Company is a mutual fund corporation established under the laws of the Province of Ontario.

2. The authorized capital of the Company will consist of an unlimited number of preferred shares (the "Preferred Shares"), class A shares (the "Class A Shares") and class J shares.

3. The Company is considered a "mutual fund" within the meaning of the Act and other applicable securities legislation.

4. The Company is not a reporting issuer under the Act but has filed a preliminary prospectus dated December 8, 2003 and will file a (final) prospectus (the "Prospectus") with the Commission and with the securities regulatory authority in each of the other Provinces of Canada with respect to proposed offering of Preferred Shares and the Class A Shares.

5. Mulvihill Capital Management Inc. ("MCM") will act as investment manager of the Company.

6. MCM is registered under the Act in the categories of investment counsel and portfolio manager, mutual fund dealer and limited market dealer.

7. The Company's investment objectives are: (i) to provide holders of Preferred Shares with fixed cumulative preferential quarterly cash distributions per Preferred Share representing a yield on the issue price of the Preferred Shares of [5.25]% per annum; and (ii) to provide holders of Class A Shares with regular quarterly cash distributions targeted to be 8.0% per annum; and (iii) to return the original issue price to holders of both Preferred Shares and Class A Shares at the time of redemption of such shares.

8. The net proceeds from the offering will be invested in a portfolio which will include common equity securities selected from the ten largest financial services companies by market capitalization in each of Canada, the United States and the Rest of the World (the "Portfolio Universe"). In addition, the issuers of securities in the Company's Portfolio, other than Canadian issuers, must have a minimum credit rating of "A" from Standard & Poor's Rating Services ("S&P") or a comparable rating from an equivalent rating agency.

9. In addition, up to 20% of the Net Asset Value of the Company may be invested in common equity securities of financial services companies not included in the Portfolio Universe as long as such companies have a market capitalization at the time of investment of at least US$10 billion and for non-Canadian issuers, a minimum credit rating of "A" from S&P or a comparable rating from an equivalent rating agency.

10. The Company will, from time to time, write covered call options in respect of all or part of the securities in its Portfolio. As call options will be written only in respect of equity securities that are in the Portfolio and the investment criteria of the

Company will prohibit the sale of equity securities subject to an outstanding option, the call options will be "covered" at all times.

11. The Company may, from time to time, hold a portion of its assets in "cash equivalents" (as that term is defined in the Prospectus). The Company may utilize such cash equivalents to provide cover in respect of the writing of cash covered put options. Such cash covered put options will only be written in respect of securities in which the Company is permitted to invest.

12. The purchasers of OTC Options written by the Company will generally be major Canadian financial institutions and all purchasers of OTC Options will be persons or entities described in Appendix A to this ruling.

13. The writing of OTC Options by the Company will not be used as a means for the Company to raise new capital.

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 the writing of OTC Options by the Company, as contemplated by this ruling, shall not be subject to sections 25 and 53 of the Act provided that:

(a) the portfolio adviser advising the Company with respect to such activities is registered as an adviser under the Act and meets the proficiency requirements in Ontario for advising with respect to options;

(b) each purchaser of an OTC Option written by the Company is a person or entity described in Appendix A to this ruling; and

(c) a receipt for the Prospectus has been issued by the Director under the Act;

January 23, 2004.

"D. A. Brown" "Lorne Morphy"

APPENDIX A

QUALIFIED PARTIES

Interpretation

(1) The terms "subsidiary" and "holding body corporate" used in paragraphs (w), (x) and (y) of subsection (3) of this Appendix have the same meaning as they have in the *Business Corporations Act* (Ontario).

(2) All requirements contained in this Appendix that are based on the amounts shown on the balance sheet of an entity apply to the consolidated balance sheet of the entity.

Qualified Parties Acting as Principal

(3) The following are qualified parties for all OTC derivatives transactions, if acting as principal:

Banks

(a) A bank listed in Schedule I, II or III to the *Bank Act* (Canada).

(b) The Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada).

(c) A bank subject to the regulatory regime of a country that is a member of the Basel Accord, or that has adopted the banking and supervisory rules set out in the Basel Accord, if the bank has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Credit Unions and Caisses Populaires

(d) A credit union central, federation of caisses populaires, credit union or regional caisse populaire, located, in each case, in Canada.

Loan and Trust Companies

(e) A loan corporation or trust corporation registered under the *Loan and Trust Corporations Act* (Ontario) or under the *Trust and Loan Companies Act* (Canada), or under comparable legislation in any other province or territory of Canada.

(f) A loan company or trust company subject to the regulatory regime of a country that is a member of the Basel Accord, or that has adopted the banking and supervisory

rules set out in the Basel Accord, if the loan company or trust company has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Insurance Companies

(g) An insurance company licensed to do business in Canada or a province or territory of Canada.

(h) An insurance company subject to the regulatory regime of a country that is a member of the Basel Accord, or that has adopted the banking and supervisory rules set out in the Basel Accord, if the insurance company has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Sophisticated Entities

(i) A person or company that, together with its affiliates

(i) has entered into one or more transactions involving OTC derivatives with counterparties that are not its affiliates, if

(A) the transactions had a total gross dollar value of or equivalent to at least $1 billion in notional principal amount; and

(B) any of the contracts relating to one of these transactions was outstanding on any day during the previous 15-month period, or

(ii) had total gross marked-to-market positions of or equivalent to at least $100 million aggregated across counterparties, with counterparties that are not its affiliates in one or more transactions involving OTC derivatives on any day during the previous 15-month period.

Individuals

(j) An individual who, either alone or jointly with the individual's spouse, has a net worth of at least $5 million, or its equivalent in another currency, excluding the value of his or her principal residence.

Governments/Agencies

(k) Her Majesty in right of Canada or any province or territory of Canada and each crown corporation, instrumentality and agency of a Canadian federal, provincial or territorial government.

(l) A national government of a country that is a member of the Basel Accord, or that has adopted the banking and supervisory rules of the Basel Accord, and each instrumentality and agency of that government or corporation wholly-owned by that government.

Municipalities

(m) Any Canadian municipality with a population in excess of 50,000 and any Canadian provincial or territorial capital city.

Corporations and other Entities

(n) A company, partnership, unincorporated association or organization or trust, other than an entity referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (h), with total revenue or assets, in excess of $25 million or its equivalent in another currency, as shown on its last financial statement, to be audited only if otherwise required.

Pension Plan or Fund

(o) A pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension commission, if the pension fund has total net assets, as shown on its last audited balance sheet, in excess of $25 million, provided that, in determining net assets, the liability of a fund for future pension payments shall not be included.

Mutual Funds and Investment Funds

(p) A mutual fund or non-redeemable investment fund if each investor in the fund is a qualified party.

(q) A mutual fund that distributes securities in Ontario, if the portfolio manager of the fund is registered as an adviser, other than a securities adviser, under the Act

or securities legislation elsewhere in Canada.

(r) A non-redeemable investment fund that distributes its securities in Ontario if the portfolio manager is registered as an adviser, other than a securities adviser, under the Act or securities legislation elsewhere in Canada.

Brokers/Investment Dealers

(s) A person or company registered under the Act or securities legislation elsewhere in Canada as a broker or an investment dealer or both.

(t) A person or company registered under the Act as an international dealer if the person or company has total assets, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Futures Commission Merchants

(u) A person or company registered under the CFA as a dealer in the category of futures commission merchant, or in an equivalent capacity elsewhere in Canada.

Charities

(v) A registered charity under the *Income Tax Act* (Canada) with assets not used directly in charitable activities or administration, as shown on its last audited balance sheet, of at least $5 million or its equivalent in another currency.

Affiliates

(w) A wholly-owned subsidiary of any of the organizations described in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j), (n), (o), (s), (t) or (u).

(x) A holding body corporate of which any of the organizations described in paragraph (w) is a wholly-owned subsidiary.

(y) A wholly-owned subsidiary of a holding body corporate described in paragraph (x).

(z) A firm, partnership, joint venture or other form of unincorporated association in which one or more of the organizations described in paragraph (w), (x) or (y) have a direct or indirect controlling interest.

Guaranteed Party

(aa) A party whose obligations in respect of the OTC derivatives transaction for which the determination is made is fully guaranteed by another qualified party.

Qualified Party Not Acting as Principal

(4) The following are qualified parties, in respect of all OTC derivative transactions:

Managed Accounts

1. Accounts of a person, company, pension fund or pooled fund trust that are fully managed by a portfolio manager or financial intermediary referred to in paragraphs (a), (d), (e), (g), (s), (t), (u) or (w) of subsection (3) or a broker or investment dealer acting as a trustee or agent for the person, company, pension fund or pooled fund trust under section 148 of the Regulation.

Subsequent Failure to Qualify

(5) A party is a qualified party for the purpose of any OTC derivatives transaction if it, he or she is a qualified party at the time it, he or she enters into the transaction.

Index