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The Ontario Securities Commission

OSC Bulletin

October 28, 2005

Volume 28, Issue 43

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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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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

OCTOBER 28, 2005

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
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20 Queen Street West
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Wendell S. Wigle, Q.C.	—	WSW

SCHEDULED OSC HEARINGS

TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: TBA
TBA	**Cornwall *et al*** s. 127 K. Manarin in attendance for Staff Panel: TBA
TBA	**Robert Patrick Zuk, Ivan Djordjevic, Matthew Noah Coleman, Dane Alan Walton, Derek Reid and Daniel David Danzig** s. 127 J. Waechter in attendance for Staff Panel: TBA
TBA.	**James Patrick Boyle, Lawrence Melnick and John Michael Malone** s. 127 and 127.1 Y. Chisholm in attendance for Staff Panel: TBA
October 28, 2005 10:00 a.m.	**John Illidge, Patricia McLean, David Cathcart, Stafford Kelley and Devendranauth Misir** S. 127 & 127.1 K. Manarin in attendance for Staff Panel: HLM/RLS/WSW

November 1, 2005 2:00 p.m. to 4:00 p.m. November 2-4; 7-11; 21-25; 28; 30; December 1; 6-8, 2005 10:00 a.m. to 4:30 p.m. November 29, 2005 2:30 p.m. to 4:30 p.m.	**Andrew Currah, Colin Halanen, Joseph Damm, Nicholas Weir, Penny Currah and Warren Hawkins** s.127 J. Waechter in attendance for Staff Panel: PMM/RWD/ST
November 14, 2005 10:00 a.m.	**Brian P. Verbeek** s.127 K. Manarin in attendance for Staff Panel: WSW/ST
November 16, 2005 10:00 a.m.	**Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boultbee and Peter Y. Atkinson** s.127 J. Superina in attendance for Staff Panel: SWJ/RWD/MTM
November 23 & 24, 2005 10:00 a.m.	**Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton** s. 127 J. Cotte in attendance for Staff Panel: DLK/CSP
December 5, 2005 10:00 a.m.	**Richard Ochnik and 1464210 Ontario Inc.** s. 127 and 127.1 M. Britton in attendance for Staff Panel: PMM
December 12, 2005 10:00 a.m.	**Olympus United Group Inc.** s.127 M. MacKewn in attendance for Staff Panel: TBA
December 12, 2005 10:00 a.m.	**Norshield Asset Management (Canada) Ltd.** s.127 M. MacKewn in attendance for Staff Panel: TBA
December 16, 2005 10:00 a.m.	**Portus Alternative Asset Management Inc., and Portus Asset Management, Inc.** s. 127 M. MacKewn in attendance for Staff Panel: TBA
January 11, 2006 10:00 a.m.	**Jose L. Castaneda** s.127 T. Hodgson in attendance for Staff Panel: TBA
March 2 & 3, 2006 10:00 a.m.	**Christopher Freeman** s. 127 and 127.1 P. Foy in attendance for Staff Panel: TBA
April 3 to 7, 2006 10:00 a.m.	**Momentas Corporation, Howard Rash, Alexander Funt, Suzanne Morrison and Malcolm Rogers** s. 127 and 127.1 P. Foy in attendance for Staff Panel: TBA

10:00 a.m.	**Philip Services Corp. *et al***
February 6 to March 10, 2006 (except Tuesdays)	s. 127
April 10, 2006 to April 28, 2006 (except Tuesdays and not Good Friday April 14)	K. Manarin in attendance for Staff
May 1 to May 19; May 24 to May 26, 2006 (except Tuesdays)	Panel: PMM/RWD/DLK
June 12 to June 30, 2006 (except Tuesdays)	

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

Andrew Keith Lech

S. B. McLaughlin

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

1.3 News Releases

1.3.1 Rankin Sentencing Decision to be Released October 27

FOR IMMEDIATE RELEASE
October 19, 2005

RANKIN SENTENCING DECISION TO BE RELEASED OCTOBER 27

TORONTO – Following submissions on the sentencing of Andrew Rankin in provincial court today, Judge Ramez Khawly reserved his decision, adjourning the sentencing hearing to 9:30 am October 27, 2005, in courtroom 121, Old City Hall, Toronto.

On July 15, 2005, Rankin was found guilty on 10 charges of tipping, contrary to section 76(2) of the Ontario *Securities Act*. The Ontario Securities Commission had commenced proceedings against Rankin on February 4, 2004.

The charges against Mr. Rankin (Appendix A to the Information) and previous news releases are available on the Ontario Securities Commission web site (**www.osc.gov.on.ca**).

For Media Inquiries:	Wendy Dey Director, Communications and Public Affairs 416 593-8120
	Eric Pelletier Manager, Media Relations 416 595-8913
For Investor Inquiries:	OSC Contact Centre 416-593-8314 1-877-785-1555 (Toll Free)

1.3.2 Canada's Securities Regulators Streamline Short Form Prospectus System

FOR IMMEDIATE RELEASE
October 20, 2005

CANADA'S SECURITIES REGULATORS STREAMLINE SHORT FORM PROSPECTUS SYSTEM

Toronto - The Canadian Securities Administrators (CSA) are streamlining the short form prospectus system to more fully integrate the disclosure systems for the primary and secondary markets and to address deficiencies and ambiguities in the current rules. The changes are designed to allow issuers to efficiently access the capital markets by depending increasingly on their existing continuous disclosure record. The new rule National Instrument 44-101 *Short Form Prospectus Distributions* also broadens access to the short form prospectus system to allow more issuers to benefit from the streamlined system.

While recent and ongoing developments are enhancing and harmonizing the continuous disclosure requirements for reporting issuers and investment funds, the proposed changes to the short form prospectus system are now possible given the improvements in continuous disclosure. These improvements are the result of the CSA's increased focus and allocation of resources to reviews of continuous disclosure documents and processes. As well, advances in technology and the availability of continuous disclosure documents on the System for Electronic Document Analysis and Retrieval (SEDAR) have enhanced investors' access to continuous disclosure documents.

"By harmonizing and integrating the short form prospectus regime with the new continuous disclosure regime, we are creating a universal, seamless, integrated and expedited offering system," commented Jean St-Gelais, Chair of the CSA and of the AMF. "The new system can allow issuers to respond more quickly and efficiently to market opportunities without diminishing the information and protection available to investors."

The new rule will come into effect on December 30, 2005, subject to ministerial approval. NI 44-101 and all related materials can be found on websites of Canadian securities regulators.

The CSA, the council of the securities regulators of Canada's provinces and territories, coordinates and harmonizes regulation for the Canadian capital markets.

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Alberta Securities Commission
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403-297-4481
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Autorité des marchés financiers (AMF)
Philippe Roy
514-940-2176
1-800-361-5072 (Québec only)
www.lautorite.qc.ca

British Columbia Securities Commission
Andrew Poon
604-899-6880
1-800-373-6393 (B.C. & Alberta only)
www.bcsc.bc.ca

1.3.3 Understanding Mutual Fund Fees

FOR IMMEDIATE RELEASE
October 24, 2005

UNDERSTANDING MUTUAL FUND FEES

Toronto – The Ontario Securities Commission is reminding investors that there are a number of fees that can be associated with mutual funds. Despite strict disclosure requirements, however, some investors still think of mutual funds as "no-fee" investments. In fact, mutual fund fees can significantly impact your investment returns. Consider the fees attached to the purchase of mutual fund units when making your investment decisions.

Fees paid when you buy mutual fund units

Sales fees can be either “front load” or “back-end” load. Front load fees are charged against your initial investment as a percentage, and are paid directly by you to the dealer when you purchase units in the fund. You may be able to negotiate front load fees with your dealer.

Back-end load fees are paid by the fund management company to your mutual fund salesperson – you do not pay this fee. You do, however, pay a ‘redemption fee’ if you redeem your units in the fund before a certain time period, typically 7 years. Redemption fees decline each year that you hold the investment.

No-load funds are funds without front load or back-end load fees. Keep in mind, however, that purchases of most funds, including no-load funds, are typically subject to Trailer Fees discussed below.

Special fees may be applied to your fund account, or billed directly, and include:

- Short-term trading fees, if you make withdrawals within 90 days of the initial investment
- Initial account set-up fees
- Annual fees for RRSPs, RIFs or RESPs
- Transfer fees for switching between funds

Fees paid by the fund (and indirectly by investors)

Management fees, operating expenses and taxes are collectively expressed as a percentage of the fund's total value. This percentage value is called the *Management Expense Ratio* (MER). MER values depend on the costs of managing each fund, and may include marketing, sales, administration, legal, accounting, reporting and portfolio management costs. These costs are charged directly to the fund, and reduce the value of your investment. While a fund’s MER may seem quite small, a small fee increase of just one percentage point can significantly reduce the rate of return of your investment over the long term.

Trailer fees are meant to compensate mutual fund salespeople for ongoing services they provide to their clients. These fees are paid by the fund management company (out of the management fee) to your mutual fund salesperson on an annual basis as long as you remain invested in the fund. Trailer fees are typically 1% for funds sold on a front-load basis and 0.5% for funds sold on a back-end load basis. Some trailer fees go up the longer you stay invested in the fund.

Since trailer fees are paid out of the management fee, they are included in a fund’s MER. Also note that the MER includes the up-front costs to the fund management company of financing back-end load fees.

Brokerage charges, which are the fund’s cost of buying and selling securities in its investment portfolio, are paid by the fund but are not included in the MER. These charges can impact the value of your investment. Information on the amount of brokerage charges specific to your fund will now be provided through the Trading Expense Ratio which must be included in your fund’s Management Report on Fund Performance prepared on a semi-annual basis. The Trading Expense Ratio represents the percentage of the fund’s assets used to pay commissions and other portfolio transactions costs on the fund’s investment portfolio.

Read the prospectus and financial statements before investing

Before investing in a mutual fund read the prospectus, which includes a description of all fees associated with the fund, as well as the fund’s financial statements. Compare the fund’s holdings, MER, and investment objectives with other similar funds to make sure you are getting the best return on your investment. If you have further questions, consult with your financial advisor to ensure that you are clear about all fees related to your investment.

There are many mutual funds with different fees and objectives so be sure to make use of available resources to make an informed investment decision. The Investor Education Fund website www.investorED.ca has a Mutual Fund Fee Impact Calculator that can help you compare the fees associated with different mutual fund investments. Contact the Ontario Securities Commission toll free at 1-877-785-1555 for further information.

For OSC Media Inquiries: Perry Quinton
Manager, Investor Communications
416-593-2348

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

1.3.4 Richard Ochnik and 1464210 Ontario Inc.

FOR IMMEDIATE RELEASE
October 25, 2005

OSC ADJOURNS RICHARD OCHNIK AND 1464210 ONTARIO INC.

TORONTO – On October 24, 2005, the Ontario Securities Commission ordered that this matter be adjourned to December 5, 2005 at 10:00 a.m. for the Respondents to obtain counsel.

Copies of the Order, Notice of Hearing and Statement of Allegations are made available on the OSC's website (**www.osc.gov.on.ca**).

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

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

1.4 Notices from the Office of the Secretary

1.4.1 Richard Ochnik and 1464210 Ontario Inc.

FOR IMMEDIATE RELEASE
October 24, 2005

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

AND

IN THE MATTER OF
RICHARD OCHNIK AND
1464210 ONTARIO INC.

TORONTO – The Commission issued an Order today adjourning the hearing to December 5, 2005 at 10:00 a.m. in the above named matter.

A copy of the Order is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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

1.4.2 Brian Peter Verbeek

FOR IMMEDIATE RELEASE
October 26, 2005

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

AND

IN THE MATTER OF
BRIAN PETER VERBEEK

TORONTO – The Commission issued an Order adjourning the hearing with respect to sanctions to November 14, 2005 at 10:00 a.m. in the above noted matter.

A copy of the Order is available at **www.osc.gov.on.ca**.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 New Flyer Industries Inc. and New Flyer Industries Canada ULC - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Issuer of subordinated notes exempt, subject to certain conditions, from continuous disclosure requirements of National Instrument 51-102 Continuous Disclosure Obligations and certification requirements of Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings – Subordinated notes issued as part of offering of income deposit securities consisting of subordinated notes of issuer and common shares of issuer's indirect parent – Conditions of relief intended to ensure that continuous disclosure of issuer's indirect parent will contain the information relevant to holders of subordinated notes and will be accessible to such holders.

Applicable Rules

National Instrument 51-102 Continuous Disclosure Obligations.
Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings.

October 18, 2005

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
MANITOBA, ONTARIO, QUEBEC, NOVA SCOTIA,
NEW BRUNSWICK, NEWFOUNDLAND
AND LABRADOR, NORTHWEST TERRITORIES,
NUNAVUT AND YUKON TERRITORY
(THE JURISDICTIONS)**

AND

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

AND

**IN THE MATTER OF
NEW FLYER INDUSTRIES INC. AND
NEW FLYER INDUSTRIES CANADA ULC**

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions has received an application from New Flyer Industries Inc. (**NFI**) and New Flyer Industries Canada ULC (**NFI ULC**, and together with NFI, the **Filers**) for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that NFI ULC be exempt from

1. except in the Northwest Territories, the requirements under the Legislation to:

   (a) issue press releases and file reports regarding material changes (the **Material Change Reporting Requirement**);

   (b) file annual financial statements together with an auditor's report and annual MD&A, as well as interim financial statements together with a notice regarding auditor review of a written review report, if required, and interim MD&A;

   (c) send annually a request form to the registered holders and beneficial owners of NFI ULC's securities, other than debt instruments, that the registered holders and beneficial owners may use to request a copy of NFI ULC's annual financial statements and annual MD&A, interim financial statements and interim MD&A, or both, and to send a copy of financial statements and MD&A to registered holders and beneficial owners;

   (d) send a form of proxy and information circular with a notice of meeting to registered holders of voting securities and to file the information circular, form of proxy and all other material required to be sent in connection with the meeting to which the information circular or form of proxy relates;

   (e) where applicable, file a business acquisition report including any required financial statement disclosure, if NFI ULC completes a significant acquisition (the **BAR Requirement**);

   (f) file a copy of any disclosure material that it sends to its security holders;

   (g) file an annual information form; and

(h) where applicable, file a copy of any contract that it or any of its subsidiaries is a party to, other than a contract entered into in the ordinary course of business, that is material to NFI ULC and was entered into in the last year, or before the last financial year but is still in effect (the **Material Contracts Requirement**),

(collectively, the **Continuous Disclosure Obligations**); and

2. the requirements under the Legislation to:

(a) file annual certificates (**Annual Certificates**) in accordance with section 2.1 of Multilateral Instrument 52-109 *Certification of Disclosure in Issuer's Annual and Interim Filings* (**MI 52-109**); and

(b) file interim certificates (**Interim Certificates**) in accordance with section 3.1 of MI 52-109,

(collectively, the **Certification Requirements**)

Under the Mutual Reliance Review System for Exemptive Relief Applications (the **System**):

(c) the Ontario Securities Commission is the principal regulator for this Application; and

(d) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this Decision unless they are defined in this Decision.

Representations

This decision is based on the following facts represented by the Filers:

1. NFI is a corporation formed under the laws of Ontario, with its head office located at Suite 3000, 79 Wellington Street West, TD Centre, Toronto, Ontario, M5K 1N2.

2. NFI owns all of the Class A common shares of New Flyer Holdings, Inc. (**NFL Holdings**), representing an approximately 36.9% economic interest and a 51% voting interest in NFL Holdings.

3. NFI ULC is an unlimited liability corporation organized under the laws of Alberta, with its head office at Suite 3000, 79 Wellington Street West, TD Centre, Toronto, Ontario, M5K 1N2.

4. NFI ULC is a wholly-owned indirect subsidiary of NFL Holdings.

5. NFL Holdings is a Delaware corporation, with its registered office located at 1209 Orange Street, Wilmington, Delaware, 19801. NFL Holdings, through its subsidiaries, is the leading manufacturer of heavy-duty transit buses in the United States and Canada and a leading provider of aftermarket parts and service.

6. The Filers filed a preliminary prospectus dated June 30, 2005 and a (final) prospectus dated August 12, 2005 in connection with an initial public offering (the **Offering**) of income deposit securities (**IDSs**).

7. NFI issued the common shares that form part of the IDSs and will satisfy dividends declared on these common shares with the dividends it receives on the Class A common shares that it owns in NFL Holdings.

8. NFI ULC issued the subordinated notes (the **Subordinated Notes**) that form part of the IDSs and will satisfy its obligations under the Subordinated Notes through cash flows from continuing operations.

9. Mutual Reliance Review System decision documents were issued for the Filers' (a) preliminary prospectus on July 4, 2005; and (b) (final) prospectus on August 15, 2005 and, by the Yukon Territory, on August 16, 2005.

10. NFI and NFI ULC became reporting issuers or the equivalent in each of the Jurisdictions where such status exists on August 15, 2005, and the Offering closed on August 19, 2005.

11. In connection with the Offering, the Filers filed an undertaking (the **Undertaking**) with the Ontario Securities Commission to provide investors with separate financial statements for their material subsidiaries (the **Material Subsidiaries**) where GAAP prohibits the consolidation of financial information of such entities and the Filers.

12. NFI ULC's obligations under the Subordinated Notes represent its primary liability.

13. NFI ULC's obligations under the Subordinated Notes are fully and unconditionally guaranteed by New Flyer of America Inc (**NFAI**).

14. NFI ULC and NFAI are currently the only operating entities in the New Flyer group.

15. In order to understand and assess the ability of NFI ULC (and the guarantor) to satisfy the obligations under the Subordinated Notes, a holder of the Subordinated Notes will need to determine (a) the financial position and results of

operations of NFI ULC and (b) NFAI's ability to satisfy the guarantee obligations of the Subordinated Notes.

16. Because NFI is the ultimate parent of the New Flyer group of companies (including NFI ULC and NFAI) and is required to:

    (a) include in its public disclosure (*e.g.*, annual information form and material change reports) information concerning all of its Material Subsidiaries, including NFL Holdings, NFI, ULC and NFAI), and

    (b) include in its financial disclosure the consolidated financial statements of NFL Holdings, which include the financial position and results of operations of all of the other members of New Flyer group, including NFI ULC and NFAI,

    it is the public disclosure of NFI, including the consolidated financial statements of NFL Holdings, that is most relevant from the perspective of an investor. Specifically, that information sufficiently permits an investor to determine (a) the financial position and results of operations of NFI ULC and (b) NFAI's ability to satisfy its guarantee obligations of the Subordinated Notes.

17. NFI has no operations other than minimal operations that are independent of NFL Holdings, no material assets other than its holdings of the Class A shares of NFL Holdings and no material liabilities.

18. NFI controls all of its Material Subsidiaries, including NFL Holdings, NFI ULC and NFAI.

19. NFI will send a form of proxy and information circular to holders of the Subordinated Notes resident in Canada in connection with any meeting of holders of Subordinated Notes, in the manner and at the time that such materials are required by the Legislation to be sent to the holders of the Subordinated Notes.

Decision

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 (except for the Decision Makers in the Northwest Territories, with respect to the Continuous Disclosure Obligations) pursuant to the Legislation is that the Continuous Disclosure Obligations and the Certification Requirements shall not apply to NFI ULC, provided that:

1. NFL Holdings continues to, directly or indirectly, own all of the issued and outstanding voting securities of NFI ULC;

2. NFI continues to control NFL Holdings and continues to provide to its shareholders the consolidated financial statements of NFL Holdings;

3. NFL Holdings continues to control the other Material Subsidiaries and continues to consolidate the financial information of the other Material Subsidiaries in its financial information (or NFI consolidates the financial information of the Material Subsidiaries);

4. NFI has and will continue to have no operations other than minimal operations that are independent of NFL Holdings, no material assets other than its holding of the Class A common shares of NFL Holdings and no material liabilities;

5. NFI remains a reporting issuer in each of the Jurisdictions that provides for such a regime and complies with all of its reporting issuer obligations under such regime;

6. NFAI continues to provide a full and unconditional guarantee of NFI ULC's obligations under the Subordinated Notes;

7. NFI files, in electronic format under NFI ULC's SEDAR profile, copies of any and all documents that NFI is required to file pursuant to the Continuous Disclosure Obligations at the same time that such documents are required under the Legislation to be filed by NFI under its own SEDAR profile;

8. NFI ULC complies with the Material Change Reporting Requirement in respect of material changes in the affairs of NFI ULC that are not also material changes in the affairs of NFI;

9. NFI ULC complies with the Material Contracts Requirement in respect of contracts of NFI ULC that would be material to NFI ULC but would not be material to NFI;

10. NFI ULC complies with the BAR Requirement in respect of business acquisitions that would be significant acquisitions to NFI ULC but not NFI;

11. NFI ULC has not issued any securities to the public other than Subordinated Notes;

12. NFI files copies of its own Annual Certificates and Interim Certificates under NFI ULC's SEDAR profile at the same time that such documents are required to be filed by NFI under its own SEDAR profile;

13. NFI remains an electronic filer under National Instrument 13-101 *System for Electronic Data Analysis and Retrieval (SEDAR)*;

14. with the exception of NFI ULC, NFI shall not have any material operating subsidiaries that are not guarantors of the Subordinated Notes; and

15. NFI concurrently sends to all holders of Subordinated Notes all disclosure materials that NFI is required to send to holders of its securities, in the manner and at the time that such materials are required by the Legislation to be sent to the securityholders of NFI.

"Iva Vranic"
Manager, Corporate Finance
Ontario Securities Commission

2.1.2 RBC Asset Management Inc. et al. - MRRS Decision

Headnote

Exemption to enable dealer managed funds to invest in a class of securities of an issuer during the period of distribution for the offering and the 60-day period following the completion of the distribution.

Rules Cited

National Instrument 81-102 - Mutual Funds, s. 4.1(1).

October 4, 2005

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

AND

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

AND

**IN THE MATTER OF
RBC ASSET MANAGEMENT INC.,
CIBC ASSET MANAGEMENT INC.,
TAL GLOBAL ASSET MANAGEMENT INC.,
TD ASSET MANAGEMENT INC.,
AND
NATCAN INVESTMENT MANAGEMENT INC.
(the "Filers")**

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "**Decision Make**r") in each of the Jurisdictions has received an application from the Filers (or "**Dealer Manager**s"), the portfolio advisers of the mutual funds named in Appendix "A" (the "**Funds**" or "**Dealer Managed Funds**") for a decision under section 19.1 of National Instrument 81-102 - *Mutual Funds* ("**NI 81-102**") (the "**Legislation**") for:

- an exemption from subsection 4.1(1) of NI 81-102 to enable the Dealer Managed Funds to invest in the units (the "**Units**") of CanWest MediaWorks Income Fund (the "Issuer") on the Toronto Stock Exchange (the "**TSX**") during the period of distribution for the Offering (as defined below) (the "**Distribution**") and the 60-day period following

the completion of the Distribution (the "**60-Day Period**") (the Distribution and the 60-Day Period together, the "**Prohibition Period**") notwithstanding that the Dealer Managers or their associates or affiliates act or have acted as an underwriter in connection with the initial public offering (the "**Offering**") of Units of the Issuer pursuant to a preliminary prospectus filed by the Issuer and a final prospectus that the Issuer will file in accordance with the securities legislation of each of the Jurisdictions (the "**Requested Relief**").

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(a) the Ontario Securities Commission is the principal regulator for this application, and

(b) this MRRS decision document evidences the decision of each Decision Maker.

It is the responsibility of each of the Decision Makers to make a global assessment of the risks involved in granting exemptive relief from subsection 4.1 of NI 81-102 in relation to the specific facts of each application.

Interpretation

Defined terms contained in National Instrument 14-101 – *Definitions* have the same meanings in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by the Filers:

1. Each Dealer Manager is a "dealer manager" with respect to the Dealer Managed Funds, and each Dealer Managed Fund is a "dealer managed fund", as such terms are defined in section 1.1 of NI 81-102.

2. The head offices of the Dealer Managers, other than TAL Global Asset Management Inc. ("**TAL**") and Natcan Investment Management Inc. ("**Natcan**"), are in Toronto, Ontario. The head offices of TAL and Natcan are in Montreal, Quebec.

3. The securities of the Dealer Managed Funds are qualified for distribution in one or more of the provinces and territories of Canada pursuant to simplified prospectuses that have been prepared and filed in accordance with their respective securities legislation.

4. A preliminary prospectus (the "**Preliminary Prospectus**") of the Issuer dated September 7, 2005 has been filed for which an MRRS decision document evidencing receipt by the regulators in each of the provinces and territories of Canada was issued on September 7, 2005.

5. According to the Preliminary Prospectus, the Units will be priced at $10.00 per Unit. According to the Preliminary Prospectus, the Underwriters will be granted an over-allotment option (the "**Over-Allotment Option**") to be exercised in full within 30 days following the closing date of the Offering (as defined below). According to the term sheet in respect of the Offering (the "**Term Sheet**"), the Offering is expected to be for approximately 70 million Units (or approximately 77 million Units if the Over-Allotment Option is exercised in full) with the gross proceeds of the Offering expected to be approximately $700 million (or approximately $770 million if the Over-Allotment Option is exercised in full). Currently, closing of the Offering is expected to occur on or about October 13, 2005 (the "**Closing Date**").

6. The co-lead underwriters are Scotia Capital Inc. and RBC Dominion Securities Inc.

7. As disclosed in the Preliminary Prospectus and the press release of CanWest Global Communications Corp. ("**CanWest Global**") dated September 8, 2005 announcing the Offering, the Issuer is an open-ended trust established under the laws of Ontario to indirectly acquire and hold, through CWMW Trust (the "Trust"), an interest in CanWest MediaWorks Limited Partnership ("**CanWest MediaWorks LP**").

8. According to the Preliminary Prospectus, CanWest MediaWorks LP together with its general partner, CanWest MediaWorks (Canada) Inc. ("**CanWest MediaWorks GP**"), and its subsidiaries (collectively, the "**Partnership**") will be the largest newspaper publisher in Canada.

9. The Issuer will use the net proceeds of the Offering to indirectly subscribe for Class A LP units of CanWest MediaWorks LP. CanWest MediaWorks LP will use the net proceeds of the issuance of its Class A LP units, together with the proceeds from certain new credit facilities, to repay substantially all of the CanWest MediaWorks LP debt (the "Debt") issued to CanWest MediaWorks Inc. ("**CanWest**") on the acquisition of certain media businesses (the "Assets") from CanWest. To the extent that the Over-Allotment Option is exercised, the Issuer will use the net proceeds to indirectly subscribe for additional Class A LP units of CanWest MediaWorks LP, and the subscription proceeds will be used to repay the Debt. To the extent that the Over-Allotment Option is not exercised in full, any remaining Debt will be converted into Class B LP units of CanWest MediaWorks LP such that there will be no outstanding Debt following the expiry of the Over-Allotment Option.

10. The Issuer, the Trust, the Partnership and the Underwriters will enter into an underwriting agreement (the "**Underwriting Agreement**") in respect

of the Offering prior to the Issuer filing the final prospectus for the Offering. Pursuant to the terms of the Underwriting Agreement, the Issuer will agree to sell to the Underwriters, and the Underwriters will agree to purchase, as principals, from the Issuer all but not less than all of the Units offered under the Offering for a price of $10.00 per Unit payable in cash to the Issuer against delivery of the Units on closing.

11. According to the Term Sheet, the Issuer will be applying to list the Units that will be distributed under the final prospectus on the Toronto Stock Exchange.

12. The Preliminary Prospectus does not disclose that the Issuer is a “related issuer” of any of the Related Underwriters as defined in National Instrument 33-105 – *Underwriting Conflicts* (“**NI 33-105**”).

13. The Issuer may be considered a “connected issuer”, as defined in NI 33-105, of certain of the Related Underwriters for the reasons set forth in the Preliminary Prospectus. As disclosed in the Preliminary Prospectus, the Related Underwriters are subsidiaries or affiliates of lenders (the “**Lenders**”) which are members of a syndicate of financial institutions that have made credit facilities available to CanWest Global, the parent of CanWest, and to which CanWest is currently indebted. According to the Preliminary Prospectus, CanWest intends to use a portion of the proceeds from the sale of the Assets to repay its indebtedness to such Lenders. In addition, the Lenders have agreed to make credit facilities available to the Partnership, as well as a new credit facility available to CanWest. Consequently, the Issuer may be considered to be a “connected issuer” of Scotia Capital Inc. and RBC Dominion Securities Inc. under applicable Canadian securities legislation.

14. The Dealer Managed Funds are not required or obligated to purchase any Units during the Prohibition Period.

15. Despite the affiliation between the Dealer Managers and their Related Underwriters, they operate independently of each other. In particular, the investment banking and related dealer activities of the Related Underwriters and the investment portfolio management activities of the Dealer Managers are separated by “ethical” walls. Accordingly, no information flows from one to the other concerning their respective business operations or activities generally, except in the following or similar circumstances:

    (a) in respect of compliance matters (for example, a Dealer Manager and its Related Underwriter may communicate to enable the Dealer Manager to maintain an up to date restricted-issuer list to ensure that the Dealer Manager complies with applicable securities laws); and

    (b) a Dealer Manager and its Related Underwriter may share general market information such as discussion on general economic conditions, bank rates, etc.

16. The Dealer Managers may cause the Dealer Managed Funds to invest in the Units during the Prohibition Period. Any purchase of the Units will be consistent with the investment objectives of the Dealer Managed Fund and represent the business judgment of the Dealer Manager uninfluenced by considerations other than the best interests of the Dealer Managed Fund or in fact be in the best interests of the Dealer Managed Fund.

17. To the extent that the same portfolio manager or team of portfolio managers of a Dealer Manager manages two or more Dealer Managed Funds and other client accounts that are managed on a discretionary basis (the “Managed Accounts”), the Units purchased for them will be allocated:

    (a) in accordance with the allocation factors or criteria stated in the written policies or procedures put in place by the Dealer Manager for its Dealer Managed Funds and Managed Accounts, and

    (b) taking into account the amount of cash available to each Dealer Managed Fund for investment.

18. There will be an independent committee (the “**Independent Committee**”) appointed in respect of each Dealer Managed Fund to review each Dealer Managed Fund’s investments in the Units during the Prohibition Period.

19. The Independent Committee will have at least three members and every member must be independent. A member of the Independent Committee is not independent if the member has a direct or indirect material relationship with its Dealer Manager, the Dealer Managed Fund, or any affiliate or associate thereof. For the purpose of this Decision, a material relationship means a relationship which could, in the view of a reasonable person, reasonably interfere with the exercise of the member’s independent judgment regarding conflicts of interest facing the Dealer Manager.

20. The members of the Independent Committee will exercise their powers and discharge their duties honestly, in good faith, and in the best interests of investors in its Dealer Managed Funds and, in so doing, exercise the degree of care, diligence and

skill that a reasonably prudent person would exercise in the circumstances.

21. The Distribution of the Offering may end as early as October 6, 2005, following which the 60-Day Period would end on December 4, 2005, following which the Independent Committee would be required to provide their certification as required by paragraph XI(d) by January 3, 2006. Absent the relief, this timing will necessitate the scheduling of a meeting of the Independent Committee immediately before or during the holiday season.

22. Each Applicant, in respect of its Dealer Managed Funds, will notify a member of staff in the Investment Funds Branch of the Decision Maker in Ontario, in writing of any SEDAR Report (as defined in paragraph XI below) filed on SEDAR, as soon as practicable after the filing of such a report, and the notice shall include the SEDAR project number of the SEDAR Report and the date on which it was filed.

23. Each Dealer Manager has not been involved in the work of its Related Underwriter and each Related Underwriter has not been and will not be involved in the decisions of its Dealer Manager as to whether the Dealer Manager's Dealer Managed Funds will purchase Units during the Prohibition Period.

Decision

Each of the Decision Makers has assessed the conflict of interest risks associated with granting an exemption in this instance from subsection 4.1(1) of NI 81-102 and is satisfied that, at the time this Decision is granted, the potential risks are sufficiently mitigated.

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met.

The Decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that:

I. At the time of each purchase (the "**Purchase**") of Units by a Dealer Managed Fund pursuant to this Decision, the following conditions are satisfied:

   (a) the Purchase

      (i) represents the business judgment of the Dealer Manager uninfluenced by considerations other than the best interests of the Dealer Managed Fund, or

      (ii) is, in fact, in the best interests of the Dealer Managed Fund;

   (b) the Purchase is consistent with, or is necessary to meet, the investment objective of the Dealer Managed Fund as disclosed in its simplified prospectus; and

   (c) the Dealer Managed Fund does not place the order to purchase, on a principal or agency basis, with its Related Underwriter;

II. Prior to effecting any Purchase pursuant to this Decision, the Dealer Managed Fund has in place written policies or procedures to ensure that,

   (a) there is compliance with the conditions of this Decision; and

   (b) in connection with any Purchase,

      (i) there are stated factors or criteria for allocating the Units purchased for two or more Dealer Managed Funds and other Managed Accounts, and

      (ii) there is full documentation of the reasons for any allocation to a Dealer Managed Fund or Managed Account that departs from the stated allocation factors or criteria;

III. The Dealer Manager does not accept solicitation by its Related Underwriter for the Purchase of Units for the Dealer Managed Funds;

IV. The Related Underwriter does not purchase Units in the Offering for its own account except Units sold by the Related Underwriter on Closing;

V. Each Dealer Managed Fund has an Independent Committee to review the Dealer Managed Funds' investments in the Units during the Prohibition Period;

VI. The Independent Committee has a written mandate describing its duties and standard of care which, as a minimum, sets out the conditions of this Decision;

VII. The members of the Independent Committee exercise their powers and discharge their duties honestly, in good faith, and in the best interests of investors in the Dealer Managed Funds and, in so doing, exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;

VIII. The Dealer Managed Fund does not relieve the members of the Independent Committee from liability for loss that arises out of a failure to satisfy the standard of care set out in paragraph VII above;

IX. The Dealer Managed Fund does not incur the cost of any portion of liability insurance that insures a member of the Independent Committee for a liability for loss that arises out of a failure to satisfy the standard of care set out in paragraph VII above;

X. The cost of any indemnification or insurance coverage paid for by the Dealer Manager, any portfolio manager of the Dealer Managed Funds, or any associate or affiliate of the Dealer Manager or any portfolio manager of the Dealer Managed Funds to indemnify or insure the members of the Independent Committee in respect of a loss that arises out of a failure to satisfy the standard of care set out in paragraph VII above is not paid either directly or indirectly by the Dealer Managed Funds;

XI. The Dealer Manager files a certified report on SEDAR (the "SEDAR Report") in respect of each Dealer Managed Fund, no later than 40 days after the end of the Prohibition Period, that contains a certification by the Dealer Manager that contains:

(a) the following particulars of each Purchase:

(i) the number of Units purchased by the Dealer Managed Funds;

(ii) the date of the Purchase and purchase price;

(iii) whether it is known whether any underwriter or syndicate member has engaged in market stabilization activities in respect of the Units;

(iv) if the Units were purchased for two or more Dealer Managed Funds and other Managed Accounts of the Dealer Manager, the aggregate amount so purchased and the percentage of such aggregate amount that was allocated to each Dealer Managed Fund; and

(v) the dealer from whom the Dealer Managed Fund purchased the Units and the fees or commissions, if any, paid by the Dealer Managed Fund in respect of such Purchase;

(b) a certification by the Dealer Manager that the Purchase:

(i) was made free from any influence by the Related Underwriter or any affiliate or associate thereof and without taking into account any consideration relevant to the Related Underwriter or any associate or affiliate thereof; and

(ii) represented the business judgment of the Dealer Manager uninfluenced by considerations other than the best interest of the Dealer Managed Fund, or

(iii) was, in fact, in the best interests of the Dealer Managed Fund;

(c) confirmation of the existence of the Independent Committee to review the Purchase of the Units by the Dealer Managed Funds, the names of the members of the Independent Committee, the fact that they meet the independence requirements set forth in this Decision, and whether and how they were compensated for their review;

(d) a certification by each member of the Independent Committee that after reasonable inquiry the member formed the opinion that the policies and procedures referred to in Condition II(a) above are adequate and effective to ensure compliance with this Decision and that the decision made on behalf of each Dealer Managed Fund by the Dealer Manager to purchase Units for the Dealer Managed Funds and each Purchase by the Dealer Managed Fund:

(i) was made in compliance with the conditions of this Decision;

(ii) was made by the Dealer Manager free from any influence by the Related Underwriter or any affiliate or associate thereof and without taking into account any consideration relevant to the Related Underwriter or any associate or affiliate thereof; and

(iii) represented the business judgment of the Dealer Manager uninfluenced by considerations other than the best interests of the Dealer Managed Fund, or

(iv) was, in fact, in the best interests of the Dealer Managed Fund.

XII. The Independent Committee advises the Decision Makers in writing of:

(a) any determination by it that the condition set out in paragraph XI(d) has not been satisfied with respect to any Purchase of the Units by a Dealer Managed Fund;

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

(c) any action it has taken or proposes to take following the determinations referred to above; and

(d) any action taken, or proposed to be taken, by the Dealer Manager or a portfolio manager of a Dealer Managed Fund, in response to the determinations referred to above.

XIII. For Purchases of Units during the Distribution only, the Dealer Manager:

(a) expresses an interest to purchase on behalf of Dealer Managed Funds and Managed Accounts a fixed number of Units (the "**Fixed Number**") to an Underwriter other than its Related Underwriter;

(b) agrees to purchase the Fixed Number or such lesser amount as has been allocated to the Dealer Manager no more than five (5) business days after the final prospectus has been filed;

(c) does not place an order with an underwriter of the Offering to purchase an additional number of Units under the Offering prior to the completion of the Distribution, provided that if the Dealer Manager was allocated less than the Fixed Number at the time the final prospectus was filed for the purposes of the Closing, the Dealer Manager may place an additional order for such number of additional Units equal to the difference between the Fixed Number and the number of Units allotted to the Dealer Manager at the time of the final prospectus in the event the Underwriters exercise the Over-Allotment Option as described in the Preliminary Prospectus; and

(d) does not sell Units purchased by the Dealer Manager under the Offering, prior to the listing of such Units on the TSX.

XIV. Each Purchase of Units during the 60-Day Period is made on the TSX; and

XV. For Purchases of Units during the 60-Day Period only, an underwriter provides to the Dealer Manager written confirmation that the "dealer restricted period" in respect of the Offering, as defined in Ontario Securities Commission Rule 48-501 Trading During Distributions, Formal Bids and Share Exchange Transactions, has ended.

"Rhonda Goldberg"
Assistant Manager, Investment Funds Branch
Ontario Securities Commission

APPENDIX A

THE MUTUAL FUNDS

RBC Funds (formerly Royal Mutual Funds)
RBC Monthly Income Fund
RBC Balanced Fund
RBC Balanced Growth Fund
RBC Tax Managed Return Fund
RBC Dividend Fund
RBC Canadian Equity Fund
RBC Canadian Growth Fund

RBC Funds (formerly RBC Advisor Funds)
RBC Blue Chip Canadian Equity Fund
RBC Private Pools
RBC Private Income Pool
RBC Private Dividend Pool
RBC Private Mid Cap Equity Pool

TD Mutual Funds
TD Balanced Fund
TD Canadian Equity Fund
TD Canadian Value Fund
TD Monthly Income Fund
TD Dividend Growth Fund
TD Dividend Income Fund
TD Balanced Growth Fund
TD Balanced Income Fund
TD Canadian Blue Chip Equity Fund

TD Private Funds
TD Private Income Trust Fund

Imperial Pools
Imperial Canadian Dividend Pool
Imperial Canadian Dividend Income Pool
Imperial Canadian Equity Pool
Imperial Canadian Income Trust Pool

The Talvest Funds
Talvest Cdn. Equity Growth Fund
Talvest Cdn. Equity Value Fund
Talvest Cdn. Asset Allocation Fund
Talvest Dividend Fund
Talvest Global Asset Allocation RSP Fund
Talvest Small Cap Cdn. Equity Fund
Talvest Millennium High Income Fund
Talvest Millennium Next Generation Fund

CIBC Mutual Funds
Canadian Imperial Equity Fund
CIBC Balanced Fund
CIBC Canadian Small Companies Fund
CIBC Capital Appreciation Fund
CIBC Core Canadian Equity Fund
CIBC Diversified Income Fund
CIBC Dividend Fund
CIBC Financial Companies Fund
CIBC Monthly Income Fund

Frontiers® Pools
Frontiers Canadian Equity Pool
Frontiers Canadian Monthly Income Pool

Renaissance Mutual Funds
Renaissance Canadian Balanced Fund
Renaissance Canadian Balanced Value Fund
Renaissance Canadian Core Value Fund
Renaissance Canadian Dividend Income Fund
Renaissance Canadian Income Trust Fund
Renaissance Canadian Income Trust Fund II
Renaissance Canadian Small Cap Fund

The Altamira Funds
AltaFund Investment Corp.
Altamira Dividend Fund Inc.
Altamira Monthly Income Fund
Altamira Equity Fund
Altamira Balanced Fund
Altamira Capital Growth Fund Limited
Altamira Global 20 Fund
Altamira Growth & Income Fund
Altamira Canadian Value Fund

National Bank Mutual Funds
National Bank Dividend Fund
National Bank Monthly Income Fund

2.1.3 Morgan Meighen & Associates Limited et al. - MRRS Decision

Headnote

Approval to change the fund manager, change the custodian and conduct fund mergers.

Rules Cited

National Instrument 81-102 - Mutual Funds, ss. 5.5(1)(a), (b) and (c)

September 15, 2005

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, BRITISH COLUMBIA, ALBERTA, MANITOBA,
SASKATCHEWAN, NOVA SCOTIA, NEW BRUNSWICK,
PRINCE EDWARD ISLAND AND
NEWFOUNDLAND AND LABRADOR
(the "Jurisdictions")**

AND

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

AND

**IN THE MATTER OF
MORGAN MEIGHEN & ASSOCIATES LIMITED,
CAPSTONE CANADIAN EQUITY FUND,
CAPSTONE BALANCED FUND,
CAPSTONE GLOBAL EQUITY FUND,
CAPSTONE CASH MANAGEMENT FUND,
JUNIPER FUND MANAGEMENT CORPORATION
AND JUNIPER EQUITY GROWTH FUND
(collectively, the "Filers")**

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (each, a "**Decision Maker**", and together, the "**Decision Makers**") in each of the Jurisdictions has received an application from the Filers dated July 21, 2005 (the "**Application**") for the following approvals (the "**Requested Approvals**"):

(a) the change of manager of the Capstone Cash Management Fund (the "**Assigned Fund**") from Morgan Meighen & Associates Limited ("**MMA**") to Juniper Fund Management Corporation ("**JFM**") pursuant to paragraph 5.5(1)(a) of National Instrument 81-102 - *Mutual Fund*s ("**NI 81-102**");

(b) the change of custodian of the Assigned Fund from The Royal Trust Company ("**Royal Trust**") to NBCN Clearing Inc. ("**NCBN**") pursuant to paragraph 5.5.(1)(c) of NI 81-102; and

(c) the merger of the Capstone Canadian Equity Fund, Capstone Balanced Fund and the Capstone Global Equity Fund (collectively, the "**Terminating Funds**") with the Juniper Equity Growth Fund (the "**Continuing Fund**") pursuant to paragraph 5.5(1)(b) of NI 81-102.

The Terminating Funds and the Assigned Fund are collectively referred to as the "**CFunds**".

Under the Mutual Reliance Review System for Exemptive Relief Applications

(a) the Ontario Securities Commission is the principal regulator for this Application, and

(b) this MRRS decision document evidences the decision of each Decision Maker, as applicable.

Interpretation

Defined terms contained in National Instrument 14-101 – *Definitions* have the same meaning in this decision unless they are otherwise defined in this decision.

Representations

This decision is based on the following facts represented by the Filers:

<u>MMA</u>

1. MMA is a corporation organized under the laws of Ontario. MMA is registered with the Ontario Securities Commission, the British Columbia Securities Commission and the Manitoba Securities Commission as an advisor in the categories of investment counsel and portfolio manager. MMA is the manager, portfolio advisor and promoter of the CFunds.

2. Each of the Terminating Funds are open-ended trusts established under the laws of the Province of Ontario by separate trust indentures.

3. Each of the CFunds offer one class of units.

4. Units of the CFunds are currently qualified for sale by a simplified prospectus and annual information form dated July 15, 2005, which have been filed and accepted in all of the Jurisdictions.

5. Each of the CFunds is a reporting issuer or equivalent under applicable securities legislation of the relevant Jurisdictions and is not on the list of defaulting reporting issuers maintained under the applicable securities legislation in those Jurisdictions.

6. Other than circumstances in which the securities regulatory authority of a Jurisdiction has expressly exempted a CFund therefrom, each of the CFunds follows the standard investment restrictions and

practices established by the securities regulatory authority.

7. The net asset value for the CFunds are calculated as at 4:00 p.m. (Eastern time) each day that The Toronto Stock Exchange (the "**TSX**") is open for trading or, in the case of the Capstone Global Equity Fund, each day that the TSX and the New York Stock Exchange are both open for trading.

8. Units of each of the CFunds may be purchased through Capstone Consultants Limited ("**Capstone Consultants**") or another dealer, without any sales charges when bought directly through Capstone Consultants.

JFM

9. JFM is a corporation organized under the laws of Ontario. It is the manager, trustee and fund administrator of the Continuing Fund. MMA is the investment adviser of the Continuing Fund.

10. The Continuing Fund is an open-ended trust established under the laws of the Province of Ontario by a trust indenture.

11. The Continuing Fund offers two series of units referred to as the "A" Class series of units and the "F" Class series of units. Effective August 1, 2005, the Continuing Fund will commence offering a Private Class series of units as noted in the Continuing Fund's simplified prospectus dated July 5, 2005.

12. Units of the Continuing Fund are currently qualified for sale by a simplified prospectus and annual information form dated July 5, 2005, which have been filed and accepted in the Province of Ontario. Shortly after completion of the mergers, the Continuing Fund expects to file a simplified prospectus and annual information form in the other Jurisdictions.

13. The Continuing Fund is a reporting issuer in Ontario and is not in default of the relevant securities legislation.

14. Other than circumstances in which the securities regulatory authority of the Province of Ontario has expressly exempted the Continuing Fund therefrom, the Continuing Fund follows the standard investment restrictions and practices established by such securities regulatory authority.

15. The net asset value for the Continuing Fund is calculated on a daily basis, at the close of business of the TSX on each and every business day on which the TSX is open for trading.

16. Units of the Continuing Fund may be purchased through registered securities dealers, investment dealers, brokers and mutual fund dealers, as well as directly from the Continuing Fund in the Province of Ontario.

The Transaction

17. On June 27, 2005, MMA and JFM signed an agreement to transfer the management of the CFunds from MMA to JFM (the "**Transaction Agreement**").

18. A press release dated June 27, 2005 and a material change report dated July 7, 2005, were issued and filed by the CFunds in connection with the transaction.

19. A Notice of Meeting, Management Information Circular and Proxy (collectively, the "**Initial Materials**") in connection with special meetings of unitholders of the CFunds were mailed to unitholders of the CFunds on July 28, 2005. A Notice of Adjournment of Meeting and Supplemental Information was mailed to unitholders of the CFunds on August 19, 2005 (the "**Supplemental Material**", collectively with the Initial Materials, the "**CFunds Proxy Materials**").

20. The Supplemental Material provided that the special meetings of unitholders of the CFunds was postponed by way of adjournment to September 16, 2005 and closing of the transactions to be on or about September 23, 2005. The Supplemental Materials further provided that any proxies received in respect of the Terminating Funds prior to the date of the Supplemental Material were to be resubmitted in order to be acted upon.

The Merger

21. Pursuant to the Transaction Agreement, each Terminating Fund will merge into the Continuing Fund on or about September 23, 2005 and the Continuing Fund will continue as a publicly offered open-end mutual fund trust governed by the laws of the Province of Ontario, subject to all required regulatory and unitholder approvals.

22. The structure of the mergers of the Capstone Balanced Fund, followed by the Capstone Canadian Equity Fund and the Capstone Global Equity Fund with the Continuing Fund will be as follows:

    (a) the Continuing Fund will acquire all or substantially all of the property of such Terminating Fund in exchange for A class series units of the Continuing Fund that have a fair market value equal to the fair market value of the property transferred to the Continuing Fund by such Terminating Fund;

(b) within sixty (60) days of the transfers of property described in step (a) above, all of the units issued by such Terminating Fund and outstanding immediately before the transfers will be disposed of by the unitholders to such Terminating Fund. In consideration for the disposal of their units, the unitholders of such Terminating Fund will receive A class series units of the Continuing Fund;

(c) the Capstone Balanced Fund and the Continuing Fund shall jointly make and file an election described under the definition of "qualifying exchange" in subsection 132.2(1) of the *Income Tax Act* (Canada) (the "**Tax Act**"), as proposed to be amended prior to the date hereof, and under any applicable analogous provision of provincial legislation, specifying such agreed amounts in respect of the property transferred by the Capstone Balanced Fund to the Continuing Fund as are determined by the Capstone Balanced Fund in its sole discretion; and

(d) as soon as reasonably possible following the Mergers, the Terminating Funds will be wound up.

23. As the Capstone Balanced Fund will hold momentarily more than 20% of the outstanding units of the Continuing Fund, the distribution of A class series units of the Continuing Fund to unitholders by the Capstone Balanced Fund may be a "distribution" under securities legislation, and will be exempt from the prospectus requirements pursuant to section 2.11 of National Instrument 45-106.

Change in Manager and Custodian

24. Pursuant to the Transaction Agreement, MMA will transfer management of the Assigned Fund to JFM, subject to all required regulatory and unitholder approvals.

25. Pursuant to the Transaction Agreement, MMA has agreed to transfer the Assigned Fund's custodian responsibilities from Royal Trust to NCBN, subject to all required regulatory approvals.

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Makers under the Legislation is that the Requested Approvals are granted.

"Leslie Byberg"
Manager, Investment Funds Branch

2.1.4 Legg Mason Canadian Sector Equity Fund - s. 83

Headnote:

Mutual Reliance Review System for Exemptive Relief Applications – A mutual fund is deemed to have ceased to be a reporting issuer, provided it meets the requirements set out in CSA Notice 12-307.

Applicable Ontario Statutory Provisions, Rules and Notices

Securities Act R.S.O. 1990, c.s.5, as am., s. 83
CSA Staff Notice 12-307 - Ceasing to be a Reporting Issuer under the Mutual Reliance Review System for Exemptive Relief Applications. (2003) 26 OSCB 6348

October 17, 2005

Borden Ladner Gervais LLP
Scotia Plaza, 40 King St. West
Toronto, Ontario
M5H 3Y4

Attention: Elizabeth Jordan

Dear Ms. Jordan:

Re: Legg Mason Canadian Sector Equity Fund (the "Applicant")
Application to cease to be a reporting issuer under the securities legislation of the provinces of Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, and Newfoundland and Labrador (collectively, the "Jurisdictions")
Application 620/05

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

As the Applicant has represented to the Decision Makers that,

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

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

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

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

each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant is deemed to have ceased to be a reporting issuer.

"Rhonda Goldberg"
Assistant Manager, Investment Funds

2.1.5 Hartco Investments Inc. - s. 83

Headnote

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

Ontario Statutes

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

September 30, 2005

Heenan Blaikie LLP
1250 René-Lévesque Blvd West
Suite 2500
Montréal, Québec
H3B 4Y1

Attention: Mr. Bruno Caron

Dear Sir:

Re: Hartco Investments Inc. (the reporting issuer resulting from the amalgamation of Hartco Corporation and Hartco Investments Inc.) (the "Applicant ") - Application to Cease to be a Reporting Issuer under the securities legislation of Quebec, Ontario, Alberta, Manitoba, Nova Scotia, Saskatchewan, New Brunswick, Newfoundland and Labrador ("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 Regulation entitled 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.

Le Chef du Service du financement des sociétés,

"Benoit Dionne"
Autorité Des Marchés Financiers

2.1.6 Windsor Trust 2002-B - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Issuer of asset- backed securities previously granted an exemption from the requirements to file annual and interim financial statements, subject to certain conditions. Issuer granted an exemption from the requirements in Multilateral Instrument 52-109 to file interim and annual certificates, subject to certain conditions, including the requirement to file alternative forms of annual and interim certificates.

Ontario Rules

Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings.

May 31, 2005

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO,
NEW BRUNSWICK, NOVA SCOTIA
AND NEWFOUNDLAND AND LABRADOR
(the "Jurisdictions")**

AND

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

AND

**IN THE MATTER OF
WINDSOR TRUST 2002-B
(the "Filer")**

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "Legislation") for an exemption from the requirements in Multilateral Instrument 52-109 - *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109) to file interim certificates and annual certificates, subject to certain conditions (the "Requested Relief").

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(a) the Ontario Securities Commission is the principal regulator for this application; and

(b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101- *Definitions* have the same meanings in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer was established by The Canada Trust Company ("Canada Trust"), pursuant to the declaration of trust made as of October 10, 2002, and is governed by the laws of the Province of Ontario

2. Canada Trust is the issuer trustee of the Filer (in such capacity, the "Issuer Trustee").

3. The Filer is a special purpose entity whose business is specifically restricted to, (a) purchasing or otherwise acquiring from DaimlerChrysler Services Canada Inc. ("DCSCI") receivables consisting of loans to various persons used to finance the purchase of automobiles and light-duty trucks ("Financed Vehicles") originated in Canada by various automobile dealers of DaimlerChrysler Canada Inc. and other automobile manufacturers, and acquired by DCSCI, that meet certain eligibility requirements ("Receivables"), the interest of DCSCI in the Financed Vehicles, the financing of the purchase of which gave rise to such Receivables, and all guarantees or other security interests or liens and property subject thereto from time to time, if any, purporting to secure payment of the Receivables (the "Related Security"), all collections with respect thereto (the "Collections") and all proceeds of the foregoing, (b) funding such acquisition, and (c) engaging in related activities. The Filer does not presently, and will not, carry on any business other than the activities described above.

4. The Filer has no directors, officers or employees. The Issuer Trustee has delegated its responsibility for the day-to-day administration of the Filer to DCSCI, as administrative agent (in such capacity, the "Administrative Agent"), pursuant to the administration agreement made as of October 10, 2002, between DCSCI and the Issuer Trustee.

5. The Filer is a reporting issuer, or the equivalent, in each of the provinces of Canada that provides for a reporting issuer regime.

6. On November 13, 2002, the Filer purchased a pool of Receivables meeting certain eligibility criteria, together with all Related Security, all Collections with respect thereto and all proceeds of the foregoing (collectively, the "Purchased Assets") from DCSCI pursuant to the receivables

purchase agreement made as of November 13, 2002, as amended by agreement dated April 3, 2004, between DCSCI, as seller, and Windsor A (the "Receivables Purchase Agreement").

7. The purchase by the Filer of the Purchased Assets was funded through the issuance under a trust indenture dated November 13, 2002, between the Filer and The Trust Company of Bank of Montreal, as indenture trustee, of:

   (a) $225,000,000 principal amount of 3.584% Auto Loan Receivables-Backed Class A-1 Pay-Through Notes (the "Pay-Through Notes"), pursuant to a long-form prospectus dated November 7, 2002 filed with and receipted by the local securities regulatory authority or regulator in each of the provinces of Canada on November 7, 2002; and

   (b) $191,676,826 principal amount of 3.584% Auto Loan Receivables-Backed Class A-2 Pass-Through Notes (the "Pass-Through Notes"), pursuant to an exemption from the registration requirement and the prospectus requirement of the *Securities Act* (Ontario).

   The Pay-Through Notes and the Pass-Through Notes are herein collectively referred to as the "Notes".

8. None of the securities of the Filer is traded on a marketplace as defined in National Instrument 21-101 - *Certain Capital Market Participants*. The Filer is a "venture issuer" within the meaning National Instrument 51-102 - *Continuous Disclosure Obligations*.

9. DCSCI, as seller, sold the Purchased Assets on a serviced basis to the Filer and, accordingly, DCSCI, as servicer (in such capacity, the "Servicer"), carries out administrative, servicing and collection functions for and on behalf of the Filer as agent for the Filer.

10. Pursuant to the MRRS decision document *In the Matter of Windsor Trust 2002-B* dated August 29, 2003 (the "Previous Decision"), the Decision Makers (other than the Decision Maker in New Brunswick) exempted the Filer from the requirements (the "Financial Statements Requirement") of the Legislation of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland and Labrador (the "Previous Decision Jurisdictions") concerning the preparation, filing and delivery of, among other things, unaudited interim financial statements and audited annual financial statements (collectively, "Financial Statements"), on certain terms and conditions.

11. In accordance with the Previous Decision, the Filer is exempted from, among other things, the Financial Statements Requirement of the Legislation of the Previous Decision Jurisdictions, provided that, among other things, the Filer, or a representative or agent of the Filer, must post on http://investor.chryslerfinancial.com and mail to holders of its Notes who so request:

   (a) on or before the second business day prior to the 15th day of each month, and file on SEDAR contemporaneously therewith, or cause to be filed on SEDAR contemporaneously therewith, the a servicer report relating to the Purchased Assets during the relevant Collection period and relating to all transactions between the Seller and the Filer during such Collection period;

   (b) within 60 days of the end of each fiscal quarter of the Filer, and file on SEDAR contemporaneously therewith, or cause to be filed on SEDAR contemporaneously therewith, interim management's discussion and analysis with respect to the pool of Purchased Assets ("Interim MD&A"); and

   (c) within 140 days of the end of each fiscal year of the Filer, and file on SEDAR contemporaneously therewith, or cause to be filed on SEDAR contemporaneously therewith, the following:

      (i) annual management's discussion and analysis with respect to the pool of Purchased Assets ("Annual MD&A");

      (ii) the certificate of an officer of the Servicer certifying that the Servicer complied in such year with its obligations under that Receivables Purchase Agreement except to the extent non-compliance therewith did not have an adverse effect; and

      (iii) the report of a firm of independent chartered accountants to the effect that such firm has performed tests relating to retail receivables disclosed no exceptions or errors in the records relating to such retail receivables, except as described in the report.

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that:

(a) the Filer is not required to prepare, file and deliver Financial Statements under the Legislation, whether pursuant to exemptive relief or otherwise;

(b) for each financial year of the Filer, within 140 days of the end of the financial year, the Filer or its duly appointed representative or agent will file through SEDAR an annual certificate in the form set out in Schedule "A" of this MRRS decision document and personally signed by a person who, at the time of filing of the annual certificate, is a senior officer of the Filer, a Servicer or an administrative agent of the Filer;

(c) if the Filer voluntarily files an AIF for a financial year after it has filed the annual certificate referred to in paragraph (b) above for the financial year, the Filer will file through SEDAR a second annual certificate that:

(i) is in the form set out in Schedule "A" of this MRRS decision document;

(ii) is personally signed by a person who, at the time of filing of the second annual certificate, is a senior officer of the same person or company of which the senior officer who signed the annual certificate referred to in paragraph (b) is an officer; and

(iii) certifies the AIF in addition to the other documents identified in the annual certificate;

(d) for each interim period, within 60 days of the end of the interim period, the Filer or its duly appointed representative or agent will file through SEDAR an interim certificate in the form set out in Schedule "B" of this MRRS decision document and personally signed by a person who, at the time of filing of the interim certificate, is a senior officer of the Filer, a Servicer or an administrative agent of the Filer; and

(e) the Requested Relief will cease to be effective in a Jurisdiction on the earlier of:

(i) June 1, 2008; and

(ii) the date on which a rule regarding the continuous disclosure requirements for issuers of asset-backed securities comes into force in a Jurisdiction.

"Erez Blumberger"
Assistant Manager, Corporate Finance
Ontario Securities Commission

SCHEDULE A

Certification of annual filings for issuers of asset-backed securities

I, ***<identify (i) the certifying individual, (ii) his or her position in relation to the issuer and (iii) the name of the issuer>***, certify that:

1. I have reviewed the following documents of ***<identify issuer>*** (the issuer):

   (a) the servicer reports for each month in the financial year ended ***<insert financial year end>*** (the servicer reports);

   (b) annual MD&A in respect of the issuer's pool(s) of assets for the financial year ended ***<insert the relevant date>*** (the annual MD&A);

   (c) AIF for the financial year ended ***<insert the relevant date>*** (the AIF); [if applicable] and

   (d) each annual statement of compliance regarding fulfillment of the obligations of the servicer(s) under the related servicing agreement(s) for the financial year ended ***<insert the relevant date>*** (the annual compliance certificate(s)),

   (the servicer reports, the annual MD&A, the AIF [if applicable] and the annual compliance certificate(s) are together the annual filings);

2. Based on my knowledge, the annual filings, taken as a whole, do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make the statements not misleading in light of the circumstances under which they were made, with respect to the periods covered by the annual filings;

3. Based on my knowledge, all of the distribution, servicing and other information and all of the reports on assessment of compliance with servicing criteria for asset-backed securities and the annual accountant's report respecting compliance by the servicer(s) with servicing criteria for asset-backed securities required to be filed under the decision(s) ***<identify the decision(s)>*** as of the date of this certificate, other than material change reports and press releases, have been filed with the securities regulatory authorities through SEDAR;

4. **Option #1** ***<use this alternative if a servicer is providing the certificate>***

   I am responsible for reviewing the activities performed by the servicer(s) and based on my knowledge and the compliance review(s) conducted in preparing the annual compliance certificate(s), and except as disclosed in the annual filings, the servicer(s) [has/have] fulfilled [its/their] obligations under the servicing agreement(s); and

   Option #2 ***<use this alternative if the Issuer or the administrative agent is providing the certificate>***

   Based on my knowledge and the annual compliance certificate(s), and except as disclosed in the annual filings, the servicer(s) [has/have] fulfilled [its/their] obligations under the servicing agreement(s); and

5. The annual filings disclose all material instances of noncompliance with the servicing criteria based on the [servicer's/servicers'] assessment of compliance with such criteria.

[In giving the certifications above, I have reasonably relied on information provided to me by the following unaffiliated parties ***<insert name of issuer, servicer, sub-servicer, co-servicer, administrative agent, reporting agent or trustee >***.]

Date: **<insert date of filing>**

____
[Signature]
[Title]
<indicate the capacity in which the certifying officer is providing the certificate>

SCHEDULE B

Certification of interim filings for issuers of asset-backed securities

I, ***<identify (i) the certifying individual, (ii) his or her position in relation to the issuer and (iii) the name of the issuer>***, certify that:

1. I have reviewed the following documents of ***<identify issuer>*** (the issuer):

   (a) the servicer reports for each month in the interim period ended ***<insert relevant date>*** (the servicer reports); and

   (b) interim MD&A in respect of the issuer's pool(s) of assets for the interim period ended ***<insert relevant date>*** (the interim MD&A),

   (the servicer reports and the interim MD&A are together the interim filings);

2. Based on my knowledge, the interim filings, taken as a whole, do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make the statements not misleading in light of the circumstances under which they were made, with respect to the periods covered by the interim filings; and

3. Based on my knowledge, all of the distribution, servicing and other information required to be filed under the decision(s) ***<identify the decision(s)>*** as of the date of this certificate, other than material change reports and press releases, have been filed with the securities regulatory authorities through SEDAR;

[In giving the certifications above, I have reasonably relied on information provided to me by the following unaffiliated parties ***<insert name of issuer, servicer, sub-servicer, co-servicer, administrative agent, reporting agent or trustee>***.]

Date: ***<insert date of filing>***

____

[Signature]
[Title]
<indicate the capacity in which the certifying officer is providing the certificate>

2.1.7 Quadra Resources Corp. - s. 83

Headnote

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

Ontario Statutes

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

Citation: Quadra Resources Corp., 2005 ABASC 791

October 6, 2005

File No.: B16987

Borden Ladner Gervais
1000, 400 - 3 Avenue SW
Calgary, AB T2P 4H2

Attention: Anthony Rasoulis

Dear Sir:

Re: Quadra Resources Corp. (the "Applicant") - Application to Cease to be a Reporting Issuer under the securities legislation of Alberta and Ontario (the "Jurisdictions")

The Applicant has applied to the local securities 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:

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

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

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

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

each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant is deemed to have ceased to be a reporting issuer in the Jurisdictions.

Relief requested granted on the 6th day of October, 2005.

"Blaine Young"
Director, Legal Services & Policy Development
Alberta Securities Commission

2.1.8 Connor, Clark & Lunn Conservative Income Fund II - MRRS Decision

Headnote

Relief from National Instrument 81-106 to allow an exchange traded fund to calculate NAV weekly rather than daily.

September 30, 2005

**IN THE MATTER OF
THE SECURITIES LEGISLATION
OF BRITISH COLUMBIA, ALBERTA,
QUEBEC, SASKATCHEWAN,
MANITOBA, ONTARIO,
NEWFOUNDLAND AND LABRADOR,
NEW BRUNSWICK, NOVA SCOTIA,
NORTHWEST TERRITORIES,
YUKON, AND NUNAVUT
(THE JURISDICTIONS)**

AND

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

AND

**IN THE MATTER OF
CONNOR, CLARK & LUNN CONSERVATIVE
INCOME FUND II (THE FILER)**

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for an exemption from the daily calculation of net asset value requirement of the Legislation (the Requested Relief):

Under the Mutual Reliance Review System for Exemptive Relief Applications

(a) the Ontario Securities Commission is the principal regulator for this application, and

(b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

In this decision

"Common Share Portfolio" means a portfolio of common shares of Canadian public companies;

"Conservative Income Fund II" means a newly created investment trust to be established under the laws of Ontario;

"Counterparty" means the Bank of Montreal;

"Forward Agreement" means a forward purchase and sale agreement between the Counterparty and the Filer which will provide the Filer with the economic return generated by the Portfolio;

"Investment Manager" means Connor, Clark & Lunn Investment Management Ltd., the investment manager to Conservative Income Fund II;

"Manager" means Connor, Clark & Lunn Capital Markets Inc., the manager of the Filer;

"NI 81-102" means National Instrument 81-102 – Mutual Funds;

"NI 81-106" means National Instrument 81-106 – Investment Fund Continuous Disclosure;

"Portfolio" means a portfolio consisting of income producing securities including Canadian business income trusts, real estate investment trusts, utility income trusts, corporate bonds and convertible bonds;

"Preliminary Prospectus" means the preliminary prospectus of the Filer dated August 23, 2005;

"Prospectus" means the final prospectus of the Filer;

"Termination Date" means a date that is approximately ten years from the closing date of the offering of Units under the Prospectus;

"TSX" means the Toronto Stock Exchange;

"Units" means the units of the Filer; and

"Unitholders" means the holders of Units.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer will be an investment trust established under the laws of Ontario by a trust agreement between the Manager and The Royal Trust Company as trustee.

2. The Filer's investment objectives are: (i) to provide Unitholders with a stable stream of tax-efficient monthly cash distributions targeted to be $0.05416 per Unit (representing a yield of approximately 6.5% per annum on the issue price of $10.00 per Unit); and (ii) preserve the net asset value per Unit of the Filer in order to return at least the original issue price of Units ($10.00 per Unit) to Unitholders on the Termination Date.

3. The Filer will invest the net proceeds of the offering of Units in the Common Share Portfolio.

4. The Filer will enter into the Forward Agreement with the Counterparty, which will provide the Filer with the economic return generated by the Portfolio. Under the terms of the Forward Agreement, the Counterparty will agree to pay to the Filer, on or about the Termination Date, as the purchase price for the Common Share Portfolio, the economic return provided by the Portfolio.

5. The Portfolio will be held by Conservative Income Fund II.

6. From time to time, the Filer may hold a portion of its assets in cash and cash equivalents.

7. The Filer intends to partially settle the Forward Agreement prior to the Termination Date in order to fund monthly distributions as well as redemptions and repurchases of Units and its operating expenses from time to time.

8. The Manager is the promoter of the Filer and has been retained to act as manager for both the Filer and Conservative Income Fund II. The Manager will be responsible for providing or arranging for the provision of administrative services required by both the Filer and Conservative Income Fund II.

9. The Manager will appoint the Investment Manager as investment manager to Conservative Income Fund II.

10. A custodian meeting the criteria of section 6.2 of NI 81-102 will act as custodian of the assets of the Filer and Conservative Income Fund II.

11. The Units are expected to be listed and posted for trading on the TSX. An application requesting conditional listing approval has been made on behalf of the Filer to the TSX.

12. Units may be surrendered at any time for redemption by the Filer. The Units will be redeemable at the option of the Unitholder on a monthly basis at a price computed by reference to the market price of the Units and, commencing in 2006, the Units will also be redeemable once annually at a price computed by reference to net asset value of the Filer. As a result, the Filer will not be a "mutual fund" under applicable securities legislation, but will be a "non-redeemable investment fund" for purposes of NI 81-106.

13. The net asset value per Unit of the Filer will be calculated weekly. The Manager will post the net asset value per Unit of the Filer on its website.

14. The Investment Manager will employ leverage in the Portfolio to enhance returns when it considers market conditions appropriate. The Investment Manager intends to reduce or eliminate leverage and may increase the allocation to cash when the Investment Manager believes the outlook for market performance is unfavourable.

15. The Preliminary Prospectus contains, and the Prospectus will contain, disclosure with respect to securities lending by the Filer.

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that the Prospectus discloses:

(i) that the net asset value calculation of the Filer is available to the public upon request; and

(ii) a website that the public can access for this purpose

for so long as:

(iii) the Units are listed on the TSX; and

(iv) the Filer calculates its net asset value at least weekly.

"Leslie Byberg"
Manager, Investment Funds
Ontario Securities Commission

2.1.9 Olco Petroleum Group Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Issuer has only one security holder – Issuer deemed to cease to be a reporting issuer under applicable securities laws.

Applicable Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 83.
National Instrument 51-102 Continuous Disclosure Obligations.

October 5, 2005

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
QUEBEC, ONTARIO AND ALBERTA
(THE "JURISDICTIONS")**

AND

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

AND

**IN THE MATTER OF
OLCO PETROLEUM GROUP INC. (THE "FILER")**

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "Legislation") revoking the reporting issuer status of the Filer under the Legislation (the "Requested Relief").

Under the Mutual Reliance Review System for Exemptive Relief Applications

(a) the Autorité des marchés financiers is the principal regulator for this application, and

(b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer is the corporation resulting from the amalgamation (the "Amalgamation") of Olco Petroleum Group Inc. ("Old Olco") and 6397522 Canada Inc. ("6397522") on August 24, 2005.

2. The head office of the Filer is located at 2775 Georges V Avenue, Montreal-East, Quebec H1L 6J7.

3. Old Olco was incorporated under the *Canada Business Corporations Act* (the "CBCA") on June 8, 1991 under the name 107657 Canada Inc. By articles of amendment dated August 5, 1981, December 30, 1982, May 3, 1983, October 18, 1984 and September 25, 1986, Old Olco effected a series of name changes, ultimately adopting the name "Olco Petroleum Group Inc.". Old Olco's articles were further amended on December 12, 1986 to effect certain changes to Old Olco's authorized share capital.

4. 6397522 was incorporated under the CBCA on May 26, 2005 for the sole purpose of amalgamating with Old Olco and did not otherwise carry on any material business or activity. 6397522 was a wholly-owned subsidiary of Mayfred Canada Ltd. ("Mayfred").

5. The authorized share capital of Old Olco consisted of an unlimited number of first preferred shares, issuable in series, second preferred shares, issuable in series, class A shares (the "Class A Shares") and class B shares, of which 14,265,114 Class A Shares were outstanding immediately prior to the Amalgamation.

6. The authorized share capital of 6397522 consisted of an unlimited number of common shares, of which 12,103,101 common shares were outstanding immediately prior to the Amalgamation.

7. The authorized share capital of the Filer consists of an unlimited number of redeemable preferred shares (the "Redeemable Preferred Shares") and an unlimited number of common shares (the "Filer Common Shares"). Pursuant to the Amalgamation, 2,162,013 Redeemable Preferred Shares and 12,103,101 Filer Common Shares were issued. The 2,162,013 Redeemable Preferred Shares were redeemed for $0.50 each on August 25, 2005.

8. Old Olco had been a reporting issuer in the Jurisdiction since 1986. The Filer, as the issuer resulting from the Amalgamation, is deemed to be a reporting issuer under the Legislation.

9. The Class A Shares commenced trading on the Montreal Exchange in 1986, and with the reorganization of the Canadian stock exchanges, were subsequently listed on the TSX Venture Exchange and traded under the symbol "OLC".

10. On June 15, 2005, Old Olco announced that Mayfred had agreed to acquire all of the outstanding Class A Shares, not owned directly or indirectly by Mayfred at a price of $0.50 per share. The transaction would be carried out by an amalgamation between Old Olco and a newly incorporated corporation wholly-owned by Mayfred, and would be subject to shareholder and regulatory approval.

11. Old Olco called a special meeting of its shareholders, which was held on August 23, 2005 to approve the Amalgamation.

12. The special meeting was held at 10:00 a.m. on Tuesday, August 23, 2005. The requisite majority of shareholders of Old Olco approved the special resolution authorizing the Amalgamation. In addition, the Amalgamation was also approved by a majority of the votes cast by minority shareholders at the special meeting.

13. No shareholder of Old Olco exercised its right to dissent under section 190 of the CBCA.

14. Old Olco and 6397522 filed articles of amalgamation on August 24, 2005 and a certificate of amalgamation was issued by the Director under the CBCA on August 24, 2005.

15. Pursuant to the Amalgamation:

    15.1 each issued and outstanding Class A Share (other than those held by 6397522) was converted into one Redeemable Preferred Share;

    15.2 each issued and outstanding Class A Share held by 6397522 was cancelled;

    15.3 each issued and outstanding common share of 6397522 was converted into one Filer Common Share; and

    15.4 each Redeemable Preferred Share was redeemed by the Filer for $0.50 in cash.

16. As a result of the Amalgamation, Mayfred became the sole owner of the outstanding securities of the Filer. Accordingly, the outstanding securities of the Filer are beneficially owned by one security holder, being Mayfred.

17. The Class A Shares were delisted from the TSX Venture Exchange on August 26, 2005, and no securities of the Filer are listed or traded on any marketplace as defined in National Instrument 21-101 *Marketplace Operation*.

18. The Filer surrendered its status as a reporting issuer in British Columbia, effective September 5, 2005.

19. The Filer is in default of its obligation under National Instrument 51-102 *Continuous Disclosure Obligations* to file its annual financial statements and annual Management's Discussion and Analysis for the fiscal year ended April 30, 2005.

Decision

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 is that the Requested Relief is granted.

"Marie-Christine Barrette"
Manager of the Corporate Financing Department
Autorité des marchés financiers

2.1.10 Montrusco Bolton Taxable U.S. Equity Fund et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Application – Extension of distribution beyond lapse date for certain funds to accommodate different lapse dates between principal regulator and other jurisdictions.

Applicable Statutory Provisions

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

October 25, 2005

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

And

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

And

**IN THE MATTER OF
MONTRUSCO BOLTON TAXABLE U.S. EQUITY FUND
MONTRUSCO BOLTON BALANCED + FUND
MONTRUSCO BOLTON T-MAX FUND
MONTRUSCO BOLTON ENTERPRISE FUND and
MONTRUSCO BOLTON INTERNATIONAL
EQUITY FUND
(individually, a "MB Fund" and
collectively, the "MB Funds")**

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland (the Jurisdictions) has received an application from Montrusco Bolton Investments Inc. (Montrusco Bolton), the manager of the MB Funds, for a decision under the securities legislation of the Jurisdictions (the Legislation) that the time limits for the renewal of the simplified prospectuses of the MB Funds dated October 25, 2004 be extended to those time limits that would be applicable if the lapse date of each MB Fund was October 28, 2005 (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(a) the Ontario Securities Commission is the principal jurisdiction for this application; and

(b) this MRRS decision document evidences the decision of each Decision Maker.

Intrepretation

Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by Montrusco Bolton:

1. The MB Funds are governed by the laws of Ontario under a Master Trust Agreement dated October 17, 2000 (the **Master Trust Agreement**) and offered to the public, in each province of Canada, by way of a simplified prospectus (the **Prospectus**) and an annual information form (the **AIF**), both dated October 25, 2004.

2. Under the Legislation, the lapse date for each MB Fund is October 28, 2005 in the Province of Québec as per the date of the final receipt issued for the Prospectus and AIF, and October 25, 2005 in all the other Jurisdictions.

3. Each MB Fund is a reporting issuer in each province of Canada and is not in default of any of the requirements of the Legislation.

4. Desjardins Trust Inc. is the trustee for the MB Funds under the Master Trust Agreement. Montrusco Bolton is the manager, promoter, investment advisor and principal distributor of the MB Funds.

5. Pursuant to its review of the proforma prospectus, the proforma annual information form (the **Proforma Filing**) and the annual and interim financial statements (collectively the **Financial Statements**) of the MB Funds, the *Autorité des marches financiers* (the **AMF**), the principal regulator for the review of the Proforma Filing, filed a preliminary comment letter on October 5, 2005, as per the review period of National Policy 43-201 (in Ontario) and Multilateral Instrument 11-101 (in all the other Jurisdictions). The MB Funds filed the Proforma Filing on September 27, 2005.

6. On Tuesday, October 11, 2005, the AMF issued a first comment letter in which several comments regarding the Financial Statements were raised.

7. Montrusco Bolton believes that responding to the comments on the Financial Statements requires consultation with the auditors of the MB Funds.

8. It is therefore possible that the MB Funds will not be able to file final materials prior to October 25, 2005.

9. There have been no material changes in the affairs of the MB Funds since the Prospectus and the AIF were filed.

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted so long as the MB Funds file the simplified prospectus no later than 10 days after October 28, 2005 and the MB Funds obtain a receipt for the simplified prospectus no later than 20 days after October 28, 2005.

"Leslie Byberg"
Manager, Investment Funds

2.2 Orders

2.2.1 Knight Equity Markets, L.P., Knight Capital Markets, LLC and Direct Trading Institutional L.P. - s. 211 of the Regulation

Headnote

Application in connection with application for registration as an international dealer, for an order pursuant to section 211 of the Regulation exempting the applicants from the requirement in subsection 208(2) of the Regulation that they carry on the business of an underwriter in a country other than Canada to be able to register in Ontario as international dealers.

Statutes Cited

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

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., ss.100(3), 208(2), 211.

October 18, 2005

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

AND

**IN THE MATTER OF
ONTARIO REGULATION 1015, R.R.O. 1990,
AS AMENDED (the REGULATION)**

AND

**IN THE MATTER OF
KNIGHT EQUITY MARKETS, L.P.,
KNIGHT CAPITAL MARKETS, LLC AND
DIRECT TRADING INSTITUTIONAL L.P.**

**ORDER
(Section 211 of the Regulation)**

UPON the application (the **Application**) of Knight Equity Markets, L.P., Knight Capital Markets, LLC and Direct Trading Institutional L.P. (the **Applicants**) to the Ontario Securities Commission for an order, pursuant to section 211 of the Regulation, exempting the Applicants from the requirement in subsection 208(2) of the Regulation that the Applicants carry on the business of an underwriter in a country other than Canada in order for the Applicants to each be registered under the Act as dealers in the category of international dealer;

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicants have each filed an application for registration as a dealer under the Act, in the category of international dealer, in accordance with section 208 of the Regulation. The Applicants are not presently registered in any capacity under the Act.

2. Knight Capital Group Inc. is a public company listed on the NASDAQ and is the ultimate parent company of, and has ultimate control over, each of the Applicants.

3. Knight Equity Markets, L.P. is a corporation organized under the laws of the State of Delaware in the United States and its principal place of business is located in Jersey City, New Jersey.

4. Knight Capital Markets, LLC is a corporation organized under the laws of the State of Delaware and its principal place of business is located in Jersey City, New Jersey.

5. Direct Trading Institutional L.P. is a corporation organized under the laws of the State of Delaware and its principal place of business is located in Irving, Texas.

6. Each of the Applicants is registered in the U.S. as a broker-dealer with the U.S. Securities and Exchange Commission and is a member in good standing of the National Association of Securities Dealers, Inc.

7. Each of the Applicants carries on business of a broker-dealer in the U.S.

8. None of the Applicants currently act as an underwriter in the U.S. or in any other jurisdiction outside of the U.S.

9. In the absence of the relief requested in this Application, the Applicants would not meet the requirements of the Regulation for registration as dealers in the category of international dealer as they do not carry on the business of an underwriter in a country other than Canada.

10. The Applicants do not now act as underwriters in Ontario and will not act as underwriters in Ontario if they are registered under the Act as international dealers, despite the fact that subsection 100(3) of the Regulation provides that an international dealer is deemed to have been granted registration as an underwriter for the purposes of a distribution which it is permitted to make.

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

IT IS ORDERED, pursuant to section 211 of the Regulation, that, in connection with the registration of each of the Applicants as a dealer under the Act in the category

of international dealer, the Applicants are exempt from the provisions of subsection 208(2) of the Regulation requiring that the Applicants carry on the business of an underwriter in a country other than Canada, provided that, so long as the Applicants are registered under the Act as international dealers:

(a) the Applicants carry on the business of a dealer in a country other than Canada; and

(b) notwithstanding subsection 100(3) of the Regulation, the Applicants shall not act as underwriters in Ontario.

"M. Theresa McLeod"
Commissioner

"Harold P. Hands"
Commissioner

2.2.2 Richard Ochnik and 1464210 Ontario Inc. - ss. 127, 127.1

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

AND

IN THE MATTER OF
RICHARD OCHNIK AND
1464210 ONTARIO INC.

ORDER
(Sections 127 and 127.1)

WHEREAS, by Notice of Hearing dated September 19, 2005, the Ontario Securities Commission announced that it would hold a hearing in the matter pursuant to sections 127 and 127.1 of the Act on October 24, 2005.

AND WHEREAS the Respondents have requested an adjournment to obtain counsel;

THE COMMISSION ORDERS:

1. THAT this matter be adjourned to December 5, 2005 at 10:00 a.m.

DATED at Toronto, this 24th day of October, 2005

"Paul M. Moore"

"H. Lorne Morphy"

2.2.3 Momentas Corporation, Howard Rash, Alexander Funt and Suzanne Morrison -- ss. 127(1), 127(5)

June 9, 2005

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

AND

**IN THE MATTER OF
MOMENTAS CORPORATION, HOWARD RASH,
ALEXANDER FUNT AND SUZANNE MORRISON**

**TEMPORARY ORDER
SECTION 127 (1) & 127 (5)**

WHEREAS it appears to the Ontario Securities Commission (the "Commission") that:

1. Momentas Corporation ("Momentas") is an Ontario Corporation with offices in Toronto;

2. Howard Rash ("Rash") and Alexander Funt ("Funt") are co-founders and promoters of Momentas;

3. Suzanne Morrison ("Morrison") is the President, Chief Financial Officer and a Director of Momentas;

4. Malcolm Rogers ("Rogers") is the Chief Executive Officer and a Director of Momentas;

5. Neither Momentas nor any of the named individuals are registered with Commission to trade securities;

6. Securities of Momentas are being sold to members of the public by officers, directors, employees and/or agents of Momentas purportedly in reliance upon OSC Rule 45-501;

7. Staff of the Commission ("Staff") are conducting an investigation into the trading of Momentas securities, and based on the information collected by Staff to date, it appears that Momentas and the named individuals appear to hold themselves out as engaging in the business of trading securities in Ontario and appear to be acting as market intermediaries without being registered pursuant to the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "*Act*");

8. The Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest; and

9. The Commission is of the opinion that it is in the public interest to make this order.

AND WHEREAS by Commission Order made March 15th, 2004, pursuant to section 3.5(3) of the *Act*, any one of David Brown, Paul Moore, Suzanne Wolburgh Jenah acting alone, is authorized to make orders under section 127 of the *Act*;

IT IS ORDERED pursuant to clause 2 of subsection 127(1) of the Act that all trading by Momentas and its officers, directors, employees and/or agents in securities of Momentas shall cease;

IT IS FURTHER ORDERED that pursuant to clause 2 of subsection 127(1) of the *Act* that all trading in any securities by Rash, Funt and Morrison shall cease;

IT IS FURTHER ORDERED that pursuant to clause 3 of subsection 127(1) of the *Act* that any exemptions contained in Ontario securities law do not apply to Momentas, Rash, Funt and Morrison;

IT IS FURTHER ORDERED that pursuant to subsection 127(6) of the *Act* this order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission.

"David Brown"

2.2.4 Brian Peter Verbeek

October 25, 2005

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

AND

IN THE MATTER OF
BRIAN PETER VERBEEK

ORDER

WHEREAS on July 26, 2005, the Commission issued its Decision and Reasons with respect to this matter;

AND WHEREAS the hearing with respect to sanctions was scheduled to commence on October 26, 2005 at 10:00 a.m.;

AND WHEREAS the respondent Brian Peter Verbeek requested an adjournment of the hearing;

AND WHEREAS Staff opposed an adjournment of the hearing;

AND WHEREAS the Commission is of the opinion that it is in the public interest to grant the adjournment requested by the respondent Brian Peter Verbeek;

IT IS THEREFORE ORDERED that the hearing with respect to sanctions in this matter be adjourned to Monday, November 14, 2005 at 10:00 a.m. on a peremptory basis.

"Wendell S. Wigle"

"Suresh Thakrar"

2.2.5 Capital Alliance Ventures Inc. - s. 62(5)

Headnote

Application by labour sponsored investment fund for extension of prospectus lapse date to allow sufficient time to consider proposed fund merger.

Applicable Provisions:

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

October 24, 2005

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

AND

IN THE MATTER OF
CAPITAL ALLIANCE VENTURES INC. (the Filer)

ORDER
(Subsection 62(5) of the Act)

Background

The Commission has received an application from the Filer for an order under subsection 62(5) of the Act that the time periods prescribed by the Act for the renewal of the prospectus dated October 27, 2004 (the Prospectus) for the Class A shares of the Filer (the Class A Shares) be extended to those time periods that would be applicable if the lapse date of the Prospectus was December 30, 2005 (the Requested Relief).

Representations

This order is based on the following facts represented by the Filer:

1. The Filer is a corporation incorporated under the *Canada Business Corporations Act* by articles of incorporation dated July 29, 1994, as amended.

2. The Filer is registered as a labour sponsored investment fund under the *Community Small Business Investment Funds Act* (Ontario) and a labour-sponsored venture capital corporation under the *Income Tax Act* (Canada). The Filer is a mutual fund pursuant to the Act.

3. The manager of the Filer is Fullarton Capital Corporation (the Manager).

4. Under the Act, the lapse date for distribution of Class A Shares under the Prospectus is October 27, 2005 (the Lapse Date).

5. It is currently proposed that the Filer will convene a shareholder meeting on or about November 23, 2005 for the approval of the merger of the Filer

with GrowthWorks Canadian Fund Ltd., as well as Canadian Science and Technologies Growth Fund Inc. and GrowthWorks Opportunity Fund Ltd., each of which are other labour-sponsored investment funds managed by the Manager or an affiliate of the Manager. The proposed merger would, assuming required regulatory and shareholder approvals are obtained, be completed on or about November 30, 2005. In the event that the proposed merger receives required approvals, the Filer's Prospectus will not be renewed.

6. Under the Lapse Date for the Prospectus, the Filer would be required to file final materials by November 6, 2005 and receive a receipt for same by November 16, 2005, prior to the special meeting of the Filer's shareholders. The Lapse Date extension is therefore requested in order that the Filer may avoid the expense related to the prospectus renewal in the event that the proposed merger proceeds.

7. Other than the proposed merger, which was disclosed via a prospectus amendment dated June 28, 2005, a press release dated June 27, 2005 and a material change report dated June 29, 2005, there have been no material changes to the affairs of the Filer since the date of the Prospectus.

Order

The Commission is satisfied that granting this order would not be prejudicial to the public interest.

The order of the Commission under the Act is that the Requested Relief is granted.

"Rhonda Goldberg"
Assistant Manager, Investment Funds Branch
Ontario Securities Commission

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Piergiorgio Donnini

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

IN THE MATTER OF
THE STATUTORY POWERS PROCEDURE ACT,
R.S.O. 1990, C. S. 22, AS AMENDED; AND

IN THE MATTER OF
PIERGIORGIO DONNINI

SETTLEMENT AGREEMENT BETWEEN STAFF
OF THE ONTARIO SECURITIES COMMISSION
AND PIERGIORGIO DONNINI

I. INTRODUCTION

1. Pursuant to section 5(1) of the "Practice Guidelines - Settlement Procedures in Matters Before the Ontario Securities Commission" of the Ontario Securities Commission Rules of Practice, Staff of the Ontario Securities Commission and Piergiorgio Donnini ("Donnini") propose to settle the matter of costs payable by Donnini to the Ontario Securities Commission (the "Commission") in respect of a Commission proceeding (defined below). The purpose of this settlement is to resolve the matter of costs without the necessity of a further hearing before the Commission to assess the costs payable by Donnini to the Commission in respect of costs incurred by Staff and the Commission.

II. STATEMENT OF FACTS

Facts

2. On September 12, 2002, following a hearing pursuant to a Notice of Hearing dated December 17, 2001 (the "Commission Proceeding"), the Commission found that Donnini committed unlawful insider trading contrary to section 76(1) of the *Securities Act*, R.S.O. 1990, c.S.5 (the "Act"). The order of the Commission dated September 12, 2002 (the "Commission's Order") imposed 15 year sanctions on Donnini. The Commission further awarded costs payable by Donnini to the Commission in the amount of $186,052.30.

3. The Commission's Order in respect of Donnini's liability under section 76(1) of the Act was affirmed by decisions of the Divisional Court dated October 31, 2003 and the Ontario Court of Appeal dated January 28, 2005, respectively.

4. The Ontario Court of Appeal in its decision dated January 28, 2005 further affirmed the 15 year sanctions imposed by the Commission on Donnini. Donnini has not sought leave to appeal the decision of the Ontario Court of Appeal to the Supreme Court of Canada, and the time for seeking such leave has expired.

5. The Ontario Court of Appeal further remitted to the Commission for consideration the matter of the costs award payable by Donnini in respect of the Commission Proceeding.

III. TERMS OF SETTLEMENT

6. At the time of approval of this Settlement Agreement, Donnini agrees to make a payment in the amount of $25,000.00 by certified cheque or bank draft to the Ontario Securities Commission in satisfaction of costs incurred by Staff and the Commission in respect of the Commission Proceeding referred to herein.

7. Donnini agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement, the settlement discussions/negotiations or the process of obtaining the Executive Director's consent to this Settlement Agreement as

the basis for any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

IV. DISCLOSURE OF SETTLEMENT AGREEMENT

8. This Settlement Agreement and its terms will be treated as confidential by Staff and Donnini until consented to by the Executive Director, and forever, if for any reason whatsoever this settlement is not consented to by the Executive Director, except with the consent of Staff and Donnini, or as may be required by law.

9. Any obligation of confidentiality shall terminate upon receiving the Executive Director's consent to this settlement.

10. Staff and Donnini agree that if the Executive Director does consent to this settlement, they will not make any public statement inconsistent with this Settlement Agreement.

V. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 1st day of June, 2005

______________________________	"Piergiorgio Donnini"______________
Witness	**PIERGIORGIO DONNINI**

DATED this 1st day of June, 2005

STAFF OF THE ONTARIO
SECURITIES COMMISSION

(Per) "Michael Watson"_____________
MICHAEL WATSON
Director, Enforcement Branch

I hereby consent to the settlement of this matter on the terms contained in this Settlement Agreement.

DATED this 1st day of June, 2005

"Charles Macfarlane"___________________________
CHARLES MACFARLANE
Executive Director

3.2 Court Decisions, Orders and Rulings

3.2.1 Piergiorgio Donnini v. Ontario Securities Commission (Ont. C.A.)*

DATE: 20050128

DOCKET: C41330

COURT OF APPEAL FOR ONTARIO

ROSENBERG, MOLDAVER and MACPHERSON JJ.A.

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

B E T W E E N :	
PIERGIORGIO DONNINI	***Alan J. Lenczner, Q.C.* and Colin Stevenson, for Piergiorgio Donnini**
(Respondent/ Appellant by way of cross-appeal)	
- and -	
ONTARIO SECURITIES COMMISSION	**Johanna M. E. Superina for the Ontario Securities Commission**
(Appellant/ Respondent by way of cross-appeal)	
	Heard: December 15, 2004

On appeal from the judgment of the Superior Court of Justice (Divisional Court) (Justice Dennis Lane, Justice William Somers and Justice Susan Greer) dated September 15, 2003.

MACPHERSON J.A.:

A. OVERVIEW

[1] A panel of the Ontario Securities Commission (the "Commission") conducted a hearing in respect of certain activities of Piergiorgio Donnini ("Donnini"), the head trader of Yorkton Securities Inc. ("Yorkton"). The Commission found that Donnini had engaged in unlawful insider trading contrary to s. 76(1) of the *Securities Act,* R.S.O. 1990, c.S.5 (the "Act").

[2] The Commission imposed severe penalties on Donnini, including suspension of his registration as a securities trader for 15 years. The Commission also ordered Donnini to pay investigation and hearing costs of $186,052.30.

[3] Donnini appealed all aspects of the Commission's order - liability, penalty and costs. A panel of the Divisional Court dismissed the appeal from liability, but allowed the appeal in respect of the sanctions imposed on Donnini and the award of costs. In particular, the Divisional Court reduced Donnini's suspension from 15 to 4 years. The court also directed the Commission to reconsider its costs award against Donnini by following certain specific procedural steps.

[4] The Commission was granted leave by this court to appeal the sanctions and costs components of the Divisional Court's order.

[5] Donnini cross-appealed with respect to the Divisional Court's affirmation of the Commission's finding of liability for insider trading. He also cross-appealed on the sanctions issue, taking the position that his suspension should have been reduced from 15 to 2 years, not 4 years as the Divisional Court had held.

* Source: Canadian Legal Information Institute.

B. FACTS

(1) The parties and the events

[6] Donnini was a part-owner of Yorkton. In February 2000, he held the position of head institutional trader.

[7] On February 10 and 11, 2000, the investment banking group of Yorkton arranged financing for a technology company, Kasten Chase Applied Research Limited ("KCA"). The financing raised $5,000,000 for KCA by issuing four million special units at $1.25 each. Each unit was made up of one KCA share and one-half of one common share purchase warrant which entitled the owner to buy one KCA share at $1.75 per share for every full warrant. These warrants were to be exercised six months from the time the prospectus was cleared by the Commission.

[8] As compensation for the financing, KCA paid Yorkton a cash commission and the equivalent of 600,000 shares of KCA, including 200,000 full share purchase warrants.

[9] The Chairman and Chief Executive Officer of Yorkton, Scott Paterson ("Paterson"), was aware that even with the cash infusion realized by Yorkton as a result of the sale of the KCA units, KCA was still in a precarious cash position. On February 29, 2000, he spoke with Michael Milligan ("Milligan"), the Chief Financial Officer of KCA, and proposed that KCA initiate another financing.

[10] Paterson initially suggested securing financing through a form of hedge fund. Milligan was surprised that Paterson would suggest a second financing so soon after the closing of the first special warrants financing and inquired as to what Paterson meant by the involvement of hedge funds. Paterson told Milligan to call Donnini who could explain hedge funds to him.

[11] Milligan called Donnini (they had not spoken or met before) at 10:30 a.m. The conversation lasted about six minutes. The two men talked a second time, again about hedge funds, at 12:37 p.m.

[12] At 2:24 p.m., Paterson, Milligan and Mark McQueen, a vice-president in Yorkton's corporate finance group, had a conference call for about 20 minutes. Immediately after this call, Paterson called Donnini into his office and, in a three-minute meeting in the presence of McQueen, told Donnini that Yorkton and KCA were negotiating a second special warrants financing which would likely have a size of $10,000,000 and a price of $6.75 per unit. The financing did in fact close on those terms and was announced publicly two days later, on March 2, 2000.

[13] Donnini had traded in KCA shares after the February 10-11 financing. Between February 15 and 28, he traded a total of 656,400 KCA shares for Yorkton's inventory account. This represented 3.35 per cent of the total volume of trading in KCA shares during that period of time.

[14] On February 29, the pattern of trades by Donnini in KCA shares changed dramatically. On that date, Donnini traded 1,094,200 shares representing 29.3 per cent of the total volume of trades for KCA on that day. On March 1, he traded 437,200 shares representing 24.2 per cent of the total volume for KCA on that day. Between 2:40 p.m. on February 29 (immediately after the meeting with Paterson) and the close of the market on March 1, he sold short 539,700 KCA shares. All of these selling short trades were 'jitneyed', a process by which other members of the Toronto Stock Exchange execute and clear orders for the firm making them. This process has the effect of concealing the identity of the firm making the trades so that the transactions are not transparent in the market.

(2) The Commission hearing

[15] The Commission decided to conduct a two-stage inquiry into Donnini's activities. The first stage - the liability stage - focused on whether Donnini had violated the Act.

[16] Two of the three panel members decided that Donnini had violated the insider trading provision, s. 76, which provides, in relevant part:

> **76(1)** No person or company in a special relationship with a reporting issuer shall purchase or sell securities of the reporting issuer with the knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed.

[17] "Material fact" is defined in s. 1 of the Act:

> "material fact", when used in relation to securities issued or proposed to be issued, means a fact that would reasonably be expected to have a significant effect on the market price or value of the securities

[18] In particularly comprehensive reasons released on September 12, 2002, the majority of the Commission (Vice-Chair Paul Moore, Q.C. and Commissioner Kerry Adams) found that the proposed second special warrants financing was a material fact, that Donnini had knowledge of it by 2:45 p.m. on February 29, 2000, and that he intentionally traded in KCA shares on a "massive scale" on February 29 and March 1, thereby violating s. 76(1) of the Act.

[19] The third member of the panel, Commissioner Harold Hands, was not convinced that Donnini had sufficient knowledge of the KCA proposed second financing by 2:45 p.m. on February 29 to ground a conclusion that he violated s. 76(1). However, he found that Donnini possessed sufficient information to raise "red flags" and that Donnini's "failure to exercise proper due diligence to avoid a possible breach of section 76(1) was contrary to the public interest."

[20] The second stage of the hearing - the sanctions stage - then proceeded. The majority of the panel noted that Donnini was an experienced trader, the fourth largest shareholder of Yorkton, and its senior liability trader and senior institutional trader. He was "more a chief lieutenant than a common foot soldier."

[21] The majority of the panel characterized Donnini's activity in the marketplace relating to KCA shares on February 29 and March 1, 2000 as "influential.... He was trading on a massive scale while in possession of confidential material information."

[22] The majority of the panel also attached weight to other misconduct by Donnini, including his infractions of CDNX and TSE requirements and his violation of Yorkton's internal procedures, and to "his lack of appreciation of the seriousness of his conduct."

[23] The majority of the panel imposed the following sanctions pursuant to s. 127(1) of the Act:

(1) the registration granted to Donnini under Ontario securities law be suspended for 15 years;

(2) trading in any securities by Donnini cease for 15 years, with the exception that Donnini be permitted to trade in securities

(a) in personal accounts in his name in which he has sole beneficial interest, and

(b) in registered retirement savings plans in which he, either alone or with his spouse, has sole beneficial interest;

(3) Donnini resign all positions that he holds as a director or officer of an issuer that is a registrant, or that directly or indirectly holds more than a 5% interest in a registrant; and

(4) Donnini is prohibited for 15 years from becoming or acting as a director or officer of an issuer that is a registrant, or that directly or indirectly holds more than a 5% interest in a registrant.

[24] Finally, the majority of the panel turned to the question of costs. Section 127.1 of the Act permits the Commission to order a person or a company to pay the costs of both the investigation and the hearing if the Commission considers that the person or company has not acted in the public interest.

[25] Counsel for the Commission staff submitted a single page bill of costs for $186,052.30. Donnini's counsel objected strenuously to the lack of detail in the document, saying that it gave him no means to test the claim for costs.

[26] The majority of the panel held that "cost recovery is the purpose of s. 127.1" and that it was not desirable to examine dockets or a summary of dockets for staff. The majority of the panel made a costs order against Donnini for the full amount sought by Commission counsel, $186,052.30.

[27] Commissioner Hands did not address the sanctions and costs issues, although he did sign the formal order which records the Commission's disposition on liability, sanctions and costs.

[28] Donnini appealed all three components of the Commission's order - liability, sanctions and costs.

(3) <u>The Divisional Court's appeal decision</u>

[29] An experienced Divisional Court panel (Lane, Somers and Greer JJ.) heard Donnini's appeal.

[30] The court upheld the Commission's finding of liability against Donnini. It held that there was "clear and cogent evidence before the OSC to support their findings."

[31] The court allowed Donnini's appeal from the sanctions imposed on him and reduced his suspension from 15 years to 4 years. In so doing, the court expressed concern about three factors - (1) the fact that one member of the panel was of the view that Donnini was not guilty of insider trading; (2) the comment made by the chair of the panel in his oral reasons following the liability hearing, but before the sanction hearing was convened, that Donnini "has been unrepentant and unwilling to acknowledge that his conduct was not becoming a registrant and contrary to the public interest"; and (3) the difference in sanctions between Donnini (suspension for 15 years) and Paterson (suspension for 2 years, pursuant to a settlement agreement in which he admitted to a failure in management and supervisory functions). These factors, taken together, led the Divisional Court to conclude that "the penalty imposed on him does not stand up to a somewhat probing analysis." The court substituted a sanction of suspension for four years.

[32] The Divisional Court also allowed Donnini's appeal from the Commission's costs award. The court agreed with Donnini's submission that the one-page bill of costs, unsupported by dockets, made it impossible for him to challenge the appropriateness of the amount sought by the Commission staff. Accordingly, the court directed the matter back to the Commission, with instructions as to disclosure to be made by Commission staff in respect of the bill.

[33] The Commission appeals from the sanction and costs components of the order of the Divisional Court. Donnini cross-appeals from the liability and sanction components of the order.

C. <u>ISSUES</u>

[34] I find it convenient to address the issues in the same order as the Commission and the Divisional Court - namely, liability, sanction and costs. Accordingly, I would frame the issues as follows:

(1) Did the Divisional Court err by upholding the Commission's finding that Donnini was guilty of insider trading contrary to s. 76(1) of the Act? (Cross-appeal issue)

(2) Did the Divisional Court err by substituting a sanction of suspension for 4 years for the 15 years ordered by the Commission? (Appeal and cross-appeal issue)

(3) Did the Divisional Court err by referring the matter of costs back to the Commission for a re-hearing in which the Commission would follow certain specific procedural steps? (Appeal issue)

D. <u>ANALYSIS</u>

(1) <u>The liability issue</u>

[35] Donnini contends that the Divisional Court erred in its liability finding in three respects.

[36] First, the Divisional Court stated:

> In the case at bar, the evidence suggests that the discussions had gone well beyond expressions of mutual interest and had got down to negotiating the very finest of points. The OSC held that the information Donnini held was factual and that his subsequent actions proved it.

[37] Donnini submits that the discussions involving him, especially his three-minute conversation with Paterson at about 2:40 p.m. on February 29, 2000, could not have offered any certainty that there would be a new financing involving KCA shares. Accordingly, Donnini asserts, the Divisional Court misapprehended the evidence.

[38] Second, the Divisional Court stated:

> It was also reasonable for the OSC to imply, as the panel did, from the fact that Paterson had arranged for McQueen to be present during the 2:45 p.m. meeting, that Yorkton's corporate finance group was obviously involved with Paterson in moving the second special warrants financing forward. Materiality is at the core of the OSC's expertise.

[39] Donnini contends that this conclusion is in error because, on the basis of McQueen's testimony, Paterson called him into the conference call so that he could see how a deal was done and then prepare an engagement letter to be considered by more senior personnel when they returned to the office.

[40] Third, in the next paragraph the Divisional Court stated:

> Another example of this application of special expertise can be found at paragraph 143 of the OSC's Reasons, where the panel expressed the view that it would have been reasonable to conclude that the second special warrants financing would add significantly to the intrinsic value of KCA's shares. These factors were among the grounds upon

> which they concluded that the proposed second special warrants financing and the negotiations surrounding it were material facts.

[41] Donnini contends that the price of KCA shares rose sharply after the second financing, which means that they were issued too cheaply and were not an enhancement to the company.

[42] I do not agree with these submissions. They do not, as Donnini asserts, amount to errors of law on the part of the Divisional Court. Rather, Donnini's submissions on the liability issue are nothing more than an invitation to overturn the factual findings made by the Commission.

[43] Donnini made the same arguments before the Divisional Court, which observed:

> Much of this appeal was based upon an attempt to have the Court reassess the findings made by the panel in the course of its Reasons. This of course is not the function of this court, unless it can be determined that there is no reasonable way in which the facts as presented could establish the conclusion drawn by the tribunal. This is particularly so in cases where the tribunal has a special expertise which it is called upon to apply during the course of its deliberations.

[44] I agree with this description, and rejection, of Donnini's arguments on the liability issue; it is entirely consistent with the leading authorities dealing with judicial review of decisions made by provincial securities commissions: see, for example, *Pezim v. British Columbia (Superintendent of Brokers)*, [1994] 2 S.C.R. 557; *Committee for Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, [2001] 2 S.C.R. 132; and *Re Cartaway Resources Corp.*, [2004] 1 S.C.R. 672.

[45] Moreover, on the record before the Commission, there was ample evidence to support the Commission's conclusion that Donnini had engaged in unlawful insider trading. The Commission's findings that the proposed second special warrants financing (including its size and price) was a material fact, that Donnini knew of the material fact by 2:45 p.m. on February 29, 2000, and that he acted on this knowledge by trading in KCA shares on a "massive scale" on February 29 and March 1, before the information was known publicly on the market, are all amply supported by the record and, especially, in the comprehensive reasons of the Commission.

[46] Donnini made a submission in oral argument before this court, which he conceded he had not advanced in front of the Commission or the Divisional Court; nor did he make it in his cross-appeal factum. The argument was that the Commission had paid only "lip service" to the wording of s. 76(1) of the Act. The words "material fact", which anchor s. 76(1), are defined as "a fact that would reasonably be expected to have a significant effect on the market price or value of the securities". Donnini asserts that the Commission did not analyze whether his trading in KCA shares on February 29 and March 1 met this standard.

[47] I disagree. I note that the argument has nothing to do with the Divisional Court's reasons; it ignores them and returns to the Commission's decision. In addition, on an objective basis (which the definition of "material fact" commands), the sheer volume of Donnini's trades on February 29 and March 1 (29.3 and 24.2 per cent of the market for KCA shares, respectively), and the Commission's description of Donnini's motivation for his trades on those days ("Donnini acted in the same manner that a hedge fund intending to participate in the second special warrants financing might have behaved"), support only one conclusion - Donnini's activity easily came within the definition of "material fact".

[48] For these reasons, I would dismiss Donnini's cross-appeal on the liability issue.

(2) <u>The sanction issue</u>

[49] The Commission appeals the reduction by the Divisional Court of Donnini's suspension from 15 to 4 years. Donnini cross-appeals, and contends that the Divisional Court did not go far enough; his suspension should have been two years, the same as the suspension received by Paterson, his supervisor at Yorkton.

[50] It is well-settled law that the standard of review to be applied to the decisions of the Commission is reasonableness *simpliciter*: see *Pezim*; *Asbestos Minority Shareholders*; *Deloitte & Touche LLP v. Ontario (Securities Commission)*, [2003] 2 S.C.R. 713; and *Cartaway*.

[51] In two important decisions, *Law Society of New Brunswick v. Ryan*, [2003] 1 S.C.R. 247, and *Dr. Q. v. College of Physicians and Surgeons of British Columbia*, [2003] 1 S.C.R. 226, the Supreme Court of Canada elaborated on the application of the reasonableness standard to decisions of administrative tribunals. In both cases, the court overturned the lower appellate decision and restored the decision of the tribunal.

[52] In *Ryan*, the court provided an analysis which included the precise question a reviewing court must ask. Iacobucci J. stated, at para. 47:

> The content of a standard of review is essentially the question that a court must ask when reviewing an administrative decision. The standard of reasonableness involves asking "After a somewhat probing examination, can the reasons given, when taken as a whole, support the decision?"

[53] The court went on to say that there is a good deal of deference built into this question. The reviewing court must focus on the reasoning of the tribunal and not engage in its own *de novo* reasoning. The force of the deference context for judicial review of a tribunal's decision on a reasonableness standard is particularly apparent in this passage in Iacobucci J.'s reasons, at para. 55:

> A decision will be unreasonable only if there is no line of analysis within the given reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived. If any of the reasons that are sufficient to support the conclusion are tenable in the sense that they can stand up to a somewhat probing examination, then the decision will not be unreasonable and a reviewing court must not interfere.

[54] I make one final introductory point about the leading case authorities which, in my view, govern this appeal. The high level of deference which a reviewing court must show to a security commission's decision extends to the question of sanctions because of the expertise of the commission regarding securities matters. As expressed by LeBel J. in *Cartaway*, at para. 45:

> The core of this expertise lies in interpreting and applying the provisions of the Act, and in determining what orders are in the public interest with respect to capital markets. In this case, the question of whether general deterrence is an appropriate consideration in formulating a penalty in the public interest falls squarely within the expertise of the Commission.

[55] It is clear that the Divisional Court was aware of, and purported to apply, the leading authorities. In the liability section of its reasons, it explicitly referred to *Asbestos Minority Shareholders*. In the sanctions section, the court summarized its conclusion using the language of *Ryan*: "We agree with Donnini's counsel that the penalty imposed on him does not stand up to a somewhat probing analysis."

[56] However, the Commission asserts that the Divisional Court erred in two respects in its reasoning and disposition with respect to sanctions: (1) it did not focus its review, as *Ryan* requires, on the Commission's stated reasons for imposing the sanctions it chose; and (2) it injected irrelevant or minor factors into the analysis and used them as a lynchpin for its reversal of the Commission's decision. I agree with both of these submissions.

[57] The Commission wrote careful and extensive reasons on the sanctions issue. The Commission considered the extent and seriousness of the unlawful conduct, Donnini's experience in the market, his position in the industry, his other violations of securities law and Yorkton's own internal rules and, of particular importance, general deterrence.

[58] It is fair to say that the Divisional Court's reasons are silent on all of these matters, except Donnini's previous violations. As such, the Divisional Court's reasons do not comply with the instruction in *Ryan* to reviewing courts to stay close to the tribunal's reasons in exercising the review function under a reasonableness standard.

[59] In addition, the Divisional Court identified three factors which it clearly regarded as troubling, and which served as a foundation for the 11-year reduction in Donnini's suspension.

[60] The first factor was the minority reasons of Commissioner Hands on the liability issue. According to the Divisional Court, his reasons suggested that he viewed Donnini's conduct as "less reprehensible than many and not deserving of a suspension for such an extended period of time." Implicitly, the Divisional Court shared this view.

[61] I have two problems with this analysis. First, this factor, not surprisingly, is completely missing in the majority of the panel's reasons relating to sanctions. Hence, the Divisional Court's reliance on it strays from the *Ryan* instruction referred to above - the reviewing court must stay close to the tribunal's reasons. Second, I can see no principled basis for establishing a direct link between a minority member's views on liability and the majority's reasons on sanctions. Indeed, they strike me as logically disconnected.

[62] The second factor that troubled the Divisional Court was a comment made by the chair of the panel when he delivered brief oral reasons after the liability stage of the hearing. He said that Donnini "has been unrepentant and unwilling to acknowledge that his conduct was unbecoming a registrant and contrary to the public interest." The Divisional Court was critical of this statement: "An accused not pleading guilty is not and should not be subject to increased penalties simply because he has chosen to defend himself."

[63] In my view, this rather blunt criticism fails to recognize the context in which the impugned comment was made. To begin, the chair's full comment in his oral reasons was: "Donnini was not a credible witness. He has been unrepentant and unwilling to acknowledge that his conduct was unbecoming a registrant and contrary to the public interest."

[64] In response to concerns raised by Donnini's counsel at the commencement of the sanctions stage of the hearing, the Commission addressed both the comment and counsel's concerns regarding it. In its written reasons, the Commission described the matter in this fashion:

> We advised counsel that this statement did not preclude him from putting Donnini on the stand in the sanctions part of the hearing and testifying that he was repentant. As we stated in rendering our decision on June 11, 2002, "In order to give counsel guidance in presenting evidence, if any, and argument as to appropriate sanctions, we will now give a brief outline of our principal findings and conclusion." We felt it was necessary to inform counsel of our finding as to Donnini's credibility and state of remorse, based on the evidence we had heard in the merits portion of the hearing. Our decision of June 11 was not our reasons. As we stated on June 11, "We will issue reasons for our decision after we have made a decision as to appropriate sanctions." We assured counsel that we would listen attentively to anything Donnini had to say in the sanctions portion of the hearing and that we would take that into account in coming to a decision as to appropriate sanctions.

[65] In my view, this was an appropriate explanation for a single sentence in oral preliminary reasons that probably could have been better worded. Moreover, Donnini did testify during the sanctions stage of the hearing and the Commission dealt fully and, in some respects, favourably (for example, Donnini's description of the "tremendous stress on his family") with his testimony.

[66] The third factor that troubled, and influenced, the Divisional Court was "the difference between the penalty imposed by the OSC on Paterson of 2 years and the 15-year ban imposed on Donnini."

[67] The Paterson settlement was addressed in a comprehensive fashion by the Commission in the sanctions component of its reasons. The Commission summarized its analysis in this fashion:

> Counsel for the respondent argued that Paterson engaged in the same events as Donnini, and that, in fact, Paterson was the instigator who initiated the transactions and the deal: Donnini was never part of it. However, as counsel for staff pointed out, Paterson did not engage in the illegal insider trading, and there was no evidence before the Commission in the Paterson settlement hearing that Paterson encouraged or instructed Donnini to do so. There was nothing wrong in Paterson's instigating and promoting the second special warrants financing or in seeking Donnini's input. Paterson's failure, according to the settlement agreement, was a failure in management and supervisory functions. We find Paterson's conduct as admitted in the settlement agreement, and Donnini's conduct as evidenced in the case before us, very different in degree and nature.

[68] The Divisional Court did not refer to this reasoning, let alone attempt to explain why it was unreasonable within the strict parameters set out in *Ryan* - "only if there is no line of analysis within the given reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived." Instead, the Divisional Court rather openly and, with respect, impermissibly substituted its own view of the evidence for that of the Commission: "[Paterson] admitted to the OSC that he ought to have exercised a greater degree of management and control of Donnini's activities, but it seems to us that he played a more significant role in all that took place in what was the subject matter of this particular part of the over all investigation."

[69] There is a second feature of the Divisional Court's reasons relating to the Paterson settlement factor that deserves comment. The Divisional Court stated that, "Whether or not it was the intention of the OSC to do so, it has generated a message, through its actions, that the OSC will agree to lesser sanctions when an accused person has the 'good sense' to admit liability and make a substantial 'voluntary payment'. Donnini did neither of these."

[70] With respect, this inference is directly contrary to an explicit statement by the Commission in its reasons: "Donnini should not receive more severe sanctions than otherwise appropriate just because he did not agree to settle the case against him."

[71] I make one final observation on the Commission's appeal on the sanctions issue. There is no question that, for purposes of this appeal, the case most on point is *Cartaway*. Indeed, the Divisional Court explicitly adopted the reasoning of the British Columbia Court of Appeal in *Cartaway* at one point in its reasons on the sanctions issue.

[72] The Supreme Court of Canada allowed the appeal in *Cartaway* and restored the decision of the British Columbia Securities Commission. *Cartaway* is a sanctions case. The Divisional Court did not have the benefit of the Supreme Court of Canada's decision, which was released on April 22, 2004. In my view, if the Divisional Court had had this advantage, it almost certainly would not have overturned the Commission's decision in the present case.

[73] In *Cartaway*, the British Columbia Court of Appeal interfered with the sanctions decision made by the British Columbia Securities Commission: see (2002), 218 D.L.R. (4th) 470. The court reduced the $100,000 maximum penalty imposed by the Commission on Hartvikson and Johnson and substituted a penalty of $10,000. The court upheld the Commission's findings and decision on liability. Concerning sanctions, however, the majority of the court held that the imposition of the maximum penalty

was too severe and unreasonable in the circumstances. In reviewing the sanctions levied by the Commission, the majority held that it was inappropriate for the Commission to consider general deterrence in fashioning sanctions. The court also took into account the settlements reached by other offenders which were viewed as being significantly less onerous than the sanctions imposed on Hartvikson and Johnson.

[74] The Supreme Court of Canada set aside the decision of the British Columbia Court of Appeal and restored the sanctions imposed by the Commission. The court stated that a sanctions decision imposed by a securities commission should be reviewed globally to determine whether it is reasonable, that general deterrence is an appropriate factor for a commission to consider, that there appeared to have been reasonable grounds for the Commission to impose a heavier sanction on two offenders who did not settle having regard to the Commission's finding that they were more culpable than other offenders who had entered into settlement agreements and, of particular importance, that sanctions decisions of securities commissions are entitled to deference because they fall squarely within their expertise. In my view, all of these statements are directly applicable to the present appeal and compel the conclusion that the Divisional Court erred in overturning the sanctions component of the Commission's decision.

[75] There is no doubt that the 15-year suspension of Donnini's registration is a substantial penalty. However, the Commission took into account the appropriate factors in imposing such a severe sanction - Donnini's senior position at Yorkton, his experience in the industry, his other misconduct in the market and, perhaps most importantly, the devastating impact insider trading can have on the integrity of the market and on investor confidence. In my view, these factors stand up to "a somewhat probing analysis".

[76] For these reasons, I would allow the Commission's appeal on this issue and restore Donnini's 15-year suspension. It follows, of course, that Donnini's cross-appeal on this issue, in which he seeks a further reduction in the period of his suspension to two years, must be dismissed.

(3) <u>The costs issue</u>

[77] Section 127.1 of the Act permits the Commission to order a person to pay the costs of both the investigation and the hearing if the Commission considers that the person has not acted in the public interest.

[78] Counsel for the Commission staff submitted a one-page bill of costs for $186,052.30. Donnini objected to this sparse document, to no avail.

[79] The Commission stated that it "did not believe it desirable in this case to examine dockets or a summary of dockets for staff." The Commission also indicated that "cost recovery is the purpose of section 127.1." The Commission concluded, "We do not see any reason, in exercising our discretion regarding costs, to arbitrarily cut the recovery level to an amount lower than what is stated in the bill of costs before us." Accordingly, the Commission ordered Donnini to pay the full amount of costs sought by Commission staff.

[80] The Divisional Court was sharply critical of the Commission's reasons relating to costs, saying that, in its view, "a claim for costs in this amount justifies a more intense and searching examination than the OSC is prepared to allow."

[81] The Divisional Court allowed the appeal and returned the matter to the Commission with these instructions:

> Accordingly, we direct that the matter of costs be referred back to the OSC to conduct an inquiry into the extent of the bill and to make available to counsel for Donnini all dockets, time dockets, journal and/or diary entries and any other back-up material in support of it, and to make available all of the participants whose names appear on it for cross-examination by counsel for Donnini at a mutually convenient time.

[82] The Commission appeals the Divisional Court's costs disposition. The Commission accepts that the matter of costs must be returned to the panel on fairness or natural justice grounds, but contends that the court's detailed instructions to the panel are inappropriate.

[83] A different panel of the Divisional Court commented on the costs order in *Donnini* in *Costello v. Ontario (Securities Commission)*, [2004] O.J. No. 2972. Lane J., who was also a member of the panel in *Donnini*, said at para. 86:

> I agree entirely that the Commission is master of its procedure, subject to the requirement, noted earlier in these reasons, that whatever procedure it adopts meets the test of fairness. The refusal of the Commission to provide any real support for its assessment of the costs is, with great respect, manifestly unfair to the appellant. It is not for this court to devise a procedure for the Commission, nor, in my view, did the panel in *Donnini* (of which I was a member) purport to do so. But the decision to levy such a costs penalty cannot stand in the absence of a fair opportunity for the appellant to test the validity of the demand. I would remit the amount of the costs to the Commission for

reconsideration on the basis set out in *Donnini*, or *in accordance with whatever procedure the Commission adopts in lieu thereof to meet its obligation of fairness and due process to the appellant* [emphasis added].

[84] In argument, counsel were asked for their comments on the emphasized portion of this passage. Both agreed that this would be an appropriate order. Donnini simply wants an opportunity, in accordance with the principles of fairness and natural justice, to examine and potentially challenge the Commission's position on costs. The Commission accepts this, but is concerned about the detailed specific instructions in the Divisional Court order. Their positions are reconciled by Lane J.'s language in *Costello*, which I am also attracted to and prepared to adopt.

[85] I make a final observation on this issue. I agree with the Divisional Court's rather robust criticism of the Commission's reasons relating to costs in this case. The Commission's reasons on liability and sanctions are comprehensive, balanced and, in my view, highly persuasive. They easily meet the reasonableness standard.

[86] The same cannot be said for the Commission's reasons on costs, which strike me as, in a word, cavalier. A costs award, especially a massive one, is about real money for a real person. There is not a hint of recognition of this reality in the Commission's costs reasons. On the contrary, the process followed by the Commission and its reasons were unfair to Donnini.

[87] I would allow the appeal on costs, but only to the extent of returning the matter of costs to the panel for consideration in accordance with a procedure that meets its obligation of fairness and due process to the appellant.

E. DISPOSITION

[88] I would allow the appeal and dismiss the cross-appeal.

[89] The Commission is not seeking costs. I would make no order as to costs.

RELEASED: January 28, 2005 ("MR")

"J. C. MacPherson J.A."

"I agree M. Rosenberg J.A."

"I agree M. J. Moldaver J.A."

3.2.2 Piergiorgio Donnini v. Ontario Securities Commission (Ont. Div. Ct.)*

COURT FILE NO.: 579/02
DATE: 20030915

ONTARIO
SUPERIOR COURT OF JUSTICE

DIVISIONAL COURT

LANE, SOMERS, GREER JJ.

B E T W E E N:	
PIERGIORGIO DONNINI	*Alan J. Lenczner Q. C.* and *Colin Stevenson* for the Appellant
Appellant	
- and -	
ONTARIO SECURITIES COMMISSION	Johanna M. E. Superina and Yvonne B. Chisholm for the Respondent
Respondent	
	HEARD: June 9 and 10, 2003

Somers J.

REASONS FOR JUDGMENT

[1] This is an appeal from the decisions of the Ontario Securities Commission ("OSC") released on June 11, 2002 and September 12, 2002. On June 11, 2002, two of the members of the panel found that the appellant, Piergiorgio Donnini ("Donnini") breached section 76(1) of the *Ontario Securities Act*, R.S.0. 1990, c. S.5, (the "Act"), the insider trading provisions of the Act. The third member of the panel, while agreeing with the others' review of the evidence, concluded that Donnini had not engaged in insider trading, but had acted contrary to the public interest pursuant to the provisions of section 127.(1) of the Act. Section 76(1) of the Act reads as follows:

> 76.(1) No person or company in a special relationship with a reporting issuer shall purchase or sell securities of the reporting issuer with the knowledge of a material fact or material change with respect to the reporting issuer that has not been generally disclosed.

Section 127. (1) of the Act reads as follows:

> 127. (1) The Commission may make one or more of the following orders if in its opinion it is in the public interest to make the order or orders:
>
> 1. An order that the registration or recognition granted to a person or company under Ontario securities law be suspended or restricted for such period as is specified in the order or be terminated, or that terms and conditions be imposed on the registration or recognition.

[2] "Material Change" is defined in the Act as follows:

> "material change",
>
> where used in relation to the affairs of an issuer, means a change in the business, operations or capital of the issuer that would reasonably be expected to have a significant effect on the market price or value of any of the securities of the issuer, and includes a decision to implement such a change made by the board of directors or the issuer or by senior management of the issuer who believes that confirmation of the decision by the board of directors is probable.

* Source: Canadian Legal Information Institute.

[3] "Material Fact" is defined in the Act as follows:

> "material fact", where used in relation to securities issued or proposed to be issued, means a fact that significantly affects or would reasonably be expected to have a significant effect on the market price or value of the securities.

[4] On September 12, 2002, the OSC suspended Donnini's registration for a period of 15 years and ordered that he cease trading in securities, with the exception that he be permitted to trade in his personal accounts and in his registered retirement savings plans. They further ordered that he resign as, and be prohibited for 15 years from acting as, a director or officer of an issuer that is a registrant or that directly or indirectly holds more than a five percent interest in a registrant. In addition, it ordered him to pay the OSC's costs of investigation and hearing, which they fixed at $186,052.30. Donnini appeals from both the finding of liability and the penalty imposed, including the costs.

[5] On an appeal from the OSC to this court, the standard of review is reasonableness: *Pezim v. British Columbia (Superintendent of Brokers)* [1994] 2 S.C.R. 557, 589 - 596. We must, therefore, ask ourselves whether the Committee's assessment of credibility and application of the standard of proof to the evidence was unreasonable, in the sense of not being supported by reasons that can bear a somewhat probing examination: *Dr. Q. v. College of Physicians and Surgeons of British Columbia* [2003] S.C.J. No. 18.

BACKGROUND

[6] Donnini was a part owner of Yorkton Securities Inc. ("Yorkton") and in February of 2000 held the position there of head institutional trader. On February 10th and 11th, the investment banking side of Yorkton arranged financing for a company known as Kasten Chase Applied Research Limited ("KCA"), a high technology company. It raised $5,000,000 for KCA by issuing four million special units at $1.25 each. Each unit was made of up of one KCA share, and one-half of one common share purchase warrant and entitled the owner to buy one KCA share at $1.75 per share for every full warrant. These warrants were to be exercised six months from the time the Prospectus was cleared by the OSC. In February of 2000, the shares in high technology companies were enjoying substantial interest from the investing public. Scott Paterson ("Paterson"), the Chairman and Chief Executive Officer of Yorkton at the time, expressed the view at the OSC hearing that the market for such shares as those of KCA, was "unbelievable".

[7] Paterson was aware that, even with the cash infusion realized by Yorkton as a result of the earlier sale of the KCA units, the company was still in a precarious cash position. This, plus the wide acceptance in the market of the earlier issue, prompted him to speak to Michael Milligan ("Milligan"), the Chief Financial Officer of KCA, and propose to him that KCA initiate another financing. This conversation occurred at 9:25 a.m. on February 29, 2000. Milligan expressed some interest. He initially suggested doing so by offering the control block of KCA shares held by Temple Ridge (1996) Limited ("Temple Ridge"), a company owned by him and two fellow directors of KCA. He wanted to make some of the shares available to the public and to raise the funds that way. Milligan discouraged this idea and suggested that a new financing could best be arranged through a form of hedge fund. Milligan told Paterson that he was unfamiliar with the workings of such a fund and how it could be used to sell KCA stock in a further financing operation. Paterson told him that he should call Donnini, who would explain to him how hedge funds work and how one could be established to implement this additional financing. According to the evidence, Milligan did call Donnini, whom he had never met and with whom he had not spoken before. Although there is disagreement about this point, it appears that Donnini was aware that he could expect a subsequent call from Milligan. The conversation was not lengthy and was conceptual in nature. That is, Milligan asked Donnini to explain to him how a hedge fund worked because "I want to understand what Scott [Paterson] has tried to communicate with me". The evidence of both Milligan and Donnini appears to establish that the conversation was short, dealing in theories and generalities concerning this subject.

[8] KCA was well known to Donnini at this time. Between February 15th and February 28th, 2000, he traded for Yorkton's inventory account a total of 656,400 of its shares. This represented about 3.35 percent of the total volume for the trading in this company during that period of time. Approximately 355,000 of these trades were short sales.

[9] Later the same day, February 29, 2000, Paterson spoke to Milligan once again with a proposal for "another type of financing - a special warrants financing - for KCA". Many of the factors that would be involved in such a transaction were discussed and the conversation, according to telephone logs that were made exhibits at the hearing, extended over more than 20 minutes. Although no final agreement was reached between the two of them at that time, it was left that there would be further discussion very soon.

[10] Very shortly after that telephone conversation, Paterson called Donnini into his office to seek his views, as head liability trader, about the viability of the type of offering he had suggested to Milligan and whether or not it would meet with acceptance on the market. This sort of conversation, Paterson testified, is not unusual between an investment banker, such as himself and the company's head trader, such as Donnini. It was a brief meeting. Indeed Donnini claimed he could not recall it at all. He claimed that, especially during those times when the market was what he described as a "speculative bubble", he had many such conversations.

[11] A different version of that meeting was given by Mark McQueen ("McQueen"), a partner and director of Yorkton and the managing director of its investment banking group. He had been called into Paterson's office while he was talking on the phone with Milligan. This conversation was held on a speaker telephone and McQueen was able to recall and testify to the details discussed between them. The impression he was left with was that Milligan was very receptive to the idea on behalf of KCA and was going to recommend it to his partners. Following the conversation, after Donnini was called into the office, McQueen recalled what was said between Paterson, Donnini and him in these words,

> "It was about three minutes in length. Mr. Paterson reported .. outlined the discussion that we had had with Mr. Milligan. He advised Mr. Donnini of the potential size of the offering being $10,000,000, that the unit price was going to be $6.75 per unit, and that there would be a purchase warrant that would be at a price yet to be determined. Mr. Paterson advised Mr. Donnini that Temple Ridge was considering at the same time their own sale from their control block, and how that may or may not interplay with the treasury offering by KCA, and he asked Mr. Donnini whether or not the treasury offering would work."

When asked what Donnini's response was, McQueen said, "The gist of the response was 'yes, it would work; it would sell; it would work.' " He also recalled further discussions between Paterson and Donnini in which Paterson asked for particulars of Yorkton' s present short position in KCA, and its average price. He also recalled some discussion about what would constitute an appropriate offering price. Later, Donnini, in his testimony, while he continued to profess that he had no recollection of what was said in this meeting, agreed that he could not dispute McQueen's evidence.

[12] This conversation would appear to have been pivotal in the minds of the members of the OSC panel. They noted that on February 29th, the pattern of trades in KCA made by Donnini changed dramatically. He had traded some 656,400 shares in the 13 days before February 28th, which represented 3.35 percent of the total volume traded. On February 29th, he traded 1,094,200 shares representing 29.3 percent of the total volume of KCA for that day and on March 1st, he traded a further 437,200 shares or 24.2 percent of the total volume for KCA for that day. Between 2:40 p.m. on February 29th and close of the market on March 1st, 2000, he sold short 539,700 KCA shares. All of these were jitneyed - a process by which other members of the Toronto Stock Exchange execute and clear the orders for the house actually making them. This has the effect of concealing the identity of the firm making the trades so that the transaction is not "transparent to the market".

[13] Donnini attempted to justify the high volume of trading he carried on February 29th and March 1st as a strategy to minimize risk and to avoid having Yorkton in a position of speculating on the shares. As to the jitney trades, he claimed that he did not want them to be identified as coming from his firm, since the principals of KCA would become upset at seeing these transactions going through.

[14] On the question of mitigating risk, the OSC said at paragraph 149 of the September 12, 2002 Reasons:

> Donnini consistently characterized his trading activities in KCA shares as mitigating risk and not speculating. However, once Yorkton's initial risk relating to the positions it acquired from the first special warrants financing had been fully mitigated, Donnini continued to short KCA's stocks subsequent to learning about the second special warrants financing and prior to its public announcement and went "naked short" i.e. he took the speculative position. Of course, he would not really have been "naked short" if his true intention (as we believed it was) had been to mitigate risk from an anticipated position of Yorkton in a second special warrants financing. In continuing to short the stock of KCA after the three minute meeting on February 29th and on March 1st, 2000, Donnini acted in the same manner that a hedge fund intending to participate in the second special warrants financing might have behaved. Donnini's pattern of trading gave us no reason to believe that he did not have the necessary knowledge of the material facts. To the contrary, as we stated above, it further confirmed that Donnini did indeed have the necessary knowledge.

[15] As to the jitney trades, we are inclined to agree with counsel for the OSC that they are simply another indication of the extent of Donnini's knowledge at the time the trades were made. Given Milligan's stated lack of familiarity with the whole concept of hedge funds, it is unlikely that he would have been sophisticated enough to conclude anything other than that they were being carried out pursuant to the strategy agreed upon.

[16] In the result, the OSC made the following finding of fact at paragraph 147 of its September 12, 2002 Reasons:

> ... Donnini had the following knowledge after the conversation with Paterson in the presence of McQueen on February 29th, 2000. Paterson had proposed a second transaction. Milligan was negotiating with Paterson. KCA was cash starved and by any reasonable standard could be expected to be enthusiastic about proceeding with the transaction. The market for shares of high technology companies, including shares of KCA was "unbelievable", "unprecedented" at that time. Paterson was comfortable with proceeding with the transaction. Hedge funds would be the principal purchaser.
>
> As we stated earlier in these reasons, we are satisfied that the evidence, without taking into account Donnini' s trading activities, were sufficient for us to find that Donnini had knowledge of the material facts in question. Donnini's trading

on February 29th and March 1st, 2000 further confirmed our conclusion that Donnini indeed had knowledge of the material facts."

APPELLANT'S SUBMISSIONS

[17] Counsel for Donnini submitted that the board of directors of KCA did not approve the issuance of shares and warrants from treasury and reach agreement with Yorkton until either the afternoon of March 1st or the morning of March 2nd, 2000. Thus, counsel says, there was no material change at all on the days when Donnini made the impugned trades. He argued that the definitions of "material fact" and of "material change" in the Act are so similar that there cannot be a material change without a material fact. On the evidence, it was clear that there were still points to be negotiated between Yorkton and KCA. However, the definition of "material fact" includes a reference to "proposed to be issued" and to a fact that "would reasonably be expected to have a significant effect on the market place..." The definition of "material change" includes "a decision to implement such a change made by the board of directors of the issuer or by senior management of the issuer *who believe that the confirmation of the decision by the board of directors is probable."* [Emphasis added.] Both definitions refer to events in the future. Some might argue that until a deal has been fully agreed upon, it is not a fact. It is not possible to delineate with precision the line that divides intention from accomplished fact and each case will undoubtedly have to depend upon its own circumstances and facts. In the case at bar, the evidence suggests that the discussions had gone well beyond expressions of mutual interest and had got down to negotiating the very finest of points. The OSC held that the information Donnini held was factual and that his subsequent actions proved it.

[18] Nor in our view was it of assistance to the appellant to argue, as was the fact, that neither Donnini nor Yorkton profited by his trading. Prior to 1987, section 76(1) of the Act provided a statutory defence which permitted a respondent to prove that he or she did not make use of the material fact of which they had knowledge. Since the repeal of that section, it now is only necessary for the OSC to make an adverse finding under section 76 of the Act that:

(1) the respondent is in a special relationship with the reporting issuer;

(2) the respondent purchases or sells securities of that reporting issuer;

(3) the respondent does so having knowledge of material information about the respondent issuer;

(4) the material information has not been generally disclosed.

See: (*R. v. Plastic Engine Technology Corp.* (1994), 88 C.C.C. (3d) 287 (Ont. Gen. Div.); leave to appeal refused (1994), 89 C.C.C. (3d) 499 (Ont. C.A.)).

[19] As the OSC said at paragraph 113 of its Reasons:

> Accordingly, we did not need to find that Donnini used undisclosed material facts or that he benefited personally from the misuse of insider information. We needed only to find that he traded while in possession of undisclosed material facts.

In our view, there is ample evidence throughout the hearing record and the documents filed to support the findings of fact made by the OSC.

[20] Much of this appeal was based upon an attempt to have the Court reassess the findings made by the panel in the course of its Reasons. This of course is not the function of this court, unless it can be determined that there is no reasonable way in which the facts as presented could establish the conclusion drawn by the tribunal. This is particularly so in cases where the tribunal has a special expertise which it is called upon to apply during the course of its deliberations. The OSC must exercise its public interest jurisdiction under s. 127 of the Act. As stated by Iacobucci J. in *Committee for Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, [2001] 2 S.C.R. 132 at pp. 152 and 153,

> In this case, as in *Pezim*, it cannot be contested that the OSC is a specialized tribunal with a wide discretion to intervene in the public interest and that the protection of the public interest is a matter falling within the course of the OSC's expertise. Therefore, although there is no privative clause shielding the decisions of the OSC from review by the courts that body's relative expertise in the regulation of the capital markets, the purpose of the Act as a whole and section 127 (1) in particular, and the nature of the problem before the OSC all militate in favour of a higher degree of curial deference. However, as there is a statutory right of appeal from the decision of the OSC to the courts, when this factor is considered with all of the other factors, an intermediate standard of review is indicated. Accordingly, the standard of review in this case is one of reasonableness. See also *Pezim v. British Columbia (Superintendent of Brokers)*, [1994] 2 S.C.R. 557.

[21] There are a number of instances in its Reasons where the expertise of the panel was made apparent. A chart of Donnini's transactions involving KCA from February 15th to March 2nd, 2000, in spreadsheet form, was presented in four sheets to the OSC. The OSC provided its own analysis of the trades where they found that the short sales being conducted by Donnini were indeed for the purpose of mitigating the risk of Yorkton's long position in KCA stock held after the completion of the first special warrants financing on February 24th, 2000. Such sales continued after the risk had been mitigated. However, as they said at paragraph 116 of their Reasons:

> A logical conclusion is that at some point the short positions being placed were to mitigate risk associated with the second special warrants financing. Corroborating evidence supports this conclusion. Yorkton did not require a reconfirmation clause in the second special warrants financing to protect it from overnight risk, a normal "out clause" included in such financings. Evidence showed that the order book was checked before the final engagement letter was signed and the risk mitigating reconfirmation clause was dropped. We noted that such a risk mitigating reconfirmation clause was required in the first special warrants financing. Second, Yorkton retained 650,000 units from the second special warrants financing for its own account despite being unable to fill all client orders.

[22] It was also reasonable for the OSC to imply, as this panel did, from the fact that Paterson had arranged for McQueen to be present during the 2:45 p.m. meeting, that Yorkton's corporate finance group was obviously involved with Paterson in moving the second special warrants financing forward. Materiality is at the core of the OSC's expertise.

[23] Another example of this application of special expertise can be found at paragraph 143 of the OSC's Reasons, where the panel expressed the view that it would have been reasonable to conclude that the second special warrants financing would add significantly to the intrinsic value of KCA's shares. These factors were among the grounds upon which they concluded that the proposed second special warrants financing and the negotiations surrounding it were material facts.

[24] Having considered all of the evidence to which we were referred, we conclude that the OSC committed no reversible error in its finding that Piergiorgio Donnini was guilty of a breach of sections 76(1) and 127(1) of the Act. There was clear and cogent evidence before the OSC to support their findings. The appeal from liability therefore is dismissed.

PENALTIES

[25] As mentioned above, the OSC imposed a penalty on Donnini by suspending his registration for a period of 15 years and directed that he cease trading in securities, with the exception of his personal accounts and those in his registered retirement savings plans. He was also required to resign as a director or officer of Yorkton and prohibited from acting in that capacity for any company that is an issuer, that is a registrant. It, in addition, ordered him to pay costs in the amount of $186,052.30.

[26] In December 2001, following an 18-month investigation into the affairs of Yorkton, five senior officials, including Donnini were charged with various offences, including conflict of interest charges relating to personal and corporate trading.

[27] Paterson did reach a settlement agreement with the OSC by making a $1,000,000 "voluntary payment" and receiving a two-year ban from serving as a director, executive or owner in the securities business. The OSC is not empowered to impose fines.

[28] There were a number of factors involving the penalty imposed on Donnini, which have caused us to examine it particularly carefully. The first factor is that one member of the three-person panel, while agreeing with the summary of the evidence made by the chairman, did not feel that Donnini was guilty of insider trading, but felt that he should not have traded until he checked whether the information he had about the planned warrant issue was indeed material. His failure to do so was, in his view, against the public interest. This does suggest that to one member, at least, the offence committed by Donnini was less reprehensible than many and not deserving of a suspension for such an extended period of time.

[29] A second factor is the comment made by the chairman of the panel in his Reasons following the liability hearing, but before the penalty hearing was convened. Speaking about Donnini, he said, "He has been unrepentant and unwilling to acknowledge that his conduct was not becoming a registrant and contrary to the public interest." In our view, any person charged with a crime in the criminal courts or an offence before a tribunal, which has the power to impose penalties, is entitled to deny his guilt and call upon the prosecution to establish it. Criminal courts have always recognized, when imposing sentence, that consideration should be given to an accused who pleads guilty and expresses remorse. The reverse of this situation, however, is not appropriate. An accused not pleading guilty is not and should not be subject to increased penalties simply because he has chosen to defend himself.

[30] In the material filed by the counsel for the OSC, a newspaper article recounts that at the time other officials from Yorkton who were facing unrelated charges were making their settlements, Donnini was offered a penalty of a five-year trading ban, which he refused. This raises a third factor, mainly the difference between the penalty imposed by the OSC on Paterson of 2 years and the 15-year ban imposed on Donnini. Paterson, after all, was the person in charge of this entire deal and was

responsible for ensuring that it went through. He was the one who gave instructions to Donnini even asking him, after telling him about the terms of the transaction, what Yorkton's short position was on KCA stock. He admitted to the OSC that he ought to have exercised a greater degree of management and control of Donnini's activities, but it seems to us that he played a more significant role in all that took place in what was the subject matter of this particular part of the over all investigation. Whether or not it was the intention of the OSC to do so, it has generated a message, through its actions, that the OSC will agree to lesser sanctions when an accused person has the "good sense" to admit liability and make a substantial "voluntary payment". Donnini did neither of these. Given Donnini's present age, he, in reality, faces a lifetime ban from participating in the investment business. We are of the view that this is wrong in principle. Whether a person charged by the OSC settles or requires the hearing to take place, such person should be treated in an even manner. Donnini was entitled to defend himself.

[31] When discussing sanctions, the OSC in this case referred to the earlier case of *MCJC Holdings Inc. and Michael Cowpland* (2002), 25 O.S.C.B. 1133. In that case at page 1136, it states one of the factors which the OSC would take into account was "the size of any profit (or loss avoided) from the illegal conduct." The OSC refused to accept any assertion made by Donnini's counsel that Donnini and Yorkton did not benefit from the trading complained of. Certainly we were not referred to any evidence that suggested that Donnini was a recipient of any benefit. All trades were carried out in the name of Yorkton (with, of course, the exception of the jitney trades.)

[32] Counsel for the OSC referred us to the case of *Woods (Re)* (1995), 18 O.S.C.B. 4625 (Farley J.) as support for the 15-year suspension imposed upon Woods. It does not appear to be an apt comparison because there were repeated offences for which Woods was ultimately charged criminally and convicted of. Of interest in that case is the reference to the argument by counsel for Woods that a 15-year suspension would mean a lifetime ban. The OSC on that occasion indicated that since Woods was a young man, he would be able to return to the business after the suspension had run its course. This indicates that they specifically wished to avoid imposing a permanent ban. However, when considering the same situation in Donnini's case, the OSC said, "Donnini' s entire working experience has been in the securities industry. He is approximately half way through a typical 35-year working life in the securities industry. Securities trading by house professionals is becoming more and more a career for younger persons." This apparently was the OSC's way of suspending Donnini for life without actually doing so.

[33] In our view, there is an unreasonable disparity between the suspension meted out to Paterson by way of settlement and that meted out to Donnini, notwithstanding that Donnini did not make or was unable to make any sort of "voluntary payment" of the sort made by Paterson. As indicated earlier, we are conscious of the obligation of this Court to yield curial deference to the findings of an administrative tribunal, which has an acknowledged special expertise. This is particularly so where in addition it has a disciplinary function. This does not mean, however, that the Court must accept whatever the tribunal concludes. It ought not to disturb the penalty imposed and substitute its judgment for that of the panel unless there is an error in principle or as Robins J. A. said in *Takahashi v. College of Physicians and Surgeons* (1979), 26 O.R. (2nd) 353 (Div. Ct.):

> Unless the punishment clearly does not fit the crime so to speak.

[34] The OSC has, in earlier decisions, indicated its espousal of the principle that there should be a reasonable balance between sanctions imposed on other participants in an impugned action and those meted out subsequently. In *Belteco Holdings Inc. (Re)*, [2002] 21 O.S.C.B. 7743, the OSC reached a settlement with some of the participants which included certain sanctions. After setting out the terms of the resulting order in its Reasons dealing with the remaining participants, the OSC said at 7746:

> We set out the terms of that order here principally because we accept the agreement ... that whatever sanctions are to be imposed should be fair and should be proportional to the sanctions imposed by the Commission on others who were participants in the scheme which is the subject of these proceedings...

In the result, the OSC imposed sanctions on the remaining participants, which in their words "paralleled" those imposed earlier.

[35] While recognizing that the OSC is not bound strictly to follow its own precedents, we are of the view that its penalty decisions should generally adhere to some recognizable pattern. We adopt the view expressed by Braidwood J.A. in the British Columbia Court of Appeal case of *Cartaway Resources Corp. (Re)*, [2002] B.C.J. 2115 (C.A.) at paragraphs 93 and 94:

> … Counsel for Hartvikson submits that this creates a sense that Hartvikson received a greater punishment because he chose to contest his innocence in a hearing.
>
> Certainly, it is not appropriate that access to the Commission threaten to heighten a potential penalty so radically. While the Commission may not be bound by all of the technical rules of stare decisis to the same extent as the courts, I am in agreement with counsel for Hartvikson that fairness requires that it generally follow its past decisions in order to avoid the appearance of arbitrariness. No doubt the decision of parties to pursue their rights before the Commission, rather than enter into settlements, will be based in part on their assessment of precedents of the Commission and published settlements. If the Commission can issue penalties which do not correspond with its previous decisions, then

those engaged in the Commission's disciplinary process will be unable to intelligently assess whether to settle or proceed to a hearing. This result is undesirable.

[36] We agree with Donnini's counsel that the penalty imposed on him does not stand up to a somewhat probing analysis.

[37] We are, of course, bound to acknowledge that Donnini has a record of prior trading violations of CDNX and TSC regulations and has received prior warnings from the market surveillance department of the TSC. He also had some internal discipline problems with Yorkton as well. However, taking all of these factors into consideration, we are of the opinion that the period of suspension should be reduced to four years effective September 12, 2002.

COSTS

[38] Towards the end of the hearing itself, OSC counsel produced a bill of costs of OSC staff in a total amount of $186,052.30. The figures that go to make up this amount fill a total of only six lines on the page. Counsel for Donnini objected to the document indicating, among other things, that there were no particulars given and of course, no opportunity for him to examine any supporting material to verify the bald statements made in this very brief synopsis. A subsequent document entitled "Submissions on Costs Staff of the Ontario Securities Commission" was then produced. The same abbreviated bill was produced, plus a two-page argument on the OSC s right to be paid costs. The main objection raised by Donnini's counsel concerning this approach is that he was denied the opportunity to review any back-up material to the bill and if necessary, cross-examine the bill's proposer. The panel simply said in that regard, "We do not believe it desirable in this case to examine dockets or a summary of dockets for staff." In our view, a claim for costs in this amount justifies a more intense and searching examination than the OSC is prepared to allow.

[39] We are of the view that the OSC erred in this regard. An order for costs is simply a fine by another name, unless it is a true reflection of the actual and reasonable costs of the nature specified as recoverable in section 127.2 of the Act. These are questions of fact and, like all such questions, must be resolved upon evidence, disclosure, documents and including cross-examination. Accordingly, we direct that the matter of costs be referred back to the OSC to conduct an inquiry into the extent of the bill and to make available for counsel for Donnini all dockets, time dockets, journal and/or diary entries and other back-up material in support of it, and to make available all of the participants whose names appear on it for cross-examination by counsel for Donnini at a mutually convenient time.

[40] In the result, therefore, the appeal from liability is dismissed, the appeal from the sanctions imposed by the OSC pursuant to that finding is allowed and the term of suspension is reduced to four years from September 12,2002. Finally, on the appeal from the cost order, this matter is returned to the OSC to conduct a hearing for a purpose of reviewing the extent of the amount of costs imposed.

[41] So far as the costs of this application are concerned, we view success as being divided. Accordingly in the exercise in the discretion of this court, we rule that there be no costs.

____
SOMERS J.

I agree _________________________
LANE J.

I agree _________________________
GREER J.

Released: September 15, 2003

Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke

No updates since the Bulletin dated October 21, 2005

4.2.1 Temporary, Permanent & Rescinding Management 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

No updates since the Bulletin dated October 21, 2005

4.2.2 Outstanding 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
ACE/Security Laminates Corporation	06 Sept 05	19 Sept 05	19 Sept 05		
Argus Corporation Limited	25 May 04	03 Jun 04	03 Jun 04		
Canadex Resources Limited	04 Oct 05	17 Oct 05	17 Oct 05		
Fareport Capital Inc.	13 Sept 05	26 Sept 05	26 Sept 05		
Hip Interactive Corp.	04 Jul 05	15 Jul 05	15 Jul 05		
HMZ Metals Inc.	24 Aug 05	06 Sept 05	06 Sept 05		
Hollinger Canadian Newspapers, Limited Partnership	21 May 04	01 Jun 04	01 Jun 04		
Hollinger Inc.	18 May 04	01 Jun 04	01 Jun 04		
Hollinger International	18 May 04	01 Jun 04	01 Jun 04		
Kinross Gold Corporation	01 Apr 05	14 Apr 05	14 Apr 05		
Rex Diamond Mining Corporation	04 Jul 05	15 Jul 05	15 Jul 05		
Thistle Mining Inc.	05 Apr 05	18 Apr 05	18 Apr 05		
Xplore Technologies Corp.	04 Jul 05	15 Jul 05	15 Jul 05		

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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	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
09/30/2005	1	ABC American -Value Fund - Units	150,000.00	16,696.00
09/30/2005	2	ABC Fully-Managed Fund - Units	580,000.00	51,594.00
09/30/2005	7	ABC Fundamental - Value Fund - Units	1,352,652.00	66,238.00
10/19/2005	6	Adanac Moly Corp. - Units	162,250.00	295,000.00
10/04/2005 to 10/05/2005	6	Albidon Limited - Common Shares	3,332,395.50	6,171,102.00
10/08/2005	5	AMADOR GOLD CORP. - Flow-Through Shares	50,000.00	500,000.00
10/08/2005	1	AMADOR GOLD CORP. - Non Flow-Through Shares	10,000.00	100,000.00
10/11/2005	35	Aquiline Resources Inc. - Non Flow-Through Shares	7,950,000.00	4,750,000.00
09/30/2005	4	Arbour Energy Inc, - Preferred Shares	34,300.80	24,408.00
08/31/2005	7	Arbour Energy Inc, - Preferred Shares	746,826.75	553,205.00
10/17/2005	6	Arura Pharma Inc. - Common Shares	500,000.00	2,000,000.00
10/14/2005	26	Associated Proteins Limited Partnership - Debentures	1,999,999.00	1,999,999.00
10/14/2005	27	Associated Proteins Limited Partnership - Limited Partnership Units	5,000,061.00	1,666,667.00
10/13/2005	2	Austral Pacific Energy Ltd. - Units	322,025.00	110,000.00
10/14/2005	4	Autonosys Inc. - Common Shares	131,936.60	344,550.00
08/30/2005	1	Avigo Resources Corp. - Option	0.00	59,250.00
10/06/2005	1	Bishop Gold Inc. - Units	20,000.00	400,000.00
10/14/2005	3	Blackstone Capital Partners V, L.P. - Limited Partnership Interest	532,350,000.00	3.00
10/13/2005	45	Blackstone Ventures Inc. - Units	5,000,027.01	15,151,597.00
10/11/2005	11	Brainhunter Inc. - Notes	2,008,000.00	2,008,000.00
10/04/2005	1	Braintech, Inc. - Common Shares	50,000.00	100,000.00
10/04/2005	1	Brookstone Company, Inc. - Notes	3,459,155.00	3,500,000.00
10/04/2005	1	Brookstone Company, Inc. - Notes	3,459,155.00	3,500,000.00

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
09/30/2005	1	Bullion Management Group Inc. - Units	100,000.00	600,000.00
09/30/2005	1	Card One Plus Ltd. - Common Shares	50,000.00	12,500.00
10/18/2005	15	CareVest Blended Mortgage Investment Corporation - Preferred Shares	275,129.00	275,129.00
10/18/2005	25	CareVest First Mortgage Investment Corporation - Preferred Shares	2,102,924.00	2,102,924.00
09/26/2005	5	Cimatec Environmental Engineering Inc. - Units	100,500.00	670,000.00
10/07/2005	32	Citigroup Inc. - Notes	497,630,000.00	500,000,000.00
09/30/2005	23	Coast Mountain Power Corp. - Common Shares	1,500,000.00	1,000,000.00
08/15/2005	1	COB LP - Limited Partnership Units	145,000.00	145,000.00
10/19/2005	1	Conservative Income Fund II - Units	60,220,000.00	6,400,000.00
10/03/2005	19	Continental Precious Minerals Inc. - Units	577,500.00	1,050,000.00
10/13/2005 to 10/19/2005	1	Cooperative Centrale Raiffeisen-Boerenleenbank B.A. - Notes	750,000,000.00	750,000,000.00
09/30/2005	7	Corporate Properties Limited - Units	500,000.00	200,000.00
09/15/2005 to 10/07/2005	34	Currency Capital Corp. - Common Shares	111,000.00	27,750.00
09/15/2005 to 10/07/2005	34	Currency Capital Corp. - Common Shares	111,000.00	27,750.00
10/01/2005	1	DB Mortgage Investment Corporation #1 - Common Shares	200,000.00	200.00
10/17/2005	2	DB Mortgage Investment Corporation #1 - Common Shares	2,000,000.00	2,000.00
10/11/2005	1	Deep Well Oil & Gas, Inc. - Units	11,700.00	25,000.00
10/13/2005	123	Defiant Resources Corporation - Common Shares	15,000,003.65	2,298,851.00
10/13/2005	119	Defiant Resources Corporation - Flow-Through Shares	14,498,451.65	892,858.00
10/12/2005	5	DragonWave Inc. - Notes	2,386,000.00	2,386,000.00
10/18/2005	153	Duvernay Oil Corp. - Flow-Through Shares	41,600,000.00	800,000.00
10/11/2005	2	Dycom Investments Inc. - Notes	7,640,750.00	7,640,750.00
10/06/2005	1	Elmira Pet Products Ltd. - Common Shares	5,500.00	550,000.00
10/06/2005	1	Elmira Pet Products Ltd. - Notes	3,494,500.00	3,494,500.00
10/05/2005	61	Endeavour Silver Corp. - Units	14,400,000.00	6,000,000.00
10/05/2005 to 10/12/2005	1	Endo Pharmaceuticals Holdings Inc. - Common Shares	18,428,508.00	29,000,000.00

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
10/12/2005	100	Fairquest Energy Limited - Common Shares	23,000,000.00	1,000,000.00
10/12/2005	100	Fairquest Energy Limited - Flow-Through Shares	22,820,000.00	1,000,000.00
07/30/2005 to 08/08/2005	8	Fieldway Network Lofts Limited Partnership - Limited Partnership Interest	1,950,000.00	1,950,000.00
10/11/2005 to 10/20/2005	2	First Leaside Enterprises Limited Partnership - Limited Partnership Units	89,074.00	89,074.00
10/11/2005 to 10/20/2005	78	First Leaside Fund - Units	792,946.00	792,946.00
10/03/2005	1	Fisgard Capital Corporation - Common Shares	33,213.52	33,213.00
01/05/2005	1	Focused Fund Equities USA Flex I - Units	126,274.67	1,000.00
09/30/2005	36	Forest Gate Resources Inc. - Common Shares	1,500,000.00	3,947,368.00
10/07/2005	80	Fortuna Silver Mines Inc. - Units	2,995,800.00	3,995,000.00
09/21/2005	24	Governor and Company of the Bank of Ireland, The - Notes	399,440,000.00	3,999,599.00
10/20/2005	18	Grande Portage Resources Ltd. - Flow-Through Shares	474,600.00	4,746,000.00
10/20/2005	31	Grande Portage Resources Ltd. - Non Flow-Through Shares	436,200.00	100,000.00
10/04/2005	2	Hornbeck Offshore Services, Inc. - Notes	521,063.00	525,000.00
10/12/2005	93	Hydrogen Engine Centre, Inc. - Common Shares	3,948,500.00	15,000.00
10/17/2005	6	Infitech Ventures Inc. - Common Shares	52,270.00	601,000.00
10/06/2005	9	Info Touch Technologies Corp. - Common Shares	1,390,350.00	7,819,000.00
10/07/2005	3	InterRent International Properties Inc. - Debentures	100,000.00	100.00
10/03/2005	13	Island Mountain Gold Mines Ltd. - Units	300,000.00	1,500,000.00
09/30/2005	3	Kingwest Avenue Portfolio - Units	103,676.46	3,683.00
10/12/2005 to 10/14/2005	6	Kirkland Lake Gold Inc. - Common Shares	2,499,750.00	555,500.00
10/14/2005	15	Longview Strategies Incorporated - Common Shares	672,549.00	4,483,666.00
08/30/2005	1	Melkior Resources Inc. - Units	10,000.00	200,000.00
10/11/2005	23	Mondial Energy Inc. - Common Shares	735,000.00	710,000.00
10/17/2005	1	Natural Data Inc. - Common Shares	1.00	350,000.00
10/06/2005	9	Nautilus Minerals Corporation Limited - Units	1,078,302.50	980,275.00
07/29/2005	1	New Era Nutrition Inc. - Common Shares	25,000.00	20,000.00

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
10/05/2005 to 10/12/2005	7	New Gold Inc. - Flow-Through Shares	3,010,000.00	460,000.00
08/16/2005 to 09/17/2005	16	New Hudson Television Corp. - Common Shares	110,700.00	36,900.00
10/11/2005	2	New Solutions Financial (II) Corporation - Debentures	200,000.00	2.00
10/07/2005	2	O'Donnell Emerging Companies Fund - Units	1,000.00	134.00
10/19/2005	76	Odyssey Resources Limited - Common Shares	4,376,840.00	13,677,625.00
10/04/2005	102	Oleum West Fund II - Trust Units	14,088,000.00	1,408,800.00
10/17/2005	1	Patica 2003-1 Income Fund - Trust Units	1,950.00	300.00
10/21/2005	26	Pocaterra Energy Inc. - Common Shares	999,600.00	588,000.00
09/23/2005	2	Pogo Producing Company - Notes	995,000.00	995,000.00
10/10/2005	1	Premiere Canadian Mortgage Corp. - Common Shares	260,000.00	260,000.00
10/14/2005	87	Qeva Group Inc. - Units	1,497,300.00	9,981,992.00
10/12/2005	3	Queen Street Entertainment Capital Inc. - Common Shares	200,000.00	800,000.00
10/12/2005	4	Rare Earth Metals Corp. - Units	37,200.00	310,000.00
10/12/2005	1	Real Assets Canadian Social Equity Index Fund - Units	21,000.00	2,160.00
10/07/2005	1	Real Assets US Social Equity Index Fund - Units	43,680.00	6,321.00
09/30/2005	2	Red Dragon Resources Corp. - Common Shares	306,000.20	616,667.00
10/06/2005	98	Resin Systems Inc. - Debentures	25,000,000.00	25,000,000.00
10/11/2005	14	Rhone 2005 Oil & Gas Strategic Limited Partnership - Limited Partnership Units	2,111,000.00	84,440.00
10/07/2005	107	Richards Oil & Gas Limited - Flow-Through Shares	10,730,118.30	12,651,887.00
10/14/2005	1	Rocket Trust - Bonds	456,682.05	456,682.05
10/13/2005	68	Rosetta Exploration Inc. - Flow-Through Shares	6,037,500.00	6,900,000.00
10/07/2005	2	Sage Gold Inc. - Common Shares	5,025.00	67,000.00
10/04/2005	19	Sea Green Capital Corp. - Flow-Through Shares	170,000.00	3,400,000.00
10/04/2005	9	Sea Green Capital Corp. - Non Flow-Through Shares	200,000.00	4,000,000.00
10/05/2005	1	Seabridge Gold Inc. - Common Shares	5,000,000.00	1,000,000.00
10/06/2005	1	SeeGrid Corporation, Inc. - Preferred Shares	66,688.21	172,084.00

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
10/03/2005	68	Shellbridge Oil & Gas, Inc. - Common Shares	3,999,999.60	3,333,333.00
10/11/2005 to 10/12/2005	27	Signet Minerals Inc. - Units	627,500.00	4,041,667.00
10/01/2005	25	Silverbirch Studios Inc. - Common Shares	750,000.00	2,500,000.00
08/11/2005	1	SMART Trust - Notes	620,821.96	1.00
10/14/2005	2	SPE-VFC Trust II - Notes	5,500,000.00	2.00
10/20/2005	25	Spider Resources Inc. - Units	579,339.95	8,276,285.00
10/24/2005	12	Spider Resources Inc. - Units	424,000.00	8,480,000.00
10/17/2005	1	Spring 2004-1 Income Fund - Trust Units	7,150.00	1,100.00
10/13/2005	4	The Alpha Fund - Limited Partnership Units	2,470,367.35	12.00
10/11/2005	3	Thunderbird Resorts, Inc. - Common Shares	201,363.21	184,111.00
10/17/2005	2	Treat Systems Inc. - Common Shares	455,385.25	1,821,541.00
10/14/2005	27	Tricon VIII Limited Partnership - Limited Partnership Units	11,010,000.00	2,202.00
10/04/2005	2	Trimox Energy Inc. - Common Shares	2,700,000.00	1,200,000.00
08/09/2005	1	UBS (CH) Global Titans - Units	23,515.95	169.00
09/30/2005	1	Vertex Balanced Fund - Trust Units	9,900.00	1,632.00
09/30/2005	12	Vertex Fund - Trust Units	633,217.05	42,181.00
09/22/2005 to 09/30/2005	4	VG Mezzanine I Limited Partnership - Units	1,071,986.00	1,072.00
10/07/2005	5	Windarra Minerals Ltd. - Flow-Through Shares	106,225.00	303,500.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Alexco Resource Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated October 19, 2005
Mutual Reliance Review System Receipt dated October 20, 2005
Offering Price and Description:
$3,000,000.00 - 2,000,000 Common Shares Price: $1.50 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
Asset Liability Management Group ULC
NovaGold Canada Inc.
Project #842400

Issuer Name:
Allied Properties Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated October 19, 2005
Mutual Reliance Review System Receipt dated October 19, 2005
Offering Price and Description:
$20,150,000.00 - 1,300,000 Units Price: $15.50 per Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Desjardins Securities Inc.
TD Securities Inc.
Genuity Capital Markets
HSBC Securities (Canada) In.
Promoter(s):
-
Project #842169

Issuer Name:
AltaGas Utility Group Inc.
Principal Regulator - Alberta
Type and Date:
Amended and Restated Preliminary Prospectus dated October 21, 2005
Mutual Reliance Review System Receipt dated October 21, 2005
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
Clarus Securities Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Promoter(s):
AltaGas Income Trust
AltaGas Holding Limited Partnership No. 1
Project #827472

Issuer Name:
EGI Financial Holdings Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 25, 2005
Mutual Reliance Review System Receipt dated October 25, 2005
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Dundee Securities Corporation
Promoter(s):
-
Project #843775

Issuer Name:
Front Street Alternative Asset Fund Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 21, 2005
Mutual Reliance Review System Receipt dated October 25, 2005
Offering Price and Description:
Class A Shares, Series AI, Re-establishment Offering Price: Continuous Offering Price: Minimum Initial Subscription: Minimum Subsequent Investment: $10 per Class A Share Net asset value per Class A Share $5,000 (500 shares) $1,000
Underwriter(s) or Distributor(s):
-
Promoter(s):
TNG Canada/CWA Sponsor Inc.
Front Street Capital 2004
Project #843770

Issuer Name:
KHAN RESOURCES INC.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 24, 2005
Mutual Reliance Review System Receipt dated October 25, 2005
Offering Price and Description:
$ * - * Units Price: $ * per Unit
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
TD Securities Inc.
Paradigm Capital Inc.
Promoter(s):
-
Project #843645

Issuer Name:

Mackenzie Cundill Canadian Balanced Fund
Mackenzie Ivy Growth and Income Fund
Mackenzie Sentinel Diversified Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated October 20, 2005
Mutual Reliance Review System Receipt dated October 24, 2005
Offering Price and Description:
Series A, F, I, O and P Units
Underwriter(s) or Distributor(s):
Quadrus Investment Services Ltd.
Promoter(s):
Mackenzie Financial Corporation
Project #842703

Issuer Name:
Molson Coors Capital Finance ULC
Principal Regulator - Nova Scotia
Type and Date:
Preliminary Short Form Prospectus dated October 21, 2005
Mutual Reliance Review System Receipt dated October 21, 2005
Offering Price and Description:
Offer to exchange up to Cdn.$900,000,000.00 of new 5.00% Senior Notes due 2015 (Fully and unconditionally guaranteed by Molson Coors Brewing Company and certain of its subsidiaries)
for up to Cdn.$900,000,000 outstanding 5.00% Senior Notes due 2015 (Fully and unconditionally guaranteed by Molson Coors Brewing Company and certain of its subsidiaries)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
TD Securities Inc.
J.P. Morgan Securities Canada Inc.
Morgan Stanley Canada Limited
Promoter(s):
-
Project #842909

Issuer Name:
Polaris Minerals Corporation
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated October 24, 2005
Mutual Reliance Review System Receipt dated October 25, 2005
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Shares
$10,000,000 - 2,500,000 Special Warrants Price: $4.00 per Special Warrants
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
Canaccord Capital Corporation
Dundee Securities Corporation
Orion Securities Inc.
TD Securities Inc.
Wellington West Capital Markets Inc.
Promoter(s):
-
Project #843736

Issuer Name:
Real Assets Canadian Equity Fund
Real Assets Money Market Fund
Real Assets Monthly Income Fund
Principal Regulator - British Columbia
Type and Date:
Preliminary Simplified Prospectuses dated October 21, 2005
Mutual Reliance Review System Receipt dated October 21, 2005
Offering Price and Description:
Class A, F and O Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #843025

Issuer Name:
Tangarine Concepts Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 20, 2005
Mutual Reliance Review System Receipt dated October 20, 2005
Offering Price and Description:
15,292,308 Common Shares upon conversion of 15,292,308 Class A Special Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
Keith Turner
Project #842489

Issuer Name:
Welton Energy Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated October 20, 2005
Mutual Reliance Review System Receipt dated October 21, 2005
Offering Price and Description:
Rights to Subscribe for up to $ * principal amount of % Convertible Debentures Subscription Price: $100 per Convertible Debenture (Upon the exercise of Rights)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #842861

Issuer Name:
Templeton Growth Fund, Ltd.
(Series A, F, I and O Shares)
Templeton International Stock Fund
(Series A, F, I, O and T units)
Templeton Emerging Markets Fund
(Series A, F, I and O units)
Templeton Global Smaller Companies Fund
(Series A, F, I and O units)
Templeton Global Balanced Fund
(Series A, F and O units)
Templeton Global Bond Fund
(Series A, F, I and O units)
Templeton Canadian Stock Fund
(Series A, F and O units)
Templeton Canadian Asset Allocation Fund
(Series A, F, O and T units)
Templeton Balanced Fund
(Series A units)
Franklin U.S. Large Cap Growth Fund
(Series A, F and O units)
Franklin U.S. Small Mid-Cap Growth Fund
(Series A, F and O units)
Franklin Flex Cap Growth Fund
(Series A, F and O units)
Franklin World Health Sciences and Biotech Fund
(Series A, F and O units)
Franklin World Telecom Fund
(Series A, F and O units)
Franklin Technology Fund
(Series A, F and O units)
Franklin World Growth Fund
(Series A, F and O units)
Franklin High Income Fund
(Series A, F and O units)
Franklin Strategic Income Fund
(Series A, F and O units)
Bissett Canadian Equity Fund
(Series A, F, I and O units)
Bissett Small Cap Fund
(Series A, F and O units)
Bissett Large Cap Fund
(Series A, F and O units)
Bissett Microcap Fund
(Series A, F and O units)
Bissett American Equity Fund
(Series A, F and O units)
Bissett Multinational Growth Fund
(Series A, F, O and T units)
Bissett International Equity Fund
(Series A, F and O units)
Bissett Canadian Balanced Fund
(Series A, F, I, O and T units)
Bissett Dividend Income Fund
(Series A, F, I, O and T units)
Bissett Bond Fund
(Series A, F, I and O units)
Bissett Income Fund
(Series A, F, I and O units)
Bissett Income Trust and Dividend Fund
(Series A, F and O units)
Bissett Canadian Short Term Bond Fund
(Series A, F and O units)

Bissett All Canadian Focus Fund
(Series A, F and O units)
Bissett Income Trust Fund
(Series A, F and O units)
Mutual Beacon Fund
(Series A, F, I and O units)
Mutual Discovery Fund
(Series A, F and O units)
Franklin Templeton Canadian Small Cap Fund
(Series A, F and O units)
Franklin Templeton Treasury Bill Fund
(Series A, F, I and O units)
Franklin Templeton U.S. Money Market Fund
(Series A, F, I and O units)
Franklin Templeton Money Market Fund
(Series A, F, I and O units)
Templeton Growth Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F, I and O shares)
Templeton International Stock Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F, I and O shares)
Templeton Emerging Markets Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Templeton Global Smaller Companies Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F, I and O shares)
Templeton Canadian Stock Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Templeton European Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Templeton BRIC Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin U.S. Large Cap Growth Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin U.S. Small Mid-Cap Growth Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin Flex Cap Growth Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin World Health Sciences and Biotech Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin World Telecom Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin Technology Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin World Growth Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin Japan Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin Templeton Diversified Income Tax Class Portfolio of Franklin Templeton Tax Class Corp.
(Series A, F, I and O shares)
Franklin Templeton Balanced Income Tax Class Portfolio of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin Templeton Balanced Growth Tax Class Portfolio of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin Templeton Growth Tax Class Portfolio of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin Templeton Canadian Growth Tax Class Portfolio of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin Templeton Global Growth Tax Class Portfolio of Franklin Templeton Tax Class Corp.
(Series A, F, I and O shares)
Franklin Templeton Maximum Growth Tax Class Portfolio of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Bissett Canadian Equity Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Bissett Small Cap Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Bissett Multinational Growth Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F, I and O shares)
Bissett Bond Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F, I and O shares)
Bissett All Canadian Focus Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Mutual Beacon Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F, I and O shares)
Mutual Discovery Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F and O shares)
Franklin Templeton Money Market Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F, I and O shares)
Franklin Templeton U.S. Money Market Tax Class of Franklin Templeton Tax Class Corp.
(Series A, F, I and O shares)
Franklin Templeton Diversified Income Portfolio
(Series A, F, I and O units)
Franklin Templeton Balanced Income Portfolio
(Series A, F, I, O and T units)
Franklin Templeton Balanced Growth Portfolio
(Series A, F, I, O and T units)
Franklin Templeton Growth Portfolio
(Series A, F, I and O units)
Franklin Templeton Canadian Growth Portfolio
(Series A, F and O units)
Franklin Templeton Global Growth Portfolio
(Series A, F, I and O units)
Franklin Templeton Maximum Growth Portfolio
(Series A, F, I and O units)
Principal Regulator - Ontario
Type and Date:

Amendment #2 dated October 12, 2005 to Simplified Prospectuses and Annual Information Forms dated June 6, 2005
Mutual Reliance Review System Receipt dated October 19, 2005
Offering Price and Description:
Series A, F, I and O Units and Series A, F, I and O Shares
Underwriter(s) or Distributor(s):
Franklin Templeton Investments Corp.
Franklin Templeton Investments Corp.
Franklin Templeton Investmetns Corp.
Bissett Investment Management, a division of Franklin Templeton Investments Corp.
Promoter(s):
-
Project #771490

Issuer Name:
Capital Alliance Ventures Inc.
(Class A Shares)
Type and Date:
Amendment #4 dated October 20, 2005 to Prospectus dated October 27, 2004
Receipted on October 25, 2005
Offering Price and Description:
Class A Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #692398

Issuer Name:
China Goldcorp Ltd.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated October 14, 2005
Mutual Reliance Review System Receipt dated October 19, 2005
Offering Price and Description:
Minimum Offering: $800,000.00 or 4,000,000 Common Shares; Maximum Offering: $920,000.00 or 4,600,000 Common Shares Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Maison Placements Canada Inc.
Promoter(s):
Peter Walker
Herb Gasser
Joe K. F. Tai
Project #819752

Issuer Name:
Clarington Canadian Dividend Fund
(Series A, F and O Units)
Clarington Canadian Resources Class of Clarington Canadian Resources Inc.
(Series A and F Shares)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated October 14, 2005 to the Amended and Restated Simplified Prospectuses and Annual Information Forms dated August 26, 2005
Mutual Reliance Review System Receipt dated October 19, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
ClaringtonFunds Inc.
ClaringtonFunds Inc.
Promoter(s):
Clarington Sector Fund Inc.
Project #787914

Issuer Name:
EPCOR Utilities Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Shelf Prospectus dated October 20, 2005
Mutual Reliance Review System Receipt dated October 20, 2005
Offering Price and Description:
$800,000,000.00 - Medium Term Note Debentures (unsecured)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
TD Securities Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #836953

Issuer Name:
Series A, Series B, Series F and Series O Units (unless otherwise indicated) of:
Fidelity Canadian Disciplined Equity Fund
(Series T and S Units also available)
Fidelity Canadian Growth Company Fund
Fidelity Canadian Large Cap Fund
Fidelity Canadian Opportunities Fund
Fidelity Dividend Fund
(Series T and S Units also available)
Fidelity True North Fund
(Series T and S Units also available)
Fidelity American Disciplined Equity Fund
(Series T and S Units also available)
Fidelity American Opportunities Fund
Fidelity American Value Fund
Fidelity Growth America Fund
(Series T and S Units also available)
Fidelity Small Cap America Fund
Fidelity Emerging Markets Fund
Fidelity Europe Fund
Fidelity Far East Fund
Fidelity Global Disciplined Equity Fund
(Series T and S Units also available)
Fidelity Global Opportunities Fund
Fidelity International Portfolio Fund
(Series T and S Units also available)
Fidelity Japan Fund
Fidelity Latin America Fund
Fidelity NorthStar Fund
(Series T and S Units also available)
Fidelity Overseas Fund
Fidelity Focus Consumer Industries Fund
Fidelity Focus Financial Services Fund
Fidelity Focus Health Care Fund
Fidelity Focus Natural Resources Fund
Fidelity Focus Technology Fund
Fidelity Focus Telecommunications Fund
Fidelity Canadian Asset Allocation Fund
(Series T and S Units also available)
Fidelity Canadian Balanced Fund
(Series T and S Units also available)
Fidelity Monthly Income Fund
(Series T and S Units also available)
Fidelity Global Asset Allocation Fund
(Series T and S Units also available)
Fidelity ClearPath 2005 Portfolio
(Series T and S Units also available)
Fidelity ClearPath 2010 Portfolio
(Series T and S Units also available)
Fidelity ClearPath 2015 Portfolio
Fidelity ClearPath 2020 Portfolio
Fidelity ClearPath 2025 Portfolio
Fidelity ClearPath 2030 Portfolio
Fidelity ClearPath 2035 Portfolio
Fidelity ClearPath 2040 Portfolio
Fidelity ClearPath 2045 Portfolio
Fidelity ClearPath Income Portfolio
(Series T and S Units also available)
Fidelity Canadian Bond Fund
Fidelity Canadian Short Term Bond Fund
Fidelity Canadian Money Market Fund
(Series C and D Units also available)

Fidelity American High Yield Fund
Fidelity U.S. Money Market Fund
(Series A and B Units only)
Fidelity Income Trust Fund
Fidelity Monthly High Income Fund
(Series T and S also available)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 18, 2005
Mutual Reliance Review System Receipt dated October 19, 2005
Offering Price and Description:
Series A, Series B, Series F, Series O, Series T and Series S Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Fidelity Investments Canada Limited
Fidelity Investments Canada Limited
Promoter(s):
Fidelity Investments Canada Limited
Project #828265

Issuer Name:
H&R Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated October 21, 2005
Mutual Reliance Review System Receipt dated October 21, 2005
Offering Price and Description:
$150,046,250.00 - 7,675,000 Units Price: $19.55 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Promoter(s):
-
Project #840283

Issuer Name:
Innova Exploration Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated October 21, 2005
Mutual Reliance Review System Receipt dated October 24, 2005
Offering Price and Description:
$35,000,060.00 - 4,268,300 Common Shares Price: $8.20 per Common Share
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
BMO Nesbitt Burns Inc.
Jennings Capital Inc.
National Bank Financial Inc.
Octagon Capital Corp.
Tristone Capital Inc.
Acumen Capital Finance Partners Ltd.
Promoter(s):
-
Project #839967

Issuer Name:
iUnits S&P/TSX 60 Index Fund
iUnits S&P/TSX 60 Capped Index Fund
iUnits S&P/TSX MidCap Index Fund
iUnits S&P/TSX Capped Energy Index Fund
iUnits S&P/TSX Capped Financials Index Fund
iUnits S&P/TSX Capped Gold Index Fund
iUnits S&P/TSX Capped Information Technology Index Fund
iUnits S&P/TSX Capped REIT Index Fund
iUnits Government of Canada 5-Year Bond Fund
iUnits Canadian Bond Broad Market Index Fund
iUnits S&P 500 Index RSP Fund
iUnits MSCI International Equity Index RSP Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated October 7, 2005 to the Prospectuses dated August 17, 2005
Mutual Reliance Review System Receipt dated October 21, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Barclays Global Investors Canada Limited
Promoter(s):
-
Project #805036

Issuer Name:
Legg Mason T-Plus Fund
(Institutional Series and Private Investor Series)
Legg Mason Private Client Canadian Bond Portfolio
(Institutional Series)
Legg Mason Canadian Index Plus Bond Fund
(Institutional Series and Private Investor Series)
Legg Mason Canadian Active Bond Fund
(Institutional Series and Private Investor Series)
Legg Mason Accufund
(Institutional Series and Private Investor Series)
Legg Mason Diversifund
(Institutional Series and Private Investor Series)
Legg Mason Private Client Canadian Equity Portfolio
(Institutional Series)
Legg Mason Canadian Core Equity Fund
(Institutional Series and Private Investor Series)
Legg Mason North American Equity Fund
(Institutional Series and Private Investor Series)
Legg Mason Canadian Growth Equity Fund
(Institutional Series and Private Investor Series)
Legg Mason Brandywine Fundamental Value U.S. Equity Fund
(Institutional Series and Private Investor Series)
Legg Mason Batterymarch U.S. Equity Fund
(Institutional Series and Private Investor Series)
Legg Mason U.S. Value Fund
(Institutional Series and Private Investor Series)
Legg Mason International Equity Fund
(Institutional Series and Private Investor Series)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 20, 2005
Mutual Reliance Review System Receipt dated October 25, 2005
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Legg Mason Canada Inc.
Promoter(s):
Legg Mason Canada Inc.
Project #831243

Issuer Name:
RBC Capital Trust
Royal Bank of Canada
Principal Regulator - Quebec
Type and Date:
Final Prospectus dated October 20, 2005
Mutual Reliance Review System Receipt dated October 21, 2005
Offering Price and Description:
$1,200,000,000.00 - 1,200,000 Trust Capital Securities — Series 2015 (RBC TruCS — Series 2015TM)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.,
CIBC World Markets Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Merrill Lynch Canada Inc.
National Bank Financial Inc.
Desjardins Securities Inc.
J.P. Morgan Securities Canada Inc.
Laurentian Bank Securities Inc.
Promoter(s):
-
Project #837283 & 837285

Issuer Name:
Real Estate Asset Liquidity Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated October 19, 2005
Mutual Reliance Review System Receipt dated October 20, 2005
Offering Price and Description:
$596,229,500.00 (Approximate) - Commercial Mortgage Pass-Through Certificates, Series 2005-2
Underwriter(s) or Distributor(s):
RBC Dominion Securities
Credit Suisse First Boston Canada Inc.
Promoter(s):
Royal Bank of Canada
Project #839370

Issuer Name:
Class A and O Units of:
Redwood Diversified Equity Fund
Redwood Diversified Income Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 21, 2005
Mutual Reliance Review System Receipt dated October 24, 2005
Offering Price and Description:
Class A and O Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Redwood Asset Management Inc.
Project #832060

Issuer Name:
Sacre-Coeur Minerals, Ltd.
Principal Regulator - British Columbia
Type and Date:
Final Prospectus dated October 18, 2005
Mutual Reliance Review System Receipt dated October 20, 2005
Offering Price and Description:
$12,000,000.00 - 8,000,000 Units Offering Price: $1.50 per Unit
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Credifinance Securities Limited
Sprott Securities Inc.
First Associates Investments Inc.
Promoter(s):
Irwin Olian Jr.
Project #823474

Issuer Name:
Sobeys Inc.
Principal Regulator - Nova Scotia
Type and Date:
Final Short Form Shelf Prospectus dated October 21, 2005
Mutual Reliance Review System Receipt dated October 21, 2005
Offering Price and Description:
$500,000,000.00 - Medium Term Notes (unsecured)
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Promoter(s):
-
Project #840926

Issuer Name:
Advisor Series Units of:
TD Managed Income RSP Portfolio
TD Managed Income & Moderate Growth RSP Portfolio
TD Managed Balanced Growth RSP Portfolio
TD Managed Aggressive Growth Portfolio
TD Managed Aggressive Growth RSP Portfolio
TD Managed Maximum Equity Growth Portfolio
TD Managed Maximum Equity Growth RSP Portfolio
TD FundSmart Managed Income RSP Portfolio
TD FundSmart Managed Income & Moderate Growth RSP Portfolio
TD FundSmart Managed Balanced Growth RSP Portfolio
TD FundSmart Managed Aggressive Growth Portfolio
TD FundSmart Managed Aggressive Growth RSP Portfolio
TD FundSmart Managed Maximum Equity Growth Portfolio
TD FundSmart Managed Maximum Equity Growth RSP Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 20, 2005
Mutual Reliance Review System Receipt dated October 21, 2005
Offering Price and Description:
Advisor Series Units
Underwriter(s) or Distributor(s):
TD Investment Services Inc. (for Investor and Premium series units only)
TD Investment Services Inc.
Promoter(s):
TD Asset Management Inc.
Project #829362

Issuer Name:
Predomino Capital Corporation
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Prospectus dated May 6th, 2005
Withdrawn on October 20th, 2005
Offering Price and Description:
$200,000.00 - 2,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Golden Capital Securities Ltd.
Promoter(s):
Laurence D. Rose
Project #778760

Issuer Name:
Echo Drive Capital Inc.
Principal Jurisdiction - Ontario
Type and Date:
Preliminary CPC Prospectus dated January 13th, 2005
Closed on October 24th, 2005
Offering Price and Description:
$400,000.00 - 4,000,000 common shares Price: $0.10 per common share
Underwriter(s) or Distributor(s):
Investpro Securities Inc.
Promoter(s):
Gerald A. LaLonde
William F. Cowperthwaite
Project #729687

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Best Strategic Trading Canada Company	Commodity Trading Manager & Commodity Trading Counsel	October 21, 2005
Change of Name	From: NBCN Clearing Inc. To: NBCN Inc.	Broker and Investment Dealer	October 1, 2005
Change of Name	From: Steve Marshall Securities Inc. To: Opensky Capital Inc. / Capital Opensky Inc.	Limited Market Dealer	October 14, 2005
Surrender of Registration	Nigel Stephens Counsel Inc.	Limited Market Dealer and Investment Counsel and Portfolio Manager	October 20, 2005
Surrender of Registration	NBCN	Broker and Investment Dealer	October 24, 2005
Change in Category	Pro-Hedge Funds Inc.	From: Limited Market Dealer To: Limited Market Dealer, Investment Counsel and Portfolio Manager	October 19, 2005

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 RS Disciplinary Notice - Mark Ellis and Keith Leslie Leonard

October 19, 2005

Person Disciplined

On October 19, 2005, a Hearing Panel of the Hearing Committee of Market Regulation Services Inc. ("RS") approved the settlement agreements (the "Settlement Agreements") concerning Mark Ellis ("Ellis") and Keith Leslie Leonard ("Leonard").

Requirement Contravened

Under the terms of the Settlement Agreements, Ellis and Leonard admit that the following Requirement was contravened:

(a) On September 17, 2003, Ellis failed to fully comply with his trading supervision obligations, contrary to Section 7.1(4) of the Universal Market Integrity Rules ("UMIR").

(b) On September 17, 2003, Leonard failed to fully comply with his trading supervision obligations, contrary to Section 7.1(4) of the Universal Market Integrity Rules ("UMIR").

Sanctions Approved

The following sanctions were approved against each of Ellis and Leonard:

(a) A fine of $15,000.00 payable by Ellis and Leonard to RS; and,

(b) Costs of $6,000.00 payable by Ellis and Leonard to RS.

Summary of Facts

In January 2003, Ellis and Leonard assumed responsibility for overseeing and supervising the activity of traders at Dundee Securities Corporation ("Dundee") to ensure compliance with regulatory requirements, including UMIR. Ellis and Leonard were considered the first line of contact in the trading room for traders with trading issues. Their duties included conducting any necessary enquires or investigations into trading related issues brought to their attention. They reported to Peter Ellis, the Senior Vice-President, Manager, Institutional Sales and Trading.

In 2003, Dundee conducted a training program for traders wishing to become registered traders or specialists. As of September 2003, Dundee had a number of trader trainees who were encouraged to take on small positions in a few stocks once he or she had completed the Canadian Securities Course and Traders' Training Course. Trainee A was one of the trainees.

On September 17, 2003, the Market Supervision division of RS contacted Trainee A concerning non-client market orders that he had entered on both sides of the market in INCO Ltd. in the pre-opening session of the TSX prior to 9:28 a.m., which had the potential of trading against each other. The orders were positioned in this manner to allow Trainee A to maintain time priority because his trading strategy circumvented the application of the TSX trading mechanism that allocates which orders will receive a complete fill at the opening of trading on the TSX. Time priority is assigned in the pre-opening to market orders and better priced limit orders for non-client accounts that are entered prior to 9:28 a.m.

The 9:28 a.m. time limit on priority for these types of orders is to prevent Participants and their employees from entering large market orders in the last two minutes of trading which will "scoop" the available volume at the opening of the market. This allocation mechanism addresses two fundamental aspects of a fair and equitable marketplace: the priority of the client and the presence of a level playing field.

RS's telephone call with Trainee A occurred at 9:22 a.m. RS advised Trainee A that he should "cease and desist" from this type of trading as it was improper. Trainee A then cancelled the INCO Ltd. orders. Subsequently, Market Surveillance reviewed trading by Trainee A in another stock, EnCana Corporation and found that Trainee A had also entered orders on both sides of the market prior to 9:28 a.m. but that he had also cancelled these orders after the contact by Market Surveillance. Market Surveillance contacted Trainee A again at 9:28 a.m. and warned him not to engage in this type of conduct as it was circumventing the application of the TSX trading mechanism that allocates which orders will receive a complete fill at the opening of trading on the TSX. He was further advised that this conduct could be considered a manipulative and deceptive method of trading.

Trainee A immediately advised Ellis and Leonard that he had been contacted by RS and the substance of the discussions. Ellis and Leonard warned Trainee A not to engage in such conduct again as it was improper and that if he did, there would be serious ramifications. After receiving this warning from Ellis and Leonard, Trainee A did not engage in this manner of trading again. Ellis and Leonard concluded this was a training issue. They did not take steps

to determine whether this was a trader wide practice at the firm, nor did they escalate this matter to Peter Ellis or to the Compliance Department at Dundee as required by Dundee's policies and procedures.

As a result of Ellis and Leonard concluding this was a training issue, they conducted no further investigation nor did they escalate RS's warning within Dundee. Consequently, there were no enquiries made or investigations conducted by Dundee concerning whether any other trainees or traders were also engaging in such conduct. Nor were any steps taken to address the conduct from a firm wide perspective such as a compliance department directive. Another trainee at Dundee and a Dundee trader were able to engage unfettered in a similar, but more blatant pattern of order entry in the pre-opening of the TSX for 52 days in the period July 2003 to December 2003, and 248 days in the period October 2003 to February 2005, respectively. This trading was harmful to the integrity of the TSX.

Panel Members

Chair:	The Honourable Mr. Fred Kaufman, C.M., Q.C.
Industry Member:	Mr. Leo Ciccone
Industry Member:	Mr. Peter Nares

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, Bloomberg Tradebook Canada Company, Liquidnet Canada Inc. and Markets Inc. RS is recognized by the *Autorité des marchés financiers* in Québec and the securities commissions of Ontario, Manitoba, Alberta and British Columbia to regulate the trading of securities on these marketplaces 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 MFDA Ontario Hearing Panel Makes Findings Against Joseph Van Der Velden and Andrew Stokman

NEWS RELEASE
For immediate release

MFDA ONTARIO HEARING PANEL MAKES FINDINGS AGAINST JOSEPH VAN DER VELDEN AND ANDREW STOKMAN

October 21, 2005 (Toronto, Ontario) – A disciplinary hearing in the Matter of Joseph Van Der Velden and Andrew Stokman (referred to collectively as the "Respondents") was held on Friday, October 14, 2005 before a Hearing Panel of the Ontario Regional Council of the Mutual Fund Dealers Association of Canada ("MFDA") in Toronto, Ontario. The Hearing Panel found that the four allegations set out by MFDA staff in the Notice of Hearing dated April 21, 2005, summarized below, had been established:

Allegation #1: Between May 2002 and December 2002, the Respondents engaged in securities related business that was not carried on for the account of the Member, through the facilities of the Member, or in accordance with MFDA By-laws and Rules, by facilitating the participation of clients of the Member and other individuals in an investment scheme that was contrary to Ontario securities law (the "Lech Investment") without the knowledge or approval of the Member, contrary to MFDA Rule 1.1.1.

Allegation #2: Between May 2002 and December 2002, Van Der Velden facilitated the participation of clients of the Member and other individuals in the Lech Investment and in the course of doing so, accepted and failed to return or otherwise account for approximately $2.15 million, contrary to MFDA Rule 2.1.1.

Allegation #3: Between May 2002 and January 2003, Stokman facilitated the participation of clients of the Member in the Lech Investment by soliciting approximately $1 million from them (including $500,000 of the $2.15 million referred to in Allegation #2) for investment through Van Der Velden, all of which remains owing and otherwise unaccounted for, contrary to MFDA Rule 2.1.1.

Allegation #4: Between May 2002 and January 2003, the Respondents preferred their own interests to those of the clients of the Member and failed to exercise responsible business judgment influenced only by the best interests of the clients of the Member by recommending to the clients of the Member that they participate in the Lech Investment in the expectation that the Respondents would receive substantial compensation as a result of the participation of such clients in the Lech Investment and by failing to provide such clients or the Member with written disclosure of the nature or amount of the compensation that the Respondents were paid as a result of the participation of such clients in the Lech Investment, contrary to MFDA Rules 2.1.1.

The Hearing Panel made the verbal orders, summarized below and advised that it would issue written reasons for its decision in due course:

- A permanent prohibition on the authority of the Respondents to conduct securities-related business in any capacity
- A fine in the amount of $500,000 imposed upon Joseph Van Der Velden
- A fine in the amount of $75,000 imposed upon Andrew Stokman

A copy of the Notice of Hearing is available on the MFDA web site at **www.mfda.ca**.

The Mutual Fund Dealers Association of Canada is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 179 Members and their approximately 68,000 representatives with a mandate to protect investors and the public interest.

For further information, please contact:
Shaun Devlin
Vice-President, Enforcement
(416) 943-4672 or sdevlin@mfda.ca

13.1.3 RS Notice - Market Regulation Services Inc. sets contested hearing date for a hearing In the Matter of Ian Scott Douglas

October 26, 2005

NOTICE TO PUBLIC

Subject: **Market Regulation Services Inc. sets contested hearing date for a hearing *In the Matter of Ian Scott Douglas.***

Market Regulation Services Inc. ("RS") will hold a Hearing before a Panel of the Hearing Committee (the "Hearing Panel") of RS commencing on December 14, 2005 at 10:00 a.m., or as soon thereafter as the Hearing can be held, at the offices of Market Regulation Services Inc., 145 King Street West, Suite 900, Toronto, Ontario. The Hearing is open to the public.

The purpose of the hearing is to determine whether Ian Scott Douglas contravened Rule 2.1(1) of the Universal Market Integrity Rule ("UMIR"), for which he is liable pursuant to UMIR 10.4(1)(a).

RS alleges that on 52 days in the period July 2003 to December 2003, Douglas engaged in a pattern of order entry in the pre-opening session of trading on the TSX which was inconsistent with Just and Equitable Principles of Trade, contrary to Section 2.1(1) of the Universal Market Integrity Rules ("UMIR"), for which he is liable pursuant to UMIR 10.4(1)(a).

The Notices of Hearing and Statement of Allegations can be found on RS's website.

The decision of the Hearing Panel and the terms of any discipline imposed will be published by RS as a Disciplinary Notice.

Reference: Jane P. Ratchford
Chief Counsel, Eastern Region
Investigations and Enforcement
Market Regulation Services Inc.

Telephone: 416-646-7229

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Chapter 25

Other Information

25.1 Exemptions

25.1.1 Leede Financial Markets Inc. - Rule 31-502

Headnote

Salespersons of the Applicant who were previously registered in another Jurisdiction prior to January 1, 1994 are exempt from the post registration proficiency requirements under paragraph 2.1(2) of Rule 31-502 Proficiency Requirements for Registrants, subject to conditions.

Rules Cited

Ontario Securities Commission Rule 31-502 Proficiency Requirements for Registrants, ss. 2.1(2), 4.1

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

AND

IN THE MATTER OF
LEEDE FINANCIAL MARKETS INC.

EXEMPTION ORDER
(Rule 31-502)

WHEREAS Leede Financial Markets Inc. (the **Applicant**) has applied for an exemption pursuant to section 4.1 of Ontario Securities Commission Rule 31-502 -- *Proficiency Requirements for Registrants* (the **Rule**) from the provisions of paragraph 2.1(2) of the OSC Proficiency Rule (the **OSC Requirement**);

AND WHEREAS the OSC Requirement provides that the registration of a salesperson is suspended on the last day of the thirtieth month after the date registration as a salesperson was granted to that salesperson, unless the salesperson has completed the Professional Financial Planning Course (the **PFP Course**) or the first course of the Canadian Investment Management Program (the **CIM Program**) and has delivered the prescribed notice to the Director of the Ontario Securities Commission;

AND WHEREAS, unless otherwise defined or the context otherwise requires, terms used herein have the meaning set out in Ontario Securities Commission Rule 14-501 -- *Definitions*;

AND WHEREAS the Director has considered the application and the recommendation of staff of the Ontario Securities Commission;

AND WHEREAS the Applicant has represented to the Director that:

1. The Applicant was incorporated under the laws of Canada and is registered under the Act as a dealer in the category of investment dealer and is a member of the Investment Dealers Association (the **IDA**);

2. The requirement of the IDA that a registered representative (a **Salesperson**) of an investment dealer that is a member of the IDA (a **Dealer**) complete the first course of the CIM Program within thirty months of registration (the **IDA Requirement**) first became effective on January 1, 1994 (the **IDA Effective Date**);

3. Salespersons who were registered to trade on behalf of a Dealer in a jurisdiction immediately prior to the IDA Effective Date are exempt from the IDA Requirement;

4. The Rule, which became effective on August 17, 2000 (the **OSC Effective Date**), adopted and expanded the IDA Requirement but did not exempt Salespersons who were registered to trade on behalf of a Dealer in another jurisdiction prior to the IDA Effective Date from the OSC Requirement; and

5. Salespersons of the Applicant who have been registered to trade on behalf of a Dealer under the securities legislation of a jurisdiction other than Ontario immediately prior to the IDA Effective Date and who were first registered to trade on behalf of a Dealer under the Act after the OSC Effective Date are subject to the OSC Requirement;

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

NOW THEREFORE, pursuant to section 4.1 of the Rule, Salespersons of the Applicant are not subject to the OSC Requirement;

PROVIDED THAT:

(a) immediately prior to the IDA Effective Date, the particular Salesperson was registered under the securities legislation of one or more jurisdictions other than Ontario as a salesperson of a Dealer that was then registered under such legislation as an investment dealer (or the equivalent) and the registration of the Salesperson was not specifically

restricted to the sale of mutual funds or non-retail trades; and

(b) after the IDA Effective Date, that Salesperson was either registered to trade on behalf of a Dealer continuously in one or more jurisdictions other than Ontario, or any period after the IDA Effective Date in which the Salesperson's registration to trade on behalf of a Dealer was suspended or in which the Salesperson was not so registered does not exceed three years;

(c) that Salesperson either is first registered under the Act to trade on behalf of a Dealer in Ontario after the date of this exemption order or was first so registered no more than 30 months prior to the date hereof.

October 17, 2005.

"David M. Gilkes"
Manager, Registrant Regulation

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