The Ontario Securities Commission

OSC Bulletin

August 27, 2004

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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

AUGUST 27, 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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Robert L. Shirriff, Q.C.	—	RLS
Suresh Thakrar	—	ST
Wendell S. Wigle, Q. C.	—	WSW

SCHEDULED OSC HEARINGS

September 20-22, 2004	**Brian Peter Verbeek** and Lloyd Hutchison Ebenezer Bruce
10:00 a.m.	s. 127
	K. Manarin in attendance for Staff
	Panel: TBD
September 29, 2004	**Cornwall *et al***
	s. 127
10:00 a.m.	K. Manarin in attendance for Staff
September 30, 2004 and October 1, 2004	Panel: HLM/RWD/ST
2:00 p.m.	
October 4, 5, 13-15, 2004	
10:00 a.m.	
October 18 to 22, 2004	**ATI Technologies Inc., Kwok Yuen Ho, Betty Ho, JoAnne Chang, David Stone, Mary de La Torre, Alan Rae and Sally Daub**
November 2, 3, 5, 8, 10-12, 15, 17, 19, 2004	s. 127
10:00 a.m.	M. Britton in attendance for Staff
	Panel: SWJ/HLM/MTM
October 31, 2004 (on or about)	**Mark E. Valentine**
	s. 127
10:00 a.m.	A. Clark in attendance for Staff
	Panel: TBD
November 24-25, 2004	Brian Peter Verbeek and **Lloyd Hutchison Ebenezer Bruce**
10:00 a.m.	s. 127
	K. Manarin in attendance for Staff
	Panel: TBD

January 24 to March 4, 2005, except Tuesdays and April 11 to May 13, 2005, except Tuesdays 10:00 a.m.	**Philip Services Corp. *et al*** s. 127 K. Manarin in attendance for Staff Panel: PMM/RWD/ST
May 30, June 1, 2, 3, 6, 7, 8, 9 and 10, 2005 10:00 a.m.	**Buckingham Securities Corporation, David Bromberg*, Norman Frydrych, Lloyd Bruce and Miller Bernstein & Partners LLP (formerly known as Miller Bernstein & Partners)** s. 127 J. Superina in attendance for Staff Panel: TBD * David Bromberg settled April 20, 2004

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

Robert Walter Harris

Andrew Keith Lech

S. B. McLaughlin

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

1.1.2 Notice of Commission Approval – IDA Proposed Regulation 100.9(a)(x) – Amendments to the Definition of "Floating Margin Rate"

THE INVESTMENT DEALERS ASSOCIATION OF CANADA (IDA)

PROPOSED REGULATION 100.9(A)(X) – AMENDMENTS TO THE DEFINITION OF "FLOATING MARGIN RATE"

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission approved amendments to Regulation 100.9(a)(x) – amendments to the definition of "floating margin rate. In addition, the Alberta Securities Commission approved and the British Columbia Securities Commission did not object to the amendments. The proposed amendments to Regulation 100.9(a)(x) proposes amendments to the definition of floating margin rate concerning products traded on the Bourse de Montreal to remove a 0.50% buffer from the floating margin rate calculation. A copy and description of the proposed amendments were published on April 30, 2004, at (2004) 27 OSCB 4441. No comments were received.

1.1.3 RS Market Integrity Notice – Notice of Commission Approval – Order Entry during a Regulatory Halt

MARKET REGULATION SERVICES INC.

AMENDMENT TO THE UNIVERSAL MARKET INTEGRITY RULES
AMENDMENT TO RULE 9.1(1) – ORDER ENTRY DURING A REGULATORY HALT

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission has approved an amendment to Rule 9.1(1) of the Universal Market Integrity Rules (UMIR) to repeal the restriction on order entry on a marketplace during a regulatory halt. In addition, the Alberta Securities Commission, the British Columbia Securities Commission, the Manitoba Securities Commission and the Autorité des marchés financiers have also approved the amendment. A copy and description of the amendment was published on April 16, 2004 at (2004), 27 OSCB 4137. One comment was received. 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 Market Integrity Notice – Notice of Commission Approval – Provisions Respecting Short Sales

MARKET REGULATION SERVICES INC.

AMENDMENT TO THE UNIVERSAL MARKET INTEGRITY RULES
AMENDMENTS TO RULES 1.1 AND 3.1(2) – PROVISIONS RESPECTING SHORT SALES

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission has approved amendments to Rule 1.1 (amendment to the definition of "short sale" and definition of "Exchange-traded Fund") and Rule 3.1(2) of the Universal Market Integrity Rules (UMIR) to provide that a person will be considered to be "short" a security in certain circumstances and to provide an exemption from the pricing restrictions for trades in Exchange-traded Funds. In addition, the Alberta Securities Commission, the British Columbia Securities Commission, the Manitoba Securities Commission and the Autorité des marchés financiers have also approved the amendments. A copy and description of the amendment was published on April 23, 2004 at (2004), 27 OSCB 4272. Six comment letters were received. The final version of the amendments and a summary of the comments received are published in Chapter 13 of this Bulletin.

1.1.5 OSC Staff Notice 11-737 Securities Advisory Committee - Vacancies

OSC STAFF NOTICE 11-737
SECURITIES ADVISORY COMMITTEE - VACANCIES

The Commission formally established the Securities Advisory Committee to the Commission ("SAC") many years ago. SAC meets on a regular basis, at least monthly, and provides advice to the Commission and staff on a variety of legal matters, including amendments to the Act and Regulations, formulation of rules, Commission policies and staff notices, and other operational or transactional matters currently before the Commission and staff. SAC is also expected to provide general advisory services to the Commission and staff on an informal basis relating to emerging trends in the marketplace. SAC is asked to report to the Commission at least annually on its work over the previous year and identify issues that SAC considers should be addressed by the Commission.

The Commission is now looking for prospective candidates to serve on SAC for a three-year term beginning in January 2005. Prospective candidates are encouraged to review OSC Policy 11-601 for further information about SAC.

Those who make a commitment to serve on SAC must be in a position to devote the time necessary to attend meetings, be an active participant, and undertake the work involved, which sometimes must be dealt with on an urgent basis. SAC members must have an excellent knowledge of the legislation and policies for which the Commission is responsible, and have significant practice experience in the securities area. Expertise in an area of special interest to the Commission at the time an appointment is made will also be a factor in selection. SAC members are expected to have excellent technical abilities and a strong interest in the development of securities regulatory policy. SAC members will be selected in part to ensure that SAC is reasonably representative of the full spectrum of securities law practice.

Individual practitioners, with the support of their firms, are invited to apply in writing for membership on SAC to the Office of the General Counsel of the Commission, indicating areas of practice and relevant experience.

SAC's membership currently consists of twelve Ontario solicitors practising in the area of securities law plus one U.S. securities lawyer. The present members of SAC are:

Robert D. Chapman
McCarthy Tétrault LLP

Helen A. Daley
Wardle Daley LLP

Carol Hansell
Davies Ward Phillips & Vineberg LLP

Robert H. Karp
Torys LLP

Edwin S. Maynard
Paul,Weiss, Rifkind, Wharton & Garrison LLP

Rosalind Morrow
Borden Ladner Gervais LLP

Sheila A. Murray
Blake, Cassels & Graydon LLP

Robert W.A. Nicholls
Stikeman Elliott LLP

Dale R. Ponder
Osler, Hoskin & Harcourt LLP

Jeffrey P. Roy
Cassels Brock & Blackwell LLP

Cathy B. Singer
Ogilvy Renault

Thomas A. Smee
Royal Bank of Canada

Philippe Tardif
Lang Michener

The Commission is very grateful to SAC members for their able assistance and valuable input.

Applications for SAC membership will be considered if received on or before October 15, 2004. Applications should be submitted in writing to:

Monica Kowal
General Counsel
Tel: (416) 593-3653
Fax: (416) 593-3681
mkowal@osc.gov.on.ca

Ontario Securities Commission
20 Queen Street West
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August 27, 2004.

1.2 Notices of Hearing

1.2.1 John Alexander Cornwall, Kathryn A. Cook, David Simpson, Jerome Stanislaus Xavier, CGC Financial Services Inc. and First Financial Services - 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
JOHN ALEXANDER CORNWALL,
KATHRYN A. COOK,
DAVID SIMPSON,
JEROME STANISLAUS XAVIER,
CGC FINANCIAL SERVICES INC.
AND
FIRST FINANCIAL SERVICES

AMENDED AMENDED STATEMENT OF ALLEGATIONS

Staff of the Ontario Securities Commission make the following allegations:

I. The Respondents

1. John Alexander Cornwall resides in the province of Ontario.

2. Cornwall was registered under the Securities Act from April 11, 2000 to October 5, 2001 as a salesperson with Global Educational Marketing Corporation, a dealer in the category of Scholarship Plan Dealer.

3. Cornwall is the sole owner and director of CGC Financial Services Inc., an Ontario Corporation, located at 1010 Polytec Street, Unit 2, Gloucester, Ontario.

4. Jerome Stanislaus Xavier, a resident of Quebec, was at all material times, registered under the Act. Xavier has been registered as a salesperson under the Act since 1992. Since September 23, 1999, Xavier has been registered as a salesperson with Keybase Investments Inc., a dealer in the category of Mutual Fund Dealer, Limited Market Dealer and Scholarship Plan Dealer.

5. Since 1992, Xavier shared office space with Cornwall at 1010 Polytec Street.

6. David Simpson is a resident of Ontario and was, at all material times, an unregistered mortgage broker. He is the owner and sole director of 567349 Ontario Ltd., operated as First Financial Services. Simpson was also the sole director and owner of Stramore Inc. Simpson has never been registered under the Act.

7. Kathryn A. Cook is a resident of Ontario and was, at all material times, a Chartered Accountant. Cook has never been registered under the Act.

The Illegal Distribution

8. From approximately April 2000 to March 2001, Cornwall participated in a scheme whereby he and others placed advertisements in newspapers throughout Ontario and other provinces, to attract clients. The advertisements advised the potential investor that they could access a portion of the value of their locked-in Registered Retirement Savings Plan ("RRSP") by purchasing shares in private Canadian companies.

9. Shares of Canadian Controlled Private Corporations ("CCPCs") can constitute a qualified investment for RRSPs. The qualifications of a company as a CCPC are prescribed by tax laws and regulations. Cornwall and others claimed that the four companies involved in this scheme were CCPCs, and therefore, were qualified investments for RRSPs.

10. In response to the advertisements, the clients contacted Cornwall and others. The clients purchased shares of one of the following four companies, all purporting to be CCPCs:

i) Themis Hospitality Inc. – April to October 2000

An Ontario registered corporation. Sometime in 1998, Themis purchased a vacant lot in Kanata, Ontario for the purpose of constructing a retirement residence. Simpson acted as a financial advisor and mortgage broker. At some point, additional equity financing was required. As a result, Simpson organized the issuing of non-voting shares of Themis.

ii) Stramore Inc. – May 2000 to February 2001

Stramore is an Ontario corporation owned by Simpson. In May of 2000, Stramore purchased a vacant lot located in Smith Falls, Ontario for approximately $175,000. The offering memorandum for Stramore, written by Simpson, indicates that proceeds will be used for a development. The projected cost was in excess of $1.8 million. The mortgage on the property is now in excess of $175,000, which represents the initial purchase price of the property and the property is still vacant.

iii) Faelen Concepts – June 2000 to March 2001

Faelen is an Ontario Corporation. In the Spring of 2000, Cornwall agreed to assist Mr. M., a trained chef, who wanted to purchase a hotel/resort. Under Cornwall's guidance, M. engaged in a scheme to raise capital selling private company shares to investors. Cornwall registered Faelen to his own office address at 1010 Polytec Street, Gloucester, naming M. as the sole director. Faelen never purchased property for this venture. Faelen's only assets were the funds generated by the sale of shares.

iv) Camcys Inc. – September 2000 to February 2001

Cornwall registered Camcys, an Ontario corporation, for his son-in-law, R., who was also named as the sole director. Cornwall assisted R. in raising capital so that R. could start a web-page design company. Cornwall rented a post office box in his own name and registered the address of Camcy's to that address. The trustee forwarded the proceeds of the sale of the shares to a joint bank account in the name of Cornwall and R. The proceeds from the sales were subsequently transferred to Cornwall's company CGC Financial. Camcys only assets were the funds generated by the sale of the shares. Camcys never had any sales or clients.

11. The clients' purchased shares of these four companies using funds located in their locked in RRSPs. Cornwall, and others, met directly with the majority of the clients. Cornwall, and others, advised these clients that the funds located in their locked-in RRSPs would be used to purchase shares of CCPCs that were purported to be qualified investments for locked-in RRSPs. The clients who purchased shares in Camcys and Faelen then obtained a loan from CGC, a company owned by Cornwall. The clients who purchased shares in Stramore and Themis obtained a loan from First Financial, a company owned by Simpson. The loans were for an amount that represented a portion of the purchase price of the shares, varying from approximately 65% to 70%. The remaining portion, varying from approximately 30% to 35%, was charged as an "administration fee".

12. In total, Cornwall processed over 87 transactions in excess of approximately $1.8 million in shares. The majority of the investors were Ontario residents.

13. Xavier facilitated the purchase of shares and his name appears as the "registered representative" on all the documentation with respect to the purchase of private company shares of Themis, Camcys, Faelen and Stramore. Xavier did not process all the trades through Keybase. Xavier was registered through Keybase.

14. Cook, a chartered accountant, signed documents that confirmed that "to the best of [her] knowledge" the shares of Camcys and Stramore represented a "fair market value." Cook did not conduct any due diligence with respect to Camcys and Stramore. To facilitate the trust company's acceptance of the transactions as RRSP eligible investments, Cook signed a letter confirming the share purchases of Stramore, Faelen, Camcys and Themis were a "qualified investment for the annuitants RRSP."

15. Simpson, through his company First Financial, controlled the incoming investment from clients that was generated from the sale of the shares of Themis and Stramore. Cornwall, through his company CGC, controlled the incoming investment from clients that was generated from the sale of the shares of Faelen and Camcys.

16. In total, each of the respondents received the following compensation (all numbers approximate) for participating in the transactions: Cornwall - $650,000; Simpson - $165,000; Xavier - $60,000 and Cook - $14,000.

The Loans

17. Some of these investors continue to pay back the loans.

IV. VIOLATIONS OF THE *SECURITIES ACT*

18. In trading shares of the private companies listed above, Cornwall, Simpson and Xavier participated in an illegal distribution of securities, contrary to section 53(1) of the *Securities Act*, by trading in these securities for which there was no exemption available.

19. By failing to ascertain the general investment needs and objectives of the investors who purchased shares of the companies listed above, and the suitability of the proposed purchases or sales of the securities for these clients, Xavier acted contrary to section 1.5 of Ontario Securities Commission Rule 31-505.

20. By failing to process trades through Keybase, Xavier acted contrary to section 25(1) of the *Securities Act*.

IV. CONDUCT CONTRARY TO THE PUBLIC INTEREST

21. Cornwall's conduct, as described above, is contrary to the public interest.

22. Simpson's conduct, as described above, is contrary to the public interest.

23. Cook's conduct, as described above, is contrary to the public interest.

24. Xavier's conduct, as described above, is contrary to the public interest.

25. CGC and First Financial's conduct, as described above, is contrary to the public interest.

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

August 18, 2004.

1.3 News Releases

1.3.1 OSC Chair Supports Priority Recommendations at Standing Committee of the Legislature

FOR IMMEDIATE RELEASE
August 18, 2004

OSC CHAIR SUPPORTS PRIORITY RECOMMENDATIONS AT STANDING COMMITTEE OF THE LEGISLATURE

TORONTO – Appearing at the Standing Committee on Finance and Economic Affairs at the Ontario Legislature today, Ontario Securities Commission (OSC) Chair David Brown discussed the recommendations of the Five Year Review Committee, specifically addressing the need for a single securities regulator and the question about the structure of the OSC. The Standing Committee has been mandated to review the Five Year Review Report recommendations and to present its final report to the Legislature by October 18, 2004.

"I am very pleased to have participated in consultations on the Five Year Review," said David Brown. "It is a valuable opportunity to take a look at the laws, structure and operational policies that characterize securities regulation in this province. The review process provides a proactive opportunity to take a look at a system that is working well, to determine ways in which it can be made even better."

In particular, Mr. Brown recommended that the Standing Committee give priority to four initiatives requiring legislative attention:

- The need to proclaim amendments to the *Securities Act* that have been enacted that would create a regime for statutory civil liability for secondary market disclosure, and add express prohibitions against fraud, market manipulation and misrepresentation.

- The need for better tools and flexibility to deal effectively with securities regulators in other Canadian jurisdictions, including statutory amendments to facilitate inter-jurisdictional delegation of decision-making.

- The need to reduce the regulatory burden and facilitate quick responses to new situations by allowing the Commission to issue blanket rulings and orders that provide exemptive relief to market participants.

- The need to catch up to changes in how commercial law deals with the transfer and pledging of securities. This is an area where Canada lags the U.S. and the European Union.

"Unlike investors in the United States, Ontario investors face significant hurdles in suing corporations and their insiders for false or misleading disclosure," Mr. Brown said. "The proposed civil remedies will both provide investors with a means to seek redress and encourage compliance by corporations and others with their obligations of transparency. The prohibitions against fraud, market manipulation and misrepresentation will enable us as regulators to seek quasi-criminal sanctions against those who would undertake that activity in our markets. We'll get tools we need to help protect investors in this province."

In its report, the Five Year Review Committee also identified the urgent need for a single Canadian securities regulator as the most pressing securities regulation issue in Ontario and across Canada. This view was echoed in the report of the Wise Persons' Committee, chaired by Michael Phelps, titled "It's Time". This report, issued in December 2003, reflected the unanimous view of its members that Canada must adopt a fundamentally new structure – a single regulator administering a single securities code.

"Canada simply cannot afford the duplication and overlap of 13 securities regulators when every country Canadians compete with has a national regulator," concluded Mr. Brown. "Ours is the only advanced national economy in the world not to have a national securities regulator. We are out of step with the world."

Mr. Brown echoed the Five Year Review Committee's support for the adoption of a Uniform Securities Act to streamline capital markets regulation across Canada. "We have devoted significant resources to this important harmonization project which could form the starting point for uniform securities regulation," said Mr. Brown.

Mr. Brown also addressed the challenge faced by the legislative committee in examining the OSC's structure and the need to balance the advantages and disadvantages of different models to determine if the current structure continues to be the best to serve Ontario investors and participants in this province's capital markets. "The OSC is always prepared to embrace change in order to meet change," said Mr. Brown. "As a regulator of financial markets in a period of rapid transformation, we can do no less."

Mr. Brown tabled a number of documents with the Standing Committee, including a report on the structure of the OSC, which the OSC commissioned from a committee headed by Ontario's Integrity Commissioner Coulter Osborne. The report examined the structure of the Commission and the potential for the perception of bias and the possibility that such a perception would erode the credibility of the Commission. While the report advises the Commission to undertake structural changes that will require authorizing legislation, the report found no impediment to the Commission continuing to fulfill its adjudicative responsibilities and functions on a business-as-usual basis.

The report further pointed out that the Supreme Court of Canada has found no complaint about the apprehension of bias where organizations adopt an integrated regulatory model. Canada's highest court has recognized, in the words of Chief Justice McLaughlin, "… the overlapping of investigative, prosecutorial and adjudicative functions in a

single agency is frequently necessary for [an administrative agency] to effectively perform its intended role."

Copies of Mr. Brown's comments and of the documentation he tabled with the Standing Committee are available at the OSC's web site (**www.osc.gov.on.ca**).

For Media Inquiries: Wendy Dey
Director, Communications
416-593-8120

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

1.3.2 OSC Hearing in Andrew Currah, Colin Halanen, Joseph Damm, Nicholas Weir, Penny Currah and Warren Hawkins Adjourned to November 26, 2004

FOR IMMEDIATE RELEASE
August 20, 2004

OSC HEARING IN ANDREW CURRAH, COLIN HALANEN, JOSEPH DAMM, NICHOLAS WEIR, PENNY CURRAH AND WARREN HAWKINS ADJOURNED TO NOVEMBER 26, 2004

TORONTO – A Hearing in the matter of Andrew Currah, Colin Halanen, Joseph Damm, Nicholas Weir, Penny Currah and Warren Hawkins has been adjourned to November 26, 2004 at 10:00 a.m. A copy of the Order is available at **www.osc.gov.on.ca**.

For Media Inquiries: Eric Pelletier
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416-595-8913

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1-877-785-1555 (Toll Free)

1.3.3 In the Matter of W. Jefferson T. Banfield

FOR IMMEDIATE RELEASE
August 20, 2004

IN THE MATTER OF W. JEFFERSON T. BANFIELD

TORONTO – On August 19, 2004, a panel of the Ontario Securities Commission (OSC) approved the settlement agreement entered into between Staff of the Commission and W. Jefferson T. Banfield.

Banfield was formerly the trading and advising officer of Banfield Capital Management Inc. (Banfield Capital), and he has not been registered in any capacity under Ontario securities law since December 2001. In the settlement agreement, Banfield agreed that his conduct was contrary to Ontario securities law and contrary to the public interest. The settlement agreement related to trading engaged in by Banfield on behalf of the BCM Arbitrage Fund. In particular, Banfield acknowledged that he engaged in short sales of shares of certain issuers subsequent to Banfield Capital being solicited to invest in special warrants offerings on behalf of the fund, and prior to general disclosure of the offering, contrary to the prohibition against unlawful insider trading contained in section 76(1) of the Act. Banfield wound up the BCM Arbitrage Fund in December 2001.

As a term of the settlement, Banfield made a voluntary settlement payment in the amount of $150,000 to the Commission, to be allocated for the benefit of third parties as may be approved by the Minister. Further to the Settlement Agreement, the Commission made the following orders against Banfield effective August 19, 2004:

- that Banfield cease trading in securities for a period of two years, pursuant to s. 127(1) clause 1 of the *Securities Act*;
- that Banfield be reprimanded, pursuant to s.127(1) clause 6 of the Act;
- that Banfield be ordered to pay $50,000 as a portion of the costs related to the investigation and hearing, pursuant to s. 127.1(1) and (2) of the Act.

Further, Banfield, who has not been registered in any capacity since December 31, 2001, executed a written undertaking that provides, among other terms, his undertaking to the Commission not to apply for registration in any capacity under Ontario securities law for a period of five years effective August 19, 2004 and his undertaking that he will never act in or apply for registration in a supervisory or compliance capacity under Ontario securities law. Banfield must successfully complete the Canadian Securities Course and Conduct Practices Handbook course within one year prior to applying for registration under the Act.

The Commission indicated in approving the settlement agreement that there would be reasons to follow.

Copies of the Commission Order and Settlement Agreement are available on the OSC website (**www.osc.gov.on.ca**).

For Media Inquiries: Michael Watson
Director, Enforcement
416-593-8156

Eric Pelletier
Manager, Media Relations
416-595-8913

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

1.3.4 OSC Proceedings in Respect of John Alexander Cornwall, Kathryn A. Cook, David Simpson, Jerome Stanislaus Xavier, CGC Financial Services Inc. and First Financial Services

FOR IMMEDIATE RELEASE
August 24, 2004

OSC PROCEEDINGS IN RESPECT OF JOHN ALEXANDER CORNWALL, KATHRYN A. COOK, DAVID SIMPSON, JEROME STANISLAUS XAVIER, CGC FINANCIAL SERVICES INC. AND FIRST FINANCIAL SERVICES

TORONTO – On August 18, 2004, Staff of the Ontario Securities Commission issued an Amended Amended Statement of Allegations in respect of John Alexander Cornwall, Kathryn A. Cook, David Simpson, Jerome Stanislaus Xavier, CGC Financial Services Inc. and First Financial Services.

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

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 MRF 2004 Resource Limited Partnership - MRRS Decision

Headnote

Issuer exempted from interim financial reporting requirements for first and third quarter of each financial year - issuer also exempted from requirements to file annual information forms and management's discussion and analysis - exemption terminates upon i) the occurrence of a material change in the business affairs of the issuer unless the Decision Makers are satisfied that the exemption should continue; and ii) National Instrument 81-106 - Investment Fund Continuous Disclosure coming into force.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am, ss. 77, 79 and 80(b)(iii).

Applicable Ontario Rules

OSC Rule 51-501- AIF and MD&A, (2000) 23 OSCB 8365, as am., ss. 1.2(2), 2.1(1), 3.1, 4.1(1), 4.3 and 5.1.

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

AND

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

AND

IN THE MATTER OF
MRF 2004 RESOURCE LIMITED PARTNERSHIP

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Ontario, New Brunswick Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") has received an application from MRF 2004 Resource Limited Partnership (the "Partnership") for:

1. a decision pursuant to the securities legislation of each of the Jurisdictions (the "Legislation") that the requirements contained in the Legislation that the Partnership file with the Decision Makers and send to its securityholders (the "Limited Partners") its interim financial statements for each of the first and third quarters of each of the Partnership's fiscal years (the "First & Third Quarter Interim Financials"), shall not apply to the Partnership; and

2. in Ontario and Saskatchewan only, a decision pursuant to the securities legislation of Ontario and Saskatchewan that the requirements to file and send to the Limited Partners, its:

   (a) annual information form (the "AIF");

   (b) annual management discussion and analysis of financial condition and results of operations (the "Annual MD&A"); and

   (c) interim management discussion and analysis of financial condition and results of operations (the "Interim MD&A"),

   shall not apply to the Partnership.

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Application (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.

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

1. The Partnership is a limited partnership formed pursuant to the *Limited Partnerships Act* (Ontario) on January 16, 2004.

2. The Partnership was formed to invest in certain common shares ("Flow-Through Shares") of companies involved primarily in oil and gas, mining or renewable energy exploration and development ("Resource Companies").

3. The Partnership will enter into agreements ("Resource Agreements") with Resource Companies and under the terms of each Resource Agreement, the Partnership will subscribe for Flow-Through Shares of the Resource Company and the Resource Company will incur and renounce to the Partnership, in amounts equal to the subscription price of the

Flow-Through Shares, expenditures in respect of resource exploration and development which qualify as Canadian exploration expense or as Canadian development expense which may be renounced as Canadian exploration expense to the Partnership.

4. On March 29, 2004, the Decision Makers, together with the securities regulatory authority or regulator for Manitoba, Quebec, Prince Edward Island and the Yukon Territory (in which jurisdictions no legislative requirement exists to file first and third quarter interim financial statements), issued a receipt under the System for the prospectus of the Partnership dated March 29, 2004 (the "Prospectus") relating to an offering of up to 4,000,000 units of the Partnership (the "Partnership Units").

5. The Prospectus contained disclosure that the Partnership intends to apply for an order from the Decision Makers exempting it from the requirements to file and distribute the First & Third Quarter Interim Financials and from the requirements to file and distribute the AIF, the Annual MD&A and the Interim MD&A

6. The Partnership Units will not be listed or quoted for trading on any stock exchange or market.

7. At the time of purchase or transfer of Partnership Units, each purchaser or transferee consents to the application by the Partnership for an order from the Decision Makers exempting the Partnership from the requirements to file and distribute the First & Third Quarter Interim Financials and from the requirements to file and distribute the AIF, the Annual MD&A and the Interim MD&A.

8. On or about May 18, 2006, the Partnership will be liquidated and the Limited Partners will receive their pro rata share of the net assets of the Partnership; and it is the current intention of the general partner of the Partnership that the Partnership enter into an agreement with Middlefield Mutual Funds Limited (the "Mutual Fund"), an open end mutual fund, whereby assets of the Partnership would be exchanged for shares of the Growth Class of the Mutual Fund; and upon dissolution, Limited Partners would then receive their pro rata share of the shares of the Growth Class of the Mutual Fund.

9. Since its formation on January 16, 2004, the Partnership's activities primarily included (i) collecting the subscriptions from the Limited Partners, (ii) investing the available Partnership funds in Flow-Through Shares of Resource Companies, and (iii) incurring expenses to maintain the fund.

10. Unless a material change takes place in the business and affairs of the Partnership, the Limited Partners will obtain adequate financial information concerning the Partnership from the semi-annual financial statements and the annual report containing audited financial statements of the Partnership together with the auditors' report thereon distributed to the Limited Partners and that the Prospectus and the semi-annual financial statements provide sufficient background materials and the explanations necessary for a Limited Partner to understand the Partnership's business, its financial position and its future plans, including dissolution on May 18, 2006.

11. Given the limited range of business activities to be conducted by the Partnership and the nature of the investment of the Limited Partners in the Partnership, the provision by the Partnership of the First and Third Quarter Interim Financials, the AIF, the Annual MD&A and the Interim MD&A will not be of significant benefit to the Limited Partners and may impose a material financial burden on the Partnership.

12. It is disclosed in the Prospectus that the General Partner will apply on behalf of the Partnership for relief from the requirements to file and distribute to Limited Partners the First and Third Quarter Interim Financials and from the requirements to file and distribute the AIF, the Annual MD&A and the Interim MD&A.

13. Each of the Limited Partners has, by subscribing for the units offered by the Partnership in accordance with the Prospectus, agreed to the irrevocable power of attorney contained in Article XIX of the Amended and Restated Limited Partnership Agreement scheduled to the Prospectus and has thereby consented to the making of this application for the exemption requested herein.

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

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

THE DECISION of the Decision Makers pursuant to the Legislation is that the requirements contained in the Legislation to file and send to the Limited Partners its First & Third Quarter Interim Financials shall not apply to the Partnership provided that this exemption shall terminate upon the occurrence of a material change in the affairs of the Partnership unless the Partnership satisfies the Decision Makers that the exemptions should continue, which satisfaction shall be evidenced in writing.

August 18, 2004.

"Susan Wolburgh Jenah" "Harold P. Hands"

THE FURTHER DECISION of the securities regulatory authority or securities regulator in each of Ontario and Saskatchewan is that the requirements contained in the legislation of Ontario and Saskatchewan to file and send to its Limited Partners its AIF, Annual MD&A and Interim MD&A shall not apply to the Partnership provided that this exemption shall terminate upon

i) the occurrence of a material change in the affairs of the Partnership unless the Partnership satisfies the Decision Makers that the exemptions should continue, which satisfaction shall be evidenced in writing, or

ii) National Instrument 81-106 – Investment Fund Continuous Disclosure coming into force.

August 18, 2004.

"Leslie Byberg"

2.1.2 Molson Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – business combination – merger by way of a plan of arrangement is a business combination because the major shareholder of the issuer has entered into agreements with the major shareholder of the other merging entity – agreements provide protections to majority shareholders – purpose and effect of terms/protections is not to provide greater consideration to majority shareholder – independent committee of the issuer has approved transaction – exemption from the minority approval requirement granted.

Ontario Rules

Rule 61-501 - Insider Bids, Issuer Bids, Business Combinations and Related Party Transactions, ss. 4.5 and 9.1.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
THE PROVINCES OF
QUÉBEC AND ONTARIO

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

AND

IN THE MATTER OF
MOLSON INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "**Decision Maker**") in each of the provinces of Québec and Ontario (collectively, the "**Jurisdictions**") has received an application from Molson Inc. ("**Molson**") for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") that, in connection with a proposed transaction (the "**Transaction**") in respect of Molson, to be carried out by way of plan of arrangement (the "**Plan of Arrangement**") pursuant to which Molson would combine its business with that of Adolph Coors Company ("**Coors**") to become Molson Coors Brewing Company ("**Molson Coors**"), Molson be exempt from the requirements of the Legislation,

(a) under subsections 4.3 and 4.5 of Québec Securities Commission Policy Q-27 ("Policy Q-27") to provide a valuation and to hold a minority vote; and

(b) under subsection 4.5 of Ontario Securities Commission Rule 61-501 ("Rule 61-501") to hold a minority vote;

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the

"**System**"), the Autorité des marchés financiers is the principal regulator for this application;

AND WHEREAS Molson has represented to the Decision Makers that:

1. Molson is organized under the laws of Canada.

2. Molson is a reporting issuer or equivalent in all provinces and territories of Canada and is not on the list of defaulting reporting issuers maintained under the *Securities Act* (Québec) or the *Securities Act* (Ontario).

3. As at July 21, 2004, Molson's share capital consisted of 105,275,963 Class A Non Voting Shares (the "**Class A Shares**") and 22,380,676 Class B Voting Shares (the "**Class B Shares**"). Both classes of shares are listed on the Toronto Stock Exchange (the "**TSX**").

4. Pentland Securities (1981) Limited ("**Pentland**"), a corporation indirectly controlled by Eric Molson, owns approximately 10,000,000 Class B Shares, representing approximately 44.7% of the outstanding Class B Shares, and accordingly is a related party of Molson. The Estate of the late T.H.P. Molson, a family estate trust of which Eric Molson and his brother, Stephen Molson are, together with a corporate trustee, trustees, holds 2,407,200 Class B Shares representing approximately 10.8% of the outstanding Class B Shares. The balance of the Class B Shares are held by the public in approximately 500 accounts.

5. The Class A Shares and the Class B Shares (the "**Molson Shares**") are identical except that the Class A Shares do not vote, other than, voting separately as a class, to elect three directors and have a small ($0.033) preference on dividends after which dividends are paid equally on the two classes of shares. The Class B Shares are convertible into Class A Shares on a one-for-one basis. There are "coattail" provisions affording certain protections for the holders of the Class A Shares in the event of a take-over bid for the Class B Shares.

6. Coors is a Delaware corporation.

7. Coors is a reporting company in the United States. Coors is not a reporting issuer or equivalent in Canada.

8. As of July 19, 2004, Coors had outstanding 1,260,000 shares of Class A Voting Common Stock (the "**Coors Voting Shares**") which are all owned by the Adolph Coors Trust, the beneficiaries of which are members of the Coors family, and 36,043,934 shares of Class B Non-Voting Stock (the "**Coors Non-Voting Shares**"). The Coors Non-Voting Shares are listed on the New York Stock Exchange ("**NYSE**"). Members of the Coors family, including the Adolph Coors Trust, own approximately 10,000,000 Coors Non-Voting Shares, representing approximately 28% of the class. The Coors Non-Voting Shares and the Coors Voting Shares represent approximately 96.5% and 3.5% of the total equity of Coors, respectively. The Coors Voting Shares and the Coors Non-Voting Shares participate equally. The Coors Voting Shares are convertible into Coors Non-Voting Shares on a one-for-one basis.

9. The Transaction, if proceeded with, would effect a merger pursuant to a Plan of Arrangement under the *Canada Business Corporations Act*, utilizing an exchangeable share structure and Coors making certain amendments to its certificate of incorporation and by-laws including changing its name to Molson Coors. The material elements of the Transaction are as follows:

   (a) At the effective time, the Class A Shares will be exchanged for 0.360 shares (the "**Conversion Ratio**") of an indirect subsidiary of Coors ("**Exchangeco**") (the "**Class B Exchangeable Shares**") which are in turn exchangeable for Molson Coors Non-Voting Shares on a one-for-one basis.

   (b) At the effective time, the Class B Shares will be exchanged for a number of shares of Exchangeco (the "**Class A Exchangeable Shares**") as well as a number of Class B Exchangeable Shares, which are exchangeable for Molson Coors Non-Voting Shares and Molson Coors Voting Shares on a one-for-one basis, respectively. The aggregate number of Class A Exchangeable Shares and Class B Exchangeable Shares (the "**Exchangeable Shares**") received by a holder of Class B Shares will equal the number of Class B Shares multiplied by the Conversion Ratio.

   (c) A holder of Class A Shares or Class B Shares need not accept exchangeable shares of Exchangeco, but at his or her election, may obtain Molson Coors Non-Voting or Molson Coors Voting Shares directly.

   (d) The Class A Exchangeable Shares will be exchangeable at any time for Molson Coors Voting Shares and will, prior to exchange, (i) mirror the economics of the Molson Coors Voting Shares and, (ii) through a voting trust mechanism, have the same voting rights as the Molson Coors Voting Shares. The Class B Exchangeable Shares will be exchangeable at any time for Molson

Coors Non-Voting Shares and will, prior to exchange, (i) mirror the economics of the Molson Coors Non-Voting Shares, and (ii) through a voting trust mechanism have the same voting rights as the Molson Coors Non-Voting Shares (principally the right to participate with the holders of the Molson Coors Non-Voting Shares in the election of three directors).

(e) Application will be made to list the Class A Exchangeable Shares, the Class B Exchangeable Shares, the Molson Coors Non-Voting Shares and the Molson Coors Voting Shares on the TSX. Application will also be made to list the Molson Coors Voting Shares on the NYSE. The Molson Coors Non-Voting Shares will continue to trade on the NYSE.

(f) Certain amendments will be made to the certificate of incorporation and the by-laws of Coors to accommodate the Transaction. The relevant aspects of those changes are as follows:

(i) implementation of the flow-through rights to vote held by the holders of the Class A Exchangeable Shares and the Class B Exchangeable Shares;

(ii) right of the Molson Coors Non-Voting Shares (and on a flow-through basis, the Class B Exchangeable Shares) to elect three directors;

(iii) creation of coattail provisions in substance equivalent to those currently attaching to the Class A Shares;

(iv) creation of a nominating committee to consist of five directors, two directors nominated by Pentland, two directors nominated by the Coors family and one independent director. The families' respective nominees will form two nominating subcommittees, each entitled to nominate exclusively five persons to stand for election as directors. The board of directors will constitute the nominating committee for the purpose of nominating the three persons who will stand for election by the holders of the Molson Coors Non-Voting Shares. The Chief Executive Officer and the initial Vice-Chairman will also be nominated to stand for election as directors. The by-laws will provide for a board of 15 directors. A majority of directors must be independent;

(v) the following actions will require the approval of two-thirds of the directors: any acquisition or disposition of any business or assets (other than in the ordinary course of business) having a value in excess of 15% of the total assets of the Molson Coors; the sale of any capital stock of either Molson or Coors Brewing Company ("**CBC**"), or the issuance by Molson or CBC of any shares to third parties; the sale of all or substantially all of the assets of Molson or CBC; any issuance of shares other than pursuant to an employee benefit plan or a registered public offering; and any adoption, approval or recommendation of any plan of complete or partial liquidation, merger or consolidation of Molson Coors.

(vi) the following actions will require the approval of two-thirds of the directors: the creation of new committees of the board of directors and the assignment and removal of directors to committees, other than in order to comply with applicable law; the nomination of persons to stand for election by holders of Molson Coors Non-Voting Shares; the removal, appointment and material change in the compensation of the Chief Executive Officer, provided, however, that if any such action is proposed but fails to obtain the required two-thirds majority, it shall be referred to a committee of independent directors for a two-third vote approval; any increase or decrease in the number of members of the board of directors; any relocation of any of the Molson Coors' Executive Offices or North American Operational Headquarters; any amendment, alteration or repeal

of the by-laws or adoption of any by-law; any amendment to the certificate of incorporation; any declaration or payment of dividends other than a regular quarterly dividend consistent with past practice; and entering into any transaction with any affiliate of Molson Coors or any family member of an affiliate.

(g) The executive offices will be in Montreal and Denver, Colorado.

10. On July 21, 2004, Molson and Coors entered into a Combination Agreement with respect to the Transaction.

11. Molson has established an independent committee (the "**Committee**") of its board to review the terms and conditions of the Transaction and make a recommendation to the board of directors as to the fairness of the Transaction to the minority shareholders from a financial and non-financial point of view and oversee the negotiation of the Transaction. The Committee is comprised of six directors independent of the Molson family and of management. The Committee has retained legal and financial advisors. The Committee has received an opinion from its financial advisors to the effect that, as at the date of the Combination Agreement, the Conversion Ratio is fair from a financial point of view to holders of its Class A Shares and Class B Shares (other than Pentland and Eric Molson).

12. Separately, the board of directors of Molson has retained its own financial advisors. The board of directors of Molson has received fairness opinions with respect to the Transaction from its two financial advisors to the effect that, as at the date of the Combination Agreement, the Conversion Ratio is fair from a financial point of view to holders of the Class A Shares and Class B Shares.

13. As the Transaction will proceed by way of Plan of Arrangement, the court will play an oversight role and will determine the fairness and reasonableness of the Transaction to Molson and its shareholders. Molson will offer a right of dissent to Molson shareholders and will ask the court for shareholder approval to be set at two-thirds of the Class A Shares (including holders of options to purchase Class A Shares) and the Class B Shares, voting as separate classes at a special meeting of shareholders of Molson (the "**Meeting**").

14. The completion of the Transaction will be subject to a number of conditions, including, without limitation, receipt of all applicable regulatory, court and shareholder approvals. The management information circular to be prepared for the Meeting will comply, subject to receipt of the requested relief requested hereby, with the requirements of applicable corporate and securities laws.

15. It is proposed that the Adolph Coors Trust and Pentland will enter into a shareholders' agreement, deposit their Coors Voting Shares and Class A Exchangeable Shares, respectively, into voting trusts, and enter into voting trust agreements with respect to the following:

(a) each would agree to vote their shares to elect the five directors nominated by the subcommittees of the nominating committee of the board of Molson Coors;

(b) each would vote their shares to ensure that at least a majority of the total number of directors are not members of the Coors or Molson families and are independent directors;

(c) removal of directors between annual meetings. Each could direct the voting trustee to remove directors which it had nominated; and

(d) any other matter put to a vote of holders of Molson Coors Voting Shares including a sale, merger, dissolution or liquidation of Molson Coors or amendments to the certificate of incorporation or by-laws. If either opposes a matter put to a vote, the voting trustee will be instructed to vote against adoption.

16. The Adolph Coors Trust has entered into a support agreement with Molson whereby they agreed to support the Transaction, subject to the Transaction being terminated by Molson or Coors. Pentland entered into a similar support agreement with Coors.

17. Other than the voting trust agreements and the support agreements, no other arrangements have been entered into between Pentland, the Adolph Coors Trust and Coors.

18. The Transaction is a "going private transaction" within the meaning of section 1.1(3) of Q-27 in that it is an arrangement involving a related party "...as a consequence of which the title of a holder of an equity security of the issuer may be terminated without the holder's consent". The Transaction would be excluded from the definition of a "going private transaction" under paragraph (e) of the definition in Q-27 as Pentland will receive identical consideration for each of its securities held, except to the extent that the arrangements described in this order might constitute "indirect consideration of greater value" paid to Pentland.

19. The Transaction is a "business combination" within the meaning of Rule 61-501 in so far as it is an arrangement involving Molson as a consequence of which the interest of a holder of an equity security of Molson may be terminated without the holder's consent. Paragraph (e) of the definition of "business combination" in section 1.1 of Rule 61-501 would provide an exemption if there is no "collateral benefit" provided to a related party. To the extent that the arrangements described in this order constitute collateral benefits to Pentland, this exemption is not available.

20. Unless discretionary relief is granted, Molson would be subject to the requirement to provide a valuation under section 4.3 of Q-27, and would be required to hold a minority vote under section 4.5 of Q-27 and section 4.5 of Rule 61-501 in connection with the Transaction.

21. The Transaction is subject to a number of mechanisms which have the effect of ensuring that the interests of all of the shareholders of Molson are protected, including the following:

    (a) the review and recommendation of the Committee of Molson;

    (b) the opinion of the Committee's financial advisor that the Conversion Ratio is fair to holders of Class A Shares and Class B Shares (other than Pentland and Eric Molson);

    (c) the opinions of the financial advisors to the Board that the Conversion Ratio is fair to holders of Class A Shares and Class B Shares;

    (d) the two-thirds approval of each class of shares of Molson. Pentland owns only a nominal number of the Class A Shares;

    (e) the supervision of the court, whose mandate is to determine the fairness and reasonableness of the Transaction to all stakeholders; and

    (f) the right of a shareholder to dissent.

22. A minority vote of each class of shareholders would unduly favour a very small group of shareholders, as the Class B Shares constitute approximately 17% of the equity of Molson, and Pentland holds approximately 44.7% of the Class B Shares. Accordingly, if minority approval is required of the holders of the Class B Shares, the holders of a maximum of approximately 4.7% (being 50.1% of the Class B Shares not held by Pentland) of the total equity of Molson could determine whether the Transaction will proceed. To not grant the requested relief could, as contemplated by Section 3.1 of the Companion Policy to Q-27 or Section 3.3 of the Companion Policy to Rule 61-501, result in unfairness to security holders who are not interested parties, being the holders of the Class A Shares who represent 83% of the total equity of Molson and who, aside from voting rights, have interests identical to those of the holders of Class B Shares.

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 Transaction, Molson:

(a) is exempt from the requirement under subsections 4.3 and 4.5 of Policy Q-27 to provide a formal valuation and to hold a minority vote; and

(b) is exempt from the requirement under subsection 4.5 of Rule 61-501 to hold a minority vote.

August 11, 2004.

"Josée Deslauriers"

2.1.3 Hockey Company Holdings Inc. (The) - 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

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

August 23, 2004

Hockey Company Holdings Inc. (The)
3500 Boulevard de Maisonneuve West
Suite 800
Montreal (Québec)
H3Z 3C1

Attention: Mr. Robert A. Desrosiers

RE: Hockey Company Holdings Inc. (The) (the "Applicant")
Application to cease to be a Reporting Issuer under the securities legislation of Alberta, Saskatchewan, Ontario, Québec, Nova Scotia and Newfoundland and Labrador

Dear Sir:

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.

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.

"Marie-Christine Barrette"

2.1.4 Manitoba Telecom Services Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from requirement to provide certain historical financial statements of a business that constitutes a significant acquisition, together with an auditor's report on such financial statements, in a business acquisition report and in a short form prospectus, on certain terms and conditions.

Applicable National Instruments

National Instrument 51-102 Continuous Disclosure Obligations.
National Instrument 44-101 Short Form Prospectus Distributions.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN
MANITOBA, ONTARIO, QUÉBEC, NEW BRUNSWICK,
NOVA SCOTIA, 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
MANITOBA TELECOM SERVICES INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador (the "Jurisdictions") has received an application from Manitoba Telecom Services Inc. ("MTS") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that MTS be exempt from requirements to provide certain historical financial statements of a business that constitutes a significant acquisition, together with an auditor's report on such financial statements:

a) except in British Columbia and Prince Edward Island, in the business acquisition report to be filed by MTS under National Instrument 51-102 *Continuous Disclosure Obligations* ("NI 51-102"), and in Québec, by a revision of the general order that will provide the same result as an exemption order, and

b) in a short form prospectus which will be filed by MTS with each of the Decision Makers under National Instrument 44-101 *Short Form Prospectus Distributions* ("NI 44-101") as a shelf prospectus under National Instrument 44-102 *Shelf Distributions* ("NI 44-102"),

in connection with MTS's acquisition of Allstream Inc. ("Allstream").

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System") created pursuant to National Policy 12-201, The Manitoba 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 MTS has represented to the Decision Makers that:

Manitoba Telecom Services Inc.

1. MTS is the successor corporation to The Manitoba Telephone System, a Crown corporation that was incorporated by special statute of the Province of Manitoba on April 28, 1933. On January 7, 1997, MTS was reorganized and continued as a share capital corporation pursuant to *The Manitoba Telephone System Reorganization and Consequential Amendments Act* (Manitoba). MTS subsequently was continued as a corporation under *The Corporations Act* (Manitoba) pursuant to a Certificate and Articles of Continuance dated April 5, 2000. MTS's Articles, as amended, were restated by Certificates and Restated Articles of Incorporation dated May 15, 2001 and June 28, 2004. MTS and its wholly owned subsidiary, Qunara Inc. amalgamated effective August 3, 2004 pursuant to a Certificate and Articles of Amalgamation dated August 3, 2004 to form an amalgamated corporation operating under the name Manitoba Telecom Services Inc. The head and registered office of MTS are located at MP19A – 333 Main Street, PO Box 6666, Winnipeg, Manitoba R3C 3V6.

2. MTS's authorized capital consists of an unlimited number of common shares (the "Common Shares"), an unlimited number of convertible Class A preference shares (the "Class A Preference Shares"), and an unlimited number of convertible non-voting Class B preference shares (the "Class B Preference Shares"). As at July 21, 2004, 74,944,087 Common Shares, 1,379,556 Class A Preference Shares and 9,098,931 Class B Preference Shares were issued and outstanding. The Common Shares and the Class B Preference Shares trade on The Toronto

Stock Exchange under the symbols "MBT" and "MBT.B", respectively.

3. MTS is a reporting issuer, or the equivalent, in each of the Jurisdictions and is not in default of its obligations as a reporting issuer. MTS has filed a current Annual Information Form for the purposes of NI 44-101.

Significant Acquisition – Allstream Inc.

4. Effective June 4, 2004, MTS acquired all of the issued and outstanding Class A voting shares and Class B limited voting shares of Allstream pursuant to a court-approved plan of arrangement (the "Arrangement") under the *Canada Business Corporations Act*, which Arrangement was approved by Allstream's shareholders on May 12, 2004.

5. Prior to June 4, 2004, Allstream was a reporting issuer, or the equivalent, in each of the Jurisdictions. On October 15, 2002, AT&T Canada Inc., the predecessor to the business of Allstream (the "Predecessor"), and certain of its subsidiaries (collectively, the "AT&T Canada Companies"), filed an application for creditor protection under the *Companies' Creditors Arrangement Act* (Canada) ("CCAA") with the Ontario Superior Court of Justice, and obtained an order from the Bankruptcy Court in the Southern District of New York under section 304 of the *U.S. Bankruptcy Code* to recognize the CCAA proceedings in the United States (the "CCAA Proceedings").

6. As part of the CCAA Proceedings, the Predecessor formulated a consolidated Plan of Arrangement and Reorganization (the "CCAA Plan"). The purpose of the CCAA Plan was to restructure the balance sheet and equity of the AT&T Canada Companies, and to provide for the compromise, settlement and payment of liabilities of certain creditors of the AT&T Canada Companies. The CCAA Plan also simplified the operating corporate structure of the AT&T Canada Companies through the creation of a new parent company ("New AT&T Canada Inc."), which was incorporated under the *Canada Business Corporations Act* on April 1, 2003. The Predecessor became a wholly owned subsidiary of New AT&T Canada Inc. on that date. On June 18, 2003, New AT&T Canada Inc. changed its name to Allstream Inc.

Required Historical Financial Information and Auditor's Reports

7. MTS's acquisition of Allstream constitutes a significant acquisition in accordance with the significance tests set out in each of section 8.3 of NI 51-102 and section 1.2 of NI 44-101. Under each of these significance tests, the level of significance of this acquisition is greater than 50%.

8. In accordance with sections 8.4 and 8.5 of NI 51-102, MTS is required to include historical financial information for Allstream, together with an auditor's report, in the Business Acquisition Report that must be filed by August 18, 2004, which is 75 days from the date of MTS's acquisition of Allstream. With respect to the Prospectus that MTS intends to file as a shelf prospectus under NI 44-102 in late August 2004 after the Business Acquisition Report has been filed, MTS is required to include in this Prospectus historical financial information for Allstream, together with an auditor's report, in accordance with sections 4.3, 4.6 and 4.12 of NI 44-101.

9. Since the level of significance of MTS's acquisition of Allstream is greater than 50%, MTS, in accordance with subsection 8.4(1) and paragraph 8.5(1)2(A) of NI 51-102, must include in its Business Acquisition Report relating to this acquisition (i) an income statement, statement of retained earnings and a cash flow statement for Allstream for each of the financial years ended December 31, 2003 and December 31, 2002, which represent the two most recently completed financial years of Allstream ended more than 45 days before the date of the acquisition; (ii) a balance sheet as at December 31, 2003 and December 31, 2002, which dates are the end of the two most recently completed financial years of Allstream ended more than 45 days before the date of the acquisition; and (iii) an auditor's report on the financial statements for each of the financial years ended December 31, 2003 and December 31, 2002.

10. Based on the 50% significance level of MTS's acquisition of Allstream, similar historical financial statements disclosure and auditor's report requirements apply in relation to the Prospectus that MTS intends to file. In accordance with paragraphs 4.3(1)1, 4.3(1)2 and 4.6(3)3(a) and section 4.12 of NI 44-101, MTS must include in the Prospectus the same historical financial statements for Allstream, together with an auditor's report on these financial statements, as are required under subsection 8.4(1) and paragraph 8.5(1)2(A) of NI 51-102, except that these historical financial statements are required for the three most recently completed financial years of Allstream ended more than 90 days before the date of the Prospectus.

Available Historical Financial Statements and Auditor's Reports

11. Since Allstream was incorporated on April 1, 2003 as part of the CCAA Proceedings, Allstream's operating history only began on that date. However, as the Predecessor is a wholly owned

subsidiary of Allstream, its assets and liabilities on the April 1, 2003 implementation date of the CCAA Plan were indirectly also assets and liabilities of Allstream. Accordingly, the audited consolidated financial statements of the Predecessor, as at and for the two years ended December 31, 2002, and the unaudited consolidated financial statements of the Predecessor for the three months ended March 31, 2003 (collectively, the "Available Statements") are the only financial statements available in respect of the business and assets of Allstream for such periods.

12. Pursuant to the CCAA Plan, there was a substantial realignment in the equity interests and capital structure of the Predecessor. The reorganization and opening balance sheet of Allstream as at April 1, 2003 were accounted for under Section 1625 of the Handbook, Comprehensive Revaluation of Assets and Liabilities ("fresh start accounting"). Due to the significant changes in the financial structure of Allstream and the application of fresh start accounting, the consolidated financial statements of Allstream subsequent to the CCAA Plan implementation are not directly comparable with the Available Statements. While the Available Statements are not directly comparable to the consolidated financial statements of Allstream, they do provide certain relevant information relating to the business, assets and operations of Allstream in respect of such periods, in that they apply to the Predecessor which is a wholly owned subsidiary of Allstream and carried on the business of Allstream prior to the implementation date of the CCAA Plan. As well, the Available Statements are the only statements available in respect of the periods covered by these statements.

13 In an MRRS Decision Document dated May 12, 2004 issued by the Decision Makers (excluding the Decision Makers in Manitoba and New Brunswick where relief was not required) in relation to an application filed by Allstream, the Decision Makers exempted Allstream from the requirement in the securities legislation of certain of the Jurisdictions to include a reporting issuer's historical financial statements in an information circular in relation to the management information circular filed by Allstream in connection with its meeting of shareholders held on May 12, 2004 to consider MTS's acquisition of Allstream, provided that Allstream incorporated by reference in its circular, *inter alia*:

(a) the audited consolidated financial statements of Allstream for the period from April 1, 2003 to December 31, 2003;

(b) the unaudited consolidated financial statements of the Predecessor for the three months ended March 31, 2003; and

(c) the audited consolidated financial statements of the Predecessor as at and for the two years ended December 31, 2002 (excluding the Predecessor's balance sheet as at December 31, 2001).

14. As a result of the implementation of the CCAA Plan effective April 1, 2003, no auditor's report was prepared in respect of the consolidated financial statements of the Predecessor for the three months ended March 31, 2003, as this was an interim period only. Accordingly, there is no auditor's report available in respect of this three-month period.

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:

1. Except in British Columbia and Prince Edward Island, under section 13.1 of NI 51-102, and in Québec, pursuant to a revision of the general order that will provide the same result as an exemption order:

a) MTS is exempt from the requirement of paragraphs 8.4(1)(a), (b) and (c) of NI 51-102 to include the historical financial statements of Allstream in relation to MTS's Business Acquisition Report provided that MTS includes in its Business Acquisition Report:

i. the audited consolidated financial statements of Allstream for the period from April 1, 2003 to December 31, 2003;

ii. the unaudited consolidated financial statements of the Predecessor as at March 31, 2003 and for the three months ended March 31, 2003 and 2002; and

iii. the audited consolidated financial statements of the Predecessor as at December 31, 2002, and for the two-year period ended

December 31, 2002, together with the auditor's report thereon;

b) MTS is exempt from the requirement of paragraph 8.4(1)(d) of NI 51-102 to provide an auditor's report in respect of the consolidated financial statements of the Predecessor for the three months ended March 31, 2003.

2. Under section 15.1 of NI 44-101:

a) MTS is exempt from the requirement of paragraphs 4.3(1)1 4.3(1)2 and 4.6(3)3(a) of NI 44-101 to include the historical financial statements of Allstream in relation to MTS's Prospectus provided that MTS incorporates by reference in its Prospectus:

i. the audited consolidated financial statements of Allstream for the period from April 1, 2003 to December 31, 2003;

ii. the unaudited consolidated financial statements of the Predecessor as at and for the three months ended March 31, 2003; and

iii. the audited consolidated financial statements of the Predecessor as at December 31, 2002, and for the two-year period ended December 31, 2002, together with the auditor's report thereon;

b) MTS is exempt from the requirement of section 4.12 of NI 44-101 to provide an auditor's report in respect of the consolidated financial statements of the Predecessor for the three months ended March 31, 2003.

August 18, 2004.

"R.A. Bouchard"

2.1.5 The Brick Group Income Fund - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief from the requirement to file the first interim period financial statements immediately following the period for which financial statements were included in the final prospectus on the basis that such period is less than three months in length and financial information relating to the interim period will be included in a business acquisition report to be filed by the issuer.

Applicable National Instrument

National Instrument 51-102, Continuous Disclosure Obligations, s. 4.6, 4.7, 13.1.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
THE PROVINCES OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NEW BRUNSWICK, 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
THE BRICK GROUP INCOME FUND

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") has received an application (the "Application") from The Brick Group Income Fund (the "Fund") for a decision under the securities legislation of each of the Jurisdictions and, in Québec, by a revision of the general order that will provide the same result as an exemption order (the "Legislation") that the requirement to file and deliver interim financial statements (the "Interim Statements") for the period beginning on May 25, 2004 (being the date on which the Fund was established) and ending on June 30, 2004 (which period is referred to herein as the "Interim Period"), being the interim period immediately following the periods for which financial statements were included in the Fund's prospectus dated July 9, 2004, (the "Interim Statement Requirement") shall not apply to the Fund.

AND WHEREAS under the Mutual Review System for Exemptive Relief Applications (the "System"),

the Alberta Securities Commission is the principal regulator for the Application;

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

AND WHEREAS the Fund has represented to the Decision Makers as follows:

(a) The Fund is an open-ended, limited purpose trust established under the laws of Alberta pursuant to a declaration of trust dated May 25, 2004, as amended and restated as of July 20, 2004. The Fund was established to hold a beneficial interest in The Brick Trust (the "Trust").

(b) The Fund is a reporting issuer or its equivalent in each of the provinces and territories of Canada. The Fund is not in default of its reporting issuer obligations under the securities legislation of each of the Jurisdictions.

(c) The Fund has a financial year-end of December 31.

(d) On May 28, 2004 the Fund filed a preliminary prospectus in each of the Jurisdictions. On June 11, 2004 the Fund filed an amended and restated preliminary prospectus in each of the Jurisdictions. On July 9, 2004 the Fund filed a (final) prospectus (the "Prospectus") in each of the Jurisdictions in connection with an initial public offering (the "Offering") of class A units of the Fund (the "Units") and, upon receipt of the MRRS decision document dated July 9, 2004 with respect to the Prospectus, the Fund became a reporting issuer or the equivalent in each of the Jurisdictions.

(e) The Prospectus contained an audited balance sheet of the Fund as at May 25, 2004 as well as a pro forma balance sheet and pro forma consolidated income statement of the Fund as at and for the year ended February 29, 2004.

(f) The authorized capital of the Fund consists of an unlimited number of Units and an unlimited number of class B units (the "Class B Units"). As of the date hereof, 42,924,016 Units and 11,247,117 Class B Units are issued and outstanding.

(g) The Units are listed and posted for trading through the facilities of the Toronto Stock Exchange (the "TSX") under the symbol "BRK.UN".

(h) On closing of the Offering, the Fund used the proceeds of the Offering to indirectly acquire all of the issued and outstanding shares of the Brick GP and all of the limited partnership units of the Brick LP (the "Acquisition"). The Brick LP is one of Canada's largest volume retailers of household furniture, mattresses, appliances and home electronics.

(i) The Acquisition was completed by the Fund on July 20, 2004.

(j) The Fund will file a business acquisition report by October 4, 2004 in respect of the Acquisition, which will include: (i) the consolidated financial statements of The Brick Warehouse Corporation for the year-ended February 29, 2004, as previously filed in the Prospectus, (ii) combined financial statements of the business operations owned by the Brick LP and its subsidiaries as of July 20, 2004 (the "Brick Business"), as at and for the four month period ended June 30, 2004; and (iii) pro forma financial statements for the Brick Business as at and for the four month period ended June 30, 2004.

AND WHEREAS under the System, this 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 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 Interim Statement Requirement shall not apply to the Fund, provided that the Fund issues a press release informing the unitholders that on the basis of this Decision, interim financial statements of the Fund will not be issued for the period ended June 30, 2004, and confirming that the Acquisition was completed on the terms described in the Prospectus and will be reflected in the business acquisition report to be filed and in the interim consolidated financial statements of the Fund as at and for the period ended September 30, 2004.

August 16, 2004.

"Agnes Lau"

2.1.6 HART™ - 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

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

August 11, 2004

Stikeman Elliot LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1B9

Attention: Tasha Goh

Dear Ms. Goh:

Re: HART™ (the "Applicant") - Application to Cease to be a Reporting Issuer under the securities legislation of Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Newfoundland and Labrador, New Brunswick and Yukon (collectively, 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 each of the Jurisdictions; 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.

"John Hughes"

2.1.7 KMS Power Income Fund - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer deemed to be no longer a reporting issuer under securities legislation (for MRRS Decisions).

Applicable Ontario Statutory Provisions

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

August 12, 2004

Blake, Cassels & Graydon LLP
Box 25, Commerce Court West
199 Bay Street, Suite 2800
Toronto, ON M5L 1A9

Attention: Les Wong

Dear Sirs / Mesdames:

Re: KMS Power Income Fund (the "Applicant") – Application to cease to be a reporting issuer under the securities legislation of Alberta, Saskatchewan, Ontario, Québec, New Brunswick, Nova Scotia and Newfoundland and Labrador (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 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.

"Charlie MacCready"

2.2 Orders

2.2.1 Andrew Currah et al. - s. 127

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

AND

IN THE MATTER OF
ANDREW CURRAH, COLIN HALANEN,
JOSEPH DAMM, NICHOLAS WEIR,
PENNY CURRAH AND WARREN HAWKINS

ORDER
(Section 127)

WHEREAS a Notice of Hearing and related Statement of Allegations were issued on the 23rd day of July, 2004 in respect of Andrew Currah, Colin Halanen, Joseph Damm, Nicholas Weir, Penny Currah and Warren Hawkins;

AND WHEREAS Staff of the Commission and the respondents have consented to an adjournment of this matter to Friday November 26, 2004 at 10:00 a.m., or soon thereafter as a panel may be constituted;

AND WHEREAS by Authorization Order made March 15, 2004, pursuant to section 3.5(3) of the Act, any one of David A. Brown, Paul M. Moore and Susan Wolburgh Jenah, acting alone, is authorized to make orders under section 127 of the Act that the Commission is authorized to make, except the power to conduct contested hearings on the merits;

AND WHEREAS the Commission considers it to be in the public interest to make this order;

IT IS ORDERED that this matter be adjourned to Friday November 26, 2004 at 10:00 a.m., or as soon thereafter as a panel may be constituted.

August 17, 2004.

"Susan Wolburgh Jenah"

2.2.2 W. Jefferson T. Banfield - ss. 127 and 127.1

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

AND

W. JEFFERSON T. BANFIELD

ORDER
(Sections 127 and 127.1)

WHEREAS on July 14, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the Act in respect of W. Jefferson T. Banfield ("Banfield");

AND WHEREAS the respondent Banfield entered into a settlement agreement dated July 13, 2004 (the "Settlement Agreement"), in which the respondent agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission; and wherein Banfield provided to the Commission a written undertaking in respect of the settlement of this proceeding, attached hereto as Schedule "B" to this Order;

AND UPON reviewing the Settlement Agreement and the Statement of Allegations of Staff of the Commission, and upon hearing submissions from the respondent and from Staff of the Commission;

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

IT IS HERBY ORDERED THAT:

1. the Settlement Agreement dated July 13, 2004, attached to this order as Schedule "1", is hereby approved;

2. that pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Banfield cease for a period of two years from the date of this Order;

3. that pursuant to clause 6 of subsection 127(1) of the Act, Banfield is reprimanded by the Commission;

4. that Banfield make a settlement payment in the amount of $150,000 by certified cheque to the Ontario Securities Commission for allocation to or for the benefit of such third parties as may be approved by the Minister under s.3.4(2) of the Act;

5. that pursuant to section 127.1 of the Act, Banfield makes a payment by certified cheque to the Commission in the amount of $50,000 in respect of a portion of the costs of the investigation and proceeding in relation to this matter.

August 19, 2004.

"Susan Wolburgh Jenah" "Suresh Thakrar"

Schedule "1"

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

AND

IN THE MATTER OF
W. JEFFERSON T. BANFIELD

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Hearing dated July 14, 2004 in respect of W. Jefferson T. Banfield ("Banfield"), the Ontario Securities Commission announced that it proposed to hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), it is in the public interest for the Commission to make orders as specified therein.

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff recommend settlement of the allegations against the respondent Banfield in accordance with the terms and conditions set out below. Banfield agrees to the settlement on the basis of the facts and conclusions agreed to as provided in Part IV and consents to the making of an order against him in the form attached as Schedule "A" on the basis of the facts set out in Part IV.

3. This settlement agreement, including the attached Schedules "A" and "B" (collectively, the "Settlement Agreement"), will be released to the public only if and when the Settlement Agreement is approved by the Commission.

III. ACKNOWLEDGEMENT

4. Staff and Banfield agree with the facts and conclusions set out in Part IV of the Settlement Agreement.

IV. AGREED FACTS

Background

5. The respondent, Banfield, was registered under Ontario securities laws as the trading and advising officer of Banfield Capital Management Inc. ("Banfield Capital") from May 1997 to December 2001. Banfield Capital was registered as a limited market dealer, investment counsel and portfolio manager under Ontario securities laws from May 1997 to December 2001. Banfield was a director and majority shareholder of Banfield Capital during the Material Time. The

Material Time in this matter is the years 2000 and 2001.

6. Banfield Capital provided investment advice to Banfield Capital Management General Partner Ltd. ("BCM General Partner Ltd."). Banfield was the president of BCM General Partner Ltd., which was a company incorporated under the laws of Ontario.

7. BCM General Partner Ltd. was the General Partner of a limited partnership called the BCM Arbitrage Fund. Banfield wound up the BCM Arbitrage Fund in 2001. He has not been registered in any capacity under Ontario securities law as of December 31, 2001.

BCM Arbitrage Fund - Partnership Organization

8. BCM Arbitrage Fund (also referred to herein as the "Partnership") was a limited partnership formed under the laws of Ontario. The purpose of the Partnership was to engage in various hedged and arbitrage related investment strategies. High net worth individuals and institutions purchased units of the Partnership pursuant to an offering made in June 1997.

9. Banfield Capital was the investment advisor of the BCM Arbitrage Fund. As such, Banfield Capital was responsible for the investment and reinvestment of the Partnership's assets.

10. Banfield Capital had several employees during the Material Time. Banfield had ultimate authority for all trading by Banfield Capital and was ultimately responsible for all significant decisions in relation to the investment strategies for the BCM Arbitrage Fund.

BCM Arbitrage Fund – Investment Strategy

11. The investment objective of the Partnership was described in the 1997 Offering Memorandum filed by BCM Arbitrage Fund as follows:

> The Partnership will engage in various hedged and arbitrage related investment strategies with the objective of earning above average rates of return by exploiting market inefficiencies. The Partnership seeks to meet its objective by investing in a variety of financial instruments and emphasizing hedging techniques to earn attractive rates of return with minimal correlation to the price fluctuations in the equity and bond markets. Generally, the Partnership will invest in equity and equity-linked securities. The Partnership will seek to reduce overall risk and raise the rate of return by using various styles of hedging.

Burntsand Inc.

12. Burntsand Inc. ("Burntsand") is a corporation incorporated under the laws of British Columbia. During the Material Time, Burntsand was an electronic business solutions integration firm maintaining its head office in Vancouver, British Columbia. Burntsand was a reporting issuer in Ontario and other provinces. The common shares of Burntsand were listed and posted for trading on The Toronto Stock Exchange (the "TSX").

Burntsand Special Warrant Financing in February 2000

13. In February 2000, Goepel McDermid Inc. ("Goepel McDermid"), then a registered dealer, and Burntsand engaged in discussions about a proposed special warrant financing of Burntsand.

14. On February 16, 2000, Burntsand sought "price protection" from the TSX for an offering of special warrants based on the $8.20 closing price of its common shares on February 15, 2000.

15. On February 21, 2000, Burntsand executed an engagement agreement with Goepel McDermid, together with other firms (the "Underwriters") under which Burntsand proposed to raise approximately $45 million by issuing 4,285,714 special warrants priced at $10.50 each (referred to as the "Burntsand Special Warrants Offering").

16. Pursuant to subsections 619(a) and (b) and 622 of the TSX Company Manual, special warrants exchangeable into listed common shares may be issued at a discount to the closing price of the common shares of the TSX on the day before the date on which price protection is sought. Each special warrant would entitle the holder to acquire one common share without additional payment.

17. By means of a press release dated February 22, 2000, Burntsand publicly announced that it signed an agreement with the Underwriters pursuant to which Burntsand agreed to issue 4,285,714 Special Warrants to the Underwriters at a price of $10.50 per Special Warrant for total gross proceeds of $45,000,000.

18. In addition, Burntsand announced on February 22, 2000 that certain members of senior management of Burntsand agreed to sell 1,200,000 common shares to the purchasers of the Special Warrants (the "Secondary Offering").

Pre-Marketing of Burntsand Special Warrants Offering by Goepel McDermid

19. On February 17, 2000, Burntsand made a road show presentation in Toronto at the office of Goepel McDermid to selected institutional investors. An employee of Banfield Capital other than Banfield was in attendance. The

presentation dealt with the nature of Burntsand's business in general terms. On or about February 17, 2000, following the road show presentation, Goepel McDermid salespeople engaged in the pre-marketing of the Burntsand Special Warrants Offering.

20. As of 5:00 p.m. (EST) on Friday, February 18, 2000, Goepel McDermid recorded expressions of interest by 29 institutional investors for the proposed Burntsand Special Warrants offering The expressions of interest were in excess of $85 million. Goepel McDermid recorded on February 18, 2000 Banfield Capital's expression of interest in the amount of $2 million in respect of the proposed Burntsand Special Warrants Offering.

21. Goepel McDermid contacted Banfield Capital at some time prior to 5:00 p.m. EST on February 18, 2000 to solicit its interest in the proposed Burntsand Special Warrants Offering, and Banfield Capital expressed its interest. Banfield acknowledges that in order for Banfield Capital to provide an expression of interest, Goepel McDermid must have informed Banfield of the approximate size of the proposed Burntsand Special Warrants Offering, and that the special warrants would be priced in the context of the market.

Banfield Capital's Short Sales[1] in Burntsand Common Shares

22. On Friday February 18, 2000 at or shortly after 2:40 p.m., Banfield contacted Credit Suisse First Boston Canada ("CSFBC"), a registered dealer, and placed an initial order with CSFBC to short sell 50,000 shares of Burntsand on behalf of the BCM Arbitrage Fund. The order was filled at an average price of $13.904. Banfield increased the order later in the day to include the short sale of an additional 50,000 shares of Burntsand. The average price for the short sale of the 100,000 Burntsand shares was $13.858.

23. On Monday February 21, 2000, Banfield acquired 193,500 Burntsand Special Warrants at an average price of $10.50 per unit for a total cost of $2,031,750 for the BCM Arbitrage Fund. Each of the Special Warrants was exercisable into one common share of Burntsand at no additional cost. In addition, Banfield purchased 45,800 common shares of Burntsand in respect of the Secondary Offering referred to in paragraph 18 above for the BCM Arbitrage Fund.

24. On Monday, February 21, 2000 at 11:31 a.m., Banfield contacted CSFBC and placed an order to short sell 50,000 common shares of Burntsand on behalf of the BCM Arbitrage Fund. By the close of trading, Banfield had sold short an additional 43,300 shares of the 50,000 short sale order at an average price of $13.315 on behalf of the BCM Arbitrage Fund.

25. It is acknowledged that Banfield Capital and Banfield were aware of material facts concerning the proposed Burntsand Special Warrants Offering prior to it being publicly disclosed on February 22, 2000. It is acknowledged that Goepel McDermid was in a special relationship with Burntsand prior to the public disclosure of the Offering on February 22, 2000. The information concerning the proposed Burntsand Special Warrants Offering were material facts which had not been generally disclosed until the announcement by Burntsand of the Burntsand Special Warrants Offering on February 22, 2000. It is acknowledged that, in its pre-marketing efforts, Goepel McDermid advised Banfield Capital and Banfield of the fact of the Special Warrants Offering prior to the public disclosure of same and that, by virtue of that fact, Banfield Capital and Banfield were deemed to be in a special relationship with Burntsand within the meaning of subsection 76(5)(e) of the Act.

26. Pursuant to subsection 76(1) of the Act, no person or company in a special relationship with a reporting issuer shall purchase or sell securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed. As a result, Banfield, on behalf of the BCM Arbitrage Fund, engaged in short sales in shares of Burntsand on February 18 and 21, 2000 in circumstances which constitute a violation of subsection 76(1) of the Act.

27. Banfield acknowledges that he personally authorized the BCM Arbitrage Fund to sell short 143,300 Burntsand common shares on February 18 and 21, 2000, at an average price of $13.694, and on February 22, 2000 purchase Burntsand special warrants at a price of $10.50 (which warrants were exercisable by the BCM Arbitrage Fund, without additional payment into common shares on a one-for-one basis). By engaging in the short sales described above, Banfield effected a strategy to lock in net profits for the BCM Arbitrage Fund. BCM Arbitrage Fund made a profit of $136,865.00 calculated in accordance with paragraph (b) of subsection 122(6) of the Act.

28. Banfield has no specific recollection of the events surrounding the Burnstand Special Warants Offering nor what was said to him about it by Goepel McDermid. Banfield has represented to Staff that he did however have a general understanding at the Material Time that he was not restricted from trading in circumstances where

[1] Short selling is defined as the sale of securities that the seller does not own. (Canadian Securities Course Textbook Volume 1, Winter 2004, prepared and published by the Canadian Securities Institute).

his interest in prospective special warrant private placements had been solicited by salesmen. Banfield has represented to Staff that he understood and expected the salesmen in these circumstances would tell him if their firm was in a special relationship with an issuer and if they were imparting material undisclosed information to him. Banfield has represented to Staff that the salesmen did not do so; in fact they suggested to Banfield that there were no restrictions which arose in the context of pre-marketing special warrant private placements. Banfield believed that he was not restricted from trading in the issuers which the salesmen discussed with him. He acknowledges that that belief was not reasonable.

29. Staff requested particulars from Banfield concerning his discussions with salesmen as described above. Staff also requested particulars from Banfield concerning other instances in which due to the understanding described above, he may have traded after being solicited for his interest in a potential private placement of special warrants. Banfield wound up the BCM Arbitrage Fund in 2001 and has been inactive in the industry since that time. Banfield has represented to Staff that he does not have access to any documents which would assist his recollection and, due to the passage of time, he is unable to provide further details to Staff.

30. Banfield acknowledges that he was involved both in trading on behalf of the BCM Arbitrage Fund and in the sales calls which salesmen made to his firm to pre-market special warrant private placements. Banfield acknowledges that there was at the time no policy at his firm to segregate these two functions nor to identify and contain undisclosed material information transmitted to Banfield by salesmen. Banfield acknowledges that the presence of such policy would have assisted him in the proper conduct of the trading by Banfield on behalf of the BCM Arbitrage Fund.

31. As a result of the understanding described in paragraph 28, Banfield unreasonably believed that there was no trading restriction applicable to him upon being solicited by the salesmen. He acknowledges that this belief was unreasonable and that he engaged in trading with knowledge of material facts that had not been generally disclosed contrary to subsection 76(1) of the Act.

32. Banfield disclosed the Burntsand short sales to the TSX in Banfield Capital's response to the TSX's Private Placement Questionnaire and Undertaking.

33. Staff indicated to Banfield that Staff were conducting a review of a number of other private placements and special warrant offerings reported by Banfield Capital to the TSX. In that context, Banfield represented to Staff that, as a result of his incorrect belief as described above, he engaged in similar trading in respect of several other special warrant offerings in which the BCM Arbitrage Fund participated during 2000 and 2001. Banfield advised Staff that he was prepared to acknowledge similar conduct engaged in by him, without requiring Staff to devote further resources to the review of Banfield's conduct or that of the BCM Arbitrage Fund. Banfield therefore acknowledges that he had knowledge of a material facts concerning proposed special warrants offerings of several other reporting issuers during 2000 and 2001 as a result of salesmen's solicitations. Banfield authorized the BCM Arbitrage Fund to engage in trades (i.e. short sales) in shares of these reporting issuers with knowledge of a material fact or facts contrary to subsection 76(1) of the Act. Banfield has represented to Staff that he operated on the basis of his belief that his trades were not restricted, and acknowledges that that belief was unreasonable. By making these admissions, Banfield has recognized his misconduct; therefore, Staff have avoided the necessity of conducting a more lengthy and expensive investigation and proceeding.

Kasten Chase Applied Research Limited – Banfield Capital's Undeclared Short Position

34. Kasten Chase Applied Research Limited ("KCA") is a corporation incorporated under the Business Corporations Act (Ontario). KCA develops and applies technology to provide secure remote access to computer networks. During the Material Time, KCA was a reporting issuer in Ontario and other provinces. The common shares of KCA were listed and posted for trading on the TSX.

35. On February 11, 2000, KCA executed an engagement agreement with Yorkton Securities Inc. ("Yorkton") under which KCA proposed to raise $5 million by issuing 4 million special warrants priced at $1.25 each (referred to herein as the "KCA Special Warrants Offering"). Pursuant to subsections 619(a) and (b) and 622 of the TSX Company Manual, special warrants exchangeable into listed common shares may be issued at a discount to the closing price of the common shares on the TSX on the day before the date on which price protection is sought. Each special warrant was to entitle the holder to acquire one common share of KCA and one warrant to acquire one-half of one common share at an exercise price equal to $1.75 per common share.

36. By means of a press release dated February 11, 2002, shortly after 4 p.m., KCA publicly announced that it had entered into an agreement with Yorkton relating to the offering of $5 million KCA special warrants.

37. Between 12:54 p.m. and 1:30 p.m. on February 11, 2000, Yorkton's institutional salespeople solicited subscription orders for the KCA Special Warrants Offering from Banfield Capital.

38. On February 11, 2000, prior to the public disclosure of the KCA Special Warrants Offering, Banfield placed a subscription order for the BCM Arbitrage Fund for 250,000 KCA special warrants. Banfield's requested allotment was reduced to 134,000 KCA special warrants priced at $1.25 because of the excess demand for the KCA Special Warrants Offering.

Banfield Capital's Short Sales in KCA Common Shares

39. On February 11, 2000, prior to the opening of the market, Banfield had a discussion with a member of Yorkton concerning KCA. During the discussion Banfield attempted to place an order with Yorkton, prior to the market opening, to short sell 50,000 KCA that morning. The Yorkton employee declined to take Banfield's order.

40. Banfield then placed an order with Versus Brokerage Services Inc. (now E* Trade Canada Securities Corporation) to sell 10,000 KCA shares for the BCM Arbitrage Fund at a price of $2.00 at approximately 9:37 a.m. on February 11, 2000. Versus Brokerage did not inquire whether or not Banfield held a long position in KCA through any of Banfield Capital's trading accounts. Banfield also placed an order with CSFBC to sell for the BCM Arbitrage Fund 50,000 shares of KCA at market price at approximately 9:40 a.m. on February 11, 2000. Banfield amended the order placed with CSFBC to increase the order to sell 100,000 KCA shares for the BCM Arbitrage Fund. CSFBC executed the order for the sale of the 100,000 KCA shares at an average price of $2.2601. The CSFBC trader did not inquire whether or not Banfield held a long position in KCA through any of Banfield Capital's trading accounts.

41. At the time Banfield placed the orders with Versus and CSFBC to sell the KCA common shares, Banfield did not disclose to either dealer that the BCM Arbitrage Fund did not own the KCA shares. In failing to declare short sales by the BCM Arbitrage Fund in respect of the orders for the sale of 110,000 KCA shares, Banfield contravened section 48 of the Act.

Banfield's Conduct Contrary to the Public Interest

42. Banfield's conduct was contrary to the public interest by reason of the following:

    a. Pursuant to subsection 76(1) of the Act, no person or company in a special relationship with a reporting issuer shall purchase or sell securities of the reporting issuer with knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed. Banfield was in a special relationship with Burntsand within the meaning of subsection 76(5) of the Act, and in particular, subsection 76(5)(e) of the Act. The information provided to Banfield by Goepel McDermid, referred to in paragraph 21 above, was a material fact which had not been generally disclosed until the announcement by Burntsand of the Special Warrants Offering on February 22, 2000;

    b. Banfield, as the trading officer of Banfield Capital and President of the General Partner, traded (i.e. sold short) approximately 143,300 Burntsand common shares for the BCM Arbitrage Fund on February 18 and February 21, 2000, while Banfield had knowledge of material facts in relation to the price and size of the proposed Burntsand special warrant financing, contrary to subsection 76(1) of the Act;

    c. Banfield further authorized trading for the BCM Arbitrage Fund in shares of several reporting issuers, in the period 2000 and 2001, with knowledge of a material facts concerning proposed special warrants offerings contrary to subsection 76(1) of the Act; and

    d. Banfield, in failing to declare short sales in respect of the orders he placed with Versus and CSFBC for the sale of 110,000 KCA shares by BCM Arbitrage Fund, contravened section 48 of the Act.

43. Banfield represents to Staff that his trading on behalf of the BCM Arbitrage Fund while in possession of material undisclosed information was not intentional. However, Banfield accepts that his belief was unreasonable. In entering into this settlement Banfield acknowledges that his conduct was therefore unbecoming of a registrant and contrary to the public interest.

V. TERMS OF SETTLEMENT

44. Banfield agrees to the following terms of settlement:

    a. pursuant to clause 2 of subsection 127(1) of the Act, Banfield will cease trading in securities for a period of two years from the date of the order of the Commission approving the Settlement Agreement;

b. Banfield agrees to the terms set out herein and further agrees to execute a written undertaking to the Commission in the form attached as Schedule "B" to this Settlement Agreement, that reflects the following settlement terms:

(i) Banfield undertakes to the Commission not to apply for registration in any capacity under Ontario securities law for a period of five years from the date of the order of the Commission approving the Settlement Agreement;

(ii) Banfield further undertakes to the Commission that he will never act in or apply for registration in a supervisory or compliance capacity under Ontario securities law;

(iii) Banfield undertakes that, if he applies for registration under Ontario securities law in the future, he will consent to the imposition of term(s) and condition(s) on his registration for a period of three years requiring close supervision, including, but not limited to, a term and condition requiring quarterly supervision reports to be completed by his employer and submitted to the Commission, and a term and condition that Banfield not be permitted to participate in any private placement financing of securities on behalf of any person, without first obtaining the prior written consent of his supervisor with respect to such trades;

(iv) Banfield agrees that within one year prior to applying for registration under the Act, he will successfully complete the Canadian Securities Course and Conduct Practices Handbook Course;

(v) Banfield agrees that Staff may oppose Banfield's application for registration or request that terms and conditions be imposed on Banfield's registration on the basis of the facts and conclusions agreed to by Banfield in Part IV of this Settlement Agreement; and

(vi) Banfield acknowledges that the Director retains discretion to consider his suitability for registration pursuant to section 26 of the Act in the event that Banfield seeks to apply for registration under the Act following the five year period referred to above, and retains discretion whether to grant registration and/or impose term and conditions thereon pursuant to section 26 of the Act.

c. At the time of approval of this settlement, Banfield will make a settlement payment in the amount of $150,000 by certified cheque to the Commission for allocation to or for the benefit of such third parties as may be approved by the Minister under s.3.4(2) of the Act;

d. pursuant to clause 6 of subsection 127(1) of the Act, Banfield will be reprimanded by the Commission;

e. pursuant to section 127.1 of the Act, Banfield agrees to make payment by certified cheque to the Commission in the amount of $50,000 in respect of a portion of the costs of the investigation and proceeding in relation to this matter;

f. Banfield agrees to attend, in person, the hearing before the Commission on a date to be determined by the Secretary to the Commission to consider the Settlement Agreement, or such other date as may be agreed to by the parties for the scheduling of the hearing to consider the Settlement Agreement.

VI. STAFF COMMITMENT

45. If this settlement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Banfield in relation to the facts set out in Part IV of this Settlement Agreement, subject to the provisions contained in paragraphs 46 and 52 below.

46. If this Settlement Agreement is approved by the Commission, and at any subsequent time Banfield fails to honour the terms and undertakings contained in Part V herein, Staff reserve the right to bring proceedings under Ontario securities law against Banfield based on the facts set out in Part IV of the Settlement Agreement, as well as the breach of the terms and undertakings.

VII. PROCEDURE FOR APPROVAL OF SETTLEMENT

47. Approval of the settlement set out in the Settlement Agreement shall be sought at a public hearing of the Commission scheduled for such date as is agreed to by Staff and Banfield.

48. Counsel for Staff or Banfield may refer to any part, or all, of the Settlement Agreement at the Settlement Hearing. Staff and Banfield agree that the Settlement Agreement will constitute the entirety of the evidence to be submitted at the Settlement Hearing, unless the parties later agree that further evidence should be submitted at the Settlement Hearing.

49. If the Settlement Agreement is approved by the Commission, Banfield agrees to waive his right to a full hearing, judicial review or appeal of the matter under the Act.

50. Staff and Banfield agree that if the Settlement Agreement is approved by the Commission, they will not make any statement inconsistent with the Settlement Agreement.

51. Whether or not the Settlement Agreement is approved by the Commission, Banfield agrees that he will not, in any proceeding, refer to or rely upon the Settlement Agreement or the settlement negotiations as the basis of any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

52. If, for any reason whatsoever, the Settlement Agreement is not approved by the Commission, or an order in the form attached as Schedule "A" is not made by the Commission;

    a. the Settlement Agreement and its terms, including all settlement negotiations between Staff and Banfield leading up to its presentation at the Settlement Hearing, shall be without prejudice to Staff and Banfield;

    b. Staff and Banfield shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations in the Notice of Hearing and Statement of Allegations of Staff, unaffected by the Settlement Agreement or the settlement negotiations; and

    c. the terms of the Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person except with the written consent of Staff and Banfield or as may be required by law.

VIII. DISCLOSURE OF SETTLEMENT AGREEMENT

53. The Settlement Agreement and its terms will be treated as confidential by Staff and Banfield, until approved by the Commission and, forever, if for any reason whatsoever, the Settlement Agreement is not approved by the Commission, except with the written consent of Staff and Banfield or as may be required by law.

54. Any obligations of confidentiality shall terminate upon approval of the Settlement Agreement by the Commission.

IX. EXECUTION OF SETTLEMENT AGREEMENT

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

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

July 13, 2004.

"Helen Daley"
Helen Daley

"W. Jefferson T. Banfield"
W. Jefferson T. Banfield

"Michael Watson"
Director, Enforcement Branch
Per: Michael Watson

SCHEDULE "A"

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

AND

W. JEFFERSON T. BANFIELD

ORDER
(Sections 127 and 127.1)

WHEREAS on July 14, 2004, the Commission issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the Act in respect of W. Jefferson T. Banfield ("Banfield");

AND WHEREAS the respondent Banfield entered into a settlement agreement dated July 13, 2004 (the "Settlement Agreement"), in which the respondent agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission; and wherein Banfield provided to the Commission a written undertaking in respect of the settlement of this proceeding, attached hereto as Schedule "B" to this Order;

AND UPON reviewing the Settlement Agreement and the Statement of Allegations of Staff of the Commission, and upon hearing submissions from the respondent and from Staff of the Commission;

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

IT IS HERBY ORDERED THAT:

1. the Settlement Agreement dated July 13, 2004, attached to this order as Schedule "1", is hereby approved;

2. that pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Banfield cease for a period of two years from the date of this Order;

3. that pursuant to clause 6 of subsection 127(1) of the Act, Banfield is reprimanded by the Commission;

4. that Banfield make a settlement payment in the amount of $150,000 by certified cheque to the Ontario Securities Commission for allocation to or for the benefit of such third parties as may be approved by the Minister under s.3.4(2) of the Act;

5. that pursuant to section 127.1 of the Act, Banfield makes a payment by certified cheque to the Commission in the amount of $50,000 in respect of a portion of the costs of the investigation and proceeding in relation to this matter.

DATED at Toronto this day of , 2004

_____

_____

_____

SCHEDULE "B"

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

AND

W. JEFFERSON T. BANFIELD

**UNDERTAKING TO THE
ONTARIO SECURITIES COMMISSION**

I, W. Jefferson T. Banfield, am a Respondent to a Notice of Hearing dated July 14, 2004 (the "Notice of Hearing") issued by the Ontario Securities Commission (the "Commission"). As a term of the settlement agreement dated July 13, 2004 entered into by me in respect of the Notice of Hearing, I undertake to the Commission the following:

a. I will not apply for registration in any capacity under Ontario securities law for a period of five years from the date of the Order of the Commission approving the Settlement Agreement;

b. I will never act in or apply for registration in a supervisory or compliance capacity under Ontario securities law;

c. If I apply for registration under Ontario securities law in the future, I will consent to the imposition of term(s) and condition(s) on my registration for a period of three years requiring close supervision, including, but not limited to, a term and condition requiring quarterly supervision reports to be completed by my employer and submitted to the Commission, and a term and condition that I not be permitted to participate in any private placement financing of securities on behalf of any person, without first obtaining the prior written consent of my supervisor with respect to such trades;

d. I agree that Staff may oppose my application for registration or request that terms and conditions be imposed on my registration on the basis of the facts and conclusions agreed to by me in Part IV of the Settlement Agreement; and

e. I acknowledge that the Director retains discretion to consider my suitability for registration pursuant to section 26 of the Act in the event that I seek to apply for registration under the Act following the five year period referred to above, and retains discretion whether to grant registration and/or impose term and conditions thereon pursuant to section 26 of the Act.

July 13, 2004.

"Helen Daley"
Witness

"W. Jefferson T. Banfield"
W. Jefferson T. Banfield

July 22, 2004.

"Daisy G. Aranha"
A/Secretary to the Ontario Securities Commission
Per: Daisy G. Aranha

2.2.3 Avoca Apartments Limited - s. 83

Headnote

Owner of two apartment buildings deemed to cease to be a reporting issuer. Occupants of apartments must purchase shares and enter into occupancy agreement. Primary reason to own shares is to have a place to live, not for investment purpose. Trades in shares not subject to sections 25 or 53, as long as certain conditions met.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5 as am, ss. 25, 53, 74(1), s. 83.
Business Corporations Act, R.S.O. 1990, c. B.16, as am, s. 1(6).

Applicable Ontario Rules

OSC Rule 13-502 Fees, s. 6.1.

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

AND

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

AND

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 13-502
FEES (the Fees Rule)

AND

IN THE MATTER OF
AVOCA APARTMENTS LIMITED

ORDER AND RULING

UPON the application of Avoca Apartments Limited (Avoca) for the following:

1. an order of the Ontario Securities Commission (the Commission) pursuant to section 83 of the Act that Avoca be deemed to have ceased to be a reporting issuer under the Act;

2. an order of the Commission pursuant to subsection 1(6) of the OBCA that Avoca be deemed to have ceased to be offering its securities to the public for the purposes of the OBCA;

3. a ruling of the Commission pursuant to subsection 74(1) of the Act that trades in Avoca Shares (as hereinafter defined) are not subject to sections 25 or 53 of the Act (the Section 74 Application) subject to certain conditions; and

4. an order of the Director pursuant to section 6.1 of the Fees Rule that Avoca be exempt from paying the required fee for the Section 74 Application;

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

AND UPON Avoca representing to the Commission and the Director that:

1. Avoca is a corporation existing under the OBCA;

2. Avoca was incorporated on January 15, 1968 for the purpose of taking title to and holding as bare trustee for the beneficial owners, the lands, premises and apartment buildings erected at 10 and 20 Avoca Avenue, Toronto, Ontario (the Apartment Suites);

3. Avoca became a reporting issuer in Ontario on September 5, 1968 as a result of filing a prospectus qualifying the initial distribution of its shares to apartment occupants;

4. Avoca is not a reporting issuer in any other jurisdiction in Canada;

5. The authorized capital of Avoca consists of 5,760 shares (Avoca Shares), of which 5,760 Avoca Shares are outstanding. Other than the Avoca Shares, Avoca has no securities, including debt securities, outstanding;

6. The Avoca Shares are not quoted or listed on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;

7. There is no market for the Avoca Shares and Avoca does not anticipate that any such market will develop;

8. Avoca maintains the common elements and provides services for the benefit of the owner occupants of the Apartment Suites (Owner Occupants). The beneficial ownership of each Apartment Suite is vested in the holders of the Avoca Shares, being the Owner Occupants;

9. Purchasers of Avoca Shares are restricted to those persons who will be Owner Occupants of an Apartment Suite;

10. There are currently 185 Owner Occupants which together hold all of the outstanding Avoca Shares.

11. In order to purchase an Apartment Suite, a purchaser must acquire the specified number of Avoca Shares which are associated with that Apartment Suite. The amount of Avoca Shares purchased depends on, among other things, the

size of the Apartment Suite being acquired. The Avoca Shares are transferred to a new Owner Occupant (a Purchasing Owner Occupant) from the existing Owner Occupant (a Selling Owner Occupant). On the closing of the purchase, the Selling Owner Occupant returns his or her certificates representing the Avoca Shares to Avoca for cancellation and Avoca issues a new certificate representing such Avoca Shares to the Purchasing Owner Occupant. In purchasing an Apartment Suite, the Purchasing Owner Occupant assumes all of the Selling Owner Occupant's rights and obligations under the Occupancy Agreement (as hereinafter defined);

12. Under the standard form of occupancy agreement (the Occupancy Agreement) entered into between each Owner Occupant and Avoca, an Owner Occupant cannot assign, sell or pledge his or her Avoca Shares unless such Owner Occupant also assigns to the purchaser of such Avoca Shares the rights under the Occupancy Agreement;

13. The Occupancy Agreement sets out the rights and obligations of Owner Occupants in respect of the Apartment Suites and the facilities of Avoca. It provides that an Owner Occupant has the right to use the Apartment Suite they have purchased as well as the right to use certain common areas and facilities of Avoca so long as the Owner Occupant owns his or her Avoca Shares and abides by the rules and regulations of Avoca;

14. A transfer of Avoca Shares occurs only in the following circumstances:

    (a) in event that a Selling Owner Occupant transfers his or her interest in an Apartment Suite to a Purchasing Owner Occupant; or

    (b) Avoca takes possession of an Apartment Suite in accordance with the provisions of the Occupancy Agreement and subsequently transfers the Apartment Suite and the Avoca Shares which are associated with such Apartment Suite to a Purchasing Owner Occupant;

15. In order for an Owner Occupant to assign his or her rights under an Occupancy Agreement, the Owner Occupant must, among other things, obtain the consent of the majority of the directors of Avoca;

16. Avoca does not intend to seek public financing by way of an offering of its securities; and

17. Avoca is not in default of any requirement of the Act or the rules and regulations made thereunder.

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

IT IS ORDERED pursuant to section 83 of the Act that Avoca is deemed to have ceased to be a reporting issuer under the Act,

AND IT IS ORDERED pursuant to subsection 1(6) of the OBCA that Avoca is deemed to have ceased to be offering its securities to the public for the purposes of the OBCA,

AND IT IS RULED pursuant to subsection 74(1) of the Act that a trade in Avoca Shares is not subject to sections 25 or 53 of the Act, provided that there is no material change to the business of Avoca and that trading of Avoca Shares is limited to:

(a) trades from a Selling Owner Occupant to a Purchasing Owner Occupant; and

(b) trades by Avoca to a Purchasing Owner Occupant in connection with an Apartment Suite that Avoca has taken possession of pursuant to the provisions of the Occupancy Agreement.

August 20, 2004.

"Paul M. Moore" "Harold P. Hands"

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 section 6.1 of the Fees Rule, that Avoca is exempt from the requirement in section 4.1 of the Fees Rule to pay an activity fee for the filing of the Section 74 Application.

August 20, 2004.

"Charlie MacCready"

2.2.4 Armistice Resources Ltd. - s. 144

Headnote

Section 144 – application for partial revocation of cease trade order – issuer cease traded due to failure to file with the Commission and send to shareholders annual and interim financial statements – issuer had previously applied for a partial revocation of the cease trade order to permit the issuer to convert certain existing indebtedness into common shares, and to proceed with a limited financing to allow the issuer to fund the settlement of certain litigation, to reorganize the issuer's affairs, and to provide working capital – issuer seeking a further variation to allow a further financing on similar terms – potential investors to receive copy of cease trade order, partial revocation order, current financial statements and current technical report prior to making investment decision – partial revocation granted subject to conditions.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127 and 144.

Applicable Ontario Rules

National Instrument 43-101 Standards of Disclosure for Mineral Projects.
OSC Rule 45-501 Exempt Distributions.

Applicable Ontario Policies

National Policy 46-201 Escrow for Initial Public Offerings.

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

AND

IN THE MATTER OF
ARMISTICE RESOURCES LTD.

ORDER
(Section 144)

WHEREAS the securities of Armistice Resources Ltd. (the "Applicant") are subject to a cease trade order issued by a Director of the Ontario Securities Commission (the "Commission") on June 6, 2003 (the "Cease Trade Order");

AND WHEREAS by order of the Commission dated May 6, 2004 (the "Partial Revocation Order") the Cease Trade Order was partially revoked to permit the Applicant to, among other things, proceed with a limited financing (the "Financing"), subject to certain terms and conditions;

AND WHEREAS the Applicant has applied to the Commission pursuant to section 144 of the Act (the "Application") for a variation of the Partial Revocation Order to permit an extension of the Financing (the "Proposed Extended Financing");

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant was incorporated by amalgamation under the *Canada Business Corporations Act* on December 1, 1998.

2. The Applicant is a reporting issuer under the securities legislation (the "Legislation") of the provinces of Ontario, British Columbia, Alberta and Québec.

3. The Cease Trade Order was issued due to the failure of the Applicant to file with the Commission its interim financial statements for the period ended March 31, 2003.

4. The Applicant is also subject to cease trade orders issued by the British Columbia Securities Commission on July 16, 2003, by the Alberta Securities Commission on September 26, 2003, and the Québec Autorité des Marches Financiers on June 10, 2003, all relating to the failure of the Applicant to file its financial statements for the period ended March 31, 2003.

5. The Partial Revocation Order was issued so as to permit the Applicant to convert certain existing indebtedness into units of the Applicant, and to proceed with a limited financing to allow the Applicant to fund the settlement of certain litigation, to reorganize the Applicant's affairs, and to provide working capital.

6. Pursuant to the Partial Revocation Order, on June 30, 2004 the Applicant completed the conversion of existing indebtedness, the Financing raising gross proceeds of $2,000,000 (as well as receiving an executed subscription agreement and commitment for a further $3,000,000), and the settlement of the litigation. Prior to completion of the Financing, the Applicant paid to the Commission its outstanding participation fees, and filed with the Commission and provided potential investors with a technical report prepared in accordance with National Instrument 43-101 (the "Revised Technical Report") as well as financial statements for the periods ending March 31, 2003, June 30, 2003 (audited), September 30, 2003, December 31, 2003 and March 31, 2004.

7. The Applicant's authorized capital now consists of an unlimited number of common shares (the "Common Shares"), of which approximately 138,504,911 common shares are issued and outstanding.

8. The Applicant is not, to its knowledge, in default of any of the requirements of the Act, or the rules and regulations made pursuant thereto.

9. Prior to the date hereof, the Applicant had not remedied the deficiencies described in paragraph 5 (a) as it did not have sufficient funds to do so. The Applicant has paid its annual participation fees as of the date hereof.

10. Prior to the issuance of the Cease Trade Order, the Applicant was not previously subject to a cease trade order of the Commission or any other jurisdiction.

11. Trades in the common shares of the Applicant were previously reported on the Canadian Unlisted Board. The Applicant has no securities, including debt securities, listed or quoted on any exchange or market.

12. The Applicant is applying for an amendment to the Partial Revocation Order so as to permit the Proposed Extended Financing to raise additional gross proceeds of $5,000,000.

13. While the $2,000,000 received as a result of the closing of the first tranche of the Financing was sufficient to fund the settlement of the litigation, the re-organization of the Applicant's affairs, and to provide a limited amount of working capital, the Applicant requires further working capital to fund the holding of an annual shareholders meeting, the preparation of audited financial statements for the fiscal year ended June 30, 2004, the dewatering of the mine works on the Applicant's Virginiatown, Ontario mineral property, and the preparation of applications for full revocation of the Cease Trade Order and the cease trade orders levied against the Applicant by the British Columbia Securities Commission, the Alberta Securities Commission, and the Québec Autorité des Marches Financiers. The Applicant also has stated that it wishes to have sufficient funds available to enable it to fund the preparation of, and to meet the financial criteria for, an application for a listing on the Toronto Stock Exchange.

14. The Applicant will undertake the following steps in connection with the Proposed Extended Financing (the "Steps"):

    a) Upon issuance of this Order, issue a news release and file a Material Change Report announcing the Proposed Extended Financing and the Amended Order;

    b) Upon issuance of this Order, solicit investments in the Applicant only from potential investors (the "Potential Investors") who qualify as "accredited investors" (as defined in OSC Rule 45-501 Exempt Distributions) in the Province of Ontario in accordance with the provisions of this order and in accordance with the requirements of Ontario securities law; and

    c) Prior to the completion of the Proposed Extended Financing, each of the Potential Investors who will be participating in the Proposed Extended Financing will be required to execute and return to the Applicant a form of acknowledgement in a form acceptable to the Commission.

15. The Applicant proposes that the Proposed Extended Financing be completed on or about August 31, 2004, but in any event no later than October 15, 2004.

16. Following the completion of the Steps, the Applicant intends to make a further application for a full revocation of the Cease Trade order so as to permit trading of the securities generally in Ontario, and to make applications for the full revocation of the cease trade orders imposed by other jurisdictions.

17. The Applicant is not considering, nor is it involved in any discussion relating to a reverse take-over, merger, amalgamation or other form of combination or transaction similar to any of the foregoing (collectively, an "RTO").

18. Other than the Common Shares and Warrants, the Applicant has no securities, including debt securities, outstanding with the exception of stock options granted to directors, which options will be cancelled pursuant to a prior contractual arrangement amongst the holders thereof.

19. Prior to the completion of the Proposed Extended Financing, each of the Potential Investors who will be participating in the Proposed Extended Financing will be required to execute and return to the Applicant a form of acknowledgement in a form acceptable to the Commission.

20. The Applicant has applied for an amendment of the Partial Revocation Order so as to permit the Applicant to enter into the Steps on substantially the terms described in this order.

AND WHEREAS considering the Application and the recommendation of the staff of the Commission;

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

IT IS ORDERED, pursuant to section 144 of the Act, that the Partial Revocation Order be and is hereby amended solely to permit the trades or the acts in furtherance of trades as contemplated in the Steps as set out in paragraph 14.

August 13, 2004.

"John Hughes"

2.2.5 Lanesborough Real Estate Investment Trust - ss. 83.1(1)

Headnote

Subsection 83.1(1) - issuer deemed to be a reporting issuer in Ontario - issuer already a reporting issuer in Alberta and British Columbia - issuer's securities listed for trading on the TSX Venture Exchange - continuous disclosure requirements in Alberta and British Columbia substantially the same as those in Ontario.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am. ss. 83.1(1).

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

AND

IN THE MATTER OF
LANESBOROUGH REAL ESTATE INVESTMENT TRUST

ORDER
(Subsection 83.1(1))

UPON the application of Lanesborough Real Estate Investment Trust ("LREIT") for an order, pursuant to subsection 83.1(1) of the Act, deeming LREIT to be a reporting issuer for the purposes of Ontario securities law;

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

AND UPON LREIT representing to the Commission as follows:

1. LREIT was established under the laws of the Province of Manitoba pursuant to a Declaration of Trust dated April 23, 2002.

2. LREIT is authorized to issue an unlimited number of trust units, of which 2,632,713 trust units have been issued and are outstanding as at August 19th, 2004.

3. On December 22, 2003, LREIT completed a private placement whereby trust units of LREIT were sold to persons resident in the Province of Ontario. Upon reviewing LREIT's register of unitholders, LREIT has determined that there are approximately 1,250,000 units of LREIT held by fully managed accounts in Ontario. As a result, LREIT has a "significant connection to Ontario" as defined under the policies of the TSX Venture Exchange (the "TSXV").

4. The trust units of LREIT are listed on the TSXV.

5. LREIT is the resulting issuer, pursuant to a Plan of Arrangement on August 30, 2002, of Wireless One Inc.. LREIT, or its predecessor Wireless One Inc., has been a reporting issuer or equivalent under the *Securities Act* (British Columbia) (the "BC Act") since November 24, 2000, under the *Securities Act* (Alberta) (the "Alberta Act") since November 24, 2000, under the *Securities Act* (Saskatchewan) (the "Saskatchewan Act") since August 23, 2002, under the *Securities Act* (Manitoba) (the "Manitoba Act") since May 24, 2000 and under the *Securities Act* (Nova Scotia) (the "NS Act") since March 10, 2004.

6. LREIT is in compliance with all of the requirements of the BC Act, the Alberta Act, the Saskatchewan Act, the Manitoba Act, the NS Act and the North West Territories Securities Act (the "Legislation") and of the TSXV.

7. The combined continuous disclosure requirements of the Legislation are substantially the same as the requirements under the Act.

8. The continuous disclosure materials filed by LREIT under the Legislation are available on the System for Electronic Document Analysis and Retrieval ("SEDAR").

9. There have been no penalties or sanctions imposed against LREIT by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority, and LREIT has not entered into a settlement agreement with any Canadian securities regulatory authority.

10. Neither LREIT nor any of its officers, trustees or unitholders holding sufficient trust units to affect materially the control of LREIT ("controlling unitholders") has (i) been the subject of any penalties or sanctions imposed by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority, (ii) entered into a settlement agreement with a Canadian securities regulatory authority, or (iii) been subject to any other penalties or sanctions imposed by a court or regulatory body that would likely be considered important to a reasonable investor making an investment decision.

11. Neither LREIT nor any of its officers, trustees nor, to the knowledge of LREIT, its officers and trustees, any of its controlling unitholders, is or has been subject to:

    a. any known ongoing or concluded investigations by:

        i. a Canadian securities regulatory authority, or

        ii. a court or regulatory body, other than a Canadian securities regulatory authority, that would be likely to be considered important to a reasonable investor making an investment decision; or

    b. any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver-manager or trustee, within the preceding ten (10) years, other than the proposal made by Arni C. Thorsteinson, a trustee and officer of LREIT, in 1996 under applicable Canadian bankruptcy legislation, the terms of which proposal have been fully performed.

12. None of the officers or trustees of LREIT, nor, to the knowledge of LREIT, its officers and trustees, any of its controlling unitholders, is or has been at the time of such event an officer or director of any other issuer which is or has been subject to:

    a. any cease trade or similar orders, or orders that denied access to any exemptions under Ontario securities law, for a period of more than thirty (30) consecutive days, within the preceding ten (10) years**,** other than Arni C. Thorsteinson, a trustee and officer of LREIT, who has been an insider of a large number of issuers, of which some have been subject to such orders, the result being that such issuers and orders are not easily identifiable due to the aforementioned volume of issuers of whom Mr. Thorsteinson has been an insider; or

    b. any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver-manager or trustee, within the preceding ten (10) years.

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

IT IS HEREBY ORDERED pursuant to subsection 83.1(1) of the Act that LREIT is deemed to be a reporting issuer for the purposes of Ontario securities law.

August 24, 2004.

"Charlie MacCready"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 Reasons for Decision

3.1.1 Stephen Zeff Freedman

IN THE MATTER OF
AN APPLICATION FOR REGISTRATION OF
STEPHEN ZEFF FREEDMAN

OPPORTUNITY TO BE HEARD BY THE DIRECTOR
PURSUANT TO SUBSECTION 26(3) OF THE
SECURITIES ACT

Date: August 17, 2004

Director: David M. Gilkes
Manager, Registrant Regulation
Capital Markets Branch

Submissions:	Leslie Daiter	For Commission Staff
	Stephen Z. Freedman	For himself

Introduction

1. This decision relates to the application of Stephen Freedman (also referred to as the **Applicant**) for registration under the *Securities Act* (Ontario) (the **Act**) as Designated Compliance Officer and an Officer and Director (Trading, Resident) for mutual fund dealer Monarch Delaney Financial Inc. (**MDFI**). Commission Staff has recommended that the Director deny this application.

Background

2. The Applicant's history in the securities industry is lengthy. He was first registered as an Investment Dealer Salesperson in 1975. Most recently, he was employed as an Officer and Director and Designated Compliance Officer of Avenue Wealth Management Inc (**Avenue**), a mutual fund dealer. He had not acted as a compliance officer with a mutual fund dealer until he worked at Avenue. The Designated Compliance Officer is responsible for opening new accounts, supervising trades and ensuring compliance with the requirements of securities legislation.[1]

3. No termination notice was filed by Avenue for Mr. Freedman. There is some question as to Mr. Freedman's employment situation after August 31, 2003. In any event, his registration was automatically suspended when the registration of Avenue was suspended on December 31, 2003, at which time Avenue was to have ceased to conduct business.

4. On March 2, 2004 Mr. Freedman applied for registration as Designated Compliance Officer and Officer and Director (Trading, Resident) for MDFI. A series of communications between Staff and Mr. Freedman followed. This process culminated in a letter from Staff to Mr. Freedman dated June 11, 2004 advising him that Staff was recommending the Director deny his application. The letter informed Mr. Freedman that Staff's recommendation was based on a determination that he was not suitable for registration because of evidence that he lacked the integrity and competence required of a registrant. Staff's letter also informed Mr. Freedman of his right, under section 26(3) of the Act, to be heard before the Director made a decision in the matter and set out the process for exercising that right.

5. Mr. Freedman elected to exercise his right to an opportunity to be heard through written submissions. Mr. Freedman made submissions on June 24, 2004, July 9, 2004, July 16, 2004 and responded to further questions from the Director by telephone on July 27, 2004. Staff made its submission on July 13, 2004.

Submissions

6. Staff's concerns relate to Mr. Freedman's activities when he was the Designated Compliance Officer of Avenue. Staff is also of the opinion that there was a lack of cooperation by Mr. Freedman with respect to questions about his application.

7. Staff submitted that during the time when the Applicant was the Designated Compliance Officer at Avenue he failed in his duty to supervise the

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[1] OSC Rule 31-505 – Registration Requirements, 1.3 Designation of Compliance Officer

(1) A registered dealer or adviser shall designate a registered partner or officer as the compliance officer who is responsible for discharging the obligations of the registered dealer or adviser under Ontario securities law.

(2) The person designated under subsection (1) by a registered dealer or adviser shall also be responsible for opening each new account, supervising trades made for or with each client and supervising advice provided to each client or, if a branch manager is designated under subsection 1.4(1), for supervising the branch manager's conduct of the activities specified in subsection 1.4(2).

sales force and especially a particular mutual fund salesperson, Ernest Huckerby. Mr. Huckerby was denied registration by the Director on June 8, 2004[2] and his appeal before the Ontario Securities Commission (the **OSC**) is currently pending. Staff submitted that during the period when he was supervised by Mr. Freedman, the OSC's Contact Centre received 12 client complaints about Mr. Huckerby. Mr. Freedman responded that these complaints related to Mr. Huckerby's previous employment with another dealer, which is no longer a registrant. Staff subsequently conceded that some of the 12 client complaints did relate to his previous employment, but maintains that most related to Mr. Huckerby's time at Avenue.

8. Staff submitted that Mr. Freedman failed in his duty as Designated Compliance Officer to supervise the opening of new accounts. Staff noted that terms and conditions were placed on Avenue's registration in April 2003 in connection with the wind-up of its operations. These included a prohibition on the opening of new accounts. Staff found that Avenue nonetheless opened 24 new accounts after the terms and conditions were imposed. Mr. Freedman submitted that he was not aware of the terms and conditions as management of Avenue did not inform him of their existence.

9. Submissions from Staff and Mr. Freedman differed as to his employment situation after August 31, 2003.

10. According to Staff's submissions, Vicki Rosenthal, Chief Financial Officer of Avenue, confirmed that Mr. Freedman was terminated August 31, 2003 and was not paid after that date. She said that as Avenue was preparing to sell part of its business and wind-up the remaining operations, it did not file a termination notice for Mr. Freedman. However, Ms Rosenthal noted that Mr. Freedman continued to spend time at Avenue but she could not say how much time, as the head office of Avenue and the sales office are in different locations.

11. In his application for registration, Mr. Freedman noted December 31, 2003 as his termination date, however, in his written submission he said he was terminated by Avenue effective August 31, 2003. Staff's submission included correspondence sent from the Mutual Fund Dealers Association of Canada and from the OSC addressed to Mr. Freedman at Avenue after August 31, 2003 but there were no responses from Mr. Freedman. There was internal documentation from Avenue after this date that was copied to Mr. Freedman. There is also account opening documentation that is initialed approved by "SF". Mr. Freedman responded to this submission by saying that his practice was to sign documents, not initial them.

Suitability for Registration

12. Section 26(1) of the Act provides that

> Unless it appears to the Director that the Applicant is not suitable for registration [or] renewal of registration…. or that the proposed registration, renewal of registration or amendment of registration is objectionable, the Director shall grant registration, renewal of registration….. to an applicant.

Section 26(2) provides that the Director with the discretionary power to impose restrictive terms and conditions on a registration as an alternative to refusing to grant registration altogether.

13. Determining the suitability for registration of applicants is an important function of the OSC in the discharge of its mandate to protect investors and foster confidence in the capital markets. In doing so, it is necessary to look to past conduct for guidance. This point was made by the Commission in its decision *Re Mithras Management Ltd.*[3] that reads in part:

> … the role of the Commission is to protect the public interest by removing from the capital markets – wholly or partially, permanently or temporarily, as the circumstances may warrant – those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under section 118 of the Act. We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In doing so 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.

14. The standard for suitability is based on three tenets which the Commission has articulated over time and which were noted in the Staff submission:

> The [registration] section administers a registration system which is intended to ensure that all Applicants under the *Securities Act* and the *Commodity*

[2] (2004) 27 OSCB 5654

[3] (1990), OSCB 1600

> *Futures Act* meet appropriate standards of integrity, competence and financial soundness, … [4]

15. As set out in Staff's submission and in other decisions, the criterion of integrity includes honesty and good faith, particularly in dealings with clients, and compliance with Ontario securities law, while competence includes prescribed proficiency and knowledge of Ontario securities law (Staff expressed no concerns with respect to the Applicant's financial solvency).

16. In addition, the Director could find that the application is objectionable. This could refer to conduct that while not directly related to the securities industry, could affect investor confidence in the capital markets and their participants or conduct that points to investor protection concerns.

Decision and Reasons

17. I find that Mr. Freedman's submission is more of a criticism of Staff than a rebuttal of Staff's concerns as to his suitability for registration.

18. Mr. Freedman has said he was not aware of the terms and conditions imposed on Avenue's registration and as a result, client accounts continued to be opened. Regardless of when Mr. Freedman left Avenue, his position amounts to saying that during the time when he was employed there he was not meeting with senior management of the company to keep abreast of compliance-related issues, as a competent Designated Compliance Officer would do. He is effectively saying that for a period of four to eight months he was not aware terms and conditions were placed on Avenue. He ought to have known – it is impossible to understand how a Designated Compliance Officer could think he or she was discharging his or her duties without monitoring the firm's regulatory status. Mr. Freedman's submissions on these points are all the more questionable because he held various senior management positions during his employment with Avenue including, for a time, President.

19. In regard to the client complaints relating to Mr. Huckerby, Mr. Freedman said the complaints related to Mr. Huckerby's past employment. It is clear that the bulk of the complaints were from clients at Avenue. The Applicant said he was aware of these complaints. This being so, he should have been extremely diligent in his supervision of Mr. Huckerby. It is evident that he was not.

20. I find that Mr. Freedman was not forthright with Staff in providing complete and accurate information in connection with his application and Staff's investigation into his suitability for registration. This calls his integrity into question.

21. I find that the Applicant has demonstrated a lack of supervisory competence and in particular has failed to meet the high standards of competency required of a Compliance Officer in the securities industry. And, although there is no reason to believe that he does not have relevant and valuable industry experience, his conduct in connection with his present application has not been reflective of a high standard of personal integrity.

22. Having reviewed all the information provided to me, I find the Applicant unsuitable to be granted registration in any supervisory capacity, including compliance-related or management roles. It is therefore my decision to deny Mr. Freedman's application for registration as a Designated Compliance Officer and an Officer and Director (Trading, Resident). I would be willing to consider an application from Mr. Freedman for registration as a Salesperson.

August 17, 2004.

"David M. Gilkes"

[4] Ontario Securities Commission Annual Report 1991, Page 16

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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
Cabletel Communications Corp.	18 Aug 04	30 Aug 04		
Cogient Corp.	20 Aug 04	01 Sep 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
Argus Corporation Limited	25 May 04	03 Jun 04	03 Jun 04		
Hollinger Canadian Newspapers, Limited Partnership	18 May 04	01 Jun 04	01 Jun 04		
Hollinger Inc.	18 May 04	01 Jun 04	01 Jun 04		
Hollinger International Inc.	18 May 04	01 Jun 04	01 Jun 04		
Nortel Networks Corporation	17 May 04	31 May 04	31 May 04		
Nortel Networks Limited	17 May 04	31 May 04	31 May 04		
Wastecorp. International Investments Inc.	20 Jul 04	30 Jul 04	30 Jul 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

REPORTS OF TRADES SUBMITTED ON FORM 45-501F1

Transaction Date	Purchaser	Security	Total Purchase Price ($)	Number of Securities
17-Jul-2004 to 31-Jul-2004	6 Purchasers	ABC Fully-Managed Fund - Units	1,397,585.52	139,399.00
27-Jul-2004	JMM Trading LP	Accrete Energy Inc. - Common Shares	90,000.00	50,000.00
06-Aug-2004 to 10-Aug-2004	3 Purchasers	Acuity Pooled Growth and Income Fund - Trust Units	213,000.00	21,553.00
03-Aug-2004 to 09-Aug-2004	6 Purchasers	Acuity Pooled High Income Fund - Trust Units	988,000.00	55,745.00
05-Aug-2004 to 09-Aug-2004	Michael Fox Guild Productions Inc.	Acuity Pooled Income Trust Fund - Trust Units	1,175,000.00	77,720.00
13-Aug-2004	Zoran Arandjelovic	Admiral Bay Resources Inc. - Units	100,000.00	100,000.00
19-Aug-2004	4 Purchasers	Agnico-Eagle Mines Limited - Common Shares	23,000,000.00	1,000,000.00
12-Aug-2004	William Graham &/or Jennifer Graham	Allegro Investment Corporation S.A. - Notes	250,000.00	5.00
16-Aug-2004	CMP 2004 Resources LP Canadian Dominion Resources 2004 LP	Almaden Minerals Ltd. - Flow-Through Shares	577,125.00	256,500.00
31-May-2004	4 Purchasers	Automated Benefits Corp. - Common Shares	121,000.00	2,200,000.00
31-May-2004	67 Purchasers	Automated Benefits Corp. - Units	296,250.00	1,975,000.00
31-May-2004	36 Purchasers	Automated Benefits Corp. - Units	373,833.33	1,495,333.00
17-Aug-2004	Coastal Industries Inc. Victoria Ross	Avcorp Industries Inc. - Debentures	0.00	1,600,000.00
10-Aug-2004	6 Purchasers	BCS Global Networks Inc. - Common Shares	180,000.00	2,400,000.00
26-Jul-2004	BCE Inc	BridgePort Networks, Inc. - Convertible Preferred Stock	4,260,427.67	9,540,498.00

26-Jul-2004	BCE Inc.	BridgePort Networks, Inc. - Warrants	33,251.46	2,525.00
13-Aug-2004	4 Purchasers	Canadian Golden Dragon Resources Ltd. - Units	52,000.00	346,667.00
06-Aug-2004 to 10-Aug-2004	5 Purchasers	CareVest First Mortgage Investment Corporation - Preferred Shares	793,120.00	793,120.00
07-Jul-2004 to 13-Jul-2004	Centaur Balanced Fund	Centaur Balanced Fund - Units	17,275.89	1,298.00
30-Jul-2004 to 05-Aug-2004	Centaur Bond Fund	Centaur Bond Fund - Units	2,684.70	335.00
30-Jul-2004 to 05-Aug-2004	Centaur Bond Fund	Centaur Bond Fund - Units	14,077.26	1,427.00
30-Jul-2004 to 05-Aug-2004	Centaur Bond Fund	Centaur Bond Fund - Units	65,724.30	4,960.00
14-Jul-2004 to 22-Jul-2004	Centaur Bond Fund	Centaur Bond Fund - Units	4,117.01	504.00
14-Jul-2004 to 22-Jul-2004	Centaur Bond Fund	Centaur Bond Fund - Units	79,736.00	5,997.00
14-Jul-2004 to 22-Jul-2004	Centaur Bond Fund	Centaur Bond Fund - Units	8,643.91	882.00
07-Jul-2004 to 13-Jul2004	Centaur Bond Fund	Centaur Bond Fund - Units	14,420.17	1,471.00
30-Jul-2004 to 05-Aug-2004	Centaur Canadian Equity	Centaur Canadian Equity - Units	17,684.32	204.00
14-Jul-2004 to 22-Jul-2004	Centaur Canadian Equity	Centaur Canadian Equity - Units	14,271.28	160.00
07-Jul-2004 to 13-Jul-2004	Centaur Canadian Equity	Centaur Canadian Equity - Units	17,571.90	195.00
07-Jul-2004 to 13-Jul-2004	Centaur International Fund	Centaur Int'l - Units	3,501.92	423.00
30-Jul-2004 to 05-Aug-2004	Centaur Money Market	Centaur Money Market - Units	318,070.71	31,807.00

14-Jul-2004 to 22-Jul-2004	Centaur Money Market	Centaur Money Market - Units	1,537,754.19	153,775.00
07-Jul-2004 to 13-Jul-2004	Centaur Money Market	Centaur Money Market - Units	3,701.47	370.00
30-Jul-2004 to 05-Aug-2004	Centaur Small Cap	Centaur Small Cap - Units	661.82	11.00
14-Jul-2004 to 22-Jul-2004	Centaur Small Cap	Centaur Small Cap - Units	2,291.69	38.00
07-Jul-2004 to 13-Jul-2004	Centaur Small Cap	Centaur Small Cap - Units	1,736.29	28.00
30-Jul-2004 to 05-Aug-2004	Centaur US Equity	Centaur US Equity - Units	4,997.90	124.00
07-Jul-2004 to 13-Jul-2004	Centaur US Equity	Centaur US Equity - Units	9,960.38	243.00
07-Jul-2004 to 13-Jul-2004	Centaur US Equity	Centaur US Equity - Units	5,738.72	139.00
05-Aug-2004	96 Purchasers	Chap Mercantile Inc. - Subscription Receipts	35,887,780.00	89,719,450.00
12-Aug-2004	4 Purchasers	Covarity Inc. - Convertible Preferred Shares	2,000,000.00	25,000,000.00
17-Jun-2004	J.L. Albright III Venture Fund	Cube Route Inc. - Common Shares	1,985,000.00	3,230,706.00
03-Aug-2004	22 Purchasers	Discovery Drilling Funds VI Limited Partnership - Limited Partnership Units	745,000.00	745.00
09-Aug-2004	Stone Asset Management Sheridan Platinum Group Ltd.	Forest Gate Resources Inc. - Common Shares	225,250.00	1,325,000.00
09-Aug-2004	Integral Wealth Securities Limited	Forest Gate Resources Inc. - Warrants	0.00	132,500.00
30-Apr-2004	3 Purchasers	Futureway Communications Inc. - Common Shares	3.00	132,000.00
30-Apr-2004	3 Purchasers	Futureway Communications Inc. - Warrants	3.00	60,000.00
05-Aug-2004	3009202 Nova Scotia Limited	KBSH Enhanced Income Fund - Units	250,000.00	24,529.00
17-Aug-2004	36 Purchasers	Ketch Resources Ltd. - Flow-Through Shares	6,631,092.00	425,070.00

10-Aug-2004	CMP 2004 Resource LP Canada Dominion Resources LP	KWG Resources Inc. - Flow-Through Shares	500,000.10	3,333,334.00
31-Jul-2004	Lyle Shantz Hallman Charitable Fdn	Lancaster Fixed Income Fund - Trust Units	15,008,020.71	1,215,372.00
31-Jul-2004	Lancaster Balanced Fund II	Lancaster Global Fund - Trust Units	1,103,592.01	118,212.00
31-Jul-2004	Lyle Shantz Hallman Charitable Fdn	Lancaster Short Bond Fund - Trust Units	10,000,000.00	982,202.00
01-Jan-2004 to 30-Jul-2004	26 Purchasers	Legg Mason Canada Poled Funds - Units	183,860,543.00	18,136,247.00
26-Jul-2004	Wendy M. Buckland	Longbow Capital Limited Partnership - Limited Partnership Units	50,000.00	50.00
01-Aug-2004	Derek Ham	Longbow Capital Limited Partnership - Limited Partnership Units	50,000.00	50.00
01-Jan-2004 to 30-Jul-2004	London Life Insurance Company	Mackenzie Maxxum Canadian Balanced Fund - Trust Units	26,591,106.13	2,542,447.00
01-Jan-2004 to 30-Jul-2004	London Life Insurance Company	Mackenzie Maxxum Canadian Equity Growth Fund - Trust Units	1,322,977.61	79,621.00
01-Jan-2004 to 30-Jul-2004	London Life Insurance Company	Mackenzie Maxxum Dividend Fund - Trust Units	32,157,145.86	2,114,974.00
01-Jan-2004 to 30-Jul-2004	London Life Insurance Company	Mackenzie Maxxum Income Fund - Trust Units	62,373,493.05	9,925,245.00
01-Jan-2004 to 30-Jul-2004	London Life Insurance Company	Mackenzie Universal Canadian Resource Fund - Trust Units	19,255,447.02	1,165,849.00
01-Jan-2004 to 30-Jul-2004	London Life Insurance Company	Mackenzie Universal Global Future Fund - Trust Units	361,400.99	48,132.00
01-Jan-2004 to 30-Jul-2004	London Life Insurance Company	Mackenzie Universal Precious Metals Fund - Trust Units	4,125,209.03	260,993.00
01-Jan-2004 to 30-Jul-2004	London life Insurance Company	Mackenzie Universal U.S. Growth Leaders Fund - Trust Units	1,678,029.68	202,739.00
14-Jul-2004	2 Purchasers	Maximum Throughput Inc. - Convertible Debentures	673,171.67	673,172.00
02-Jul-2004	3 Purchasers	MCAN Performance Strategies - Limited Partnership Units	1,545,000.00	14,599.00

02-Jul-2004	The Miele 2004 Family Trust The Miele 2004 Family Trust	MCAN Performance Strategies - Limited Partnership Units	2,000,000.00	18,910.00
02-Aug-2004	Cathy Posluns	MCAN Performance Strategies - Limited Partnership Units	100,000.00	899.00
10-Aug-2004	G. Raymond Chang Ltd.	MedMira Inc. - Debentures	25,000,000.00	1.00
29-Jul-2004	20 Purchasers	Monterra Real Estate Investment Trust - Units	7,700,000.00	770,000.00
11-Aug-2004	14 Purchasers	Mustang Resources Inc. - Shares	8,371,200.00	1,308,000.00
09-Aug-2004	Inco Limited	Nevada Star Resource Corp. - Common Shares	8,750.00	25,000.00
11-Aug-2004	7 Purchasers	Northern Sun Exploration Company Inc. - Flow-Through Shares	1,601,425.00	4,575,500.00
05-Aug-2004	Dennis Paul Berry	Northern Sun Exploration Company Inc. - Non-Flow-Though Shares	9,000.00	30,000.00
13-Aug-2004	3 Purchasers	O'Donnell Emerging Companies Fund - Units	314,000.00	52,205.00
13-Aug-2004	11 Purchasers	Pareto Corporation - Warrants	0.00	750,000.00
13-Aug-2004	24 Purchasers	Plasma Environmental Technologies Inc. - Flow-Through Shares	419,100.00	4,191,000.00
01-Aug-2003 to 30-Jul-2004	London Life Insurance Company	Quadrus AIM Canadian Equity Growth Fund - Trust Units	10,350,215.57	953,347.00
06-Aug-2003 to 30-Jul-2004	London Life Insurance Company	Quadrus Trimark Balanced Fund - Trust Units	22,895,040.97	2,215,095.00
10-Aug-2004	29 Purchasers	Queenstake Resources Ltd. - Warrants	11,120,000.00	2,240,000.00
13-Aug-2004	Nursing Homes and Related Industries Pension Plan	Real Assets US Social Equity Index Fund - Units	4,304.78	632.00
29-Jul-2004	1 Purchaser	Saxon Energy Services Inc. - Common Shares	49,867.50	25,059.00
19-Aug-2004	BMO Nesbitt Burns Inc. Context Capital Management LLC	Schering- Plough Corporation - Convertible Preferred Stock	1,175,000.00	23,500.00
18-Aug-2004	1311 Purchasers	Second World Trader Inc. - Units	4,747,129.00	16,497.00
18-Aug-2004	4 Purchasers	Securus Technologies, Inc. - Notes	8,426,600.00	6,500,000.00
04-Aug-2004	Dynamic Venture Opportunities Fund Ltd.	Spectra Inc. - Common Shares	150,000.00	3,000,000.00

06-Aug-2004	TD Asset Management Inc.	Stanadyne Corporation - Notes	750,000.00	750,000.00
19-Aug-2004	CMP 2004 Resource LP Canada Dominion Resource 2004 LP	Sudbury Contact Mines, Limited - Common Shares	5,250,000.00	3,500,000.00
13-Aug-2004	Mrs. Marianne Whitten	The Strand Tandem Investment Trust - Trust Units	25,000.00	5.00
24-Jun-2004	Steel Investments Ltd.	Trez Capital Corporation - Mortgage	100,000.00	100,000.00
11-Aug-2004	James B.C. Doak	Twin Mining Corporation - Units	105,000.00	525,000.00
31-Jul-2004	5 Purchasers	Vertex Fund - Trust Units	186,000.00	24,516.00
10-Aug-2004	4 Purchasers	VisualSonics Inc. - Convertible Debentures	2,425,000.00	2,425,000.00
12-Aug-2004	Aegon Capital Management Sam Pollack	Wolfden Resources Inc. - Common Shares	499,200.00	104,000.00
12-Aug-2004	9 Purchasers	Wolfden Resources Inc. - Flow-Through Shares	18,892,200.00	3,148,700.00
30-Jul-2004	Marlen Cowpland	ZIM Corporation - Units	1,000,000.00	2,004,211.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
APF Energy Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated August 23, 2004
Mutual Reliance Review System Receipt dated August 23, 2004
Offering Price and Description:
$35,030,000 - 3,100,000 Trust Units at $11.30 Per Trust Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
GMP Securities Ltd.
Promoter(s):
-
Project #681055

Issuer Name:
Bank of Montreal
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated August 24, 2004
Mutual Reliance Review System Receipt dated August 24, 2004
Offering Price and Description:
$ * Trust Capital Securities - Series D (BMO BOaTS - Series D
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Promoter(s):
-
Project #681439

Issuer Name:
BMO Capital Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated August 24, 2004
Mutual Reliance Review System Receipt dated August 24, 2004
Offering Price and Description:
$ * Trust Capital Securities - Series D (BMO BOaTS - Series D
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Promoter(s):
-
Project #681436

Issuer Name:
Brascan SoundVest Total Return Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated August 20, 2004
Mutual Reliance Review System Receipt dated August 20, 2004
Offering Price and Description:
Maximum : $ * - * Units
Price: $10.00 per Unit
Mininmum Purchase: 100 Units
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) Icn.
Trilon Securities Corporation
Canaccord Capital Corporation
Raymond James Ltd.
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Promoter(s):
Brascan Total Return Management Ltd.
Project #680580

Issuer Name:
Brompton Equal Weight Oil & Gas Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated August 23, 2004
Mutual Reliance Review System Receipt dated August 24, 2004
Offering Price and Description:
Maximum $ * - * Units
Price: $10.00 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.
Acadian Securities Incorporated
Newport Securities Inc.
Research Capital Corporation
Wellington West Capital Inc.
Promoter(s):
Brompton Energy Trust Management Limited
Project #681032

Issuer Name:
Manitoba Telecom Services Inc.
Principal Regulator - Manitoba
Type and Date:
Preliminary Short Form Shelf Prospectus dated August 19, 2004
Mutual Reliance Review System Receipt dated August 23, 2004
Offering Price and Description:
$350,000,000.00 - Medium Term Notes (unsecured)
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #680417

Issuer Name:
NPN Investment Group Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated August 23, 2004
Mutual Reliance Review System Receipt dated August 24, 2004
Offering Price and Description:
$400,000.00 - 4,000,000 Common Shares Price: $0.10 per share
Underwriter(s) or Distributor(s):
Investpro Securities Inc.
Promoter(s):
Paul Barbeau
Barry Gould
James Ian Creighton
Constantine Gournakis
David Gazsi
Patrick Murphy
Project #681095

Issuer Name:
PrimeWest Energy Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated August 17, 2004
Mutual Reliance Review System Receipt dated August 17, 2004
Offering Price and Description:
$251,320,000.00 - 10,300,000 Trust Units
and
$150,000,000.00 - 7.50% Convertible Unsecured Subordinated Series I Debentures
and
$100,000,000 - 7.75% Convertible Unsecured Subordinated Series II Debentures Trust Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
Canaccord Capital Corporation
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Dundee Securities Corporation
FirstEnergy Capital Corp.
GMP Securities Ltd.
Raymond James Ltd.
Tristone Capital Inc.
Promoter(s):
-
Project #679157

Issuer Name:
TD U.S. Equity Advantage Portfolio
TD Short Term Bond Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated August 20, 2004
Mutual Reliance Review System Receipt dated August 20, 2004
Offering Price and Description:
Advisor Series Units and F-Series Units
Underwriter(s) or Distributor(s):
TD Investment Services Inc.
Promoter(s):
TD Asset Management Inc.
Project #680554

Issuer Name:
AIC Total Yield Strategic Income Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated Simplified Prospectus and Annual Information Form dated August 17, 2004, amending and restating Simplified Prospectus and Annual Information Form dated July 27, 2004
Mutual Reliance Review System Receipt dated August 23, 2004
Offering Price and Description:
Mutual Fund Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
AIC Limited
Project #658659

Issuer Name:
Alexis Nihon Real Estate Investment Trust
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated August 19, 2004
Mutual Reliance Review System Receipt dated August 19, 2004
Offering Price and Description:
$55,000,000 Series A 6.20% Convertible Unsecured Subordinated Debentures Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Icn.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
Desjardins Securities Inc.
TD Securities Inc.
Canaccord Capital Corporation
Promoter(s):
-
Project #677075

Issuer Name:
Beutel Goodman Canadian Equity Fund
Beutel Goodman Canadian Equity Plus Fund
Beutel Goodman Canadian Intrinsic Fund
Beutel Goodman Canadian Dividend Fund
Beutel Goodman Small Cap Fund
Beutel Goodman Income Fund
Beutel Goodman Long Term Bond Fund
Beutel Goodman Corporate/Provincial Active Bond Fund
Beutel Goodman Balanced Fund
Beutel Goodman Money Market Fund
Beutel Goodman American Equity Fund
Beutel Goodman International Equity Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated August 17, 2004
Mutual Reliance Review System Receipt dated August 18, 2004
Offering Price and Description:
Class A, F and I Units
Underwriter(s) or Distributor(s):
Beutel Goodman Managed Funds Inc.
Beutel Goodman Managed Funds Inc.
Beutel Goodman Managed Funds Inc,
Promoter(s):
Beutel Goodman Managed Funds Inc.
Project #660270

Issuer Name:
Calfrac Well Services Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated August 20, 2004
Mutual Reliance Review System Receipt dated August 20, 2004
Offering Price and Description:
$28,400,000.00 - 1,000,000 Common Shares Price: $28.40 per Common Share
Underwriter(s) or Distributor(s):
Peters & Co. Limited
FirstEnergy Capital Corp.
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Sprott Securities Inc.
Promoter(s):
-
Project #676328

Issuer Name:
KJH Capital Preservation Fund (formerly The KJH Balanced RRSP Fund)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated August 18, 2004
Mutual Reliance Review System Receipt dated August 18, 2004
Offering Price and Description:
Mutual Fund Securities @ Net Asset Value
Underwriter(s) or Distributor(s):
K.J. Harrison & Partners
Promoter(s):
K.J. Harrison & Partners Inc.
Project #669650

Issuer Name:
Northland Power Income Fund
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated August 18, 2004
Mutual Reliance Review System Receipt dated August 19, 2004
Offering Price and Description:
$65,000,000.00 - .50% Convertible Unsecured Subordinated Debentures due June 30, 2011 Price: 100% plus accrued interest, if any
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Canaccord Capital Corporation
FirstEnergy Capital Corp.
Promoter(s):
-
Project #674326

Issuer Name:
RBC Private Short-Term Income Pool
RBC Private Canadian Bond Pool
RBC Private Corporate Bond Pool
RBC Private Income Pool
RBC Private Global Bond Pool
RBC Private Dividend Pool
RBC Private Canadian Growth and Income Equity Pool
RBC Private Canadian Equity Pool
RBC Private Core Canadian Equity Pool
RBC Private Canadian Mid Cap Equity Pool
RBC Private U.S. Equity Pool
RBC Private U.S. Large Cap Equity Pool
RBC Private RSP U.S. Large Cap Index Pool
RBC Private U.S. Value Equity Pool
RBC Private U.S. Growth Equity Pool
RBC Private U.S. Mid Cap Equity Pool
RBC Private U.S. Small Cap Equity Pool
RBC Private World Equity Pool
RBC Private International Equity Pool
RBC Private RSP International Index Pool
RBC Private EAFE Equity Pool
RBC Private European Equity Pool
RBC Private Asian Equity Pool
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated August 18, 2004
Mutual Reliance Review System Receipt dated August 19, 2004
Offering Price and Description:
Series O and Series F Units
Underwriter(s) or Distributor(s):
RBC Asset Management Inc.
The Royal Trust Company
RBC Asset Management Inc.
Promoter(s):
RBC Asset Management Inc.
Project #667509

Issuer Name:
Sceptre Balanced Growth Fund
Sceptre Bond Fund
Sceptre Income Trusts Fund
Sceptre Canadian Equity Fund
Sceptre Equity Growth Fund
Sceptre Global Equity Fund
Sceptre Money Market Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated August 18, 2004
Mutual Reliance Review System Receipt dated August 18, 2004
Offering Price and Description:
Class A Units and Class O Units
Underwriter(s) or Distributor(s):
Sceptre Investment Counsel Limited
Promoter(s):
Sceptre Investment Counsel Limited
Project #667636

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Sky Investment Counsel Inc.	Investment Counsel and Portfolio Manager	August 20, 2004
New Registration	Raspberry Investments Corp.	Limited Market Dealer	August 24, 2004
New Registration	The Alpha Scout Fund Ltd.	Limited Market Dealer & Investment Counsel & Portfolio Manager	August 18, 2004

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 RS Disciplinary Notice - HSBC Securities (Canada) Inc.

RS DISCIPLINARY NOTICE - HSBC SECURITIES (CANADA) INC

August 23, 2004

Participant Disciplined

On August 23, 2004, a Hearing Panel of the Hearing Committee of Market Regulation Services Inc. ("RS") approved a settlement agreement (the "Settlement Agreement") concerning HSBC Securities (Canada) Inc. ("HSBC Securities").

Requirements Contravened

Under the terms of the Settlement Agreement, HSBC Securities admits that the following Requirements were contravened:

> Between July 2002 and March 2004, HSBC Securities failed to comply with its trading compliance and supervision obligations in contravention of Rule 7.1(1) and Policy 7.1 of the Universal Market Integrity Rules ("UMIR").

Sanctions Approved

Pursuant to the terms of the Settlement Agreement:

(a) HSBC Securities is required to pay to RS a fine of $625,000;

(b) the Board of Directors of HSBC Securities shall certify to RS that HSBC Securities has adopted and implemented the recommendations set out in the Report of Price Waterhouse Coopers of April 2004 and RS's recommendations of May 14, 2004 by no later than 7 days before the approval of this Settlement Agreement by a Hearing Panel;

(c) HSBC Securities is required to pay $87,500 towards the cost of RS's investigation.

Summary of Facts

The comprehensive compliance and supervision system required under Rule 7.1 and Policy 7.1 of UMIR is the first line of defence for Participants and their employees to protect their clients and the integrity of the capital markets. Such a trading compliance and supervision system was lacking at HSBC Securities in the period July 2002 to March 2004. The Board of Directors, Senior Management and the Compliance Department did not meet many of their respective responsibilities under Rule 7.1 of UMIR and Policy 7.1 and although no harm to HSBC Securities clients occurred, they did not appreciate the importance of such duties in preventing risk to both the firm and its clients and to the capital markets.

The problems identified by RS from 2001 through to early 2004 and the continued failures by HSBC Securities at various levels to either identify or address the issues in a responsible or comprehensive manner, evidences a Board of Directors who were ineffective stewards in relation to their responsibilities pursuant to Rule 7.1 and Policy 7.1.

More specifically:

In 2003, in some instances HSBC Securities failed to address and rectify RS Trade Desk Review findings and provided correspondence to RS advising that actions would be taken and then in some instances failed to adhere to such commitments.

Between January 2003 and December 2003, HSBC Securities failed to conduct quarterly reviews for all trading conducted by it.

Between December 2003 and March 2004, HSBC Securities failed to conduct the monthly compliance monitoring for artificial pricing.

On an ongoing basis from July 2002 to March 2004, Senior Management and the Board of Directors of HSBC Securities failed to identify the above issues and therefore to address and rectify them.

Further Information

Participants who require additional information should direct questions to Maureen Jensen, Vice President, Market Regulation, Eastern Region, Market Regulation Services Inc. at 416-646-7216.

About Market Regulation Services Inc.

Market Regulation Services Inc. ("RS") is the regulation services provider for Canadian equity markets including the TSX, TSX Venture Exchange, Canadian Trading and Quotation System and Bloomberg Tradebook. RS has been recognized by the securities commissions of Ontario, British Columbia, Alberta, Manitoba and the "Authorité des services financiers" to regulate the trading of securities on these markets by participant firms and their trading and sales staff. RS is mandated to conduct its regulatory activities in a neutral, cost-effective, service-oriented and responsive manner.

13.1.2 RS Market Integrity Notice – Notice of Amendment Approval – Order Entry during a Regulatory Halt

August 27, 2004 No. 2004-022

RS MARKET INTEGRITY NOTICE

NOTICE OF AMENDMENT APPROVAL

ORDER ENTRY DURING A REGULATORY HALT

Summary

Effective August 27, 2004, the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission, Ontario Securities Commission and, in Quebec, the Autorité des marchés financiers (the "Recognizing Regulators") approved an amendment to the Universal Market Integrity Rules ("UMIR") to repeal the restriction on order entry on a marketplace during a regulatory halt.

Background to the Amendment

Prior to the amendment, subsection (1) of Rule 9.1 provided that no order for the purchase or sale of security be entered on a marketplace during the period of a regulatory halt or suspension. A regulatory halt or suspension is imposed by Market Regulation Services Inc. ("RS") to ensure a fair and orderly market. The regulatory halt or suspension imposed by RS is applicable in all marketplaces that have adopted UMIR. A delay, halt or suspension imposed by a marketplace, including the Toronto Stock Exchange, TSX Venture Exchange or Canadian Trading and Quotation System, is not governed by subsection (1) of Rule 9.1 of UMIR and, in accordance with subsection (3) of Rule 9.1, orders may be entered on any marketplace in accordance with the market quality rules of the marketplace on which the order is entered.

The prohibition on order entry was initially introduced in effect to prevent persons, who may obtain specific information about an issuer before another person, from gaining an advantage by entering order first during the period of the regulatory halt or delay. Where marketplaces have a system of time priority, it was assumed that this order entry would provide the persons receiving the information an advantage over others. It had been anticipated that the receipt of orders would be random following the lifting of the ban such that no "identifiable group" would systematically benefit from the imposition or lifting of a regulatory halt, delay or suspension.

RS pursued the amendment as the rule, in practice, was not achieving its intended result. Prior to the amendment, all retail client orders that had been entered directly had to be manually re-entered following the lifting of the halt. The re-entry requirements provided an unintended an advantage to certain traders or account holders whose access to the market was more direct.

With the implementation of the amendment, RS will be able to continue to monitor the entry of the orders and will be in a position to more accurately determine if any person is attempting to take advantage of undisclosed material information during the period of time that the execution of orders is prohibited. Unusual orders or patterns of orders can be questioned by RS prior to RS reopening the security for trading.

Summary of the Amendment

The amendment allows orders for a particular security to be entered on a marketplace during the period of time that there was a regulatory halt, delay or suspension in effect regarding that particular security. Order execution with respect to a particular security will continue to be prohibited on all marketplaces during a regulatory halt, delay or suspension affecting the particular security.

Text of the Amendment

The text of the amendment to the Rules, as approved by the Recognizing Regulators and effective as of August 27, 2004, is set out in Appendix "A". Appendix "B" contains the text of the relevant provisions of the Rules as they read following the adoption of the amendment.

Response to the Request for Comments

RS received one comment letter in response to the Request for Comments on the proposed amendment set out in Market Integrity Notice 2004-010. The comment and the response of RS are summarized in Appendix "B".

Questions

Questions concerning this notice may be directed to:
James E. Twiss,
Chief Policy Counsel,
Market Policy and General Counsel's Office,
Market Regulation Services Inc.,
Suite 900, P.O. Box 939,
145 King Street West,
Toronto, Ontario. M5H 1J8

Telephone: 416.646.7277
Fax: 416.646.7265
e-mail: james.twiss@rs.ca

ROSEMARY CHAN,
VICE PRESIDENT, MARKET POLICY AND GENERAL COUNSEL

Appendix "A"

Universal Market Integrity Rules

Amendment Related to Order Entry During a Regulatory Halt

The Universal Market Integrity Rules are amended as follows:

1. Subsection (1) of Rule 9.1 is amended by deleting the phrase "entered on a marketplace or".

Appendix "B"

Universal Market Integrity Rules

Comments Received on Proposed Amendment Related to Order Entry During a Regulatory Halt

On April 16, 2004, RS issued Market Integrity Notice 2004-010 requesting comments on proposed amendment to UMIR related to the repeal of the restriction on order entry on a marketplace during a regulatory halt. In response to that Market Integrity Notice, RS received comments from TSX Markets. The following table presents a summary of the comment received together with the response of RS.

Text of Provisions Following Adoption of the Amendment	Commentator and Summary of Comment	Response to Comment
9.1 Regulatory Halts, Delays and Suspensions of Trading (1) **Regulatory Halts and Suspensions -** No order for the purchase or sale of a security shall be executed on a marketplace or over-the-counter, at any time while: (a) an order of a securities regulatory authority to cease trading in the security remains in effect; (b) in the case of a listed security, the Market Regulator of the Exchange on which the security is listed has halted or suspended trading in the security while such halt or suspension remains in effect; (c) in the case of a quoted security, the Market Regulator of the QTRS has halted or suspended trading in the security while such halt or suspension remains in effect; and (d) in the case of any security other than a listed security or a quoted security, a Market Regulator of an ATS on which such security may trade has halted trading for the purposes of the public dissemination of material information respecting such security or the issuer of such security.	**TSX Markets** - The commentator supports the amendment based on its understanding that the prohibition on order entry was introduced in an attempt to prevent a person, who may obtain specific information about an issuer before another person, from gaining an advantage by entering an order first during the period of a regulatory halt, delay or suspension. Under the amendment, RS will be able to monitor the entry of orders during a regulatory halt and should be in a position to determine if any person is attempting to take advantage of undisclosed material information. Therefore, the amendment addresses the potential harm the original rule had intended to prevent.	RS agrees.

13.1.3 RS Market Integrity Notice – Notice of Amendment Approval – Provisions Respecting Short Sales

August 27, 2004 No. 2004-023

RS MARKET INTEGRITY NOTICE

NOTICE OF AMENDMENT APPROVAL

PROVISIONS RESPECTING SHORT SALES

Summary

Effective August 27, 2004, the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission, Ontario Securities Commission and, in Quebec, the Autorité des marchés financiers (the "Recognizing Regulators") approved amendments to the Universal Market Integrity Rules ("UMIR") to:

- provide that a person shall be considered to be "short" a security if they hold a right to acquire the security that will not settle within the ordinary settlement period of trade date plus three days; and
- provide an exemption from the pricing restrictions for trades in Exchange-traded Funds.

Summary of the Amendments

- **Completion of Acquisition of Securities After Settlement of Subsequent Sale**

  The basic concept of a "short sale" is that the person entering an order to sell a security does not own the security which they are selling. A person is considered to "own" a security if they have, among other circumstances:

  - entered into an unconditional contract to purchase the security but have not received delivery of the security;
  - tendered a security for exchange or conversion into the security which is the subject of the sale;
  - exercised an option to purchase the security; or
  - exercised a right or warrant to subscribe for the security.

  Prior to the amendments, UMIR provided that a seller would be considered not to own a security if:

  - the seller had borrowed the security to be delivered on the settlement of the trade and is not otherwise considered to own the security; or
  - the security held by the seller was subject to any restriction on sale imposed by securities legislation or marketplace requirement.

  In certain cases, it had been suggested that a person should be considered "long" the security even though the date for issuance of the security or the closing of unconditional contract would be after the date of settlement of the trade. In several of these cases, the person would not actually acquire the security for a period of a year or more. The amendment provides that a person would be considered to own a security in these four enumerated cases only where the securities which that person will acquire will be settled or issued, in the ordinary course, on or before the date the person would be required to settle any sale on a marketplace. If the completion of the acquisition of securities by a person would, in the ordinary course, be after the settlement date of the sale made on a marketplace, the sale on the marketplace would be considered a "short sale" and the sale would have to be so marked and could not be made at a price which was less than the last sale price as disclosed in a consolidated market display.

- **Exemption from the Price Restrictions on Short Sales of Exchange-traded Funds**

  The amendment expands the ability to make a "short exempt" sale in a security that is an "Exchange-traded Fund". Exchange-traded Funds have a number of features that distinguish them from other listed or quoted securities. In addition to trading on a marketplace, an Exchange-traded Fund must be redeemable at the option of the holder in accordance with a formula specified in the mutual fund document. An added feature of the current Exchange-traded Funds is the fact that a "prescribed number" of the units may be redeemed or exchanged for a "basket" of the securities held by the fund. With the requirement that the funds be in "continuous distribution", units of the fund will be distributed on an on-going basis at the net asset value of each unit of the fund (determined by reference to the market price of the

securities held by the fund). These features, which are unique to Exchange-traded Funds, act to maintain the market price of units of the fund at a "fair level". As such, Exchange-traded Funds are not prone to the same manipulative pressures that may be present as a result of the improper short sale of other securities.

Impact of the Amendments

- **Definition of a "Short Sale"**

The adoption of the amendment will prevent a person entering into a contractual arrangement to acquire a particular security and then undertaking a sale of that security on regular settlement terms on a marketplace at a price that is less than the last sale price if the closing date for the acquisition of the securities under the contractual arrangement would, in the ordinary course, be later than the settlement date of the sale undertaken on the marketplace. The amendment ensures that a person is considered "long" a security only in circumstances where the seller could use their holdings to settle the trade.

- **Exchange-traded Funds**

As a result of the approval of the amendments, RS hereby designates as an "Exchange-traded Fund" each of the following seventeen securities that are listed on the Toronto Stock Exchange as of the date of the approval of the amendments.

Issuer Name	Symbol
CP HOLDRS	HCH
iUnits Government of Canada 5 Year Bond	XGV
iUnits Government of Canada 10 Year Bond	XGX
iUnits S&P/TSX 60 Index Fund	XIU
iUnits S&P 500 Index RSP Fund	XSP
iUnits S&P/TSX 60 Capped Index Fund	XIC
iUnits MSCI International Equity RSP Fund	XIN
iUnits S&P/TSX Midcap Index Fund	XMD
iUnits S&P/TSX Capped Energy Index Fund	XEG
iUnits S&P/TSX Capped Financial Index Fund	XFN
iUnits S&P/TSX Capped Gold Index Fund	XGD
iUnits S&P/TSX Capped Information Technology Fund	XIT
iUnits S&P/TSX Capped REIT Index Fund	XRE
TD S&P/TSX Composite Index Fund	TTF
TD S&P/TSX Capped Composite Index Fund	TCF
TD Select Canadian Growth Index Fund	TAG
TD Select Canadian Value Index Fund	TAV

In the future, RS will consider the designation of other securities which become a listed security or a quoted security. It would be the intention of RS that the designation of a security would be done after consultation with the Ontario Securities Commission or other applicable securities regulatory authority. Acceptance of the designation by applicable securities regulatory authorities would be a pre-condition to any designation of a security as an "Exchange-traded Fund". Other factors which RS would take into account are:

- the liquidity or public float of the security (or the underlying securities which comprise the portfolio of the mutual fund);
- whether the units are redeemable at any time for a "basket" of the underlying securities in addition to cash;
- whether a "basket" of the underlying securities may be exchanged at any time for units of the fund;
- whether the fund tracks a recognized index on which information is publicly disseminated and generally available through the financial media; and
- whether derivatives based on units of the fund, the underlying index or the underlying securities are listed on a marketplace.

None of these additional five factors is determinative in and of itself and each security will be evaluated on its own merits before a request is made to the applicable securities regulatory authority to concur in the designation.

Text of the Amendments

The text of the amendments to the Rules, as approved by the Recognizing Regulators, is set out in Appendix "A". Appendix "B" contains the text of the relevant provisions of the Rules as they read following the adoption of the amendments and highlights the changes from the original proposal as set out in Market Integrity Notice 2004-012 dated April 23, 2004.

Responses to the Request for Comments

The comment letters which RS received in response to the Request for Comments on the proposed amendments set out in Market Integrity Notice 2004-012 and the response of RS to those comments are summarized in Appendix "B".

Questions

Questions concerning this notice may be directed to:

James E. Twiss,
Chief Policy Counsel,
Market Policy and General Counsel's Office,
Market Regulation Services Inc.,
Suite 900,
P.O. Box 939,
145 King Street West,
Toronto, Ontario. M5H 1J8

Telephone: 416.646.7277
Fax: 416.646.7265
e-mail: james.twiss@rs.ca

ROSEMARY CHAN,
VICE PRESIDENT, MARKET POLICY AND GENERAL COUNSEL

Appendix "A"

Universal Market Integrity Rules

Amendments Respecting Short Sales

The Universal Market Integrity Rules are amended as follows:

1. Rule 1.1 is amended by adding the following definition of "Exchange-traded Fund":

   "Exchange-traded Fund" means a mutual fund:

   (a) the units of which are:

      (i) a listed security or a quoted security, and

      (ii) in continuous distribution in accordance with applicable securities legislation; and

   (b) designated by the Market Regulator.

2. Rule 1.1 is amended by adding the following as clause (h) of the definition of "Short Sale":

   (h) the settlement date or issuance date pursuant to:

      (i) an unconditional contract to purchase,

      (ii) a tender of a security for conversion or exchange,

      (iii) an exercise of an option, or

      (iv) an exercise of a right or warrant

      would, in the ordinary course, be after the date for settlement of the sale.

3. Subsection (2) of Rule 3.1 is amended by adding the following as clause (g):

   (g) a trade in an Exchange-traded Fund.

Appendix "B"

Comments Received on Proposed Amendments Respecting Short Sales

On April 23, 2004, RS issued Market Integrity Notice 2004-012 requesting comments on proposed amendments to UMIR respecting short sales. In response to that Market Integrity Notice, RS received comments from the following persons:

Barclays Global Investors Canada Limited ("BGI")
BMO Nesbitt Burns Inc. ("BMO")
Penson Financial Services Canada Inc. ("Penson")
Raymond James Ltd. ("Raymond James")
RBC Dominion Securities Inc. ("RBC Investments")
TD Securities Inc. ("TD Newcrest")

The following table presents a summary of the comments received together with the response of RS to those comments. The table summarizes only the comments received which relate directly to the proposed amendments and provides RS's responses to the comments, where applicable. Additional comments relating to regulation of short sales in the United States have not been included. Column 1 of the table also indicates the revisions to the amendments as published on April 23, 2004 that are proposed by RS in response to the comments.

Text of Provisions Following Adoption of Proposed Amendments As Revised	Commentator and Summary of Comment	Response to Comment
1.1 Definitions **"Exchange-traded Fund"** means a mutual fund: (a) the units of which are: (i) a listed security or a quoted security, and (ii) in continuous distribution in accordance with applicable securities legislation; and (b) designated by the Market Regulator.	**BGI** – Indicated that future developments in the form of exchange-traded funds make it impossible to clearly define the term and indicated that designation by RS is an appropriate method of determining whether a security is an exchange-traded fund.	RS agrees with the comment. Initially RS will designate the 17 securities identified in Market Integrity Notice 2004-012 being all of the exchange-traded funds presently listed for trading. As noted in the Market Integrity Notice 2004-012, any designation would only be made with the concurrence of the applicable securities regulatory authorities. Presently, RS has identified the following factors which would be taken into account when making a determination: • the liquidity or public float of the security (or the underlying securities which comprise the portfolio of the mutual fund); • whether the units are redeemable at any time for a "basket" of the underlying securities in addition to cash; • whether a "basket" of the underlying securities may be exchanged at any time for units of the fund; • whether the fund tracks a recognized index on which information is publicly disseminated and generally available through the financial media; and

Text of Provisions Following Adoption of Proposed Amendments As Revised	Commentator and Summary of Comment	Response to Comment
		• whether derivatives based on units of the fund, the underlying index or the underlying securities are listed on a marketplace.
1.1 Definitions **"short sale"** means a sale of a security, other than a derivative instrument, which the seller does not own either directly or through an agent or trustee and, for this purpose, a seller shall be considered to own a security if the seller: (a) has purchased or has entered into an unconditional contract to purchase the security, but has not yet received delivery of the security; (b) has tendered such other security for conversion or exchange or has issued irrevocable instructions to convert or exchange such other security; (c) has an option to purchase the security and has exercised the option; (d) has a right or warrant to subscribe for the security and has exercised the right or warrant; or (e) is making a sale of a security that trades on a when issued basis and the seller has entered into a contract to purchase such security which is binding on both parties and subject only to the condition of issuance of distribution of the security, but a seller shall be considered not to own a security if: (f) the seller has borrowed the security to be delivered on the settlement of the trade and the seller is not otherwise considered to own the security in accordance with this definition;	**BGI and TD Newcrest** – Indicated support of the proposed amendment to the definition of "short sale".	
	BMO – Expressed a concern that the requirement that the exercise of a stock option "settle" prior to being considered to own a security would render the exemption ineffective. They agreed that there are times that the delivery of stock as a result of the option will be delayed as a result of delays by the transfer agent or reduced liquidity. BMO suggested that the provision of instructions together with the delivery of the exercise documentation and payment should be considered settlement for the purpose of this amendment.	This proposed amendment is intended to address settlement risks inherent where a party executes the sale of a security where the security is not available for delivery in settlement of the trade. The amendment clarifies the definition of short sale by indicating that a sale should be considered short where the Participant or Access Person involved in entering the sell order is aware that the securities that will be acquired would not be available to be delivered in satisfaction of the sale. If a Participant or Access Person is aware, relying upon the ordinary business practices of transfer agents, corporate trustees or other financial intermediaries, that the transfer of a security, a tender for conversion or the exercise of a right, warrant, or option will not be recorded on the issuer's corporate register until after the settlement date of the sale, the sale should be considered to be "short". If the Participant or Access Person involved in the sale is aware that all necessary steps have been completed to ensure that the underlying securities, which are the subject of the sale, will be issued and in the ordinary course they will be issued on or before the settlement date of the sale, the sale will not be considered to be a "short sale". RS would propose to revise the proposed amendment to include the concept of "in the ordinary course".
	Penson – Expressed a concern that the proposed amendment to the definition of "short sale" could adversely affect the use of single stock futures for the purpose of hedging.	The purpose of the amendment was to ensure that there was a direct connection between ownership of the security and the ability to undertake a sale at a price below the last sale price. Ownership of a single stock future with an expiry date at some time in the "distant" future means any sale must be settled with the borrowing of securities. In the view of RS, the ownership of the future is akin to being party to long term forward contract or share issuance

Text of Provisions Following Adoption of Proposed Amendments As Revised	Commentator and Summary of Comment	Response to Comment
(g) the security held by the seller is subject to any restriction on sale imposed by applicable securities legislation or by an Exchange or QTRS as a condition of the listing or quoting of the security; or (h) the settlement date or issuance date pursuant to: (i) an unconditional contract to purchase, (ii) a tender of a security for conversion or exchange, (iii) an exercise of an option, or (iv) an exercise of a right or warrant ~~is~~ would, in the ordinary course, be after the date for ~~of~~ settlement of the sale.		agreement and the holder of the future should not be considered "long" unless the expiry date of the future is concurrent with the settlement date of any sale. Presently, Nortel Corporation is the only security on which there is a listed single stock future in Canada. The liquidity of Nortel is such that the pricing restrictions on a short sale should not impact the ability to hedge a position held in a futures contract.
	Raymond James – Agreed in principle with this proposed amendment but expressed a concern regarding the compliance and supervision obligations that will be imposed upon dealers to ensure that clients are able to deliver shares by the settlement date. Raymond James indicated that they believed that RS should publish guidelines outlining the expectations which would be placed on dealers as a result of the change.	The amendment is not intended to impose additional obligations on Participants to ensure that clients are able to deliver the securities sold prior to the date of settlement of a sale. Presently, when a Participant is handling the sale of a security which is not held in the name of the Participant or otherwise on deposit with the Participant, the Participant must assess the credit risk and settlement risk associated with such a sale. As a result of the amendment, a Participant must, as part of that assessment, determine whether on not the securities would be available and a Participant is entitled to rely upon industry standards relating to trade settlement, turnaround times on the exercise of rights, options or warrants, or the issue of securities as a result tendering a security for conversion. RS intends to clarify the application of the rule in a Market Integrity Notice to be released concurrently with the implementation of the amendment.
	RBC Investments – Expressed a concern that participants may be in violation of UMIR where the Participant, relying on the belief that a purchase, conversion or exercise will settle prior to the settlement date for the sale, does not mark a sale as a "short" sale and the purchase, conversion or exercise upon which they are relying fails.	(See response to BMO comment above.) The proposed amendment does not impose an absolute obligation on the selling party to ensure that the transfer, conversion, or settlement does occur prior to the settlement date of the sale but only requires that the selling party have a reasonable belief that the trade, exercise or conversion will settle before the settlement date of their trade. Where the trade (or conversion or exercise) where the seller is to acquire the securities fails through no fault of the seller they will not be considered to have violated UMIR.

Text of Provisions Following Adoption of Proposed Amendments As Revised	Commentator and Summary of Comment	Response to Comment
3.1 Restrictions on Short Selling (2) A short sale of a security may be made on a marketplace at a price below the last sale price if the sale is: (a) a Program Trade in accordance with Marketplace Rules; (b) made in furtherance of the applicable Market Maker Obligations in accordance with the Marketplace Rules; (c) for an arbitrage account and the seller knows or has reasonable grounds to believe that an offer enabling the seller to cover the sale is then available and the seller intends to accept such offer immediately; (d) for the account of a derivatives market maker and is made: (i) in accordance with the market making obligations of the seller in connection with the security or a related security, and (ii) to hedge a pre-existing position in the security or a related security; (e) the first sale of the security on any marketplace made on an ex-dividend, ex-rights or ex-distribution basis and the price of the sale is not less than the last sale price reduced by the cash value of the dividend, right or other distribution; (f) the result of: (i) a Call Market Order,	**BGI, Penson and TD Newcrest** – Indicated that they agreed with the exemption of exchange-traded funds from short sale price restrictions.	
	Raymond James – Indicated that they believe that Exchange-traded Funds were not prone to manipulation as a result of short sales and agreed that short trades involving such funds should be exempt from price restrictions.	

Text of Provisions Following Adoption of Proposed Amendments As Revised	Commentator and Summary of Comment	Response to Comment
(ii) a Market-on-Close Order, or (iii) a Volume-Weighted Average Price Order; or (g) a trade in an Exchange-traded Fund.		

Chapter 25

Other Information

25.1 Consents

25.1.1 Points International Ltd. - cl. 4(b) of Reg. 289

Headnote

Consent given to an OBCA Corporation to continue under the laws of Canada.

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., 181.
Securities Act, R.S.O. 1990, c. S.5., as am.

Regulations Cited

Regulation made under the Business Corporations Act, Ont. Reg. 289/00, ss. 4(b).

IN THE MATTER OF
ONT. REG. 289/00 (the "Regulation")
MADE UNDER THE BUSINESS CORPORATIONS ACT
(ONTARIO), R.S.O. 1990, c. B.16, AS AMENDED
(the "OBCA")

AND

IN THE MATTER OF
POINTS INTERNATIONAL LTD.

CONSENT
(Clause 4(b) of the Regulation)

UPON the application (the "Application") of Points International Ltd. (the "Applicant") to the Ontario Securities Commission (the "Commission") requesting a consent from the Commission to continue the Applicant into another jurisdiction pursuant to clause 4(b) of the Regulation;

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

AND UPON the Applicant having represented to the Commission that:

1. the Applicant is proposing to submit an application to the Director under the OBCA for authorization to continue under the Canada Business Corporations Act, R.S.C. 1985, c. C-44 ("CBCA") pursuant to section 181 of the OBCA (the "Application for Continuance");

2. the Applicant is an offering corporation under the OBCA and is a reporting issuer under the Securities Act, R.S.O. 1990, c. S.5, as amended (the "Act");

3. pursuant to clause 4(b) of the Regulation, where a corporation is an offering corporation under the OBCA, the Application for Continuance must be accompanied by a consent from the Commission;

4. the Applicant is not in default of any of the provisions of the Act or the regulations made under the Act;

5. the Applicant is not a party to any proceeding or, to the best of its knowledge, information and belief, any pending proceeding, under the Act;

6. the continuance of the Applicant under the CBCA was voted on and duly approved by a special resolution of the shareholders of the Applicant on June 24, 2004;

7. the continuance of the Applicant under the CBCA has been proposed so that the Applicant may conduct its affairs in accordance with the CBCA and, among other things, take advantage of the more flexible director residency requirements of the CBCA; and

8. the material rights, duties and obligations of a corporation incorporated under the CBCA are substantially similar to those of a corporation incorporated under the OBCA;

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

THE COMMISSION HEREBY CONSENTS to the continuance of the Applicant as a corporation under the CBCA.

August 17, 2004.

"Robert L. Shirriff" "Wendell S. Wigle"

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Index