The Ontario Securities Commission

OSC Bulletin

September 15, 2006

Volume 29, Issue 37

(2006), 29 OSCB

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

The Ontario Securities Commission
Cadillac Fairview Tower
Suite 1903, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

416-593-8314 or Toll Free 1-877-785-1555

Published under the authority of the Commission by:
Carswell
One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

416-609-3800 or 1-800-387-5164

Contact Centre - Inquiries, Complaints:	Fax: 416-593-8122
Capital Markets Branch:	Fax: 416-593-3651
- Registration:	Fax: 416-593-8283
Corporate Finance Branch:	
- Team 1:	Fax: 416-593-8244
- Team 2:	Fax: 416-593-3683
- Team 3:	Fax: 416-593-8252
- Insider Reporting	Fax: 416-593-3666
- Take-Over Bids:	Fax: 416-593-8177
Enforcement Branch:	Fax: 416-593-8321
Executive Offices:	Fax: 416-593-8241
General Counsel's Office:	Fax: 416-593-3681
Office of the Secretary:	Fax: 416-593-2318

The OSC Bulletin is published weekly by Carswell, under the authority of the Ontario Securities Commission.

Subscriptions are available from Carswell at the price of $549 per year.

Subscription prices include first class postage to Canadian addresses. Outside Canada, these airmail postage charges apply on a current subscription:

U.S.	$175
Outside North America	$400

Single issues of the printed Bulletin are available at $20 per copy as long as supplies are available.

ISSN 0226-9325

One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

Customer Relations
Toronto 1-416-609-3800
Elsewhere in Canada/U.S. 1-800-387-5164
World wide Web: http://www.carswell.com
Email: carswell.orders@thomson.com

Table of Contents

Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

SEPTEMBER 15, 2006

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
Suite 1700, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

Telephone: 416-597-0681 Telecopier: 416-593-8348

CDS **TDX 76**

Late Mail depository on the 19th Floor until 6:00 p.m.

- -

THE COMMISSIONERS

W. David Wilson, Chair	—	WDW
Paul M. Moore, Q.C., Vice-Chair	—	PMM
Susan Wolburgh Jenah, Vice-Chair	—	SWJ
Paul K. Bates	—	PKB
Robert W. Davis, FCA	—	RWD
Harold P. Hands	—	HPH
David L. Knight, FCA	—	DLK
Patrick J. LeSage	—	PJL
Carol S. Perry	—	CSP
Robert L. Shirriff, Q.C.	—	RLS
Suresh Thakrar, FIBC	—	ST
Wendell S. Wigle, Q.C.	—	WSW

SCHEDULED OSC HEARINGS

September 21, 2006 10:00 a.m.	**Eugene N. Melnyk, Roger D. Rowan, Watt Carmichael Inc., Harry J. Carmichael and G. Michael McKenney** s. 127 and 127.1 J. Superina in attendance for Staff Panel: TBA
September 21, 2006 10:00 a.m.	**Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)** s.127 and 127.1 D. Ferris in attendance for Staff Panel: SWJ/ST
October 12, 2006 10:00 a.m.	**Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton** s. 127 H. Craig in attendance for Staff Panel: TBA
October 19, 2006 10:00 a.m.	**Euston Capital Corporation and George Schwartz** s. 127 Y. Chisholm in attendance for Staff Panel: WSW/ST
October 20, 2006 10:00 a.m.	**Olympus United Group Inc.** s.127 M. MacKewn in attendance for Staff Panel: TBA

October 20, 2006 10:00 a.m.	**Norshield Asset Management (Canada) Ltd.** s.127 M. MacKewn in attendance for Staff Panel: TBA
October 30, 2006 10:00 a.m.	**Limelight Entertainment Inc., Carlos A. Da Silva, David C. Campbell, Jacob Moore and Joseph Daniels** s. 127 and 127.1 D. Ferris in attendance for Staff Panel: PMM/ST
November 21, 2006 10:00 a.m.	**First Global Ventures, S.A. and Allen Grossman** s. 127 D. Ferris in attendance for Staff Panel: PMM/ST
December 5, 6, & 7, 2006 10:00 a.m.	**Jose Castaneda** s. 127 and 127.1 T. Hodgson in attendance for Staff Panel: TBA
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	**John Illidge, Patricia McLean, David Cathcart, Stafford Kelley and Devendranauth Misir** S. 127 & 127.1 K. Manarin in attendance for Staff Panel: TBA
TBA	**Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boultbee and Peter Y. Atkinson** s.127 J. Superina in attendance for Staff Panel: TBA
TBA	**Mega-C Power Corporation, Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited** S. 127 T. Hodgson in attendance for Staff Panel: TBA
TBA	**Bennett Environmental Inc.*, John Bennett, Richard Stern, Robert Griffiths and Allan Bulckaert*** J. Cotte in attendance for Staff Panel: TBA * settled June 20, 2006
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	**Momentas Corporation, Howard Rash, Alexander Funt, Suzanne Morrison* and Malcolm Rogers*** s. 127 and 127.1 P. Foy in attendance for Staff Panel: WSW/RWD/CSP * Settled April 4, 2006

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

Andrew Stuart Netherwood Rankin

Philip Services Corp., Allen Fracassi, Philip Fracassi**, Marvin Boughton**, Graham Hoey**, Colin Soule*, Robert Waxman and John Woodcroft****
* Settled November 25, 2005
** Settled March 3, 2006

Portus Alternative Asset Management Inc., Portus Asset Management Inc., Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg

John Daubney and Cheryl Littler

Maitland Capital Ltd., Allen Grossman, Hanouch Ulfan, Leonard Waddingham, Ron Garner, Gord Valde, Marianne Hyacinthe, Diana Cassidy, Ron Catone, Steven Lanys, Roger McKenzie, Tom Mezinski, William Rouse and Jason Snow

1.1.2 2006 Report of the Compliance Team, Capital Markets Branch, OSC

2006 REPORT

COMPLIANCE TEAM, CAPITAL MARKETS BRANCH, OSC

TABLE OF CONTENTS

Introduction

Our 2006 Report summarizes our activities for the two fiscal years from April 1, 2004 to March 31, 2006. This report also includes the combined results of our reviews of investment counsel and portfolio managers (ICPMs) for fiscal years 2005 and 2006.

During this period, we performed fewer ICPM reviews because significant resources were allocated to the following projects:

- mutual fund market timing probe
- scholarship plan dealer reviews
- hedge fund manager reviews
- limited market dealer reviews

We encourage ICPMs to use this report as a self-assessment tool to strengthen their compliance with Ontario securities law and to improve their internal controls.

Effective April 1, 2005, we made several changes to our deficiency reports. One of the major changes was identifying significant deficiencies in deficiency reports. This encourages senior management to focus on the key issues. It also assists us in identifying trends and monitoring areas of significant regulatory concern.

This report is divided into four sections:

1. Compliance initiatives. This section describes various compliance initiatives relating to market participants.

2. Common ICPM deficiencies identified during reviews. This section deals with common deficiencies identified during our reviews of ICPMs. We have included some suggested guidelines to help ICPMs improve existing procedures, establish procedures in areas where they are lacking, and to give general guidance on improving overall compliance. We have also highlighted changes in our findings from the previous two annual reports for comparison.

We use a risk-based approach in selecting ICPMs for review. Our reviews primarily focus on those ICPMs with a higher risk ranking. However, we also select ICPMs for review on a random basis.

3. Significant ICPM deficiencies. This section summarizes the top three significant deficiencies of ICPMs and how we are responding to them.

4. Addressing the deficiencies. This section describes the various regulatory tools that we may use to address serious conduct issues or violations of securities law.

1. Compliance initiatives

This section describes various initiatives undertaken during the past two years.

Limited market dealer sweep

In 2005, we conducted our first compliance review focussed on limited market dealers (LMDs). Our goals were to better understand the business operations of LMDs, review their compliance with securities law and identify any regulatory gaps. This review was a first step in enhancing compliance oversight and helping LMDs develop stronger compliance and internal controls. The results of this review will also assist the Canadian Securities Administrators (CSA) Registration Reform Steering Committee in harmonizing registration requirements by identifying any specific risks this category poses to investor protection.

We issued OSC Staff Notice 11-758 on June 16, 2006, which summarizes the results of our review. For details, please visit www.osc.gov.on.ca. We will be conducting regular field reviews of LMDs to ensure that they comply with securities law. We expect that this initiative will assist LMDs in enhancing their compliance structure and will result in a more effective regulatory regime.

Hedge fund manager review

In 2005, Ontario, British Columbia and Quebec conducted co-ordinated field reviews of 13 hedge fund advisers and managers. The reviews included 37 hedge funds with a total value of $1.25 billion and nine principal protected notes (PPNs) with a value of $1.4 billion. We chose the market participants based on their size, and the number and types of products offered (hedge funds, funds of hedge funds and PPNs). We also chose some of the market participants randomly.

The reviews focused on a number of areas, including safeguarding of client assets, valuation processes, marketing materials and offering documents, the extent and type of fees charged, product liquidity, the existence of referral arrangements and product distribution.

Referral arrangements

We are working with the CSA, Investment Dealers Association of Canada (IDA) and the Mutual Fund Dealers Association of Canada (MFDA) on a project to review referral arrangements. We are examining a number of issues, including what parties can enter into these arrangements. The goal is to develop rules or other guidance for the industry that will be consistent for all categories of registration.

OSC Staff Notice 33-723 – Fair allocation of investment opportunities

On September 23, 2005, we issued OSC Staff Notice 33-723 – *Fair Allocation of Investment Opportunities - Compliance Team Desk Review*. This staff notice summarizes the results of our desk review of the fairness policies and related business practices of 40 ICPMs. It also provides guidance to ICPMs on what to disclose in their fairness policy. For details, please visit www.osc.gov.on.ca.

Since issuing the notice, we have seen a decline in the number of deficiencies related to fairness policies (see the common deficiency table in section 2). The staff notice will continue to assist ICPMs in enhancing their compliance with Section 115 of R.R.O 1990, Regulation 1015 made under the Act (the Regulation).

2. Common ICPM deficiencies identified during reviews

This section discusses the results of our reviews of ICPMs during the period from April 1, 2004 to March 31, 2006. As highlighted earlier in this Report, we use a risk-based approach in selecting ICPMs for review. The majority of the ICPMs reviewed had a higher risk ranking.

The table below categorizes the 10 most common deficiencies we identified and how they compare with the previous two years.[1] There was no change in the types of common deficiencies compared with 2003 and 2004.

We identified a number of issues under each category. An ICPM is included in a category if it had at least one of these issues. None of the firms we reviewed was deficient in all issues identified under a category.

[1] We also identified issues in many other areas, including statement of client's portfolio, conflicts of interest, cross transactions, soft dollars, related registrant disclosure, annual consent to trade securities of related and connected issuers, compliance function, adhering to the terms and conditions of registration, insurance coverage, exempt securities, early warning and insider trading reporting, proxy voting, referral arrangements, United Nations Suppression of Terrorism monthly reporting, internal controls, segregation of duties, trust accounts, agreements with service providers, confidentiality agreements and "holding out" issues.

Common deficiency	2005/06[2] Ranking	2004 Ranking	2003 Ranking
1. Policies and procedures manual	1	1	3
2. Marketing	2	8	8
3. Maintenance of books and records	3	5	1
4. Capital calculations	4	6	4
5. Statement of policies	5	3	5
6. Policy for fairness in the allocation of investment opportunities (fairness policy)	6	2	2
7. Personal trading	7	9	10
8. Know your client (KYC) and suitability information	8	10	9
9. Portfolio management including advisory contracts	9	4	7
10. Registration issues	10	7	6

Trends

Areas where ICPMs have improved

ICPMs have improved since 2003 and 2004 in the following areas:

- fairness policy
- statement of policies
- portfolio management including advisory contracts
- registration issues

The most significant improvement was in the fairness policy area. We believe this improvement is a direct result of OSC Staff Notice 33-723, which provides guidance to ICPMs on what to disclose in the fairness policy (see section 1).

Areas ICPMs need to work on

ICPMs have fallen behind since 2003 and 2004 in the following areas:

- marketing
- personal trading
- KYC and suitability information

The most negative trend was in marketing. Marketing issues were also identified as the number one significant deficiency (See Section 3). In general, ICPMs have become more aggressive in their marketing materials and websites. In many instances, they presented performance returns that could not be substantiated. Personal trading, and KYC and suitability information are other areas showing an increase in the number of deficiencies over past years.

Common deficiencies

The following is a discussion of the 10 most common deficiencies we identified. To assist ICPMs in understanding the common deficiencies, we have included the applicable legislation and suggested practices to address each deficiency. We encourage all ICPMs to use this as a self-assessment tool to strengthen their compliance with Ontario securities law.

[2] We have combined the results for fiscal years 2005 and 2006 in this report. The rankings are based on the number of ICPMs that had at least one issue under the category.

1. Policies and procedures manual

Section 1.2 of OSC Rule 31-505 requires ICPMs to establish and enforce written policies and procedures that will enable them to serve their clients adequately. ICPMs are required to maintain a policies and procedures manual, which also includes all relevant regulatory requirements. Policies and procedures that are clearly documented and enforced contribute to a strong compliance environment.

During our reviews, we observed the following:

- The procedures used in practice were inconsistent with the procedures outlined in the manual.
- The procedures outlined in the manual did not apply to the type of business conducted (i.e. they were generic and were not customized to the ICPM's business).
- The manual did not reflect recent changes to Ontario securities law or other applicable legislation, in particular those related to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act and Regulations*.
- Procedures for key areas of the business were missing.
- There was insufficient detail about policies and procedures.

Suggested practices

Each ICPM should establish and enforce written policies and procedures that are sufficiently detailed and cover all areas of its business. ICPMs should also evaluate and review their policies and procedures on a regular basis such as for changes in industry practice or securities legislation. A copy of the manual should be readily accessible by all employees of the ICPM. The following is a list of topics and guidelines that should be included in a standard manual:

Marketing:

- how to prepare, review and approve marketing materials to prevent false or misleading statements and to ensure compliance with securities legislation
- how to prepare performance data, use benchmarks and construct composites to be used in marketing materials
- procedures for ensuring marketing materials are reviewed and approved by someone other than the preparer
- procedures for ensuring compliance with securities legislation, including prohibitions on holding out a non-registered person as being registered, on advertising of registration, representations that the OSC has endorsed the financial standing, fitness or conduct of any registrant

Portfolio management:

- how to collect and document client KYC and suitability information and how frequently it should be updated
- guidance on proxy voting to deal with issues such as executive compensation (e.g. stock options), take-over protection (poison pills) and acquisitions
- procedures to ensure compliance with clients' specified investment restrictions or other instructions
- guidelines on performing sufficient research to support investment decisions
- guidelines on supervising sub-advisers and associate portfolio managers
- procedures for ensuring that investments and trades are suitable for each client
- procedures for ensuring compliance with regulatory and other investment restrictions (e.g. National Instrument 81-102 (NI 81-102)

Trading and brokerage:

- guidelines on how brokers are selected
- policies for obtaining best price and best execution for clients
- policies for allocating investment opportunities fairly among client accounts
- policies for executing trades in a timely manner and according to instructions
- procedures for monitoring and resolving failed trades and trading errors
- guidelines on soft dollar arrangements with brokers

Personal trading and conflicts of interest:

- procedures for approving personal trades, including requiring written pre-approval
- definition of material non-public information, and policies and procedures to restrict the dissemination of any non-public information

Referral arrangements:

- criteria used for setting up referral arrangements
- procedures for reviewing and approving referral arrangements before they're signed
- guidelines for ensuring that clients receive appropriate and adequate disclosure of referral arrangements

2. Marketing

All marketing materials must include information that is accurate, complete and not misleading to clients. Subsection 2.1(1) of OSC Rule 31-505 requires ICPMs to deal fairly, honestly, and in good faith with clients. ICPMs must also meet the requirements of Part 15 of NI 81-102 when marketing mutual funds.

During our reviews, we observed the following:

- Internal marketing requirements were not met (e.g. not following procedures in policies and procedures manual).
- Marketing materials had incorrect information (e.g. incorrect data or statistics).
- Marketing materials were outdated or had inadequate disclosure.
- Website information was incorrect, outdated or contained inadequate disclosure.
- Performance data incorrectly used returns from a different fund, period or both.
- Returns were compared to inappropriate or misleading benchmarks.
- Composites used in marketing materials did not include all fee-paying accounts or were not grouped according to similar investment mandates.
- References to the Association for Investment Management and Research (AIMR) (now the CFA Institute) were used when the firm was not AIMR compliant or were incorrectly worded. (Note: Compliance with global investment performance standards (GIPS) is now required for periods after December 31, 2005.)
- Claims of "superior performance" that could not be substantiated.
- The disclosure and warning language required by 15.2(2) of NI 81-102 was missing.
- Performance data of mutual funds was not disclosed for the required time periods.

- Marketing materials had not been reviewed or approved.
- There was no disclosure to clients about whether performance returns were calculated gross or net of fees.

Suggested practices

- Update marketing material regularly to ensure all information is complete, accurate and not misleading to clients.
- Establish and enforce procedures for preparing, reviewing and approving marketing materials.
- Establish guidelines on preparing performance data, using benchmarks and constructing composites.
- Review part 15 of NI 81-102, where applicable, to ensure compliance with mutual fund sales communications.
- Require someone not involved in preparing marketing materials to review and approve the content for accuracy and compliance with securities legislation.

3. Maintenance of books and records

ICPMs are required to maintain books and records necessary to properly record their business transactions, trading transactions and other financial affairs. Section 113(1) of the regulation requires ICPMs to maintain the books and records that are necessary to properly record their business transactions and financial affairs.

The following are examples of books and records that were missing or incomplete:

- trade blotters
- copies of trade orders or instructions
- trade orders (not time-stamped)
- a log of failed trades and trading errors
- advisory agreements
- client investment objectives and restrictions
- a complaints log, including the nature of the complaint and the outcome
- proxies voted or proxy logs
- cash and security reconciliations
- monthly financial statements
- written agreements with third parties

Suggested practices

A list of books and records that ICPMs are required to maintain is contained in Regulation 113(3). ICPMs should also keep any other books and records necessary to properly record their business transactions, trading transactions and other financial affairs.

4. Capital calculations

ICPMs are required to prepare monthly calculations of minimum free capital and capital required within a reasonable period of time after each month end (see Paragraph 10 of Regulation 113(3)). Capital calculations are to be based on monthly financial statements prepared in accordance with generally accepted accounting principles (GAAP). ICPMs are required to inform the OSC immediately if they become capital deficient. They are also required to correct capital deficiencies within 48 hours.

Our practice is to impose terms and conditions on all registrants that are identified as capital deficient. This includes providing us with unaudited financial statements and capital calculation each month.

During our reviews, we observed the following:

- Capital calculations were not prepared monthly or were not prepared on a timely basis. This suggested that the firm was not regularly monitoring its capital.
- Capital calculations were incorrect.
- The insurance deductible on the financial institution bond was not included in the calculation or an incorrect amount was included.
- The minimum capital deduction was incorrect.
- Financial statements were not prepared in accordance with GAAP.
- Long-term assets and liabilities were incorrectly included in the calculations of working capital and/or current assets and liabilities were incorrectly excluded.
- There was no evidence that someone other than the preparer reviewed the calculation.
- Copies of monthly capital calculations were not maintained.
- ICPMs repaid subordinated debt without first notifying the OSC in writing.
- There was inadequate insurance coverage.

Suggested practices

- Calculate the capital position monthly and base it on financial statements prepared in accordance with GAAP.
- Maintain copies of the calculations.
- Have someone other than the preparer review the calculations to ensure they are accurate. Keep a record of the review.
- Inform the OSC immediately if the ICPM's capital position becomes deficient or it repays subordinated debt.

5. Statement of policies

ICPMs are required to disclose certain relationships when they provide advice relating to their own securities or to securities of certain issuers who are connected or related to them. Every registrant is required to include this disclosure in a statement of policies, which is to be filed with the OSC and distributed to each client. Regulation 223 requires that registrants prepare and file a statement of policies with the OSC and provide a copy to their clients.

During our reviews, we observed the following:

- There was no statement of policies.
- The most current statement of policies was not filed with the OSC or provided to clients, or both.
- The statement of policies did not include all related issuers.
- ICPMs did not list related issuers who were reporting issuers.
- ICPMs did not adequately describe the nature of their relationships with related and connected issuers.
- The disclosure required in Regulation 223(1)(d) was not in bold type.

Suggested practices

- Prepare and file a current statement of policies with the OSC and distribute it to all clients.
- If a significant change occurs, file a revised statement of policies with the OSC and distribute it to all clients.

- Include in the statement of policies a complete listing of all related issuers who are reporting issuers and a concise description of the nature of the relationship with each related issuer.

- Include in the statement of policies the disclosure required in Regulation 223(1)(d) in bold type.

6. Fairness policy

Every ICPM must have standards to ensure that investment opportunities are allocated fairly among its clients as required by Regulation 115(1). ICPMs are required to prepare written fairness policies dealing with the allocation of investment opportunities among clients. These policies must be filed with the OSC and distributed to all clients.

During our reviews, we observed the following:

- There was no fairness policy.

- The most current fairness policy was not filed with the OSC or was not provided to all clients, or both.

- The fairness policy did not include a methodology for allocating block trades and determining security prices and commissions.

- The fairness policy did not include a methodology for allocating partial fills and limited issues.

- Clients did not get a complete fill because ICPMs included proprietary, employee and/or personal accounts in block trades and allocated a pro-rata share of partially filled blocked trades or initial public offerings (IPOs) to these accounts.

Suggested practices

Each ICPM should tailor its fairness policy to address all relevant areas of its business. See OSC Staff Notice 33-723 for additional guidance. At a minimum, it should state:

- How prices and commissions are allocated among client accounts when trades are blocked

- How block trades are allocated among client accounts when there is only a partial fill

- The process for determining which clients will participate in “hot issues” and IPOs

- The process for allocating prices and commissions for block trades that are filled in different lots and/or at different prices

- Policies on completely filling clients’ trades before filling accounts of proprietary or personal accounts when blocked trades are partially filled

7. Personal trading

ICPMs are required to establish and enforce written procedures on dealing with clients. These procedures must conform to prudent business practice. The establishment and enforcement of a policy on the personal trading of all employees is a prudent business practice. This ensures compliance with Part XXI - *Insider Trading and Self-Dealing* of the Act and helps prevent and detect conflicts of interest and abusive practices. For example, under section 119 of the Act, no person can purchase or sell securities for his or her account where a client’s investment portfolio holds the same security and where the person has information relating to the securities and uses the information to his or her benefit or advantage.

In this report, employees who have access to investment information about client investment portfolios are referred to as “access persons”.

During our reviews, we observed the following:

- There were no personal trading policies.

- Personal trades did not require pre-clearance.

- Pre-clearance approval instructions had no or excessive time limits.

- Personal trading policies were inconsistent with actual practice.
- Personal trading procedures did not detect violations of the personal trading policies.
- Pre-approval forms were not always matched against the brokerage statements of access persons.
- Monthly brokerage statements were not reviewed.
- A log of personal trading pre-approvals was not maintained.
- Employees were not required to sign a code of ethics or annual certification of compliance with the code.
- Individuals with access to investment making decisions were not subject to personal trading policies.
- Definitions of “non-public” or “material” information were not provided in the procedures.
- Personal trading policies did not include blackout periods.
- There were no penalties for breaches or violations of personal trading policies.

Suggested practices

- Distribute clear personal trading restrictions and reporting obligations to all employees and access persons.
- Develop and implement personal trading policies.
- Include blackout periods, the requirement for pre-approval of all personal trades and a timely review of brokerage statements in personal trading procedures.
- Require all access persons to acknowledge every year in writing that they understand and will follow the firm’s personal trading policies.
- Require all access persons to direct their brokers to send statements of their accounts directly to the officer responsible for monitoring the personal trading policy.
- Maintain a record of personal trade pre-approvals and brokerage statements of
- access persons as proof that personal trading is being monitored.
- Have the Compliance officer review and oversee all personal trading records.
- Review brokerage statements of access persons and reconcile all trades against the approvals granted each month or quarter.
- Implement a process to address personal trading violations, including penalties for non-compliance.

8. KYC and suitability information

ICPMs are required to collect and document current KYC information so they can assess the general investment needs of their clients and the suitability of proposed transactions (see section 1.5 of OSC Rule 31-505). ICPMs should collect and document client information such as investment objectives, risk tolerance, investment restrictions, investment timeframe, annual income and net worth.

During our reviews, we observed the following:

- No KYC and suitability information was collected or documented.
- KYC information was not collected for clients who bought non-prospectus qualified investment funds (i.e. pooled funds).
- KYC information was incomplete.

- KYC information was not updated periodically.
- KYC information was not formally documented.
- KYC forms were not signed or dated by clients.

Suggested practices

- Collect complete KYC information for all clients, including clients who buy non-prospectus qualified investment offerings (i.e. sold under prospectus exemptions).
- Update KYC information at least once a year.
- Ensure that clients sign the KYC information form.
- Maintain a pending file for incomplete KYC forms, and clear them on a timely basis, in particular before executing any trades for the client.

9. Portfolio management

This includes managing the investment portfolio of clients through discretionary authority granted by the client. It also includes advisory agreements governing the portfolio management activities that advisers perform on behalf of their clients. Advisory agreements should contain adequate disclosure of all material facts, including the responsibilities of each of the parties, clients' investment objectives and restrictions, the timing and billing of fees, the degree of discretion in managing client assets and terms for ending the agreement.

Section 1.2 of OSC Rule 31-505 requires ICPMs to develop written procedures for dealing with clients. The written procedures should conform to prudent business practice and enable ICPMs to serve their clients adequately.

During our reviews, we observed the following:

- There were no advisory agreements with clients.
- Advisory agreements were not signed by clients.
- Clauses in agreements contradicted the advisor's fiduciary duty to the client.
- The client's investment objectives and restrictions were not documented.
- Portfolio holdings were inconsistent with the stated investment restrictions.
- Advisory fee schedules were not included in the advisory agreements.
- The timing and method of billing was not included in the agreement.
- Responsibility for voting client proxies was not addressed.
- Responsibility for insider reporting or early warning reporting on the client's behalf was not addressed.
- Client's written consent to charge fees based on performance was not obtained.
- Management fees were paid to parties other than the ICPM.
- No written consent was obtained for investments in issuers where responsible persons are directors or officers of the issuers.

Suggested practices

- Have clients sign advisory agreements before ICPMs begin managing the account.
- Update advisory agreements when terms change.

- Include details about the roles and responsibilities of each party in advisory agreements.
- Review client holdings frequently to ensure that they are consistent with stated investment objectives and restrictions.
- Obtain written consent from the client before investing in issuers where responsible persons are directors or officers.
- Ensure that management fees are paid directly to the registered ICPMs.

10. Registration issues

ICPMs are responsible for ensuring that they maintain appropriate registration for the activities conducted. Paragraph (1)(c) of Section 25 of the Act states that no person or company shall act as an adviser unless registered to do so.

ICPMs are required to notify the OSC of any change in the status of directors and/or officers within five business days. An ICPM is also required to notify the OSC of the opening of any office or branch, and of any changes in the status of the compliance officer, portfolio managers and representatives. Multilateral Instrument 33-109 sets out the requirements for changes to registered firm and individual information.

Trade names can be used when conducting registerable activity if the ICPM has previously notified the OSC.

During our reviews, we observed the following:

- Affiliated entities of the ICPMs were performing advisory activities that they were not registered for.
- Officers and/or directors were not registered with the OSC.
- Portfolio managers, representatives and compliance officers were not registered with the OSC.
- Individuals acting as advisers did not have the required proficiency.
- The OSC was not notified of changes in registration.
- Notices were filed late with the OSC.
- Trade names or parent company names were used in signage, correspondence, business cards and marketing materials without notifying the OSC.
- Branch office locations of ICPMs were not registered with the OSC.

Suggested practices

- Notify the OSC of all changes to registration promptly.
- Register branch office locations promptly.
- Notify the OSC when trade names are used.
- Ensure that individuals who provide advice to others are appropriately registered as portfolio managers.

3. Significant ICPM deficiencies

We made several enhancements to our deficiency reports to help ICPMs understand the key issues that they need to focus on. One of the major changes was identifying significant deficiencies in reports issued after April 1, 2005 (fiscal 2006).

We have established various criteria to assess whether a deficiency is significant, including:

- risk to client assets
- conflicts of interest
- misleading information to clients

- ineffective compliance structure

In addition to these criteria, we take into account other factors, including:

- current issues such as best execution and referral arrangements
- frequency of findings
- impact of the deficiency on a market participant's operations

The process of identifying significant deficiencies was not in place during fiscal 2005. To allow a comparison between common deficiencies and significant deficiencies for the two-year period, we applied the above criteria to deficiency reports issued in fiscal 2005.

The average field review of ICPMs in fiscal years 2005 and 2006 resulted in 14 deficiencies. Five or 35% of these deficiencies were identified as significant. For suggested practices, please refer to section 2 of the report.

We only showed the top three significant deficiencies as the percentages were relatively higher than other deficiencies category. Please also note that the top three significant deficiencies are not the same as the top three common deficiencies. As mentioned above, we applied various criteria and professional judgment when determining whether a deficiency should be identified as significant.

1. Marketing

ICPMs tended to be more aggressive in their marketing materials and presented performance returns that could not be substantiated. Also, they did not have a formal process in place to review their marketing materials and websites. Examples included:

(a) Incorrect construction of performance composites. Performance composites presented to clients were incorrectly constructed. For example, not all clients with the same investment strategy were included in the composite or some clients were included in the wrong composite.

(b) Inappropriate use of benchmarks. Some ICPMs compared the return of their funds or accounts to benchmarks that were inappropriate and misleading to clients. For example, they used the S&P 500 and NASDAQ 100 to compare the performance of an investment fund that only holds Canadian equities which is considered misleading.

(c) Combining performance returns of other funds. Some ICPMs combined the performance returns of an investment fund with another fund with similar investment strategy without disclosing this to investors. In particular, the performance returns for a new fund were combined with the actual performance of another similar fund. This may mislead an investor to believe that the returns of the other fund were the actual returns of the new fund.

2. Personal trading

We also identified significant deficiencies in the area of personal trading. Examples included:

(a) No policies and procedures on personal trading and no designated officer responsible for monitoring the personal trades of access persons.

(b) Not enforcing policies and procedures on personal trading to ensure compliance with securities law. In some instances, we identified the following practices that were not allowed under the ICPM's policies and procedures:

- Access persons traded in a security on the same day as their clients and received a better price.
- Access persons' trades were not cleared first by the compliance officer.
- The compliance officer did not review the monthly brokerage statements and reconcile the access persons' trades to the pre-clearance forms.

3. KYC and suitability information

We also identified significant deficiencies in the area of KYC and suitability information. Examples included:

(a) Not collecting and documenting sufficient KYC and suitability information from their clients, for example, investment objectives, risk tolerance and time horizon. This issue was also noted in ICPMs who were registered as limited market dealers. Without this information, ICPMs cannot assess the suitability of proposed trades for their clients. Since the ICPMs did not collect and document sufficient KYC information, we were unable to determine whether the managed portfolios were suitable for clients.

(b) KYC information was not updated to reflect changes in clients' investment objectives, risk tolerance and financial condition.

New trend - Back-tested performance data. Although we did not identify the use of back-tested performance data in ICPM reviews in 2005 and 2006, we have seen an increasing use of back-tested performance data during our recent reviews of ICPMs, fund managers and limited market dealers.

Back-tested performance data is simulated historical trading performance that does not represent actual results. It has been used in prospectuses, offering documents and marketing materials. It is typically presented as actual results of the fund or the investment strategy. We have seen inadequate disclosure of the methodology used in preparing this performance data, transaction fees and issues relating to any slippage that occurred during trading. In some cases, simulated performance returns combined with actual returns were presented to investors. As well, no standard periods were used for presenting back-tested performance returns. Therefore, there may be a tendency to present back-tested performance returns only during the best performing periods.

Our response

One of the reasons for tracking and analyzing the common and significant deficiencies of ICPMs is to highlight the areas that are of regulatory concern so that we can take appropriate action to improve compliance.

Based on our analysis, marketing is one of the key areas with a growing number of deficiencies in the past two years. To address this issue, we will be conducting a sweep in the marketing area during fiscal 2007.

The sweep will focus on key areas such as composite construction, review of marketing materials, performance returns, use of benchmarks and back-tested performance data. We will share the results of the sweep in a separate report/staff notice or in our next report. We will continue to focus on areas such as personal trading, KYC and suitability information in our regular compliance reviews.

4. Addressing the deficiencies

At the end of each review, we issue a deficiency report identifying areas of non-compliance with securities law. However, there are situations where a report alone may not be adequate to address the deficiencies.

Depending on the severity of issues identified, we may use one or more of the following regulatory tools:

- closely monitor the market participant
- hold an examination of the registrant under Section 31
- impose terms and conditions on registration
- refer the matter to Enforcement for further follow up and appropriate action

We expect that the use of appropriate regulatory tools will enhance compliance and foster an effective regulatory regime.

Contact information

For further information, please contact:

Carlin Fung
Senior Accountant, Compliance
Capital Markets Branch
cfung@osc.gov.on.ca
phone (416) 593-8226

Sam Aiello
Accountant, Compliance
Capital Markets Branch
saiello@osc.gov.on.ca
phone (416) 593-2322

Marrianne Bridge
Manager, Compliance
Capital Markets Branch

mbridge@osc.gov.on.ca
phone (416) 595-8907

1.2 Notices of Hearing

1.2.1 Patrick Gouveia et al. - 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
PATRICK GOUVEIA, ANDREW PETERS,
RONALD PERRYMAN AND
PAUL VICKERY

NOTICE OF HEARING
(s. 127 and s. 127(1))

TAKE NOTICE that the Ontario Securities Commission will hold a hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), at the offices of the Commission, 20 Queen Street West, 17th Floor Hearing Room, Toronto, Ontario commencing on September 19, 2006 at 9:30 a.m. or soon thereafter as the hearing can be held;

AND TAKE NOTICE that the purpose of the hearing is for the Commission to consider whether pursuant to section 127 and s. 127.1 of the Act, it is in the public interest for the Commission:

(a) to approve a Settlement Agreement entered into between Staff of the Commission and the respondent, Ronald Perryman ("Perryman");

(b) to make an order pursuant to subsection 127(1), clause 6, that Perryman be reprimanded;

(c) to make an order pursuant to s. 127(1), clause 7, that Perryman resign any positions that he may hold as a director or officer of any issuer;

(d) to make an order pursuant to s. 127(1), clause 8, that Perryman be prohibited from becoming or acting as a director or officer of any issuer; and

(e) to make an order pursuant to s. 127.1 that Perryman make a contribution toward the costs of Staff's investigation and costs related to this proceeding.

AND TAKE FURTHER NOTICE that any party to the proceeding may be represented by counsel at the hearing;

AND FURTHER TAKE NOTICE that in the event that any party fails to attend, the hearing may proceed in the absence of that party and such party is not entitled to any further notice of the proceeding.

DATED at Toronto this "12th" day of September , 2006.

"John Stevenson"
Secretary to the Commission

1.4 Notices from the Office of the Secretary

1.4.1 Howard Rash

FOR IMMEDIATE RELEASE
September 8, 2006

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

AND

IN THE MATTER OF
HOWARD RASH

TORONTO – On September 5, 2006 the Commission issued its Reasons For Order in the above named matter.

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

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries: Wendy Dey
Director, Communications
and Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

1.4.2 Momentas Corporation et al. - ss. 127, 127.1

FOR IMMEDIATE RELEASE
September 8, 2006

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, SUZANNE MORRISON
AND MALCOLM ROGERS

(Sections 127 and 127.1)

TORONTO – On September 5, 2006 the Commission issued its Reasons and Decision in the above named matter.

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

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries: Wendy Dey
Director, Communications
and Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

1.4.3 Limelight Entertainment Inc. et al.

FOR IMMEDIATE RELEASE
May 17, 2006

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

AND

IN THE MATTER OF
LIMELIGHT ENTERTAINMENT INC.,
CARLOS A. DA SILVA, DAVID C. CAMPBELL,
JACOB MOORE AND JOSEPH DANIELS

TORONTO – Following a hearing held May 11, 2006, the Commission issued a Temporary Order, ordering that:

(1) the First Temporary Order and the Second Temporary Order are extended to September 13, 2006;

(2) the Hearing is adjourned to Wednesday, September 13, 2006 at 10:00 a.m.;

(3) Moore and Daniels may be served with documents in this proceeding by serving Limelight, Campbell or Da Silva with any documents to be served on the parties to this proceeding; and

(4) Limelight shall provide notice of this proceeding to all Limelight shareholders in the form attached as Schedule "A".

Copies of the Temporary Order and Schedule "A" are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries: Wendy Dey
Director, Communications
and Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

1.4.4 Limelight Entertainment Inc. et al.

FOR IMMEDIATE RELEASE
September 12, 2006

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

AND

IN THE MATTER OF
LIMELIGHT ENTERTAINMENT INC.,
CARLOS A. DA SILVA, DAVID C. CAMPBELL,
JACOB MOORE AND JOSEPH DANIELS

TORONTO – The Commission issued an Order today extending the temporary orders to October 30, 2006 and adjourning the hearing to Monday, October 30, 2006 at 10:00 a.m.

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

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries: Wendy Dey
Director, Communications
and Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

1.4.5 Patrick Gouveia et al.

FOR IMMEDIATE RELEASE
September 13, 2006

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

AND

IN THE MATTER OF
PATRICK GOUVEIA, ANDREW PETERS,
RONALD PERRYMAN AND
PAUL VICKERY

TORONTO – The Commission issued a Notice of Hearing scheduling a hearing on Tuesday, September 19, 2006 at 9:30 a.m. in the above noted matter to consider a Settlement Agreement entered into by Staff of the Commission and Ronald Perryman.

A copy of the Notice of Hearing issued September 12, 2006 and Statement of Allegations dated June 2, 2004 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries: Wendy Dey
Director, Communications
and Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

This page intentionally left blank

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Mastercard Incorporated - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from prospectus requirement in connection with the first trade of shares distributed to residents of Canada pursuant to a prospectus exemption – issuer not a reporting issuer in any jurisdiction of Canada – the conditions of the exemption in section 2.14 of National Instrument 45-102 Resale of Securities not fully met as residents of Canada own more than 10% of the total number of shares – over 92% of the total shares owned by Canadian residents held by a charitable foundation and subject to restrictions on disposition – relief granted subject to conditions, including that the first trade must be made through an exchange or market outside of Canada or to a person or company outside of Canada.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 53, 74(1).
National Instrument 45-102 – Resale of Securities.

September 1, 2006

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
ONTARIO AND QUÉBEC
(the "Jurisdictions")

AND

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

AND

IN THE MATTER OF
MASTERCARD INCORPORATED
(the "Company")

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 Company for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") that the prospectus requirements contained in the Legislation do not apply to the first trade of the Canadian Shares (as defined below) (the "**Requested Relief**"), subject to certain terms and conditions.

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.

Representations

1. The Company is a corporation incorporated under the laws of the State of Delaware. The principal executive offices of the Company are located at 2000 Purchase Street, Purchase, New York, U.S.A. 10577.

2. The Company is not a reporting issuer or its equivalent in any jurisdiction of Canada and the Company has no present intention of becoming a reporting issuer in any jurisdiction of Canada.

3. The Company is registered with the Securities and Exchange Commission (the "**SEC**") in the United States of America and is subject to the requirements of the *Securities Exchange Act of 1934* (the "**1934 Act**") and the rules and regulations of the New York Stock Exchange (the "**NYSE**").

4. The authorized capital of the Company consists of:

   (a) 3,000,000,000 shares of Class A common stock par value US$0.0001 per share ("**Class A Shares**"), of which 79,631,922 Class A Shares were issued and outstanding as of July 20, 2006;

   (b) 1,200,000,000 shares of Class B common stock, par value US$0.0001 per share, of which 55,337,407 shares were issued and outstanding as of July 20, 2006;

   (c) 1,000,000 shares of Class M common stock, par value US$0.0001 per share, of

which 1,570 shares were issued and outstanding as of July 20, 2006; and

(d) 300,000,000 shares of preferred stock, par value US$0.0001 per share, of which none was issued and outstanding as of July 20, 2006.

5. The Class A Shares are listed and posted for trading on the NYSE under the symbol "MA". Other than the foregoing, none of the Company's securities are listed or quoted on any exchange or market either in Canada or outside of Canada.

6. On May 31, 2006, the Company completed an initial public offering of its Class A Shares (the "**Offering**") outside of Canada pursuant to which the Company issued a total of 66,134,989 Class A Shares (including a total of 4,614,077 Class A Shares issued on exercise by the underwriters for the Offering of the over-allotment option) at an initial public offering price of US$39.00 per share. As part of the Offering, and based on the information provided to the Company by the underwriting syndicate for the Offering, the Company issued and sold, through the underwriting syndicate, a total of 1,146,100 Class A Shares (representing less than 1.5% of the total 79,631,922 Class A Shares issued and outstanding as of July 20, 2006) on a private placement basis to a total of 114 investors in the Jurisdictions (the "**Canadian Investors**") which, based on information provided to the Company by ADP Investor Communications Services, represented, as of June 15, 2006, less than 0.5% of the total number of holders of Class A Shares, in reliance on the prospectus exemptions contained in National Instrument 45-106 - *Prospectus and Registration Exemptions* (the "**Canadian Offering Shares**").

7. As disclosed in the prospectus and the Canadian offering memorandum, each dated May 24, 2006, prepared and filed by the Company in connection with the Offering, concurrently with the Offering, the Company donated a total of 13,496,933 newly issued Class A Shares, representing approximately 17% of the total issued and outstanding Class A Shares (the "**Canadian Foundation Shares**" and together with the Canadian Offering Shares, the "**Canadian Shares**"), to The MasterCard Foundation, a private charitable foundation incorporated in Canada (the "**Foundation**"). Pursuant to the terms of the donation, the Foundation may not sell or otherwise transfer the Canadian Foundation Shares prior to April 30, 2027, except to the extent necessary to comply with charitable disbursement requirements under Canadian law starting on May 31, 2010.

8. The Canadian Offering Shares represented approximately 18.4% of the issued and outstanding Class A Shares as of July 20, 2006. Based on information provided to the Company by ADP Investor Communications Services, the Canadian Investors, together with the Foundation, (collectively, the "**Canadian Owners**"), represented, as of June 15, 2006, less than 0.5% of the total number of holders of Class A Shares.

9. In the absence of an order granting relief, the first trade in Canadian Shares will be deemed to be a distribution pursuant to National Instrument 45-102 – *Resale of Securities* ("**NI 45-102**") unless, among other things, the Company has been a reporting issuer for four months immediately preceding the trade in one of the jurisdictions set forth in Appendix B to NI 45-102.

10. The Canadian Owners are not able to rely on the exemption provided for by section 2.14 of NI 45-102 to resell the Canadian Offering Shares as the criteria set out in subsection 2.14(b)(i) of NI 45-102 is not met in that, at the distribution date of the Canadian Shares, residents of Canada (including the Foundation) owned more than 10% of the Class A Shares.

11. No market for the Class A Shares exists in Canada and none is expected to develop. It is intended that any resale of the Canadian Shares by the Canadian Owners be effected through the facilities of the NYSE or any other exchange or market outside of Canada on which Class A Shares may be quoted or listed at the time that the trade occurs or to a person or company outside of Canada, in accordance with the rules and regulations of such foreign market.

12. In accordance with the current requirements of the NYSE, holders of Canadian Shares will receive copies of all shareholder materials provided to all other holders of Class A Shares.

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) at the date of the first trade of the Canadian Shares, the Company is not a reporting issuer in any jurisdiction of Canada where such concept exists; and

(b) the first trade of the Canadian Shares is made through an exchange, or a market, outside of Canada or to a person or company outside of Canada.

"Robert L. Shirriff, Q.C."
Commissioner
Ontario Securities Commission

"Paul K. Bates"
Commissioner
Ontario Securities Commission

2.1.2 RBC Asset Management Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Exemption to allow dealer managed mutual funds to invest in securities of an issuer during the 60 days after the distribution period in which an affiliate of the dealer manager has acted as an underwriter in connection with the distribution of securities of the issuer. – The conflict is mitigated by the oversight of an independent review committee – Subsection 4.1(1) of National Instrument 81-102 Mutual Funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 4.1(1), 19.1.

August 31, 2006

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.
(the "Applicant")

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 Applicant (or "Dealer Manager"), for and on behalf of the mutual funds named in Appendix "A" (the "Funds" or "Dealer Managed Funds") for whom the Applicants act as manager or portfolio advisor or both, for a decision under section 19.1 of National Instrument 81-102 *Mutual Funds* ("NI 81-102") for:

- an exemption from subsection 4.1(1) of NI 81-102 to enable the Dealer Managed Funds to invest in units (the "Units") of Bema Gold Corporation (the "Issuer"), each Unit consisting of one common share (a "Share") and one-half of one common share purchase warrant with each whole common share warrant (a "Warrant") entitling the holder to acquire one common share of the Issuer (a

"Warrant Share" and together with the Units, the Shares, and the Warrants, the "Securities"), on the Toronto Stock Exchange (the "TSX") during the 60-day period following the completion of the distribution (the "Prohibition Period") notwithstanding that the Dealer Manager or its associates or affiliates act or have acted as an underwriter in connection with the offering (the "Offering") of Units of the Issuer pursuant to a short form prospectus (the "Prospectus") to be filed in accordance with the securities legislation of all Canadian provinces except Québec (the "Requested Relief").

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(a) the Ontario Securities Commission (the "OSC") 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 Applicants:

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

2. The head office of the Applicant is in Toronto, Ontario.

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 and annual information forms that have been prepared and filed in accordance with their respective securities legislation.

4. The Issuer filed a preliminary prospectus on August 22, 2006 (the "Preliminary Prospectus").

5. According to the Preliminary Prospectus, the Offering is expected to be for approximately 18,400,000 Units of the Issuer with the gross proceeds of the Offering expected to be approximately Cdn.$115,000,000. According to the Preliminary Prospectus, the Offering is expected to close on or about September 7, 2006.

6. The Offering is being underwritten subject to certain terms, by an underwriting syndicate which will include RBC Dominion Securities Inc. (the "Related Underwriter"), among others (the Related Underwriter, together with the other underwriters, which are now or may become part of the syndicate prior to closing, the "Underwriters"). The Related Underwriter is an affiliate of the Dealer Manager.

7. As described in the Preliminary Prospectus, the Issuer was formed by the amalgamation under the *Company Act* (British Columbia) of three British Columbia publicly traded mineral exploration companies. On July 19, 2002, the Issuer continued its corporate jurisdiction federally under the Canada Business Corporations Act and ceased to be a British Columbia company. The Issuer is a Canadian mining company engaged in the mining and production of gold and silver, and the acquisition, exploration and development of precious metal properties principally in the Russian Federation, South Africa and Chile.

8. According to the Preliminary Prospectus, the Issuer proposes to use the net proceeds from the Offering for further exploration, development and construction of the Issuer's Kupol property and for working capital and general corporate purposes.

9. According to the Preliminary Prospectus, it is expected that the Issuer will grant the Underwriters an over-allotment option (the "Over Allotment Option") to purchase up to an additional 2,760,000 Units, exercisable in whole or in part at the sole discretion of the Underwriters, at a price of Cdn.$6.25 per additional Unit within 30 days of the closing of the Offering which is expected to occur on or about September 7, 2006. If the Over Allotment Option is exercised in full, the Offering is expected to result in gross proceeds of Cdn.$132,250,000.

10. As described in the Preliminary Prospectus, the Issuer and the Underwriters have entered into an underwriting agreement (the "Underwriting Agreement") for the purpose of the Offering. The Underwriting Agreement provides for the Offering to be undertaken on a bought deal basis, with each of the Underwriters severally agreeing to purchase, as principal, 18,400,000 Units of the Issuer at a price of Cdn.$6.25 per additional Unit, payable in cash on the terms and conditions contained in the Underwriting Agreement against delivery of certificates representing the Shares and Warrants comprised in the Units.

11. The Preliminary Prospectus does not disclose that the Issuer is a "related issuer" or "connected issuer" of the Related Underwriter.

12. According to the Preliminary Prospectus, the Issuer has applied to list the Shares (including Shares comprised in the additional Units), the Warrants and the Warrant Shares (including Warrant Shares underlying the Warrants comprised in the additional Units) for trading on the TSX.

13. The Dealer Managed Funds are not required or obligated to purchase any Securities during the Prohibition Period. Despite the affiliation between the Dealer Manager and the Related Underwriter, they operate independently of each other. In particular, the investment banking and related dealer activities of the Related Underwriter and the investment portfolio management activities of the Dealer Manager 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, the Dealer Manager and the 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) the Dealer Manager and the Related Underwriter may share general market information such as discussion on general economic conditions, bank rates, etc.

14. The Dealer Manager may cause the Dealer Managed Funds to invest in the Securities during the Prohibition Period. Any purchase of the Securities will be consistent with the investment objectives of the Dealer Managed Fund making the purchase 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.

15. To the extent that the same portfolio manager or team of portfolio managers of a Dealer Manager manages the Dealer Managed Funds and other client accounts that are managed on a discretionary basis (the "Managed Accounts"), the Securities 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.

16. An independent committee (the "Independent Committee") has or will be appointed in respect of the Dealer Managed Funds to review the Dealer Managed Funds' investments in the Securities during the Prohibition Period.

17. 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 Funds, 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.

18. 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 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.

19. The Dealer Manager, in respect of the Dealer Managed Funds, will notify a member of staff in the Investment Funds Branch of the Ontario Securities Commission, in writing of any SEDAR Report (as defined 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.

20. The Dealer Manager has not been involved in the work of the Related Underwriter and the Related Underwriter has not been and will not be involved in the decisions of the Dealer Manager as to whether the Dealer Manager's Dealer Managed Funds will purchase the Securities 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 NI 81-102 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, notwithstanding that the Related Underwriters act or have acted as underwriters in the Offering provided that, in respect of each Dealer Managers and its Dealer Managed Funds, the following conditions are satisfied:

I. At the time of each purchase (the "Purchase") of Securities 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 Securities 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. Each Dealer Managed Fund has an Independent Committee to review the Dealer Managed Fund's investments in the Securities during the Prohibition Period;

IV. 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;

V. 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;

VI. 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 V above;

VII. 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 V above;

VIII. The cost of any indemnification or insurance coverage paid for by the Dealer Manager, any portfolio manager of the Dealer Managed Fund, 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 V above is not paid either directly or indirectly by the Dealer Managed Fund;

IX. The Dealer Manager files a certified report on SEDAR (the "SEDAR Report") in respect of each Dealer Managed Fund, no later than 30 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 Securities purchased by the Dealer Managed Fund;

(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 Securities;

(iv) if the Securities 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 Securities 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 Securities 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 paragraph 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 Securities 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.

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

(a) any determination by it that the condition set out in paragraph IX(d) above has not been satisfied with respect to any Purchase of Securities 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.

XI. Each Purchase of Securities during the Prohibition Period is made on the TSX; and

XII. 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.

"Leslie Byberg"
Manager, Investment Funds Branch,
Ontario Securities Commission

APPENDIX "A"

THE MUTUAL FUNDS

RBC Funds (formerly Royal Mutual Funds)

RBC Balanced Fund
RBC Balanced Growth Fund
RBC Canadian Equity Fund
RBC Global Precious Metals Fund
(formerly RBC Precious Metals Fund)
RBC North American Growth Fund
(formerly RBC Canadian Growth Fund)

RBC Private Pools

RBC Private Canadian Mid Cap Equity Pool

2.1.3 TD Asset Management Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Exemption to allow dealer managed mutual funds to invest in securities of an issuer during the 60 days after the distribution period in which an affiliate of the dealer manager has acted as an underwriter in connection with the distribution of securities of the issuer. – The conflict is mitigated by the oversight of an independent review committee – Subsection 4.1(1) of National Instrument 81-102 Mutual Funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 4.1(1), 19.1.

September 1, 2006

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

TD ASSET MANAGEMENT INC.
(the "Applicant")

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 Applicant (or "**Dealer Manager**") for a decision pursuant to the securities legislation of the Jurisdictions (the "**Legislation**") to vary the decision issued to the RBC Asset Management Inc. and the Dealer Manager on August 22, 2006 (the "**Prior Decision**"). The Prior Decision is attached as Schedule "A". The variation requested is for the inclusion of the TD Canadian Equity Fund (the "**Additional Fund**") in Appendix "A" of the Prior Decision (the "**Requested Relief**").

Under the Mutual Reliance Review System ("**MRRS**") 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.

Representations

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

1. The Dealer Manager is the manager or portfolio adviser or both of the Additional Fund and, accordingly, is a "dealer manager" as defined in section 1.1 of NI 81-102. The head office of the Dealer Manager is in Toronto, Ontario.

2. The Additional Fund is a "dealer managed fund" as defined in section 1.1 of NI 81-102.

3. The securities of the Additional Fund are qualified for distribution in each of the provinces and territories of Canada pursuant to a simplified prospectus that has been prepared and filed in accordance with the respective securities legislation.

4. The Additional Fund was established on or prior to the date of the Prior Decision and through inadvertence, the Additional Fund was not included in the application that resulted in the issuance of the Prior Decision.

5. Investments in the Units by the Additional Fund are consistent with its investment objectives and strategies.

6. The facts and representations in the Prior Decision equally apply to the Additional Fund.

7. The Dealer Manager and the Additional Fund agree to be bound by the terms and conditions of the Prior Decision.

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.

"Leslie Byberg"
Manager, Investment Funds Branch
Ontario Securities Commission

Schedule "A"

August 22, 2006

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. AND TD ASSET MANAGEMENT INC.
(the "Applicants")

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 Applicants (or "**Dealer Managers**"), for and on behalf of the mutual funds named in Appendix "A" (the "**Funds**" or "**Dealer Managed Funds**") for whom the Applicants act as manager or portfolio advisor or both, for a decision under section 19.1 of National Instrument 81-102 *Mutual Funds* ("**NI 81-102**") for:

- an exemption from subsection 4.1(1) of NI 81-102 to enable the Dealer Managed Funds to invest in the trust units (the "**Units**") of Yellow Pages Income Fund (the "**Issuer**") on the Toronto Stock Exchange (the "**TSX**") during the 60-day period following the completion of the distribution (the "**Prohibition Period**") notwithstanding that the Dealer Managers or their associates or affiliates act or have acted as an underwriter in connection with the offering (the "**Offering**") of Units of the Issuer pursuant to a short form base shelf prospectus dated May 8, 2006 (the "**Prospectus**") to be supplemented by a shelf prospectus supplement (the "**Prospectus Supplement**") to be filed in accordance with the securities legislation of all Canadian provinces (the "**Requested Relief**").

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(a) the Ontario Securities Commission (the "**OSC**") 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 Applicants:

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 RBC Asset Management Inc. and TD Asset Management Inc. are in Toronto, Ontario.

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 and annual information forms that have been prepared and filed in accordance with their respective securities legislation.

4. The Prospectus was filed with, and a receipt was issued under the MRRS by the Decision Makers in each of the Provinces of Canada on May 8, 2006.

5. According to the Prospectus and a term sheet of the Issuer (the "**Term Sheet**"), the Offering is expected to be for approximately 25,000,000 Units of the Issuer with the gross proceeds of the Offering expected to be approximately $381,250,000. According to the Term Sheet, the Closing Date is expected to occur on or about August 22, 2006.

6. The Offering is being underwritten subject to certain terms, by a syndicate which will include RBC Dominion Securities Inc. and TD Securities Inc. (the "**Related Underwriters**"), among others (the Related Underwriters together with the other underwriters, which are now or may become part of the syndicate prior to closing, the "**Underwriters**"). Each of the Related Underwriters is an affiliate of a Dealer Manager.

7. As described in the Prospectus, the Issuer, through its subsidiaries, is Canada's largest telephone directories publisher and the exclusive owner of the Yellow PagesTM, Pages JaunesTM and Walking Fingers and DesignTM trademarks in Canada. According to the Prospectus, the Issuer, through its subsidiaries, publishes 330 different telephone directories annually, including the 35 telephone directories published by Aliant ActiMedia (for which the Issuer, through one of its subsidiaries, acts as managing partner). Including the directories published by Aliant ActiMedia, the Issuer's directories have a total circulation of approximately 28 million copies, reaching substantially all of the households and businesses in the major markets in Canada. As disclosed in the Prospectus, the Issuer also operates through its subsidiaries, in Canada, YellowPages.caTM (and its French equivalent, PagesJaunes.caTM), Canada411.ca, Canadatollfree.ca, SuperPages.ca and the CanadaPlus.ca group of city sites, which allows the Company to offer bundled packages of print and online directory advertising products.

8. According to the Term Sheet, the Issuer issues monthly distributions to unitholders on the last day of each month which are paid on the 15th day of each following month. The Units will be entitled to participate in the upcoming monthly distribution to be paid on September 15, 2006.

9. Based upon the information provided in the Term Sheet, the net proceeds of the Offering will be used to repay indebtedness and for general corporate purposes.

10. The Issuer and the Underwriters will enter into an underwriting agreement (the "**Underwriting Agreement**") prior to the Issuer filing the Prospectus Supplement. Pursuant to the terms of the Underwriting Agreement, the Issuer will agree to issue and sell to the Underwriters, and each of the Underwriters will severally (and not jointly) agree to purchase, all but not less than all of the Units offered under the Offering from the Issuer, as principal, on Closing.

11. The Issuer's outstanding Units are listed on the Toronto Stock Exchange (the "**TSX**") under the symbol "YLO.UN".

12. According to the Prospectus, the Issuer may be considered a "connected issuer", as defined in NI 33-105, of RBC Dominion Securities Inc. and TD Securities Inc. for the reasons set forth in the Prospectus. As disclosed in the Prospectus, certain of the Related Underwriters are subsidiaries or affiliates of lenders (the "**Lenders**") who have made credit facilities available to the Issuer or its subsidiaries. According to the Prospectus, as of April 30, 2006, there were no amounts owing under these existing facilities. As outlined above, the proceeds of the Offering will be used to repay indebtedness and for general corporate purposes. According to the Prospectus, the decision to distribute the Units was made by

the Issuer and the terms and conditions of the Offering were determined free of any involvement on the part of the Lenders. None of the Related Underwriters connected to the Issuer will receive any benefit from the Offering other than its portion of the remuneration payable by the Issuer on the principal amount of the Units sold through or to it.

13. The Dealer Managed Funds are not required or obligated to purchase any Units during the Prohibition Period. Despite the affiliation between the Dealer Managers and the 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, the Dealer Managers and the Related Underwriters may communicate to enable the Dealer Managers to maintain up to date restricted-issuer lists to ensure that the Dealer Managers comply with applicable securities laws); and

    (b) each Dealer Manager and the Related Underwriters may share general market information such as discussion on general economic conditions, bank rates, etc.

14. 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 making the purchase and represent the business judgment of the Dealer Managers 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.

15. 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.

16. An independent committee (the "**Independent Committee**") has or will be appointed in respect of the Dealer Managed Funds to review the Dealer Managed Funds' investments in the Units during the Prohibition Period.

17. The first quarterly meeting of the Independent Committee of the Dealer Managed Funds of RBC Asset Management Inc., following the end of the Prohibition Period, is scheduled to be held on November 23, 2006.

18. 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 Funds, 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.

19. 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 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.

20. Each Dealer Manager, in respect of the Dealer Managed Funds, will notify a member of staff in the Investment Funds Branch of the Ontario Securities Commission, in writing of any SEDAR Report (as defined 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.

21. Each Dealer Manager has not been involved in the work of the Related Underwriters and the Related Underwriter has not been and will not be involved in the decisions of the Dealer Managers 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 NI 81-102 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, notwithstanding that the Related Underwriters act or have acted as underwriters in the Offering provided that, in respect of each Dealer Manager and its Dealer Managed Funds, the following conditions are satisfied:

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

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

V. 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;

VI. 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 V above;

VII. 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 V above;

VIII. The cost of any indemnification or insurance coverage paid for by the Dealer Manager, any portfolio manager of the Dealer Managed Fund, or any associate or affiliate of each 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 V above is not paid either directly or indirectly by the Dealer Managed Fund;

IX. TD Asset Management Inc. files a certified report on SEDAR (the "**SEDAR Report**") in respect of each Dealer Managed Fund, no later than 30 days after the end of the Prohibition Period, and RBC Asset Management Inc. files the SEDAR Report in respect of each Dealer Managed Fund, no later than 37 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 Fund;

(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.

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

(a) any determination by it that the condition set out in paragraph IX(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.

XI. Each Purchase of Units during the Prohibition Period is made on the TSX; and

XII. 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.

"Susan Silma"
Director, Investment Funds Branch
Ontario Securities Commission

APPENDIX "A"
THE MUTUAI. FUNDS

RBC Funds (formerly Royal Mutual Funds)
RBC Balanced Fund
RBC Canadian Equity Fund
RBC North American Growth Fund (formerly RBC Canadian Growth Fund)
RBC North American Value Fund (formerly RBC Canadian Value Fund)
RBC Balanced Growth Fund
RBC Monthly Income Fund
RBC Canadian Diversified Income Trust Fund
RBC North American Dividend Fund (formerly RBC Blue Chip Canadian Equity Fund)
RBC Canadian Dividend Fund (formerly RBC Dividend Fund)
RBC Tax Managed Return Fund

RBC Private Pools
RBC Private Income Pool
RBC Private Dividend Pool
RBC Private Canadian Equity Pool
RBC Private Canadian Mid Cap Equity Pool

TD Mutual Funds
TD Balanced Fund
TD Monthly Income Fund
TD Dividend Income Fund
TD Dividend Growth Fund
TD Income Trust Capital Yield Fund
TD Canadian Value Fund
TD Canadian Small-Cap Equity Fund
TD Balanced Growth Fund
TD Balanced Income Fund
TD Canadian Blue Chip Equity Fund
TD Canadian Equity Fund

TD Private Funds
TD Private Canadian Equity Fund
TD Private Canadian Dividend Fund
TD Private Income Trust Fund
TD Private Small/Mid Cap Equity Fund
TD Private North American Equity Fund

2.1.4 Adastra Minerals 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 12, 2006

Adastra Minerals Inc.
Suite 950-1055 West Georgia Street
Vancouver, BC V6E 3P3

Dear Sirs/Mesdames:

Re: Adastra Minerals Inc. (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,

- 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.

"Jo-Anne Matear"
Assistant Manager, Corporate Finance
Ontario Securities Commission

2.1.5 Agrium Inc. and Royster-Clark ULC - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Issuer of notes previously granted similar exemption, 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 – notes issued as part of offering of income deposit securities consisting of notes of issuer and common shares of issuer's then existing indirect parent – Issuer obtained new indirect parent as a result of acquisition of indirect parent's income deposit securities in March, 2006 - Conditions to relief intended to ensure that continuous disclosure of issuer's new indirect parent will contain information that is material to holders of notes and will be accessible to such holders.

Applicable National Instruments

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

Applicable Multilateral Instruments

Multilateral Instrument 52-109 Certification of Disclosure in Issuer's Annual and Interim Filings, Parts 2 and 3 and s. 4.5.

August 2, 2006

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NEW BRUNSWICK, NOVA SCOTIA, 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
AGRIUM INC. (AGRIUM)

AND

ROYSTER-CLARK ULC (RC ULC)
(collectively, the Filers)

MRRS DECISION DOCUMENT

Background

1. The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application (the Application) from the Filers for a decision under the securities legislation of the Jurisdictions (the Legislation) that RC ULC:

   1.1 be granted an exemption from the Continuous Disclosure Requirements in each of the Jurisdictions, except in the Northwest Territories; and

   1.2 be granted an exemption from the Certification Requirements in MI 52-109 pursuant to section 4.5 of MI 52-109.

2. Under the Mutual Reliance Review System for Exemptive Relief Applications:

   2.1 the Alberta Securities Commission is the principal regulator for this application; and

   2.2 this MRRS Decision Document evidences the decision of each Decision Maker.

Interpretation

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

   3.1 **Acquisition** means the acquisition by Agrium of (i) all of the outstanding common shares of RC Ltd. on February 9, 2006 and March 6, 2006, and (ii) an aggregate of $221,340,001 principal amount of Notes on February 9, 2006, April 4, 2006, April 7, 2006, and June 30, 2006;

   3.2 **Agrium Guarantee** means the full and unconditional guarantee dated as of June 22, 2006 by Agrium of RC ULC's payment obligations in respect of the Notes;

   3.3 **Annual Certificates** means the annual certificates required to be filed pursuant to Part 2 of MI 52-109;

   3.4 **Annual Filings** means an annual information form, annual financial statements and annual MD&A, collectively;

   3.5 **Certification Requirements** means the requirements contained in MI 52-109 to file Annual Certificates with the Decision

Makers under section 2.1 of MI 52-109 and to file Interim Certificates with the Decision Makers under section 3.1 of MI 52-109;

3.6 **Continuous Disclosure Requirements** means, except in the Northwest Territories, the requirements contained in the Legislation, including NI 51-102 to (i) issue press releases and file reports regarding material changes; (ii) file audited annual financial statements including MD&A thereon; (iii) file unaudited interim financial statements including MD&A thereon; (iv) file a notice regarding a change in year-end and the related information under section 4.8 of NI 51-102; (v) file a notice regarding a change in corporate structure under section 4.9 of NI 51-102; (vi) file the materials relating to a change of auditor under section 4.11 of NI 51-102; (vii) file an annual information form under section 6.1 of NI 51-102; (viii) to file information circulars and proxy related materials; (ix) where applicable, file a business acquisition report including any financial statement disclosure, under section 8.2 of NI 51-102; (x) file a copy of any contract that an issuer or any of its subsidiaries is a party to, other than a contract entered into the ordinary course of business, that is material to the issuer and was entered into within the last financial year, or before the last financial year but is still in effect, under section 12.2 of NI 51-102; in each case with the Decision Makers;

3.7 **IDSs** means the previously outstanding income deposit securities of RC Ltd. and RC ULC, each income deposit security consisting of one common share of RC Ltd. and $ 6.08 principal amount of Notes of RC ULC;

3.8 **Interim Certificates** means the interim certificates required to be filed pursuant to Part 3 of MI 52-109;

3.9 **Interim Filings** means interim financial statements and interim MD&A, collectively;

3.10 **MD&A** means management's discussion and analysis;

3.11 **MI 52-109** means Multilateral Instrument 52-109 - Certification of Disclosure in Issuers' Annual and Interim Filings;

3.12 **NI 51-102** means National Instrument 51-102 - Continuous Disclosure Obligations;

3.13 **Noteholders** means holders of the Notes;

3.14 **Notes** means the principal amount of non-convertible 14.0% subordinated notes of RC ULC due July 22, 2020, of which $564,931 principal amount are currently outstanding;

3.15 **Prior Decision Document** means the MRRS decision document issued on August 29, 2005 to RC Ltd. and RC ULC in respect of the certain Continuous Disclosure Requirements and Certification Requirements of RC ULC;

3.16 **RC Guarantees** means the unconditional and irrevocable guarantees by the RC Entities of RC ULC's payment obligations in respect of the Notes;

3.17 **RC Entities** means, collectively, Royster-Clark Holdings, Inc., Royster-Clark, Inc., Royster-Clark Nitrogen, Inc., Royster-Clark Resources LLC, Royster-Clark Realty LLC, Royster-Clark Agribusiness, Inc. and Royster-Clark Agribusiness Realty LLC;

3.18 **RC Ltd.** means Royster-Clark Ltd., a corporation previously organized pursuant to the Business Corporations Act (Ontario) and which, following the Acquisition, has been amalgamated into another wholly-owned subsidiary of Agrium and subsequently dissolved;

3.19 **RC Ltd. Decision** means the decisions of the Decision Makers (other than the securities regulatory authority in Prince Edward Island, Northwest Territories, Nunavut and Yukon Territory, where such decision was not required) dated March 30, 2006 (other than in British Columbia, which is dated March 13, 2006) that RC Ltd. cease to be a reporting issuer in such Jurisdictions; and

3.20 **SEDAR** means the System for Electronic Document Analysis and Retrieval.

Representations

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

4.1 Agrium is a corporation organized pursuant to the *Canada Business Corporations Act* with its head and registered office located at 13131 Lake Fraser Drive S.E., Calgary, Alberta, T2J 7E8. Agrium is a reporting issuer or the equivalent in each of the provinces of

Canada. Agrium's common shares are listed and posted for trading on both the Toronto Stock Exchange and the New York Stock Exchange.

4.2 RC ULC is an unlimited liability company under the *Companies Act* (Nova Scotia) with its head office at 13131 Lake Fraser Drive S.E., Calgary, Alberta, T2J 7E6 and its registered office at 1601 Lower Water Street, Summit Place, 6th Floor, Halifax, Nova Scotia, B3J 3P6. RC ULC's original primary business was to access Canadian and United States capital markets to raise funds in connection with the initial public offering of the IDSs completed on July 22, 2005 and a concurrent private placement of Notes. Following the initial public offering of IDSs and concurrent private placement, an aggregate of $221,904,932 principal amount of Notes was outstanding. No further external offerings of securities by RC ULC have been completed or are contemplated. RC ULC is a reporting issuer in each of the provinces and territories of Canada, where such status exists, but has no securities listed or posted for trading on a stock exchange.

4.3 On February 9, 2006, Agrium acquired 98.67% of the IDSs (comprised of 32,070,190 common shares of RC Ltd. and $195,090,299.80 principal amount of Notes) and on March 6, 2006 acquired the remaining outstanding common shares of RC Ltd. pursuant to the compulsory acquisition procedures of the Business Corporations Act (Ontario). Pursuant to an offer dated March 7, 2006, Agrium acquired an additional $20,058,079.63 principal amount of Notes on April 4 and April 7, 2006. Pursuant to an offer dated June 23, 2006, Agrium acquired an additional $6,191,621.70 principal amount of Notes on June 30, 2006.

4.4 The only securities that RC ULC currently has outstanding are common shares held by Royster-Clark Holdings, Inc., a Delaware corporation that is an indirect wholly-owned subsidiary of Agrium, and $564,931 principal amount of Notes. The RC Entities have unconditionally and irrevocably guaranteed RC ULC's payment obligations under the Notes pursuant to the RC Guarantees. The RC Guarantees that remain in place are on the same terms and conditions as those in place before the Acquisition.

4.5 Agrium, as the parent company to RC ULC, has supplemented the RC Guarantees by providing the Agrium Guarantee. The Agrium Guarantee is a full and unconditional guarantee of the payments to be made by RC ULC under the Notes. As a consequence, Noteholders can additionally look to Agrium to pay amounts due and owing under the Notes under which RC ULC is obligated. The RC Entities continue to be obligated under the RC Guarantees, but Agrium is the relevant source of credit support for the Notes. The Agrium Guarantee is substantially similar to the RC Guarantees and the terms of the Notes and related obligations have not changed, other than through the extension of the Agrium Guarantee. In addition, the Agrium Guarantee includes a covenant of Agrium to furnish to the trustee of the Notes and Noteholders Agrium's audited annual financial statements including MD&A thereon and Agrium's unaudited interim financial statements including MD&A thereon in the manner and at the time required by applicable law.

4.6 In connection with the initial public offering of the IDSs, RC ULC applied for and received exemptive relief from certain continuous disclosure obligations. The Prior Decision Document relieved RC ULC from the requirements of the Legislation to prepare and file with the Decision Makers and to deliver to Noteholders certain public disclosure documents regarding RC ULC provided that, among other things, certain continuous disclosure materials filed by RC Ltd. would be filed with the Decision Makers, and certain of such documents would be provided to Noteholders.

4.7 RC Ltd. was previously subject to the reporting obligations of the Legislation on account of it being a reporting issuer in each of the provinces and territories of Canada where such status exists, but since completion of the Acquisition and the RC Ltd. Decision, such obligations are no longer in existence under the Legislation.

4.8 As RC Ltd. is exempt from reporting under the Legislation, RC ULC is no longer able to file with the Decision Makers and provide Noteholders with RC Ltd. disclosure documents filed with the Decision Makers as contemplated in the Prior Decision Document.

4.9 RC ULC is not otherwise exempt from any other timely and continuous disclosure filing requirements of the Legislation.

4.10 RC ULC has no operations that are independent of Agrium or its subsidiaries, it offers no products or services, it owns no properties and it has no employees. Except in respect of the year ended December 31, 2005 and the three months ended March 31, 2006, where RC ULC was required to make certain filings following the nullification of the Prior Decision Document, RC ULC has not historically prepared separate financial statements. Rather, the financial results of RC ULC have been, since the date of incorporation of RC ULC, included in the consolidated financial results of RC Ltd. Following the Acquisition, RC ULC became an indirect wholly-owned subsidiary of Agrium. The financial results of RC ULC have been, since the date of the Acquisition, included in the consolidated financial results of Agrium.

4.11 The Continuous Disclosure Exemption (as defined below) would exempt RC ULC from making its own Annual Filings and Interim Filings provided that Agrium makes its Annual Filings and Interim Filings on RC ULC's SEDAR profile, and therefore, it would not be meaningful or relevant for RC ULC to have to file its own Annual Certificates or Interim Certificates. Furthermore, given that Agrium has fully guaranteed all obligations of RC ULC with respect to the Notes, the Continuous Disclosure Exemption would exempt RC ULC from issuing press releases and filing material change reports, business acquisition reports, notices in respect of changes in year-end, corporate structure and auditor and certain material contracts.

4.12 Noteholders are ultimately concerned about the affairs and financial performance of Agrium, as opposed to that of RC ULC itself. Therefore, it is appropriate that Agrium's Annual Certificates and Interim Certificates be available to Noteholders on the same basis as Agrium's Annual Filings and Interim Filings in lieu of RC ULC's Annual Certificates and Interim Certificates. Furthermore, as Agrium, on a consolidated basis, is the relevant entity with respect to the Notes, Noteholders would not benefit from the requirement to have RC ULC file notices regarding changes in corporate structure, BARs and material contracts provided that Agrium complied with these requirements as required under the Legislation.

Decision

5. 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.

6. The decision of the Decision Makers under the Legislation is that RC ULC be exempted from the Continuous Disclosure Requirements (the Continuous Disclosure Exemption) for so long as:

6.1 Agrium remains the direct or indirect beneficial owner of all the issued and outstanding voting securities of RC ULC;

6.2 Agrium remains a reporting issuer or the equivalent thereof under the Legislation in those Jurisdictions in which it is a reporting issuer on the date hereof;

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

6.4 Agrium continues to comply with all timely and continuous disclosure filing requirements of the Legislation;

6.5 RC ULC continues to have no operations other than minimal operations that are independent of Agrium;

6.6 RC ULC complies with the material change reporting requirement in respect of material changes in the affairs of RC ULC that are not also material changes in the affairs of Agrium;

6.7 RC ULC does not issue additional securities other than to Agrium or to an affiliate of Agrium;

6.8 Agrium continues to provide a full and unconditional guarantee of the payments to be made by RC ULC, as stipulated in the terms of the Notes or in an agreement governing the rights of holders of the Notes, that results in the holder of the Notes being entitled to receive payments from Agrium following any failure by RC ULC to make a payment;

6.9 the Filers file, in electronic format under RC ULC's SEDAR profile, copies of any and all documents filed by Agrium under

NI 51-102 at the same time as such documents are required under the Legislation to be filed by Agrium on its SEDAR profile;

6.10 Agrium sends to all holders of Notes all disclosure material that would be required to be furnished by Agrium to holders of non-convertible debt securities issued by Agrium under the Legislation at the time and in the manner that such material would be required to be furnished to such holders of debt securities issued by Agrium; and

6.11 RC ULC pays all fees that would otherwise be payable by RC ULC in connection with the Continuous Disclosure Requirements, or in connection with RC ULC's participation as a reporting issuer in any Jurisdiction, except where RC ULC has been granted an exemption from a requirement to pay such fees.

7. The further decision of the Decision Makers under the Legislation is that RC ULC be exempted from the Certification Requirements (the Certification Exemption) for so long as:

7.1 RC ULC qualifies for the relief contemplated by, and Agrium and RC ULC are in compliance with, the requirements and conditions set out in the Continuous Disclosure Exemption;

7.2 RC ULC is not required to, and does not, file its own Annual Filings and Interim Filings; and

7.3 the Filers file with the Decision Makers, in electronic format under RC ULC's SEDAR profile, copies of Agrium's Annual Certificates and Interim Certificates at the same time as such documents are required under the Legislation to be filed by Agrium on its SEDAR profile.

"Agnes Lau"
Associate Director, Corporate Finance
Alberta Securities Commission

2.1.6 Asia Pacific Resources Ltd. - 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 11, 2006

Baker & McKenzie LLP
BCE Place, Suite 2100
181 Bay Street, P.O. Box 874
Toronto, ON M5J 2T3

Attention: Linda E. Misetich

Dear Sirs/Mesdames:

Re: Asia Pacific Resources Ltd. (the "Applicant") - Application to Cease to be a Reporting Issuer under the securities legislation of Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions")

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

As the Applicant has represented to the Decision Makers that,

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

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

2.1.7 TSX Inc. – Section 21(5) of the Act

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

AND

**IN THE MATTER OF
TSX INC.**

**DECISION
Section 21(5) of the Act**

1. In September 2002, a task force was established by the Ontario, British Columbia and Alberta Securities Commissions, the Commission des valeurs mobilières du Quebec, the Investment Dealers Association of Canada, the Bourse de Montréal and Market Regulation Services Inc. to evaluate how best to address illegal insider trading in the Canadian capital markets (Insider Trading Task Force).

2. The Insider Trading Task Force released a report in November 2003 outlining a series of recommendations. One recommendation dealt with the disclosure to the public of trades that are marked for the account of an insider of an issuer of a security (insider trading marker). Currently, the insider trading marker is available for regulatory purposes but is not disclosed to the public.

3. To implement this recommendation, the Insider Trading Task Force members asked TSX Inc. (TSX) to consolidate on a per security basis all trades on Toronto Stock Exchange that have an insider trading marker and publicly disseminate the information in summary form at the end of the day.

4. The Commission believes it is in the public interest for TSX to publish an end of day summary of trades with an insider trading marker.

IT IS THE DECISION of the Commission, pursuant to subsection 21(5) of the Act, that TSX shall use reasonable commercial efforts to consolidate on a per security basis all trades on Toronto Stock Exchange that have an insider trading marker and publicly disseminate the information in summary form at the end of the day.

DATED this 8th day of September, 2006.

"Paul M. Moore"

"Suresh Thakrar"

2.1.8 Stornoway Diamond Corporation - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – exemption from the formal take over bid requirements in Part XX of the Act – identical consideration - issuer needs relief from the requirement in s. 97(1) of the Act that all holders of the same class of securities must be offered identical consideration – under the bid, Canadian resident shareholders may receive securities, cash, or a combination of both; U.S resident shareholders will receive substantially the same value as Canadian shareholders, in the form of cash paid to the U.S shareholders based on the proceeds from the sale of their securities; the number of shares held by U.S residents is de minimis; the U.S does not have an identical consideration requirement.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 97, 104(2)(c).

August 14, 2006

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

AND

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

AND

IN THE MATTER OF
STORNOWAY DIAMOND CORPORATION
(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 requirement under the Legislation to offer identical consideration (the Identical Consideration Requirement) to all the holders of the same class of securities that are subject to a take-over bid (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications

(a) the British Columbia 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 herein 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 a company existing under the *Business Corporations Act* (British Columbia);

2. the Filer's head office is located in British Columbia;

3. the Filer is a reporting issuer in British Columbia, Alberta, Manitoba, Ontario and Québec and is not in default of any of the requirements of the Legislation;

4. the authorized capital of the Filer consists of an unlimited number of common shares (the Filer's Shares), of which, as of July 20, 2006, there were 80,915,671 Filer Shares outstanding;

5. the Filer's Shares are listed on the Toronto Stock Exchange (TSX);

6. on July 24, 2006, the Filer issued a press release announcing its intention to make an offer (the Offer) to acquire all of the outstanding common shares (Contact Shares) of Contact Diamond Corporation (Contact);

7. Contact is a company existing under the *Business Corporations Act* (Ontario);

8. Contact's head office is located in Ontario;

9. Contact is a reporting issuer in all provinces and territories of Canada and, to the knowledge of the Filer, is not in default of any of the requirements of the Legislation;

10. the authorized capital of Contact consists of an unlimited number of Contact Shares;

11. the Contact Shares are listed on the TSX;

12. to the knowledge of the Filer, after reasonable inquiry, as of June 7, 2006, there were 43,873,365 Contact Shares outstanding, of which 3,473,309 (approximately 8%) were held by U.S. residents (Contact US Shareholders);

13. under the terms of the Offer, each holder of a Contact Share resident in Canada will receive consideration per Contact Share of 0.36 of a Filer Share, subject to adjustment as described in the Offer;

14. the Filer's Shares issuable under the Offer will not be registered or otherwise qualified for distribution under the securities legislation of the United States; the delivery of the Filer's Shares to Contact US Shareholders, without further action by the Filer, could constitute a violation of the laws of the United States;

15. the Filer proposes to deliver to the depositary under the Offer (the Depositary) the Filer's Shares which Contact US Shareholders would otherwise be entitled to receive under the Offer; the Depositary will sell those Filer's Shares by private sale or on any stock exchange on which the Filer's Shares are then listed after the payment date for the Contact Shares tendered by the Contact US Shareholders under the Offer; after completion of the sale, the Depositary will distribute the aggregate net proceeds of the sale, after expenses, *pro rata* among the Contact US Shareholders that tendered their Contact Shares under the Offer;

16. if the Filer increases the consideration offered to holders of Contact Shares resident in Canada, the increase in consideration will also be offered to Contact US Shareholders at the same time and on the same basis;

17. any sale of the Filer's Shares described in paragraph 15 above will be completed as soon as possible after the date on which the Filer takes up the Contact Shares tendered by the Contact US Shareholders under the Offer and will be done in a manner intended to maximize the consideration to be received from the sale by the applicable Contact Foreign Shareholder and minimize any adverse impact of the sale on the market for the Filer's Shares; as soon as possible after the completion of the sale, the Depositary will send to each Contact US Shareholder a cheque equal to that Contact US Shareholder's pro rata share of the proceeds of the sale, net of sales commissions and applicable withholding taxes;

18. the takeover bid circular to be prepared by the Filer and sent to all shareholders of Contact will disclose the procedure described in paragraph 15 to be followed for Contact US Shareholders who tender their Contact Shares to the Offer; and

19. except to the extent that relief from the Identical Consideration Requirement is granted, the Offer will comply with the requirements under the Legislation concerning take-over bids.

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, in connection with the Offer, the Requested Relief is granted so that Contact US Shareholders who tender their Contact Shares to the Offer receive instead cash proceeds from the sale of the Filer's Shares in accordance with the procedure set out in representation 15.

"Martin Eady, CA"
Director, Corporate Finance
British Columbia Securities Commission

2.2 Orders

2.2.1 Northern Sun Exploration Company Inc. - s. 83.1(1)

Headnote

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

Statute Cited

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

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

AND

IN THE MATTER OF
NORTHERN SUN EXPLORATION COMPANY INC.

ORDER
(Subsection 83.1(1))

UPON the application of Northern Sun Exploration Company Inc. (the Issuer) for an order pursuant to subsection 83.1(1) of the Act deeming the Issuer to be a reporting issuer for the purposes of Ontario securities law;

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

AND UPON the Issuer representing to the Commission as follows:

1. The Issuer was incorporated on September 5, 1975 under the laws of British Columbia under the name Landmark Resources Ltd. On October 6, 1995, the Issuer changed its name to Landmark Environmental Inc. On June 12, 1997, the Issuer changed its name to International Landmark Environmental Inc. On January 15, 2003 the Issuer changed its name to Shabute Ventures Inc. On June 29, 2004, the Issuer changed its name to Northern Sun Exploration Company Inc. The Issuer is extra-provincially registered in Alberta and Saskatchewan.

2. The head office of the Issuer is located at Suite 1000 - 521 3rd Avenue SW, Calgary, Alberta, T2P 3T3 and its registered office is located at 1500 Royal Centre, 1055 West Georgia Street, P.O. Box 11117, Vancouver, British Columbia, V6E 4N7.

3. The authorized capital of the Issuer consists of an unlimited number of Common Shares, of which 61,518,974 Common Shares were issued and outstanding as of August 17, 2006.

4. The Common Shares of the Issuer are listed on the TSX Venture Exchange (the Exchange) under the trading symbol "NSE", and the Issuer is in compliance with all rules, regulations and policies of the Exchange. The Issuer is not designated as a capital pool corporation by the Exchange.

5. The Issuer has been a reporting issuer under the *Securities Act* (British Columbia) (the B.C. Act) since November 15, 1979. The Issuer subsequently became a reporting issuer under the *Securities Act* (Alberta) (the Alberta Act) as a result of creation of Canadian Venture Exchange through the merger of the Alberta Stock Exchange and the Vancouver Stock Exchange on November 29, 1999.

6. The continuous disclosure requirements under the B.C. Act and the Alberta Act are substantially the same as the requirements under the Act.

7. The Issuer is not in default of any requirements of the B.C. Act or the Alberta Act.

8. The Issuer is not a reporting issuer in Ontario, and is not a reporting issuer in any other jurisdiction, except in Alberta and British Columbia.

9. The continuous disclosure materials filed by the Issuer under the B.C. Act and the Alberta Act since September 19, 1997 are available on the System for Electronic Document Analysis and Retrieval (SEDAR).

10. The Issuer has determined that it has significant connection to Ontario in that residents of Ontario hold approximately 20,935,409 Common Shares of the Issuer, which represents approximately 34% of the Issuer's issued and outstanding Common Shares. This information is based upon (i) the registered list of the Issuer's shareholders provided by the Issuer's transfer agent as at August 17, 2006 and (ii) a geographic range report prepared by ADP Investor Communications as at August 17, 2006.

11. Neither the Issuer nor its officers or directors nor, to the knowledge of the Issuer, its officers and directors, any of its controlling shareholders, has:

    (a) been subject to any penalties or sanctions imposed by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority;

    (b) entered into a settlement agreement with a Canadian securities regulatory authority; or

    (c) been subject to any other penalties or sanctions imposed by the court or regulatory body that would be likely to be considered important to a reasonable investor making an investment decision.

12. Neither the Issuer nor its officers or directors nor, to the knowledge of the Issuer, its officers and directors, any of its controlling shareholders, is or has been subject to:

    (a) any known ongoing or concluded investigations by:

        (i) a Canadian securities regulatory authority; or

        (ii) a court or regulatory body, other than a Canadian securities regulatory authority;

    that would be likely to be considered important to a reasonable investor making an investment decision; or

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

13. Except as provided in paragraph 14, none of the directors or officers of the Issuer, nor to the knowledge of the Issuer, its officers and directors, any of its controlling shareholders, is or has been at the time of such event an officer or director of any other issuer which is or has been subject to:

    (a) any cease trade order or similar orders, or orders that denied access to any exemptions under Ontario securities law, for a period of more than 30 consecutive days, within the preceding 10 years; or

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

14. Christopher R. Cooper, President, Chief Executive Officer, Chairman and a director of the Issuer, is currently a director and was previously (from February 3, 2004 until June 29, 2005) Chief Financial Officer and Vice President of Copacabana Capital Limited (Copacabana) while it was a Capital Pool Company. On May 9, 2006 (subsequent to Copacabana completing a Qualifying Transaction as defined in the policies of the Exchange), Copacabana was subject to a cease trade order (CTO) issued by the British

Columbia Securities Commission because of Copacabana's failure to file its annual financial statements for the fiscal year ended December 31, 2005, along with the appropriate Management Discussion and Analysis, in the required time period. Copacabana is currently on the Defaulting Reporting Issuer List maintained by the Alberta Securities Commission due to its late filing of financial statements. At the time the CTO was issued, Mr. Cooper was not an officer or a member of management of Copacabana.

15. The Issuer shall remit all participation fees due and payable by it pursuant to Commission Rule 13-502 – *Fees* by no later than two (2) business days from the date hereof.

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

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

DATED September 6, 2006

"Erez Blumberger"
Assistant Manager, Corporate Finance

2.2.2 CFT Securities, LLC - s. 218 of the Regulation

Headnote

Application to the Commission for an order, pursuant to section 218 of Regulation 1015 of the Securities Act (Ontario), that the requirement in section 213 of the Regulation, which provides that a registered dealer that is not an individual must be a company incorporated, or a person formed or created, under the laws of Canada or a province or territory of Canada, shall not apply to the Applicant. The order sets out the terms and conditions applicable to a non-resident limited market dealer.

Applicable Statutes

Ontario Regulation 1015, R.R.O. 1990, ss. 213, 218.

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

AND

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

AND

IN THE MATTER OF
CFT SECURITIES, LLC

ORDER
(Section 218 of the Regulation)

UPON the application (the Application) of CFT Securities, LLC (the Applicant) to the Ontario Securities Commission (the Commission) for an order, pursuant to section 218 of the Regulation, exempting the Applicant from the requirement under section 213 of the Regulation that the Applicant be incorporated, or otherwise formed or created, under the laws of Canada or a province or territory of Canada, in order for the Applicant to be registered under the Act as a dealer in the category of "limited market dealer" (LMD) pursuant to Ontario Securities Commission Rule 31-503 *Limited Market Dealer* (Rule 31-503);

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 Applicant is a limited liability company formed under the laws of the State of Delaware in the United States. The head office of the Applicant is located in Edison, New Jersey.

2. The Applicant is presently registered as a broker-dealer with the U.S. Securities and Exchange Commission and is a member of the U.S. National Association of Securities Dealers.

3. The Applicant is presently registered under the Act as a dealer in the category of international dealer. The Applicant has applied to the Commission for registration under the Act as a dealer in the category of LMD.

4. The Applicant intends to trade securities in Ontario with accredited investors and other exempt purchasers pursuant to the registration and prospectus exemptions contained in National Instrument 45-106 – *Prospectus and Registration Exemptions*.

5. Section 213 of the Regulation provides that a registered dealer that is not an individual must be a company incorporated, or a person formed or created, under the laws of Canada or a province or territory of Canada.

6. The Applicant is not a resident in Canada and does not require a separate Canadian company to carry out its proposed LMD activities in Ontario. It is more efficient and cost-effective to carry out those activities through the existing company. Therefore, the Applicant requests an exemption from the requirement under section 213 of the Regulation to permit it to obtain registration as a LMD without having to incorporate a separate company under the laws of Canada or a province or territory of Canada.

7. Without the relief requested, the Applicant would not meet the requirements of the Regulation for registration as a dealer in the category of LMD as the Applicant is not a company incorporated, formed or created under the laws of Canada or any province or territory of Canada.

AND UPON the Commission being satisfied that to make this order would not be prejudicial to the public interest;

IT IS ORDERED THAT, pursuant to section 218 of the Regulation, that, in connection with the registration of the Applicant as a dealer under the Act in the category of LMD, section 213 of the Regulation shall not apply to the Applicant, for a period of three (3) years, provided that:

1. The Applicant appoints an agent for service of process in Ontario.

2. The Applicant provides to each client resident in Ontario a statement in writing disclosing the non-resident status of the Applicant, the Applicant's jurisdiction of residence, the name and address of its agent for service of process in Ontario, and the nature of risks to clients that legal rights may not be enforceable.

3. The Applicant will not change its agent for service of process in Ontario without giving the Commission thirty (30) days' prior notice of such change by filing a new Submission to Jurisdiction and Appointment of Agent for Service of Process.

4. The Applicant and each of its registered directors or officers irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial, and administrative tribunals of Ontario and any administrative proceedings in Ontario, in any proceedings arising out of or related to or concerning its registration under the Act or its activities in Ontario as a registrant.

5. The Applicant will not have custody of, or maintain customer accounts in relation to securities, funds, and other assets of clients resident in Ontario.

6. The Applicant will inform the Director immediately upon the Applicant becoming aware:

   (a) that it has ceased to be registered in the United States as a broker-dealer;

   (b) of its registration in any other jurisdiction not being renewed or being suspended or revoked;

   (c) that it is the subject of a regulatory proceeding, investigation or disciplinary action by any financial services or securities regulatory authority or self-regulatory authority;

   (d) that the registration of its salespersons, officers or directors who are registered in Ontario have not been renewed or have been suspended or revoked in any Canadian or foreign jurisdiction; or

   (e) that any of its salespersons, officers or directors who are registered in Ontario are the subject of a regulatory proceeding, investigation or disciplinary action by any financial services or securities regulatory authority or self-regulatory authority in any Canadian or foreign jurisdiction.

7. The Applicant will pay the increased compliance and case assessment costs of the Commission due to the Applicant's location outside Ontario, including the cost of hiring a third party to perform a compliance review on behalf of the Commission.

8. The Applicant will make its books and records outside Ontario, including electronic records, readily accessible in Ontario, and will produce physical records for the Commission within a reasonable time if requested.

9. If the laws of the jurisdiction in which the Applicant's books and records are located prohibit production of the books and records in Ontario without the consent of the relevant client the

Applicant shall, upon a request by the Commission:

(a) so advise the Commission; and

(b) use its best efforts to obtain the client's consent to the production of the books and records.

10. The Applicant will, upon the Commission's request, provide a representative to assist the Commission in compliance and enforcement matters.

11. The Applicant and each of its registered directors or officers will comply, at the Applicant's expense, with requests under the Commission's investigation powers and orders under the Act in relation to the Applicant's dealings with Ontario clients, including producing documents and witnesses in Ontario, submitting to audit or search and seizure process or consenting to an asset freeze, to the extent such powers would be enforceable against the Applicant if the Applicant were resident in Ontario.

12. If the laws of the Applicant's jurisdiction of residence that are otherwise applicable to the giving of evidence or production of documents prohibit the Applicant or the witnesses from giving the evidence without the consent or leave of the relevant client or any third party, including a court of competent jurisdiction, the Applicant shall:

(a) so advise the Commission; and

(b) use its best efforts to obtain the client's consent to the giving of the evidence.

13. The Applicant will maintain appropriate registration and regulatory organization membership, in the jurisdiction of its principal operations, and if required, in its jurisdiction of residence.

September 8, 2006

"Paul M. Moore"

"Suresh Thakrar"

2.2.3 Limelight Entertainment Inc. et al. - ss. 127(1), 127(5)

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

AND

IN THE MATTER OF
LIMELIGHT ENTERTAINMENT INC.,
CARLOS A. DA SILVA, DAVID C. CAMPBELL,
JACOB MOORE AND JOSEPH DANIELS

ORDER
Sections 127(1) & 127(5)

WHEREAS Staff of the Commission ("Staff") requested at a hearing (the "Hearing") on April 13, 2006 that the Ontario Securities Commission (the "Commission") make a temporary order pursuant to section 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "*Act*") that: (i) all trading cease in the securities of Limelight Entertainment Inc. ("Limelight"); (ii) each of Limelight, Carlos Da Silva ("Da Silva"), David C. Campbell ("Campbell") and Jacob Moore ("Moore") cease trading in all securities; and (iii) any exemptions contained in Ontario securities law do not apply to Limelight, Da Silva, Campbell and Moore (the "First Temporary Order");

AND WHEREAS Staff served Limelight, Da Silva and Campbell with the Notice of Hearing and Statement of Allegations of Staff dated April 7, 2006 and with the Affidavit of Larry Masci sworn April 7, 2006, the Affidavit of Tim Barrett sworn April 10, 2006 and the Affidavit of Joseph De Sommer sworn April 11, 2006 as evidenced by the affidavits of service filed as exhibits;

AND WHEREAS on April 13, 2006, the Commission issued the First Temporary Order and ordered that the First Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission and adjourned the Hearing to April 26, 2006;

AND WHEREAS Staff served counsel for Limelight, Da Silva and Campbell with the Amended Notice of Hearing dated April 25, 2006, the Amended Statement of Allegations of Staff dated April 25, 2006 and the Affidavit of Larry Masci sworn April 25, 2006 but were unable to serve Moore or Joseph Daniels ("Daniels");

AND WHEREAS Staff requested, at the hearing on April 26, 2006, that the Commission make a second temporary order pursuant to section 127(5) of the *Act* that: (i) Daniels cease trading in all securities; and (ii) any exemptions contained in Ontario securities laws do not apply to Daniels (the "Second Temporary Order");

AND WHEREAS on April 26, 2006, the Commission extended the First Temporary Order to May 11, 2006 and issued the Second Temporary Order and ordered that the Second Temporary Order expires on the

15th day after its making unless extended by Order of the Commission and adjourned the Hearing to May 11, 2006;

AND WHEREAS the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest as set out in section 127(5) of the *Act*;

AND WHEREAS counsel for Limelight, Da Silva and Campbell has advised that his clients do not oppose the extension of the Temporary Order and the adjournment of the Hearing to September 13, 2006;

AND WHEREAS Staff have served counsel for Limelight, Da Silva and Campbell with the Affidavit of Larry Masci sworn May 10, 2006 which sets out Staff's efforts to locate Daniels;

AND WHEREAS Limelight has undertaken to keep Limelight shareholders advised of the status of this proceeding through notices/updates and new releases which are available and displayed prominently on the home page of Limelight's websites at www.limelight-entertainmentinc.com and www.thelimelightgroup.com.

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

IT IS ORDERED pursuant to section 127(7) that the First Temporary Order and the Second Temporary Order are extended to September 13, 2006;

IT IS FURTHER ORDERED that the Hearing is adjourned to Wednesday, September 13, 2006 at 10:00 a.m.;

IT IS FURTHER ORDERED that Moore and Daniels may be served with documents in this proceeding by serving Limelight, Campbell or Da Silva with any documents to be served on the parties to this proceeding; and

IT IS FURTHER ORDERED that Limelight shall provide notice of this proceeding to all Limelight shareholders in the form attached as Schedule "A".

Dated at Toronto this 11th day of May, 2006

"Paul M. Moore"

"Suresh Thakrar"

SCHEDULE "A"

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

AND

IN THE MATTER OF
LIMELIGHT ENTERTAINMENT INC.,
CARLOS A. DA SILVA, DAVID C. CAMPBELL,
JACOB MOORE AND JOSEPH DANIELS

NOTICE TO ALL SHAREHOLDERS OF
LIMELIGHT ENTERTAINMENT INC.

On April 13, 2006, the Ontario Securities Commission (the "Commission") ordered for a period of 15 days that: (i) all trading cease in the securities of Limelight Entertainment Inc. ("Limelight"); (ii) each of Limelight, Carlos Da Silva, David Campbell and Jacob Moore cease trading in all securities; and (iii) any exemptions contained in Ontario securities law do not apply to Limelight, Carlos Da Silva, David Campbell and Jacob Moore (the "Temporary Order"). On April 26, 2006, this Temporary Order was extended to May 11, 2006 and a second temporary order was made that Joseph Daniels cease trading in all securities and that any exemptions contained in Ontario securities laws do not apply to Joseph Daniels for a period of 15 days (the "Second Temporary Order"). On May 11, 2006, the Commission extended the Temporary Order and the Second Temporary Order to September 13, 2006. The Commission also ordered that all Limelight shareholders receive by mail a copy of this notice. These orders prohibit any trade (i.e. sale) of Limelight shares and prohibit Carlos Da Silva, David Campbell, Jacob Moore and Joseph Daniels from being involved in the trade (i.e. sale) of any securities. A copy of the Amended Notice of Hearing, the Amended Statement of Allegations of Staff of the Commission and the orders made in this proceeding are available on the Commission's website at www.osc.gov.on.ca.

Limelight, Carlos Da Silva, David Campbell and Tim McCarty are subject to an ongoing cease trade order issued by the Alberta Securities Commission (the "ASC") dated April 13, 2006 and Limelight is also subject to an ongoing cease trade order issued by the New Brunswick Securities Commission (the "NBSC") dated April 11, 2006. Information regarding the proceedings before the ASC and the NBSC can be found on their respective websites at www.albertasecurities.com and www.nbsc-cvmnb.ca.

Limelight has undertaken to keep Limelight shareholders advised of the status of these proceedings through bulletins, updates and news releases which are available on Limelight's websites at www.limelightentertainmentinc.com and www.thelimelightgroup.com.

Limelight Entertainment Inc.
2916 Dundas Street
Suite 514
Toronto ON
Telephone: 416 260-4858
Facsimile: 416-260-4889
Toll Free 1-866-404-9100

2.2.4 Limelight Entertainment Inc. et al. -- ss. 127(1), 127(7)

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

AND

IN THE MATTER OF
LIMELIGHT ENTERTAINMENT INC.,
CARLOS A. DA SILVA, DAVID C. CAMPBELL,
JACOB MOORE AND JOSEPH DANIELS

ORDER
Sections 127(1) & 127(7)

WHEREAS Staff of the Commission ("Staff") requested at a hearing (the "Hearing") on April 13, 2006 that the Ontario Securities Commission (the "Commission") make a temporary order pursuant to section 127(5) of the Securities Act, R.S.O. 1990, c. S.5, as amended (the "Act") that: (i) all trading cease in the securities of Limelight Entertainment Inc. ("Limelight"); (ii) each of Limelight, Carlos Da Silva ("Da Silva"), David C. Campbell ("Campbell") and Jacob Moore ("Moore") cease trading in all securities; and (iii) any exemptions contained in Ontario securities law do not apply to Limelight, Da Silva, Campbell and Moore (the "First Temporary Order");

AND WHEREAS Staff served Limelight, Da Silva and Campbell with the Notice of Hearing and Statement of Allegations of Staff dated April 7, 2006 and with the Affidavit of Larry Masci sworn April 7, 2006, the Affidavit of Tim Barrett sworn April 10, 2006 and the Affidavit of Joseph De Sommer sworn April 11, 2006 as evidenced by the affidavits of service filed as exhibits;

AND WHEREAS on April 13, 2006, the Commission issued the First Temporary Order and ordered that the First Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission and adjourned the Hearing to April 26, 2006;

AND WHEREAS Staff served counsel for Limelight, Da Silva and Campbell with the Amended Notice of Hearing dated April 25, 2006, the Amended Statement of Allegations of Staff dated April 25, 2006 and the Affidavit of Larry Masci sworn April 25, 2006 but were unable to serve Moore or Joseph Daniels ("Daniels");

AND WHEREAS Staff requested, at the hearing on April 26, 2006, that the Commission make a second temporary order pursuant to section 127(5) of the Act that: (i) Daniels cease trading in all securities; and (ii) any exemptions contained in Ontario securities laws do not apply to Daniels (the "Second Temporary Order");

AND WHEREAS on April 26, 2006, the Commission extended the First Temporary Order to May 11, 2006 and issued the Second Temporary Order and ordered that the Second Temporary Order expires on the

15th day after its making unless extended by Order of the Commission and adjourned the Hearing to May 11, 2006;

AND WHEREAS on May 11, 2006, the Commission (1) extended the First Temporary Order and the Second Temporary Order to September 13, 2006; (2) adjourned the Hearing to September 13, 2006; (3) ordered that Moore and Daniels could be served with documents in this proceeding by serving Limelight, Da Silva or Campbell; and (4) ordered Limelight to provide notice to all shareholders of this ongoing proceeding;

AND WHEREAS Staff have served Moore and Daniels with the Amended Notice of Hearing and Amended Statement of Allegations dated April 25, 2006, the Temporary Order dated April 13, 2006, the Commission Order dated April 26, 2006 and the Commission Order dated May 11, 2006 by serving Campbell as evidenced by the affidavit of Larry Masci sworn September 11, 2006;

AND WHEREAS Staff provided disclosure to counsel for Limelight, Da Silva and Campbell on September 11, 2006;

AND WHEREAS the Commission has issued a Summons for additional bank documents which have not yet been delivered to Staff;

AND WHEREAS Staff and counsel for Limelight, Da Silva and Campbell consent to the extension of the Temporary Order and an adjournment of the Hearing to October 30, 2006 to permit counsel to review the disclosure and to permit Staff to obtain, distribute and review the additional bank documents;

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

IT IS ORDERED pursuant to section 127(7) that the First Temporary Order and the Second Temporary Order are extended to October 30, 2006; and

IT IS FURTHER ORDERED that the Hearing is adjourned to Monday, October 30, 2006 at 10:00 a.m.

Dated at Toronto this “12th” day of September, 2006.

“Paul M. Moore”

“Suresh Thakrar”

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Howard Rash

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

AND

IN THE MATTER OF
HOWARD RASH

REASONS FOR ORDER

Hearing:	July 26, 2006		
Panel:	Wendell S. Wigle, Q.C. Robert W. Davis, FCA	- -	Commissioner (Chair of the Panel) Commissioner
Counsel:	Pamela Foy	-	On behalf of Staff of the Ontario Securities Commission
	Janice Wright Sara Erskine	-	On behalf of Howard Rash

REASONS FOR ORDER

OVERVIEW

[1] On July 26, 2006, a hearing was held to determine whether the respondent Howard Rash ("Rash") violated a cease-trade order issued by the Commission on July 8, 2005 (the "Cease Trade Order"). The Cease Trade Order provided that all trading in any securities by Rash cease until the conclusion of the hearing on the merits pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") involving Rash, other individual respondents and Momentas Corporation ("Momentas"). Three limited exceptions were included in the Cease Trade Order, which are set out below.

[2] In connection with the alleged violation of the Cease Trade Order, the Commission issued a Notice of Hearing in relation to a Statement of Allegations issued by Staff against Rash on July 19, 2006. The Statement of Allegations and the Notice of Hearing were issued following a freeze direction that was issued by the Commission pursuant to section 126 of the Act, which had the effect of freezing all of the assets in two accounts at Dundee Securities ("Dundee") in the name of Panterra Offshore Financial Services ("Panterra").

[3] In their Statement of Allegations, Staff alleged that Rash gave instructions to sell shares of Genoil Inc. ("Genoil") and Agau Resources Inc. ("Agau") in a corporate account held at Dundee in the name of Panterra, an account over which Rash had sole trading authority (the "Panterra Account") and thereby violated the Cease Trade Order. Rash disputed Staff's allegations and submitted that the trading activities at issue were permissible under the Cease Trade Order.

[4] In the Notice of Hearing, Staff asked the Commission to make an order that Rash cease trading in securities permanently or for such period as specified by the Commission; that any exemptions contained in Ontario securities law do not apply to Rash permanently or for such period as specified by the Commission; that Rash be prohibited from becoming or acting as a director or officer of any issuer; that Rash disgorge to the Commission any amounts obtained as a result of non-compliance with Ontario securities law; and that Rash pay the costs of Staff's investigation and the costs of, or related to, the hearing, incurred by or on behalf of the Commission.

[5] Based on the evidence adduced at the hearing, we have concluded that Rash traded in the Panterra Account in breach of the Cease Trade Order and that his conduct was in contravention of Ontario securities law and contrary to the public interest.

On July 27, 2006, we issued an Order against Rash that all trading in any securities by Rash shall cease for a period of three years from the date of this Order; that any exemptions contained in Ontario securities law do not apply to Rash for a period of three years from the date of the Order; and that Rash pay the costs of Staff's investigation and the costs of, or related to, the hearing, incurred by or on behalf of the Commission fixed in the amount of $15,000. These are our reasons for that Order.

THE CEASE TRADE ORDER

[6] The conduct at issue was the alleged violation by Rash of a Cease Trade Order issued by the Commission on July 8, 2005. For ease of reference, we provide the following information regarding the issuance and extension of the cease trade orders by the Commission against the individual respondents, including Rash, and Momentas Corporation.

[7] On June 9, 2005, the Commission ordered that all trading by Momentas Corporation and its officers, directors, employees and/or agents in securities of Momentas shall cease, pursuant to paragraph 2 of subsection 127(1) of the Act, (the "Temporary Order").

[8] The Commission further ordered as part of the Temporary Order that all trading in any securities by Howard Rash ("Rash"), Alexander Funt ("Funt") and Suzanne Morrison ("Morrison") shall cease; and that, pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Momentas, Rash, Funt and Morrison.

[9] On June 24, 2005, the Commission issued a Notice of Hearing pursuant to subsection 127(1) and section 127.1 of the Act and an accompanying Statement of Allegations against Momentas, Rash, Funt and Morrison and extended the Temporary Order on consent of the parties until July 8, 2005.

[10] On July, 8, 2005, Rash, Funt and Morrison consented to and the Commission ordered an extension of the Temporary Order as it relates to them until the conclusion of the hearing of this matter (the "Cease Trade Order"), with the following exceptions:

(a) each of Rash, Funt and Morrison shall be permitted to trade securities *for his or her own account(s)* through a registered dealer pursuant to paragraph 10 of subsection 35(1) of the Act; (emphasis added)

(b) each of Rash, Funt and Morrison shall be permitted to trade in mutual fund units and securities described in paragraphs 1 and 2 of subsection 35(2) of the Act; and

(c) each of Rash, Funt and Morrison shall be permitted to trade in securities for their registered retirement savings plan or registered retirement income fund pursuant to section 2.11 of Rule 45-501.

[11] On July 14, 2005, the Commission ordered that all trading by Momentas shall cease, including trading in equities and in foreign currencies, and all exemptions contained in Ontario securities laws shall not apply to Momentas until the earlier of the conclusion of the Hearing in this matter or the date upon which Momentas becomes registered with the Commission as a Limited Market Dealer and any of its officers, directors, and/or employees involved in the sale of securities of Momentas to the public become registered in accordance with Ontario securities law, subject to certain exceptions set out in the Order.

BREACH OF THE CEASE TRADE ORDER

[12] The Cease Trade Order permits Rash to trade securities for his own account(s) through a registered dealer. It is the interpretation of the words "for his own account(s)" used in the Cease Trade Order that led to a dispute between Staff and Rash. The meaning of these words was central to determine whether Rash's instructions to Dundee to sell shares of Genoil and Agau in the Panterra Account were in violation of the Cease Trade Order.

Parties' Submissions

[13] Staff submitted that Rash's trading activities were in violation of the Cease Trade Order as trading through a corporate entity was not allowed by the words "for his own account(s)". Staff took the position that these words meant that Rash was only entitled to trade in a personal account opened in his name only.

[14] Staff argued that although the Cease Trade Order provided exceptions for personal trading, trading through the auspices of a corporation was not consistent with the wording or spirit of that Order. In making this submission, Staff referred us to the overall context of the Act as well as the purposes of the Act set out in section 1.1 of the Act.

[15] Staff submitted that the registration provisions of the Act allow a person or company to trade on their own behalf without being registered but that the Act does not allow individuals to trade on account of others without registration unless there are specific exemptions that apply. According to Staff, if the phrase "trading on his own account(s)" meant trading by Rash in

accounts in which he has sole legal and beneficial ownership as well as accounts in the name of corporate entities in which he has some beneficial interest in, then the Cease Trade Order would be rendered ineffective because such a broad carve-out would effectually only prohibit that which the Act already prohibits. In other words, there would be no reason to have Cease Trade Order in effect which allows Rash as an unregistered person to do what he was entitled to do prior to the issuance of the Cease Trade Order.

[16] The respondent took the position that that language used in the Cease Trade Order permits trading in accounts that are beneficially owned or legally owned by Rash. Counsel for Rash submitted that the Cease Trade Order was clearly designed to allow this type of trading and, any ambiguity ought to fall in favour of the respondent. Counsel further submitted that it is not appropriate nor is it fair to draw a conclusion that there is an ambiguity in an Order and then seek to punish the respondent for this ambiguity.

[17] Counsel for Rash further submitted that Rash's interpretation was wholly appropriate and correct when considering the context and purpose of the Act. The purposes of cease trade orders are to protect the public interest and to ensure that respondents such as Rash are not dealing with the public or with third parties in order to protect the public and the capital markets. Counsel submitted that Staff was seeking a very narrow view, a strict interpretation of the carve-out language in the Cease Trade Order.

Evidence and Analysis

[18] Staff provided us with documentary evidence to establish the occurrence of the alleged trading activities. In particular, Staff filed a document which sets out the division and the ownership of the shares in the company of Panterra. At the hearing, Staff also acknowledged that at the time of trading, Rash was a sole officer, director and sole shareholder of Panterra.

[19] At the hearing, we heard the evidence of Sean McGratten, a senior legal counsel with Dundee Securities ("McGratten") and Shauna Flynn, an investigation counsel with the Enforcement Branch of the Commission ("Flynn").

[20] McGratten testified that, on July 4, 2006, Rash contacted Brian Ferguson (Ferguson), the sales assistant to Brian Gibson, who was the registered salesperson on the Panterra account. He gave two sell orders, one was for 12,000 shares of GENOIL Inc. and the other was for 9,000 shares of AGAU Resources. Ferguson, on receiving Rash's request contacted the compliance department at Dundee because the Panterra account had been restricted. Larry Fraser ("Fraser"), the compliance officer who received the call, noted the restriction but due to miscommunication as to the nature of the restriction said that the sell orders would be allowed although purchases would not be permitted. On that basis, Ferguson entered the order which subsequently led to the trades at issue.

[21] Fraser brought to the attention of McGratten the fact that the account was restricted due to: (1) a lack of updated communication to ascertain who had the authority to give instructions on behalf of the corporation; and (2) a request made by Rash that a cheque be issued in respect of the proceeds. After receiving this information, McGratten did research on the Commission's Website and found the Cease Trade Order. Upon reviewing the Cease Trade Order, McGratten became concerned that implementing Rash's instructions would result in a violation of the Cease Trade Order.

[22] McGratten decided to contact Rash to discuss the interpretation of the Cease Trade Order. McGratten testified that Rash disputed the interpretation of the Cease Trade Order, and that Rash was of the view that he was permitted to trade as long as it was through a registered dealer. Following that conversation with Rash, McGratten contacted outside counsel to confirm his interpretation of the wording used in the Cease Trade Order.

[23] On July 7, 2006, Rash provided Dundee with updated corporate documentation regarding Panterra. That documentation changed the signing authority to Ms. Irene Gruenstein, the spouse of Rash. Rash then asked McGratten whether Dundee would be willing to proceed now that he was no longer the person with the signing authority on the account. McGratten raised his concern with Rash that it could be perceived that Dundee would be helping him to do indirectly what he could not do directly under the Cease Trade Order and that, accordingly, the freeze would remain in place on the account.

[24] Counsel for Rash submitted that Rash did not violate the Cease Trade Order and referred us to the language used in other cease trade orders issued by the Commission.

[25] Counsel for Rash referred us to the wording used in the decisions of *Valentine*, *Donnini*, *Lett* and *Allen*. Counsel submitted that if the Commission's intention was to limit Rash's trading activities in the manner argued by Staff, the Commission could have drafted the Cease Trade Order more explicitly [*Re Valentine*, 2003, 26 O.S.C.B. 1606; *Re Donnini*, 2002, 25 O.S.C.B. 6216, *Re Lett*, 2004; *Re Allen*, 2006, 19 O.S.C.B. 3944]. We disagreed with counsel for Rash and did not find that it was helpful to look at the wording of these orders. Each order is fact-specific and we find these orders to be unhelpful in this case. The interpretation of the words "for his own account(s)" is plain and obvious. These words do not allow for trading though corporate vehicles even if Rash is the beneficial owner.

[26] The initial Order prohibited any trading by Rash. Later, the Commission maintained this prohibition by continuing a Cease Trade Order but allowed for certain limited exceptions. These limited exceptions cannot be interpreted so broadly as to essentially render the Cease Trade Order ineffective. An interpretation which allows trading both in a personal capacity and in a corporate capacity would be inconsistent with the purposes of the Act.

[27] Further, the evidence before us established how easy it was for Rash to transfer the beneficial ownership from him to his spouse on July 6, 2006. The July 6, 2006 new account application form identities as of July 6, 2006, Ms. Gruenstein was the beneficial owner of the account, whereas the day before it was Rash.

[28] We agreed with Staff that there is an issue with the transparency of trading activities through corporate vehicles. Corporate vehicles makes trading activities less transparent both from a regulatory perspective and for registrants acting as gatekeepers to the capital markets. Allowing trading activities through corporate vehicles could result in having the public interest not adequately protected.

[29] The evidence established that Rash traded in the Panterra Account. Further, Rash did not ensure that his trading activities fell within the exceptions of the Cease Trade Order. As a person seeking to comply with an exception to the trading ban set out in the Cease Trade Order, the onus was on Rash to ensured that his activities fell within these exceptions. Rather, when confronted with Dundee's interpretation of the Cease Trade Order, Rash's immediate response was first to transfer trading authority to his spouse and beneficial ownership in Panterra to his spouse in order to get around the interpretation and secondly, to advise through counsel that, if Dundee did not essentially agree with his interpretation and act on his instructions, the would transfer the account out of Dundee.

[30] Rash did not attempt to file an application under section 144 of the Act nor did he file a motion for direction to resolve any difficulty encountered by the Cease Trade Order. Further, rash did not attempt to contact Staff to seek clarification of the Cease Trade Order.

[31] Based on the foregoing evidence and analysis, we found that Rash violated the Cease Trade Order.

[32] In the Notice of Hearing, Staff asked the Commission to make an order pursuant to paragraph 2 of subsection 127(1) that Rash cease trading in securities permanently or for such period as specified by the Commission; pursuant to paragraph 3 of subsection 127(1) that any exemptions contained in Ontario securities law do not apply to Rash permanently or for such period as specified by the Commission; pursuant to paragraph 8 of subsection 127(1) that Rash be prohibited from becoming or acting as a director or officer of any issuer; pursuant to paragraph 10 of subsection 127(1) that Rash disgorge to the Commission any amounts obtained as a result of non-compliance with Ontario securities law; pursuant to section 127.1 that Rash pay the costs of Staff's investigation and the costs of, or related to, the hearing, incurred by or on behalf of the Commission.

[33] In their closing submissions, Staff specifically asked that the Commission make an order pursuant to paragraph 2 of subsection 127(1) that Rash cease trading in securities permanently and that Rash pay an administrative monetary penalty of $15,000. Staff also sought costs in the amount of $19,000.

[34] Counsel for Rash submitted that the appropriate sanction in the circumstances of this case was for a declaration to be made that Rash was in breach of the Cease Trade Order. Counsel argued that the sanctions suggested by Staff should not be ordered by the Commission and hence did not make alternative submissions as to sanctions.

COSTS

[35] Staff asked the Commission to make an order pursuant to section 127.1 that Rash pay the costs of Staff's investigation and the costs of, or related to, the hearing, incurred by or on behalf of the Commission in the amount of $19,000.

[36] Counsel for Rash submitted that the Commission should not order costs against Rash because Rash acted in a reasonable fashion in dealing with this dispute. Counsel submitted that this was not a case where the Commission could find callous disregard for orders of the Commission.

[37] Rash's decision not to communicate with Staff to ensure that his activities were within the limited exceptions led Staff to initiate proceedings against him and resulted in costs of $19,000 for the Commission.

[38] As stated in *Re Tindall*, (2000) 23 O.S.C.B. 6889 at para 68, the purpose of a costs award under section 127.1 is not to punish, but to indemnify the Commission for expenses incurred and to exercise some control over the hearing process. The reasonableness of a respondent does not nullify a request for costs.

[39] The seriousness of the charges and the conduct of the parties; whether a respondent's conduct was abusive of the process; the greater investigative/hearing costs that the specific conduct of a respondent required in the case (see *Re YBM Magnex International Inc.* cited above at paras. 606 and 608); and the reasonableness of the costs requested by staff (see *Re*

Lydia Diamond Exploration of Canada, (2003), 26 O.S.C.B. 2511 at para. 217) are factors that can be considered by the Commission.

[40] Staff adduced documentary evidence to support their claim for costs including timesheets calculated for the hours of work completed on the file by two staff members: Pamela Foy, Litigation Counsel with the Enforcement Branch and Shauna Flynn, Investigation Counsel with the Enforcement Branch. Costs for other staff members who assisted in this matter were not included.

[41] In this case, the evidence of staff establishes that the costs claimed for the hearing are appropriate and reasonable.

[42] Rash was represented by counsel and was provided with a fair opportunity to assess Staff's claim for costs but did not file evidence or make submissions to challenge these costs other than arguing that $19,000.00 in costs for a one-day hearing seemed to be exorbitant.

CONCLUSION

[43] Based on the foregoing evidence and analysis, we made our Order dated July 27, 2006 that:

(a) pursuant to paragraph 2 of subsection 127(1) that all trading in any securities by Rash shall cease for a period of three years from the date of this Order;

(b) pursuant to paragraph 3 of subsection 127(1) that any exemptions contained in Ontario securities law do not apply to Rash for a period of three years from the date of this Order; and

(c) pursuant to section 127.1 that Rash pay the costs of Staff's investigation and the costs of, or related to, the hearing, incurred by or on behalf of the Commission fixed in the amount of $15,000.

[44] Although we found that a violation of a Commission's order is a very serious matter, we did not find that this case warranted an order that Rash pay an administrative monetary penalty. In deciding this issue, we considered the fact that Rash did not attempt to conceal his conduct.

[45] We were of the view that it was appropriate to award costs against Rash in the amount of $15,000.00 and interest as required by law. In coming to this decision to reduce the amount of costs sought by Staff, we took into consideration the fact that Rash did not attempt to conceal his conduct during the investigation nor acted in a manner that was unreasonable at the hearing.

DATED at Toronto this 5th day of September, 2006.

"Wendell S. Wigle"
Wendell S. Wigle, Q.C.

"Robert W. Davis"
Robert W. Davis, FCA

3.1.2 Momentas Corporation et al. - 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
MOMENTAS CORPORATION, HOWARD RASH,
ALEXANDER FUNT, SUZANNE MORRISON
AND MALCOLM ROGERS

(Sections 127 and 127.1)

REASONS AND DECISION

Hearing:	May 23-25 and August 8, 2006		
Panel:	Wendell S. Wigle, Q.C.	-	Commissioner (Chair of the Panel)
	Robert W. Davis, FCA	-	Commissioner
	Carol S. Perry	-	Commissioner
Counsel:	Pamela Foy	-	On behalf of Staff of the Ontario Securities Commission
	Bob Hutchins Scott Hutchinson	-	On behalf of Alexander Funt
Respondent:	Howard Rash	-	On behalf of himself
	Momentas Corporation	-	Unrepresented

REASONS AND DECISION

OVERVIEW

A. The Hearing

[1] This was a hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S. 5 as amended (the "Act") to consider whether it is in the public interest to make an order against Momentas Corporation ("Momentas") and the individual respondents, Howard Rash ("Rash") and Alexander Funt ("Funt") (collectively, the "Respondents").

[2] This matter arose out of a Notice of Hearing issued by the Commission on June 24, 2005 in relation to a Statement of Allegations issued by Staff of the Commission ("Staff") on the same day.

[3] Momentas is a corporation constituted to day-trade equities and foreign currencies.

[4] In order to finance its operations, including the development of proprietary equities trading software, Momentas sold Momentas "Series A Secured Convertible Debentures" (the "Convertible Debentures") pursuant to an Offering Memorandum dated August of 2003 and an Amended Offering Memorandum dated April 1, 2004 (together the "OM"). The Convertible Debentures were sold commencing in August of 2003 and continuing until June 9, 2005, when the Commission made a temporary cease trade order against Momentas (which is discussed below). The Convertible Debentures were for a 3 year term, bore a fixed but increasing interest rate, paid a premium on maturity and were convertible into common shares of Momentas.

[5] Staff allege that through Momentas' stated enterprise as a "professional trader of equities" and through the sale of the Convertible Debentures, Momentas has been holding itself out as and has been engaging in the business of trading securities in Ontario. Accordingly, it has been acting as a market intermediary and is required to be registered pursuant to section 25 of the Act. Further, Staff allege that Rash, Funt, Suzanne Morrison ("Morrison") and Malcolm Rogers ("Rogers") have engaged in conduct which constitutes "trading" in securities without being registered in accordance with section 25(1)(a) of the Act by carrying out acts directly or indirectly in furtherance of trades of the Convertible Debentures. In addition, it is alleged that Rash and Funt, acting in a similar capacity to officers and directors of Momentas, and Morrison and Rogers, as officers and directors of Momentas, have authorized, permitted or acquiesced in Momentas' conduct.

[6] The main issues for us to determine are:

(1) whether Momentas was a market intermediary and has been engaging in the business of trading securities in Ontario without appropriate registration in violation of the Act;

(2) whether Rash and Funt have engaged in conduct which constitutes "trading" in securities without being registered by carrying out acts directly or indirectly in furtherance of trades of Convertible Debentures; and

(3) whether Rash and Funt have acted in a similar capacity to officers and directors of Momentas and authorized such trades.

[7] We held a hearing on the merits on May 23-25, 2006 and heard closing submissions on August 8, 2006. We decided to provide the parties with an opportunity to make further submissions relevant to sanctions at a later date, if we were to find that the respondent(s)'s conduct violated the Act.

B. The Respondents

[8] Momentas is a private corporation incorporated pursuant to the laws of the Province of Ontario on July 30, 2003, with its head office located in Toronto. Momentas is not registered in any capacity with the Commission and is not a reporting issuer in Ontario.

[9] Rash and Funt are co-founders and promoters of Momentas. They were also managing directors of Momentas. Rash and Funt are not registered with the Commission in any capacity.

[10] Funt was represented by counsel, Rash attended and represented himself. No one appeared for Momentas.

[11] Morrison and Rogers entered into settlement agreements with Staff. The Commission approved the respective settlement agreements as being in the public interest following separate hearings on April 4, 2006.

C. The Facts

[12] Momentas was formed in July of 2003 by Rash and Funt to, allegedly, day-trade equities using software designed to identify buying and selling patterns in the market. Momentas had initially planned to use a third-party equities trading software program ("Magus") that required operator input when making buy/sell decisions. Trading of foreign currencies was conducted at all times through brokers.

[13] Around July or August of 2003, Momentas determined that the Magus system was not performing to its satisfaction and decided to develop its own proprietary equities trading software program ("ARF") that would not require operator input when making the buy/sell decision.

[14] Momentas' business plan contemplated: using first Magus and then ARF to trade equities for Momentas' own account and benefit; trading foreign currencies for Momentas' own account and benefit; and licensing ARF for use by third parties.

[15] Momentas sold the Convertible Debentures pursuant to the OM to finance its operations, including the development of ARF. Since approximately August 2003, Momentas, through its officers, directors, and employees, has been selling Momentas Convertible Debentures to residents of Ontario and elsewhere.

[16] In selling the Convertible Debentures to Ontario residents, Momentas has purportedly relied upon an exemption for selling securities to accredited investors contained in OSC Rule 45-501.

[17] The Offering Memorandum discloses, among other things, the proposed use of the funds by Momentas, the nature of Momentas' business, and the highly speculative nature of an investment in the Convertible Debentures. Momentas stated that it intended to raise $10 million from the sale of the Convertible Debentures to fund its business activities.

[18] Further, the Offering Memorandum provides that the Convertible Debentures are to be issued in denominations of $5,000 and multiples of $2,500 thereafter. The Convertible Debentures provide for significant returns as follows:

> Each Convertible Debenture bears interest at a rate of 10% per annum until August 31, 2004, 12% per annum thereafter until August 31, 2005 and 14% per annum thereafter until August 31, 2006, calculated and payable monthly until maturity on August 31, 2006. On maturity, the Corporation will pay on each Convertible Debenture a premium of 20% of the principal amount of such debenture. The Convertible Debentures are redeemable at the option of the Corporation at any time upon payment to the holder of the principal amount of the debenture, the 20% premium and

any accrued and unpaid interest to the date of redemption. The principal amount and the premium, but not the interest, of each debenture is convertible in whole or in part at the option of the holder on maturity of the Convertible Debentures into common shares ("Common Shares") of the Corporation at a conversion price of $1.00 per Common Share subject to adjustment in specified circumstances.

[19] Between August 2003 and June 2005, Momentas raised $7,862,000 from Canadian investors from the sale of its Convertible Debentures using an in-house sales team whose efforts was devoted exclusively to selling securities of Momentas through a cold-call system of telephone solicitation.

[20] Neither Momentas nor its officers, directors and/or employees who were involved in selling the Convertible Debentures were registered with the Commission in any capacity.

D. The Temporary Orders in Effect Until the Conclusion of the Hearing

[21] On June 9, 2005, the Commission ordered that all trading by Momentas and its officers, directors, employees and/or agents in securities of Momentas shall cease, pursuant to paragraph 2 of subsection 127(1) of the Act, (the "Temporary Order"). The Commission further ordered as part of the Temporary Order that all trading in any securities by Rash, Funt and Morrison shall cease and that, pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Momentas, Rash, Funt and Morrison.

[22] On June 24, 2005, the Commission issued a Notice of Hearing pursuant to subsection 127(1) and section 127.1 of the Act ,accompanied by the Statement of Allegations of Staff against Momentas, Rash, Funt and Morrison. On that date the Commission also extended the Temporary Order on consent of the parties until July 8, 2005.

[23] On July 8, 2005, Rash, Funt and Morrison consented to, and the Commission ordered, an extension of the Temporary Order as it related to them until the conclusion of the hearing of this matter, subject to three exceptions.

[24] On July 14, 2005, the Commission held a hearing to determine whether or not it was in the public interest to extend the Temporary Order against Momentas requiring that it cease trading in securities and removing the applicability of any exemptions in Ontario securities law to Momentas.

[25] The Panel concluded, based on the evidence before it at the time, that Momentas had been acting as a market intermediary and distributing securities without being registered. Further, the Panel concluded that it would be in the public interest to grant an extension of the Temporary Order and the order of July 8, 2005, until the earlier of the conclusion of the hearing in this matter or the date upon which Momentas becomes registered as a limited market dealer and its officers, directors and/or employees involved in the sale of securities to the public become registered in accordance with Ontario securities law.

[26] In granting the extension to the Temporary Order and the order of July 8, 2005, pending the conclusion of the hearing, the Panel provided Momentas with two exceptions from the trading ban: (1) Momentas may trade securities beneficially owned by it through a registered dealer for the purpose of continuing to test and develop its automated equity trading system on the condition that reports of all such trades are delivered to Staff of the OSC within 5 days of each trade; and (2) Momentas may offset or eliminate open positions in foreign currency exchange contracts on the condition that Momentas shall provide to Staff weekly account status reports.

[27] On August 2, 2005, an order was issued by the Commission in which the Temporary Order of June 9, 2005 and the order of July 8, 2005 against Momentas were extended pursuant to section 127 of the Act. Similar orders against the other respondents were extended on consent.

[28] At the time of the commencement of the hearing on the merits, Momentas was still not registered as a limited market dealer and its officers, directors and/or employees involved in the sale of securities to the public were not registered in accordance with Ontario securities law.

E. The Evidence

[29] Staff adduced both oral and documentary evidence at the hearing. Staff called two witnesses, Morrison and Rogers.

[30] Morrison has held the positions of director, President and Chief Financial Officer of Momentas since its incorporation in July 2003. Morrison also acted as the office manager and bookkeeper of Momentas. Her duties consisted primarily of bookkeeping, banking and office administration. She also had some administrative responsibilities related to the sale of securities of Momentas to members of the public.

[31] From July 2003 to May 1, 2005, Rogers held the position of Chief Executive Officer of Momentas and held the position of director from July 2003 to August 10, 2005. His involvement consisted primarily of reviewing software systems that

Momentas was purportedly proposing to develop, training some of the operators on the proposed software systems and reviewing simulations of the proposed software.

[32] Staff also filed a number of documents to establish the nature of the operations carried out by Momentas and its staff, including the overall costs incurred by Momentas.

ANALYSIS

[33] When determining the aforementioned issues set out in paragraph 6, we are required to consider the Commission's public interest mandate as reflected in the purposes of the Act at section 1.1 which are:

(a) to provide protection to investors from unfair, improper or fraudulent practices; and

(b) to foster fair and efficient capital markets and confidence in capital markets.

[34] The primary means for achieving the purposes of the Act are:

(a) requirements for timely, accurate and efficient disclosure of information;

(b) restrictions on fraudulent or unfair market practices and procedures; and,

(c) requirements for the maintenance of a high standard of fitness and business conduct to ensure honest and responsible conduct by market participants.

(1) Has Momentas, through the sale of the Convertible Debentures, been acting as a market intermediary and been engaging in the business of trading securities in Ontario without being a registrant?

[35] The first issue that we must determine is whether Momentas was a market intermediary when it undertook the sale of its own Convertible Debentures.

Parties' Submissions

[36] Staff submitted that Momentas, through the sale of its Convertible Debentures, and in acting as a "professional trader" of equities and foreign currencies using funds raised from investors through the sale of its Convertible Debentures, has been acting as a market intermediary, and consequently, is required to be registered pursuant to section 25 of the Act, which it has failed to do.

[37] Staff argued that the fact that Momentas employed and paid its staff to sell its own securities, in itself, made Momentas a market intermediary regardless of its other businesses. Even if Momentas intended to use the proceeds of the sale of its Convertible Debentures to invest and trade professionally for the indirect benefit of its investors in the Convertible Debentures, this made Momentas a market intermediary. Accordingly, Staff submit that Momentas, in selling Momentas' Convertible Debentures to residents of Ontario and elsewhere could not rely upon an exemption for selling securities to accredited investors contained in OSC Rule 45-501.

[38] Rash submitted that the business activities carried out by Momentas were not confined to the "business of trading securities in Ontario", that the business activities of Momentas were diverse and included activities both within and outside of Ontario. Rash submitted that Momentas was in the business of:

1. trading in securities for the stated purpose of testing its proprietary automated trading system known as "ARF" with a view to marketing and/or licensing the "ARF" technology to third parties for the purpose of earning a profit as well as deploying the "ARF" technology for the internal use of Momentas with a similar view to earning a profit;

2. selling prescriptive medicines through its acquisition of a 20% minority interest in Mercantile Rx Corp.;

3. acquiring and developing real estate properties both in Canada and abroad through its 48% equity interest in Momentas Realty Corp.; and

4. acquiring and developing other business enterprises such as Frankz Finest Culinary Corp. through its indirect equity interest in Momentas Realty Corp.

With regard to 2, 3 and 4 above, no detailed evidence was filed in connection with these business activities.

[39] Rash also submitted that the definition of market intermediary as set out in section 204(1) of the Regulations is not applicable to Momentas, as Momentas was in the business of trading equities and foreign currencies for its own account for investment only and not with a view to resale or distribution.

[40] Rash further submitted that Momentas did not trade securities with accounts fully managed as agent or trustee and the performance or lack thereof by Momentas as to profits or losses was not tied to fixed income returns promised to debenture holders..

[41] Rash submitted that the sale of the Convertible Debentures were to accredited investors who purchased as principal. Rash relied on former Rule 45-501 and submitted that the salespersons employed by Momentas to effect the sale of the Convertible Debentures were exempt from the registration requirement. According to Rash, there is no express or implied prohibition contained in former Rule 45-501, restricting an issuer from hiring employees for the purpose of selling the securities of its own issue, if the purchaser is an accredited investor and purchases as principal.

[42] Counsel for Funt submitted that Momentas did not become a market intermediary because it sold its own Convertible Debentures and that the business model did not make it a market intermediary. Counsel argued that a company is not a market intermediary for the purposes of the sale of its own securities and referred us to the notion of an intermediary as someone who interposes herself or himself between two things. In the context of the Act, the term "market intermediary" contemplates an entity that interposes itself between investors and issuers/securities markets.

[43] Counsel for Funt also submitted that Momentas did not become a market intermediary by virtue of describing itself as being in the business of trading in securities for its own account and benefit nor did it become a market intermediary because it sold its own securities. An issuer selling its own securities is not "in the business of trading in securities". As Momentas did not seek to generate a profit through the sale of its Convertible Debentures, counsel submitted that it is difficult to conceive how, because of the sale of Convertible Debentures, it could be said to be "in the business" for the purposes of the definition of a market intermediary.

[44] Counsel for Funt submitted that the proposed Companion Policies 45-106 CP and 45-501 CP contained a policy statement that, in the Commission's view, where an issuer retains an employee whose primary job function is to actively solicit members of the public for the purposes of selling the issuers' securities, the issuer and the employee are deemed to be in the business of selling securities and are market intermediaries. According to counsel, the coming into force of these Companion Policies post-dates the impugned activity by Momentas. Those proposed Companion Policies which were released for comments in mid-December 2004, did not come into force until September 14, 2005. Counsel is not aware of any policy statement by the Commission prior to December 2004 to similar effect. Counsel submitted that this "new law" cannot be applied retroactively to make Momentas liable for an activity that was legal at the time Momentas undertook it.

[45] Counsel for Funt submitted that Momentas proceeded with the offering of Convertible Debentures on the basis that it was entitled to raise funds under the Accredited Investor Exemption. Counsel submitted that the evidence establishes that if Momentas can rely upon the Accredited Investor Exemption, then it complied with the requirements of that exemption. Momentas provided the regulatory filings required to rely upon this exemption. Counsel submitted that Momentas took appropriate steps to ensure that all purchasers of its Convertible Debentures were accredited investors as that term is defined in the Act. There is nothing in the evidence to suggest that Momentas sold Convertible Debentures to persons who were not accredited investors.

Discussion

[46] In order to ensure that there is fairness and confidence in Ontario's capital markets, it is critical that brokers, dealers and other market participants in the business of selling or promoting securities meet the minimum registration, qualification and conduct requirements of the Act.

[47] Sections 25 and 53 of the Act contain the general registration and prospectus requirements for trading in securities. Pursuant to subsection 25(1)(a) of the Act, no company shall trade in a security unless the company is registered as a dealer.

[48] As stated in *Re Ochnik* (2006), 29 O.S.C.B. 3929, paras. 65-67, the test for determining whether there was unregistered trading in violation of the Act is:

(a) first, to determine whether there was a trade by way of a sale or disposition for valuable consideration or by way of any act, solicitation or conduct directly or indirectly in furtherance of a trade; and

(b) second, to determine whether any exemptions are applicable.

[49] The concept of "trading" is a broad one and includes any sale or disposition of a security for valuable consideration including any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of such a sale or disposition.

[50] In its Offering Memorandum, Momentas describes its principal business activities as being the use of an automated equities trading system ("ARF") for equities trading and the trading of foreign currencies through foreign exchange traders. To finance its operations including the ongoing development of ARF, Momentas has been issuing and selling its own Convertible Debentures to residents of Ontario and elsewhere pursuant to the OM.

[51] Rash argued that the viva voce evidence and the written evidence respecting the business of Momentas supported his position. He referred us to the evidence from the cross-examination of Morrison by counsel for Funt, where she said that she was employed on a full-time basis by Momentas and when asked whether the business of Momentas was to sell securities, she responded…"no". Further, he submitted that Morrison's evidence confirmed Momentas' investment in Mercantile Rx Corp. which was part of Momentas' business and explained the mechanics of the ARF system and the strategy deployed by Momentas' foreign exchange traders.

[52] However, the evidence shows that Momentas Corporation raised $7,862,000 from approximately 250 Canadian investors from the sale of its Convertible Debentures using an in-house sales team whose efforts were devoted strictly to selling securities of Momentas through a cold-call system of telephone solicitation.

[53] Counsel for Funt submitted that Momentas did not become a market intermediary because it sold its own Convertible Debentures, that the notion of an intermediary contemplates an entity that interposes itself between investors and issuers/securities markets. While we agree with the proposition that traditionally, a "market intermediary" has been an individual or company who is interposed between the issuer and the investing public, the form of the conduct at issue should not override the substance of conduct of those who, in effect, are expending their business efforts on raising capital by selling securities to accredited investors. As stated in *Pacific Coast Coin*: "[s]ubstance, not form, is the governing factor" (see *Pacific Coast Coin Exchange of Canada v. Ontario Securities Commission* [1978] 2 S.C.R. 112 (S.C.C.) at para. 43). The evidence of Morrison and Rogers demonstrated that Momentas consisted primarily of a sales team devoted to selling the Convertible Debentures and that Rash and Funt were highly involved in the sales process.

[54] Counsel for Funt argued that it cannot be the case that, every time a company such as Momentas is in its initial start-up/capital raising stage and sells its own securities using its own employees, that company is a market intermediary. However, a key consideration for us is the degree to which management's activities and the proceeds of the offering were allocated to the raising of capital as opposed to being invested in the company's stated business activities.

[55] We do not agree with the argument made by counsel for Funt that although a substantial portion of Momentas' workforce was devoted to the sale of Convertible Debentures, Momentas' capital raising activities were incidental to, and in furtherance of, its business purposes. The evidence showed that Momentas employed approximately 27 individuals, 19 of them for the primary purpose of selling its Convertible Debentures. Momentas' core business involved the selling of the Convertible Debentures, as evidenced by the overall composition of Momentas' workforce, the overall expenses incurred by Momentas and the overall sources of revenue generated by Momentas.

[56] Rash's argument that business activities carried out by Momentas were not confined to the "business of trading securities in Ontario", that the business activities of Momentas were diverse and included activities both within and outside of Ontario is not helpful to the respondents. The fact that a respondent is involved in more than one business is not determinative of whether the business purpose test will be met. As stated by the Divisional Court in *Costello*:

> There is nothing in this legislation to suggest that the business of advising must be the only business in which a person must be involved in order to trigger the requirement of registration.
>
> (*Re Costello* (2003) 26 O.S.C.B. 1617, aff'd (2004), 242 D.L.R. (4th) 301 (Div. Ct.) at para. 62).

[57] While Momentas' business included the development of ARF and other ventures such as MercanRX and Momentas Realty, a significant part of its business, as evidenced by the composition of its workforce, was the business of selling its Convertible Debentures.

[58] Momentas' costs related to sale of the Convertible Debentures constituted approximately 40% of the overall costs incurred by Momentas and over 60% of its overall costs if the "management draws" of Rash and Funt are not counted for the cost analysis. Momentas' costs related to the offering, which total $3,231,000 are comprised of:

(a) $23,000 in trustee fees;

(b) $64,000 in professional fees;

(c) $2,300,000 in salaries and commissions;

(d) $150,000 in advertising and printing;

(e) $157,000 in rent;

(f) $65,000 in postage;

(g) $360,000 in miscellaneous costs associated with office supplies and equipment, bank charges etc.

(h) $112,000 in telephone and internet costs.

[59] Further, Rash and Funt received together $2,560,000 as management draws, the direct source of which was the proceeds from the sale of the Convertible Debentures. Rash received a management draw of $1.3-million and Funt received a management draw of $1.26 million.

[60] By comparison, the evidence reveals that Momentas' expenditures on its stated business activities was much lower, amounting to less that 15% of the offering:

(a) $146,000 for the development of ARF and SCARF;

(b) approximately $200,000 invested in currency trading and simulated testing of ARF;

(c) $385,000 invested in MercanRx; and

(d) $400,000 invested in Momentas Realty.

[61] The manner in which Momentas generated revenue is also a factor when determining its business purpose. Other than some minor unrealized capital gains achieved in the Oanda trading account (which ultimately resulted in a loss), Momentas had no other source of revenue other than through the sale of its Convertible Debentures.

[62] A further indication of a "business purpose" relevant to Rash and Funt is their receipt of substantial compensation from the proceeds of the offering (*Costello v. Ontario Securities Commission* cited above at paras. 57 to 62).

[63] Notwithstanding Rash's and Funt's involvement in other aspects of Momentas' business, such as ARF, Mercan RX and/or Momentas Realty, they were highly involved in the sales process. It is uncontroverted that Rash and Funt received approximately 30% of the funds raised in the offering. The management draws were taken directly from the proceeds from the offering and were taken as compensation for their role in Momentas.

[64] We find that Momentas was a market intermediary. It traded Convertible Debentures and raised a total of $7,862,000 from approximately 250 Canadian investors, $2,949,000 of which was raised from the sale of Convertible Debentures to 98 Ontario residents.

[65] Our finding is consistent with the Commission's decision in *Re Allen*, a matter addressing the issue of registration requirement for market intermediaries selling securities in reliance upon Rule 45-501. In Re Allen, the securities of Andromeda, an Ontario corporation, were sold pursuant to Rule 45-501 by the respondent Allen and sales representatives hired by Allen. The Commission concluded that Allen and the sales representatives, who had been raising capital for Andromeda through a cold-call system of telephone solicitation were engaged in the distribution of securities as market intermediaries to members of the public purportedly pursuant to the Accredited Investor Exemption provided by Rule 45-501 (*Re Allen* (2005), 28 O.S.C.B. 8541 at paras. 22-27).

[66] Having determined that Momentas was acting as a market intermediary, we need to determine whether Momentas could rely upon the Accredited Investor Exemption provided by Rule 45-501 as argued by the Respondents.

Accredited Investor Exemption and 2005 Policy Statement

[67] In selling the Convertible Debentures to Ontario residents, Momentas has purportedly relied upon an exemption for selling securities to accredited investors contained in OSC Rule 45-501.

[68] Former Rule 45-501 (now National Instrument Policy 45-106) provided certain exemptions from the registration requirements for trading in securities. One of the categories of exemptions contained in Rule 45-501 included the sale of securities to "accredited investors". The Accredited Investor Exemption permits an issuer to sell its securities to a class of sophisticated investors with fewer regulatory demands, including the requirement that an issuer be registered.

[69] Section 2.3 of Rule 45-501 provided that sections 25 and 53 of the Act did not apply to trades in securities if the purchaser is an accredited investor and purchases as principal. However, section 3.4 of Rule 45-501 removed the registration exemption for market intermediaries.

[70] The definition of market intermediary is set out at section 204(1) of the Regulation:

> "market intermediary" means a person or company that engages or holds himself, herself or itself out as engaging in Ontario in the business of trading in securities as principal or agent, other than trading in securities purchased by the person or company for his, her or its own account for investment only and not with a view to resale or distribution, and, without limiting the generality of the foregoing, includes a person or company that engages or holds himself, herself or itself out as engaging in the business of,
>
> (a) entering into agreements or arrangements with underwriters or issuers, in connection with distributions of securities, to purchase or sell such securities,
>
> (b) participating in distributions of securities as a selling group member,
>
> (c) making a market in securities, or
>
> (d) trading in securities with accounts fully managed by the person or company as agent or trustee,
>
> whether or not the person or company engages in trading in securities purchased for investment only.

[71] On July 8, 2005, the Canadian Securities Administrators published a proposed new rule that proposed to harmonize and consolidate prospectus and registration exemptions across Canada. The proposed rule carried forward the current law on market intermediaries and the unavailability of the registration exemptions for them when dealing with accredited investors. The proposed companion policy to the proposed new rule stated in part:

> The Ontario Securities Commission takes the position that if an issuer retains an employee whose primary job function is to actively solicit members of the public for the purposes of selling the issuer's securities; the issuer and its employee are in the business of selling securities. Further, if an issuer and its employees are deemed to be in the business of selling securities the Ontario Securities Commission considers both the issuer and its employees to be market intermediaries
>
> (Appendix C, National Instrument 45-106, (2004) O.S.C.B. (Supp. 3)).

[72] The proposed Companion Policies 45-106 CP and 45-501 CP, which were released for comments in mid-December, did not come into force until September 14, 2005. These Companion Policies do not convey new policy, but a statement of the view of the Commission with respect to the current law. A policy statement issued by the Commission is not "law". As stated by the Commission in its interim decision in *Momentas*: "[t]his is not new policy, but a statement of the view of the Commission with respect to the current law, even though it is recorded in a proposed companion policy to the proposed new rule" (*Momentas Corporation et al.*, CarwsellOnt 3375 (Ont. Sec. Comm.) at para. 30).

[73] Indeed, our conclusion is consistent with authorities regarding the "business purpose" test which has been developed in connection with the issue of the registration requirements for "advisers" (*Re Costello* (2003), 26 O.S.C.B. 1617 (Ont. Sec. Comm.), aff'd (2004), 242 D.L.R. (4th) 301 (Div. Ct.) at paras. 57-62; *Re Maguire* (1995), 18 O.S.C.B. 4623 (Ont. Sec. Comm.) as cited in *Re Costello*).

[74] Accordingly, we dismiss the argument made by counsel that the proposed Companion Policies 45-106 CP and 45-501 CP constitute "new law" which cannot be applied retroactively to make Momentas liable for an activity that was legal at the time Momentas undertook it.

(2) Have Rash and Funt engaged in conduct that constitutes "trading" in securities without being registered by carrying out acts directly or indirectly in furtherance of trades of the Convertible Debentures?

[75] Staff allege that Rash and Funt have engaged in conduct that constitutes trading in securities, for which they had to be registered.

[76] The definition of "trade", is set out at subsection 1(1) of the Act, there are three elements of an "act in furtherance of a trade":

a) the general "act or conduct";

b) an advertisement; or

c) a solicitation.

[77] Staff submit that the jurisprudence on this issue shows that decision-makers adopt a contextual approach to determine whether non-registered individuals or companies have engaged in acts in furtherance of a trade. Such approach requires an examination of the totality of the conduct and the setting in which the acts have occurred, the primary consideration of which is the effects the acts had on those to whom they were directed (see *Re Guard Inc.* (1996), 19. O.S.C.B. 3737 at para. 77; R*e American Technology Exploration Corp.* (1988) B.C.S.C.W.S. 984 at 9-10; *Re First Federal Capital (Canada) Corp.* (2003), 27 O.S.C.B. 1603 at para. 55).

[78] Further, a final sale is not a necessary element of an act in furtherance of a trade. Accordingly, a final sale need not occur in order for the conduct in issue to constitute trading. Further, the acceptance of funds can equally constitute an act in furtherance of a trade within the meaning of the Act, even where no specific sales have occurred as a result of the conduct (*Re Guard* cited above at para. 77 and *Re Lett*, (2003), 27 O.S.C.B. 3215 at paras. 55 and 61).

[79] The inclusion of the word "indirectly" in the definition of acts in furtherance of trade reflects the intention by the Legislature to capture conduct which seeks to avoid registration requirements by doing indirectly that which is prohibited directly (see *R. v. Sussman (*1993), 16 O.S.C.B. 1209 at paras. 47-48).

[80] Example of activities found in the jurisprudence to that have fallen within the definition of a trade as "acts in furtherance" include:

(a) providing potential investors with subscription agreements to execute;

(b) distributing promotional materials concerning potential investments;

(c) issuing and signing share certificates;

(d) preparing and disseminating of materials describing investment programs;

(e) preparing and disseminating of forms of agreements for signature by investors;

(f) conducting information sessions with groups of investors; and

(g) meeting with individual investors.

(See *Re Hrappstead*, [1999] 15 B.C.S.C.W.S. 13; *R. v Sussman* cited above, *R. v Guard* cited above; *Re First Federal* cited above; *Re Dodsley* (2003), 26 O.S.C.B. 1799; *Del Bianco v. Alberta (Securities Commission)*, [2004] A.J. No. 1222 (Alta C.A.)).

[81] When considering the evidence, we found that Momentas, Rash and Funt engaged in activities which constituted acts in furtherance of a trade.

[82] In particular, we found that Momentas engaged in the followings acts in furtherance of a trade in the Convertible Debentures by:

(a) maintaining an "open door policy" where potential investors were invited to attend at the Momentas offices and meet with management;

(b) hiring and remunerating sales representatives to solicit members of the public to purchase the Convertible Debentures;

(c) printing and distributing a brochure (the "promotional brochure") containing:

i. a description of the purported business of the company;

ii. an investment summary which laid out the terms of the Convertible Debentures;

iii. the Offering Memorandum;

iv. The Trust Indenture between Momentas and Heritage Trust Company;

v. A series of news bulletins announcing Momentas' achievements, including an investment in MercanRx Corp., the announcement of the SCARF system and the formation of Momentas Realty Corp.;

vi. A CD-ROM containing a digitalized video of the "First Annual Debenture Holder Presentation" of June 3, 2004. and

(d) making a copy of the Offering Memorandum, subscription agreement and Trust Indenture readily available to the public on the Momentas website.

[83] We found that Rash engaged in the following acts in furtherance of a trade by:

(a) hiring those employees referred to in paragraph 82(b) of these Reasons;

(b) drafting the script that was circulated and used by the sales team in selling the Convertible Debentures;

(c) authorizing the content of the Promotional Brochure that was distributed to potential investors;

(d) making arrangements for the OM;

(e) negotiating the Trust Indenture Agreement with the transfer agent;

(f) as a member of management, meeting with potential investors as part of the "open door" policy; and

(g) providing ad hoc advice to the sales team regarding questions about the sales process and or potential investors.

[84] As set out above, Rash's efforts were designed to create an interest in investing in Momentas and, taken as a whole, go beyond recommending or commenting about the Convertible Debentures. Conduct which goes beyond "recommending or commenting about an investment" and which are promotional rather than informational will generally constitute acts in furtherance of a trade (Sussman cited above at para. 49).

[85] In *Re Guard*, cited above, the Commission found that the preparation and dissemination of a newsletter which described the business of the company and its financing and which advised recipients of the opportunity to invest in the offering constituted acts in furtherance of a trade. The Commission found that the issuer's activities, taken as a whole, amounted to a preparation of the market by creating an interest in the company and its securities and a solicitation of potential investors. Considering Rash's activities set out above, we find that they amounted to a preparation of the market for the sale of securities of Momentas and constitute acts in furtherance of trading.

[86] We also found that Funt engaged in the following acts in furtherance of a trade by:

(a) hiring those employees within the sales organization;

(b) training the telemarketers/qualifiers;

(c) monitoring the sales calls; and

(d) as a member of management, meeting with potential investors as part of the "open door" policy; and

(e) providing ad hoc advice to the sales team regarding questions about the sales process and/or potential investors.

[87] Further, as determined by the Commission in *Re Anderson*, evidence that the respondent received consideration or some other benefit from an eventual sale would be an indication of a promotional purpose and thus an act in furtherance of a trade (*Re Anderson* (2004), 27 O.S.C.B. 7955 at para. 34). In the present case, Rash and Funt received together $2,560,000 in management draws from the proceeds of the sale of the Convertible Debentures.

[88] In *Re Lett*, cited above, investors transferred, deposited or caused to be deposited significant funds into the accounts of the corporate respondents which had been opened by the individual respondent Lett. By accepting investors' funds which were to be invested, the Commission held that all of the respondents had carried out acts in furtherance of trades. Similarly, Rash and Funt opened the Momentas bank accounts at TD Canada Trust where the funds from the sale of the Convertible Debentures were deposited. The evidence established that it was primarily Rash who received the funds from investors and forwarded the funds to Morrison for deposit in the accounts.

[89] When looking at the totality of the conduct and the effect of the conduct, we found that Momentas, Rash and Funt engaged in acts in furtherance of trading the Convertible Debentures.

(3) Have Rash and Funt acted in a similar capacity to officers and directors of Momentas and authorized, permitted or acquiesced to Momentas' conduct?

[90] In order to establish that Rash and Funt are *de facto* directors or officers, it must be shown that they exercised powers and authority normally possessed by director and officers.

[91] If Rash and Funt are found to be *de facto* directors and officers of Momentas, they can be liable for Momentas' conduct.

Parties' Submissions

[92] Staff allege that Rash and Funt are *de facto* directors and officers of Momentas. Staff allege that between August 2003 and June 2005, significant funds from the sale of Convertible Debentures were raised by Momentas, its officers and directors. Staff submit that a *de facto* officer or director are liable for the issuer's conduct if the individual permitted, authorized or acquiesced in the conduct of the issuer that amounted to a violation of Ontario securities law.

[93] Rash submitted that Momentas' officers and directors were Morrison and Rogers. He further submitted that Morrison and Rogers abdicated their responsibilities in the capacity of officers and directors of Momentas and that, accordingly, Rash had to assume the role of a *de facto* representative of Momentas in an effort to protect the security-holders and investors of Momentas.

[94] Counsel for Funt submitted that Funt was not a *de facto* director or officer of Momentas. In the alternative that Funt is found to be a *de facto* director or officer of Momentas, counsel submitted that he ceased to occupy that position after May 2004, when he had surgery and experienced other health problems. Counsel submitted that, thereafter, Funt did not participate in any significant manner in the decision-making of Momentas. If Funt was a *de facto* director or officer of Momentas during the time that Momentas sold its Convertible Debentures and if Momentas was a market intermediary at the time, then Funt should not be liable for Momentas' breach of securities law as he took reasonable steps to ensure that Momentas operated in compliance with Ontario securities law.

[95] Counsel for Funt submitted that Funt occupied the position of sales manager and was consulted by Rash and others regarding other business decisions and was not a *de facto* director or officer by virtue of occupying that position or being consulted about those business decisions.

[96] Counsel further submitted that, even if Funt was at one time a *de facto* director or officer of Momentas, he ceased to occupy that position after May of 2004, when Funt had hip surgery. Counsel submitted that from that time, Funt was not involved with Momentas in any significant way.

Discussion

[97] Pursuant to subsection 122(3) and section 129.2 of the Act, a director or officer is deemed to be liable for a breach of securities law by the issuer where the director or officer authorized, permitted or acquiesced in the issuer's non-compliance with the Act.

[98] A "director" which is defined at subsection 1(1) of the Act includes a person acting in a capacity similar to that of a director of a company. An "officer" is defined as including any individual acting in a similar capacity on behalf of an issuer or registrant.

[99] In *Re Press* (1998), 7 A.S.C.S. 2178 at p. 7, the Alberta Securities Commission (ASC) reviewed the purpose of the definition of directors and officers, which uses similar language as that used in subsection 1(1) of the *Canadian Business Corporations Act*. The ASC concluded that the aim of the definition was to prevent persons who exercise the powers of a director from avoiding liability by arranging for others to be named under the formal position, while maintaining their control over the affairs of the company.

[100] A "*de facto*" director has been characterized in the case law defined as "one who intermeddles and who assumes office without going through the legal formalities of appointment." (see *Canadian Aero Services Ltd. v. O'Malley* (1969), 61 C.P.R. 1 (Ont. H.C.) cited in *R. v. Boyle*, [2001] Carswell Alta. 1143 at para. 99).

[101] The test for determining if a person is a *de facto* director or officer is "whether, under the particular circumstances, the alleged director is an integral part of the mind and management of the company," taking into consideration the entirety of the

alleged director's involvement within the context of the business activities at issue (*Re World Stock Exchange* (2000), 9 A.S.C.S. 658 at 18).

[102] In *World Stock Exchange*, the ASC also identified relevant factors for the determination of whether a representative is a *de facto* director or officer:

a) appointed nominees as directors;

b) responsible for the supervision, direction, control and operation of the company;

c) ran the company from their office;

d) negotiated on behalf of the company;

e) company's sole representative on a trip organized to solicit investments;

f) substantially reorganized and managed the company;

g) selected the name of the company;

h) arranged a public offering; and or

i) made all significant business decisions.

[103] A further factor that can be helpful in determining that a person acted as a *de facto* officer is whether the person acted in a position with similar remuneration and responsibility as an officer within the company (see *Canadian Aero Services Ltd. v. O'Malley* (1974), 40 D.L.R. (3d) 371 at para. 22.)

[104] In *Rhône v. Peter A.B. Widener* (1993), 101 .L.R. (4th) 188, the Supreme Court of Canada dealt with the issue of corporate liability (*de facto* or otherwise) and clarified the rationale underlying this concept, and thus is helpful in analyzing the definition of "officer" and "director" in the Act. At paras. 28, 31-32, the Supreme Court of Canada stated:

> 28 In *H.L. Bolton (Engineering) Co. v. T.J. Graham & Sons Ltd.*, [1957] 1 Q.B. 159 , the Court of Appeal compared a corporation to a human body, describing those who control what a company does (and who therefore are the directing mind and will of a company) as the brain of an individual. Denning L.J. rejected the argument that only actions arising from a meeting of a company's board of directors can form the intention of a company. Rather, he accepted that the intention of a company can be derived from its officers and agents in some instances depending on the nature of the matter in consideration and their relative position within the company. Denning L.J. observed at p. 172:
>
> > A company may in many ways be likened to a human body. It has a brain and nerve centre which controls what it does. It also has hands which hold the tools and act in accordance with directions from the centre. Some of the people in the company are mere servants and agents who are nothing more than hands to do the work and cannot be said to represent the mind or will. Others are directors and managers who represent the directing mind and will of the company, and control what it does. The state of mind of these managers is the state of mind of the company and is treated by the law as such.
>
> 31 This Court considered the issue of corporate identification in *Canadian Dredge & Dock Co. v. The Queen*, [1985] 1 S.C.R. 662 . Estey J. found that in order for a corporation to be criminally liable under the "identification" theory, the employee who physically committed the offence must be "the 'ego', the 'centre' of the corporate personality, the 'vital organ' of the body corporate, the 'alter ego' of the employer corporation or its 'directing mind'" (p. 682). However, he also acknowledged that there may be more than one directing mind and highlighted that there may exist the "delegation and sub-delegation of authority from the corporate centre" and the "division and subdivision of the corporate brain" …
>
> 32 As Estey J.'s reasons demonstrate, the focus of inquiry must be whether the impugned individual has been delegated the "governing executive authority" of the company within the scope of his or her authority. I interpret this to mean that one must determine whether the discretion conferred on an employee amounts to an express or implied delegation of executive authority to design and supervise the implementation of corporate policy rather than simply to carry out such policy. In other words, the courts must consider who has been left with the decision-making power in a relevant sphere of corporate activity.

[105] When reviewing the evidence with respect to the alleged conduct of Rash, we found that despite representations by Momentas in the new bulletins it circulated to potential investors as part of the promotional brochure, no decisions were either made or ratified by the formally appointed directors. Rather, all of the business decisions of the corporation were made with the authority of Rash and Funt.

[106] Momentas, through its solicitor Harry G. Black, Q.C., admitted that Rash and Funt formed part of the management of the company.

[107] Furthermore, Morrison, as the CFO and President of Momentas, also testified that she "reported" to Rash and Funt, as did every other employee of the company, either directly or indirectly.

[108] With respect to Rash, we found that:

He had broad duties related to the business development and growth of Momentas;

He authorized the content of promotional brochure;

He gave instructions to the law firm of Sheldon Huxtable to prepare the Offering Memorandum;

He opened the account at Interactive Brokers through which Momentas traded using ARF. He used a company that he controlled, Panterra Offshore Financial, (Panterra) to open the account with Interactive Brokers as trustee for Momentas;

Rash (Morrison and Augustine) had trading authorization over the account with Interactive Brokers;

Rash (and Peter Kostantakos and Rogers) had the user name and password required to access the account through which Momentas traded foreign currencies;

Rash was indicated to be the "account representative" on the Closing (Settlement) Statement for the purchase of Convertible Debentures by both Rogers and Matteo Delduca. The "account representative" is indicated on that form so that investor knows who they spoke to regarding the purchase;

Rash was provided with all mail addressed to Momentas (including cheques from investors representing the purchase funds for Convertible Debentures);

Rash prepared the notes that were incorporated into and formed the majority of the reply under the cover of Harry G. Black, Q.C., then counsel to Momentas, to a query by Michelle Hammer, Commission Staff;

Rash negotiated the Trust Indenture dated March 30, 2004 between Momentas and Heritage Trust Company;

Rash prepared and authorized the content of the media releases regarding (i) Momentas' strategic alliance with MedCanRX Corp. dated June 29, 2004, and (ii) the formation of Momentas Realty Corporation by Momentas dated January 27, 2005. These information releases were sent to potential investors and may have been posted on Momentas' website;

Rash retained the accounting firm of Layman & Company to prepare Momentas' financial statements for the period ending June 30, 2004;

Rogers resigned his position as CEO and Director of Momentas to Rash and Morrison because they are the principal officers involved in Momentas; and

Morrison described Rash as the person who is "basically in charge" and is the "main decision-maker".

[109] With respect to Funt, we find that his day to day role and responsibilities were essentially that of a sales manager at Momentas. The evidence of Morrison is that Funt primarily supervised and monitored the qualifiers and salespeople – that is the only area of Momentas' operations where Funt is indicated to have exercised any form of control independent of Rash or others. However, even in the role as sales manager, Funt's responsibility was limited to monitoring qualifiers and salespeople to ensure that they followed a script that was prepared by Rash. Other responsibilities as sales manager were as followed: (i) the qualifiers were trained and supervised by a qualifying manager, who in turn reported to Funt, (ii) both Rash and Funt were involved in hiring qualifiers and salesmen, (iii) both Rash and Funt provided training to salespeople, (iv) the salespeople reported to both Rash and Funt, and (v) both Rash and Funt determined the compensation to be paid to qualifiers and salespeople.

[110] However, the evidence discloses that Funt was also involved in decision-making with respect to other aspects of Momentas' operations. For example, Morrison's evidence is that Funt was "involved" with Rash in making the following decisions: (i) the decision to appoint Morrison as a director, (ii) the decision to compensate Morrison with share capital, (iv) the decision to hire Kostantakos, (v) the decision to approve the "management draws" to Rash and Funt.

[111] Rogers testified that most business decisions were made by consensus following discussions amongst Rash and Funt, Rogers and sometimes Morrison. Rogers also testified that he was responsible for the consensus decisions and that he acceded to business advice from Rash and Funt because they were the controlling shareholders and were the ones most familiar with the business.

[112] In addition to monitoring and supervising the qualifiers and salespeople, the evidence discloses that Funt discussed matters regarding the operation of Momentas with Rash and was involved in the decision-making process of Momentas.

Conclusion

[113] When applying the legal principles set out above, we are satisfied that, since its incorporation, Rash and Funt have acted in a capacity similar to that of officers and directors of Momentas.

[114] Rash and Funt made, or were substantially involved in, every major decision of Momentas and, as such, were clearly the "controlling minds" of Momentas. As Rogers testified, they were the "two key individuals in the company that could make decisions". Much of the executive authority for the operation of Momentas was effectively delegated to Rash and Funt. Pursuant to the Act, Rash and Funt share responsibility for the acts of Momentas.

[115] We find that although Rash and Funt were not formally appointed as officers and directors of Momentas, they participated in all of the major business decisions in the corporation. One of the major initiatives undertaken by them was their decision to raise capital by way of a securities offering to members of the public in order to finance the company.

[116] We conclude that Rash and Funt were the directing mind and management of Momentas, that they authorized the issuance of the Convertible Debentures and were responsible for ensuring compliance with Ontario Securities law.

[117] Should the liability of Rash and Funt be diminished by virtue of a cautious conduct? Counsel for Funt submitted that if Funt is found to be a *de facto* director or officer of Momentas, he exercised the required degree of prudence in discharging his duties as a *de facto* director and/or officer of Momentas. Counsel submitted that Funt obtained a legal advice from the law firm of Sheldon Huxtable regarding the manner and form of its Offering Memorandum.

[118] Although these terms have been interpreted to include some form of knowledge or intention, the threshold for liability under section 122 and 129.2 is a low one, as merely acquiescing the conduct or activity in question will satisfy the requirement of liability. The degree of knowledge of intention found in each of the terms "authorize", "permit" and "acquiesce" varies significantly. "Acquiesce" means to agree or consent quietly without protest. "Permit" means to allow, consent, tolerate, give permission, particularly in writing. "Authorize" means to give official approval or permission, to give power or authority or to give justification.

[119] Accordingly, we find that Rash and Funt planned and authorized the impugned sales conduct which exceed the minimum requirement of acquiescence.

CONCLUSION

[120] Momentas was a market intermediary.

[121] Momentas, Rash and Funt engaged in acts in furtherance of trading the Convertible Debentures.

[122] Rash and Funt are liable for Momentas' breaches of the Act as *de facto* officers and directors of Momentas. Rash and Funt founded Momentas and were its managing directors. They were significantly involved in every major business decision of the company and were solely responsible for overseeing Momentas' core business of selling its securities. As the directing minds of the company, Rash and Funt were *de facto* officers and directors of Momentas and are deemed to be liable for Momentas' breaches of Ontario securities law.

[123] Having come to these conclusions, we will need to resume the hearing to hear evidence and submissions as to appropriate sanctions against the Respondents. Accordingly, Staff shall forthwith consult the Respondents and communicate to the Secretary to the Commission the earliest date possible for the hearing.

DATED at Toronto this 5th day of September, 2006.

"Wendell S. Wigle"

Wendell S. Wigle, Q.C.

"Carol S. Perry"

Carol S. Perry

"Robert W. Davis"

Robert W. Davis, FCA

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
Printera Corporation	11 Sept 06	22 Sept 06		

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 REPORT FOR THIS WEEK.

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
Agtech Income Fund	01 Sept 06	14 Sept 06			
Argus Corporation Limited	25 May 04	03 Jun 04	03 Jun 04		
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.	03 Apr 06	14 Apr 06	17 Apr 06		
Hollinger Inc.	18 May 04	01 Jun 04	01 Jun 04		
Mindready Solutions Inc.	06 Apr 06	19 Apr 06	19 Apr 06		
Neotel International Inc.	02 Jun 06	15 Jun 06	15 Jun 06		
Novelis Inc.	18 Nov 05	01 Dec 05	01 Dec 05		
TECSYS Inc.	02 Aug 06	15 Aug 06	15 Aug 06		

This page intentionally left blank

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 FORMS 45-106F1 AND FORM 45-501F1

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
07/12/2006	10	0755748 B.C. Ltd. - Units	1,700,000.00	4,250,000.00
08/24/2006	94	32 Degrees Energy Fund IIIa Limited Partnership - Units	7,215,000.00	1,443.00
09/01/2006	104	AeroMechanical Services Ltd. - Units	6,500,000.00	16,250,000.00
08/22/2006	1	Aldershot Resources Ltd. - Common Shares	78,000.00	300,000.00
08/23/2006 to 08/24/2006	7	Alliance Surface Finishing Inc. - Preferred Shares	2,963,250.00	261,539.00
08/18/2006 to 08/28/2006	9	AMADOR GOLD CORP. - Common Shares	36,300.00	280,000.00
06/28/2006	6	Ammonite Energy Ltd. - Common Shares	1,750,000.00	1,750,000.00
08/10/2006	64	Andover Ventures Inc - Units	500,000.00	2,000,000.00
08/31/2006	4	Anglo-Canadian Uranium Corp. - Units	450,000.00	999,998.00
08/31/2006	7	Antibe Therapeutics Inc. - Units	210,000.00	180,000.00
09/05/2006	2	Apex Trust - Bonds	75,000,000.00	750,000,000.00
08/31/2006	12	Aumega Discoveries Ltd. - Flow-Through Shares	342,500.00	5,000,000.00
09/06/2006	2	Big Deal Games Inc. - Preferred Shares	100,000.00	100,000.00
08/21/2006	38	Brett Resources Inc. - Common Shares	1,354,100.00	1,989,000.00
07/17/2006	7	Bullion Management Group Inc. - Common Shares	245,000.00	490,000.00
08/24/2006	1	Callinan Mines Limited - Units	400,000.00	500,000.00
08/28/2006	36	Canadian Horizons (Sooke) Limited Partnership - LP Units	1,333,000.00	13,330.00
08/31/2006	14	Canadian Western Bank Capital Trust - Trust Units	105,000,000.00	105,000.00
08/31/2006	40	Carlside Goldfields Limited - Units	1,000,000.00	810,000.00
08/28/2006	12	Centillion Industries Inc. - Common Shares	397,052.70	7,941,054.00
08/28/2006	14	Centillion Industries Inc. - Common Shares	400,000.00	8,000,000.00
08/31/2006	1	Clearford Industries Inc. - Common Shares	1.00	1.00
01/31/2006	3	Commercial Alcohols Inc. - Common Shares	4,299,505.00	122,843.00
08/28/2006	40	Consolidated Venturex Holdings Ltd. - Flow-Through Shares	499,200.10	2,981,334.00

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
08/21/2006	7	Exceed Energy Inc. - Flow-Through Shares	2,000,005.00	5,714,300.00
08/30/2006	32	Feel Good Cars Corporation - Units	1,700,003.75	1,259,261.00
08/24/2006	5	Gemini Financial Services Opportunities Fund - Units	1,488,000.00	14,880.00
08/28/2006 to 09/01/2006	17	General Motors Acceptance Corporation of Canada, Limited - Notes	10,582,960.30	9,862,960.30
08/23/2006	1	Generation 5 Mathematical Technologies Inc - Warrants	1.00	1.00
08/08/2006	10	Genesis Limited Partnership #6 - LP Units	780,200.00	154.00
09/07/2006	1	Giraffe Capital Limited Partnership - LP Units	150,000.00	108.17
09/01/2006	1	Giraffe Capital Limited Partnership III - LP Units	150,000.00	1,759.84
08/31/2006	63	Gitennes Exploration Inc. - Units	1,062,500.00	4,250,000.00
08/31/2006	19	Global Copper Corp. - Common Shares	2,112,500.00	1,625,000.00
04/01/2006	1	GlobFlex International Partners L.P. - LP Interest	5,466,150.00	5,466,150.00
08/21/2006	21	Grenville Gold Corporation - Units	483,030.00	2,100,130.00
08/28/2006	10	Groupworks Financial Corp. - Common Shares	282,500.10	941,667.00
08/29/2006	50	Impatica Inc. - Common Shares	3,025,000.00	12,100,000.00
09/01/2006	176	International Barytex Resources Ltd. - Units	10,500,000.00	4,883,721.00
08/28/2006 to 08/31/2006	2	Investeco Private Equity Fund, II L.P. - LP Units	461,851.26	450.00
08/16/2006	3	Kimco North Trust III - Notes	198,492,000.00	200,000,000.00
08/31/2006	1	Kingwest U.S. Equity Portfolio - Units	188,658.84	12,236.91
08/28/2006	111	Lexington Energy Services Inc. - Common Shares	2,014,904.84	2,136,334.00
07/14/2006	1	Lindsay Goldbert & Bessemer II A L.P. - Limited Liability Interest	0.00	0.00
08/31/2006	1	Lorus Therapeutics Inc. - Common Shares	1,800,000.00	5,000,000.00
09/01/2006	1	Magenta Mortgage Investment Corporation - Common Shares	65,000.00	65,000.00
07/13/2006	11	Meridex Software Corporation - Common Share Purchase Warrant	578,000.00	5,780,000.00
08/22/2006	15	Merit Mining Corp - Units	830,450.00	4,885,000.00
08/23/2006	1	Nautilus Minerals Corporation Limited - Warrants	13,679,846.18	4,783,163.00
08/23/2006	12	Newport Diversified Hedge Fund - Units	822,359.88	6,445,946.00
08/29/2006	2	NewStep Networks Inc. - Debentures	355,904.01	2.00
08/30/2006	2	Nexient Learning Canada Inc - Debentures	2,500,000.00	2,500,000.00

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
08/30/2006 to 09/08/2006	28	Nexient Learning Inc. - Units	3,258,078.50	9,779,285.00
08/31/2006	6	Oil Sands Underground Mining Corp. - Common Shares	180,835.60	164,396.00
09/01/2006 to 09/06/2006	32	Paragon Minerals Corporation - Flow-Through Shares	2,455,300.80	4,092,168.00
09/01/2006 to 09/06/2006	22	Paragon Minerals Corporation - Units	1,589,500.00	3,179,000.00
08/30/2006	23	Pienza Petroleum Inc - Common Shares	7,810,290.60	5,578,779.00
08/30/2006	10	Pienza Petroleum Inc - Flow-Through Shares	2,423,350.00	1,425,500.00
09/01/2006	57	Pomittere Retirement Trust - Units	2,237,000.00	2,079,701.60
08/25/2006	12	Pure Nickel Inc - Common Shares	407,500.00	N/A
08/18/2006	73	redCity Search Company Inc. - Units	19,479,445.57	N/A
09/01/2006	1	Renaissance Institutional Equities Fund International L.P. - LP Interest	16,755,000.00	15,000,000.00
08/31/2006	45	Renegade Oil & Gas Ltd. - Flow-Through Shares	3,229,597.00	1,845,484.00
08/03/2006	27	Renewable Energy Generation Limited - Common Shares	9,204,000.00	3,645,721.00
09/01/2006	90	Romspen Mortgage Investment Fund - Units	11,612,320.00	1,161,232.00
08/31/2006	1	Seabridge Gold Inc. - Common Shares	1,994,000.00	200,000.00
08/25/2006	71	Sherwood Copper Corporation - Warrants	15,015,000.00	4,620,000.00
09/01/2006	1	Silver Creek Low Vol Strategies II, Ltd - Common Shares	110,560,000.00	810,372.77
09/01/2006	1	Silver Creek Low Vol Strategies Ltd - Common Shares	110,560,000.00	643,459.23
08/30/2006	26	SNL Enterprises Ltd. - Units	3,010,500.00	N/A
08/31/2006	5	Softrock Minerals Ltd. - Units	100,000.00	400,000.00
08/31/2006	5	Sonomax Hearing Healthcare Inc. - Common Shares	345,000.00	1,725,000.00
08/29/2006	27	Starcore International Ventures Inc. - Receipts	7,897,400.00	13,162,333.00
08/25/2006	18	Stratabound Minerals Corp. - Common Shares	500,000.00	2,500,000.00
08/29/2006	10	Taranis Resources Inc. - Units	450,000.00	1,000,000.00
08/31/2006	1	TD Harbour Capital Foreign Balanced Fund - Trust Units	3,758,049.42	29,204.61
08/23/2006	1	TFCP II Co-Investment 4 L.P. - LP Interest	71,015,000.00	500.00
08/22/2006 to 08/29/2006	2	The Rosseau Resort Developments Inc. - Units	789,800.00	2.00
08/30/2006	9	Trade Winds Ventures Inc. - Flow-Through Shares	3,082,400.00	4,500,000.00

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price ($)	# of Securities Distributed
08/31/2006	16	Uranium World Energy Inc - Common Shares	224,100.00	1,008,000.00
08/28/2006 to 08/31/2006	39	ValGold Resources Ltd. - Flow-Through Shares	1,552,500.00	5,175,000.00
08/28/2006 to 08/31/2006	31	ValGold Resources Ltd. - Non-Flow Through Units	315,205.00	1,146,200.00
09/01/2006	64	Walton Alliston Ontario Limited Partnership 2 - LP Units	4,629,280.00	462,928.00
08/31/2006	28	Walton GGH Simcoe Heights 4 Corporation - Common Shares	446,250.00	44,625.00
09/01/2006 to 09/05/2006	21	Walton International Group Inc. - Notes	1,980,000.00	N/A
08/29/2006	12	Z28 Capital Corp. - Receipts	2,000,000.00	5,000,000.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Anatolia Minerals Development Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated September 11, 2006
Mutual Reliance Review System Receipt dated September 11, 2006
Offering Price and Description:
$61,500,000.00 - 15,000,000 Shares Pric: $4.10 per Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Desjardins Securities Inc.
Raymond James Ltd.
Dundee Securities Corporation
Promoter(s):
-
Project #991401

Issuer Name:
Anderson Energy Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated September 8, 2006
Mutual Reliance Review System Receipt dated September 8, 2006
Offering Price and Description:
$15,000,000.00 - * Flow-Through Common Shares Price: $ * per Flow Through Common Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Tristone Capital Inc.
FirstEnergy Capital Corp.
GMP Securities L.P.
Dundee Securities Corporation
Promoter(s):
-
Project #991197

Issuer Name:
Blue Pearl Mining Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated September 11, 2006
Mutual Reliance Review System Receipt dated September 12, 2006
Offering Price and Description:
$ * - * Subscription Receipts, each representing the right to receive One Common Share and One-Half of One Common Share Purchase Warrant Price: $ * per Subscription Receipt
Underwriter(s) or Distributor(s):
GMP Securities L.P.
UBS Securities Canada Inc.
Canaccord Capital Corporation
Orion Securities Inc.
Blackmont Capital Inc.
Dundee Securities Corporation
Toll Cross Securities Inc.
Promoter(s):
-
Project #991624

Issuer Name:
Brookfield Power Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated September 8, 2006
Mutual Reliance Review System Receipt dated September 8, 2006
Offering Price and Description:
US$750,000,000.00 - Debt Securities Unconditionally guaranteed as to payment of principal, premium (if any) and interest by BROOKFIELD POWER INC.
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #991155

Issuer Name:
Canada Dominion Resources 2006 II Limited Partnership
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Prospectus dated September 7, 2006
Mutual Reliance Review System Receipt dated September 8, 2006
Offering Price and Description:
$75,000,000.00 - 3,000,000 Limited Partnership Units Price: $25.00 per Unit Minimum Subscription: $5,000 (200 Units)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Dundee Securities Corporation
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
Berkshire Securities Inc.
Blackmont Capital Inc.
Canaccord Capital Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Desjardins Securities Inc.
Wellington West Capital Inc.
Promoter(s):
Canada Dominion Resources 2006 II Corporation
Project #927168

Issuer Name:
Canadian Wireless Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated September 11, 2006
Mutual Reliance Review System Receipt dated September 12, 2006
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Blackmont Capital Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
Richardson Partners Financial Ltd.
Wellington West Capital Inc.
Promoter(s):
Scotia Capital Inc.
Project #991711

Issuer Name:
Crystallex International Corporation
Type and Date:
Preliminary Short Form Shelf Prospectus dated September 7, 2006
Receipted on September 8, 2006
Offering Price and Description:
$ * - 875,000 Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #990859

Issuer Name:
EnCana Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Shelf Prospectus dated September 8, 2006
Mutual Reliance Review System Receipt dated September 8, 2006
Offering Price and Description:
US$2,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #991021

Issuer Name:
Enhanced Performance Indexed Credit Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated September 12, 2006
Mutual Reliance Review System Receipt dated September 12, 2006
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Richardson Partners Financial Limited
HSBC Securities (Canada) Inc.
Dundee Securities Corporation
Canaccord Capital Corporation
Raymond James Ltd.
Promoter(s):
Connor, Clark & Lunn Capital Markets Inc.
Project #991755

Issuer Name:
frontierAlt Energy 2006-II Flow-Through Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated September 5, 2006
Mutual Reliance Review System Receipt dated September 6, 2006
Offering Price and Description:
Maximum Offering: $40,000,000.00 (1,600,000 Units); Minimum Offering: $5,000,000.00 (200,000 Units)
Minimum Subscription: 100 Units Subscription Price: $25.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities Inc.
Blackmont Capital Inc.
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Raymond James Ltd.
Wellington West Capital Inc.
Promoter(s):
frontierAlt Energy 2006-II Inc.
frontierAlt Investment Management Corporation
Brickburn Asset Management Inc.
Project #990091

Issuer Name:
Globestar Mining Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated September 7, 2006
Mutual Reliance Review System Receipt dated September 8, 2006
Offering Price and Description:
34,782,550 Common Shares Issuable Upon the Exercise of 34,782,550 Special Warrants and
1,695,649 Broker Warrants Issuable Upon the Exercise of 1,695,649 Compensation Options
Underwriter(s) or Distributor(s):
Jennings Capital Inc.
Westwind Partners Inc.
Canaccord Capital Corporation
Promoter(s):
-
Project #991219

Issuer Name:
HORIZON Total Return Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated August 31, 2006
Mutual Reliance Review System Receipt dated September 6, 2006
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Wellington West Capital Inc.
Blackmont Capital Inc.
Desjardins Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
Acadian Securities Incorporated
Berkshire Securities Inc.
Middlefield Capital Corporation
Research Capital Corporation
Promoter(s):
Middlefield Group Limited
Middlefield Horizon TR Management Limited
Project #990332

Issuer Name:
Hostopia.com Inc.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Prospectus dated September 11, 2006
Mutual Reliance Review System Receipt dated September 11, 2006
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
TD Securities Inc.
GMP Securities L.P.
Haywood Securities Inc.
Promoter(s):
-
Project #960739

Issuer Name:
Life & Banc Split Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated September 7, 2006
Mutual Reliance Review System Receipt dated September 8, 2006
Offering Price and Description:
$ * (Maximum) - * Preferred Shares and * Class A Shares
Price: $10.00 per Preferred Share and $15.00 per Class A Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Blackmont Capital Inc.
Dundee Securities Corporation
Raymond James Ltd.
Research Capital Corporation
IPC Securities Corporation
Wellington West Capital Inc.
Acadian Securities Incorporated
Promoter(s):
Brompton Funds Management Limited
Project #991041

Issuer Name:
Mackenzie Sentinel Diversified Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated September 1, 2006
Mutual Reliance Review System Receipt dated September 7, 2006
Offering Price and Description:
Series A, F, G, I and O Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Mackenzie Financial Corporation
Project #989927

Issuer Name:
Mosam Capital Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary CPC Prospectus dated September 7, 2006
Mutual Reliance Review System Receipt dated
Offering Price and Description:
$1,000,000.00 - 5,000,000 common shares at $0.20 per share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
-
Project #990848

Issuer Name:
National Bank of Canada
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Shelf Prospectus dated September 6, 2006
Mutual Reliance Review System Receipt dated September 7, 2006
Offering Price and Description:
$2,500,000,000.00 - Medium Term Notes (subordinated indebtedness)
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
Casgrain & Company Limited
CIBC World Markets Inc.
HSBC Securities (Canada) Inc.
Laurentian Bank Securities Inc.
Merrill Lynch Canada Inc.
JP Morgan Securities Canada Inc.
RBC Capital Markets
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #990449

Issuer Name:
Nickel Asia Corp.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Prospectus dated September 7, 2006
Mutual Reliance Review System Receipt dated September 7, 2006
Offering Price and Description:
$ * - * Class A Non-Voting Shares Price: $ * per Class A Non-Voting Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
Orion Securities Inc.
Sprott Securities Inc.
Promoter(s):
Manuel B. Zamora
Salvador B. Zamora II
Project #977909

Issuer Name:
Pengrowth Energy Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Shelf Prospectus dated September 8, 2006
Mutual Reliance Review System Receipt dated September 8, 2006
Offering Price and Description:
$2,000,000,000.00 -Trust Units Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #991218

Issuer Name:
Reserva Natural Gas Corp.
Principal Regulator - Alberta
Type and Date:
Amended and Restated Preliminary Prospectus dated September 11, 2006
Mutual Reliance Review System Receipt dated September 11, 2006
Offering Price and Description:
$ * - * Common Shares Price: $10.00 per Common Share
Underwriter(s) or Distributor(s):
TD Securities Inc.
FirstEnergy Capital Corp.
CIBC World Markets Inc.
Scotia Capital Inc.
Canaccord Capital Corporation
Sprott Securities Inc.
Blackmont Capital Inc.
RSEG Trading Group Ltd.
Promoter(s):
Energylogix Management Inc.
Energylogix Financial Products Ltd.
Project #981078

Issuer Name:
Schooner Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated September 6, 2006
Mutual Reliance Review System Receipt dated September 6, 2006
Offering Price and Description:
$331,100,000.00 (approximate) COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-6
Underwriter(s) or Distributor(s):
TD Securities Inc.
Promoter(s):
-
Project #990177

Issuer Name:
Vista Gold Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Shelf Prospectus dated September 11, 2006
Mutual Reliance Review System Receipt dated
Offering Price and Description:
US$32,000,000.00 - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #991818

Issuer Name:
VRB Power Systems Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated September 11, 2006
Mutual Reliance Review System Receipt dated September 11, 2006
Offering Price and Description:
$10,000,000.00 - 15,384,616 Common Shares Price: $ 0.65 per Common Shares
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
Clarus Securities Inc.
Research Capital Corporation
Promoter(s):
-
Project #991428

Issuer Name:
Zincore Metals Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated September 8, 2006
Mutual Reliance Review System Receipt dated September 11, 2006
Offering Price and Description:
$ * - * Shares Price: $ * Per Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Raymond James Ltd.
Octagon Capital Corporation
Promoter(s):
Southwestern Resources Corp.
Project #991282

Issuer Name:
AnorMED Inc.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Shelf Prospectus dated September 11, 2006
Mutual Reliance Review System Receipt dated September 11, 2006
Offering Price and Description:
U.S.$100,000,000.00 - Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #983286

Issuer Name:
C Level Bio International Holding Inc.
Principal Regulator - Quebec
Type and Date:
Final Prospectus dated September 5, 2006
Mutual Reliance Review System Receipt dated September 6, 2006
Offering Price and Description:
Minimum Offering: $500,000.00 or 5,000,000 Common Shares; Maximum Offering: $1,000,000.00 or 10,000,000 Common Shares Price: $0.10 per share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
-
Project #964647

Issuer Name:
Chou Asia Fund
Chou Associates Fund
Chou Bond Fund
Chou Europe Fund
Chou RRSP Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated September 12, 2006
Mutual Reliance Review System Receipt dated September 12, 2006
Offering Price and Description:
Series A Units and Series F Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Chou Asociates Management Inc.
Project #974977

Issuer Name:
CIBC Canadian T-Bill Fund
CIBC Premium Canadian T-Bill Fund
CIBC Money Market Fund (Class A and Premium Class Units)
CIBC U.S. Dollar Money Market Fund
CIBC High Yield Cash Fund
CIBC Mortgage and Short -Term Income Fund
CIBC Canadian Bond Fund
CIBC Monthly Income Fund
CIBC Global Bond Fund
CIBC Global Monthly Income Fund
CIBC Balanced Fund
CIBC Diversified Income Fund
CIBC Dividend Fund
CIBC Canadian Equity Fund
CIBC Canadian Equity Value Fund
CIBC Capital Appreciation Fund
CIBC Canadian Small Companies Fund
CIBC Canadian Emerging Companies Fund
CIBC Disciplined U.S. Equity Fund
(formerly CIBC U.S. Equity Fund)
CIBC U.S. Small Companies Fund
CIBC Global Equity Fund
CIBC Disciplined International Equity Fund
(formerly CIBC International Equity Fund)
CIBC European Equity Fund
CIBC Japanese Equity Fund
CIBC Emerging Economies Fund
CIBC Far East Prosperity Fund
CIBC Latin American Fund
CIBC International Small Companies Fund
CIBC Financial Companies Fund
CIBC Canadian Resources Fund
CIBC Energy Fund
CIBC Canadian Real Estate Fund
CIBC Precious Metals Fund
CIBC North American Demographics Fund
CIBC Global Technology Fund
CIBC Canadian Short-Term Bond Index Fund
CIBC Canadian Bond Index Fund
CIBC Global Bond Index Fund
CIBC Balanced Index Fund
CIBC Canadian Index Fund
CIBC U.S. Equity Index Fund
CIBC U.S. Index RRSP Fund
CIBC International Index Fund
CIBC International Index RRSP Fund
CIBC European Index Fund
CIBC European Index RRSP Fund
CIBC Japanese Index RRSP Fund
CIBC Emerging Markets Index Fund
CIBC Asia Pacific Index Fund
CIBC Nasdaq Index Fund
CIBC Nasdaq Index RRSP Fund
CIBC Managed Income Portfolio
CIBC Managed Income Plus Portfolio
CIBC Managed Balanced Portfolio
CIBC Managed Monthly Income Balanced Portfolio
(formerly CIBC Managed Monthly Income and Growth Portfolio)
CIBC Managed Balanced Growth Portfolio
CIBC Managed Balanced Growth RRSP Portfolio
CIBC Managed Growth Portfolio
CIBC Managed Growth RRSP Portfolio
CIBC Managed Aggressive Growth Portfolio
CIBC Managed Aggressive Growth RRSP Portfolio
CIBC U.S. Dollar Managed Income Portfolio
CIBC U.S. Dollar Managed Balanced Portfolio
CIBC U.S. Dollar Managed Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated August 31, 2006
Mutual Reliance Review System Receipt dated September 6, 2006
Offering Price and Description:
Mutual Fund Units and Class A and Premium Class Units @ Net Asset Value
Underwriter(s) or Distributor(s):
CIBC Securities Inc.
Promoter(s):
Canadian Imperial Bank of Commerce
Project #931893. 967178

Issuer Name:
Energy Split Corp. Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated September 7, 2006
Mutual Reliance Review System Receipt dated September 8, 2006
Offering Price and Description:
$50,819,664.00 - 2,419,984 CLASS B PREFERRED SHARES PRICE: $21.00 per CLASS B PREFERRED SHARE
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
HSBC Securities (Canada) Inc.
TD Securities Inc.
Promoter(s):
-
Project #974320

Issuer Name:
First Nickel Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated September 6, 2006
Mutual Reliance Review System Receipt dated September 7, 2006
Offering Price and Description:
$10,000,000.00 - 25,000,000 Units, each comprised of One Common Share and One Common Share Purchase Warrant $0.40 per Unit
Underwriter(s) or Distributor(s):
Paradigm Capital Inc.
MGI Securities Inc.
Raymond James Ltd.
Promoter(s):
MPH Consulting Ltd.
Project #976190

Issuer Name:
Franklin Templeton Managed Yield Class (formerly Bissett Capital Yield Corporate Class)
Franklin Templeton Short Term Yield Class (formerly Franklin Templeton Managed Yield Corporate Class)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated September 5, 2006
Mutual Reliance Review System Receipt dated September 6, 2006
Offering Price and Description:
Series A, F and O shares
Underwriter(s) or Distributor(s):
Franklin Templeton Investments Corp.
Promoter(s):
-
Project #967346

Issuer Name:
Friedberg Global-Macro Hedge Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated September 6, 2006
Mutual Reliance Review System Receipt dated September 8, 2006
Offering Price and Description:
Mutual Fund Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Friedberg Mercantile Group Ltd.
Promoter(s):
Friedberg Mercantile Group Ltd.
Project #962783

Issuer Name:
Northern Rivers Monthly Income and Capital Appreciation Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated September 7, 2006
Mutual Reliance Review System Receipt dated September 8, 2006
Offering Price and Description:
Series A and Series F Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Northern Rivers Capital Management Inc.
Project #938741

Issuer Name:
Northern Rivers Monthly Income and Capital Appreciation Trust Pool
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated September 7, 2006
Mutual Reliance Review System Receipt dated September 8, 2006
Offering Price and Description:
Series O Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Northern Rivers Capital Management Inc.
Project #953713

Issuer Name:
PetroWorld Corp.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated September 8, 2006
Mutual Reliance Review System Receipt dated September 11, 2006
Offering Price and Description:
$39,975,000.00 - 61,500,000 Common Shares Price: C$0.65 per Common Share
Underwriter(s) or Distributor(s):
Orion Securities Inc.
BLACKMONT CAPITAL INC.
HAYWOOD SECURITIES INC.
Promoter(s):
-
Project #970677

Issuer Name:
Uranium Participation Corporation
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated September 6, 2006
Mutual Reliance Review System Receipt dated September 6, 2006
Offering Price and Description:
$90,000,000.00 - 10,227,272 Units @ $8.80 per Unit
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
Dundee Securities Corporation
CIBC World Markets Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Capital Corporation
Raymond James Ltd.
Promoter(s):
-
Project #985563

Issuer Name:
Brookfield SoundVest Commodity Services Fund
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Prospectus dated May 31st, 2006
Closed on September 8th, 2006
Offering Price and Description:
Maximum: $ * (* Units) Price: $10.00 per Unit Minimum Purchase: 200 Units
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
Trilon Securities Corporation
Wellington West Capital Inc.
MGI Securities Inc.
Westwind Partners Inc.
Promoter(s):
Brookfield Investment Funds Management Inc.
Project #951208

Issuer Name:
Explorer IV Resource Limited Partnership
Type and Date:
Preliminary Prospectus dated May 2nd, 2006
Closed on September 8th, 2006
Offering Price and Description:
$ * - * Units Price: $25.00 per Unit. Minimum Subscription: $2,500.00
Underwriter(s) or Distributor(s):
Middlefield Capital Corporation
Promoter(s):
Explorer IV Resource Management Limited
Middlefield Group Limited
Project #931659

This page intentionally left blank

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Consent to Suspension (Rule 33-501 – *Surrender of Registration*)	Fusion Capital Partners Inc.	Limited Market Dealer	August 30, 2006
Consent to Suspension (Rule 33-501 – *Surrender of Registration*)	Man Capital Markets AG	Limited Market Dealer	September 6, 2006
New Registration	Q1 Capital Partners Inc.	Limited Market Dealer	September 7, 2006
New Registration	Wealth Creation & Preservation Inc.	Limited Market Dealer	September 8, 2006
New Registration	TriPalms Equity Inc.	Limited Market Dealer	September 11, 2006
New Registration	Summerwood Capital Corp.	Limited Market Dealer and Investment Counsel & Portfolio Manager	September 12, 2006

This page intentionally left blank

Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA Sets Date for Dale Michael Graveline Hearing in Toronto, Ontario

NEWS RELEASE
For immediate release

MFDA SETS DATE FOR
DALE MICHAEL GRAVELINE
HEARING IN TORONTO, ONTARIO

September 13, 2006 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding in respect of Dale Michael Graveline by Notice of Hearing dated July 6, 2006.

As specified in the Notice of Hearing, the first appearance in this proceeding took place today at 10:00 a.m. (Eastern) before a 3-member Hearing Panel of the MFDA Ontario Regional Council.

The commencement of the hearing of this matter on the merits has been scheduled to take place before a Hearing Panel of the Ontario Regional Council on Friday, November 10, 2006 at 10:00 a.m. (Eastern) in the Hearing Room located at the offices of the MFDA at 121 King Street West, Suite 1000, Toronto, Ontario, or as soon thereafter as the hearing can be held.

The hearing will be open to the public, except as may be required for the protection of confidential matters.

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 175 members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:
Jason D. Bennett
Registrar & Assistant Director, Regional Councils
(416) 943-7431 or jbennett@mfda.ca

13.1.2 CDS Notice and Request for Comments – Material Amendments to CDS Procedures Relating to International Services Procedures

THE CANADIAN DEPOSITORY FOR SECURITIES LIMITED (CDS)

MATERIAL AMENDMENTS TO CDS PROCEDURES

INTERNATIONAL SERVICES PROCEDURES

REQUEST FOR COMMENTS

A. DESCRIPTION OF THE PROPOSED AMENDMENTS

The proposed amendments to CDS Participant Procedures include minor modifications to the documents entitled *Trade and Settlement Procedures*, *Participating in CDS Services*, *CDS Reporting Procedures*, and the introduction of an entirely new document entitled *International Services Procedures*.

The proposed amendments to *Trade and Settlement Procedures* cover the use of the pre-existing Non-Exchange Trade Function to inquire on non-exchange trades (related to international deliveries) and refers users to the new *International Services Procedures* document, described below.

The proposed amendments to *CDS Reporting Procedures* add an International Delivery Report (Report #000142), which is available daily at end-of-day, is retained for seven years, is aggregated alphabetically by Service, and lists all international deliveries and their details at close of business.

The proposed amendments to *Participating in CDS Services* clarify the service definitions of CDS' Euroclear France Link Service, JASDEC Link Service, and Skandinaviska Enskilda Banken AB (SEB) Link Service, respectively, and refer the reader/user to the new *International Services Procedures*, described below.

The proposed new document entitled *International Services Procedures* addresses the following issues in detail:

Chapter 1 – International Deliveries

- At sections 1.1 & 1.2, the processing and billing of international deliveries.
- At section 1.3, international delivery functions. These include *Entering*, *Inquiring on*, and *Modifying* international deliveries using the International Delivery Menu.
- At section 1.4, the document outlines the various statuses of international deliveries.
- At sections 1.5 through 1.8, accessing and using the International Delivery Menu.

Chapter 2 – JASDEC Link Service

This chapter details specific instructions for making securities eligible for the JASDEC Link Service, outlines the processing of JASDEC deliveries and cancellations and addresses the holiday treatment and clearing and settlement cutoff times for the JASDEC Link Service.

Chapter 3 – Euroclear France Link Service & Chapter 4 – SEB Link Service

This chapter details specific instructions for making securities eligible for the Euroclear France Link Service and SEB Link Services, respectively. The proposed procedures outline the processing of eastbound (to Euroclear/SEB) and westbound (to CDS) deliveries and cancellations and address the holiday treatment and clearing and settlement cutoff times for the Euroclear France and SEB Link Services.

In addition, the proposed procedures indicate that entitlements and corporate actions of Euroclear France or SEB Link Service provenance will be processed by CDS' existing entitlements system – all entitlements and corporate actions for CDSX-eligible securities are so processed.

Finally, the proposed procedures outline the steps necessary in order for a CDS Participant to deposit physical securities at Euroclear France or SEB.

B. NATURE AND PURPOSE OF THE PROPOSED AMENDMENTS

The proposed amendments are to provide CDS Participants with detailed instructions with respect to the use of CDS' international links with JASDEC, Euroclear France, and SEB. Each of the aforementioned is a pre-existing, unilateral, free-of-

payment custody link which facilitates book-based movements of Canadian or foreign securities – those eligible at *both* CDS and the foreign depository – between the two. The proposed amendments to the procedures, and the proposed system changes, will result in the creation of a trade between a Participant's CDS CUID and the foreign depository CUID.

CDS' International Message Hub (IMHub), which facilitates the exchange of SWIFT messages in an ISO 15022 compliant format between CDS and the international organizations with whom CDS has operating agreements, is intended to streamline the current links with Euroclear France, SEB, and JASDEC, and simplify the establishment of connections and links with other foreign depositories, as the need arises. In addition, the IMHub will facilitate future changes to current international linkages; if, for example, CDS wished to move from the unilateral link it currently maintains with one of the aforementioned foreign depositories to a bilateral link, the goal of the IMHub is to provide a simple (i.e., one that does not require systems changes) means to effect such a change.

C. IMPACT OF PROPOSED AMENDMENTS

The principal impact of the proposed amendments is that CDS Participants will be required slightly to modify the way in which they input, approve, maintain, monitor, and reconcile international deliveries. The proposed International Delivery functions will provide a more unified, centralized, and streamlined end-user interface within which the above-mentioned functions will be located.

Participant Input Modifications

Participant input *with respect to the above-referenced international services* will, in future, be initiated via the IMHub User Interface rather than through the CDSX Trade function. This will result in a change in the way Participants interact with CDSX in respect of certain international transactions; non-exchange trades (involving an international partner) submitted to CDS via inbound batch files or via InterLink messages will be rejected, and Participants will no longer be able to enter non-exchange trades (involving an international partner) via the CDSX Non-Exchange Trade function. Instead, communication between CDS and Participants, in respect of international deliveries, will be via the IMHub User Interface.

Note: International deliveries (where an international partner has an account at CDS) cannot be initiated by the Participant, only the international partner. Such deliveries subsequently must be approved/matched by the receiving/delivering CDS Participant via the IMHub User Interface.

The proposed amendments and systems changes will further automate the process of approval of international deliveries by CDS Participants by allowing CDS Participants the ability to approve an international delivery *themselves* rather than by being contacted directly by CDS Operations staff to obtain such approval.

In addition, Participants will be required to use the proposed IMHub User Interface to modify non-exchange trades involving international partners (rather than using Interlink messages or the CDSX non-exchange trade function).

CDSX Functionality

Certain currently available functions - in respect of international transactions - will not be affected by the proposed IMHub. In particular, they are the following:

- Participants will continue to be able to monitor non-exchange trades related to international partners via the CDSX Non-Exchange Trade function.
- CDS/DTC cross-border movements will not be affected.
- The reconciliation of non-exchange trades related to international deliveries and ledger adjustments (using existing CDSX functionality and RMS reports) will not be affected.

New IMHub User Interface and Reporting Functions

Certain new functions will be available as a result of the bringing online of the proposed IMHub. They include:

- The ability, in certain circumstances (see Appendix "A"), to reject/cancel outstanding international deliveries via the IMHub User Interface.
- A CDS Participant's ability to monitor international deliveries via the IMHub User Interface.
- The provision of a new end-of-day international delivery report available to Participants via RMS.

D. DESCRIPTION OF THE PROCEDURE DRAFTING PROCESS

CDS is recognized as a clearing agency by the Ontario Securities Commission pursuant to Section 21.1 of the Securities Act (Ontario) and as a self-regulatory organization by the Autorité des marchés financiers pursuant to Section 169 of the Securities Act (Québec). In addition, CDS is deemed to be the clearing house for CDSX, a clearing and settlement system designated by the Bank of Canada pursuant to Section 4 of the *Payment Clearing and Settlement Act*. The Ontario Securities Commission, the Autorité des marchés financiers and the Bank of Canada will hereafter be collectively referred to as the "Recognizing Regulators".

CDS Procedure Amendments originate from a number of sources, both internal and external, and may be standalone or consequential amendments. Standalone amendments are most often necessitated by internal systems changes or service enhancements, while consequential amendments stem from amendments to CDS Participant Rules and/or other regulatory requirements. CDS Procedure Amendments are reviewed and approved by CDS' Strategic Development Review Committee.

The amendments to Participant Procedures will be effective upon approval of the changes by the Recognizing Regulators following public notice and comment.

E. IMPACT OF PROPOSED AMENDMENTS ON TECHNOLOGICAL SYSTEMS

The following constitutes the IMHub's impact on technological systems:

- The CDSX Trade function will be modified so that it will not accept non-exchange trade input (related to International Deliveries) from any source other than the IMHub. (Note: Corporate Action and Participant Merge non-exchange trade input (involving trades with international partners) will not be impacted.)

- The CDSX Trade function will recognize the IMHub as a new Activity Source and SEB as a new Trade Clearing Code in the context of non-exchange trade input.

- Inbound, non-exchange trade related Interlink messages created by the IMHub will reference the aforementioned new Activity Source and Trade Clearing Code.

F. COMPARISON TO OTHER CLEARING AGENCIES

The specific operations of the International Message Hub system are unique to CDS and, as such, cannot readily be compared to similar systems and their operation in other clearing agencies.

G. PUBLIC INTEREST ASSESSMENT

An analysis of the impact of the proposed amendments on the Participant Procedures and CDS technological systems has determined that the implementation of these amendments would not be contrary to the public interest.

H. COMMENTS

Comments on the proposed amendments should be in writing and delivered by October 16, 2006 and delivered to:

Tony Hoffmann
Legal Counsel
The Canadian Depository for Securities Limited
85 Richmond Street West
Toronto, Ontario M5H 2C9

Fax: 416-365-1984
e-mail: attention@cds.ca

A copy should also be provided to the Ontario Securities Commission by forwarding a copy to:

Cindy Petlock
Manager, Market Regulation
Capital Markets Branch
Ontario Securities Commission
Suite 1903, Box 55,
20 Queen Street West
Toronto, Ontario, M5H 3S8

Fax: 416-595-8940
e-mail: cpetlock@osc.gov.on.ca

CDS will make available to the public, upon request, copies of comments received during the comment period.

I. PROPOSED PROCEDURE AMENDMENTS

Appendix "A" contains text of current CDS Participant Procedure marked to reflect proposed amendments and insertions.

J. QUESTIONS

Questions regarding this notice may be directed to:

Tony Hoffmann
Legal Counsel
The Canadian Depository for Securities Limited
85 Richmond Street West
Toronto, Ontario M5H 2C9

Fax: 416-365-1984
e-mail: attention@cds.ca

JAMIE ANDERSON
Senior Legal Counsel

APPENDIX "A"

PROPOSED RULE AMENDMENT

CHAPTER 1

INTERNATIONAL DELIVERIES

The International Message Hub (IMHub) architecture manages the processing of international deliveries for the following services:

- JASDEC Link Service on page 16
- Euroclear France Link Service on page 19
- SEB Link Service on page 22.

The IMHub facilitates the exchange of SWIFT messages in an ISO 15022 compliant format between CDS and the international partners.

The online international delivery functions enable participants to initiate, modify (i.e., approve/match, reject or cancel) and monitor their international deliveries. For more information, see International delivery functions on page 5.

Real-time messaging for processing international deliveries between CDS and its participants is not available.

The start of online access and system shutdown for the International Deliveries function is the same as CDSX. For more information, refer to CDSX cutoff times in *CDSX Procedures and User Guide*.

1.1 Processing international deliveries

The life cycle of an international delivery is as follows:

1. An international delivery is initiated.
2. The international delivery is approved/matched.
3. A non-exchange trade is generated for settlement in CDSX.

The international delivery life cycle is dependent on the international service. For more information, see Processing accepted JASDEC deliveries on page 16, Processing Euroclear France deliveries (eastbound) on page 19 and Processing international deliveries for SEB Link on page 22.

The following applies to non-exchange trades related to international deliveries:

- They cannot be modified using the trade functions, however, participants can inquire on international delivery trades using the Inquire Non-Exchange Trade function
- The RENEW INDICATOR field is set to Y once payment exchange is started
- They cannot be entered or modified using InterLink trade messages or non-exchange trade files
- Records in outbound InterLink trade messages or non-exchange trade files have 1MHUB indicated in the SOURCE field
- They are reported in the same way as non-exchange trades. For more information, refer to Trade reports in *CDS Reporting Procedures.*

For more information, refer to Non-exchange trades in *Trade and Settlement Procedures*.

Service request ID

Each international delivery is assigned a service request ID (for example, S06045-17357) when the request is saved. In this example, the S identifies the transaction as an international delivery and 06045 is the Julian date when the request

was entered (February 14, 2006, the 45th day of the year). The remaining numbers are generated by the IMHub.

1.2 International delivery billing

All transaction fees incurred by participants are billed monthly by CDS. Billable items include the following:

- Non-exchange trade fees
- Cross-border movement – securities-only fees
- Online settlement fees
- Cross-border movement – pass-through fees.

For more information, refer to CDS Ltd. Participant Core Services price list on CDS's website (www.cds.ca).

1.3 International delivery functions

The international delivery functions are:

- Enter International Delivery – The CDS participant enters the international delivery details. For more information, see Entering international deliveries on page 7.
- Inquire International Delivery – The CDS participant can display information on their international deliveries. For more information, see Inquiring on international deliveries on page 9.

  Participants can also use the Inquire Non-exchange Trade function. For more information, refer to Inquiring on non-exchange trades in *Trade and Settlement Procedures*.
- Modify International Delivery – The CDS participant uses this function to approve (i.e., match), reject or cancel an international delivery. For more information, see Modifying international deliveries on page 12.

To review all international deliveries from the previous business day, participants can review the International Delivery report. For more information, refer to International Delivery report in *CDS Reporting Procedures.*

1.4 International delivery statuses

The table below describes the international delivery statuses.

Status A	Status B	Description
INIT		An international delivery has been initiated and the international partner has not yet been notified
INIT	CDSA	An international delivery has been initiated and action (accept or reject) is required by a CDS participant
INIT	CDSX	An international delivery has been initiated, the CDS participant has accepted the international delivery and the international delivery is awaiting completion
INIT	WIPA	An international delivery has been initiated and action (match, reject or settlement confirmation) is required by the international counterparty
INIT	CIPA	An international delivery has been initiated, a cancellation request has been made by the CDS participant and action (accept or deny) is required by the international counterparty
INIT	WIPD	An international delivery has been initiated, a cancellation request has been denied and action (match, reject or settlement confirmation) is required by the international counterparty
INIT	SETT	An international delivery has been initiated and settlement confirmation has been received from the international counterparty
COMP	CANC	An international delivery has been cancelled
COMP	REJT	An international delivery has been rejected
COMP	SETT	An international delivery has been successfully completed

1.5 Accessing the International Delivery Menu

To access the International Delivery Menu:

1. Log on to CDS systems. For more information, refer to Logging on to CDS systems in *Participating in CDS Services*.

2. On the Canadian Depository for Securities Main Menu, type the number identifying International Deliveries in the SELECTION field and press ENTER. The International Deliveries Menu on page 7 displays.

International Deliveries Menu

Will be added when the screens are available.

1.6 Entering international deliveries

International deliveries entered using the Enter International Delivery function must meet the following eligibility requirements or they are not accepted:

- Participant's CUID is eligible for the service
- Security is eligible for the service
- No trade restrictions exist.

To enter an international delivery:

1. Access the International Deliveries Menu on page 7. For more information, see Accessing the International Delivery Menu on page 6.

2. Type the number identifying Enter International Delivery in the SELECTION field and press ENTER. The Enter International Delivery screen on page 8 displays.

Enter International Delivery screen

Will be added when the screens are available.

3. Complete the fields indicated in the table below. The table specifies which fields are completed for each international service (i.e., EOC for Euroclear France Link Service and SEB for SEB Link Service.) International deliveries for JASDEC (JSS) are initiated by the international counterparty.

Field	Description	EOC	SEB
The following fields are required:			
REC/DEL	Code identifying the role of the participant in the international delivery: D – deliverer R – receiver	✓	✓
SERVICE	Code identifying the international link: EOC – Euroclear France SEB – SEB	✓	✓
TRADE DATE	Date when the trade was negotiated	✓	✓
VALUE DATE	Date when the trade is to settle (cannot be more than 365 days in the future)	✓	✓
ACCOUNT	Account type and number where the securities are to be delivered to or received from	✓	✓
SECURITY	Security number (ISIN) identifying the security	✓	✓
PAR VALUE/ QTY	Par value or quantity to be delivered or received Par value/quantity limits (maximum/minimum) and denomination requirements are enforced by SMF	✓	✓

Field	Description	EOC	SEB
DEAG/REAG BIC, ACCT and/or NAME	DEAG – delivering agent REAG – receiving agent For DEAG (i.e., delivering account at an international partner), the BIC, ACCT or NAME when the CDS participant is the receiver For REAG (i.e., receiving account at an international partner), the BIC, ACCT or NAME when the CDS participant is the deliverer	✓	✓
Complete one of the following fields:			
BUYER BIC, ACCT and/or NAME	For the international partner (REAG), the BIC, ACCT or NAME of the international partner's participant's client that is receiving delivery when the CDS participant is the deliverer For the international partner (DEAG), the BIC, ACCT or NAME of the CDS participant's client that is receiving delivery when the CDS participant is the receiver	✓	✓
SELLER BIC, ACCT and/or NAME	For the international partner (DEAG), the BIC, ACCT or NAME of the international partner's participant's client that is delivering when the CDS participant is the receiver For the international partner (REAG), the BIC, ACCT or NAME of the CDS participant's client that is delivering when the CDS participant is the deliverer	✓	✓
The following fields are optional:			
DECU BIC, ACCT and/or NAME	Identifies the delivering custodian		✓
RECU BIC, ACCT and/or NAME	Identifies the receiving custodian		✓

Note: Any fields that display on the Enter International Delivery screen on page 8 and are not listed in the table are for future use.

4. Press PF10 to save. The international delivery is saved with an initiated (INIT) status. A new Enter International Delivery screen on page 8 displays with the service request ID on the message line.

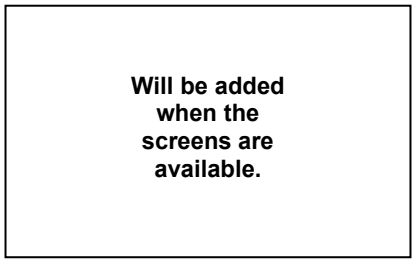
1.7 Inquiring on international deliveries

To inquire on an international delivery:

1. Access the International Deliveries Menu on page 7. For more information, see Accessing the International Delivery Menu on page 6.

2. Type the number identifying Inquire International Delivery in the SELECTION field and press ENTER. The International Delivery – Selection screen on page 10 displays.

International Delivery – Selection screen

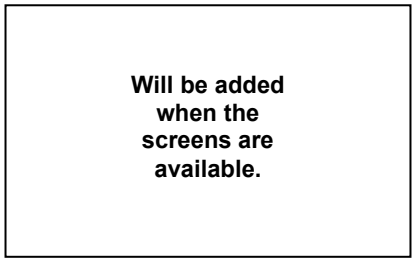


3. Complete the fields as indicated in the table below.

Field	Description
SRVC RQST ID	Service request identification number assigned to the international delivery If the service request ID is entered, the other fields do not need to be completed
REC/DEL	Code identifying the role of the participant in the international delivery: D – deliverer R – receiver
SERVICE	Code identifying the international link service: JSS – JASDEC Link Service EOC – Euroclear France Link Service SEB – SEB Link Service
STATUS A	Code identifying the status of the international delivery. For more information, see International delivery statuses on page 6
STATUS B	Code identifying the action required or taken by the participant or international counterparty. For more information, see International delivery statuses on page 6
VALUE DATE	Date when the trade is to settle (cannot be more than 365 days in the future)
SECURITY FROM: TO:	Security number (ISIN) identifying the security Enter a range of security numbers
QUANTITY	Quantity to be delivered or received

4. Press ENTER. The International Delivery – List screen on page 11 displays.

International Delivery – List screen



5. Type X in the SEL field beside the required international delivery and press ENTER. The International Delivery – Details screen on page 11 displays.

International Delivery – Details screen

Will be added when the screens are available.

6. Review the details of the international delivery. All the fields on this screen are display only.

1.8 Modifying international deliveries

The Modify International Delivery function enables CDS participants to approve (i.e., match), reject or cancel international deliveries. The following rules and restrictions apply to approving and rejecting international deliveries:

- Only international deliveries with a INIT-CDSA status can be approved or rejected. For more information, see International delivery statuses on page 6.
- International deliveries that have been approved or rejected cannot be modified.

To modify an international delivery:

1. Access the International Deliveries Menu on page 7. For more information, see Accessing the International Delivery Menu on page 6.

2. Type the number identifying Modify International Delivery in the SELECTION field and press ENTER. The International Delivery – Selection screen on page 12 displays.

International Delivery – Selection screen

Will be added when the screens are available.

3. Complete the fields as indicated in the table below.

Field	Description
SRVC RQST ID	Service request identification number assigned to the international delivery If the service request ID is entered, the other fields do not need to be completed
REC/DEL	Code identifying the role of the participant in the international delivery: D – deliverer R – receiver

Field	Description
SERVICE	Code identifying the international link service: JSS – JASDEC Link Service EOC – Euroclear France Link Service SEB – SEB Link Service
STATUS A	Code identifying the status of the international delivery. For more information, see International delivery statuses on page 6
STATUS B	Code identifying the action required by the participant or international counterparty. For more information, see International delivery statuses on page 6
VALUE DATE	Date when the trade is to settle (cannot be more than 365 days in the future)
SECURITY FROM: TO:	Security number (ISIN) identifying the security Enter a range of security numbers
QUANTITY	Quantity to be delivered or received

4. Press ENTER. The International Delivery – List screen on page 13 displays.

International Delivery – List screen

Will be added when the screens are available.

5. Type X in the SEL field beside the required international delivery and press ENTER. The International Delivery – Details screen on page 14 displays.

International Delivery – Details screen

Will be added when the screens are available.

6. Do one of the following:

- To approve the international delivery, type A in the CMD field.
- To approve the international delivery and modify the account, type A in the CMD field and modify the new account type and number in the ACCOUNT field.
- To reject the international delivery, type R in the CMD field.

  Note: If the international counterparty has sent a cancellation request and the request is being processed at the same time that the participant attempts to reject the international delivery, the following message displays: CANCELLATION IN PROGRESS.
- To cancel the international delivery, type C in the CMD field. For more information, see Cancelling international deliveries on page 14.

7. Press ENTER to validate the information and press PF10 to save.

1.8.1 Cancelling international deliveries

International delivery cancellation requests are processed depending on the initiator and status of the international delivery as indicated in the table below:

Initiator	Status	Action
CDS participant	INIT, INIT-WIPA	The CDS participant can enter a request to cancel the international delivery
	INIT-CDSA, INIT-CIPA, INIT-WIPD, INIT-SETT or COMP	The CDS participant cannot request the cancellation of the international delivery and receives an invalid entry message

Deliveries initiated by the international counterparty can be cancelled when the non-exchange trade has not settled and the CDS participant has not responded to the international delivery.

If an international delivery cannot be cancelled, the CDS participant or international party can initiate a new international delivery to reverse the transaction.

CHAPTER 2

JASDEC LINK SERVICE

The JASDEC Link Service is a unilateral, free of payment (FOP) custody link established by CDS with the Japan Securities Depository Center, Inc. (JASDEC) to facilitate book-based movements of Canadian securities, eligible at both CDS and JASDEC, between the two depositories. The international delivery results in a trade between a participant's CDS CUID and the JASDEC CUID (JASD).

Security eligibility

To make securities eligible for the JASDEC Link Service, contact CDS Customer Service.

For more information on whether a security is eligible for the JASDEC Link Service, refer to Viewing eligibility and restriction information in *CDSX Procedures and User Guide*.

JASDEC Link holiday processing

Transactions at JASDEC are subject to processing according to JASDEC's business days and regular hours of operation. Instructions sent to JASDEC on a Japanese holiday or after their regular hours of operation are not processed until the following business day.

If CDS receives an instruction from JASDEC to settle a transaction on a Canadian holiday, CDS completes the transaction on the next Canadian business day.

2.1 Processing accepted JASDEC deliveries

Accepted JASDEC international deliveries are processed in the same manner for each of the following scenarios:

- Deliveries from the CDS participant to the JASDEC counterparty
- Deliveries from the JASDEC counterparty to the CDS participant.

JASDEC international deliveries that are accepted are processed as follows:

1. JASDEC sends the international delivery instructions to CDS. The status of the international delivery is INIT-CDSA.
2. The participant accepts the international delivery using the Modify International Delivery function. The status of the international delivery changes to INIT-CDSX.
3. A non-exchange trade is set up in CDSX and settles.
4. CDS notifies JASDEC that the trade is settled and the status of the international delivery changes to COMP-SETT.

2.2 Processing rejected JASDEC deliveries

Rejected JASDEC international deliveries are processed in the same manner for each of the following scenarios:

- Deliveries from the CDS participant to the JASDEC counterparty
- Deliveries from the JASDEC counterparty to the CDS participant.

JASDEC international deliveries that are rejected are processed as follows:

1. JASDEC sends the international delivery instructions to CDS. The status of the international delivery is INIT-CDSA.
2. The participant rejects the international delivery using Modify International Delivery function.
3. CDS notifies JASDEC that the international delivery has been rejected. The status of the international delivery changes to COMP-REJT.

2.3 Processing accepted JASDEC cancellations

Accepted JASDEC cancellations are processed as follows:

1. JASDEC sends the international delivery instructions to CDS. The status of the international delivery is INIT-CDSA.
2. JASDEC sends a cancellation request to CDS.
3. CDS accepts the cancellation and notifies JASDEC. The international delivery status changes to COMP-CANC.

2.4 Processing denied JASDEC cancellations

Denied JASDEC cancellations are processed as follows:

1. JASDEC sends the international delivery instructions to CDS. The status of the international delivery is INIT-CDSA.
2. The participant accepts the international delivery using the Modify International Delivery function. The status of the international delivery changes to INIT-CDSX.
3. A non-exchange trade is set up in CDSX and settles.
4. JASDEC sends a cancellation request to CDS.
5. CDS denies the cancellation request and notifies JASDEC that the trade is settled. The status of the international delivery is COMP-SETT.

2.5 JASDEC clearing and settlement

The cutoff time for settlement instructions at JASDEC is 4:15 p.m. Japan time on settlement date.

Note: Participants should be aware of the time differences between Canada and Japan when processing international deliveries.

CHAPTER 3

EUROCLEAR FRANCE LINK SERVICE

The Euroclear France Link Service is a unilateral, free of payment (FOP) custody link established by CDS with Euroclear France to facilitate book-based movements of French securities between the two depositories. The international delivery results in a trade between a participant's CDS CUID and the Euroclear France CUID (EOCF). French securities must be eligible for the Euroclear France Link Service.

Security eligibility

To make securities eligible for the Euroclear France Link Service, contact CDS Customer Service.

For more information on whether a security is eligible for the Euroclear France Link Service, refer to Viewing eligibility and restriction information in *CDSX Procedures and User Guide*.

Euroclear France Link holiday processing

Transactions at Euroclear France are subject to processing according to Euroclear France's business days and regular hours of operation. Instructions sent to Euroclear on a French holiday or after their regular hours of operation are not processed until the following business day.

3.1 Processing Euroclear France deliveries (eastbound)

International deliveries to Euroclear France are processed as follows:

1. The participant initiates an international delivery using the Enter International Delivery function. The status of the international delivery is INIT-WIPA.

2. A non-exchange trade is set up in CDSX and settles.

3. The international delivery instructions are forwarded to Euroclear France.

4. Euroclear France completes a delivery from CDS's account at Euroclear France to the participant's receiving account at Euroclear France.

5. Euroclear France informs CDS that the delivery is complete and the status of the international delivery changes to COMP-SETT.

3.1.1 Processing rejections by Euroclear France (eastbound)

Rejections are processed as follows:

1. The participant initiates an international delivery using the Enter International Delivery function. The status of the international delivery is INIT-WIPA.

2. A non-exchange trade is set up in CDSX and settles.

3. The international delivery instructions are forwarded to Euroclear France.

4. Euroclear France rejects the international delivery and notifies CDS.

5. A non-exchange trade to reverse the transaction is set-up in CDSX and settles. The status of the international delivery changes to COMP-REJT.

3.2 Processing Euroclear France deliveries to CDS (westbound)

International deliveries from Euroclear France to CDS are processed as follows:

1. The participant initiates an international delivery using the Enter International Delivery function. The status of the international delivery is INIT-WIPA.

2. The international delivery instructions are forwarded to Euroclear France.

3. Euroclear France completes a delivery to CDS's account at Euroclear France from the participant's receiving account at Euroclear France.

4. Euroclear France informs CDS that the delivery is complete.

5. A non-exchange trade is set up in CDSX and settles. The status of the international delivery changes to COMP-SETT.

3.2.1 Processing rejections by Euroclear France (westbound)

Rejections are processed as follows:

1. The participant initiates an international delivery using the Enter International Delivery function. The status of the international delivery is INIT-WIPA.

2. The international delivery instructions are forwarded to Euroclear France.

3. Euroclear France rejects the international delivery and notifies CDS. The status of the international delivery changes to COMP-REJT.

3.3 Cancelling Euroclear France deliveries

Cancellations are processed as follows:

1. The participant initiates a cancellation request using the Modify International Delivery function. The status of the international delivery changes to INIT-CIPA.

2. CDS forwards the cancellation request to Euroclear France.

3. Euroclear France accepts or denies the cancellation request and the following occurs:

   - If the cancellation request is accepted, the international delivery is cancelled and the status changes to COMP-CANC.

   - If the cancellation is denied, the status changes to INIT-WIPD.

3.4 Euroclear France clearing and settlement

The cutoff times for settlement instructions at Euroclear France is 5:00 p.m. CET (central European time) on settlement date.

Note: Participants should be aware of the time differences between Canada and France when processing international deliveries.

3.5 Entitlements and corporate actions for Euroclear France Link

CDS's Entitlement System processes all entitlements and corporate actions for all CDSX-eligible securities. For more information, refer to Entitlement activities in *CDSX Procedures and User Guide*.

Note: French entitlement allocations may be subject to a withholding tax and currency conversion.

3.6 Depositing physical securities at Euroclear France

To deposit physical securities at Euroclear France:

1. The participant enters the deposit in CDSX using the Euroclear France custodian CUID (EOCZ) and CDS is notified.

2. Upon receiving the deposit, Euroclear France credits CDS's account and sends a confirmation of deposit SWIFT message to CDS.

3. CDS credits the participant's account at CDS.

CHAPTER 4

SEB LINK SERVICE

The SEB Link Service is a unilateral, free of payment (FOP) custody link established by CDS with Skandinaviska Enskilda Banken AB (SEB) to facilitate book-based movements of Swedish securities between the two depositories. The international delivery results in a trade between a participant's CDS CUID and the SEB CUID (SEBS). Swedish securities must be eligible for the SEB Link Service.

Security eligibility

To make securities eligible for the SEB Link Service, contact CDS Customer Service. For more information on whether a security is eligible for the SEB Link Service, refer to Viewing eligibility and restriction information in *CDSX Procedures and User Guide*.

SEB Link holiday processing

Transactions at SEB are subject to processing according to Swedish business days and regular hours of operation. Instructions sent to SEB on a Swedish holiday or after their regular hours of operation are not processed until the following business day.

4.1 Processing international deliveries for SEB Link

When entering international deliveries for SEB, participants are required to provide information for the delivering custodian (DECU) and receiving custodian (RECU) for transactions involving Euroclear France and Clearstream.

Participants must provide a BIC when entering international deliveries for SEB. If a BIC is not provided, participants are charged a repair fee (i.e., cross-border movement – pass-through fee).

4.2 Processing SEB deliveries (eastbound)

International deliveries to SEB are processed as follows:

1. The participant initiates an international delivery using the Enter International Delivery function. The status of the international delivery is INIT-WIPA.

2. A non-exchange trade is set up in CDSX and settles.

3. The international delivery instructions are forwarded to SEB.

4. SEB completes a delivery from CDS's account at SEB to the participant's receiving account at SEB.

5. SEB informs CDS that the delivery is complete and the status of the international delivery changes to COMP-SETT.

4.2.1 Processing rejections by SEB (eastbound)

Rejections are processed as follows:

1. The participant initiates an international delivery using the Enter International Delivery function. The status of the international delivery is INIT-WIPA.
2. A non-exchange trade is set up in CDSX and settles.

3. The international delivery instructions are forwarded to SEB.

4. SEB rejects the international delivery and notifies CDS.

5. A non-exchange trade to reverse the transaction is set-up in CDSX and settles. The status of the international delivery changes to COMP-REJT.

4.3 Processing SEB deliveries to CDS (westbound)

International deliveries from SEB to CDS are processed as follows:

1. The participant initiates an international delivery using the Enter International Delivery function. The status of the international delivery is INIT-WIPA.

2. The international delivery instructions are forwarded to SEB.

3. SEB completes a delivery to CDS's account at SEB from the participant's receiving account at SEB.

4. SEB informs CDS that the delivery is complete.

5. A non-exchange trade is set up in CDSX and settles. The status of the international delivery changes to COMP-SETT.

4.3.1 Processing rejections by SEB (westbound)

Rejections requested by SEB are processed as follows:

1. The participant initiates an international delivery using the Enter International Delivery function. The status of the international delivery is INIT-WIPA.

2. The international delivery instructions are forwarded to SEB.

3. SEB rejects the international delivery and notifies CDS. The status of the international delivery changes to COMP-REJT.

4.4 Cancelling SEB deliveries

Cancellations are processed as follows:

1. The participant initiates a cancellation request using the Modify International Delivery function. The status of the international delivery changes to INIT-CIPA.

2. CDS forwards the cancellation request to SEB.

3. SEB accepts or denies the cancellation request and the following occurs:

   - If the cancellation request is accepted, the international delivery is cancelled and the status changes to COMP-CANC.

   - If the cancellation is denied, the status changes to INIT-WIPD.

4.5 SEB clearing and settlement

The cutoff times for settlement instructions at SEB are indicated in the table below.

SEB activity	CET (central European time)
Equity free of payment transactions	4:00 p.m. on settlement date
Debt free of payment transactions	10:00 a.m. on settlement date

Note: Participants should be aware of the time differences between Canada and Sweden when processing international deliveries.
Requests to cancel international deliveries must arrive prior to the cutoff time and the international delivery must have a status that allows cancellation without the counterparty's approval. An unmatched trade can be cancelled at any time.

4.6 Entitlements and corporate actions for SEB Link

CDS's Entitlement System processes all entitlements and corporate actions for all CDSX-eligible securities. For more information, refer to Entitlement activities in *CDSX Procedures and User Guide*.

Note: Swedish entitlement allocations are subject to a withholding tax and currency conversion.

4.7 Depositing physical securities at SEB

To deposit physical securities at SEB:

1. The participant enters the deposit in CDSX using the SEB custodian CUID (SEBZ) and sends the deposit to SEB.

2. Upon receiving the deposit, SEB credits CDS's account and sends a confirmation of deposit SWIFT message to CDS.

3. CDS credits the participant's account at CDS.

Text of CDS Participant Rules marked to reflect proposed amendments

Section 16.33 was inserted at Page 86 of *CDS Reporting Procedures*, as follows:

16.33 International Delivery report

Source	CDS
Report ID	000142
Available	Daily
Data currency	End of day
Retention period	Seven years
Sort order	Status A, Status B, Service Request ID number
Aggregation	Alphabetically by SERVICE

This report lists all international deliveries and their details at the close of business.

Note: International deliveries that are completed do not display on the next day's report.

Text of CDS Participant Rules marked to reflect proposed amendments

The following was inserted in the introduction to Chapter 4 – Non-Exchange Trades of the Guide entitled *Trade and Settlement Procedures*:

International deliveries

To inquire on non-exchange trades related to international deliveries, use the Inquire Non-Exchange Trade function. For more information, refer to International deliveries in the *International Services Procedures.*

Section 6.11 of the Guide entitled Participating in CDS Services is amended as follows:

6.11 Euroclear France Link Service

The Euroclear France Link Service is a unilateral custody link established by CDS with Euroclear France to facilitate book-based movements of ~~Canadian and~~ French ~~securities,~~ securities (eligible ~~at both CDS and at Euroclear France,~~ for the Euroclear France Link Service) between the two depositories~~. For more information, refer to *Euroclear France Link Participant Procedures*~~.

~~All participants are automatically eligible for this service. To use this service, participants need only enter a transaction to a Euroclear France CUID.~~

To register or withdraw from the service, participants must complete the CDS Online Services Support – Service Eligibility Details Ledger Functions form (CDSX798).

For more information, refer to *International Services Procedures.*

Section 6.14 of the Guide entitled Participating in CDS Services is amended as follows:

6.14 ~~JSSC~~ JASDEC Link Service

The ~~JSSC~~ JASDEC Link Service is a unilateral custody link established by CDS with the Japan Securities ~~Settlement & Custody~~ Depository Center, Inc. (~~JSSC~~JASDEC) to facilitate book-based movements of Canadian ~~securities,~~ securities (eligible ~~at both CDS and JSSC,~~ for the JASDEC Link Service) between the two depositories ~~. Movements of these securities can also be made between accounts held at DTCC and JSSC. For more information, refer to *JSSC Link Participant Procedures*~~.

~~All participants are automatically eligible for this service. To use this service, participants need only enter a~~

Text of CDS Participant Rules marked to reflect proposed amendments
~~transaction to a JSSC CUID.~~ To register or withdraw from the service, participants must complete the CDS Online Services Support – Service Eligibility Details Ledger Functions form (CDSX798). For more information, refer to *International Services Procedures*.
Section 6.18 of the Guide entitled Participating in CDS Services is amended as follows: **6.18 SEB Link Service** The SEB Link Service is a unilateral custody link established by CDS with Skandinaviska Enskilda Banken AB (SEB) to facilitate book-based movements of Swedish securities (eligible for the SEB Link Service). To register or withdraw from the service, participants must complete the CDS Online Services Support – Service Eligibility Details Ledger Functions form (CDSX798). For more information, refer to *International Services Procedures.*

Chapter 25

Other Information

25.1 Exemptions

25.1.1 Canada Dominion Resources 2006 II Limited Partnership - Part 15 of OSC Rule 41-501 General Prospectus Requirements

Headnote

Exemption from the prohibition against an issuer filing a prospectus more than 90 days after the date of the receipt for the preliminary prospectus.

Rules Cited

Ontario Securities Commission Rule 41-501 - General Prospectus Requirements, ss. 14.1(2), 15.1.

September 7, 2006

Stikeman Elliott LLP

Attention: Mr. Darin Renton

Dear Sirs/Mesdames:

Re: Canada Dominion Resources 2006 II Limited Partnership (the "Partnership")
Exemptive Relief Application under Part 15 of OSC Rule 41-501 *General Prospectus Requirements* ("Rule 41-501")
Application No. 2006/0664; SEDAR Project No. 927168

By letter dated August 30, 2006 (the "Application"), the Partnership applied to the Director of the Ontario Securities Commission (the "Director") pursuant to section 15.1 of Rule 41-501 for relief from the operation of section 14.1(2) of Rule 41-501, which prohibits an issuer from filing a prospectus more than 90 days after the date of the receipt for the preliminary prospectus.

This letter confirms that, based on the information and representations made in the Application, and for the purposes described in the Application, the Director intends to grant the requested exemption to be evidenced by the issuance of a receipt for the Partnership's prospectus, subject to the condition that the prospectus be filed no later than October 6, 2006.

Yours very truly,

"Leslie Byberg"
Manager, Investment Funds Branch

25.2 Approvals

25.2.1 FaithLife Investment Management Inc. - s. 213(3)(b) of the LTCA

Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act – application by manager for approval to act as trustee of mutual funds to be established and managed by the applicant and offered pursuant to a prospectus exemption.

Statutes Cited

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., s. 213(3)(b).

September 1, 2006

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

Attention: Ronald M. Kosonic

Dear Sirs/Mesdames:

Re: FaithLife Investment Management Inc. (the "Applicant") Application for approval to act as trustee pursuant to clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario)
Application No. 648/06

Further to your application dated August 18, 2006 (the "Application") filed on behalf of the Applicant, and based on the facts set out in the Application and the representation by the Applicant that assets of the FaithLife Canadian Equity Fund and the FaithLife Income Fund (together, the "FaithLife Funds") and future mutual fund trusts to be established and managed by the Applicant from time to time (the "Future Trusts") will be held in the custody of a trust company incorporated, and licensed or registered, under the laws of Canada or a jurisdiction, or a bank listed in Schedule I, II, or III of the *Bank Act* (Canada) or an affiliate of such bank or trust company, the Ontario Securities Commission (the "Commission") makes the following order:

Pursuant to the authority conferred on the Commission in clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario), the Commission approves the proposal that the Applicant act as trustee of the FaithLife Funds and Future Trusts, the securities of which will be offered pursuant to a prospectus exemption.

Yours truly,

“Paul M. Moore”

“Robert L. Shirriff”

Index