The Ontario Securities Commission

OSC Bulletin

July 6, 2001

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

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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

July 6, 2001

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

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Mary Theresa McLeod	—	MTM
H. Lorne Morphy, Q. C.	—	HLM
R. Stephen Paddon, Q.C.	—	RSP

SCHEDULED OSC HEARINGS

Date to be announced	**Mark Bonham and Bonham & Co. Inc.** s. 127 Mr. A.Graburn in attendance for staff. Panel: TBA
July 9 - 12 July 16 -19 July 23-26 July 30 - Aug 2 August 13 -16 August 20,22,23 August 27-30 /2001 10:00 a.m.	**YBM Magnex International Inc., Harry W. Antes, Jacob G. Bogatin, Kenneth E. Davies, Igor Fisherman, Daniel E. Gatti, Frank S. Greenwald, R. Owen Mitchell, David R. Peterson, Michael D. Schmidt, Lawrence D. Wilder, Griffiths Mcburney & Partners, National Bank Financial Corp., (formerly known as First Marathon Securities Limited)** s. 127 K. Daniels / M. Code / J. Naster / I. Smith in attendance for staff. Panel: HIW / DB / RWD
August 13/ 2001 10:00 a.m.	**Jack Banks et al.** s. 127 Mr. Tim Moseley in attendance for staff. Panel: TBA

ADJOURNED SINE DIE

Michael Bourgon

DJL Capital Corp. and Dennis John Little

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

First Federal Capital (Canada) Corporation and Monter Morris Friesner

Global Privacy Management Trust and Robert Cranston

Irvine James Dyck

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

Offshore Marketing Alliance and Warren English

Robert Thomislav Adzija, Larry Allen Ayres, David Arthur Bending, Marlene Berry, Douglas Cross, Allan Joseph Dorsey, Allan Eizenga, Guy Fangeat, Richard Jules Fangeat, Michael Hersey, George Edward Holmes, Todd Michael Johnston, Michael Thomas Peter Kennelly, John Douglas Kirby, Ernest Kiss, Arthur Krick, Frank Alan Latam, Brian Lawrence, Luke John Mcgee, Ron Masschaele, John Newman, Randall Novak, Normand Riopelle, Robert Louis Rizzuto, And Michael Vaughan

S. B. McLaughlin

Southwest Securities

Terry G. Dodsley

Wayne Umetsu

PROVINCIAL DIVISION PROCEEDINGS

Date to be announced	**Michael Cowpland and M.C.J.C. Holdings Inc.** s. 122 Ms. M. Sopinka in attendance for staff. Ottawa
Jan 29/2001 - Jun 22/2001	**John Bernard Felderhof** Mssrs. J. Naster and I. Smith for staff. Courtroom TBA, Provincial Offences Court Old City Hall, Toronto
July 13, 2001 1:30 p.m. Courtroom C	**1173219 Ontario Limited c.o.b. as TAC (The Alternate Choice), TAC International Limited, Douglas R. Walker, David C. Drennan, Steven Peck, Don Gutoski, Ray Ricks, Al Johnson and Gerald McLeod** s. 122 Mr. D. Ferris in attendance for staff. Provincial Offences Court Old City Hall, Toronto
September 17/2001 9:30 a.m.	**Einar Bellfield** s. 122 Ms. Sarah Oseni in attendance for staff. Courtroom 111, Provincial Offences Court Old City Hall, Toronto

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

1.1.2 CSA Staff Notice 31-402 - Registration Forms Relating to the National Registration Database

CANADIAN SECURITIES ADMINISTRATORS
STAFF NOTICE 31-402

Registration Forms Relating to the National Registration Database

REQUEST FOR COMMENTS

The Canadian Securities Administrators (the "CSA") are requesting comment on proposed Form 31-102F3 *Application for Registration as a Dealer, Adviser or Underwriter* and proposed Form 31-102F4 *Registration of Individuals.*

The forms, and a summary of comments and CSA staff responses from the August 4, 2000 publication of the forms, are published in Chapter 6 of the Bulletin and at http://www.osc.gov.on.ca/en/Regulation/Rulemaking/Notices/notices.html.

1.2 Notice of Hearing

1.2.1 Livent Inc. et al.

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

AND

LIVENT INC.
GARTH H. DRABINSKY
MYRON I. GOTTLIEB
GORDON ECKSTEIN
ROBERT TOPOL

NOTICE OF HEARING

TAKE NOTICE that the Commission will hold a hearing pursuant to sections 127 and 127.1 of the *Securities Act,* R.S.O. 1990, c.S.5, as amended (the "Act") at the offices of the Ontario Securities Commission, 20 Queen Street West, 17th Floor Hearing Room on Tuesday, September 11, 2001 at 10:00 a.m. or as soon thereafter as the hearing can be held:

TO CONSIDER whether, pursuant to sections 127(1) and 127.1 of the Act, it is in the public interest for the Commission:

(a) to make an order pursuant to section 127(1) clause 2 of the Act that trading in any securities of Livent Inc. cease permanently;

(b) to make an order pursuant to section 127(1) clause 2 of the Act that trading in securities by Garth H. Drabinsky ("Drabinsky"), Myron I. Gottlieb ("Gottlieb"), Gordon Eckstein ("Eckstein") and Robert Topol ("Topol"), cease permanently or for such other period as specified by the Commission;

(c) to make an order pursuant to subsection 127(1) clause 3 of the Act that any or all exemptions in Ontario securities law do not apply to Drabinsky, Gottlieb, Eckstein and Topol;

(d) to make an order pursuant to section 127(1) clause 7 of the Act that Drabinsky, Gottlieb, Eckstein and Topol resign one or more positions which the Respondents may hold as an officer or director of any issuer;

(e) to make an order pursuant to section 127(1) clause 8 of the Act that Drabinsky, Gottlieb, Eckstein or Topol be prohibited from becoming or acting as an officer or director of any issuer;

(f) to make an order pursuant to section 127(1) clause 6 of the Act that Drabinsky, Gottlieb, Eckstein and Topol be reprimanded;

(g) to make an order pursuant to section 127.1 of the Act that Drabinsky, Gottlieb, Eckstein and Topol pay the costs of Staff's investigation and the costs of, or related to, this proceeding, incurred by or on behalf of the Commission; and

(h) to make such other order or orders as the Commission considers appropriate.

BY REASON OF the allegations set out in the Statement of Allegations dated July 3, 2001, and such additional allegations as counsel may advise and the Commission may permit;

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

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

July 3, 2001.

"John Stevenson"

1.2.2. Livent Inc. et al. - Statement of Allegations

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

AND

LIVENT INC.
GARTH H. DRABINSKY
MYRON I. GOTTLIEB
GORDON ECKSTEIN
ROBERT TOPOL

STATEMENT OF ALLEGATIONS
OF STAFF
OF THE ONTARIO SECURITIES COMMISSION

Further to a Notice of Hearing dated July 3, 2001, Staff of the Ontario Securities Commission (the "Commission") make the following allegations:

The Respondents

1. Livent Inc., (in the name of Live Entertainment of Canada Inc. ("LECI"), a predecessor to Livent Inc.) became a reporting issuer in Ontario on May 10, 1993 following an initial public offering of its common shares (the "Livent IPO") pursuant to a prospectus dated May 7, 1993. The company's common shares were listed and posted for trading on The Toronto Stock Exchange on May 19, 1993. Livent common shares commenced trading on the NASDAQ on August 3, 1995. Trading in shares of Livent Inc. ("Livent") were cease traded by the Commission on February 6, 2001 due to a failure to file the financial statements required by the Securities Act (Ontario) (the "Act").

2. Garth H. Drabinsky ("Drabinsky"), during the time period following the closing of the Livent IPO on May 17, 1993, held the following positions with Livent: director; Chairman through to April 13, 1998, at which time Drabinsky assumed the position of Vice-Chairman; Chief Executive Officer through to April 13, 1998, at which time Drabinsky assumed the position of Chief Creative Director. On August 10, 1998 Livent announced that Drabinsky had been suspended from office by the Livent board of directors. On November 18, 1998 Livent announced that Drabinsky's position with Livent had been terminated by order of the Livent board of directors.

3. Myron I. Gottlieb ("Gottlieb") during the time period following the closing of the Livent IPO on May 17, 1993, held the following positions with Livent: director; President until April 13, 1998, at which time Gottlieb assumed the position of Executive Vice-President, Canadian Administration; member of the Audit Committee through to 1998. On August 10, 1998 Livent announced that Gottlieb had been suspended from office by the Livent board of directors. On November 18, 1998 Livent announced that Gottlieb's position with Livent had been terminated by order of the Livent board of directors.

4. Gordon Eckstein ("Eckstein") during the time period following the closing of the Livent IPO on May 17, 1993, held the following positions with Livent: Vice-President, Finance and Administration through to November 13, 1996, at which time he assumed the position of Senior Vice-President, Finance and Administration. Eckstein's employment with Livent was terminated in July 1998.

5. Robert Topol ("Topol") during the time period following the closing of the Livent IPO on May 17, 1993, held the following positions with Livent: director through to on or about March 11, 1998; Executive Vice-President through to August 17, 1994, at which time Topol assumed the position of Senior Executive Vice-President; Topol assumed the additional position of Chief Operating Officer in February 1997. Topol resigned from Livent on or about March 31, 1998.

Overview of Staff's Allegations

6. The following allegations are being advanced by Staff of the Ontario Securities Commission in respect of Drabinsky, Gottlieb, Eckstein and Topol (the "Respondents") and Livent:

   (a) that Livent, for the fiscal years ending December 31, 1996 and December 31, 1997, and for the quarter ended March 31, 1998, made statements in its interim and audited annual financial statements required to be filed or furnished under Ontario securities law that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading;

   (b) that Drabinsky, Gottlieb and Eckstein, for the fiscal years ending December 31, 1996 and December 31, 1997, and for the quarter ended March 31, 1998, authorized, permitted or acquiesced in Livent making statements in Livent's interim and audited annual financial statements required to be filed or furnished under Ontario securities law that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading; and

   (c) that Topol, for the fiscal years ending December 31, 1996 and December 31, 1997, authorized, permitted or acquiesced in Livent making statements in Livent's interim and audited annual financial statements required to be filed or furnished under Ontario securities law that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.

7. The misconduct giving rise to these allegations falls into three general categories: conduct concerning the improper recording of financial information in the books and records of Livent; conduct concerning the improper recognition of revenue; and conduct concerning the payment of false invoices.

a) Improper Recording of Financial Information in Books and Records

8. Livent improperly recorded transactions and financial information in its books and records which resulted, among other things, in the overstatement of Livent's net income, retained earnings and earnings per share as originally reported to the public in the company's financial statements for fiscal 1996 and 1997 and the first quarter of 1998. The practices adopted by Livent included:

i) modifying the accounting computer system at Livent to permit changes to be made to entries posted to Livent's general ledger in such a manner that there would be no audit trail of the changes made;

ii) deleting from, or not recording in, Livent's general ledger certain expenses that had been incurred by Livent in a particular financial reporting quarter, and then in a subsequent financial reporting quarter, re-entering or entering the expenses as original entries;

iii) deferring the amortization of certain pre-production costs required to be taken in a particular financial reporting quarter and thereby not recording applicable expenses until a later financial reporting quarter;

iv) deleting from Livent's general ledger certain expenses and then re-entering them as pre-production costs associated with theatrical shows;

v) deleting from Livent's general ledger certain pre-production costs associated with certain shows and then re-entering them as pre-production costs associated with different shows;

vi) deleting from Livent's general ledger certain non-fixed asset expenses and pre-production costs and then re-entering them as fixed assets; and

vii) preparing and maintaining spreadsheets and other documentation intended to permit the Respondents to keep track of actual results as compared to results publicly reported.

b) Improper Recognition of Revenue

9. Livent improperly recognized revenue for accounting purposes which resulted, among other things, in the overstatement of Livent's net income, as originally reported to the public in the company's financial statements for fiscal 1996 and 1997. In particular, Livent entered into a number of transactions with third parties involving the sale, assignment or grant (hereinafter referred to as "sale") of certain intangible assets by Livent in respect of which Livent recorded substantial revenues in its financial statements. Each of these transactions were accompanied by "side deals", which were not properly disclosed, which materially modified the substance of the transactions and affected how the transactions should have been properly accounted for. The "side deals" required or permitted Livent or its subsidiaries to re-purchase or re-acquire the subject assets in the future, or obligated Livent or its subsidiaries to make payments to the third party in amounts comparable to the consideration received by Livent on the "sale" of those assets. By failing to disclose the "side-deals", Livent improperly treated what were lending arrangements and/or advances as revenue transactions. These transactions included:

- the "sale" of Australian production rights to *Showboat* to Dewlim Investments Inc.("Dewlim");

- the "sale" of density air rights relating to the Pantages Place real estate development project to Dundee Realty Corporation ("Dundee Realty");

- the "sale" of the right to organize a tour of *Showboat* and *Ragtime* in certain U.S. cities to American Artists Inc. ("American Artists"); and

- the "sale" of European production rights to *Showboat* and *Ragtime* to CIBC Wood Gundy(now known as CIBC Capital Partners) ("CIBC Capital");

c) Concealment of Improper Payments Involving False Invoices

10. To the knowledge of Drabinsky, Gottlieb and Eckstein, prior to the Livent IPO, a predecessor to Livent improperly participated in a series of transactions involving payments made to certain co-operative third parties on the basis of false invoices submitted to Livent. As part of the arrangement, Drabinsky and Gottlieb required the third parties to remit to each of them, directly or indirectly, a significant portion of the proceeds paid by Livent to the third parties further to the false invoices. The payment of these false invoices, which purported to relate to construction activity performed by the third parties, resulted in amounts being improperly recorded as fixed assets and pre-production costs on Livent's balance sheet. These transactions resulted, among other things, in an overstatement in retained earnings of approximately $5.5 million as at January 1, 1996, which was carried forward in Livent's 1996 and 1997 financial statements.

Livent's Corporate Evolution

11. Prior to Livent becoming a reporting issuer in Ontario, its assets and business were privately owned and controlled by Drabinsky and Gottlieb. In December 1989, Drabinsky and Gottlieb, through their Ontario general partnership, MyGar Partnership, acquired all of the assets and assumed certain of the liabilities associated with the live entertainment division of

Cineplex Odeon Corporation, including the Pantages Theatre in Toronto, the Canadian stage rights to *The Phantom of the Opera* and certain other theatrical rights. In 1991, Drabinsky and Gottlieb caused a company called MyGar Realty Inc. to be incorporated under the laws of Ontario to acquire certain lands in Toronto for use in connection with a proposed development of land adjoining the Pantages Theatre.

12. Prior to the closing of the Livent IPO on May 17, 1993, LECI acquired all the assets owned by, and the liabilities of, MyGar Partnership and acquired all the outstanding shares of MyGar Realty Inc. in exchange for which Drabinsky and Gottlieb each received 2,777,274 common shares, representing approximately 28.3% of the outstanding common shares of Livent immediately after the closing of the Livent IPO.

13. Prior to the closing of the Livent IPO on May 17, 1993, Drabinsky, Gottlieb, Eckstein and Topol held the following positions with Livent or its predecessors:

    a) Drabinsky: general partner of MyGar Partnership; director of MyGar Realty Inc.; director, Chairman and Chief Executive Officer of LECI;

    b) Gottlieb: general partner of MyGar Partnership; director of MyGar Realty Inc.; director, President and Chief Operating Officer of LECI;

    c) Eckstein: Vice-President, Finance and Administration of LECI; and

    d) Topol: director and Executive Vice-President of LECI.

14. The audited financial statements contained in the final prospectus for the Livent IPO dated May 7, 1993, contained balance sheets for each of MyGar Partnership and MyGar Realty Inc., each of which were signed by Drabinsky and Gottlieb in their capacities as partners and directors, respectively. Drabinsky and Eckstein signed the Officers' Certificate to the final prospectus in their capacities as Chief Executive Officer and Chief Financial Officer, respectively. Drabinsky and Gottlieb also signed the final prospectus in their capacities as Promoters of LECI.

15. LECI subsequently changed its name from LECI to Livent Inc. on May 23, 1995.

16. In the period April 1996 to October 1997, Livent announced several equity and debt financings, including the following:

    a) On April 2, 1996, Livent completed a U.S. equity offering of 3,750,000 common shares at US $8.75 per share generating proceeds of US$29.62 million (CDN $41.12 million). The net proceeds were stated to be used to satisfy equity contributions to be made by Livent towards the cost of new theatre developments, the elimination of term bank and other debt aggregating CDN $26.2 million;

    b) On July 29, 1996, Livent issued 10% Subordinated Convertible Debentures due July 28, 2003 in the aggregate principal amount of $8.5 million. A financial institution controlled by a director of Livent purchased $2.6 million of such debentures. Livent stated that the proceeds of this financing would be applied to Livent's theatre construction activity in New York;

    c) On December 10, 1996, Livent issued 8.07% Series "A" Senior Secured Debentures due December 1, 2003 in the aggregate principal amount of $72.5 million. Livent stated that net proceeds of this financing would be used to fund Livent's theatre construction projects in New York, Chicago and Toronto, to partially fund the previously acquired equity interest held by certain third parties in the Vancouver theatre, to repay bank indebtedness and for general corporate purposes. Livent stated that this financing, and the previous two financings, "*have considerably augmented the Livent equity base and facilitated the ongoing maintenance of a conservative balance sheet*";

    d) In December 1996, Livent changed bankers and had a $30 million term credit facility in place at December 31, 1996;

    e) On April 23, 1997, Livent issued 500,000 First Preferred Shares, Series "A", by private placement to an investment bank for a price of US$12.5 million. This financing was made in connection with Livent's acquisition of the Oriental Theatre in Chicago;

    f) On May 8, 1997, Livent closed a public offering in Canada of 2,000,000 common shares pursuant to a short-form prospectus. The issue was priced at $13.75 per share and generated proceeds to Livent of $26.4 million. In the prospectus, Livent disclosed that its term credit facility with its banker has been increased from $30 million to $40 million.

    g) On October 16, 1997, Livent closed an offering in the U.S. and Canada of US$125 million principal amount of 9 3/8% Senior Notes due 2004. Livent stated that the net proceeds of the offering of US$121.6 million would be used to retire in full the Company's outstanding Cdn $72.5 million senior secured debentures and to eliminate term bank debt which was Cdn $44.3 million at September 30, 1997, with the remaining funds invested for general corporate purposes.

17. On April 13, 1998, Livent announced that Michael Ovitz had agreed to purchase 2,500,000 common shares of Livent for total consideration of approximately US$20 million, representing approximately 12% of the outstanding shares of Livent. In addition, each of

Drabinsky and Gottlieb personally granted options to Mr. Ovitz to acquire an aggregate of 2,000,000 common shares of Livent held by Drabinsky and Gottlieb. Drabinsky and Gottlieb also granted rights of first refusal to Mr. Ovitz on all their shares of Livent, and obtained rights to participate on certain sales of Livent shares by Mr. Ovitz. The acquisition of an interest in Livent by Mr. Ovitz also resulted in a change in senior management at Livent ("new senior management").

18. On August 10, 1998, Livent issued a news release and filed a material change report pursuant to the Act publicly announcing that an internal investigation had revealed serious irregularities in the Company's financial records. The announcement disclosed that irregularities had been discovered by new senior management which involved improper recognition of revenue and the failure to record, or the improper deferral and capitalization of, expenses which appeared to involve millions of dollars. The announcement stated that it was virtually certain that Livent's financial results for 1996 and 1997 and the first quarter of 1998 would need to be restated.

19. On November 18, 1998, Livent issued a news release and filed a material change report pursuant to the Act publicly announcing that Livent and its U.S. subsidiaries had filed a voluntary petition under Chapter 11 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of New York. The announcement stated that Livent was considering appropriate protective action in Canada. The stated purpose of the Chapter 11 filing was to permit Livent to pursue a comprehensive financial restructuring which had become necessary as a result of the negative impact of the serious accounting irregularities and inappropriate business practices which had been uncovered at the company in the period following August 10, 1998.

20. Livent filed for protection under the Companies' Creditors Arrangement Act in Canada on November 19, 1998. Ernst & Young Inc. ("E&Y") was appointed monitor in connection therewith. In July 1999, bankruptcy courts in Toronto and New York approved the sale of most of Livent's assets to a third party, SFX Entertainment Inc.

21. On September 29, 1999, Livent announced that the Superior Court of Justice (Ontario) had approved Livent's request for the appointment of E&Y as receiver and manager of the property, assets and undertaking of Livent Inc. Livent also announced that in connection with the previously announced completion of the sale of Livent's assets to SFX Entertainment Inc., the Livent board of directors had determined that it was appropriate that the realization of the remaining assets of Livent and the administration of claims of its creditors be conducted by the Court-appointed receiver and manager in conjunction with the continuation of the U.S. Chapter 11 proceedings. Members of the Livent board of directors and its senior management tendered their resignations effective upon the appointment of E&Y as receiver and manager.

22. Livent remains a "reporting issuer" in Ontario and is presently in default of its filing requirements pursuant to the Act.

The Restatement of Livent's Financial Statements for Fiscal 1996 and 1997

23. On November 18, 1998, Livent publicly released restated consolidated audited financial statements for the years ended December 31, 1996 and 1997 (the "Restated Financial Statements") and unaudited financial statements for the quarter ending March 31, 1998. The Restated Financial Statements reflected the following material adjustments to the results originally disclosed by Livent.

Adjustments
(Millions of CDN $ - except Per Share data)

	1996 Originally Reported Amount	Restated Amount	1997 Originally Reported Amount	Restated Amount
Net Income/(Loss)	$11.1	($18.0)	($44.1)	($98.7)
Retained Earnings (Deficit)	$16.5	($25.6)	($27.6)	($124.3)
Earnings/(Loss) Per Share	$0.71	($1.22)	($2.57)	($5.75)

24. The Restated Financial Statements also contained, for the first time, a "going concern" note as follows:

"The consolidated financial statements have been prepared on the going-concern basis which contemplates that the Company will continue in operation for the foreseeable future and will be able to realize its assets and discharge its liabilities in the normal course of business. The following paragraphs indicate that there is significant uncertainty concerning the Company's ability to do so.....The Company was in breach of certain covenants under its bank term loan and other debt agreements which may cause the debt to become immediately due and payable and may cause the bank to terminate the term credit facility of which $50.7 million was drawn down at November 17, 1998..."

Livent's Representations Respecting GAAP, Revenue Recognition and Preproduction Costs

25. As a reporting issuer in Ontario, Livent was required by the Act to file comparative financial statements prepared in accordance with generally accepted accounting principles. For the purposes of the Act, the term "generally accepted accounting principles" ("GAAP") means the principles recommended in the Handbook of the Canadian Institute of Chartered Accountants (the "CICA Handbook").

26. The objective of financial statements prepared in accordance with GAAP is to communicate information that is useful to investors, creditors and others to assist them in making decisions and/ or assessing management stewardship. However, to be useful, the information provided in financial statements must be reliable. The CICA Handbook defines reliability for the purposes of GAAP, as follows (at paragraph 1000.21):

Information is reliable when it is in agreement with the actual underlying transactions and events, the agreement is capable of independent verification and the information is reasonably free from error and bias. Reliability is achieved through representational faithfulness, verifiability and neutrality. Neutrality is affected by the use of conservatism in making judgments under conditions of uncertainty.

(1) Representational faithfulness:

Representational faithfulness is achieved when transactions and events affecting the entity are presented in financial statements in a manner that is in agreement with the actual underlying transactions and events. Thus, transactions and events are accounted for and presented in a manner that conveys their substance rather than necessarily their legal or other form.

The substance of transactions and events may not always be consistent with that apparent from their legal or other form. To determine the substance of a transaction or event, it may be necessary to consider a group of related transactions and events as a whole. The determination of the substance of a transaction or event will be a matter of professional judgment in the circumstances.

(2) Verifiability:

The financial statement representation of a transaction or event is verifiable if knowledgeable and independent observers would concur that it is in agreement with the actual underlying transaction or event with a reasonable degree of precision. Verifiability focuses on the correct application of a basis of measurement rather than its appropriateness.

(3) Neutrality:

Information is neutral when it is free from bias that would lead users towards making decisions that are influenced by the way the information is measured or presented. Bias in measurement occurs when a measure tends to consistently overstate or understate the items being measured. In the selection of accounting principles, bias may occur when the selection is made with the interests of particular users or with particular economic or political objectives in mind.

(4) Conservatism:

Use of conservatism in making judgments under conditions of uncertainty affects the neutrality of financial statements in an acceptable manner. When uncertainty exists, estimates of a conservative nature attempt to ensure that assets, revenues and gains are not overstated and, conversely, that liabilities, expenses and losses are not understated. However, conservatism does not encompass the deliberate understatement of assets, revenues and gains or losses or the deliberate overstatement of liabilities, expenses and losses.

27. Livent, in Note 1 of its financial statements as originally reported for the fiscal year ended December 31, 1996, stated:

"The Company's accounting and reporting policies conform to generally accepted accounting principles in Canada."

28. Livent's financial statements as originally reported for the fiscal year ended December 31, 1997 (which included the comparative statements for the previous year) were accompanied by a statement dated March 27, 1998 signed by Drabinsky and Gottlieb entitled "Management's Responsibility for Financial Reporting" which stated as follows:

"The accompanying consolidated financial statements and all of the financial data included

in this [1997] annual report have been prepared by and are the responsibility of management, and have been approved by the Board of directors of the company. The consolidated financial statements have been prepared in accordance with accounting principles generally accepted in Canada, and reflect management's best estimates and judgments based on currently available information. The Company has developed and maintains a [sic] systems of internal accounting controls in order to assure, on a reasonable and cost effective basis, the reliability of its financial information..."

29. Livent made the following disclosure as to its accounting policy respecting "Revenue Recognition" in the financial statements originally filed for the fiscal year ending December 31, 1996:

> *"[Livent] earns revenue from the production, presentation and commercial exploitation of live theatrical productions and the ownership and operation of theatre facilities. Production revenues consists of performance revenue, the sale of production-related merchandise, corporate sponsorship of productions, gains on the sale of production rights and exclusivity arrangements, royalties and other production-related items. Theatre revenue consists of concession income, merchandise rent, theatre rentals to third parties, sale of naming rights and other theatre-related fees. Advance ticket sales sold by the Company are recorded as deferred revenue and are recognized as revenue on the date of the performance. Gains on the sale of production rights and exclusivity and naming agreements are recognized on the date of sale and fulfilment by the Company of all significant obligations under the terms of the agreement. Sponsorship revenue related to productions is generally recorded over the period of the sponsorship agreement."*

30. In the financial statements for fiscal 1997 Livent made the following disclosure as to its policy respecting "Revenue Recognition":

> *"[Livent] earns revenue from the production, presentation and commercial exploitation of live theatrical productions and the ownership and operation of theatre facilities. Revenue consists of performance revenue, the sale of merchandise, corporate sponsorships, gains on sale of rights and exclusivity arrangements, royalties, concession income and other related fees. Advance ticket sales sold by the Company are recorded as deferred revenue and are recognized as revenue on the date of the performance. Gains on sale of production rights and exclusivity and naming agreements are recognized upon the fulfilment of all significant obligations under the terms of a binding agreement. Sponsorship revenue related to productions is generally recorded over the period of the sponsorship arrangement."*

31. Livent described its accounting policies respecting "Preproduction Costs" in its Original Reported Results for the fiscal year ended December 31, 1996 as follows:

> *"Preproduction Costs associated with the creation of each separate production and with the ongoing change of venues for touring productions are deferred to the opening of the production. Such preproduction costs, including expenses for pre-opening advertising, publicity and promotions, set construction, props, costumes and salaries and fees paid to the cast, crew, musicians and creative constituents during rehearsals, are then amortized based on expected revenues, net of direct operating expenses, from each production, In recognition of the significant degree of uncertainty in estimating the length of, and the revenues from, a live theatre production run, the forecasted revenues, net of direct operating expenses, used in the amortization calculation for each production are initially limited to amounts sufficient to recoup the original preproduction costs. The Company reviews the carrying value of unamortized preproduction costs for each separate production on a quarterly basis and, where conditions warrant for a particular production, the Company may revise the estimated revenue and resultant amortization period for preproduction costs based on the sales experience for that production and its experience with other similar productions. If appropriate, the Company amortizes preproduction costs down to an amount not in excess of their estimated net recoverable amount. The Company's period of amortization of preproduction costs for a particular production is limited to a maximum of five years."*

32. Livent described its accounting policies respecting "Preproduction Costs" in its Original Reported Results for the fiscal year ended December 31, 1997 as follows:

> *"Preproduction Costs associated with the creation of each separate production are deferred to the opening of the production . Such preproduction costs, including expenses for pre-opening advertising, publicity and promotions, set construction, props, costumes and salaries and fees paid to the cast, crew, musicians and creative constituents during rehearsals, are thereafter amortized based on estimated revenues, net of direct operating expenses, from each production. The Company's period of amortization of such preproduction costs for a particular production is limited to a maximum of five production years. The Company reviews the carrying value of unamortized preproduction costs for each separate production on a quarterly basis and, where conditions warrant for*

a particular production, the Company may revise the estimated revenue and resultant amortization period for preproduction costs based on the sales experience for that production and its experience with other similar productions. Where appropriate, the Company adjusts preproduction costs down to an amount not in excess of their estimated net recoverable amount. Subsequent preproduction costs incurred in connection with the moving of a particular production from one venue to another, including pre-opening advertising, are deferred to the opening of that production at that venue and the specific costs applicable to a particular venue are fully amortized during the presentation of the production at that venue."

Improper Recording of Financial Information in the Books and Records of Livent

33. During the material time, at the end of each financial reporting period, Livent accounting staff circulated to the Respondents a management summary reflecting actual results (including net income, on a show-by-show basis, compared to budget), as well as any improper adjustments carried forward from a prior financial period in connection with each show. Having regard to the actual results, the Respondents then provided instructions, directly or indirectly, to the Livent accounting staff specifying changes to be made to the actual results reflected in the company's books and records. In order to give effect to the Respondents' instructions, Livent accounting staff manipulated Livent's books and records by various means which did not accord with GAAP. The effect of the manipulations was to improve the presentation of Livent's financial results for the reporting period. Draft financial statements would then be generated for the reporting period incorporating the manipulations. These draft financial statements were then distributed to the Livent audit committee and, thereafter the Livent board of directors, for their review and approval. The Respondents attended meetings of the audit committee and the board of directors where these draft financial statements were discussed and ultimately approved. The Respondents did not disclose to the audit committee or the board of directors that, to their knowledge, the financial statements were false or misleading.

34. Examples of the practices adopted to manipulate the Livent books and records are summarized in paragraph 8 above.

Transactions Resulting in Improper Revenue Recognition

35. On November 18, 1998, Livent disclosed that following an intensive investigation of the accounting irregularities publicly announced on August 10, 1998, new senior management discovered transactions that had been improperly recorded as revenue. Livent disclosed that certain side agreements or other material terms between Livent and third parties had been discovered that had not previously been disclosed to the Livent board of directors or audit committee. These undisclosed side agreements materially altered the terms of the transactions for which the company had recognized revenues. The discovery of these previously undisclosed side agreements required the reversal or modification of revenue recognition for the transactions. Set out below are further particulars respecting certain of these "revenue recognition" transactions.

Dewlim: Assignment of Australian Production Rights to *Showboat*

Dewlim Transaction

36. Livent International Inc., a subsidiary company controlled by Livent, entered into a letter agreement dated October 21, 1996 with Dewlim, a company controlled by a member of the Livent board of directors (the "Dewlim Contract"). The Dewlim Contract provided for the assignment by Livent International of 57% of the production rights for *Showboat* in Australia and neighbouring countries (the "Australian Production Rights") for consideration of CDN$4.5 million, with $750,000 payable in 1996.

37. For the fiscal year ended December 31, 1996, in its original financial statements Livent recorded revenue relating to the assignment of the Australian Production Rights to Dewlim in the amount of CDN$4.2 million.

38. Livent entered into a letter agreement dated October 21, 1996 with Dewlim and Livent, signed on behalf of Livent by Gottlieb, which provided as follows:

> *"This letter will confirm that Dewlim has granted an option to Livent Inc. or Livent International Inc. or as otherwise directed by Livent Inc. After receipt by Dewlim of Cdn. $8.0 million or equivalent currency, Dewlim, upon receipt of an additional $225,000, will assign without further consideration all of its rights and entitlements relating to Showboat. The options described can be exercised until March 31, 2002."*

39. Gottlieb provided a personal guarantee dated October 21, 1996 (the "Gottlieb/Dewlim Guarantee") in favour of Dewlim, in which he personally undertook to provide to Dewlim full security coverage for CDN$4.5 million payable by Dewlim to Livent International pursuant to the Dewlim Contract. The security provided by Gottlieb consisted of publicly traded common shares of Livent beneficially owned by Gottlieb to cover each wire transfer of funds from Dewlim to Livent International at least one week in advance of the date of the requisite instalment payment by Dewlim for the Australian Production Rights. In consideration of the Gottlieb/Dewlim Guarantee, Dewlim agreed to advance to Gottlieb 50% of all receipts of Dewlim from *Showboat* after recoupment by Dewlim of its initial outlay of CDN$4.5 million plus interest. It was anticipated that such recoupment would take place by approximately December 31, 2000. The Gottlieb/Dewlim Guarantee was not disclosed.

40. In addition, as reflected in a memorandum dated June 9, 1998 from Gottlieb to Drabinsky, Gottlieb, on behalf of Livent, committed to Dewlim the following:

> "*In the fall of 1996, Dewlim Investments, at our request, acquired an interest in the Showboat production in the amount of CDN$4.5 million for the territories of Australia and New Zealand. The funds were advanced on schedule between the fall of 1996 and February 1998. Accordingly, we have received the benefit of the full $4.5 million. As an inducement for Dewlim to participate in Showboat Australia, we committed to Dewlim on behalf of Livent that Dewlim would recoup by December 31, 2000 all capital together with interest accrued monthly at the rate of 10% per annum based on the outstanding balances from time to time.*"

Dewlim Contract in 1997

41. Dewlim and Livent International executed a new letter agreement dated November 3, 1997 which stated that it was replacing and superceding the Dewlim Contract and contained the following new provisions:

a) an increase in the ownership interest by Dewlim in the Australian Production Rights from 57% to 63.5%;

b) an express statement that the consideration to be paid by Dewlim for the Australian Production Rights was "*a non-refundable fee*";

c) an express statement that Dewlim "*has assumed, without recourse to [Livent] International, all risks associated with the non-performance or lack of financial success of the production and presentation of the Play [Showboat] in the Territory*" and has made its investment decision in reliance of its assessment of the prior North American productions of the Play; and

d) an express statement that the agreement contained "*the entire agreement between the parties with respect to the subject matter hereof and all prior agreements and understandings between the parties in respect thereof merge herein.*"

Restatement of Dewlim Transaction

42. In the Restated Financial Statements Livent reversed CDN$4.2 million of "revenue" previously recorded in connection with the Dewlim transaction for the fiscal year 1996.

43. Furthermore, in connection with the restatement, the Dewlim transaction has been characterized as a "related party transaction" because the principal of Dewlim during the material time was a member of the Livent board of directors which had not been previously disclosed.

Dundee Realty: "Sale" of the Pantages Air Rights

44. Livent and Dundee Realty entered into a letter agreement dated May 22, 1997 approving a term sheet (the "May 1997 Term Sheet") relating to the Pantages Place real estate development. One component of the proposed transaction involved the sale by Livent of "air rights" (the "Pantages Air Rights") to Dundee Realty for CDN$7.4 million, payable as follows: CDN$2.5 million on closing and CDN$4.9 million payable in instalments. Another component involved a mechanism by which Dundee Realty could "put" back all of its securities in a joint venture company to be incorporated to facilitate the transaction ("Newco") to Newco for CDN$7.4 million, plus accrued and unpaid management fees if construction of a certain phase of the proposed development had not commenced by December 31, 1999 (hereinafter referred to as the "Put").

45. On June 27, 1997 Gottlieb sent a personal letter to Livent, to the attention of Eckstein, in which Gottlieb referred to the May 1997 Term Sheet and informed Eckstein as follows:

> "*...the air right purchase is a binding transaction for both parties to the agreement for closing June 30, 1997.... The sale by Livent of the exclusivity right associated with the air rights should not require financial consideration on closing or security in favour of Livent to ensure the same. However, in the event it is more prudent for Livent to have a guarantee that $2.5 M will be received by Livent, I am providing the same. I personally guarantee that Livent will receive the initial $2.5 M within 60 days of this letter and I am securing such guarantee with the deposit of 156,817 street form shares, as listed below, of Livent that can be sold in the public market in the event that Dundee Realty Corporation does not advance such $2.5 million within 60 days. In fact, I am providing my guarantee for the full payment of $7.4 million until such time as Livent receives the initial $2.5 million payment from Dundee Realty Corporation at which time my shares are to be returned.*"

This guarantee provided by Gottlieb was not disclosed.

46. The master agreement and contract for purchase and sale (the "Master Agreement") relating to the May 1997 Term Sheet between Livent and Dundee Realty is dated as of June 30, 1997 and the transaction closed in August 1997, when Dundee Realty made its initial payment of $2.5 million to Livent for the Pantages Air Rights. The Put that was referenced in the May 1997 Term Sheet was not included in the Master Agreement but rather was recorded in a separate document entitled "Put Agreement" dated August 15, 1997 (the "Put Agreement").

47. On August 15, 1997, Eckstein sent a letter to Gottlieb releasing Gottlieb from his personal guarantee in connection with Dundee Realty's payment obligation and returning to Gottlieb the Livent shares that Gottlieb

had previously forwarded with his personal guarantee to Livent.

48. On or about August 25, 1997, in connection with the Livent audit committee review of Livent's recognition of revenue associated with the Dundee Realty transaction and whether or not there was a "Put" associated with the transaction that closed in August 1997, Gottlieb represented to the Chairman of the Livent audit committee that Livent's auditors:

> "*specifically in May approved a limited put in favour of Dundee Realty that could be put to Newco and not to Livent. [The Auditors] confirmed this mechanism would allow Livent to record an absolute gain on the sale of the air rights, rather than possibly a contingent gain. This was reported to our board of directors during the meeting held on May 14, 1997.*"

Gottlieb further advised:

> "*At the end of July, [a partner at Livent's auditors] had reservations regarding the put provision and suggested we should ask Dundee Realty to agree to remove the same. We succeeded based on the comfort level for the project by Dundee Realty. I was advised this morning by [a senior officer] of Dundee Realty, that [Dundee Realty's auditors, who happen to be the same firm as Livent's auditors] has now told Dundee Realty not to record the air rights transaction, as the removal of the potential put to the development company is a significant change in the transaction. This is ridiculous. If the removal of the put was fundamental to the transaction, Dundee Realty would have negotiated for receipt of additional benefits and simply chose not to. In fact, on closing, Dundee Realty even agreed to remove the provision that was in the May agreement for a buy-sell shot gun mechanism. We should simply add back the put and insist that [Livent's auditors] be bound by their initial confirmation. [Dundee's auditors] today also suggested to Dundee Realty that a fundamental change occurred as the closing documentation was not a joint venture.*"

49. On August 26, 1997 Gottlieb sent a further letter to the Chairman of Livent's audit committee and advised that a "put" was never part of the original negotiations with Dundee Realty and advised that a "put" was only included in the May 1997 Term Sheet after Livent's auditors had unequivocally confirmed to Gottlieb that notwithstanding the inclusion of the "put" in the structure of the transaction, Livent would be allowed to report "revenue" on the "sale" of the Pantages Air Rights and that this would be absolute, as opposed to contingent.

50. On August 26, 1997 Gottlieb contacted a senior officer of Dundee Realty and Gottlieb forwarded a draft letter to be sent from Dundee Realty to Livent confirming that the "sale" of the Pantages Air Rights was a 1997 second quarter transaction. The draft letter included the following clause:

> "*Without any compensation thereof, the put which was included in the letter agreement for the benefit of Dundee Realty was removed from the Master Agreement at the request of Livent Inc.*"

The senior officer of Dundee Realty signed the form of letter provided by Gottlieb and forwarded it to Livent, to Gottlieb's attention, on or about August 27, 1997.

51. For the fiscal year ended December 31, 1997, in its original financial statements Livent recorded revenue relating to the "sale" of the Pantages Air Rights in the amount of CDN$5.6 million.

52. On September 17, 1997 legal counsel for Livent forwarded to Gottlieb a copy of the closing documents relating to the "sale" of the Pantages Air Rights and noted:

> "*You will find enclosed in the record all of the relevant documentation, save and except for the Livent/Dundee Put Agreement which we have attached hereto. We would be pleased to discuss any part of the record agreement or the Put Agreement with you.*"

53. On April 3, 1998, Gottlieb contacted a senior officer of Dundee Realty and informed him that Livent's auditors had just contacted Gottlieb to advise that they, in their capacity as the auditors for Dundee Realty, had just found a copy of a document entitled "Put Agreement" in Dundee Realty's office. Livent's auditors were concerned about this discovery because it had been their understanding, following discussions with Livent senior management and Livent's audit committee in August of 1997, that there was no "Put" associated with the Dundee Realty transaction in 1997.

54. On Saturday April 4, 1998, during a meeting held at Livent's office with Gottlieb, a senior officer of Dundee Bancorp Inc., which was a principal shareholder of Dundee Realty, signed a letter on Dundee Realty letterhead addressed to Livent stating:

> "*This letter is to confirm a verbal agreement that you and I had during August 1997 whereby the PUT agreement between Dundee and Livent relating to the Pantages Place Project was cancelled. I regret that because of the pace of business and travel, [the senior management of Dundee Realty] was never informed of our agreement....*"

55. On April 6, 1998, Gottlieb and Drabinsky signed and sent a letter, addressed to a senior officer of Dundee Realty indicating that notwithstanding the April 4, 1998 letter from the senior officer of Dundee Bancorp the Put Agreement dated August 15, 1997 "*is binding and effective and remains so in favour of Dundee Realty Corporation as if it has never been cancelled*".

56. On May 27, 1998, Gottlieb and a senior officer of Dundee Realty signed a new contract entitled "Put Agreement" (the "New Put Contract") which was identical in substance to the Put Agreement dated August 15, 1997.

57. On May 28, 1998 Gottlieb sent a letter to the senior officer of Dundee Bancorp stating:

> *"As discussed last night, I met with [a senior officer of Dundee Realty] and he and I reviewed together the enclosed PUT agreement [the New Put Contract] which is in the exact form as the original. I am forwarding herewith the original agreement as executed by both [the senior officer of Dundee Realty] and myself and I ask that you put this agreement in a sealed envelope in your safe or safety deposit box..."*

58. On October 20, 1998, the senior officer of Dundee Realty sent a letter to counsel for Drabinsky, in which the senior officer of Dundee Realty asserted that Dundee Realty's Put to Newco, referenced in the May 1997 Term Sheet and the executed Put Agreement dated August 15, 1997 were cancelled pursuant to an oral agreement made in August 1997 following the closing of the Dundee Realty transaction on August 15, 1997. The senior officer of Dundee Realty also asserted in the letter that notwithstanding both an April 6, 1998 letter from Livent to him regarding these put arrangements and a New Put Contract dated as of May 27, 1998, '*there is not now, nor has there been since the cancellation referred to in the preceding paragraph, any legally binding or effective put or agreement with similar effect between Dundee Realty and Livent or Newco.*'

59. In the Restated Financial Statements, Livent reversed CDN$5.6 million of "revenue" previously recorded in connection with the Dundee Realty transaction for the fiscal year 1997.

American Artists: Grant of Right to Organize a *Ragtime* Tour

American Artists Transaction

60. By agreement dated September 9, 1997 (the "American Artists Contract") between Livent U.S. and American Artists, Livent U.S. granted to American Artists the exclusive right to arrange and schedule a tour of *Ragtime* in certain U.S. cities. American Artists was granted the right and opportunity, but not the obligation, to schedule performances of *Ragtime* for a specified number of play weeks. In consideration of the grant, American Artists agreed to pay Livent U.S. a "non-refundable fee" of US$4.5 million payable in installments with US$700,000 due on signing of the American Artists Contract and an additional US$600,000 due in December 1997.

61. The American Artists Contract contained an acknowledgment by American Artists that its acquisition of the exclusive right to schedule a *Ragtime* tour was of significant competitive advantage to it and that it was in American Artists' business interest to pay the non-refundable fee of US$4.5 million to Livent U.S. and thereby exclude the opportunity of any other person presenting *Ragtime* in the subject cities throughout the term of the agreement. Accordingly, American Artists agreed that it would be unconditionally obligated to pay the US$4.5 million fee in full to Livent U.S. independent of whether Livent U.S. made available a production of *Ragtime* at any time.

62. For the fiscal year ended December 31, 1997, in its original financial statements Livent recorded revenue relating to the grant of the *Ragtime* touring rights to American Artists in the amount of CDN$5.8 million.

63. In connection with the American Artists Contract, Livent U.S. entered into a separate letter agreement with American Artists dated September 29, 1997 (hereinafter referred to as the "American Artists Side Letter") referencing certain formal theatre rental agreements which American Artists was proposing to enter into with a view to presenting performances of *Ragtime*. In the American Artists Side Letter, Livent U.S. agreed to pay the following amounts to American Artists:

a) Pre-opening Box Office Expenses:

Livent U.S. agreed to pay American Artists actual expenses incurred in connection with their presentation of performances of *Ragtime*, plus an additional payment of $12,000 per week for a 20-week period preceding the opening of *Ragtime* at each of two theatres;

b) Fixed and Operating Expenses:

Livent U.S. agreed to pay American Artists actual fixed and operating expenses incurred in connection with the presentation of performances of *Ragtime* (estimated to be approximately $60,000 and $65,000 per week for two theaters, respectively) including any participation in gross;

c) Rent:

Livent U.S. agreed to pay American Artists rent in the amount of $40,000 per week;

d) Accounting and Administration Fee respecting Settlements:

Livent U.S. agreed to pay to American Artists an additional $2,500 per week.

64. The American Artists Side Letter also contained a guarantee by Livent U.S. that if the theatres terminated their leases with American Artists, Livent U.S. would nonetheless pay to American Artists, as liquidated damages and not as a penalty, the amount that it would otherwise have paid to American Artists if performances of *Ragtime* had been presented at the theatres.

65. In addition, Livent U.S. entered into a letter agreement with American Artists dated November 15, 1997 (the "American Artists Consulting Agreement") pursuant to which Livent U.S. engaged the services of American Artists as a consultant for productions of certain shows in the U.S. and Canada for a term of three years beginning January 1, 1998 and expiring December 31, 2000. Livent U.S. agreed to pay American Artists a consulting fee in the aggregate amount of US$1.56 million, payable monthly in arrears in the amount of US$47,333.33 per month. Livent entered into a written, unconditional guarantee of all payments required to be made by Livent U.S. to American Artists pursuant to the American Artists Consulting Agreement.

66. The net effect of these arrangements between Livent U.S. and American Artists can be summarized as follows:

Amount payable by American Artists to Livent	US$4,500,000
Amount payable by Livent to American Artists	US$5,235,000

Overall, Livent U.S. was obligated to make a net payment to American Artists in the amount of US$735,000.

Restatement of American Artists Transaction

67. In the Restated Financial Statements, Livent reversed CDN$5.8 million of "revenue" previously recorded in connection with the American Artists transaction for the fiscal year 1997.

CIBC Capital: Sale of U.K. Production Rights to *Showboat* and *Ragtime*

1997 CIBC Capital Transaction

68. By letter agreement dated December 23, 1997 (the "CIBC Capital Contract") between Livent International and CIBC Capital, Livent International sold to CIBC Capital a portion of its European production rights to *Showboat* and *Ragtime* (the "U.K. Production Rights"). In consideration of this sale, CIBC Capital agreed to pay Livent International a "non-refundable" fee in the amount of 2 million British Pounds Sterling (the "U.K. Rights Price"), with 400,000 British Pounds Sterling payable in 1997. The CIBC Capital Contract contained the statement that Livent International was under no obligation to mount the shows.

69. In the CIBC Partners Contract, CIBC Capital granted to Livent International the right, but not the obligation, exercisable until June 30, 1998, to directly re-acquire or cause any designee to re-acquire all but not less than all of the UK Production Rights for a consideration equal to the fair market value thereof as at the time of re-acquisition or acquisition, together with any accrued and unpaid royalties.

70. For the fiscal year ended December 31, 1997, in its original financial statements, Livent recorded revenue relating to the "sale" of the UK Production Rights to CIBC Partners in the amount of CDN$4.6 million. Livent's auditors at the time did not concur with the revenue inclusion and consequently Livent also recorded additional amortization of pre-production costs in the amount of CDN$4.6 million so that there would be no effect on net income. However, reported revenue was increased by CDN$4.6 million.

71. During negotiations respecting the sale of the UK Production Rights, Gottlieb informed a senior officer of CIBC Capital that Livent intended, from the outset, to re-acquire the UK Production Rights within a period of months. The senior officer of CIBC Capital advised Gottlieb that CIBC Capital was prepared to participate in the business arrangement on the following conditions:

a) Livent would reimburse CIBC Capital its advance of 2 million British Pounds Sterling, plus some additional increment, to ensure a reasonable return on investment;

b) the term of the arrangement would be of short duration;

c) there would be a strong economic incentive built into the deal to ensure that Livent would actually re-acquire the UK Production Rights. CIBC Capital demanded a royalty interest in *Ragtime* New York to ensure this would occur; and

d) CIBC Capital had comfort that Gottlieb would cause Livent to re-acquire the UK Production Rights in the short-term.

Gottlieb agreed to each of these elements, except that in connection with the *Ragtime* New York royalty component, Gottlieb required that this component of the deal be placed in a separate side letter.

72. Livent and CIBC Capital entered into a letter agreement dated December 23, 1997 (the "Pricing Agreement") which set out a pricing mechanism for the re-acquisition by Livent of the UK Production Rights. The Pricing Agreement defined "fair market value" to be paid by Livent to CIBC Capital as an amount equivalent to the portion of the UK Rights Price actually paid by CIBC Capital to Livent International as at the date of the re-purchase transaction, together with any accrued and unpaid royalties, plus the sum of 112,500 British Pounds Sterling, if the re-purchase right were exercised by Livent by June 30, 1998.

73. Livent U.S. and CIBC Capital entered into a letter agreement dated December 23, 1997 (the "Ragtime Security Agreement") pursuant to which Livent U.S. granted certain security to CIBC Partners to demonstrate Livent's firm intention at the outset to re-acquire the UK Production Rights from CIBC Capital. Livent U.S. unconditionally and irrevocably agreed that in the event the UK Production Rights were not re-acquired on or before June 30, 1998, then commencing July 1, 1998 and continuing so long as *Ragtime* was performed in New York, in addition to any entitlement to royalties as provided in the CIBC Capital Contract,

CIBC Capital would receive a royalty equivalent to 10% of the adjusted gross weekly box office (as that term was defined in the CIBC Capital Contract) for the Broadway production of *Ragtime*.

74. Livent provided a guarantee of the commitment of Livent U.S. set out in the Ragtime Security Agreement.

Restatement of CIBC Capital Transaction

75. In the Restated Financial Statements, Livent reversed CDN$4.6 million of "revenue" previously recorded in connection with the CIBC Capital transaction for the fiscal year 1997.

Concealment of Improper Payments Involving False Invoices Concealment of Improper Payments Involving False Invoices

76. To the knowledge of Drabinsky, Gottlieb and Eckstein, prior to the Livent IPO, a predecessor to Livent improperly participated in a series of transactions involving payments to certain co-operative third parties on the basis of false invoices which the third parties submitted to Livent at the direction of Drabinsky and Gottlieb. As part of the arrangement, Drabinsky and Gottlieb issued invoices to the third parties requiring the third parties to pay to Drabinsky and Gottlieb, directly or indirectly, a significant portion of the proceeds paid by Livent to the third parties further to the false invoices. The impact of the payment of these false invoices by Livent, which purported to relate to construction activity performed by the third parties for Livent, resulted in amounts being improperly recorded as fixed assets and preproduction costs on Livent's balance sheet.

77. In the period 1991 to 1994 Livent paid approximately $8 million to the cooperative third parties from which approximately $5 million was paid by the third parties, directly or indirectly, to Drabinsky and Gottlieb.

78. The cumulative effect of these transactions on Livent's Retained Earnings(Deficit) through to December 31, 1995, as reflected in the Restated Financial Statements, was an overstatement of Retained Earnings in Livent's original reported results in the aggregate amount of approximately $5.5 million, comprised of the following components:

Costs improperly capitalized to "fixed assets":	$1,264,000
Costs improperly capitalized to "preproduction costs":	$4,287,000
Total:	$5,551,000

These amounts were adjusted for in the Restated Financial Statements for fiscal 1996 and fiscal 1997.

Conduct Contrary to the Public Interest

79. It is the position of Staff that the conduct engaged in by Livent and the Respondents constitutes conduct contrary to the public interest in that:

a) Livent, for the fiscal years ending December 31, 1996 and December 31, 1997, and for the quarter ended March 31, 1998, made statements in its interim and audited annual financial statements required to be filed or furnished under Ontario securities law that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading;

b) Drabinsky, Gottlieb and Eckstein, for the fiscal years ending December 31, 1996 and December 31, 1997, and for the quarter ended March 31, 1998, authorized, permitted or acquiesced in Livent making statements in Livent's interim and audited annual financial statements required to be filed or furnished under Ontario securities law that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading; and

c) Topol, for the fiscal years ending December 31, 1996 and December 31, 1997, authorized, permitted or acquiesced in Livent making statements in Livent's interim and audited annual financial statements required to be filed or furnished under Ontario securities law that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.

80. Staff reserves the right to make such other allegations as Staff may advise and the Commission may permit.

July 3, 2001.

1.3 News Releases

1.3.1 OSC Takes Part in International Initiative Against Internet-based Securities Fraud

FOR IMMEDIATE RELEASE
June 28, 2001

OSC TAKES PART IN INTERNATIONAL INITIATIVE AGAINST INTERNET-BASED SECURITIES FRAUD

TORONTO - For a second year in a row, staff members of the Ontario Securities Commission' s Enforcement Branch took part in the International Internet Surf Day coordinated by the International Organisation of Securities Commissions (IOSCO). This multinational effort was conducted by securities regulators from around the world to increase investor protection and foster capital market confidence.

The Surf Day was conducted on April 23, 2001, and mobilized the efforts of 41 securities and futures regulators from 35 countries. Internet monitoring by regulators targeted fraudulent solicitation of investors, stock manipulation, circulation of false or misleading financial information and insider trading.

During the Surf Day, approximately 300 individuals from the 41 participating authorities visited more than 27,000 Websites, totalling approximately 1,200 hours of global participation. Of these sites, more than 2,400 were identified for follow-up review, including approximately 300 sites that involved cross-border activity. That review is now underway and could result in further investigation and possible enforcement action.

The 21 regulators that participated in last year's Surf Day took specific steps to deter future abuse, including investigating and taking action against Internet fraudsters and educating investors about illegal activity via the Internet.

Investigators from the OSC's Enforcement Branch reviewed 447 sites, of which they identified 43 as being of a suspicious nature. Three themes were identified among the sites deemed suspicious: High yield/low risk investments programs; individuals marketing their expertise as professional securities analysts and promoting penny stocks; and individuals offering various offshore/secretive financial services.

David Brown, Chair of IOSCO's Technical Committee and Chair of the OSC, offered the following comment about the second annual International Internet Surf Day:

> "IOSCO is continuing its co-operative enforcement efforts to combat the use of the Internet as a means to defraud potentially millions of people. Last year, the IOSCO International Surf Day proved to be a creative and effective technique for jointly monitoring and detecting illegal activity on the Internet. This year, the number of regulators participating in the Surf Day increased significantly, demonstrating the international regulatory community's commitment to work together to address the challenges posed by the Internet."

This second Internet monitoring initiative clearly underscored the OSC Enforcement staff's increasing level of proficiency at utilizing Internet search engines and discussion groups to identify securities-related scams.

The Ontario Securities Commission urges investors to be alert to signs of fraud and to refer to the "Investor Alert" section on the OSC's Website.

Investors can also consult online the brochure Investing and the Internet at **http://www.osc.gov.on.ca/en/Investor/Requiredreading/investinginternet.html** and find out how to further protect themselves against online fraud.

References:

Jean-Pierre Maisonneuve
Corporate Communications Officer
(416) 595-8913

Colin McCann
Investigator, Enforcement Branch
(416) 593-8285

1.3.2 Livent Inc.

FOR IMMEDIATE RELEASE
July 3, 2001

OSC COMMENCES PROCEEDINGS IN RELATION TO LIVENT INC.

Toronto – The Ontario Securities Commission (the "Commission") today issued a Notice of Hearing and related Statement of Allegations against Livent Inc., Garth H. Drabinsky, Myron I. Gottlieb, Gordon Eckstein and Robert Topol.

The first appearance in this matter will be held at 10:00 a.m. on Tuesday, September 11, 2001 in the main hearing room of the Commission located on the 17th Floor, 20 Queen Street West, Toronto, Ontario. The purpose of this first appearance is to set a date for the hearing.

A copy of the Notice of Hearing and Statement of Allegations is attached to this release and is also available at the Commission's website at **www.osc.gov.on.ca** or from the Commission, 19th Floor, 20 Queen Street West, Toronto, Ontario.

Reference:

Michael Watson
Director, Enforcement Branch
416-593-8156

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Baxter International Inc. - MRRS Decision

Headnote

Clause 104(2)(c) - relief from the issuer bid requirements of the Act in connection employee incentive plan where the plan permits the tender of shares by employees in payment of the exercise price of options previously granted and the acquisition of options by the company in the event of a change in control - "employee" issuer bid exemption under the Act is not available due to the acquisition price of the securities.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., ss 95, 96, 97, 98, 100 and 104(2)(c).

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

AND

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

AND

IN THE MATTER OF
BAXTER INTERNATIONAL INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "**Decision Maker**") in each of Quebec, British Columbia, Alberta, Manitoba, Ontario, New Brunswick, Nova Scotia and Newfoundland (the "**Jurisdictions**") has received an application from Baxter International Inc. (the "**Company**") for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") that:

(a) the requirements contained in the securities legislation in each of the Jurisdictions other than British Columbia and Ontario to be registered to trade in a security (the "**Registration Requirements**") shall not apply to certain trades under the Company's Global Stock Option Plan (the "**Plan**") to eligible employees of the Company and its affiliates ("**Plan** Participants" or individually, a "**Plan Participant**") and the subsequent first trades in the Company's common shares ("**Shares**" or individually, a "**Share**") by Plan Participants resident in the Provinces of Quebec, Alberta, Manitoba, New Brunswick, Nova Scotia and Newfoundland;

(b) the requirements contained in the securities legislation in each of the Provinces of Quebec, New Brunswick and Nova Scotia to file and obtain a receipt for a preliminary prospectus and prospectus (the "**Prospectus Requirements**") shall not apply to certain trades in Options (or other securities issuable upon the exercise of such Options) under the Plan and the subsequent first trades in Shares by Plan Participants resident in the Provinces of Quebec, New Brunswick and Nova Scotia; and

(c) the requirements contained in the securities legislation in each of the Jurisdictions other than New Brunswick relating to delivery of an offer and issuer bid circular and any notices of change or variation thereto, minimum deposit periods and withdrawal rights, taking up and paying for securities tendered to an issuer bid, disclosure, restrictions upon purchases of securities, bid financing, identical consideration and collateral benefits (collectively, the "**Issuer Bid Requirements**") shall not apply to certain acquisitions by the Company of Shares pursuant to the Plan in each of Quebec, British Columbia, Alberta, Manitoba, Ontario, Nova Scotia and Newfoundland.

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

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

1. The Company, a Delaware corporation whose head office is located in Deerfield, Illinois, U.S.A., is a global medical products and services company that focuses on critical therapies for life-threatening conditions

2. The Company is registered with the Securities Exchange Commission in the United States of America under the United States *Securities Exchange Act of 1934* (the "**Exchange Act**") and is not exempt from the reporting requirements of the Exchange Act pursuant to Rule 12G 3-2 made thereunder.

3. The authorized capital of the Company consists of 350,000,000 common shares (the "**Shares**" or individually, a "**Share**") and 100,000,000 preferred shares. As of November 3, 2000, approximately

294,142,946 Shares of the Company were issued and outstanding.

4. The Company is not a reporting issuer or equivalent in any of the Jurisdictions and has no present intention of becoming a reporting issuer in any of the Jurisdictions

5. Shares subject to the Plan are listed and posted for trading in the United States on the New York Stock Exchange (the "**NYSE**").

6. As at January 19, 2001, the Company and its Canadian subsidiaries employed approximately 827 employees in the Jurisdictions who are eligible to participate in the Plan (157 in Quebec, 25 in British Columbia, 9 in Alberta, 2 in Manitoba, 626 in Ontario, 2 in New Brunswick, 3 in Nova Scotia and 3 in Newfoundland).

The Plan

1. The Plan will be available in Canada only to employees of subsidiaries in which the Company owns more than 50%, either directly or indirectly, of the voting interests and for the purposes of this application, the term "subsidiary" in the Plan shall be so construed as it applies to the Company's Canadian employees.

2. The Plan is intended to increase stockholder value and to advance the interests of the Company and its affiliates by providing economic incentives designed to attract, retain and motivate employees.

3. All eligible employees, as determined in accordance with the terms of the Plan, of the Company and its affiliates may participate in the Plan.

4. Pursuant to the Plan, Plan Participants are granted options to purchase Shares ("**Options**"), which Options are non-transferable otherwise than by will or the laws of descent and distribution.

5. Participation in the Plan is voluntary and eligible employees are not induced to participate in the Plan by expectation of or as a condition of employment or continued employment with the Company or an affiliate.

6. Plan Participants will be provided with a Plan prospectus prepared in accordance with U.S. securities laws that describes the terms and conditions of the Plan.

7. Plan Participants resident in the Jurisdictions who acquire any Options under the Plan will be provided with all disclosure material relating to the Company which is provided to holders of Options resident in the United States

8. As at January 19, 2001, Canadian shareholders do not hold, directly or indirectly, more than 10% of the issued and outstanding Shares of the Company and do not constitute more than 10% of the shareholders of the Company. If at any time during the effectiveness of the Plan Canadian shareholders of the Company hold, in aggregate, greater than 10% of the total number of issued and outstanding Shares or if such shareholders constitute more than 10% of all shareholders of the Company, the Company will apply to the relevant Decision Maker for an order with respect to further trades to and by Plan Participants in that Jurisdiction in respect of Shares acquired under the Plan.

9. The maximum number of Shares of the Company that may be covered by Options issued under the Plan does not exceed 10% of the outstanding Shares of the Company. Although the aggregate number of Shares of the Company approved for use under the Plan and any other similar stock option and/or stock purchase plan of the Company may exceed 10% of the outstanding Shares of the Company, such number of Shares approved for use under the Plan and other similar plan(s) is in compliance with applicable securities laws of the United States.

10. The Company has engaged PaineWebber Incorporated to act as administrators under the Plan (the "**Agent**") to administer the operation of the Plan, including the exercise of Options by Plan Participant under the Plan and the sale by Plan Participants of Shares acquired pursuant to the exercise of Options under the Plan.

11. The Agent is not a registrant under the Legislation but is registered to trade in securities under applicable legislation in the United States.

12. Pursuant to the Plan, the following acquisition of Shares by the Company from Plan Participants in the Jurisdictions may constitute an "issuer bid" as defined under the Legislation. The terms of the Plan permit Plan Participants to tender Shares to the Company as payment of the exercise price for Options granted. The Plan also permits the Company to acquire outstanding Options from Plan Participants pursuant to a "Change of Control" of the Company (as defined in the Plan).

13. Under the Plan, the fair market value of a Share is equal to the closing sale price of a Share as reported on The National Association of Securities Dealers' NYSE Composite Reporting Tape (or if the Shares are not traded on the NYSE, the closing sale price on the exchange on which it is traded or as reported on an applicable automated quotation system) ("**Composite Tape**") on the applicable date, or, if no sales of Shares are reported on such date, the closing sale price of a Share on the date the Share was last reported on the Composite Tape (or such other exchange or automated quotation system, if applicable) (the "Fair Market Value").

14. There is no market in the Jurisdictions for the Shares and none is expected to develop.

15. The Legislation of certain of the Jurisdictions does not contain exemptions from the Prospectus Requirements and/or Registration Requirements for intended trades in Options (or other securities issuable upon the exercise of the rights attaching to such Options) under the Plan.

16. Where a U.S. registrant sells Shares on behalf of a Plan Participant, neither the Plan Participant nor the

U.S. registrant is able to rely on the exemption from the Registration Requirements contained in the Legislation of certain of the Jurisdictions for trades made by a person acting solely through a registered dealer under the Legislation.

17. The Legislation of certain of the Jurisdictions deems any trade in Shares acquired under the Plan to be a distribution unless, among other things, the Company is a reporting issuer and has been a reporting issuer for the 12 months immediately preceding the trade.

18. The exemptions in the Legislation from the Issuer Bid Requirements may not be available for certain acquisitions by the Company of the Shares in accordance with the terms of the Plan, since certain acquisitions may occur at a price that exceeds the "market price", as that term is defined in the Legislation. Under the Plan, the Company will acquire such tendered Shares at the Shares' Fair Market Value, In the event of a Change of Control of the Company whereby the Company acquires outstanding Options from Plan Participants for cancellation in return for a cash payment, the amount paid to Plan Participants is the greater of (i) the highest per share price offered to the stockholders of the Company pursuant to the change of control, or (ii) the Fair Market Value on the date of occurrence of the Change of Control, over the purchase price per Share subject to the Option.

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

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

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

The Registration Requirements shall not apply to the trades made by the Agent on behalf of the Company or by Plan Participants under the Plan through the Agent in Shares acquired under the Plan where such trades are in accordance with the provisions of the Plan, as applicable.

June 1, 2001.

"Jean Lorrain"

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

1. The Registration Requirements shall not apply to trades in Options which may be made under the Plan where such trades are in accordance with the provisions of the Plan, as applicable.

2. The Prospectus Requirements shall not apply to trades in Options (or other securities issuable upon the exercise of such Options) under the Plan where such trades are in accordance with the provisions of the Plan, as applicable.

3. An intended trade in Shares acquired by Plan Participants under the Plan is deemed a distribution or a primary distribution to the public unless such trade is executed through the facilities of a stock exchange or on an organized market outside of Canada and in accordance with the laws applicable to such exchange or market.

4. Acquisitions of Shares by the Company from Plan Participants as a means of satisfying the exercise price for Options granted pursuant to the Plan and acquisitions of Options in circumstances where there is a Change of Control of the Company shall be exempt from the Issuer Bid Requirements where such acquisitions are effected in accordance with the provisions of the Plan.

5. A French-language offering notice which describes in detail the operation of the Plan must be distributed to all Plan Participants in each Jurisdiction which by law requires such distribution.

June 1, 2001.

"Josée Deslauriers"

2.1.2 TD Securities Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Issuer is related issuer in respect of a registrant that may act as underwriter in proposed distributions of medium term notes - distributions may occur on either underwritten or agency basis - relief granted from independent underwriter, subject to certain conditions

Applicable Ontario Regulations

Regulation made under the Securities Act, R.S.O. 1990, Reg. 1015, as am., ss. 219(1), 224(1)(b) and 233.

Applicable Ontario Rules

Proposed Multi-Jurisdictional Instrument 33-105 Underwriting Conflicts (published for comment February 6, 1998).

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA,
ONTARIO, QUEBEC AND NEWFOUNDLAND

AND

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

AND

IN THE MATTER OF
TD SECURITIES INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authorities or regulators (the "Decision Makers") in British Columbia, Alberta, Ontario, Quebec and Newfoundland (the "Jurisdictions") have received an application from TD Securities Inc. ("TDSI") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that, in connection with public offerings (the "Offerings", and each an "Offering") of medium term notes (the "Notes") of The Toronto-Dominion Bank (the "Bank") by means of a short form shelf prospectus, the requirement (the "Independent Underwriter Requirement") contained in the Legislation which restricts a registrant from acting as an underwriter in connection with a distribution of securities of a related issuer (or the equivalent) or a connected issuer (or the equivalent), shall not apply to TDSI;

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

AND WHEREAS TDSI has represented to the Decision Makers that:

1. The Bank is a Schedule I chartered bank governed by the *Bank Act* (Canada). The Bank is a reporting issuer under the Legislation and is not, to its knowledge, in default of any applicable requirement of the Legislation.

2. TDSI is a registered dealer under the Legislation. TDSI is a wholly-owned subsidiary of the Bank and its head office is in Toronto. TDSI is not a reporting issuer under the Legislation.

3. The Bank filed a base shelf prospectus dated June 6, 2001 (the "Prospectus") in all the provinces and territories of Canada and received a (final) receipt therefor dated June 7, 2001.

4. The Prospectus qualifies the distribution of Notes from time to time in an aggregate principal amount of up to $3,000,000,000 (or the equivalent thereof in other currencies) during the period that the Prospectus, including any amendments, remains valid. The Notes may be issued as interest bearing debentures at rates of interest determined by the Bank from time to time, or as non-interest bearing debentures issued at a discount.

5. The Bank proposes to file, from time to time, in all of the provinces and territories of Canada, supplements (each a "Prospectus Supplement") and/or pricing supplements to the Prospectus. The specific terms of the Notes, including the amount being offered in a particular Offering, the currency, the delivery date, the maturity date, the issue price, the interest rate and payment dates, will be established prior to each Offering and will be set out in the applicable Prospectus Supplement or pricing supplement, as the case may be.

6. The Bank may sell the Notes to one or more purchasers directly or through investment dealers purchasing as principal or as agent (collectively, the "Underwriters" and each an "Underwriter"). Any syndicate of Underwriters may include TDSI.

7. In respect of a particular Offering, the Underwriters will be identified in the applicable Prospectus Supplement. A prospectus certificate signed by each of such Underwriter will be included in such Prospectus Supplement.

8. As the sole shareholder of TDSI, the Bank is a "related issuer" (or its equivalent) of TDSI and may be a "connected issuer" (or the equivalent) of TDSI.

9. TDSI will receive no benefit under the Offering other than such fees or commissions as may be disclosed in the applicable Prospectus Supplement.

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

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

THE DECISION of the Decision Makers pursuant to the Legislation is that the Independent Underwriter Requirement shall not apply to TDSI in connection with an Offering, provided that:

1. an independent underwriter ("Independent Underwriter"), as that term is defined in proposed Multi-Jurisdictional Instrument 33-105 Underwriter Conflict published in February, 1998 (the "Proposed Instrument"), participates in such Offering;

2. (a) where at least one registrant acting as Underwriter in connection with such Offering acts as principal, the portion of the Offering that is underwritten by an Independent Underwriter is not less than the lesser of:

   (i) 20% of the dollar value of such Offering; and

   (ii) the largest portion of such Offering that is underwritten by TDSI or any other registrant that is not an Independent Underwriter; and

   (b) where each registrant acting as Underwriter in connection with such Offering acts as agent and is not obligated to act as principal, an Independent Underwriter receives a portion of the total management fees equal to an amount not less than the lesser of:

   (i) 20% of the total management fees for such Offering, and

   (ii) the largest portion of the management fees paid or payable in connection with such Offering to TDSI or any other registrant that is not an Independent Underwriter;

3. the Independent Underwriter participates in the pricing of the Notes issued in such Offering; and

4. the information specified in Appendix C of the Proposed Instrument including, the name of the Independent Underwriter and the extent of its participation in the pricing and structuring of such Offering and in the due diligence activities performed by the Underwriters, will be contained in the body of the applicable Prospectus Supplement.

June 29, 2001.

"Paul Moore" "R. Stephen Paddon"

2.1.3 PrimeWest Oil and Gas Corp. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Relief granted to issuer from continuous disclosure requirements and requirement to file insider reports, subject to certain conditions.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., 80(b)(iii) and 121(2)(a)(ii).

Ontario Policies and Rules

OSC Policy 5.10 Annual Information Form and Management's Discussion and Analysis of Financial Condition and Results of Operations.

OSC Rule 51-501 -- AIF & MD&A.

National Policies

National Policy 12-201 - Mutual Reliance Review System for Exemptive Relief Applications.

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

AND

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

AND

IN THE MATTER OF
PRIMEWEST OIL AND GAS CORP.

MRRS DECISION DOCUMENT

1. **WHEREAS** the Canadian Securities Regulatory authority or regulator (the "Decision Maker") in each of Alberta and Ontario (the "Jurisdictions") has received an application from PrimeWest Oil and Gas Corp. (the "Filer"), for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the requirements contained in the Legislation:

   1.1 with respect to the Filer, to issue a press release and file a report with the Decision Makers in the Jurisdictions upon the occurrence of a material change, file interim financial statements and audited financial statements with the Decision Makers in the Jurisdictions and deliver such statements to the securityholders of the Filer, file an information circular or make an annual filing with the Decision Makers in the Jurisdictions in

lieu of filing an information circular, file an annual information form and provide management's discussion and analysis of financial condition and results of operations (the "Continuous Disclosure Obligations"), shall not apply to the Filer;

1.2 to comply with the requirements of the Legislation in the Jurisdictions to file insider reports and insider trading reports (the "Insider Reporting Requirements"), shall not apply to any insider of the Filer who is not also an insider of PrimeWest Energy Trust.

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

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

3.1 The Filer was formed pursuant to Articles of Amalgamation under the *Business Corporations Act* (Alberta) on March 29, 2001;

3.2 The authorized capital of the Filer consists of an unlimited number of Class A Common Shares, an unlimited number of Class B Common Shares and an unlimited number of Exchangeable Shares;

3.3 There is currently 100 Class A Common Shares issued and outstanding held by PrimeWest Energy Trust ("PWT") and 1 Class B Common Share issued and outstanding held by PrimeWest Energy Inc. ("PWE"). In addition, 5,440,000 Exchangeable Shares of the Filer were issued to the public in connection with the Offer (as herein defined);

3.4 Cypress Energy Inc. was formed pursuant to Articles of Amalgamation under the *Business Corporations Act* (Alberta) on September 1, 1999;

3.5 The authorized capital of Cypress consists of an unlimited number of Class A Common Shares and an unlimited number of Class B Common Shares. There is currently issued and outstanding 41,889,353 Class A Common Shares and 558,000 Class B Common Shares of Cypress;

3.6 Each Exchangeable Share of the Filer entitles the holder to receive one PrimeWest Unit (as defined herein) and an additional number of PrimeWest Units calculated based on the amount of any subsequent distribution in respect of the PrimeWest Units;

3.7 Cypress is a reporting issuer under the securities legislation in all provinces of Canada which has such a concept;

3.8 The Class A Common Shares of Cypress were listed on The Toronto Stock Exchange under the symbol "CYZ.A" and have since been delisted;

3.9 The Class B Common Shares of Cypress were listed on The Alberta Stock Exchange (now The Canadian Venture Exchange) under the symbol "CYZ.B" and have since been delisted;

3.10 PWT is an open-end investment trust established under the laws of Alberta pursuant to a Declaration of Trust dated August 2, 1996 with its head office located in Calgary, Alberta. The Trust Company of Bank of Montreal is the trustee of PWT;

3.11 PWT is authorized to issue an unlimited number of transferable redeemable trust units (the "PrimeWest Units") of which there were 100,562,826 PrimeWest Units outstanding as at March 31, 2001;

3.12 PWT became a reporting issuer or the equivalent in each of the provinces of Canada upon obtaining a receipt for its prospectus dated October 3, 1996 and is not in default of the Legislation;

3.13 The PrimeWest Units are listed on The Toronto Stock Exchange;

3.14 The Filer made an offer dated March 6, 2001 (the "Offer") to purchase all of the issued and outstanding Class A Common Shares and Class B Common Shares of Cypress. The Offer expired on March 28, 2001 having been accepted by the holders of more than 97% of the Class A Common Shares and 97% of the Class B Common Shares;

3.15 On March 29, 2001 the Filer became the sole shareholder of Cypress following the compulsory acquisition of all of the Class A Common Shares and Class B Common Shares of Cypress that had not previously been acquired by the Filer pursuant to the Offer;

3.16 On March 29, 2001 the Filer amalgamated with Cypress pursuant to Articles of Amalgamation under the provisions of the *Business Corporations Act* (Alberta);

3.17 The Exchangeable Shares provide a holder with a security having economic, ownership and voting rights which are, as nearly as practicable, equivalent to those of PrimeWest Units;

3.18 Neither the Filer nor Cypress have any securities outstanding other than the securities held by PWT and PWE and the Exchangeable Shares; and

3.19 The Filer has applied to list the Exchangeable Shares on The Toronto Stock Exchange.

4. **AND WHEREAS** pursuant to the System, this Decision document confirms the determination of the Decision Makers (the "Decision").

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

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

   6.1 the Continuous Disclosure Obligations shall not apply to the Filer, provided that at the time that any such requirement would otherwise apply:

      6.1.1 PWT is a reporting issuer under the Legislation of the Jurisdiction;

      6.1.2 PWT shall concurrently send to all holders of Exchangeable Shares resident in the Jurisdictions all disclosure material furnished to holders of PrimeWest Units pursuant to the Continuous Disclosure Obligations, including, but not limited to, copies of its annual report and all proxy solicitation materials;

      6.1.3 PWT shall comply with the requirements of The Toronto Stock Exchange (or such other principal stock exchange on which the PrimeWest Units are then listed) in respect of making public disclosure of material information on a timely basis and forthwith issues in the Jurisdictions and files with the Decision Maker any press release that discloses a material change in PWT's affairs;

      6.1.4 the Filer shall issue a press release and file a report with the Decision Makers upon the occurrence of a material change in respect of the affairs of the Filer that are not material changes in the affairs of PWT;

      6.1.5 PWT together with PWE shall remain the direct or indirect beneficial owners of all of the issued and outstanding voting securities of the Filer; and

      6.1.6 The Filer does not issue any securities other than the Exchangeable Shares and other than to its existing holders of common shares or affiliates thereof.

   6.2 the Insider Reporting Requirements shall not apply to any insider of the Filer who is not also an insider of the PWT.

DATED at Edmonton, Alberta on June 19, 2001.

"Agnes Lau"

2.1.4 Kingsway Financial Services Inc. et al. - MRRS Decision

Headnote

MRRS - Issuer is a connected issuer, but not a related issuer, in respect of registrants that are underwriters in proposed distribution of units by the issuer - Underwriters exempt from the independent underwriter requirement in the legislation provided that issuer not in financial difficulty.

Applicable Ontario Regulations

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am.,ss. 219(1), 224(1)(b) and 233.

Applicable Ontario Rules

Proposed Multi-Jurisdictional Instrument 33-105 *Underwriting Conflicts* (published for comment February 6, 1998).

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF BRITISH COLUMBIA, ALBERTA, ONTARIO,
QUEBEC AND NEWFOUNDLAND

AND

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

AND

IN THE MATTER OF
CIBC WORLD MARKETS INC. AND
SCOTIA CAPITAL INC.

AND

KINGSWAY FINANCIAL SERVICES INC.

MRRS DECISION DOCUMENT

WHEREAS the Candian securities regulatory authority or regulator (the **"Decision Maker"**) in each of British Columbia, Alberta, Ontario, Quebec and Newfoundland (the **"Jurisdictions"**) has received an application from CIBC World Markets Inc. ("CIBC WM") and Scotia Capital Inc. ("Scotia") (together, the **"Filers"**) for a decision pursuant to the securities legislation of the Jurisdictions or the respective regulations or rules made thereunder (the **"Legislation"**) that the requirement (the **"Independent Underwriter Requirement"**) contained in the Legislation which restricts a registrant from participating in a distribution of securities of an issuer made by means of prospectus, where the issuer is a connected issuer (or the equivalent) of a registrant unless a portion of the distribution at least equal to that portion underwritten by non-independent underwriters is underwritten by an independent underwriter, shall not apply to the members of an underwriting syndicate in connection with a proposed firmly underwritten offering (the **"Offering"**) of common shares

by Kingsway Financial Services Inc. (the **"Issuer"**) to be made pursuant to a PREP prospectus (the **"Prospectus"**);

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

AND WHEREAS the Filers and the Issuer have represented to the Decision Makers that:

1. The principal offices of the Filers are in Ontario.

2. The Issuer was incorporated on September 19, 1989 under the laws of Ontario and is a reporting issuer in each of the Jurisdictions. The common shares of the Issuer are listed on The Toronto Stock Exchange.

3. The Issuer received a receipt for a preliminary short form Base PREP prospectus filed on SEDAR on June 7, 2001.

4. In February 1999, the Issuer entered into a US$100.0 million unsecured credit facility (the "Facility") with a syndicate of two Canadian and two U.S. Banks (the "Lenders"). The Facility is for a fixed term of five years, at a floating rate of LIBOR plus a spread which is commensurate with the Issuer's credit rating.

5. The Issuer drew down the Facility in full and entered into an interest rate swap transaction whereby it fixed the interest rate at 5.91% plus a spread based on its credit rating or the ratio of funded debt to total capitalization, whichever is higher, for the term of the Facility.

6. The common shares of the Issuer will be offered in a cross-border transaction in the United States and all provinces of Canada (other than New Brunswick and Prince Edward Island) through an underwriting syndicate either directly by the members of the syndicate or through their respective affiliated registrants.

7. CIBC WM and Scotia (the "Connected Underwriters") are affiliates of the Lenders.

8. The Facility is in good standing and the Issuer is in compliance with all the covenants of the Facility.

9. The Issuer intends to use the net proceeds of the Offering, estimated to be US$81.5 million (US$93.9 million if the underwriters' over-allotment option is exercised in full), to provide additional capital to its subsidiaries, including to support the expected growth of the business, and for general corporate purposes, which may include the payment of a principal amount of the indebtedness under the Facility and acquisitions of books of business or other companies.

10. The Issuer is not in financial difficulty or under any immediate financial pressure to proceed with the Offering. The Issuer is not a "specified party" as defined in Proposed Multi-Jurisdictional Instrument 33-105, dated February 6, 1998 (the "Proposed Instrument").

11. The Filers may not comply with the Independent Underwriter Requirement in connection with the Offering.

12. The Lenders did not participate in the decision to make the Offering or in the determination of the terms of the Offering.

13. The Connected Underwriters will not benefit in any manner from the Offering other than the payment of their fees in connection with the Offering.

14. The Issuer is not a "related issuer", within the meaning of section 219(1) of the Regulation or the Proposed Instrument, of any of the Connected Underwriters.

15. The nature of the relationship among the Issuer, the Lenders and the Connected Underwriters will be described in the final PREP prospectus as required by Appendix C to the Proposed Instrument.

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

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

THE DECISION of the Decision Makers, under the Legislation, is that the Independent Underwriter Requirement shall not apply to the Filers in connection with the Offering provided the Issuer is not a related issuer, as defined in the Proposed Instrument, to the Connected Underwriters at the time of the Offering and is not a specified party, as defined in the Proposed Instrument, at the time of the Offering.

June 29, 2001.

"Paul Moore" "Jack A. Geller"

2.1.5 Enerplus Resources Fund & EnerMark Income Fund - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief from the registration and prospectus requirements for trades made in connection with a business combination involving trusts.

Applicable Alberta Statutory Provisions

Securities Act, S.A., 1981, c.S-6.1, as amended, ss. 54, 81, 110, and 116(1).

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

AND

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

AND

IN THE MATTER OF
ENERPLUS RESOURCES FUND AND
ENERMARK INCOME FUND

MRRS DECISION DOCUMENT

1. **WHEREAS** the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, Manitoba, Ontario, Prince Edward Island, Nova Scotia and Newfoundland (the "Jurisdictions") has received a joint application from Enerplus Resources Fund ("Enerplus") and EnerMark Income Fund ("EIF") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the requirements contained in the Legislation to be registered to trade in a security, to file a preliminary prospectus and a prospectus and receive receipts therefor (the "Registration and Prospectus Requirements") shall not apply to the proposed issuance of merger units ("Merger Units") to EIF and the issuance and resale of trust units of Enerplus ("Enerplus Trust Units") to the holders of trust units of EIF ("EIF Unitholders") in connection with a proposed merger (the "Merger") among Enerplus and EIF (collectively, the "Funds"), the principal terms of which are set forth below;

2. **AND WHEREAS** pursuant to the Mutual Reliance Review System for Exemptive Relief Application (the "System"), the Alberta Securities Commission is the Principal Regulator for this application;

3. **AND WHEREAS** it has been represented by the Funds to the Decision Maker that:

3.1 Enerplus is an energy investment trust formed under the laws of Alberta in 1986. Enerplus is currently governed by an Amended and Restated Trust Indenture dated June 8, 2000 between ERC and CIBC Mellon Trust Company, as trustee (the "Trustee") (the "Trust Indenture"). Enerplus is a reporting issuer or equivalent in each of the provinces of Canada and its head office is located in Calgary, Alberta;

3.2 Enerplus is authorized to issue an unlimited number of Enerplus Trust Units. As at May 4, 2001 there were 20,750,793 Enerplus Trust Units issued and outstanding and options to acquire an additional 438,000 Enerplus Trust Units were outstanding. Each of the outstanding Enerplus Trust Units has associated with it rights issued pursuant to Enerplus' existing unitholder rights plan;

3.3 the outstanding Enerplus Trust Units are listed and posted for trading on The Toronto Stock Exchange ("TSE") and the New York Stock Exchange ("NYSE"). An application is being made to the TSE and NYSE respectively, for approval to list and post the Enerplus Trust Units to be issued pursuant to the Merger;

3.4 Enerplus is a limited purpose trust created for the purpose of issuing Enerplus Trust Units to the public and investing the funds so raised to purchase a royalty in certain oil and gas properties from Enerplus Resources Corporation ("ERC"), as described in paragraph 3.9 below. The beneficiaries of Enerplus are the holders of Enerplus Trust Units ("Enerplus Unitholders"). At the annual general and special meeting of Enerplus Unitholders held April 3, 1999, the Enerplus Unitholders approved a reorganization of Enerplus to permit Enerplus to make investments in other forms of energy-related assets including the acquisition or formation of wholly-owned subsidiaries holding such assets;

3.5 ERC was initially incorporated under the *Business Corporations Act* (Alberta) (the "ABCA") on August 16, 1985. ERC was initially established as a single purpose entity, created for the purpose of the acquisition, exploitation, operation and disposition of oil and natural gas properties for the benefit of Enerplus;

3.6 a total of 100 voting Class A Common Shares of ERC are issued and outstanding, of which 90 are held by Enerplus and 10 are held by Enerplus Energy Services Ltd. ("EES"). In connection with the merger of Enerplus with Westrock Energy Income Fund I and Westrock Energy Income Fund II on June 8, 2000, and as a result of the subsequent amalgamation of ERC with Westrock Energy Corporation, Westrock Energy Resources Corporation and Westrock Energy Resources II Corporation on the same date, Enerplus Management Inc. ("EMI") holds 100 non-voting Series I Preferred Shares of

ERC. All of the 1,000,000 non-voting Class B Common Shares of ERC are held by EES;

3.7 the board of directors of ERC oversees the business and affairs of Enerplus. Pursuant to an Amended and Restated Unanimous Shareholder Agreement dated March 28, 2001 among EES, EMI, ERC, Enerplus and the Trustee on behalf of Enerplus (the "Unanimous Shareholders Agreement"), EES is entitled to appoint two nominees to the ERC board of directors, with the balance (being a majority of the directors of ERC) to be elected pursuant to a vote by Enerplus Unitholders;

3.8 EES was incorporated under the ABCA on April 16, 1985. EES manages Enerplus and ERC pursuant to an Amended and Restated Management, Advisory and Administrative Agreement dated June 8, 2000, as amended, made among Enerplus, ERC, the Trustee and EES (the "Enerplus Management Agreement"). The head, principal and registered office of ERC and EES are located in Calgary, Alberta;

3.9 ERC has granted a royalty to Enerplus pursuant an Amended and Restated Royalty Agreement dated June 8, 2000, as amended, between ERC and the Trustee (the "Enerplus Royalty Agreement") consisting of 99% of the royalty income generated by properties owned or to be acquired by ERC. The residual 1% of royalty income is used by ERC to defray general and administrative costs and management fees;

3.10 EIF is an energy investment trust created under the laws of the Province of Alberta pursuant to a Declaration of Trust dated as of February 24, 1996, as amended, between Enerplus Settlor Ltd. and the initial EIF trustees (the "Declaration of Trust"). The head office of EIF is located at Calgary, Alberta;

3.11 EIF is authorized to issue an unlimited number of trust units of EIF ("EIF Trust Units"). As at May 4, 2001, there were 247,498,434 EIF Trust Units issued and outstanding and options to acquire an additional 6,164,600 EIF Trust Units and warrants to purchase an additional 17,865,465 EIF Trust Units were outstanding. Each of the outstanding EIF Trust Units has associated with it rights issued pursuant to EIF's existing unitholder rights plan

3.12 The outstanding EIF Trust Units are listed and posted for trading on the TSE;

3.13 EIF is governed by a board of trustees who are re-appointed or replaced every year as may be determined by a majority of the votes cast at an annual meeting of EIF Unitholders;

3.14 EIF has one wholly-owned subsidiary, being EnerMark Inc. ("EnerMark"). EnerMark is an active oil and natural gas company operating in western Canada. EnerMark holds interests in various properties and its primary focus is to maintain and enhance cash distributions to EIF Unitholders through the development of existing oil and natural gas properties, the acquisition of new producing properties and the monetization by way of sale or farmout, of EnerMark's undeveloped lands. Development efforts are concentrated on optimizing production from existing and new oil and natural gas reserves. Essentially all of these reserves are based in western Canada;

3.15 Pursuant to the Declaration of Trust and a Management, Advisory and Administrative Agreement dated February 27, 1996, as amended (the "EIF Management Agreement"), among EnerMark, the trustees of EIF and EMR Resource Management Ltd. ("EMR"), EMR acts as manager of EIF and EnerMark. The board of directors of EnerMark and the trustees of EIF have retained EMR to provide comprehensive management services and have delegated certain authority to EMR to administer and regulate the day-to-day operations of EIF and EnerMark and to make executive decisions which conform to general policies and general principles previously established by the trustees of EIF and the board of directors of EnerMark. EMR provides executive officers to EIF and EnerMark, subject to the approval of the trustees of EIF or the board of directors of EnerMark, as the case may be;

3.16 EnerMark has granted a royalty to EIF pursuant to a royalty agreement (the "EIF Royalty Agreement") dated June 1, 1997 between EIF and EnerMark consisting of 95% of the royalty income generated by petroleum substances upon or under EnerMark's Canadian oil and natural gas properties;

3.17 Enerplus and EIF, together with their respective operating entities, ERC and EnerMark, have entered into an agreement dated May 10, 2001 (the "Merger Agreement") whereby Enerplus has agreed to acquire and EIF has agreed to sell (subject to unitholder approval), all of the assets of EIF, which assets consist of the shares of EnerMark, certain notes issued by EnerMark to EIF and a 95% royalty issued by EnerMark to EIF (the "EIF Assets") in exchange for Enerplus Trust Units (which will initially be represented by Merger Units as described in paragraph 3.20 below). The Enerplus Trust Units are to be distributed to former EIF Unitholders in exchange for their EIF Trust Units and the merged entity will continue as "Enerplus Resources Fund" (the "Merged Fund");

3.18 on May 10, 2001, a press release was jointly issued, filed and disseminated by Enerplus and EIF disclosing that they had entered into the Merger Agreement;

3.19 based on, among other things, the advice of financial advisors and special committees, the board of directors of ERC (which is the publicly-elected board responsible for Enerplus) and the board of trustees of EIF have unanimously agreed to recommend that Enerplus Unitholders and EIF Unitholders (collectively with the Enerplus Unitholders, the "Unitholders"), as the case may be, approve the Merger and certain other matters incidental thereto at unitholder meetings to be held on June 21, 2001;

3.20 in connection with the Enerplus Meeting and the EnerMark Meeting (each as defined below), each of the Enerplus Unitholders and the EnerMark Unitholders were provided with an information circular and proxy circular dated May 14, 2001 from Enerplus and EnerMark, respectively, containing prospectus type disclosure regarding the business and affairs of Enerplus, EnerMark and the Enerplus Trust Units, including pro forma information of Enerplus after giving effect to the Merger, a valuation of each of Enerplus and EnerMark prepared by Sayer Securities Limited and a fairness opinion from CIBC World Markets Inc. (in the case of Enerplus Unitholders) or National Bank Financial Inc. (in the case of EnerMark Unitholders) to enable the Enerplus Unitholders and EnerMark Unitholders to make an informed decision regarding the matters before them;

3.21 the Enerplus Trust Units will be distributed to EIF Unitholders through the issuance of Merger Units initially issued by Enerplus to EIF. The Merger Units shall, while held by EIF, automatically convert into Enerplus Trust Units on the 65th day following their acquisition by EIF. In addition, concurrently with the redemption of the EIF Units which occurs on the winding-up and termination of EIF, the Merger Units shall automatically convert into Enerplus Trust Units for delivery to EIF Unitholders on a proportionate basis in accordance with the Exchange Rate (defined below). EIF shall not have any rights, directly or indirectly, to acquire Enerplus Trust Units pursuant to the Merger Units, and concurrently with the redemption of the EIF Trust Units which occurs on the winding-up and termination of EIF, the Merger Units shall be deemed to be automatically converted into Enerplus Trust Units in accordance with the Exchange Ratio and distributed to the EIF Unitholders. Prior to the conversion of the Merger Units into Enerplus Trust Units, holders of the Merger Units shall be entitled to vote at all meetings of Enerplus Unitholders and to receive all distributions declared by Enerplus on an equal, per unit basis, with the Enerplus Unitholders;

3.22 completion of the Merger is conditional upon, among other things, the approval of the Merger, in addition to certain majority of the minority approvals, by 66% of the votes cast by each of the Enerplus Unitholders and the EIF Unitholders at separate meetings of the Enerplus Unitholders (the "Enerplus Meeting") and the EIF Unitholders (the "EIF Meeting"). Following completion of the Merger, each holder of EIF Trust Units will have received 0.173 of an Enerplus Trust Unit for each EIF Trust Unit (the "Exchange Ratio"). No fractional Enerplus Trust Units will be issued, and fractional Enerplus Trust Units will be rounded up to the next highest number. In connection with the Merger, the EIF rights plan will be terminated and Unitholders may be asked to vote in favour of waiving any application of the Enerplus Unitholders' rights plan to the Merger;

3.23 under the Merger, subject to, among other things, the approval of each of the Enerplus Unitholders and EIF Unitholders by way of special resolutions, the trust indentures and other constating documents of the Funds would be amended to the extent necessary to effect the Merger, and

(i) Enerplus will purchase from EIF all of the EIF Assets and all of the liabilities of EIF (including the royalties granted by EnerMark to EIF) in exchange for the issuance by Enerplus of the Merger Units in accordance with the applicable Exchange Ratio;

(ii) EIF will be wound up and dissolved in accordance with its trust indenture, "out of the money" options of EIF will be cancelled, certain "in the money" options of EIF that would, pursuant to the terms of their grant, vest on or before August 23, 2002 will be accelerated such that they may be exercised prior to the effective date of the Merger, the EIF Trust Units will be redeemed and exchanged for Enerplus Trust Units issuable pursuant to the Merger Units previously issued to EIF by Enerplus, and those Enerplus Trust Units will be distributed to former EIF Unitholders on a proportionate basis in accordance with the Exchange Rate;

(iii) Through a series of transactions, EnerMark will acquire all of the outstanding ERC Class A, Class B and Preferred Shares and EnerMark will both be managed by Enerplus Global Energy Management Inc. (the "Manager"), an affiliate of EES and EMR (see enclosed post-Merger diagram);

(iv) Either (a) the Enerplus option plan will be amended to increase the number of Enerplus Trust Units which are reserved for issuance under the plan; or (b) if a new incentive plan is approved as part of the annual general meeting matters of

Enerplus and EIF, the incentive plan will be adopted by the Merged Fund;

(v) the EIF Management Agreement will be terminated, the EIF Royalty Agreement will be amended and the Enerplus Royalty Agreement and the Enerplus Management Agreement will be revised as necessary, to provide that the Manager will be the sole manager of the Merged Fund and its operating companies; and

(vi) certain other ancillary matters in connection with the Merger will be implemented;

3.24 Enerplus currently holds no EIF Trust Units and EIF currently holds no Enerplus Trust Units;

3.25 exemptions from the registration and prospectus requirements of the Legislation may not be available to allow the sequence of trades which ultimately results in trades of the Enerplus Trust Units to EIF Unitholders;

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

5. **AND WHEREAS**, the Decision Makers are of the opinion that it would not be prejudicial to the public interest to make the Decision;

6. **THE DECISION** of the Decision Makers pursuant to the Legislation is that the Registration and Prospectus Requirements shall not apply to the issuance of the Merger Units or to the Enerplus Trust Units to be issued pursuant to the Merger;

7. **THE DECISION** of the Decision Makers pursuant to the Legislation is that the first trade in Enerplus Trust Units acquired pursuant to this Decision in a Jurisdiction shall be a distribution under the Legislation of such Jurisdiction (the "Applicable Legislation") unless:

7.1 at the time of the first trade, Enerplus is a reporting issuer or the equivalent under the applicable Legislation;

7.2 disclosure to the Decision Maker has been made of the Merger, which disclosure may be made by the filing of the Enerplus and EnerMark Information Circulars;

7.3 the vendor of the securities, if in a special relationship with Enerplus, has no reasonable grounds to believe that Enerplus is in default of any requirement of Applicable Legislation;

7.4 no unusual effort is made to prepare the market or to create a demand for the securities;

7.5 no extraordianry commission or consideration is paid to a person or company other than the vendor of the securities in respect of the trade; and

7.6 the first trade is not from the holdings of a person or company or a combination of persons or companies holding a sufficient number of any securities of Enerplus so as to affect materially the control of Enerplus or more than 20% of the outstanding voting securities of Enerplus, except where there is evidence showing that the holdings of those securities does not affect materially the control of Enerplus.

DATED at Calgary, Alberta this 21st day of June, 2001.

"Stephen P. Sibold" "Glenda A. Campbell"

2.1.6 Gold Summit Mines Ltd. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Offeror's agreeing to appoint key executives of offeree as directors or officers - Offeror also retaining a key executive as consultant - Agreements entered into for reasons other than to increase the value of the consideration to be paid to the key executives under the takeover bid and may be entered into notwithstanding the prohibition on collateral benefits.

Applicable Statutory Provisions

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

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA AND ONTARIO

AND

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

AND

IN THE MATTER OF
GOLD SUMMIT MINES LTD.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia and Ontario (the "Jurisdictions") has received an application (the "Application") from Gold Summit Mines Ltd. (the "Filer") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that, in connection with the offer (the "Offer") made by the Filer to acquire all of the issued and outstanding shares (the "Voyager Shares") of Voyager Explorations Limited ("Voyager"), the subsequent appointments of John H. Paterson ("Paterson"), Edward G. Thompson ("Thompson") and James Pirie ("Pirie" and, with Paterson and Thompson, the "Key Executives") as directors and/or officers of the Filer (the "Appointments") are being made for reasons other than to increase the value of the consideration paid to such persons for the Voyager Shares, and that the Appointments may be made despite the prohibition in the Legislation that prohibits an offeror who makes or intends to make a take-over bid and any person acting jointly or in concert with the offeror from entering into any agreement, commitment or understanding with any holder or beneficial owner of securities of the offeree issuer that has the effect of providing to the holder or owner a consideration of greater value than that offered to the other holders of the same class of securities (the "Prohibition on Collateral Benefits");

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

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

1. the Filer was incorporated under the *Company Act* (British Columbia) and has its head office in Vancouver, British Columbia;

2. the authorized capital of the Filer consists of 20,000,000 common shares (the "Gold Summit Shares") of which 8,703,571 Gold Summit Shares are currently issued and outstanding;

3. the Filer is a reporting issuer in British Columbia, Alberta and Ontario and is not in default of any requirements of the Legislation; the Gold Summit Shares are listed and posted for trading on the Canadian Venture Exchange Inc. (the "CDNX");

4. Voyager is incorporated under the laws of Ontario and is a reporting issuer in Ontario;

5. Voyager's principal business is the acquisition, exploration and development of natural resource properties;

6. the authorized capital of Voyager consists of an unlimited number of Voyager Shares of which 8,295,034 Voyager Shares were issued and outstanding as at February 28, 2001; there is no market for the Voyager Shares;

7. the Filer has made the Offer for all of the outstanding Voyager Shares on the basis of 0.37 of a Gold Summit Share for every one Voyager Share, subject to customary conditions including that more than 50% of the total issued Voyager Shares be tendered under the Offer;

8. the Key Executives, all of whom are directors and/or senior officers of Voyager, beneficially own, directly and indirectly, a total of 2,126,400 Voyager Shares, representing approximately 25.6% of the total issued and outstanding Voyager Shares, and options to acquire an additional 300,000 Voyager Shares;

9. the Filer and the Key Executives, as well as one other significant shareholder of Voyager, have entered into a letter agreement dated February 27, 2001 pursuant to which the Key Executives have agreed, among other things, to tender their Voyager Shares to the Filer under the Offer;

10. following the completion of the Offer and the appointment of the Key Executives by the Filer, the Key Executives will be entitled to participate in any stock option plan or stock option grants provided by the Filer to its directors, officers and employees in accordance with the policies of the CDNX and all applicable laws and regulations;

11. Pirie may be retained by the Filer to provide geological consulting services to the Filer at rates comparable to

the market rate charged by independent geologists for similar work;

12. the Filer believes the Key Executives have been an integral part of the successful development and operation of Voyager and have substantial and valuable experience and expertise in natural resource exploration and development which will be of significant value to the Filer;

13. the Filer views the continued participation of the Key Executives as critical to the Offer and the Appointments will be made primarily for the purpose of ensuring the Key Executives' participation in the successful management and development of the Filer's operations following the closing of the Offer;

14. the Appointments were negotiated between the Filer and the Key Executives on an arm's length basis and reflect commercially reasonable terms;

15. the benefits to be received by the Key Executives are reasonable in light of the services to be rendered by the Key Executives to the Filer following the closing of the Offer and are commensurate with similarly situated directors and consultants of the Filer;

16. the Appointments are being made for valid business reasons unrelated to the Key Executives' holdings of Voyager Shares and not for the purpose of conferring an economic or collateral benefit on the Key Executives that other shareholders of Voyager do not enjoy, and are being made for reasons other than to increase the value of the consideration to be paid to the Key Executives under the Offer; and

17. there are no written compensation or non-competition agreements, arrangements or understandings between the Filer and any of the Key Executives;

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

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

THE DECISION of the Decision Makers under the Legislation is that, in connection with the Offer, the Appointments are being made for reasons other than to increase the value of the consideration paid to the Key Executives in respect of their Voyager Shares, and may be made despite the Prohibition on Collateral Benefits.

June 22, 2001.

"Derek E. Patterson"

2.1.7 Luscar Coal Income Fund et al. - MRRS Decision

Headnote

Rule 61-501 - Mutual Reliance Review System - Going private transaction - Exemption from minority approval - Applicants acquired 95% of the trust units of the issuer in a takeover bid offer that was outstanding for more than 45 days - Applicants propose to amend the terms of the issuer's Declaration of Trust so as to allow for holder of 90% of the issuer's trust units to cause the compulsory acquisition of the trust units for consideration identical to that offered under the takeover bid - Declaration of Trust currently allows compulsory acquisition only if units acquired within 45 days from date takeover bid commenced - Proposed amendment to be effected in writing pursuant to the terms of the Declaration of Trust - Dissenting unitholders to be paid same consideration, be provided with the same election, and be subject to the same pro-ration as was applicable under takeover bid offer - Dissenting unitholders to also receive notice describing the offer, the result of the takeover bid, the nature and effect of the going private transaction and the basis for valuation and minority approval exemption - Proposed amendment will not adversely affect Dissenting Unitholders existing rights - Proposed amendment exempt from requirement to hold a meeting to obtain minority approval.

Ontario Rules Cited

Rule 61-501 - Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions, ss. 4.7 and 9.1.

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION
RULE 61-501 AND
QUEBEC SECURITIES COMMISSION
POLICY STATEMENT NO. Q-27

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM

AND

IN THE MATTER OF
LUSCAR COAL INCOME FUND,
SHERRITT COAL PARTNERSHIP AND
SHERRITT INTERNATIONAL CORPORATION

MRRS DECISION DOCUMENT

WHEREAS an application has been received by the securities regulatory authority or regulator (the "Decision Makers") in each of Ontario and Quebec from Sherritt Coal Partnership (the "Partnership") and Sherritt International Corporation ("Sherritt") (the Partnership and Sherritt, together, being the "Applicants") for a decision pursuant to Ontario Securities Commission Rule 61-501 (the "Rule") and Quebec Securities Commission Policy Statement No. Q-27 ("Q-27") that the requirement to hold a meeting of unitholders ("Unitholders") of Luscar Coal Income Fund (the "Fund") to

seek minority approval of a going private transaction under the Rule and Q-27 shall not apply;

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

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

1. The Applicants have successfully completed a take-over bid for the trust units ("Units") and outstanding 10% convertible unsecured senior subordinated debentures (the "Debentures") of the Fund and currently hold more than 95% of each of the outstanding Units and Debentures.

2. The Applicants intend to amend the Fund's declaration of trust to permit the Applicants to acquire the remaining outstanding Units (the "Going Private Transaction") from those holders of Units (the "Dissenting Unitholders") who did not tender under the Offer.

3. The Partnership is a general partnership created under the laws of the Province of Ontario with its head office in Toronto, Ontario. The Partnership was formed solely for the purpose of making the Offer (as defined below). The partners of the Partnership are Sherritt and a subsidiary of Ontario Teachers' Pension Plan Board.

4. Sherritt is a widely held Canadian public company, incorporated under the laws of the Province of New Brunswick, with its head office in Toronto, Ontario and with operations in Canada, Cuba and elsewhere internationally.

5. Sherritt is a reporting issuer or the equivalent in each of the provinces and territories of Canada and is not in default of any requirements of the securities legislation thereof. Sherritt's restricted voting shares (the "Sherritt Shares") are listed on The Toronto Stock Exchange ("TSE").

6. On February 20, 2001, the Applicants announced their intention to make an offer to acquire all of the outstanding Units and Debentures of the Fund. The Fund is an open-ended trust established under the laws of the Province of Alberta, the Units and Debentures of which are listed on the TSE. The business of the Fund is to invest in the securities of Luscar Coal Ltd. and its subsidiary, Luscar Ltd.

7. On March 8, 2001, the Applicants mailed an offer and take-over bid circular (collectively, the "Offer") to the Unitholders and holders of Debentures (the "Debentureholders") in accordance with the requirements of applicable securities legislation. The Offer was amended by a notice of amendment dated April 6, 2001, extended by a notice of extension dated April 18, 2001, further amended and extended by a notice of variation and extension dated April 27, 2001 and further extended by a notice of extension dated May 9, 2001.

8. Under the terms of the Offer, the price to be paid to Unitholders for their Units was, at the election of each Unitholder:

   (i) $4.00 cash per Unit; or

   (ii) one Sherritt Share per Unit, subject to a maximum of 25 million Sherritt Shares; or

   (iii) a combination thereof.

9. Under the terms of the Offer, the price to be paid to Debentureholders for their Debentures was $1,050 cash for each 1,000 principal amount of Debentures, plus accrued and unpaid interest, if any.

10. As of May 28, 2001, 80,820,485 Units, which, together with Units previously held by the Partnership, represent approximately 95% of the outstanding Units (and which also represented over 95% of the Units not previously held by the Partnership), and $96,053,000 principal amount of Debentures, representing 96% of the outstanding principal amount of Debentures, had been deposited under the Offer and taken up and paid for by the Partnership and/or Sherritt.

11. Pursuant to section 14.12 of the Fund's declaration of trust dated April 15, 1996, as amended (the "Declaration of Trust"), an acquiror of 90% of the outstanding Units pursuant to an offer, if such Units are acquired within 45 days after the date on which the offer for the Units was made, may cause the compulsory acquisition of the remaining outstanding Units for consideration identical to that offered under the offer to the Unitholders.

12. Although the Applicants have acquired more than 95% of the outstanding Units, the acquisition of such Units occurred more than 45 days following the original date of the Offer. As a result, the Applicants are precluded from utilizing the current provisions of section 14.12 of the Declaration of Trust to acquire the remaining Units.

13. Section 13.6 of the Declaration of Trust provides that the Declaration of Trust may be amended by a resolution in writing executed by Unitholders holding more than two-thirds of the outstanding Units. The Applicants propose to amend the Declaration of Trust by written resolution to provide that the provisions of section 14.12 of the Declaration of Trust may be utilized by the Partnership to acquire the Units held by the Dissenting Unitholders (the "Proposed Amendment").

14. Section 13.6 of the Declaration of Trust expressly entitles Unitholders holding more than two-thirds of the outstanding Units to amend the Declaration of Trust by a resolution in writing and, therefore, a meeting of Unitholders is not required to amend section 14.12 of the Declaration of Trust to allow the Applicants to carry out the Going Private Transaction. However, minority approval of the amendment would be required under the Rule and under Q-27 as the Proposed Amendment is being made for the express purpose of effecting the Going Private Transaction.

15. Following the implementation of the Proposed Amendment, the Applicants intend to implement the Going Private Transaction by acquiring the remaining outstanding Units in accordance with the provisions of section 14.12 of the Declaration of Trust, as amended.

16. Pursuant to the Proposed Amendment, the Dissenting Unitholders will be paid the same consideration in the Going Private Transaction and, subject to the same pro-ration mechanism as was applicable under the Offer, provided with the same election as was offered under the Offer to receive cash, Sherritt Shares, or a combination thereof.

17. In connection with the proposed Going Private Transaction, the Applicants are exempt from the valuation requirements of the Rule and Q-27. The Applicants' intention to effect the Going Private Transaction, together with a description of the tax consequences of such a transaction, was disclosed in the circular which formed part of the Offer. The consideration per Unit to be paid in connection with the Going Private Transaction will be the same as that offered under the Offer.

18. In accordance with the Rule and Q-27, the Applicants would be permitted to vote the Units acquired by them pursuant to the Offer in connection with seeking minority approval of the Going Private Transaction. Excluding Units held by the Applicants prior to the announcement of the Offer, the Applicants acquired 80,820,485 Units pursuant to the Offer, representing approximately 95% of the outstanding Units. As the Applicants would be entitled to vote these Units in favour of the Proposed Amendment and the proposed Going Private Transaction, minority approval of the Proposed Amendment and the Going Private Transaction is a foregone conclusion.

19. At the time of making payment to the Trustees of the Fund of the maximum consideration payable to the Dissenting Unitholders in respect of the Going Private Transaction, the Applicants will send a notice (the "Notice") and a form of election (the "Election") to each of the Dissenting Unitholders.

20. The Election will permit the Dissenting Unitholders to specify their election to receive cash, Sherritt Shares, or a combination thereof. The Notice will describe the Offer, the result of the Offer, the nature and effect of the Going Private Transaction, the reasons the Going Private Transaction is exempt from the valuation requirements of the Rule and Q-27, and the relief granted hereby.

21. The rights of the Dissenting Unitholders will not be adversely affected by the Proposed Amendment since, pursuant to the Proposed Amendment, they will receive the Notice and also be paid the same consideration, be provided with the same election, and be subject to the same pro-ration as was applicable under the Offer.

AND WHEREAS, pursuant to the System, this MRRS Decision Document evidences the determination of the Decision Makers (the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Rule and Q-27 that provides the Decision Maker with the jurisdiction to make the Decision has been met.

THE DECISION of the Decision Makers pursuant to the Rule and Q-27 is that the minority approval requirements for going private transactions contained in the Rule and Q-27 shall not apply to the Proposed Amendment and Going Private Transaction.

June 29, 2001.

"Ralph Shay"

2.1.8 Talvest Fund Management Inc. - Decision

Headnote

Section 5.1 of O.S.C. Rule 31-506 – SRO Membership – Mutual Fund Dealers – mutual fund manager exempted from the requirements of the Rule that it be a member of the Mutual Fund Dealers Association ("MFDA") and file with the MFDA an application and prescribed fees for the application for membership, provided that it complies with terms and conditions of registration.

Statutes Cited

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

Rules Cited

O.S.C. Rule 31-506 SRO Membership – Mutual Fund Dealers, ss. 2.1, 3.1, 5.1

Published Documents Cited

Letter Sent to The Investment Funds Institute of Canada and the Investment Counsel Association of Canada, December 6, 2000, (2000) 23 OSCB 8467.

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

AND

ONTARIO SECURITIES COMMISSION
RULE 31-506 SRO MEMBERSHIP -
MUTUAL FUND DEALERS (the "Rule")

AND

IN THE MATTER OF
TALVEST FUND MANAGEMENT INC.

DECISION
(Section 5.1 of the Rule)

UPON the Director having received an application (the "Application) from Talvest Fund Management Inc. (the "Registrant") for a decision, pursuant to section 5.1 of the Rule, exempting the Registrant from the requirements in sections 2.1 and 3.1 of the Rule, which would otherwise require that the Registrant be a member of the Mutual Fund Dealers Association (the "MFDA") on and after July 2, 2002, and file with the MFDA, no later than May 23, 2001, an application and corresponding fees for membership;

UPON considering the Application and the recommendation of staff of the Ontario Securities Commission;

AND UPON the Registrant having represented to the Director that:

1. the Registrant is registered under the Act as a dealer in the category of mutual fund dealer;

2. the Registrant is the manager of a number of mutual funds that it has established and will be the manager of other mutual funds it expects to establish in the future;

3. the securities of the mutual funds managed by the Registrant are generally sold to the public through other registered dealers;

4. the Registrant acts as principal distributor of the mutual funds managed by the Registrant, the Registrant services house accounts for certain employees and institutional investors and the Registrant takes switch requests directly from certain clients who hold mutual fund securities in their own name;

5. the Registrant engages in trading in Class O units of the mutual funds managed by the Registrant and may from time to time service house accounts for insurance companies purchasing units of the mutual funds managed by the Registrant for their segregated funds;

6. the Registrant's trading activities as a mutual fund dealer currently represent and will continue to represent activities that are incidental to its principal business activities;

7. the Registrant has agreed to the imposition of the terms and conditions on the Registrant's registration as a mutual fund dealer set out in the attached Schedule "A", which outlines the activities the Registrant has agreed to adhere to in connection with its application for this Decision;

8. any person or company that is not currently a client of the Registrant on the effective date of this Decision, will, before they are accepted as a client of the Registrant, receive prominent written notice from the Registrant that:

   The Registrant is not currently a member, and does not intend to become a member of the Mutual Fund Dealers Association; consequently, clients of the Registrant will not have available to them investor protection benefits that would otherwise derive from membership of the Registrant in the MFDA, including coverage under any investor protection plan for clients of members of the MFDA;

9. upon the next general mailing to its account holders and in any event before May 23, 2002, the Registrant shall provide, to any client that was a client of the Registrant on the effective date of this Decision, the prominent written notice referred to in paragraph 8, above;

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

IT IS THE DECISION of the Director, pursuant to section 5.1 of the Rule, that, effective May 23, 2001, the Registrant is exempt from the requirements in sections 2.1 and 3.1 of the Rule;

PROVIDED THAT:

The Registrant complies with the terms and conditions on its registration under the Act as a mutual fund dealer set out in the attached Schedule "A".

June 27, 2001.

"Peggy Dowdall-Logie"

Schedule "A"

TERMS AND CONDITIONS OF REGISTRATION OF TALVEST FUND MANAGEMENT INC. AS A MUTUAL FUND DEALER

Definitions

1. For the purposes hereof, unless the context otherwise requires:

(a) "Act" means the *Securities Act*, R.S.O. 1990, c. S.5, as amended;

(b) "Adviser" means an adviser as defined in subsection 1(1) of the Act;

(c) "Client Name Trade" means, for the Registrant, a trade to, or on behalf of, a person or company, in securities of a mutual fund, that is managed by the Registrant or an affiliate of the Registrant, where the person or company is, immediately before the trade, shown on the records of the mutual fund or of another mutual fund managed by the Registrant or an affiliate of the Registrant as the holder of securities of such mutual fund, and the trade consists of:

(A) a purchase, by the person or company, through the Registrant, of securities of the mutual fund; or

(B) a redemption, by the person or company, through the Registrant, of securities of the mutual fund;

and where, the person or company is either a client of the Registrant that was not solicited by the Registrant or was an existing client of the Registrant on the Effective Date;

(d) Commission" means the Ontario Securities Commission;

(e) "Effective Date" means May 23, 2001;

(f) Employee", for the Registrant, means:

(A) an employee of the Registrant;

(B) an employee of an affiliated entity of the Registrant; or

(C) an individual that is engaged to provide, on a *bona fide* basis, consulting, technical, management or other services to the Registrant or to an affiliated entity of the Registrant, under a written contract between the Registrant or the affiliated entity and the individual or a consultant company or consultant partnership of the individual, and, in the reasonable opinion of the Registrant, the individual spends or will spend a significant amount of time and attention on the affairs and business of the Registrant or an affiliated entity of the Registrant;

(g) "Employee", for a Service Provider, means an employee of the Service Provider or an affiliated entity of the Service Provider, provided that, at the relevant time, in the reasonable opinion of the Registrant, the employee spends or will spend, a significant amount of time and attention on the affairs and business of:

(A) the Registrant or an affiliated entity of the Registrant; or

(B) a mutual fund managed by the Registrant or an affiliated entity of the Registrant;

(h) "Employee Rule" means Ontario Securities Commission Rule 45-503 Trades To Employees, Executives and Consultants;

(i) "Executive", for the Registrant, means a director, officer or partner of the Registrant or of an affiliated entity of the Registrant;

(j) "Executive", for a Service Provider, means a director, officer or partner of the Service Provider or of an affiliated entity of the Service Provider;

(k) "Exempt Trade", for the Registrant, means:

(i) a trade in securities of a mutual fund that is made between a person or company and an underwriter acting as purchaser or between or among underwriters; or

(ii) any other trade for which the Registrant would have available to it an exemption from the registration requirements of clause 25(1)(a) of the Act if the Registrant were not a "market intermediary" as such term is defined in section 204 of the Regulation;

(l) "Fund-on-Fund Trade", for the Registrant, means a trade that consists of:

(i) a purchase, through the Registrant, of securities of a mutual fund that is made by another mutual fund;

(ii) a purchase, through the Registrant, of securities of a mutual fund that is made

by a counterparty, an affiliated entity of the counterparty or an other person or company, pursuant to an agreement to purchase the securities to effect a hedge of a liability relating to a contract for a specified derivative or swap made between the counterparty and another mutual fund; or

(iii) a sale, through the Registrant, of securities of a mutual fund that is made by another mutual fund where the party purchasing the securities is:

(A) a mutual fund managed by the Registrant or an affiliated entity of the Registrant; or

(B) a counterparty, affiliated entity or other person or company that acquired the securities pursuant to an agreement to purchase the securities to effect a hedge of a liability relating to a contract for a specified derivative or swap made between the counterparty and another mutual fund; and

where, in each case, at least one of the referenced mutual funds is a mutual fund that is managed by either the Registrant or an affiliated entity of the Registrant;

(m) an "In Furtherance Trade" means, for the Registrant, a trade by the Registrant that consists of any act, advertisement, or solicitation, directly or indirectly in furtherance of an other trade in securities of a mutual fund, where the other trade consists of:

(i) a purchase or sale of securities of a mutual fund that is managed by the Registrant or an affiliated entity of the Registrant; or

(ii) a purchase or sale of securities of a mutual fund where the Registrant acts as the principal distributor of the mutual fund; and

where, in each case, the purchase or sale is made by or through another registered dealer if the Registrant is not otherwise permitted to make the purchase or sale pursuant to these terms and conditions;

(n) "Mutual Fund Instrument" means National Instrument 81-102 Mutual Funds, as amended;

(o) "Permitted Client", for the Registrant, means a person or company that is a client of the Registrant, and that is, or was at the time the person or company became a client of the Registrant:

(i) an Executive or Employee of the Registrant;

(ii) a Related Party of an Executive or Employee of the Registrant;

(iii) a Service Provider of the Registrant or an affiliated entity of a Service Provider of the Registrant;

(iv) an Executive or Employee of a Service Provider of the Registrant; or

(v) a Related Party of an Executive or Employee of a Service Provider of the Registrant;

(p) "Registered Plan" means a registered pension plan, deferred profit sharing plan, registered retirement savings plan, registered retirement income fund, registered education savings plan or other deferred income plan registered under the Income Tax Act (Canada);

(q) "Registrant" means Talvest Fund Management Inc.;

(r) "Regulation" means R.R.O. 1990, Reg. 1015, as amended, made under the Act;

(s) "Related Party", for a person, means an other person who is:

(i) the spouse of the person;

(ii) the issue of:

(A) the person,

(B) the spouse of the person, or

(C) the spouse of any person that is the issue of a person referred to in subparagraphs (A) or (B) above;

(iii) the parent, grandparent or sibling of the person, or the spouse of any of them;

(iv) the issue of any person referred to in paragraph (iii) above; or

(v) a Registered Plan established by, or for the exclusive benefit of, one, some or all of the foregoing;

(vi) a trust where one or more of the trustees is a person referred to above and the beneficiaries of the trust are restricted to one, some, or all of the foregoing;

(vii) a corporation where all the issued and outstanding shares of the corporation are owned by one, some, or all of the foregoing;

(t) "securities", for a mutual fund, means shares or units of the mutual fund;

(u) "Seed Capital Trade" means a trade in securities of a mutual fund made to a person or company referred to in any of subparagraphs 3.1(1)(a)(i) to 3.1(1)(a)(iii) of the Mutual Fund Instrument;

(v) "Service Provider", for the Registrant, means:

(i) a person or company that provides or has provided professional, consulting, technical, management or other services to the Registrant or an affiliated entity of the Registrant;

(ii) an Adviser to a mutual fund that is managed by the Registrant or an affiliated entity of the Registrant; or

(iii) a person or company that provides or has provided professional, consulting, technical, management or other services to a mutual fund that is managed by the Registrant or an affiliated entity of the Registrant

2. For the purposes hereof, a person or company is considered to be an "affiliated entity" of another person or company if the person or company would be an affiliated entity of that other person or company for the purposes of the Employee Rule.

3. For the purposes hereof:

(a) "issue", "niece", "nephew" and "sibling" includes any person having such relationship through adoption, whether legally or in fact;

(b) "parent" and "grandparent" includes a parent or grandparent through adoption, whether legally or in fact;

(c) "registered dealer" means a person or company that is registered under the Act as a dealer in a category that permits the person or company to act as dealer for the subject trade; and

(d) "spouse", for an Employee or Executive, means a person who, at the relevant time, is the spouse of the Employee or Executive.

4. Any terms that are not specifically defined above shall, unless the context otherwise requires, have the meaning:

(a) specifically ascribed to such term in the Mutual Fund Instrument; or

(b) if no meaning is specifically ascribed to such term in the Mutual Fund Instrument, the same meaning the term would have for the purposes of the Act.

Restricted Registration

Permitted Activities

5. Subject to paragraph 6, the registration of the Registrant as a mutual fund dealer under the Act shall be for the purposes only of trading by the Registrant in securities of a mutual fund where the trade consists of:

(a) a Client Name Trade;

(b) an Exempt Trade;

(c) a Fund-on-Fund Trade;

(d) an In Furtherance Trade;

(e) a trade to a person who is a Permitted Client or who represents to the Registrant that he or she is a person included in the definition of Permitted Client; or

(f) a Seed Capital Trade;

provided that, in the case of all trades that are only referred to in clauses (a) or (e), the trades are limited and incidental to the principal business of the Registrant.

2.2 Orders

2.2.1 Brick Brewing Co. Limited & Molson Canada - s. 9.1 of Rule 61-501

Headnote

Rule 61-501 - Related party transactions - Applicant proposes to sell certain intellectual property to, and enter into a distribution agreement with, a shareholder of the Applicant that holds 12.2% of its common shares - the transactions are supported by holders of approximately 28% of the common shares of the Applicant, including the largest shareholder with 14.4% of the Applicant's common shares - the supporting shareholders are treated identically and are at arm's length from the shareholder involved in the transactions - shareholder involved in transactions does not have any members on the Applicant's board of directors - the transactions were negotiated at arm's length - transactions exempt from requirement to prepare valuation and obtain minority approval.

Ontario Rules Cited

Rule 61-501 - Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions, ss. 5.5, 5.7 and 9.1.

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION
RULE 61-501

AND

IN THE MATTER OF
BRICK BREWING CO. LIMITED AND MOLSON CANADA

Rule 61-501
(section 9.1)

UPON the application (the "Application") of Brick Brewing Co. Limited (the "Company") to the Director for a decision pursuant to section 9.1 of Rule 61-501 that, in connection with the Proposed Transactions (as defined in paragraph 10 below), the Company be exempt from sections 5.5 and 5.7 of Rule 61-501 (collectively, the "Valuation and Minority Approval Requirements");

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

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

1. The Company is a corporation incorporated under the *Business Corporations Act* (Ontario).

2. The Company is a reporting issuer in Ontario and is not in default of any requirement under the *Securities Act* (Ontario) or on the list of defaulting reporting issuers maintained by the Commission.

3. The Company's authorized capital consists of an unlimited number of common shares (the "Common Shares") and an unlimited number of preference shares (the "Preference Shares"). As of May 14, 2001, the Company had 12,318,430 Common Shares and no Preference Shares issued and outstanding.

4. The Common Shares are listed and posted for trading on The Toronto Stock Exchange.

5. Based on publicly disclosed information, the Company has the following major shareholders:

   (a) Liquid Investments, Inc. ("Liquid Investments") is the largest shareholder of the Company and owns 1,812,500 Common Shares, representing approximately 14.7% of the outstanding Common Shares;

   (b) Molson Canada owns 1,500,000 Common Shares, representing approximately 12.2% of the outstanding Common Shares;

   (c) Mr. James R.A. Brickman, President, Chief Executive Officer and a member of the Company's board of directors (the "Board"), beneficially owns, controls or directs 1,104,379 Common Shares, representing approximately 9.0% of the outstanding Common Shares; and

   (d) Mr. W. Scott Uffelman, a member of the Board, beneficially owns, controls or directs 498,053 Common Shares, representing approximately 4.0% of the outstanding Common Shares.

6. Mr. Ronald L. Fowler, President and Chief Executive Officer of Liquid Investments, has been a member of the Board since September 1996.

7. In addition to Messrs. Brickman, Uffelman and Fowler, the Board consists of Messrs. Thomas W. Gilchrist, Walter T. Hogg, and Peter N.T. Widdrington. In respect of the Proposed Transactions, each of the members of the Board is an independent director of the Company within the meaning of Rule 61-501.

8. Molson Canada has been a shareholder of the Company since 1997, and since that time no director, officer, employee or nominee of Molson Canada or any of its associates has been a member of the Board. All the current members of the Board are independent of Molson Canada within the meaning of Rule 61-501.

9. The Company and Molson Canada have entered into a brewing and packaging agreement dated June 24, 1996 whereby the Company co-packages certain Old Vienna products for Molson Canada. The Company and Molson Canada have also entered into a sales and marketing agreement dated July 7, 1997 whereby Molson Canada assists the Company with the sales and marketing of the Company's Algonquin brands.

10. Molson Canada and the Company intend to enter into an agreement of purchase and sale by which Molson Canada will purchase the Company's trademarks, trade names, designs, logos and recipes relating to the Algonquin beer brands (the "Trademark Purchase

Agreement"). Concurrently with the Trademark Purchase Agreement, Molson Canada and the Company will also enter into an agreement (the "Distribution Agreement") pursuant to which the Company will manufacture and distribute certain Algonquin products on behalf of Molson Canada under the terms and conditions set out in the Distribution Agreement (the Trademarks Purchase Agreement and the Distribution Agreement are collectively referred to as the "Proposed Transactions"). The Proposed Transactions have an estimated value of approximately $3 million.

11. As Molson Canada beneficially owns, or exercises control or direction over, more than 10% of the outstanding voting securities of the Company, it is a related party of the Company within the meaning of Rule 61-501 and the Proposed Transactions are related party transactions within the meaning of Rule 61-501. Therefore, unless exempted by this order, the Company would have to comply with the Valuation and Minority Approval Requirements in order to enter into the Proposed Transactions.

12. The negotiations on behalf of the Company are being led by Mr. Brickman, the President and Chief Executive Officer of the Company. In order to bind the Company, the Proposed Transactions must be approved by the Board.

13. With respect to the Proposed Transactions, all shareholders of the Company, other than Molson Canada, will be treated identically. The Proposed Transactions are supported by Liquid Investments, Mr. Brickman and Mr. Uffelman, none of whom are parties to the Proposed Transactions and all of whom deal at arm's length with Molson Canada.

14. In a letter to the Director dated June 8, 2001, Liquid Investments has confirmed the representations in paragraph 13 above, as they relate to Liquid Investments, and that it is the largest shareholder of the Company and will not receive, directly or indirectly, as a consequence of the Proposed Transactions a benefit that is not also received on a pro rata basis by all other shareholders of the Company.

15. The implementation of the Proposed Transactions will therefore have the approval of members of the Board who hold or represent, in the aggregate, approximately 27.7% of the outstanding Common Shares or more than twice as much as the 12.2% interest in the Common Shares held by Molson Canada.

16. Other than as a result of the discussions between the Company and Molson Canada concerning the Proposed Transactions and the agreements referred to in paragraph 9 above, Molson Canada does not have access to any material non-public information concerning the Company and will not have access to any material non-public information concerning the Company at the time of entering into the Proposed Transactions.

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

IT IS DECIDED pursuant to section 9.1 of Rule 61-501 that, in connection with the Proposed Transactions, the Company shall not be subject to the Valuation and Minority Approval Requirements, provided that the Company complies with the other applicable provisions of Rule 61-501.

June 21, 2001.

"Ralph Shay"

2.2.2 Counsel Group of Funds Inc. - ss. 59(1)

Headnote

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

Regulations Cited

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

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

AND

IN THE MATTER OF
COUNSEL GROUP OF FUNDS INC.

ORDER
(Subsection 59(1) of Schedule I of the Regulation)

UPON the application of Counsel Group of Funds Inc., ("Counsel"), the manager and promoter of Counsel Focus RSP Portfolio, Counsel World Equity RSP Portfolio, Counsel Select Sector RSP Portfolio and other similar mutual funds that it may establish in the future (the "RSP Funds") as well as Counsel Focus Portfolio, Counsel World Equity Portfolio and Counsel Select Sector Portfolio and other similar mutual funds that it may establish and manage in the future (the "Underlying Funds") for an order pursuant to subsection 59(1) of Schedule I of the Regulation exempting the Underlying Funds from the payment of the annual filing fees payable under Section 14 of Schedule I of the Regulation in respect of the distribution of units (the "Securities") of the Underlying Funds to (i) counterparties in respect of Securities purchased to hedge their exposure to the RSP Funds (the "Hedge Securities") and (ii) the RSP Funds (including, in both cases the reinvestment of distributions (the "Reinvested Securities")).

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

AND UPON Counsel having represented to the Commission that:

1. Counsel is, or will be the manager and promoter of the RSP Funds and the Underlying Funds. Counsel is a corporation established under the laws of Ontario.

2. The RSP Funds and the Underlying Funds are, or will be open-end mutual fund trusts.

3. The RSP Funds and Underlying Funds are, or will be, reporting issuers and are not in default of any requirement of the securities acts or regulations applicable in each of the Provinces of Canada.

4. The securities of the RSP Funds and the Underlying Funds are, or will be qualified for distribution pursuant to a simplified prospectus and an annual information form filed in each of the Provinces (except Quebec) in Canada.

5. As part of their investment strategy, the RSP Funds enter into forward contracts or other derivative instruments (the "Forward Contracts") with one or more financial institutions or dealers (the "Counterparties") that link the RSP Fund's return to its corresponding Underlying Fund.

6. Counterparties may hedge their obligations under the Forward Contracts by investing in Hedge Securities of the applicable Underlying Fund.

7. As part of their investment strategy, the RSP Funds may invest a portion of their assets directly in Securities of their corresponding Underlying Fund which constitute foreign property under the Income Tax Act (Canada) (the "Fund on Fund Investments").

8. Applicable securities regulatory approvals for the investment strategies for each RSP Fund have been obtained.

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

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

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

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

IT IS ORDERED by the Commission pursuant to subsection 59(1) of Schedule I of the Regulation that the Underlying Funds are exempt from the payment of duplicate filing fees on an annual basis pursuant to Section 14 of Schedule I of the Regulation in respect of the distribution of Securities of the Underlying Funds to the RSP Funds, the distribution of Hedge Securities to Counterparties and the distribution of the Reinvested Securities, provided that each Underlying Fund shall include in its notice filed under subsection 14(4) of Schedule I of the Regulation a statement

of the aggregate gross proceeds realized in Ontario as a result of the issuance by the Underlying Funds of (1) Securities to the RSP Fund, (2) Hedge Securities and (3) Reinvested Securities; together with a calculation of the fees that would have been payable in the absence of this Order.

June 29, 2001.

"Paul M. Moore" "R. Stephen Paddon"

2.3 Rulings

2.3.1 Income STREAMS III Corporation - ss. (74)(1)

Headnote

Subsection 74(1) - Issuer exempt from sections 25 and 53 of the Act in connection with the writing of over-the-counter covered call options, subject to certain conditions.

Subsection 59(2), Schedule 1 - Issuer exempt from the fees prescribed by subsection 28(2) of Schedule 1 of the Regulation in connection with the writing of over-the-counter covered call options.

Statutes Cited

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

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., ss. 28(2) and 59(1) of Schedule 1.

IN THE MATTER OF
THE SECURITIES ACT (the "Act")

AND

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

AND

IN THE MATTER OF
INCOME STREAMS III CORPORATION

RULING AND EXEMPTION
[Subsection 74(1) of the Act and Section 59 of Schedule 1 of the Regulation]

UPON the application of Income STREAMS III Corporation (the "Company") to the Ontario Securities Commission (the "Commission") for

(i) a ruling, pursuant to subsection 74(1) of the Act, that the writing of certain over-the-counter covered call options (the "OTC Covered Call Options") by the Company is not subject to section 25 or 53 of the Act; and

(ii) an exemption, pursuant to subsection 59(1) of Schedule 1 of the Regulation ('Schedule 1"), from the requirement to pay the fees required by subsection 28(2) of Schedule 1 in respect of any OTC Covered Call Option written by the Company pursuant to this ruling;

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

AND UPON the Company having represented to the Commission as follows:

1. The Company is a mutual fund corporation, incorporated under the laws of Ontario. Quadravest Inc. is the Company's "manager", as such term is defined in subsection 1.1 of National Instrument 81-102 Mutual Funds ("NI 81-102")).

2. The Company is a "mutual fund", as such term is defined in subsection 1(1) of the Act.

3. In connection with the Company's public offering (the "Offering") of Equity Dividend Shares ("Equity Dividend Shares") and Capital Yield Shares ("Capital Yield Shares"), the Company filed a preliminary prospectus dated May 24, 2001 (the "Preliminary Prospectus") with the Commission and with the securities regulatory authority in each of the other provinces of Canada under SEDAR Project No. 361827. A decision document for the Preliminary Prospectus was issued under Part XV of the Act by the Director on May 25, 2001.

4. Quadravest Capital Management Inc. ("Quadravest") will act as the Company's "portfolio adviser" as such term is defined in subsection 1.1 of NI 81-102). Quadravest is registered under the Act as an adviser in the categories of "investment counsel" and "portfolio manager" and as a dealer in the category of "mutual fund dealer".

5. The Company's investment objectives with respect to the Equity Dividend Shares are:

   a. to provide holders thereof with fixed, cumulative monthly cash dividends of a specified amount per share targeted to yield a specified percentage per annum, as will be disclosed in the Company's (final) prospectus (the "Prospectus"), such dividends to be payable as capital gains dividends to the extent possible, and

   b. to pay such holders, on or about December 1, 2013 (the "Termination Date"), $15.00 for each Equity Dividend Share held on the Termination Date.

6. The Company's investment objectives with respect to the Capital Yield Shares are:

   a. to provide holders thereof with

      (i) regular monthly cash dividends targeted to yield a specified percentage per annum, as will be disclosed in the Prospectus, and

      (ii) a special cash dividend on the last day of November in each year equal to an amount calculated in the manner described in the Preliminary Prospectus and will be described in the Prospectus,

such dividends to be payable as capital gains dividends to the extent possible,

b. to pay such holders, on or about the Termination Date, $25.00 for each Capital Yield Share held on the Termination Date, and

c. to pay such holders, on or about the Termination Date, a pro rata share of the balance, if any, of the Managed Portfolio (as defined in paragraph 8 below) after paying the holders of Equity Dividend Shares $15.00 per share as described in paragraph 5.b above.

7. The Company will use a specified percentage, as will be disclosed in the Prospectus, of the gross proceeds of the Offering to acquire certain equity securities (the "Capital Repayment Portfolio"). To achieve its capital repayment objective in respect of the Capital Yield Shares, the Company will enter into a forward sale and purchase agreement pursuant to which the counterparty will agree to pay to the Company, on the Termination Date, $25.00 for each Capital Yield Share outstanding on the Termination Date, in exchange for the delivery to the counterparty of the securities held in the Capital Repayment Portfolio.

8. To achieve its dividend and capital appreciation objectives, the Company will use the proceeds of the Offering, net of expenses and the amount used to acquire the Capital Repayment Portfolio, to invest in a diversified portfolio (the "Managed Portfolio") of securities consisting principally of common shares issued by corporations included in the S&P/TSE 60 Index or the Standard & Poor's 500 Composite Stock Price Index (together, the "S&P Indices"). Quadravest will actively manage the Managed Portfolio.

9. From time to time, the Company will write covered call options in respect of all or part of the securities in the Managed Portfolio. Such call options may be either exchange traded options or over-the-counter options ("OTC Options").

10. The writing of covered call options by the Company will be managed by Quadravest in a manner consistent with the investment objectives of the Company. The individual securities in the Managed Portfolio that are subject to call options, and the terms of such call options, will vary from time to time based on Quadravest's assessment of the markets.

11. OTC Covered Call Options will be written by the Company only in respect of securities held in the Managed Portfolio.

12. One of the restrictions on the Company's investment activities, as disclosed in the Preliminary Prospectus and will be disclosed in the Prospectus, prohibits the Company from selling securities held in the Managed Portfolio that are subject to an outstanding call option.

13. At no time will the Company write OTC Options for the purpose, or as a means, of raising new capital.

14. The purchasers of OTC Covered Call Options written by the Company will generally be the major Canadian financial institutions described in Appendix "A" attached to this ruling and exemption.

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

IT IS RULED, pursuant to subsection 74(l) of the Act, that the writing of OTC Covered Call Options by the Company, as contemplated by this ruling, is not subject to section 25 and 53 of the Act, provided that

(a) the portfolio adviser advising the Company with respect to such activities is registered as an adviser under the Act and meets the proficiency requirements in Ontario for advising with respect to options,

(b) the purchaser of an OTC Covered Call Option written by the Company is a person or company described in Appendix "A" to this ruling and exemption, and

(c) a receipt for the Prospectus of the Company is issued or has been issued by the Director under the Act;

AND PURSUANT to section 59 of Schedule 1, the Company is hereby exempted from the fees that would otherwise be payable pursuant to subsection 28(2) of Schedule 1, in connection with the OTC Covered Call Options written by the Company in reliance upon the above ruling.

June 19, 2001.

"Paul Moore" "K.D. Adams"

APPENDIX "A"

QUALIFIED PARTIES

Interpretation

(1) The terms "subsidiary" and "holding body corporate" used in paragraphs (w), (x) and (y) of subsection (3) of this Appendix have the same meaning as they have in the Business Corporations Act (Ontario).

(2) All requirements contained in this Appendix that are based on the amounts shown on the balance sheet of an entity apply to the consolidated balance sheet of the entity.

Qualified Parties Acting as Principal

(3) The following are qualified parties for all OTC derivatives transactions, if acting as principal:

Banks

(a) a bank listed in Schedule I, II or III to the *Bank Act* (Canada);

(b) the Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada);

(c) a bank subject to the regulatory regime of a country that is a member of the Basel Accord, or that has adopted the banking and supervisory rules set out in the Basel Accord, if the bank has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency;

Credit Unions and Caisses Populaires

(d) a credit union central, federation of caisses populaires, credit union or regional caisse populaire, located, in each case, in Canada;

Loan and Trust Companies

(e) a loan corporation or trust corporation registered under the *Loan and Trust Corporations Act* or under the *Trust and Loan Companies Act* (Canada), or under comparable legislation in any other province or territory of Canada;

(f) a loan company or trust company subject to the regulatory regime of a country that is a member of the Basel Accord, or that has adopted the banking and supervisory rules set out in the Basel Accord, if the loan company or trust company has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency;

Insurance Companies

(g) an insurance company licensed to do business in Canada or a province or territory of Canada;

(h) an insurance company subject to the regulatory regime of a country that is a member of the Basel Accord, or that has adopted the banking and supervisory rules set out in the Basel Accord, if the insurance company has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency;

Sophisticated Entities

(i) a person or company that, together with its affiliates, (i) has entered into one or more transactions involving OTC derivatives with counterparties that are not its affiliates, if (A) the transactions had a total gross dollar value of or equivalent to at least $1 billion in notional principal amount; and (B) any of the contracts relating to one of these transactions was outstanding on any day during the previous 15-month period, or (ii) had total gross marked-to-market positions of or equivalent to at least $100 million aggregated across counterparties, with counterparties that are not its affiliates in one or more transactions involving OTC derivatives on any day during the previous 15-month period;

Individuals

(j) an individual who, either alone or jointly with the individual's spouse, has a net worth of at least $5 million, or its equivalent in another currency, excluding the value of his or her principal residence;

Governments/Agencies

(k) Her Majesty in right of Canada or any province or territory of Canada and each crown corporation, instrumentality and agency of a Canadian federal, provincial or territorial government;

(l) a national government of a country that is a member of the Basel Accord, or that has adopted the banking and supervisory rules of the Basel Accord, and each instrumentality and agency of that government or corporation wholly-owned by that government;

Municipalities

(m) any Canadian municipality with a population in excess of 50,000 and any Canadian provincial or territorial capital city;

Corporations and other Entities

(n) a company, partnership, unincorporated association or organization or trust, other than

an entity referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (h), with total revenue or assets in excess of $25 million or its equivalent in another currency, as shown on its last financial statement, to be audited only if otherwise required;

Pension Plan or Fund

(o) a pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension commission, if the pension fund has total net assets, as shown on its last audited balance sheet, in excess of $25 million, provided that, in determining net assets, the liability of a fund for future pension payments shall not be included;

Mutual Funds and Investment Funds

(p) a mutual fund or non-redeemable investment fund if each investor in the fund is a qualified party;

(q) a mutual fund that distributes its securities in Ontario, if the portfolio manager of the fund is registered as an adviser, other than a securities adviser, under the Act or securities legislation elsewhere in Canada;

(r) a non-redeemable investment fund that distributes its securities in Ontario, if the portfolio manager of the fund is registered as an adviser, other than a securities adviser, under the Act or securities legislation elsewhere in Canada;

Brokers/Investment Dealers

(s) a person or company registered under the Act or securities legislation elsewhere in Canada as a broker or an investment dealer or both;

(t) a person or company registered under the Act as an international dealer if the person or company has total assets, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency;

Futures Commission Merchants

(u) a person or company registered under the *Commodity Futures Act* (Ontario) as a dealer in the category of futures commission merchant, or in an equivalent capacity elsewhere in Canada;

Charities

(v) a registered charity under the Income Tax Act (Canada) with assets not used directly in charitable activities or administration, as shown on its last audited balance sheet, of at least $5 million or its equivalent in another currency;

Affiliates

(w) a wholly-owned subsidiary of any of the organizations described in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j), (n), (o), (s), (t) or (u);

(x) a holding body corporate of which any of the organizations described in paragraph (w) is a wholly-owned subsidiary;

(y) a wholly-owned subsidiary of a holding body corporate described in paragraph (x);

(z) a firm, partnership, joint venture or other form of unincorporated association in which one or more of the organizations described in paragraph (w), (x) or (y) have a direct or indirect controlling interest; and Guaranteed Party

(aa) a party whose obligations in respect of the OTC derivatives transaction for which the determination is made is fully guaranteed by another qualified party.

Qualified Party Not Acting as Principal

(4) The following are qualified parties, in respect of all OTC derivative transactions:

Managed Accounts

1. Accounts of a person, company, pension fund or pooled fund trust that are fully managed by a portfolio manager or financial intermediary referred to in paragraphs (3)(a), (d), (e), (g), (s), (t), (u) or (w) above, or a broker or investment dealer acting as a trustee or agent for the person, company, pension fund or pooled fund trust under section 148 of the Regulation.

Subsequent Failure to Qualify

(5) A party is a qualified party for the purpose of any OTC derivatives transaction if it, he or she is a qualified party at the time it, he or she enters into the transaction.

2.3.2 ARAMARK Corporation & ARAMARK Canada Ltd. - ss. 74(1) & 144(1)

Headnote

Revocation and restatement -- order granting first trade relief for Class B common shares of U.S. issuer issued to employees and senior officers of affiliates who are Ontario residents upon exercise of instalment stock purchase opportunities extended to include employees and senior officers of related company and alternative forms of stock purchase -- order revised to reflect Class B common shares of U.S. issuer convertible into Class A common shares of issuer -- relief conditional upon first trades being made to certain eligible transferees in accordance with stockholders' agreement -- issuer is not a reporting issuer nor is there a public trading market for shares.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., ss.25, 53, 72(1)(f)(iii), 74(1), 144.

Rules Cited

Rule 45-503 Trades to Employees, Executives, and Consultants (1998) 22 OSCB 117.

Rule 72-501 Prospectus Exemption for First Trade Over a Market Outside of Ontario (1998) 21 OSCB 3873.

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

AND

IN THE MATTER OF
ARAMARK CORPORATION AND ARAMARK CANADA LTD. (formerly VERSA SERVICES LTD.)

REVOCATION AND RESTATEMENT
Subsections 74(1) and 144(1)

WHEREAS on June 20, 1995 the Ontario Securities Commission (the "Commission") made a ruling (the "Initial Ruling") pursuant to subsection 74(1) of the Act that the first trades and all subsequent trades thereof in shares of Class B Common Stock of ARAMARK Corporation (the "Issuer") to be issued by the Issuer and acquired by employees and senior officers (the "Versa Employees") of Versa Services Ltd. and its subsidiaries resident in Ontario pursuant to a certain instalment stock purchase opportunity plan of the Issuer not be subject to section 25 and 53 of the Act;

AND UPON the application of the Issuer to the Commission for an order pursuant to subsection 144(1) of the Act varying the Initial Ruling of the Commission in order to extend the relief granted in the Initial Ruling:

(i) to include the employees, directors and senior officers of the Issuer, its affiliates or subsidiaries (collectively, the "ARAMARK Employees") in addition to the Versa Employees;

(ii) to permit ARAMARK Employees and Versa Employees (collectively, the "Employees") to acquire, in addition to instalment stock purchase opportunities ("ISPOs"), shares of Class B Stock under the ARAMARK Ownership Program pursuant to ordinary stock purchase opportunities (which involve simple subscription opportunities for prescribed amounts) and/or cumulative instalment stock purchase opportunities (which are substantially similar to ISPOs except that unexercised opportunities accumulate, instead of lapse); and

(iii) to permit the first trade of Class A Common Stock of ARAMARK ("Class A Stock") acquired upon the exercise of the exchange right attached to shares of Class B Stock previously acquired by Employees under the Aramark Ownership Program;

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

AND UPON the Issuer having represented to the Commission that:

1. The Issuer is a holding corporation incorporated under the laws of the State of Delaware and, through its various subsidiaries, is engaged in the business of managing a variety of services including food, leisure, sport, uniform, health and education, and magazine distribution services.

2. ARAMARK Canada Ltd. (formerly know as Versa Services Ltd.) is a wholly-owned subsidiary of the Issuer and is a private company for purposes of the Act. Versa Services Ltd. changed its name to ARAMARK Canada Ltd. on October 1, 1998.

3. The Issuer is subject to the information requirements of the *Securities Exchange Act of 1934* of the United States of America (the "Exchange Act") and is currently in full compliance with the filing requirements of the Exchange Act.

4. The authorized capital of the Issuer includes 150,000,000 voting shares of Common Stock, Class B, par value $.01 per share ("Class B Stock"), 25,000,000 voting shares of Common Stock, Class A, par value $.01 ("Class A Stock") (Class A Stock and Class B Stock, collectively, "Common Stock") and 10,000,000 shares of Series Preferred Stock, par value $1.00 per share ("Series Preferred Stock"). Shares of Class B Stock are convertible, upon obtaining the approval of the Issuer's board of directors, into shares of Class A Stock on the basis of 10 shares of Class B Stock for each share of Class A Stock.

5. As at May 3, 2001, 60,576,313 shares of Class B Stock, 2,385,438 shares of Class A Stock and no shares of Series Preferred Stock were issued and outstanding. An additional 18,021,686 shares of Class B Stock were subject to options, stock purchase opportunities and deferred stock units that were granted and outstanding.

6. Under the Issuer's program for employee stock ownership (the "ARAMARK Ownership Program"), direct ownership in the Issuer has increased from 62 original management investors to over 3,000 management investors owning more than 70% of the equity of the Issuer. Only employees, officers and directors of the Issuer and their permitted transferees may hold Class B Stock. There is no restriction on who may hold Class A Stock.

7. The Issuer is not a reporting issuer under the securities legislation of any province of Canada, and there is no established public trading market for the Common Stock. However, there is an internal market for the Common Stock pursuant to which the Issuer purchases Common Stock from time to time in accordance with the ARAMARK Ownership Program.

8. All stockholders of the Issuer are party to a stockholders' agreement (the "Stockholders' Agreement") to which the Issuer is also a party. Among other things, the Stockholders' Agreement imposes restrictions on the transferability of Common Stock. No holder of Common Stock is permitted to transfer any shares of Common Stock unless the transfer is effected in accordance with the Stockholders' Agreement. Paragraph 3.01 of the Stockholders' Agreement allows the transfer of Common Stock:

   (a) if made for nominal consideration or as gifts to (i) any one or more of the spouse, child, grandchild, or parent of the holder of Common Stock, or to a trust of which there are and continue to be no principal beneficiaries other than one or more of such relatives, (ii) any charitable organization which qualifies as such under U.S. legislation, (iii) a legal representative in the event that the holder of Common Stock becomes mentally incompetent, and (iv) a nominee or custodian, provided that the transferring holder of Common Stock remains the beneficial holder thereof;

   (b) among members of a family, their trusts or other entities, if approved by the Issuer's board of directors; and

   (c) with respect to a corporate or partnership holder of Common Stock, between an Affiliate (as defined in the Stockholders' Agreement) and such corporate or partnership holder.

9. The Stockholders' Agreement provides that a Permitted Transferee is a person or entity who or which is a transferee of Common Stock pursuant to subparagraphs 3.01(A), 3.01(B) or 3.01(C) of the Stockholders' Agreement as outlined in the preceding paragraph.

10. It is contemplated that the holders of Common Stock resident in Ontario may desire to transfer their Common Stock to their registered retirement savings plans ("RRSPs") and/or to their personal holding corporations. In some cases, such transfers may be for nominal or valuable consideration. The Issuer's board of directors proposes to approve such transfers pursuant to subparagraph 3.01(B) of the Stockholders' Agreement.

11. Permitted Transferees must agree in writing to be bound by the Stockholders' Agreement and such written agreement must be delivered to and approved by the Issuer.

12. Pursuant to the ARAMARK Ownership Program, selected employees, officers and directors of the Issuer and its subsidiaries are given the option to acquire Class B Stock pursuant to stock purchase opportunities, ISPOs and cumulative instalment stock purchase opportunities ("Purchase Opportunities").

13. The ARAMARK Ownership Program is designed to provide an opportunity for selected employees, officers and directors of the Issuer and its subsidiaries to acquire an ownership interest in the Issuer and to thereby give them a more direct and continuing interest in the future success of the Issuer's business. The ARAMARK Ownership Program provides for the issuance of a specified number of shares of Class B Stock and provides that the purchase price for such shares subject to Purchase Opportunities will not be less than the fair market value of the shares (based upon the most recently available independent appraisal) at the time of the grant.

14. The Issuer has extended the ARAMARK Ownership Program to Employees who are resident in Ontario, none of whom are or will be induced to purchase Class B Stock by expectation of employment or continued employment.

15. Purchase Opportunities are granted by way of a certificate of grant as determined by the Issuer's board of directors. Upon receipt of a certificate of grant, a recipient may, on a voluntary basis, exercise the Purchase Opportunity for Class B Stock in accordance with its terms. The Purchase Opportunities to which a recipient is entitled are outlined on and authorized pursuant to the certificate of grant.

16. Unexercised Purchase Opportunities held by a recipient whose employment or service is terminated for any reason are cancelled. Pursuant to the terms of the Stockholders' Agreement, the Issuer may, at any time during the period of ten years following the termination of an Employee's employment, purchase the Common Stock held by the terminated Employee or his or her Permitted Transferees at a purchase price equal to the fair market value of the Common Stock, as determined by an independent appraiser as of a date not more than six months prior to the use of such price.

17. It is anticipated that, following the grants of Purchase Opportunities and the resulting issuance of Class B Stock to Employees, Ontario residents will, in the aggregate, hold less than 1% of the outstanding shares of Class B Stock and the number of Ontario residents holding Class B Stock will not be more than 5% of the total number of holders of Class B Stock.

18. It is anticipated that, following the exercise of exchange rights attached to the Class B Stock and the resulting issuance of Class A Stock to Employees, Ontario residents will, in the aggregate, hold less than 1% of the outstanding shares of Class A Stock and the number of Ontario resident holding shares of Class A Stock is not more than 5% of the total number of holders of Class A Stock.

19. The Issuer proposes to rely upon the registration and prospectus exemptions contained in Commission Rule 45-503 Trades to Employees, Executives and Consultants (the "Rule") in order to grant Purchase Opportunities to Employees.

20. The Issuer proposes to rely upon the registration and prospectus exemptions contained in the Rule, or alternatively upon the registration and prospectus exemptions contained in subsection 35(1)12iii and clause 72(1)(f)(iii) of the Act, respectively, in order to issue Class B Stock upon the exercise of Purchase Opportunities, and the Issuer proposes to rely upon the registration and prospectus exemptions contained in subsection 35(1)12iii and clause 72(1)(f)(iii), respectively, to issue Class A Stock upon the conversion of Class B Stock.

21. Commission Rule 72-501 Prospectus Exemption for First Trade Over a Market Outside of Ontario is not available to the Issuer with respect to the first trade in Class B Stock issued upon the exercise of Purchase Opportunities or the first trade in Class A Stock issued upon the conversion of Class B Stock because Class B Stock and Class A Stock are not listed and posted for trading on a stock exchange nor are they quoted on The Nasdaq Stock Market.

22. In the absence of the ruling hereby applied for, section 9.1 of the Rule would permanently restrict, in the absence of another available exemption contained in the Act, the transfer of Common Stock issued to persons resident in Ontario pursuant to the ARAMARK Ownership Program since the Issuer is not a reporting issuer.

23. The Issuer wishes to enable Employees to have the benefit of being awarded Purchase Opportunities, subject to the restrictions imposed by the Stockholders' Agreement, to the same degree as employees of the Issuer and its other subsidiaries resident outside Ontario.

24. All disclosure material relating to the Issuer furnished to holders of Purchase Opportunities and Common Stock resident in the United States will be furnished to holders of Purchase Opportunities and Common Stock resident in Ontario. In addition, a statement explaining the restrictions on the transfer of Common Stock, in particular, outlining the persons and entities constituting the group of Eligible Persons (as defined below) in Ontario, will be furnished to holders of Purchase Opportunities and Common Stock resident in Ontario.

25. The Issuer shall distribute to all persons receiving Purchase Opportunities and Class B Stock, including Employees, a prospectus (prepared pursuant to the *Securities Act of 1933* of the United States of America), containing extensive disclosure about the Issuer, and a copy of the Stockholders' Agreement.

26. Notwithstanding the provisions of the Stockholders' Agreement permitting the board of directors of the Issuer to approve a wider group of transferees, transfers of Common Stock to transferees resident in Ontario shall only be effected, with respect to first trades and all subsequent trades thereof, to:

    (a) the spouse of the Employee;

    (b) minor children of the Employee or the Employee's spouse;

    (c) corporations controlled by Employees and/or their spouses where the Employee is an officer and director of such corporation and where all of the shares of such corporation are owned at all times by any combination of the Employee, the spouse of the Employee, the children of the Employee, the children of the Employee's spouse and/or the respective offspring of the children of the Employee;

    (d) trusts where all the beneficiaries are any combination of the Employee, the spouse of the Employee, the children of the Employee, the children of the Employee's spouse and the offspring of the children of the Employee, and where at least one of the trustees is the Employee;

    (e) RRSPs of the Employee or the Eligible Person; or

    (f) a representative, custodian or nominee acting on behalf of the Employees, their RRSPs, their spouse, minor children or a combination thereof.

    (collectively, the "Eligible Persons").

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

IT IS RULED pursuant to subsection 74 (1) of the Act that a trade in Common Stock made (i) by an Employee to an Eligible Person and (ii) by an Eligible Person to such Employee shall not be subject to sections 25 or 53 of the Act, provided that:

A. such trade is made in accordance with the Stockholders' Agreement; and

B. any such trade or subsequent trade shall be a distribution unless it is a trade to an Eligible Person or such Employee in accordance with the Stockholders' Agreement;

AND IT IS ORDERED pursuant to subsection 144(1) of the Act that the Initial Ruling be revoked.

June 29, 2001.

"Paul Moore" "R. Stephen Paddon"

2.3.3 Fidelity Investments Canada Limited & Visteon Canada Inc. - ss. 74(1)

Headnote

Ruling

Exemptive Relief Application- Relief from registration requirement under section 25 of the Act, pursuant to subsection 74(1) of the Act, for trades of common shares made by a mutual fund dealer, in its capacity as a group plan administrator of an employee retirement savings program of a corporation, for, or on behalf of, employees, former employees, spouses of employees, spouses of former employees, employee RRSPs and employee spouse RRSPs of the corporation.

Decision

Relief from the "know-your-client" and "suitability" requirements in section 1.5 of OSC Rule 31-505, pursuant to section 4.1 of OSC Rule 31-505, that would otherwise arise as a result of the group plan administrator purchasing or selling common shares for, or on behalf of, the above-mentioned persons, subject to the above-mentioned persons receiving a corresponding acknowledgment or having been sent a corresponding notice and the group plan administrator not make any recommendation or give any investment advice regarding the purchase and sale of common shares of the corporation.

Statutes Cited

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

Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), as am.

Ontario Securities Commission Rules Cited

Rule 31-505 "Conditions of Registration" (1999) 22 O.S.C.B. 731, ss. 1.5 and 4.1.

Rule 45-503 "Trades to Employees, Executives and Consultants" (1998) 22 O.S.C.B. 117, s. 2.4.

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

AND

ONTARIO SECURITIES COMMISSION
RULE 31-505 CONDITIONS
OF REGISTRATION (the "Registration Rule")

AND

IN THE MATTER OF
FIDELITY INVESTMENTS CANADA LIMITED
AND VISTEON CANADA INC.

RULING AND DECISION
(Subsection 74(1) of the Act and section 4.1 of the Registration Rule)

UPON the application (the "Application") of Fidelity Investments Canada Limited ("Fidelity") to:

(i) the Ontario Securities Commission (the "Commission") for a ruling, pursuant to subsection 74(1) of the Act, that certain trades in shares ("Common Shares") of common stock of Visteon Corporation ("Visteon U.S."), to be made by Fidelity for, or on behalf of, persons that are Employees, Spouses of Employees, Former Employees, Spouses of Former Employees, Employee RRSPs, Employee Spouse RRSPs (as such terms are defined below), in its capacity as a group plan administrator of a retirement savings program (the "Program") of Visteon Canada Inc. ("Visteon Canada") (which includes an EPSP (as defined below), Employee RRSPs and Employee Spouse RRSPs), shall not be subject to section 25 of the Act; and

(ii) the Director of the Commission (the "Director") for a decision of the Director, pursuant to section 4.1 of the Registration Rule, exempting Fidelity from the requirements of section 1.5 of the Registration Rule to make enquiries of the foregoing persons that would otherwise arise as a result of Fidelity purchasing or selling Common Shares on behalf of or to such persons pursuant to the Program;

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

AND UPON Fidelity having represented to the Commission and the Director that:

1. Fidelity, a corporation continued under the laws of Ontario, is registered under the Act as a dealer in the category of "mutual fund dealer" and as an "adviser" in the categories of "investment counsel" and "portfolio manager";

2. Visteon Canada, a corporation incorporated under the laws of Canada, is not a reporting issuer under the Act;

3. Visteon Canada carries on business as a supplier of automotive systems, modules and components to vehicle manufacturers;

4. Visteon Canada is a subsidiary of Visteon U.S.;

5. Visteon U.S. carries on business as a supplier of automotive systems, modules and components to vehicle manufacturers;

6. Visteon U.S. is not a reporting issuer under the Act;

7. the Common Shares are registered with the Securities and Exchange Commission in the United States of America (the "USA") under the Securities Exchange Act

of 1934 and Visteon U.S. is subject to the reporting requirements thereunder;

8. the Common Shares are listed and posted for trading on the New York Stock Exchange (the "NYSE");

9. under the Program, Visteon Canada selects mutual funds in which persons (each, an "Employee") who are employees of Visteon Canada or designated affiliates of Visteon Canada, and who participate in the Program, may invest through payroll deductions or through lump sum investments;

10. investments made by Employees under the Program are made through the following plans:

    (i) an employees profit sharing plan (the "EPSP"), as defined in the *Income Tax Act* (Canada) (the "Tax Act"), that has been established for the benefit of persons who are Employees;

    (ii) registered retirement savings plans (each, an "Employee RRSP"), as defined in the Tax Act, that have been established by or for the benefit of persons who are Employees;

    (iii) registered retirement savings plans (each, an "Employee Spouse RRSP"), as defined in the Tax Act, that have been established by or for the benefit of persons who are legally married to or are the common law partners (as defined in the Tax Act) (collectively, "Spouses") of persons who are Employees;

11. under the Program, Spouses of Employees are also entitled to invest amounts in their Employee Spouse RRSPs in certain mutual funds offered through Fidelity;

12. under the Program, Visteon Canada proposes to permit Employees to invest in Common Shares through the EPSP, their Employee RRSPs and their Employee Spouse RRSPs, and, to permit Spouses of Employees to invest in Common Shares through their Employee Spouse RRSPs;

13. Visteon Canada also proposes to match a specified portion of an Employee's investments under the Program by purchasing Common Shares for the Employee through the EPSP;

14. under the Program, it is proposed that Fidelity carry out the following activities:

    (i) receive orders from Employees to purchase Common Shares (including Common Shares to be purchased with Visteon Canada matching contributions or upon the automatic reinvestment of dividends paid in respect of Common Shares) on behalf of Employees through the EPSP or for their Employee RRSPs or for their Employee Spouse RRSPs;

    (ii) receive orders from Spouses of Employees to purchase Common Shares (including Common shares to be purchased upon the automatic reinvestment of dividends paid in respect of Common Shares) for their Employee Spouse RRSPs;

    (iii) receive orders from Employees, and from persons ("Former Employees") that were, but have since ceased to be, Employees, to sell Common Shares held on their behalf in the EPSP or through their Employee RRSPs;

    (iv) receive orders from Spouses of Employees or Former Employees to sell Common Shares held through their Employee Spouse RRSPs;

    (v) "match" the orders to purchase Common Shares, referred to in subparagraphs (i) or (ii), against orders to sell Common Shares, referred to in subparagraphs (iii) or (iv), with the offsetting purchases and sales (a "Matching Transaction") effected by way of book entries in the corresponding accounts maintained by Fidelity under the Program and the funds received in respect of the purchase remitted by Fidelity to the vendor;

    (vi) transmit orders to purchase or sell Common Shares, referred to above, which are not effected in a Matching Transaction, either:

        (a) for execution through a registered dealer that is registered under the Act as a dealer in a category that permits it to act as a dealer for the subject trade; or

        (b) for execution through a person or company that is appropriately licensed to carry on the business of a broker/dealer under the applicable securities legislation in the jurisdiction where the trade is executed, where the trade is executed through the facilities of the NYSE or another stock exchange outside of Ontario;

    (vii) maintain books and records in respect of the foregoing, reflecting, among other things: all related payments, receipts, account entries and adjustments.

15. Records of Common Shares held under the Program on behalf of Employees, Spouses of Employees, Former Employees, Spouses of Former Employees, Employee RRSPs and Employee Spouse RRSPs (collectively, "Program Participants") will be maintained by Fidelity, and the Common Shares will be held by a custodian that is not affiliated with Fidelity or Visteon Canada.

16. When an Employee becomes a Former Employee, the Former Employee, the Employee RRSP of the Former Employee, the Spouse of the Former Employee, and the corresponding Employee Spouse RRSP will not be permitted to make further purchases of Common Shares under the Program, other than Common Shares to be purchased upon the automatic reinvestment of

dividends paid in respect of Common Shares, but the foregoing will be permitted to continue to hold through the Program Common Shares previously purchased on their behalf under the Program, to instruct Fidelity from time to time to sell Common Shares then held on their behalf under the Program, or to transfer such Common Shares to an account with another dealer.

17. To participate in the Program, Employees and Spouses of Employees must enrol through Fidelity by application, which may be completed: in writing; on the telephone, by way of a recorded call; or, through the Internet, by way of secure access to Fidelity's website.

18. Employees and Spouses of Employees enrolling in the Program after date of this Ruling will be required when completing the enrolment application to acknowledge that Fidelity will not be performing any "know-your-client" or "suitability" analysis with respect to any purchase or sale of Common Shares on their behalf, or on behalf of their spouse, under the Program: by signing the application form, where the application is completed in writing; orally, where the application is completed on the telephone; or, by making the appropriate selection on Fidelity's website, where the application is completed on the Internet.

19. Employees and Spouses of Employees that were enrolled in the Program on or before the date of this Ruling will be sent not less than 5 days before the effective date of this Ruling, written or electronic notice from Fidelity (or Visteon Canada on behalf of Fidelity) that Fidelity will not perform "know-your-client" or "suitability" analysis with respect to any purchase or sale of Common Shares on their behalf under the Program.

20. No Program Participant will be charged any trading commissions, fees, costs or other expenses in respect of their purchase or sale of any Common Shares under the Program.

21. Except for obligations in section 1.5 of the Registration Rule that are made inapplicable pursuant to the below Decision of the Director, Fidelity will comply with all other conditions or other requirements applicable to it as a registered mutual fund dealer that are contained in the Act or any regulations made thereunder, with respect to any purchase, sale or holding of Common Shares, by Fidelity on behalf of Program Participants under the Program, including requirements relating to, but not limited to: capital requirements; record keeping; account supervision; segregation of funds and securities; confirmations of trades; and statements of account.

22. For any trades that it makes with or to an Employee or an Employee RRSP under the Program, Fidelity intends to rely upon exemptions from section 25 of the Act contained in Commission Rule 45-503 Trades to Employees, Executives and Consultants (the "Employee Rule").

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

IT IS RULED, pursuant to subsection 74(1) of the Act, that, on or after May 4, 2001, the following trades shall not be subject to section 25 of the Act:

(a) trades that are described in:

(i) paragraph 14(i) or (ii),
(ii) paragraph 14(iii) or (iv), and
(iii) paragraph 14(v),

where the trade relates to the receipt of an order to purchase on behalf of an Employee Spouse RRSP, or, a sale on behalf of a Program Participant that is not a Employee or their Employee RRSP;

(b) trades that are described in:

(i) paragraph 14(i) or (ii),
(ii) paragraph 14(iii) or (iv), and
(iii) paragraph 14(vi)(a),

where the trade relates to the receipt of an order to purchase on behalf of an Employees Spouse RRSP, or, a sale on behalf of a Program Participant that is not a Employee or their Employee RRSP; and

(c) trades that are described in:

(i) paragraph 14(i) or (ii),
(ii) paragraph 14(iii) or (iv), and
(iii) paragraph 14(vi)(b),

where the trade relates to the receipt of an order to purchase on behalf of an Employees Spouse RRSP, or, a sale on behalf of a Program Participant that is not a Employee or their Employee RRSP, provided , however, that, where the trade relates to a sale on behalf of a Program Participant that is not a Employee or their Employee RRSP, the trade is also made in accordance with all of requirements of section 2.4 of the Employee Rule that would exempt the trade from section 25 of the Act but for the fact that the Program Participant is not an Employee;

AND, PROVIDED ALSO THAT, in the case of each trade referred to in the above paragraphs (a) to (c), Fidelity is, at the time of the trade, registered under the Act as a dealer in the category of "mutual fund dealer", and, the trade is made on behalf of Fidelity by a person that is registered under the Act to trade mutual funds on behalf of Fidelity as a salesperson or officer.

April 10, 2001

"Paul M. Moore" "Robert W. Davis"

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

IT IS THE DECISION of the Director, pursuant to section 4.1 of the Registration Rule, that, on or after May 4, 2001, Fidelity is hereby exempt from the requirements of

section 1.5 of the Registration Rule to make enquiries of any Program Participant that would arise as a result of Fidelity purchasing or selling Common Shares on behalf of the Program Participant pursuant to the Program as described above, provided that, in the circumstances of each such purchase or sale:

(i) the Program Participant, or, in the case of a Program Participant that is an Employee RRSP or an Employee Spouse RRSP, the corresponding Employee or Spouse, has given the corresponding acknowledgement or has been sent the corresponding notice, referred to in paragraphs 18 or 19, above; and

(ii) Fidelity does not make any recommendation or give any investment advice with respect to the purchase or sale.

April 10, 2001.

"William R. Gazzard"

2.3.4 Hesperian Capital Management Ltd. & Norrep 2001 Flow-Through Ltd. Partnership - ss. 74(1)

Headnote

Subsection 74(1)- Ruling pursuant to subsection 74(1) of the Act that the registration requirements of the Act do not apply to Hesperian, a registered adviser in Alberta, with respect to its provision of advice to Norrep 2001 Flow-Through Limited Partnership.

Statutes Cited

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

Securities Act, S.A. 1981, c. S-6.1.

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

AND

IN THE MATTER OF
HESPERIAN CAPITAL MANAGEMENT LTD.

AND

NORREP 2001 FLOW-THROUGH LIMITED PARTNERSHIP

RULING
(Subsection 74(1) of the Act)

UPON the application (the "Application") of Hesperian Capital Management Ltd. ("Hesperian") to the Ontario Securities Commission (the "Commission") for a ruling pursuant to subsection 74(1) of the Act exempting Hesperian from paragraph 25(1)(c) of the Act in connection with Hesperian acting as a portfolio adviser to Norrep 2001 Flow-Through Limited Partnership (the "Limited Partnership"), subject to certain terms and conditions;

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

AND UPON Hesperian having represented to the Commission that:

1. Hesperian is a corporation incorporated under the laws of Alberta. Hesperian is registered as an adviser under the *Securities Act* (Alberta).

2. Hesperian is the parent corporation of the general partner, Norrep Management 2000 Inc. (the "General Partner"), a corporation incorporated under the laws of Alberta.

3. The Limited Partnership is a limited partnership which was formed under the laws of Ontario to invest in

flow-through shares of resource issuers whose shares are listed on a Canadian stock exchange and, to a lesser extent, flow-through shares of private resource issuers, in each case, whose principal business is oil and gas exploration, development and production or mineral exploration, development and production.

4. Units of the Limited Partnership will be offered by way of prospectus in all provinces of Canada, including Ontario. The units of the Limited Partnership are not redeemable by the holders.

5. The Limited Partnership's principal place of business is Suite 1500, 510 – 5th Street Avenue S.W., Calgary, Alberta, T2P 3S2. The Limited Partnership's principal place of business in Ontario is 5300 Commerce Court West, 199 Bay Street, Toronto, Ontario, M5L 1B9. None of the mind or management of the General Partner or Hesperian are in Ontario.

6. Pursuant to an investment management agreement, Hesperian will provide investment, management, administrative and other services to the General Partner on behalf of the Limited Partnership. Hesperian will be appointed as the exclusive manager of all investments on behalf of the Limited Partnership and as such will have the exclusive authority to make all investment decisions with respect to proceeds available for investment.

7. The preliminary prospectus for the Limited Partnership was filed on SEDAR on June 22, 2001 as Project No. 00370090.

8. All advice provided by Hesperian to the Limited Partnership will be given and received outside of Ontario.

AND WHEREAS paragraph 25(1)(c) of the Act prohibits a company from acting as an adviser unless the person or company is registered as an adviser and the registration has been made in accordance with Ontario securities law;

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

IT IS RULED, pursuant to subsection 74(1) of the Act, that Hesperian and its representatives, partners and officers are not subject to the requirements of paragraph 25(1)(c) of the Act in connection with Hesperian acting as a portfolio adviser to the Limited Partnership provided that:

(a) Hesperian remains not ordinarily resident in Ontario;

(b) Hesperian is registered as an adviser under the *Securities Act* (Alberta);

(c) no activities in respect of the operation of the Limited Partnership occur in Ontario, except in respect of the distribution of units of the Limited Partnership; and

(d) Hesperian's advice to the Limited Partnership is given and received outside of Ontario.

June 29, 2001.

"Paul M. Moore"

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 Reasons

3.1.1 Richard Theberge

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

AND

IN THE MATTER OF
RICHARD THEBERGE

Hearing:	June 22, 2001		
Panel:	Paul M. Moore, Q.C.	-	Vice-Chair (Chair of the Panel)
	John A. Geller, Q.C.	-	Commissioner
	R. Stephen Paddon, Q.C.	-	Commissioner
Counsel:	Sarah Oseni Larry Masci	-	For the Staff of the Ontario Securities Commission
	Linda Feurst	-	For Richard Theberge

NOTICE OF THE ORAL DECISION OF
THE ONTARIO SECURITIES COMMISSION
IN THE MATTER OF RICHARD THEBERGE

EXCERPT FROM THE SETTLEMENT HEARING
CONTAINING THE ORAL REASONS FOR DECISION

The following statement has been prepared for purposes of publication in the *Ontario Securities Commission Bulletin* and is based on the transcript of the oral hearing, including oral reasons delivered at the hearing, in the matter of Richard Theberge.

While this statement has been approved by the members of the panel for the purpose of providing notice of the panel's decision in the matter, only the certified transcript should be relied on as a true record of the proceedings.

This is a hearing of the Ontario Securities Commission, pursuant to a Notice of Hearing under section 127 of the Act with respect to a statement of allegations by the Staff of the Ontario Securities Commission against Richard Theberge.

CHAIR: We've come to a decision and we'd like to explain it to you with oral reasons.

We have determined to approve the settlement as amended with the term being extended from 90 days to 120 days, with no carve out for trading on his own account or in his RRSP. The three of us will each give brief comments.

First of all, we were persuaded by counsel for the respondent that in the particular circumstances of this case, the cash contribution of $25,000 is a significant factor and it will have a significant impact on the respondent, although in other circumstances that amount might be insufficient to cause a person to pause. He has been unemployed since January, and last year made only $42,000. We note also counsel's statement that it is the respondent's own money that will be paid. It is not money from others, and it is not from his father.

Secondly, we are not comfortable with the 120 days. If this matter were a contested hearing

and not a settlement hearing we would have imposed a significantly longer period for a cease trade.

However, we believe that settlements should be encouraged. We note that the respondent was cooperative, and although we do not put great stock in the voluntary aspect of going to the Commission after the respondent found out there was an investigation going on, we do not dismiss it; and the fact that a settlement was negotiated and arrived at with cooperation, we do give weight to. That is beneficial to our securities regulatory system.

So when we looked at the 120 days, we wanted to be satisfied that in the circumstances of a settlement, this would be in the public interest; and we were satisfied that this will not be taken as a benchmark in other cases and that the particular facts of this case will make that clear.

We also note that although there was no hard evidence here, we were told that he does have a small portfolio. So this will make some difference and will prevent him from trading for a short period of time.

So although we are uncomfortable with the short length of the cease trade, in all the circumstances of this particular case we have concluded that it would be in the public interest to approve this settlement.

We also want to thank both counsel and particularly counsel for Staff, because although I questioned her quite hard and may have given the wrong impression about her written submission, the submission was quite helpful because it did lay out all of the relevant factors. If it appeared that I did not think her mitigating factors were mitigating factors, it is because I viewed this case very strongly. It really is a serious thing for people to deliberately take advantage of inside information in order to trade against the public. But her submission was quite helpful, and my questioning was not meant as any criticism at all of Staff. Also, we are mindful that we don't have insight into what goes on in settlement negotiations. This comes out through a hearing.

So having said all that, we are satisfied that this settlement agreement is in the public interest.

Commissioner Geller?

Commissioner Geller: I agree.

CHAIR: Commissioner Paddon?

Commissioner Paddon: I agree.

CHAIR: Thank you very much. If there's nothing further, this hearing is adjourned.

June 29, 2001.

"Paul M. Moore"

Chapter 4

Cease Trading Orders

4.1.1 Temporary, Extending & Rescinding Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Rescinding Order
Advantexcel.com Communications Corp.	26 Jun 01	06 Jul 01	-	04 Jul 01
Lef McLean Brothers International Inc.	28 Jun 01	10 Jul 01	-	-
Sonora Diamond Corp. Ltd.	29 Jun 01	11 Jul 01	-	-
Turbodyne Technologies Inc.	04 Jul 01	16 Jul 01	-	-

4.2.1 Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Rescinding Order
Dotcom 2000 Inc. Galaxy OnLine Inc. Melanesian Minerals Corporation St. Anthony Resources Inc.	29 May 01	11 Jun 01	12 Jun 01	-
Brazilian Resources, Inc. Landmark Global Financial Corporation Link Mineral Ventures Ltd. Nord Pacific Limited	30 May 01	12 Jun 01	13 Jun 01	28 Jun 01
Dominion International Investments Inc.	12 Jun 01	25 Jun 01	26 Jun 01	-
Zamora Gold Corp.	13 Jun 01	26 Jun 01	26 Jun 01	-
Consumers Packaging Inc.	20 Jun 01	03 Jul 01	-	-
Systech Retail Systems Inc.	27 Jun 01	10 Jul 01	-	-

4.3.1 Lapsed Cease Trading Orders

Company Name	Date of Lapse/Expire
Landmark Global Financial Corporation	28 June 01
Magra Computer Technologies Corp.	04 July 01

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Chapter 5

Rules and Policies

THERE IS NO MATERIAL FOR THIS CHAPTER

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Chapter 6

Request for Comments

6.1 Request for Comments

6.1.1 CSA Staff Notice 31-402 - Registration Forms Relating to the National Registration Database

Canadian Securities Administrators Staff Notice 31-402

Registration Forms Relating to the National Registration Database

On August 4, 2000, the Canadian Securities Administrators (the "CSA") published CSA Staff Notice 31-401 *Registration Forms Relating to the National Registration Database* requesting comments on three forms relating to the application for registration of dealer firms, adviser firms and individuals. The CSA received five comment letters in respect of the forms. Appendix A to this Notice lists the commentators, summarizes the comments received and provides the responses of CSA staff.

As a result of the comments received and as development of the National Registration Database ("NRD") continues, CSA staff continue to modify the proposed registration forms. To facilitate the development of the NRD, CSA staff are again requesting comments on proposed Form 31-102F3 *Application for Registration of a Dealer, Underwriter or Adviser* and proposed Form 31-102F4 *Application for Registration of an Individual*. Rules and instruments associated with the implementation of NRD will be published for comment at a later date. Form 31-102F3 and Form 31-102F4 will be republished for comment at that time.

Commentators should note that in the initial version of the NRD, only Form 31-102F4 will be electronically filed. Also, although the Commission des valeurs Mobilières du Québec (the "CVMQ") is not a participant in the NRD, the CVMQ will adopt Form 31-102F3 and Form 31-102F4 concurrent with their adoption by the other provincial and territorial securities regulatory authorities.

This Notice, Appendix A to this Notice, Form 31-102F3 and Form 31-102F4 are available at http://www.osc.gov.on.ca/en/Regulation/Rulemaking/Notices/notices.html.

Comments

Interested parties are invited to make written submissions with respect to the Forms. Submissions received by August 3, 2001 will be considered. In light of the deadlines imposed on the CSA for development of the system, this deadline will be strictly observed.

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

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

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

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

Claude St. Pierre, Secrétaire
Commission des valeurs mobilières du Québec
800 Victoria Square
Stock Exchange Tower
P.O. Box 246, 22nd Floor
Montréal, Québec H4Z 1G3
claude.stpierre@cvmq.com

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

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

Questions may be referred to any of:

Dirk de Lint
Legal Counsel
NRD Project Group
Ontario Securities Commission
(416) 593-8090
ddelint@osc.gov.on.ca

Melinda Ando
Legal Counsel
Alberta Securities Commission
(403) 297-7274
melinda.ando@seccom.ab.ca

Robert Hudson
Manager, Registration & Market Regulation
Capital Markets Regulation Division
British Columbia Securities Commission
(604) 899-6691 or (800) 373-6393 (in B.C.)
rhudson@bcsc.bc.ca

APPENDIX A

NRD SUMMARY OF COMMENTS ON FORMS

List of Commentators:

- Canadian Securities Institute
- Berkshire Group
- TD Bank
- Blake, Cassels, Graydon
- Fogler, Rubinoff, as counsel for Friedberg Mercantile Group

No.	Topic/Commentator	Comment	CSA Response
1	**Allowance for Draft Forms** [Blakes]	The web-based system for submitting registration forms needs to include a capacity to store draft forms. This permits registrants' professional advisors to review forms before final submission (the process that frequently takes place with paper-based applications).	The current design of the National Registration Database system (NRD) includes this functionality.
2	**Privacy Law** [Blakes]	Certain questions are phrased broadly, and risk violating human rights or privacy legislation.	Staff have reviewed the questions to correct this.
3	**Amendments and Material Changes**	• Reporting material changes to registration applications should be allowed through filing web-filed amended applications [TD Bank] • To complete the advisor, dealer or individual form in respect of an amendment, would the applicant only have to complete the sections relevant to the amendment? The current use of a shorter form with a description of the amendment is more efficient [Berkshire Group].	• The current design of NRD includes this functionality. • The current design of NRD provides for filing only information which has changed.
4	**Inserting NRD Numbers** [Berkshire Group]	Presumably the advisor, dealer and individual form will indicate that the principal jurisdiction will issue the various NRD numbers upon granting initial registration of the firm, branch or sub-branch office. Is the registrant responsible for inserting the NRD number where the form is used for an amendment.	NRD will generate a number for each individual registrant. This number must be included with any amendment to the individual's information. This process will be described in the NRD Filer Manual.
5	**Principal Jurisdiction** [TD Bank]	• One application should be filed via the web-process to all jurisdictions in which applicant seeks registration. • Approval from the principal jurisdiction should be sufficient for registration in all jurisdictions in which registration is sought.	• The current design of NRD includes this functionality. • The CSA will continue to pursue opportunities for mutual reliance but that will not involve the surrender of jurisdiction by a securities regulatory authority.

No.	Topic/Commentator	Comment	CSA Response
6	**Additional Forms** [TD Bank]	• Some forms, though not prescribed, are required in certain jurisdictions for new registrations, amendments and terminations of registration. These additional forms should be web-enabled. These forms include: - Securities Fraud Information Centre - Records Request and Reply (or equivalent); - Notification and Consent re: Collection of Personal Information Under the Freedom of Information and Protection of Privacy Act (Ontario only); - Acknowledgment and Agreement of Review of Registration for Investment Dealers Association Applicants (Ontario only); - Acknowledgment of Conditional Registration, subject to criminal record check, for Investment Dealers Association of Canada Applicants (Alberta only); - Submission to Jurisdiction and Appointment of Agent for Service documentation (Saskatchewan and Ontario); - Application for Amendment of Registration or Transfer of Registration; - Uniform Termination Notice	Staff are attempting to have these forms available on NRD in the first release of the system.
7	**Personal/Financial Institution** [TD Bank]	AB, NS, BC, Sask require personal and/or financial institution references. This requirement should be eliminated and replaced by sponsoring firm support for the application. This will encourage true standardization.	CSA staff are pursuing the elimination of this requirement.
8	**"Present Position in Firm"** [TD Bank]	To the phrase "present position in firm", add "subject to regulatory approval" for new applicants.	Staff are of the view that this change is not necessary.
9	**General Comments** [Berkshire Group]	For the sake of efficiency and clarity, requested information that is only infrequently relevant (e.g. criminal activities, civil, judicial and regulatory reporting) should be provided as a custom exhibit to a standard form, rather than be placed in the form proper.	Staff have made an effort to make the schedules to the forms dealing with these issues more concise.
10	**General Comments** [Fogler]	• The forms could be considerably more user friendly by using fields which can be easily accessed and other such features commonly available on commercial website questionnaires and applications. • It would be useful if, uniformly throughout the forms, the phrase "the applicant" would be used. Currently, there is sporadic use of references to "you" and other personal and third person words. This gives rise to confusion when, for example, the word "you" is used in requesting information for a corporate applicant. • We note that the forms contemplate that oaths could be sworn by commissions. It has been our experience that various provinces require notaries to sign. Have the CSA members all agreed to accept out of province commissioners?	• In converting the forms to the NRD, staff will seek to make the forms more user friendly. • Staff have attempted to correct such confusion by using language more consistently. • Staff are considering removing the requirement for applicants to swear an oath before a commissioner.

No.	Topic/Commentator	Comment	CSA Response
	General Comments [Fogler] continued...	• The definitions of capitalized terms currently contemplated in the proposed forms has not been provided. Given that these definitions may substantially change the scope and meaning of various items and therefore give rise to substantive comments, we would suggest that it would be extremely helpful to provide such definitions as soon as possible, even if generated, circulated and used as a "master definitions" schedule for all forms (which we suggest may be useful in any event). • Finally, as is always the case when undertaking a significant restructuring of complicated forms, the language used for the purposes of many of the questions, and the cross-references of various items throughout the firm, are either incorrect or could be better phrased.	• [General Instructions precede this draft which list the defined terms used in the forms.] • Staff have attempted to correct these deficiencies.
11	**Items 4 and 5** [Blakes]	A repeatable field must be created to allow for entry of multiple branch office locations.	The current design of NRD includes this functionality.
12	**Item 2(a)** [Blakes]	Mailing address should allow for P.O. Box	This change has been made.
13	**Item 7** [Blakes]	The distinction between "Other Regulator" and "Other" is unclear.	This should be corrected in the current draft.
14	**Item 8** [Blakes]	"Investment dealer" is listed twice, while "broker" is not listed	This should be corrected in the current draft.
15	**Item 13** [Blakes]	The required information should not be the jurisdiction of incorporation or formation, but rather the jurisdiction which law governs. This will solve the problem of businesses being continued outside of the original jurisdiction.	Some regulators have indicated that they need the jurisdiction of incorporation or formation.
16	**Item 17 (b) and (c)** **Item 19** [Fogler]	• It is suggested that for the purposes of completing Schedule "D", Part 3 in responding to Item 17(b) and (c) of the form, either Regulated Entities should be excluded or, in the alternative, particulars of multiple carrying brokers should be provided for. • Same comment re completing Schedule "B" for the purposes of responding to Item 19.	These parts do not appear in the current draft.
17	**Item 18** [Blakes]	Not clear why a distinction is drawn between controlling companies that are engaged in the securities or investment advisory businesses, and banks. There are no laws limiting banks owning dealers, as they are in the U.S. If the distinction is maintained Parts 1 and 2 of Section IV, Schedule D should be consistent.	These questions have been removed from the current draft.
18	**Items 20 - 22** [Fogler]	We request clarification that pardoned offences of individuals need not be disclosed: ie reiteration of the Item 43 Advisor Form comment: "There is inconsistency between this form and the individual's form in that the individual's form makes it clear that crimes for which a non-revoked pardon have been granted need not be disclosed. Should this not be the case for the purposes of "associates" of the applicant under Item 43"	Staff will consider this issue further.

No.	Topic/Commentator	Comment	CSA Response
19	**Item 20-22** [Blakes]	The criminal and offence disclosure requirements have many flaws, and need to be reviewed by legal counsel familiar with criminal procedure and human rights laws. For example: - Item 21(b) would require an applicant to disclose being charged with an offence, in spite of having been acquitted. - Requiring disclosure of offences or convictions that are not directly related to being a registrant under the *Securities Act* may violate the *Ontario Human Rights Code*. - In requiring "the circumstances leading to the charge", section II, Item 4 of Schedule C may violate the *Charter* right against self-incrimination. In addition, the disclosure requirement should relate only to criminal or securities-related convictions, not all charges.	• The redrafted question does not require an applicant to disclose a charge if they have been acquitted. • Staff are of the view that the questions asked do not violate the *Ontario Human Rights Code.* • The revised draft no longer asks for "circumstances leading to the charge".
20	**Item 23** [Blakes]	The wording is too vague for certain answers to be provided: - What sort of finding is implied in item 23(a)? - What sort of causation is implied in item 23(b)?	These questions have been removed from the current draft.
21	**Item 26** [Blakes]	The question should only require information on fraud-related civil proceedings where there have been convictions, or where there are ongoing proceedings. Fraud allegations, for instance in U.S. securities class action suits, are common.	Staff are of the view that this information should be provided.
22	**Item 30** [Fogler]	In Item 30, futures commission merchants and dealers making inter-dealer markets in over-the-counter forward contracts should be contemplated. In addition, the fifth item should be "dealer selling mutual fund securities" and the words "or limited partnerships" in the 10th and 11th items seem inappropriate. Finally, the category of dealers selling securities of only one issuer or associate issuers appears curious.	These questions have been removed from the current draft.
23	**Oath** [Blakes]	A solemn or statutory declaration should be permitted in lieu of an oath.	Staff agree. As noted above, staff are considering removing the requirement for applicants to swear an oath before a commissioner.
24	**Schedule A** [Fogler]	For the purposes of Schedule "A" and, in particular, Item 2 of such schedule, shouldn't a 5% indirect ownership threshold be applicable?	In the current draft the ownership threshold is 10%.
25	**Schedules A and B** [Blakes]	• There are no longer any restrictions on foreign ownership of Canadian dealers, so why is this disclosure required? • No distinction is drawn between Canadian or foreign individuals; the approach should be consistent between individuals and corporations.	• This disclosure is not required in the current draft. • There is no distinction between Canadian and foreign firms in the current draft.
26	**Schedule B** [Fogler]	For the purposes of Schedule "B", the words "and officers" in the lead-in did not appear to apply. In addition, we would suggest that the indirect greater than 5% ownership threshold should apply for the purposes of Item 1.	This section has been amended in the current draft. In the current draft the ownership threshold is 10%.
27	**Schedule D** [Blakes]	Section IV has 3 repeated sections. If this if for multiple entries, a repeatable field should be used (as with multiple locations of branches).	Where repeated sections appear on the forms a repeatable field will be used on the NRD screens.
28	**Schedule E**	Section II, Item 3: Should include Bureau des services financiers ("BSF")	On the current draft no regulators are listed.

No.	Topic/Commentator	Comment	CSA Response
29	**Differences with Dealer Form** [Blakes]	Compared with the dealer form, the advisor form asks radically different questions about the advisor's business. For example, why are advisors being asked how many employees or clients they have, while dealers are not? It may be that many of these questions relate to requirements under the United States *Investment Companies Act*, and they should be reviewed more rigorously to determine if they are even necessary for Canadian regulatory purposes.	Advisers and dealers will both use the same form under the current draft. Staff have removed questions that do not go to an applicant's suitability.
30	**Timing Issues** [Blakes]	• Virtually all of the business-related questions for advisors have a timing problem. These questions seem to proceed on the assumption that the advisor is already in business. Since it is not possible to advise legally without registration, most of these questions are premature. • Advisor applications are more often filed by new entities, that may intend to offer various services. For example, at the time of initial application, the correct answer in items 16 and 17 should always be "zero", at least until after registration. Similarly, Item 18 would only be a business plan, rather than a sworn fact. • If the first CSA regulator would be prepared to register a new advisor without it having any clients yet, it seems illogical that a subsequent CSA regulator needs to know how many clients the advisor now has before it will consider another registration. • If the questions are truly "to prepare for field examinations" applicable to advisors and not to dealers, we suggest that Items 15 through 23 be removed from the application form and used for some form of later questionnaire.	Staff agree with these comments and have removed questions that do not go to an applicant's suitability.
31	**Use of US Nomenclature** [Blakes]	Much of the nomenclature is applicable in the United States and not Canada.	Staff have removed nomenclature applicable in the U.S. but not Canada.
32	**Corporate Advisors** [Fogler]	• For the registration of a corporate advisor, the form does not request information as to the names of individuals acting as advisors and their registration categories. • Categories for both corporate and individual registrants should include both registrations under securities legislation and registration under commodities legislation.	[The current firm form requests the names of individual applicants.] The current forms clarify that they may be used for registration under securities and commodities legislation.
33	**Item 1** [Berkshire Group]	• While the CSA is contemplating applications from sole proprietors, we understood that only corporations, partnerships and other separate legal entities (*sic*) would be considered for registration as advisor firms (D).	Some jurisdictions currently permit sole proprietorships to register as adviser firms.
34	**Item 2** [Berkshire Group]	The area code of the fax number should be required throughout the form.	This change has been made.
35	**Item 3** [Berkshire Group]	Does the authorized firm representative have to be a registrant?	Staffs' current view is that the AFR does not have to be a registrant.

No.	Topic/Commentator	Comment	CSA Response
36	Item 4 [Berkshire Group]	• Should item (a) include a requirement that the branch manager be registered and remind the applicant to submit an application for this individual? (D) • Advisor firms do not typically seek registration of sub-branches; wouldn't this be more appropriate for the dealer application form? • An e-mail and website address for the branch should be requested (D)	• Any obligation to register a branch manager will be contained in the legislation of the local jurisdiction (*e.g.*, OSC Rule 31-505, section 1.4); staff are of the view the these requirements should not be repeated in the forms. • The dealer and adviser form have been combined. • The amended forms have incorporated this suggestion.
37	Item 6 [Berkshire Group]	Because Canadian exchanges no longer carry out registration or member regulation functions, it is more appropriate to ask the applicant if it is a member of these exchanges (D) (I)	• The amended forms made this change.
38	Item 7 [Berkshire Group]	Consider adding the NASD, NFA, CFTC and US exchanges such as NYSE, NASDAQ and AMEX to the list of potential SROs that the applicant could belong to (D) (I, re: major US exchanges)	The amended forms incorporate this suggestion.
39	Item 7 [Fogler]	Registrations with NASD and the NFA should also be contemplated.	NRD will only permit registration with Canadian regulators.
40	Item 8 [Berkshire Group]	• Registration categories available only in certain provinces (e.g. International Dealer, Financial Advisor) should be specified (D) • Under "Registering", should 'Securities Advisors' and 'Financial Advisors' be specified in the singular?	• The amended form incorporates this suggestion. • Each category will appear on the forms as it does in the legislation.
41	Item 8 [Fogler]	In Item 8 under the "currently registered" heading, there is no contemplation of the possibility that the applicant could hold a current registration as an advisor and be applying for registration in an additional or other category.	Application for registration in another category will not be done using the application forms, but will be done through another form of submission.
42	Item 9 [Berkshire Group]	Is this information regarding auditor necessary? In any case auditors will not be able to provide any information to regulatory authorities without consent from the client (D)	The commentator is referred to section 145 of the Regulations to the Ontario *Securities Act*.
43	Item 10 [Berkshire Group]	Is this information necessary? The requirement to deliver audited financial statements as part of the registration application would indicate the appointment of the auditors (D)	This question has been deleted from the amended form.
44	Item 13 [Berkshire Group]	Should "Country" also be included in the choices? (D)	The amended form incorporates this suggestion.
45	Item 15 [Fogler]	The word "clerical" in Item 15 should be replaced with a more specific word or phrase (ie is it intended to exclude all non-advising personnel?)	This question has been removed from the amended form.
46	Item 17 [Fogler]	We have assumed for the purposes of Item 17 that a mutual fund or other collective investment scheme carried out through a single legal entity would be considered one client. If this is not the intention, the form should make this clear.	This question has been removed from the amended form.
47	Item 18 [Fogler]	The lead into Item 18 should provide "indicate the types of clients ...". In addition, the example of hedge funds as an "other pooled investment vehicle" did not appear to us to be factually appropriate. Ordinarily, hedge funds would be structured so as to fall within the "investment companies" item.	This question has been removed from the amended form.

No.	Topic/Commentator	Comment	CSA Response
48	**Item 15-23** [Berkshire Group]	• Certain information which the CSA is requesting in the proposed forms pertain to general business activities (e.g. hours of the business, number of employees an clients, assets under management) which are not relevant to suitability for registration (which is the goal of the registration process, see s.26(1) *Securities Act,* Ontario). • Though we do not object to providing this information to assist the CSA or a recognized SRO in preparing for a compliance audit, the inclusion of this information on a form that is sworn by affidavit causes concern. For example, an unintentional error in the requested information might provide a basis for assessment of the registrant's continued suitability for registration. • If these questions are maintained by the CSA, certain phrases should be defined so that applicants have greater certainty that they are providing correct answers. Such phrases include: - investment advisory functions, item 16(a) - solicit advisory clients, item 16(b) - provide advisory services, item 17 - high net worth individuals, item 18 - continuous and regular supervisory or management services, item 20 - financial planning services, item 22	CSA staff agree with this comment and have removed these questions from the amended form.
49	**Item 24** [Berkshire Group]	Remove the redundant phrase "as required under securities laws".	This phrase has been removed.
50	**Item 24** [Fogler]	The words "as required under securities laws" are inappropriate given that registrations are often granted by various provinces for a company which carries on business only from a single head office, such that all of their books and records are in a single location. Accordingly, it is a question of fact rather than securities legislation as to whether books and records are maintained other than at the head office location.	This phrase has been removed.
51	**Item 25** [Berkshire Group]	Add the term "None" to the list of choices that the applicant can select in this question.	This phrase has been removed.
52	**Item 19** [Fogler]	The word "party" in Item 29 should be "partner"	This question has been removed.
53	**Items 28 and 29** [Berkshire Group]	• Consider amending the second definition of a related party to read: "all persons or entities that control, directly or indirectly, a majority of the voting shares or other interest in the applicant." • Add the phrase "Other (specify)" to the list of choices that the applicant can indicate as a related party in this question	• The questions regarding ownership have been clarified to correct this issue. • An "Other" category has been added to the possible types of business structures.
54	**Items 30-35** [Berkshire Group]	• The references to the terms "you" and "yourself" in these questions are inappropriate where the applicant is a corporation or some other non-individual entity. Consider amending the question to correct this inconsistency (D) • Why is the information on Items 30 through 35 requested for advisor applicants but not for dealer applicants?	• The term "firm" has been used to apply to the applicant. • These questions have been removed from the amended form.
55	**Item 30(a)** [Blakes]	Presumably answering "yes" to Item 30(a) would show a breach of Section 115(6) of the Regulations under the *Securities Act* (Ontario), which prohibits the purchase or sale of a security in which an investment counsel has an interest to or from any portfolio managed by the investment counsel.	This question has been removed from the amended form.

No.	Topic/Commentator	Comment	CSA Response
56	**Item 32** [Blakes]	The reason for asking about brokers discretion in Section 32 is unclear. This might also be added to the questionnaire referred to in item 18.	This question has been removed from the amended form.
57	**Item 34** [Fogler]	The wording of Item 34 is extremely broad, such that a simple yes or no answer would be of questionable utility. We would suggest that a preferable approach would be similar to that taken for the purposes of National Instrument 81-101 with respect to the allocation of brokerage business (ie requesting the advisor to describe the basis for allocating brokerage business if other than based solely on price and execution).	This question has been removed from the amended form.
58	**Items 36-38** [Berkshire Group]	• The same comments in respect of Items 30-35 also applies to these items. • In Item 38, should the reference to Item 36(a) instead read Item 37(a)?	Items 30-38 have been removed from the amended form.
59	**Item 39** [Berkshire Group]	• Consider changing the last word of this item to read "applicant" rather than "firm" (D) • Should items 39 and 40 appear together with Items 28 to 35 regarding related parties?	• The applicant firm will be referred to as the "firm" throughout the form. • These sections have been amended to present such questions together.
60	**Item 40** [Berkshire Group]	What is meant by the phrase "directly or indirectly control your management or policies"? Who would fall into this classification that was not already identified as a shareholder, officer or director of the adviser firm? (D)	This question has been removed from the amended form.
61	**Item 41-43** [Berkshire Group]	• Rather than repeating the phrase 'If "yes" complete Schedule "C" after each question, consider grouping all these questions together and inserting the phrase once at the end of the questions (D) (I) • Item 43 is a subset of Item 42 as both questions ask the same thing - whether the applicant has ever been convicted of, pleaded guilty or "no contest" to offences under the law. Consider removing one of these two questions or combining them to eliminate the redundancy (D) • Item 43(b) includes a reference to 16(a). Is this to Item 16(a)? If so, we are not clear of the purpose of the reference. Should this reference instead be to Item 43(a)?	• Staff considered the comment and have revised the format of the questions. • The questions have been revised. • The reference to 16(a) has been removed.
62	**Item 43** [Fogler]	There is inconsistency between this form and the individual's form, in that the individual's form makes it clear that crimes for which a non-revoked pardon have been granted need not be disclosed. Should this not be the case for the purposes of "associates" of the applicant under Item 43?	The forms have been revised for consistency.

No.	Topic/Commentator	Comment	CSA Response
63	**Items 44-46** [Berkshire Group]	• Should Item 44(a) also include a reference to U.S. federal or state securities laws? (D) • Should Item 44(b) include a complete reference to Canadian and U.S. securities laws, identical to the revised reference in Item 44(a)? (D) • Item 45 (c) includes a reference to Item #9. This refers to the applicant's auditors and we are not clear of the purpose of the reference (D, re: Item #18) • Why does Item 45(d) include a specific reference to securities legislation of British Columbia? Should the question not refer to legislation of all provinces and territories generally? • Should the term "Securities Act" or "Securities Acts" in Item 45(e) be italicized? (D) • Consider amending Item 46(a) to remove the reference to 'Investment Bankers' and instead indicate, "the Investment Dealers Association of Canada (IDA), Mutual Fund Dealers Association of Canada (MFDA) or similar self-regulatory organization ..." and apply the same language to Items 46(b) and (c) (D)	• The question has been redrafted to address this comment. • The question has been redrafted to address this comment. • The question has been redrafted. • The question has been redrafted. • The question has been redrafted. • The question has been redrafted to indicate the IDA and MFDA.
64	**Item 47** [Berkshire Group]	Instead of Item 50, should this section also include a question about whether a judgement or garnishment has ever been rendered against the applicant or is currently outstanding against the applicant for damages or relief in respect of fraud or for any other reason? (D, re: Items 26 and 29)	The question has been redrafted to capture this information.
65	**Affidavit** [Berkshire Group]	Consider updating the affidavit to indicate that it should be signed in front of a Commissioner for Oaths who is licensed in the Province in which the deponent is signing the application or before a Notary Public (D)(I)	CSA staff are considering this recommendation.
66	**Schedule A** [Berkshire Group]	• Amend Item 1(a) to instead read "and any other individuals holding officer positions." (D) • Consider adding definitions for indirect and beneficial owners or include a reference to Item 1 of Schedule "B" for the individuals and entities that would be considered indirect owners (I)	• Officer information is collected in Item 8 of the amended form and the instruction has been simplified. • New wording on Schedule C of the amended form is intended to clarify what information is required.
67	**Schedule B** [Berkshire Group]	Consider changing the title to "Indirect and Beneficial Owners" (D)	• Given the deletion of the reference to beneficial owners, the schedule has been titled "Indirect Ownership Information".
68	**Schedule B** [Fogler]	It is suggested that it would be easier if a separate Schedule "B" could be completed for each direct and indirect corporate owner.	This schedule has been redrafted partly to make it easier to complete.

No.	Topic/Commentator	Comment	CSA Response
69	**Schedule C** [Berkshire Group]	(The following comments apply to the Individual's Form as well) • Add a note to the beginning of the schedule suggesting that respondents seek legal counsel in responding to the required questions (D) (I) • Items 2(b) and (c) refer to 'felony' and 'misdemeanor' that are terms that relate primarily to U.S. law. Consider adding the terms 'summarily' or 'by indictment' as these are more applicable to Canadian criminal matters (D) (I) • Correct the spelling error in Item 2(b) - 'please' should be 'pleas'? (D) (I) • Item 2(b) asks whether the event was a felony (or related term under Canadian law). Why is this requested again in Item 2(c)? (D) (I) • Would respondents also provide updates to previously filed information relating to criminal matters on this schedule? If so, consider adding a mention of this as is done at the top of Schedule "D" (D) (I)	• The general instructions contain such a statement. • These questions have been redrafted. • This question has been deleted. • This question has been deleted. • There will be different submissions for updates.
70	**Schedule D** [Berkshire Group]	• Consider adding a title to this schedule, such as "Various Disclosure Matters" (D) • Why does this schedule include a question regarding whether this is an initial or amended filing when the other schedules do not? (D) • Would the information on affiliated advisers be more appropriately included on Schedule B? • In Section VII, rather than or in addition to asking about the percentages of clients invested in a limited partnership or the cost per unit sold, would it not be appropriate to ask for details of how the relationship between the adviser firm and the related dealer that sold the units was disclosed to the clients? • Correct the spelling error in Section VIII - 'note' should be 'not'? • See our comment regarding Question 40 relating to persons that 'directly or indirectly control your management or policies'. • Consider adding further instructions to Section IX indicating that a response is only required in this section when the applicant's primary business is a business not otherwise listed in Question 25. (D)	• Every schedule has been given a title. • This question has been deleted. • A specific schedule for affiliate information has been created. • This question has been deleted. Information about limited partnerships is required under Schedule B. • This question has been deleted. • This question has been removed from the amended form. • This type of question has been added.
71	**Schedule E** [Berkshire Group]	• Items 45(a), (b) and 46(a) all request information on an applicant's registration/SRO membership history. There may not be a 'regulatory actions' arising from this information. Accordingly, applicants should be instructed that Items 1 and 2 of Section II of the schedule do not apply to these responses. (D re Items 24(a), (b), 25(a)) • What constitutes a 'reprimand' referred to in Item 2 of Section II. Is this a specific document type issued by securities enforcement departments or would this include any discussions between an applicant and regulatory staff regarding an inquiry or investigation that resulted in no other formal action being taken? (D) (I) • Should questions 2 and 7 of Section II be linked as the matters are related? Or should question 2 be identified as only applying to matters that are resolved? (D) (I)	• These questions have been extensively redrafted. • Various Securities legislation provide that the Commission may by order reprimand a registrant. See Section 56(1)(b) of the *Securities Act* (Alberta). • The regulatory disclosure section has been extensively redrafted.

No.	Topic/Commentator	Comment	CSA Response
72	**Schedule E** [Fogler]	In completing Schedule "E" in response to Items 45 and 46, such schedules import the presumption that any previous registration no longer held by the applicant has been terminated by regulatory sanction. Accordingly, we would suggest that the schedule be revised so as to first require the applicant to list all prior registrations held followed by the dates on which such registrations cease to be held, and further followed by an indication of whether the registration was voluntarily surrendered for reasons unrelated to regulatory sanctions (in which case the balance of the schedule need not be completed) or otherwise (in which case the remainder of the schedule must be completed).	The new regulatory disclosure schedule has been redrafted to address this concern. See Schedule H.
73	Citizenship Information [Berkshire Group]	We assume that if the applicant is a Canadian citizen that passport information will not be required. Please indicate this in this section.	Staff agree with this comment and have made the relevant changes to the question.
74	**Item 4** [Berkshire Group]	We are not clear of the purpose of residential information going back ten years. How is this information used in determining an applicant's suitability for registration?	Staff are of the view that this information should be provided.
75	**Item 7** [Berkshire Group]	• Should Item 7 read "from which I work or will be working"? • Why is this information requested when similar information is requested in Item 15?	The employment questions have been extensively redrafted.
76	**Item 9** [?]	Present position prior to approval, or position for which they are applying?	The employment section has been extensively redrafted.
77	**Item 10** [Blakes]	"Spouse" is no longer a term generally recognized under securities legislation, and requiring such information should be reviewed against the applicable human rights requirements, as it could represent discrimination based upon marital status.	Questions requesting this information have been deleted.
78	**Item 10** [?]	• 1-U-2000 requires only nature of employment not name of spouses employer and position held - not name of spouse's employer. Does not seem relevant unless securities related. • Should common law spouse be declared? If so, should there be reference to it?	Questions requesting this information have been deleted.
79	**Item 10** [Fogler]	The information requested in Item 10 is broader than that required in completing the current form. Given, in particular, that the form will be available to the public, requesting particulars of the spouse's employer and his or her position held, absent the type of employment (for example, employed by another registrant) giving rise to regulatory concerns, appears inappropriate. Accordingly, it is suggested that the form be limit self to requesting the information required under the current form.	Questions requesting this information have been deleted.
80	**Item 10** [Berkshire Group]	We are not clear of the purpose of the information regarding the spouse's employer or position held, unless the same registrant or another registrant employs the spouse.	Questions requesting this information have been deleted.
81	**Item 11** [Blakes]	Consideration should be given to eliminating the requirement to check every single box yes or no. This is over 90 check boxes on a single page. Is it absolutely necessary, for example, to check Exempt? "No" for each course?	This section has been revised to address this issue.

No.	Topic/Commentator	Comment	CSA Response
82	Item 11 [CSI]	• The following courses are listed in s.11 of the Registration Form: - Individuals, and certain changes are recommended: - Canadian Options Course is no longer a CSI Course. - Options Supervisory Course is a CSI Course - Partners, Directors and Senior Officers Qualifying Exam is a CSI licensing Course. - Portfolio Management Techniques Course is a CSI licensing course - Technical Analysis Course is a CSI course, but not a licensing course. - Wealth Management Techniques Course is not a licensing course • Non-licensing courses should be included on the Registration Form for Individuals, to acknowledge specialized knowledge beyond basic minimum levels. • Several CSI courses are forthcoming, and will be ready when the forms come into force. They should be included in the course list: 1. *Sales Compliance Course*: This course is presently being developed for SRO staff, and the later version for compliance personnel in the industry will be ready in January 2001. It was specifically designed to augment the training given to compliance staff who fall below the level of designated compliance officers, since the latter are already required to take the Partners, Directors and Senior Officers Qualifying Exam. Topics include: the rationale and process of a compliance review; key issues affecting compliance officers, the operations of a securities dealer; and the structure, products and participants in the Canadian capital markets. 2. *Agricultural Markets - Risk Management Course:* This will be an advanced course in derivatives specializing in risk management for agricultural markets. The Derivatives Fundamentals Course ("DFC") will be the prerequisite course. It will be available in October, 2000. 3. *Energy & Metal Markets Risk Management Course*: This course is under development. It will be an advanced course in derivatives specializing in risk management for energy and mining markets. DFC is the prerequisite. It will be available in the summer of 2001. 4. *Financial Markets Risk Management Course*: This advanced course in derivatives will specialize in risk management in financial markets. DFC is the prerequisite, and it will be ready in spring 2001. 5. *Derivatives Operational Management Course*: This advanced course in derivatives teaches the role of front, middle and back office staff in the management of derivatives. DFC is the prerequisite and it will be ready in the fall of 2001. 6. *Advanced Option Strategies Course*: This is also an advanced course in derivatives that explains complex options strategies, pricing, and the creation of synthetic instruments. DFC is the prerequisite and it will be ready in the spring of 2001.	Many of these courses have not been finalized. In addition, courses offered by the CSI continue to change, which would result in further changes to NRD. It is staffs' view that NRD list only the required courses.

No.	Topic/Commentator	Comment	CSA Response
83	**Item 14** [Blakes]	Is Item 14 necessary? This is not a disciplinary matter. In addition, the reason for granting the exemption may only be known to the regulator.	It is staffs' view that the applicant has some idea of why the exemption was not granted.
84	**Item 17** [Fogler]	The list of specific self-regulatory organizations in Item 17 should include the NFA.	The form has been redrafted allowing for this information to be provided.
85	**Item 18** [Fogler]	The types of registrations listed in Item 18 should include separately securities salespersons and commodities salespersons.	Staff will consider this.
86	**Item 20** [Berkshire Group]	If an applicant responds "yes" to this question as a result of a current registration, the applicant will be providing information already requested in Item 16. Consider revising the form to remove this duplication.	These sections have been redrafted to address this concern.
87	**Items 24 and 25** [Berkshire Group]	The references to items #15 and #16 appear to be incorrect. Should the references be to items #23 and #24 respectively?	These questions have been redrafted.
88	**Item 37** [Blakes]	Item 37 requires disclosure of any judgement ever entered in a civil court "for any reason whatsoever". This is an unusual question since it says "in respect of a fraud or for any reason whatsoever". The distinction between a fraud and a small claims court dispute is potentially wide. By contrast, Item 32(a) refers to civil claims made which are based upon fraud, theft, deceit, misrepresentation or similar conduct. We suggest that Item 37 should be similarly limited.	Staff are of the view that this information should be provided.
89	**Item 40** [?]	Indicates that all P/D/Os must complete Schedule A in regard to shareholders. The majority of P/D/Os do not hold shares (or enough shares to be significant) to require the completion of this form. This question should be changed to reflect that only applicants who hold a significant amount of shares (i.e. over 10%) must complete this schedule.	Staff are of the view that this information should be provided.
90	**Items 41-43** **Schedule C** [Blakes]	• The criminal disclosure sections suffer from many of the same defects referred to in the dealer form. In particular, the instructions require offences to be reported even though an absolute or conditional discharge has been granted , and offences are only not disclosable if a pardon has been granted. However, this does not reflect recent changes in the law affecting criminal records and pardons. • Under Section 6.1 of the *Criminal Records Act* (Canada) introduced in 1992, absolute discharges are automatically purged after one year, while conditional discharges are purged automatically after three years. In these circumstances, no pardon is actually "granted". The applicant is thus placed in the position of being required to disclose a discharge after it has been purged simply because a "pardon" has not been granted. • A purge should be treated as an automatic pardon. As a result, the instructions should say that applicants are not required to disclose any offence for which a pardon has been granted and not revoked, or any offence for which the applicant was granted an absolute discharge more than one year ago or a conditional discharge more than three years ago.	Staff are considering these comments.
91	**Schedule B** [Berkshire Group]	The question numbers in Section II are incorrect.	This schedule has been extensively redrafted.

No.	Topic/Commentator	Comment	CSA Response
92	**Schedule B** [TD Bank]	Schedule B, Reporting of Prior Registration or Licensing should include the Alberta Stock Exchange, Vancouver Stock Exchange and the Winnipeg Stock Exchange.	The regulatory disclosure section has been redrafted to address this.
93	**Proficiency Requirements** [TD Bank]	• Certain course of study should be added to proficiency requirements: - Branch Compliance Officer (Institute of Canadian Bankers) - CDNX Traders Examination - 90 Day Training Program (Investment Dealers Association, also proposed for the Mutual Fund Dealers Association); - Continuing Education (Investment Dealers Association, also proposed for the MFDA); • Also, the draft application requests the applicant's student number; this should be amended, "if available", which often it is not	The current form does not contain a list of proficiency requirements. The applicant will have to provide this information in the appropriate section.
94	**SROs** [TD Bank]	Include the Winnipeg Stock Exchange in the list of SROs.	The form no longer has a list of SROs. The applicant is given the space to provide that information.
95	**Registrant Categories** [TD Bank]	• For "Director" category, add "Industry/Non-Industry" • Delete ACE Trader, ACE Trader/RR, Assistant ACE Trader, VCT Trader	Staff are considering this comment.

FORM 31-102F4 REGISTRATION OF INDIVIDUALS

GENERAL INSTRUCTIONS

1. This form is to be used by every individual seeking registration or approval from a securities regulatory authority or a self-regulatory organization.

2. This form is also to be used by any sole proprietor submitting an application for registration as a dealer, broker, adviser or underwriter to a securities regulatory authority.

3. All applicable questions must be answered. Failure to do so may cause delays in the processing of the application form.

4. This form and all attachments added thereto must be typewritten. Any form or attachment completed by other means may be considered not properly filed.

5. All attachments pertaining to any question must be made exhibits to the form and each one must be so marked. All signatures must be originals.

6. In completing the application, applicants should seek advice from an authorized officer of the sponsoring firm or from a legal adviser.

7. The number of originally-signed copies of the form to be filed with the self-regulatory organization and/or Securities Commission or similar authority varies from province to province. If unsure of the procedure, please consult the Registration Department of the self-regulatory organization through which you are applying or the applicable Securities Commission, or similar authority.

Item 1 - General Information

1. Legal name

Last name	First name	Second name (*if applicable*)	Third name (*if applicable*)

Other name currently used

Other name currently used:
(*if different from above*)

Last name	First name	Second name	Third name

Provide reason for other name currently used:

Other names previously used

Have you previously been known under any other name, other than the names mentioned above? ..... ❑ Yes ❑ No

If "Yes", complete Schedule "A", section 1.

FORM 31-102F4 REGISTRATION OF INDIVIDUALS			
2.	**Residential Address**		
	INSTRUCTION: Provide all residential addresses, including any foreign residential addresses, for the past ten years.		
	Current residential address: (number, street, city, province, territory or state, country, postal code)		
	(Area code) Telephone number:		
	Resided at this address since: _____/_____ (YYYY/MM) If you have resided at this address for less than 10 years complete, Schedule "A", section 2.		
3.	**Personal Information**		
	Date of birth: _____/_____/_____ (YYYY/MM/DD)	Place of birth: (city, province, territory or state, country)	
	Gender: ❑ Female ❑ Male	Colour of eyes:	Colour of hair:
	Height: imperial units: _____ OR metric units: _____ Weight: imperial units: _____ OR metric units: _____		
Item 2 - Citizenship			
	What is your citizenship: ❑ Canadian ❑ Other, specify:_____		
	INSTRUCTION: If you are not a Canadian citizen, complete the following:		
	Passport number:	Country of citizenship:	
	Date of issue: _____/_____/_____ (YYYY/MM/DD)	Place of issuance: (city, province, territory or state, country)	

FORM 31-102F4 REGISTRATION OF INDIVIDUALS

Item 3 - Registration Information

1. Mutual Reliance Review System for Registration

Are you relying on National Instrument 31-101 *Mutual Reliance Review System for Registration* for this application? ..... ❑ Yes ❑ No

If "Yes", indicate the principal jurisdiction:

2. Jurisdiction

INSTRUCTION: Indicate, by checking the appropriate box, each province or territory to which you are applying:

- ❑ Alberta
- ❑ British Columbia
- ❑ Manitoba
- ❑ New Brunswick
- ❑ Newfoundland
- ❑ Northwest Territories
- ❑ Nova Scotia
- ❑ Nunavut
- ❑ Ontario
- ❑ Prince Edward Island
- ❑ Québec
- ❑ Saskatchewan
- ❑ Yukon Territory

3. Category

INSTRUCTION: Indicate, by checking the appropriate box, each category for which you are applying.

(In the final draft of the form a list of the registration categories of each jurisdiction will be included here.)

4. Address for Service

Address for service:
(number, street, city, province, territory or state, country, postal code)

(Area code) Telephone number: *(extension if applicable)*	(Area code) Fax number:

E-mail address:

FORM 31-102F4 REGISTRATION OF INDIVIDUALS	
5.	**Agent for Service**
	INSTRUCTION: If you name an agent for service, the address for service provided above must be the address of the agent.
	Agent for service: *(if applicable)*
	Contact person: **Last name** **First name** *(if applicable)*
Item 4 - Proficiency	
1.	**Course and Examination Information**
(a)	❑ ***Not applicable*** **INSTRUCTION**: Complete the following for each course and examination that you have successfully completed or for which you have received an exemption. *(In the final draft of the form a list of courses and examinations will be included here.)*
2.	**Student Numbers**
	❑ ***Not applicable*** **INSTRUCTION:** Provide your student numbers below:
	Canadian Securities Institute: / Investment Funds Institute of Canada:
	Institute of Canadian Bankers: / Association for Investment Management and Research:
	Canadian Association of Insurance and Financial Advisors:
3.	**Exemption Information**
	Are you applying for an exemption from any course, examination or experience requirement? . . . . . ❑ Yes ❑ No If "Yes", complete Schedule "B", section 1.
4.	**Exemption Refusal**
	Has any securities regulatory authority or self-regulatory organization refused to grant you an exemption from a course, examination or experience requirement? . . . . . ❑ Yes ❑ No If "Yes", complete Schedule "B", section 2.

FORM 31-102F4 REGISTRATION OF INDIVIDUALS		
Item 5 - Employment Information		❑ ***Not applicable***
1.	**Location of Employment**	
(a)	Provide the NRD number of the location of the sponsoring firm at which you are currently working or will be working: (*if applicable*) _____	
(b)	Business address: (number, street, city, province, territory or state, country, postal code)	
	(Area code) Telephone number:	(Area code) Fax number:
	Mailing address: Same as above ❑ (number, street, city, province, territory or state, country, postal code)	
2.	**Current and Previous Employment**	
(a)	**INSTRUCTION**: Provide full disclosure of your current and previous business and employment activities, including any periods of self-employment and unemployment, for 10 years immediately prior to the date of this application, excluding any summer employment while a full time student, but including all securities or commodities industry employment during and *prior to the ten-year period*.	
	❑ Unemployed ❑ Student ❑ Employed Name of employer (or state self-employed): From: _____/_____ (YYYY/MM) To: _____/_____ **OR** ❑ Presently engaged in the above activity. (YYYY/MM)	

	FORM 31-102F4 REGISTRATION OF INDIVIDUALS
(b)	**INSTRUCTION**: You are only required to fill in the following if you have indicated above that you are, or were, employed or self-employed:
	Address of business or employer: (number, street, city, province, territory or state, country, postal code)
	Name and title of immediate supervisor:
	Describe your duties. If you are seeking a type of registration for which specified experience is required, provide details of that experience below (for example, level of responsibility, value of accounts under direct supervision, and research experience).
3.	**Other Business Activities**
(a)	**Full Time Employment**
	Are you actively engaged in the business of the sponsoring firm and devoting the major portion of your time to that business? ..... ❑ Yes ❑ No If " No", complete Schedule "C ", section 1, question (a).
(b)	**Other Employment**
	Are you engaged in any other business or do you have any other employment for gain other than the occupation with the sponsoring firm? ..... ❑ Yes ❑ No If "Yes", complete Schedule "C" , section 1, question (b).
4.	**Resignations and Terminations**
	Have you ever resigned or been terminated following allegations, made by a client, sponsoring firm, self-regulatory organization, securities regulatory authority or any other regulatory authority that you :
(a)	violated investment related statutes, regulations, rules or industry standards of conduct? . ❑ Yes ❑ No If "Yes", complete Schedule "C", section 2.

FORM 31-102F4 REGISTRATION OF INDIVIDUALS	
(b)	failed to supervise in connection with investment related statutes, regulations, rules or industry standards of conduct? ..... ❑ Yes ❑ No If "Yes", complete Schedule "C", section 2.
(c)	committed fraud or the wrongful taking of property? ..... ❑ Yes ❑ No If "Yes", complete Schedule "C", section 2.
Item 6 - Regulatory Disclosure	
1.	**Securities Regulatory Authorities**
(a)	Other than a current registration with a securities regulatory authority that is participating in Multilateral Instrument 31-102, are you now, or have you ever been, registered or licensed to trade in or advise on securities or exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "D", section 1.
(b)	Are you now, or have you ever been, a partner, director, officer, or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities of any firm which has been registered or licensed, or is now registered or licensed, (except as an issuer if you are or were a shareholder) to trade in or advise on securities or exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? .... ❑ Yes ❑ No If "Yes", complete Schedule "D", section 2.
(c)	Have you, or has any firm at which you are, or were at the time of such event, a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities, ever been refused registration or a license to trade in or advise on securities or exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "D", section 3.
(d)	Have you, or has any firm at which you are, or were at the time of such event, a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities, ever been denied the benefit of any exemption from registration provided by securities legislation or legislation governing exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "D", section 4.
(e)	Have you, or has any firm at which you are, or were at the time of such event, a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities, ever been subject to a cease trade order, a cease distribution order, a suspension or termination order, any disciplinary proceedings or any order resulting from disciplinary proceedings pursuant to securities legislation or legislation governing exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "D", section 5.
2.	**Self-Regulatory Organizations**
(a)	Have you, or has any firm in which you are, or were at the time of such event, a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities, ever been a member or participating organization of any stock exchange, the Investment Dealers Association of Canada, the Mutual Fund Dealers Association of Canada, or other self-regulatory organization, in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "D", section 6.

FORM 31-102F4 REGISTRATION OF INDIVIDUALS	
(b)	Have you, or has any firm in which you are, or were at the time of such event, a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities, ever been refused membership or entry as a participating organization in any stock exchange, the Investment Dealers Association of Canada, the Mutual Fund Dealers Association of Canada, or other self-regulatory organization, in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "D", section 7.
(c)	Have you, or has any firm in which you are, or were at the time of such event, a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities, ever been subject to a suspension, expulsion or termination order, or been subject to any disciplinary proceedings or any order resulting from disciplinary proceedings conducted by any stock exchange, the Investment Dealers Association of Canada, the Mutual Fund Dealers Association of Canada, or other self-regulatory organization, in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "D", section 8.
3	**Non-Securities Regulation**
(a)	Have you, or has any firm in which you are, or were at the time of such event, a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities, ever been registered or licensed under any legislation which requires registration or licensing to deal with the public in any capacity other than to trade in or advise on securities or exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "D", section 9.
(b)	Have you, or has any firm in which you are, or were at the time of such event, a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities, ever been refused registration or a license under any legislation which requires registration or licensing to deal with the public in any capacity other than to trade in or advise on securities or exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "D", section 10.
(c)	Have you, or has any firm in which you are, or were at the time of such event a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities, ever been subject to a suspension or termination order, or disciplinary proceedings or any order resulting from disciplinary proceedings conducted under any legislation which requires registration or licensing to deal with the public in any capacity other than to trade in or advise on securities or exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "D", section 11.
Item 7 - Criminal Disclosure	
(a)	Is there currently an outstanding charge against you alleging an offence that was committed in Canada, or had it been committed in Canada, constitutes or would constitute an offence under the laws of Canada? ..... ❑ Yes ❑ No If "Yes", complete Schedule "E", section 1.

FORM 31-102F4 REGISTRATION OF INDIVIDUALS	
(b)	Have you, since attaining the age of 18, ever been convicted of, pleaded guilty to or no contest to an offence that was committed in Canada, or had it been committed in Canada constituted or would constitute an offence under the laws of Canada? ..... ❑ Yes ❑ No If "Yes", complete Schedule "E", section 2.
(c)	Have charges been laid, alleging an offence that was committed in Canada, or had it been committed in Canada, constitutes or would constitute an offence under the laws of Canada, against any firm in which you are or were at the time of such event a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities? ..... ❑ Yes ❑ No If "Yes", complete Schedule "E", section 3.
(d)	Has any firm in which you are or were at the time of such event a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities, ever been convicted of, pleaded guilty to or no contest to an offence that was committed in Canada, or had it been committed in Canada, constitutes or would constitute an offence under the laws of Canada? ..... ❑ Yes ❑ No If "Yes", complete Schedule "E", section 4.
Item 8 - Civil Disclosure	
(a)	Have you, or has any firm in which you are, or were at the time of such event a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities, ever been a defendant or respondent in any civil proceeding in any jurisdiction in which fraud, theft, deceit, misrepresentation, or similar conduct is, or was, alleged? ..... ❑ Yes ❑ No If "Yes", complete Schedule "F", section 1.
(b)	Other than what you disclosed in Item 8 (a), were you, at the time the events that led to the civil proceeding occurred, a partner, director or officer or a holder of securities carrying more than 10 percent of the votes of all outstanding voting securities of a firm that is or was a defendant or respondent in any civil proceeding in any jurisdiction in which fraud, theft, deceit, misrepresentation, or similar conduct is or was alleged? ..... ❑ Yes ❑ No If "Yes", complete Schedule "F", section 2.
Item 9 - Financial Disclosure	
1.	**Bankruptcy**
	Under the law of any province, territory, state, or country have you, or has any firm in which you are, or were at the time of such event a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities ever:
(a)	had a petition in bankruptcy issued against you or the firm or made a voluntary assignment in bankruptcy? ..... ❑ Yes ❑ No If "Yes", complete Schedule "G", section 1.
(b)	made a proposal under any legislation relating to bankruptcy or insolvency? ..... ❑ Yes ❑ No If "Yes" complete Schedule "G", section 1.
(c)	been subject to proceedings under any legislation relating to the winding up, dissolution or companies' creditors arrangement? ..... ❑ Yes ❑ No If "Yes", complete Schedule "G", section 1.

FORM 31-102F4 REGISTRATION OF INDIVIDUALS	
(d)	been subject to or instituted any proceedings, arrangement or compromise with creditors (including having a receiver, receiver-manager, administrator or trustee appointed by or at the request of creditors, either privately, or through court process, or by order of a regulator, to hold your assets)? ..... ❑ Yes ❑ No If "Yes" complete Schedule "G", section 1.
2.	**Solvency**
	Have you ever been unable to meet your financial obligations as they came due, or has any firm in which you are, or were at the time of such event a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities ever been unable to meet its financial obligations as they came due? ..... ❑ Yes ❑ No If "Yes", complete Schedule "G", section 2.
3	**Surety or Fidelity Bond**
	Have you ever applied for a surety or fidelity bond and been refused?..... ❑ Yes ❑ No If "Yes", complete Schedule "G", section 3.
4.	**Garnishments, Unsatisfied Judgements or Directions to Pay**
	Are there currently, or have there been, outstanding against you any: (A) garnishments, (B) unsatisfied judgements, or (C) directions to pay issued by a federal, provincial, territorial or state authority? ..... ❑ Yes ❑ No If "Yes", complete Schedule "G", section 4.
Item 10 - Related Securities Firms	
Related Securities Firms and Holdings	
	Other than with your sponsoring firm, are you a partner, director, officer or holder of voting securities carrying more than 10 percent of the votes carried by all outstanding voting securities of a firm having as its principal business that of trading in or advising on securities or exchange contracts (including commodity futures contracts and commodity futures options)? ..... ❑ Yes ❑ No If "Yes", complete Schedule "H" .

FORM 31-102F4 REGISTRATION OF INDIVIDUALS

CERTIFICATE AND AGREEMENT OF INDIVIDUAL AND SPONSORING FIRM

Agent for Service

If you have named an agent for service in this application, you designate and appoint that agent for service (the "Agent for Service") at the address of the Agent for Service upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (each, a "Proceeding") arising out of or relating to or concerning your activities as a registrant or an officer, partner or director of a registrant under the securities legislation of the jurisdiction for which the Agent for Service is designated and appointed (the "Local Jurisdiction").

This appointment of an agent for service of process is governed and construed in accordance with the laws of the Local Jurisdiction.

By filing this application, you confirm that the Agent for Service has accepted the appointment as agent for service of process for you pursuant to the above terms and conditions and has agreed to advise the securities regulatory authority of the Local Jurisdiction immediately if the Agent for Service is unable to deliver to you a copy of a document served on the Agent for Service.

By filing this application, you confirm that until the earlier of (i) the termination of your position with your sponsoring firm and (ii) six years after the sponsoring firm ceases to be a registrant under the securities legislation of the Local Jurisdiction, you shall:

(a) file a notice appointing a new agent for service of process at least 30 days prior to termination for any reason of the appointment of the Agent for Service and immediately after the death or incapacity of the Agent for Service or the Agent for Service ceasing to carrying on business; and

(b) file a notice amending the name or address of the Agent for Service at least 30 days before any change in the name or address of the Agent for Service as set forth in this application.

Submission to Jurisdiction

By submitting this application you confirm that you irrevocably and unconditionally submit to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of each jurisdiction to which you have submitted this application and any administrative proceeding in that jurisdiction, in any Proceeding arising out of or relating to or concerning your activities as a registrant or an officer, partner or director of a registrant under the securities legislation of the jurisdiction, and irrevocably waive any right to raise as a defence in any Proceeding any alleged lack of jurisdiction to bring that Proceeding.

Notice - Collection and use of Personal Information

The personal information required under this form is collected on behalf of and used by the relevant securities regulatory authorities set out below for purposes of the administration and enforcement of certain provisions of the securities legislation in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland, Northwest Territories, Yukon Territory and Nunavut.

By submitting this application you consent to the collection by the securities regulatory authority to which this application is being submitted of the personal information contained in the application, police records, records from other government or non-governmental regulatory authorities or self-regulatory organizations, credit records and employment records about you as may be necessary for the securities regulatory authority to complete its review of your application or continued fitness for registration in accordance with the legal authority of the securities regulatory authority for the duration of the period which you remain registered or approved by the securities regulatory authority. The sources the securities regulatory authority may contact include government and private bodies or agencies, individuals, corporations and other organizations.

FORM 31-102F4 REGISTRATION OF INDIVIDUALS

The principal purpose for which this collection of personal information is to be used is to assess your suitability for registration and to assess your continued fitness for registration in accordance with the applicable securities legislation.

If you have any questions about the collection and use of this information, you may contact the securities regulatory authority in any jurisdiction in which the required information is filed, at the address or telephone number set out below. In Quebec, questions may also be addressed to the Commission d'accès à l'information du Québec (1-888-528-7741, web site: www.cai.gouv.qc.ca).

(In the final draft of the form a list of contact information will be included here.)

WARNING: It is an offence to submit information that, in a material respect and at the time and in the light of the circumstances in which it is submitted, is misleading or untrue.

CERTIFICATION OF APPLICANT: I, the undersigned applicant, certify that I have read and that I understand the questions in this application form and the Warning set out above. I also certify that all statements of fact made in the answers to the questions are true.

_____ _____

Signature of applicant Date

CERTIFICATION OF OFFICER OR PARTNER: I, the undersigned authorized officer or partner, certify on behalf of the sponsoring firm that the applicant will be engaged by the sponsoring firm as registered or approved. I certify that I have discussed the questions set out in this application with the applicant or where the applicant has applied through one of our branch offices the branch manager or another officer has so done and I am satisfied that the applicant fully understands the questions.

_____ _____

Signature of authorized officer or partner Date

SCHEDULE "A"
GENERAL INFORMATION

Item ❑ 1

Section 1 - Name

1. Other names previously used:

Last name	First name	Second name	Third name

2. Reason for name previously used:

3. Period known by above name:

From: _____/_____ To: _____/_____
(YYYY/MM) (YYYY/MM)

Section 2 - Residential Address

1. Previous residential address:
(number, street, city, province, territory or state, country)

2. From: _____/_____ To: _____/_____
(YYYY/MM) (YYYY/MM)

SCHEDULE "B" PROFICIENCIES	
Item ❑ 4	
Section 1 - Exemption Information	
1.	Indicate the course, examination or experience requirement from which you are seeking an exemption:
2.	Provide full details of the reason the exemption is being requested including other relevant courses or examinations completed, relevant experience, and any additional information that will support your exemption request:
Section 2 - Exemption Refusal	
	INSTRUCTION: Complete the following for each exemption that was refused.
1.	Which securities regulatory authority or self-regulatory organization refused to grant the exemption?
2.	The name of the course, examination or experience requirement:
3.	State the reason given for not being granted the exemption:

SCHEDULE "C" EMPLOYMENT	
Item ☐ 5	
Section 1 - Other Business Activities	
(a)	**Full Time Employment**
(i)	Indicate the number of hours per week that you will be engaged in the business of the sponsoring firm:
(ii)	Provide details as to why you will not be devoting a major portion of your time to the business of the sponsoring firm:
(b)	**Other Employment**
	INSTRUCTION: Complete the following for each type of business or employment for gain outside of your activities with the sponsoring firm:
(i)	Name of business or employment:
(ii)	Describe the type of business or employment:
(iii)	Indicate the number of hours per week you devote to this business or employment:
(iv)	Disclose any potential for confusion or conflict of interest arising from your proposed activities with the sponsoring firm and the business or employment described above:
Section 2 - Resignations and Terminations	
	For each resignation or termination, indicate below (1) the name of the firm from which you resigned or were terminated, (2) whether you resigned or were terminated, (3) the date you resigned or were terminated, and (4) describe the circumstances relating to your resignation or termination (including whether the allegations were made by a client, sponsoring firm, self-regulatory organization or regulatory authority):

SCHEDULE "D"
REGULATORY DISCLOSURE

Item ❑ 6

Securities Regulatory Authorities (Sections 1- 5)

Section 1

INSTRUCTION: For each registration or licence, indicate below (1) the securities regulatory authority with which you are, or were, registered or licensed, (2) the type or category of registration or licence, (3) any terms or conditions imposed on the registration or licence, and (4) the period of registration or licensing:

Section 2

INSTRUCTION: For each registration or licence, indicate below (1) the name of the firm, (2) the securities regulatory authority with which the firm is, or was, registered or licensed, (3) the type or category of registration or licence, and (4) the period of registration or licensing:

Section 3

INSTRUCTION: For each registration or licence refused, indicate below (1) the party that was refused the registration or licence, (2) the securities regulatory authority that refused the registration or licence, (3) the type or category of registration or licence refused, (4) the date of the refusal, and (5) the reasons for the refusal:

Section 4

INSTRUCTION: For each exemption from registration denied, indicate below (1) the party that was denied the exemption, (2) the securities regulatory authority that denied the exemption, (3) the date the exemption was denied, and (4) any other relevant details:

SCHEDULE "D"
REGULATORY DISCLOSURE

Section 5

INSTRUCTION: For each order or disciplinary proceeding, indicate below (1) the party against whom the order was made or the proceeding taken, (2) the securities regulatory authority that issued the order or that is, or was, conducting the proceeding, (3) the date any notice of proceeding was issued, (4) the date any order or settlement was made, (5) a summary of any notice, order or settlement (including any sanctions imposed), and (6) any other relevant details:

Self-Regulatory Organizations (Sections 6-8)

Section 6

INSTRUCTION: For each membership or participation, indicate below (1) the party that is, or was, a member or participating organization, (2) the self-regulatory organization with which the party is, or was, a member or participating organization, (3) the type or category of membership or participation, and (4) the period of the membership or participation:

Section 7

INSTRUCTION: For each membership or participation refused, indicate below (1) the party that was refused membership or participation, (2) the self-regulatory organization that refused the membership or participation, (3) the type or category of membership or participation refused, (4) the date of the refusal, and (5) the reasons for the refusal:

Section 8

INSTRUCTION: For each order or disciplinary proceeding, indicate below (1) the party against whom the order was made or the proceeding taken, (2) the self-regulatory organization that issued the order or that is, or was, conducting the proceeding, (3) the date any notice of proceeding was issued, (4) the date any order or settlement was made, (5) a summary of any notice, order or settlement (including any sanctions imposed), and (6) any other relevant details:

SCHEDULE "D"
REGULATORY DISCLOSURE

Non-Securities Regulation (Sections 9 - 11)

Section 9

INSTRUCTION: For each registration or licence, indicate below (1) the party that is, or was, registered or licensed, (2) with which regulatory authority, or under what legislation, the party is, or was, registered or licensed, (3) the type or category of registration or licence, and (4) the period of registration or licensing:

Section 10

INSTRUCTION: For each registration or licence refused, indicate below (1) the party that was refused registration or licensing, (2) with which regulatory authority, or under what legislation, the registration or licence was refused, (3) the type or category of registration or licence refused, and (4) the date of the refusal, and (5) the reasons for the refusal:

Section 11

INSTRUCTION: For each order or disciplinary proceeding, indicate below (1) the party against whom the order was made or the proceeding taken, (2) the regulatory authority that made the order or that is, or was, conducting the proceeding, or under what legislation the order was made or the proceeding is being, or was, conducted, (3) the date any notice of proceeding was issued, (4) the date any order or settlement was made, (5) a summary of any notice, order or settlement (including any sanctions imposed), and (6) any other relevant details:

SCHEDULE "E"
CRIMINAL DISCLOSURE

Item ❑ 7

Section 1

INSTRUCTION: For each charge, indicate below (1) the charge, (2) the date of the charge, (3) any trial or appeal dates, and (4) the court location:

Section 2

INSTRUCTION: For each conviction, indicate below the full details of the conviction including (1) the offense, (2) the date of the conviction, and (3) the disposition (state any penalty or fine and the date any fine was paid):

Section 3

INSTRUCTION: For each charge, indicate below (1) the name of the firm, (2) the charge, (3) the date of the charge, (4) any trial or appeal dates, and (5) the court location:

Section 4

INSTRUCTION: For each conviction, indicate below the full details of the conviction including (1) the name of the firm, (2) the offense, (3) the date of the conviction, and (4) the disposition (state any penalty or fine and the date any fine was paid):

SCHEDULE "F"
CIVIL DISCLOSURE

Item □ 8

Section 1

INSTRUCTION: For each civil proceeding, indicate below (1) the party that is, or was, a defendant or respondent, (2) each plaintiff in the proceeding, (2) whether the proceeding is pending, on appeal or final, (3) the jurisdiction in which the action is being, or was, pursued, and (4) the details of any disposition or settlement. (Disclosure must include those actions settled without admission of liability.):

Section 2

INSTRUCTION: For each civil proceeding, indicate below (1) the firm that was a defendant or respondent in the proceeding, (2) your relationship to the firm, (3) each plaintiff in the proceeding, (4) whether the proceeding is pending, on appeal or final, (5) the jurisdiction in which the action is being, or was, pursued, and (6) the details of any disposition or settlement. (Disclosure must include those actions settled without admission of liability.):

SCHEDULE "G"
FINANCIAL DISCLOSURE

Item □ 9

Section 1 - Bankruptcy

INSTRUCTION: For each event, indicate below (1) the party about whom this disclosure is being made, (2) any amounts currently owing, (3) the creditors, (4) the status of the matter, (5) the details of any disposition or settlement, and (6) any other relevant details:

Section 2- Solvency

INSTRUCTION: For each event, indicate below (1) that party that is, or was, unable to meet its financial obligations, (2) the amount that is, or was, owing, (3) the party to whom the amount is, or was, owing, (4) any relevant dates (for example, when payments are due or when final payment was made), and (5) any other relevant details:

Section 3 -Surety or Fidelity Bond

INSTRUCTION: For each bond refused, indicate below (1) the name of the bonding company, (2) the address of the bonding company, (3) the date of the refusal, and (4) the reasons for the refusal:

Section 4 - Garnishments, Unsatisfied Judgements or Directions to Pay

INSTRUCTION: For each garnishment, unsatisfied judgement or direction to pay, indicate below (1) the amount that is, or was, owing, (2) the party to whom the amount is, or was, owing, (3) any relevant dates (for example, when payments are due or when final payment was made), and (4) any other relevant details:

SCHEDULE "H" RELATED SECURITIES FIRMS	
Item ❑ 10	
Section 1 - Related Securities Firms and Holdings	
	INSTRUCTION: Indicate below (a) the name of the firm and (b) your relationship to the firm:
(a)	Firm name:
(b)	Your relationship with the firm and period of relationship: ❑ Partner ❑ Director ❑ Officer ❑ Holder of voting securities over 10 percent From: _____/_____ (YYYY/MM) To: _____/_____ (YYYY/MM) *(if applicable)*
	INSTRUCTION: If you are a holder of voting securities over 10 percent, complete (c), (d), (e), (f), and (g)
(c)	State the number, value, class and percentage of securities or the amount of partnership interest you own or propose to acquire upon approval. If acquiring securities upon approval, state the source (for example, treasury shares or if upon transfer, state name of transferor).
(d)	State the value of subordinated debentures or bonds of the firm to be held by you or any other subordinated loan to be made by you to the firm: *(if applicable)*
(e)	State the source of the funds you propose to invest in the firm and provide full details:
(f)	Are the funds to be invested (or proposed to be invested) guaranteed directly or indirectly by any person, partnership or firm? . . . . . ❑ Yes ❑ No If "Yes", provide full details:
(g)	Have you either directly or indirectly given up any rights with respect to such securities or partnership interest, or do you, on approval of this application, intend to give up any rights including any hypothecation, pledging or deposit as collateral of the securities or amount of partnership interest with any bank, other institution or other person?

SCHEDULE "H" RELATED SECURITIES FIRMS	
	❑ ***Not applicable*** **INSTRUCTION**: Complete the following, if you are not, or will not be, the beneficial owner of the securities, bonds, debentures, partnership units or other notes held by you.
(h)	Name of beneficial owner: **Last name** **First name** **Second name** (*if applicable*) **Third name** (*if applicable*)
(i)	Residential address: (number, street, city, province, territory or state, country, postal code)
(j)	Occupation:

FORM 31-102F3 - APPLICATION FOR REGISTRATION AS A DEALER, ADVISER OR UNDERWRITER

GENERAL INSTRUCTIONS

1. This form is to be used by any firm or individual submitting an application for registration as a dealer, adviser or underwriter to a securities regulatory authority.
2. All applicable questions must be answered. Failure to do so may cause delays in the processing of the application form.
3. This form and all attachments added thereto must be typewritten. Any form or attachment completed by other means may be considered not properly filed.
4. All attachments pertaining to any question must be made exhibits to the form and each one must be so marked. All signatures must be originals.
5. In completing the application, applicants should seek advice from an authorized officer of the sponsoring firm or from a legal adviser.
6. The number of originally-signed copies of the form to be filed with the self-regulatory organization and/or Securities Commission or similar authority varies from province to province. If unsure of the procedure, please consult the Registration Department of the self-regulatory organization through which you are applying or the applicable Securities Commission, or similar authority.

Item 1 - Name of Firm

1.	Full legal name of the firm:
	Does the firm currently carry on business or identify its business to the public under a name other than the legal name of the firm? ..... ❑ Yes ❑ No If "Yes", complete Schedule "A", section 1.
2.	In the past 10 years, has the firm operated under, or carried on business under, any name other than a name shown in Question 1 above or in Schedule "A", section 1? ..... ❑ Yes ❑ No If "Yes", complete Schedule "A", section 2.

Item 2 - Head Office

	Head office business address: (*do not use a P.O. Box*) (number, street, city, province, territory or state, country, postal code)
	(Area code) Telephone number: *(extension if applicable)*
	(Area code) Fax number:
	Location website address:

FORM 31-102F3 - APPLICATION FOR REGISTRATION AS A DEALER, ADVISER OR UNDERWRITER

Mailing address: ❑ Same as above
(number, street, city, province, territory or state, country, postal code)

Item 3 - Registration Information

1. Mutual Reliance Review System for Registration

Is the firm relying on National Instrument 31-101 *Mutual Reliance Review System for Registration* for this application for registration? . . . . . ❑ Yes ❑ No

If "Yes", indicate the firm's principal jurisdiction:

2. Jurisdiction

INSTRUCTION: Indicate, by checking the appropriate box, each jurisdiction to which the firm is applying for registration:

- ❑ Alberta
- ❑ British Columbia
- ❑ Manitoba
- ❑ New Brunswick
- ❑ Newfoundland
- ❑ Northwest Territories
- ❑ Nova Scotia
- ❑ Nunavut
- ❑ Ontario
- ❑ Québec
- ❑ Prince Edward Island
- ❑ Saskatchewan
- ❑ Manitoba
- ❑ Yukon

Item 4 - Category of Registration or Membership

INSTRUCTION: Indicate, by checking the appropriate box, each category for which the firm is applying:

(In the final draft of the form a list of the registration categories of each jurisdiction will be included here.)

FORM 31-102F3 - APPLICATION FOR REGISTRATION AS A DEALER, ADVISER OR UNDERWRITER

Item 5 - Address and Agent for Service

1. Address for Service

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

(Area code) Telephone number: *(extension if applicable)*	(Area code) Fax number:

E-mail address:

2. Agent for Service

Agent for service:
(if applicable)

Contact person: **Last name** **First name**
(if applicable)

Item 6 - Business Locations other than Head Office

1.

❑ ***Not applicable***

INSTRUCTION: Complete the following for each branch office, each sub-branch office, and, if applying in British Columbia, the chief place of business.

Type of location (for example, sub-branch):

Business address: (*do not use a P.O. Box*)
(number, street, city, province, territory or state, country, postal code)

Mailing address: ❑ Same as above
(number, street, city, province, territory or state, country, postal code)

(Area code) Telephone number: (*extension if applicable*)	(Area code) Fax number:

Provide NRD number of the designated supervisor or branch manager:

FORM 31-102F3 - APPLICATION FOR REGISTRATION AS A DEALER, ADVISER OR UNDERWRITER

Name of designated supervisor or branch manager:

Last Name **First Name**

Item 7 - Business Structure

1. State the financial year end date:

_____ / _____
(MM/DD)

Indicate legal status of the firm and complete Schedule "B":

- ❑ Corporation
- ❑ Partnership
- ❑ Limited Partnership
- ❑ Limited Liability Company
- ❑ Sole Proprietorship
- ❑ Other, specify: _____

INSTRUCTION: If other than a sole proprietor, provide the jurisdiction's legislation under which the firm obtained its legal status and the date that the firm obtained its legal status:

Jurisdiction:

Date of organization or incorporation:

_____ / _____ / _____
(YYYY/MM/DD)

Item 8 - Partners, Directors, Officers and Sole Proprietor

1. **INSTRUCTION**: Complete the following and file a Form 31-102F4 for each partner, director or officer of the firm. If you are a sole proprietor, complete any applicable sections under this item and file a Form 31-102F4.

NRD No:
(if applicable)

Last name	**First name**	**Second Name** *(if applicable)*	**Third Name** *(if applicable)*

Position:

- ❑ Partner
- ❑ Director
- ❑ Officer, provide title: _____

Date appointed:

_____ / _____
(YYYY/MM)

Item 9 - Auditor

FORM 31-102F3 - APPLICATION FOR REGISTRATION AS A DEALER, ADVISER OR UNDERWRITER		
1.	**INSTRUCTION**: Identify the firm's auditor and the contact person's name, address, telephone number, fax number and e-mail address:	
	Name of auditor:	
	Business address of auditor: (number, street, city, province, territory or state, country, postal code)	
	(Area Code) Telephone number: *(extension if applicable)*	(Area Code) Fax number:
	Contact person: **Last name** **First name**	

Item 10 - Regulatory Disclosure	
1.	**Securities Regulation**
(a)	Is the firm or, to the best of the firm's information and belief having made reasonable inquiries, is any affiliate of the firm, now, or has any such person or company been, registered or licensed to trade in or advise on securities or exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "C", section 1.
(b)	Has the firm or, to the best of the firm's information and belief having made reasonable inquiries, any affiliate of the firm ever been refused registration or a licence in any capacity to trade in or advise on securities or exchange contracts (including commodity futures contracts or commodity futures options) in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "C", section 2.
(c)	Has the firm or, to the best of the firm's information and belief having made reasonable inquiries, has any affiliate of the firm ever been denied the benefit of any exemption from registration provided by securities legislation or legislation governing exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "C", section 3.
(d)	Has the firm or, to the best of the firm's information and belief having made reasonable inquiries, has any affiliate of the firm, ever been subject to a cease trade order, a cease distribution order, a suspension or termination order, any disciplinary proceedings or any order resulting from disciplinary proceedings pursuant to securities legislation or legislation governing exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? ..... ❑ Yes ❑ No If "Yes", complete Schedule "C", section 4.

FORM 31-102F3 - APPLICATION FOR REGISTRATION AS A DEALER, ADVISER OR UNDERWRITER	
2.	**Self-Regulatory Organizations**
(a)	Is the firm or, to the best of the firm's information and belief having made reasonable inquiries, is any affiliate of the firm, now, or has any such person or company previously been, a member or participating organization of any stock exchange, the Investment Dealers Association of Canada, the Mutual Fund Dealers Association of Canada, or other self-regulatory organization, in any province, territory, state or country? . . ❑ Yes ❑ No If "Yes", complete Schedule "C", section 5.
(b)	Has the firm or, to the best of the firm's information and belief having made reasonable inquiries, has any affiliate of the firm ever been refused membership or entry as a participating organization in any stock exchange, the Investment Dealers Association of Canada, the Mutual Fund Dealers Association of Canada, or other self-regulatory organization, in any province, territory, state or country? . . . . . ❑Yes ❑ No If "Yes", complete Schedule "C", section 6.
(c)	Has the firm or, to the best of the firm's information and belief having made reasonable inquiries, has any affiliate of the firm, ever been subject to a suspension, expulsion or termination order, or been subject to any disciplinary proceedings or any order resulting from disciplinary proceedings conducted by any stock exchange, the Investment Dealers Association of Canada, the Mutual Fund Dealers Association of Canada, or other self-regulatory organization, in any province, territory, state or country? . . . . . ❑Yes ❑ No If "Yes", complete Schedule "C", section 7.
3.	**Non-Securities Regulation**
(a)	Is the firm or, to the best of the firm's information and belief having made reasonable inquiries, is any affiliate of the firm, now, or has any such person or company been, registered or licensed under any legislation which requires registration or licensing to deal with the public other than to trade in or advise on securities or exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? . . . . . ❑Yes ❑ No If "Yes", complete Schedule "C", section 8.
(b)	Has the firm or, to the best of the firm's information and belief having made reasonable inquiries, has any affiliate of the firm ever been refused registration or a licence under any legislation which requires registration or licensing to deal with the public in any capacity other than to trade in or advise on securities or exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? . . . . . ❑ Yes ❑ No If "Yes" complete Schedule "C", section 9.
(c)	Has the firm or, to the best of the firm's information and belief having made reasonable inquiries, has any affiliate of the firm, ever been subject to a suspension or termination order, or disciplinary proceedings or any order resulting from disciplinary proceedings conducted under any legislation which requires registration or licensing to deal with the public in any capacity other than to trade in or advise on securities or exchange contracts (including commodity futures contracts and commodity futures options) in any province, territory, state or country? . . . . . ❑ Yes ❑ No If "Yes", complete Schedule "C", section 10.
Item 12 - Criminal Disclosure	
1.	Is there currently an outstanding charge against the firm or, to the best of the firm's information and belief having made reasonable inquiries, any affiliate of the firm, alleging an offence that was committed in Canada, or had it been committed in Canada, constitutes or would constitute an offence under the laws of Canada? . . . . . ❑ Yes ❑ No If "Yes", complete Schedule "D", section 1.

FORM 31-102F3 - APPLICATION FOR REGISTRATION AS A DEALER, ADVISER OR UNDERWRITER	
2.	Has the firm or, to the best of the firm's information and belief having made reasonable inquiries, any affiliate of the firm, ever been convicted of, pleaded guilty to or no contest to an offence that was committed in Canada and constituted, or had it been committed in Canada, would have constituted an offence under the laws of Canada? ..... ❑ Yes ❑ No If "Yes", complete Schedule "D", section 2.
Item 13 - Civil Disclosure	
	Has the firm, or to the best of the firm's information and belief, having made reasonable inquiries, has any affiliate of the firm been a defendant or respondent in any civil proceeding in any jurisdiction in which fraud, theft, deceit, misrepresentation, or similar conduct is, or was, alleged? ..... ❑Yes ❑ No If "Yes" complete Schedule "E".
Item 14 - Financial Disclosure	
1.	**Bankruptcy**
	Under the law of any province, territory, state or country has the firm or, to the best of the firm's information and belief having made reasonable inquiries, any affiliate of the firm:
(a)	had a petition in bankruptcy issued against the firm or any affiliate of the firm or made a voluntary assignment in bankruptcy? ..... ❑ Yes ❑ No If "Yes", complete Schedule "F", section 1.
(b)	made a proposal under any legislation relating to bankruptcy or insolvency? ..... ❑ Yes ❑ No If "Yes", complete Schedule "F", section 1.
(c)	been subject to or instituted any proceedings, arrangement or compromise with creditors (including having a receiver, receiver-manager, administrator or trustee appointed by or at the request of creditors, either privately or through a court process, or by order of a regulator, to hold the firm's assets)? ... ❑ Yes ❑ No If "Yes", complete Schedule "F", section 1.
2.	**Solvency**
	Has the firm or, to the best of the firm's information and belief having made reasonable inquiries, any affiliate of the firm ever been unable to meet its financial obligations as they came due? ..... ❑ Yes ❑ No If "Yes", complete Schedule "F", section 2
3.	**Surety or Fidelity Bond**
	Has a bonding company ever denied, paid out on, or revoked a surety or fidelity bond of the firm or, to the best of the firm's information and belief having made reasonable inquires, any affiliate of the firm? ..... ❑ Yes ❑ No If "Yes ", complete Schedule "F", section 3.

FORM 31-102F3 - APPLICATION FOR REGISTRATION AS A DEALER, ADVISER OR UNDERWRITER

4. Garnishments, Unsatisfied Judgements or Directions to Pay

Are there currently, or have there been, outstanding against the firm or, to the best of the firm's information and belief having made reasonable inquires, any affiliate of the firm:

(A) garnishments,
(B) unsatisfied judgements, or
(C) directions to pay issued by a federal, provincial, territorial or state authority? . . . . . ❑ Yes ❑ No

If "Yes", complete Schedule "F", section 4.

CERTIFICATE AND AGREEMENT OF FIRM

Agent for Service

If the firm has named an agent for service in this application, the firm designates and appoints that agent for service (the "Agent for Service") at the address of the Agent for Service upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (each, a "Proceeding") arising out of or relating to or concerning the firm's activities as a registrant under the securities legislation of the jurisdiction for which the Agent for Service is designated and appointed (the "Local Jurisdiction").

This appointment of an agent for service of process is governed and construed in accordance with the laws of the Local Jurisdiction.

By filing this application, the firm confirms that the Agent for Service has accepted the appointment as agent for service of process for the firm pursuant to the above terms and conditions and has agreed to advise the securities regulatory authority of the Local Jurisdiction immediately if the Agent for Service is unable to deliver to the firm a copy of a document served on the Agent for Service.

By filing this application, the firm confirms that until six years after the firm ceases to be a registrant under the securities legislation of the Local Jurisdiction, the firm shall:

(a) file a notice appointing a new agent for service of process at least 30 days prior to termination for any reason of the appointment of the Agent for Service and immediately after the death or incapacity of the Agent for Service or the Agent for Service ceasing to carrying on business; and

(b) file a notice amending the name or address of the Agent for Service at least 30 days before any change in the name or address of the Agent for Service as set forth in this application.

Submission to Jurisdiction

By submitting this application the firm that it irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of each jurisdiction to which the firm has submitted this application and any administrative proceeding in that jurisdiction, in any Proceeding arising out of or relating to or concerning its activities as a registrant under the securities legislation of the jurisdiction, and irrevocably waives any right to raise as a defence in any Proceeding any alleged lack of jurisdiction to bring that Proceeding.

Notice - Collection and use of Personal Information

The personal information required under this form is collected on behalf of and used by the relevant securities regulatory authorities set out below for purposes of the administration and enforcement of certain provisions of the securities legislation in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland, Northwest Territories, Yukon Territory and Nunavut.

FORM 31-102F3 - APPLICATION FOR REGISTRATION AS A DEALER, ADVISER OR UNDERWRITER

By submitting this application the firm consents and is authorized to consent on behalf of each individual named in the application to the collection by the securities regulatory authority to which this application is being submitted of the personal information contained in the application, police records, records from other government or non-governmental regulatory authorities or self-regulatory organizations, credit records and employment records about the firm and any individuals named in the application as may be necessary for the securities regulatory authority to complete its review of the application or continued fitness for registration in accordance with the legal authority of the securities regulatory authority for the duration of the period which the firm remains registered or approved by the securities regulatory authority. The sources the securities regulatory authority may contact include government and private bodies or agencies, individuals, corporations and other organizations.

The principal purpose for which this collection of personal information is to be used is to assess the firm's suitability for registration and to assess the firm continued fitness for registration in accordance with the applicable securities legislation.

If you have any questions about the collection and use of this information, you may contact the securities regulatory authority in any jurisdiction in which the required information is filed, at the address or telephone number set out below. In Quebec, questions may also be addressed to the Commission d'accès à l'information du Québec (1-888-528-7741, web site: www.cai.gouv.qc.ca).

(In the final draft of the form a list of contact information will be included here.)

WARNING: It is an offence to submit information that, in a material respect and at the time and in the light of the circumstances in which it is submitted, is misleading or untrue.

CERTIFICATION OF APPLICANT: I, the undersigned applicant or authorized officer or partner of the applicant, certify that I have read and that I understand the questions in this application form and the Warning set out above. I also certify that all statements of fact made in the answers to the questions are true.

_____ _____

Signature **Date**

SCHEDULE "A" OTHER BUSINESS NAMES	
Item □ 1	
Section 1 - Other business names currently in use	
INSTRUCTION: List each of the other business names currently in use and the jurisdictions in which they are used:	
1.	Name:
	Jurisdictions:
2.	Name:
	Jurisdictions:
3.	Name:
	Jurisdictions:
4.	Name:
	Jurisdictions:
Section 2 - Other business names previously used	
INSTRUCTION: List each of the other business names used within the past ten years and the jurisdictions in which they were used.	
1.	Name:
	Jurisdictions:
2.	Name:
	Jurisdictions:
3.	Name:
	Jurisdictions:
4.	Name:
	Jurisdictions:

SCHEDULE "B"
OWNERSHIP INFORMATION

Item □ 7

INSTRUCTION: Complete the following for:

(i) each security holder that owns 10 percent or more of a class of voting securities of the applicant firm,
(ii) each security holder that is a partner, general partner or limited partner who has the right to receive upon dissolution, or has contributed, 10 percent or more of the firm's capital,
(iii) each security holder that owns 10 percent or more of a class of voting securities of a security holder described under (i) and (ii), and
(iv) each security holder that is a partner, general partner or limited partner who has the right to receive upon dissolution, or has contributed, 10 percent or more of the capital of a security holder described under (i) and (ii).

For each security holder, indicate below (i) the name of the security holder, (ii) the legal status of the security holder (for example, partnership), (iii) the firm held by the security holder, (iv) whether the security holder's ownership interest is greater than or less than 25%, 50% or 75%, (v) whether the security holder is a control person, and (vi) whether the security holder is a reporting issuer.

SCHEDULE "C"
REGULATORY DISCLOSURE

Item □ 11

Section 1

INSTRUCTION: Indicate below, (1) the name of the party for which this disclosure is being made, (2) the securities regulatory authority with which the firm or affiliate is, or was, registered or licensed, (3) the type or category of registration or licence, and (4) the period of registration or licensing:

Section 2

INSTRUCTION: Indicate below, (1) the name of the party for which this disclosure is being made, (2) the securities regulatory authority that refused the registration or licensing, (3) the type or category of registration or licence refused, (4) the date of the refusal, and (5) reasons for the refusal:

Section 3

INSTRUCTION: Indicate below, (1) the name of the party for which this disclosure is being made, (2) the securities regulatory authority that denied the exemption from registration, (3) the date the exemption was denied, and (4) any other relevant details:

SCHEDULE "C"
REGULATORY DISCLOSURE

Section 4

INSTRUCTION: Indicate below, (1) the name of the party for which this disclosure is being made, (2) the securities regulatory authority that made the order or conducted the proceedings, and (3) any other relevant details (including the date any notice of proceeding was issued, or any order or settlement was made, and a summary of the order, settlement or notice including any sanctions imposed):

Section 5

INSTRUCTION: Indicate below, (1) the name of the party for which this disclosure is being made, (2) the self-regulatory organization with which the firm or affiliate is, or was, a member or a participating organization, (3) the type or category of membership or participation, and (4) the period of the membership or participation:

Section 6

INSTRUCTION: Indicate below, (1) the name of the party for which this disclosure is being made, (2) the self-regulatory organization that refused the membership or entry as a participating organization, (3) the type or category of membership or participation refused, (4) the date of the refusal, and (5) the reasons for the refusal:

SCHEDULE "C"
REGULATORY DISCLOSURE

Section 7

INSTRUCTION: Indicate below, (1) the name of the party for which this disclosure is being made, (2) the self-regulatory organization that made the order or conducted the proceedings, and (3) any other relevant details (including the date any notice of proceeding was issued, or any order or settlement was made, and a summary of the order, settlement or notice, including any sanctions imposed):

Section 8

INSTRUCTION: Indicate below, (1) the name of the party for which this disclosure is being made, (2) with which regulatory authority, or under what legislation, the firm or affiliate is, or was, registered or licensed, (3) the type or category of registration or licence, and (4) the period of registration or licensing:

Section 9

INSTRUCTION: Indicate below, (1) the name of the party for which this disclosure is being made, (2) the regulatory authority that refused the registration or licensing, or the legislation under which the registration or licensing was refused, (3) the type or category of registration or licence refused, (4) the date of the refusal, and (5) reasons for the refusal:

SCHEDULE "C"
REGULATORY DISCLOSURE

Section 10

INSTRUCTION: Indicate below, (1) the name of the party for which this disclosure is being made, (2) the regulatory authority that made the order or conducted the proceedings, or under which legislation the order was made or the proceedings were conducted, and (3) any other relevant details (including the date any notice of proceeding was issued, or any order or settlement was made, and a summary of the order, settlement or notice, including any sanctions imposed).

SCHEDULE "D" CRIMINAL DISCLOSURE
Item □ 12
Section 1
INSTRUCTION: For each charge, indicate below (1) whether the disclosure is for the firm filer or an affiliate of the firm (including the name of the affiliate), (2) the charge, (3) the date of the charge, (4) any trial or appeal dates, and (4) the court location:
Section 2
INSTRUCTION: For each conviction , indicate below the full details of the conviction including (1) whether this disclosure is for the firm filer or an affiliate of the firm (including the name of the affiliate), (2) the offense, (3) the date of the conviction, and (4) the disposition (state any penalty or fine and the date any fine was paid):

SCHEDULE "E" CIVIL JUDICIAL DISCLOSURE
Item □ 13
Section 1
INSTRUCTION: For each civil proceeding, indicate below (1) the jurisdiction in which the action is being, or was pursued, (2) details of any disposition or settlement (including those actions settled without admission of liability):

SCHEDULE "F"
FINANCIAL DISCLOSURE

Item □ 14

Section 1 - Bankruptcy

INSTRUCTION: For each event, indicate below (1) the name of the party for which this disclosure is being made, (2) any amounts currently owing, (3) the creditors, (4) the status of the matter, (5) the details of any disposition or settlement, and (6) any other relevant details:

Section 2 - Solvency

INSTRUCTION: For each event, indicate below (1) that name of the party that is, or was, unable to meet its financial obligations, (2) the amount that is, or was, owing, (3) the party to whom the amount is, or was, owing, (4) any relevant dates (for example, when payments are due or when final payment was made), and (5) any other relevant details:

Section 3 - Surety or Fidelity Bond

INSTRUCTION: For each bond refused, paid out on, or revoked, indicate below (1) the name of the party for which this disclosure is being made, (2) the name of the bonding company, (3) the address of the bonding company, (4) the date the bond was refused, paid out on, or revoked, and (5) the reasons the bond was refused, paid out on, or revoked:

SCHEDULE "F"
FINANCIAL DISCLOSURE

Section 4 - Garnishments, Unsatisfied Judgments or Directions to Pay

INSTRUCTION: For each garnishment, unsatisfied judgement or direction to pay, indicate below (1) the name of the party for which this disclosure is being made, (2) the amount that is, or was, owing, (3) the party to whom the amount is, or was, owing, (4) any relevant dates (for example, when payments are due or when final payment was made), and (5) any other relevant details:

Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesScource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

Exempt Financings

The Ontario Securities Commission reminds Issuers of exempt financings that they are responsible for the completeness, accuracy and timely filing of Forms 20 and 21 pursuant to section 72 of the Securities Act and section 14 of the Regulation to the Act. The information provided is not verified by staff of the Commission and is published as received except for confidential reports filed under paragraph E of the Ontario Securities Commission Policy Statement No. 6.1.

Reports of Trades Submitted on Form 45-501f1

Trans. Date	Security	Price ($)	Amount
04Jun01	724 Solutions Inc. - Common Shares	57,246	4,200
14Jun01	AADCO industries.com inc. - Units	1,000,000	1,000,000
06Jun01	AltaRex Corp. - Special Warrants	1,995,996	712,856
20Jun01	Argosy Partners Investments Inc. - Limited Partnership Units	200,000	20,000
18Jun01	BioteQ Environmental Technologies Inc. - Special Warrants	550,000	1,100,000
25May01	BPI American Opportunities Fund - Units	240,463	1,930
18Jun01	Canalaska Ventures Ltd. -	24,000	100,000
07Jun01	Castek Software Factory Inc. - Units	2,270,606	1,327,840
15Jun01	Commercial Consolidators Corp. - Share Purchase Warrants	333,336	83,334
01May01 to 31May01	Cranston, Gaskin, O'Reilly & Vernon Hazelton Fund - Units of Trust	1,104,192	81,960
01May01 to 31May01	Cranston, Gaskin, O'Reilly & Vernon Balanced Fund - Units of Trust	294,870	23,061
01May01 to 31May01	Cranston, Gaskin, O'Reilly & Vernon Cumberland - Units of Trust	729,670	47,374
14Jun01	Delex Therapeutics Inc. - Class B Preference Shares	5,000,000	2,932,977
01Mar01	Delivery.ca Incorporated - Class A Series I Preferred Shares	220,000	220,000
18Jun01	Echo Energy Inc. - Flow-Through and Non-Flow Through Special Warrants	600, 300,000	1,000, 500,000 Resp.
30Apr01	Excalibur Harvest Canadian Fund - Units	1,350,000	134,194
30Mar01	Excalibur Harvest Canadian Fund - Units	998,000	96,945
28Feb01	Excalibur Harvest Canadian Fund - Units	351,406	34,896
07Jun01	First Horizon Holdings Ltd. - Subscription Certificate	150,000	150,000
08Jun01	Galileo Private Special Equity Fund - Units	350,000	42,735
11Jun01	Galileo Money Market Fund - Units	1,300,000	130,000
20Jun01	Gemhouse Inc. - Common Shares	US$1,365,000	1,365,000
13Jun01	Grosvenor Services 2001 Limited Partnership - Limited Partnership Units	42,345,600	256
07Jun01	Intrepid Minerals Corporation -	150,000	558,140
07Jun01	Kinetek Pharmaceuticals, Inc. - Common Shares	2,425,002	808,334
15Jun01	Kingwest Avenue Portfolio - Units	5,312,979	349,089
15Jun01	Kingwest Avenue Portfolio - Units	993,757	993,575
12Jun01	Kraft Foods, Inc. - Shares of Class A Common Stock	4,725,950	100,000

Trans. Date		Security	Price ($)	Amount
12Jun01		Kraft Foods Inc. - Class A Common Shares	US$1,643,000	53,000
05Jun01 to 08Jun01		Maxxum Financial Services - Units	458,708	4,488
11Jun01 to 14Jun01		Maxxum Financial Services - Class A Units	650,000	6,319
05Jun01		MediaVentures Brokerage Corporation - Limited Partnership Units	57,328,460	53,578
24May01 & 14Jun01		Medx Health Corp. -10% Secured Subordinated Convertible Notes	$150,000	$30
07Jun01		Mercedes Holdings Corp. - Common Shares	950,000	95,000
07Jun01		Mercedes Holdings Corp. - Common Shares	254,160	25,416
20Jun01		MultilinkTechnology Corporation - Shares of Common Stock	13,807	1,000
19Jun01		Park Royal Shopping Centre Centre Holdings Ltd. - 7.823% Subordinated Mortgage Bond, Series B	24,000,000	24,000,000
12Jun01		Plasma Environmental Technologies Inc. - Units	150,000	375,000
19Jun01		Quebecor Inc. - Exchangeable Debentures, due 2026	554,884,277	554,884,277
05Jun01	#	SAFLINK Corporation -	US$200	555
08Jul99 to 15Jan01		Sensium Technologies Inc. - Class A and Class B Common Shares	3,900,000	3,000,000, 900,000 Resp.
20Jun01		SF Fund Limited Partnership, The - Limited Partnership Units	150,000	15,000
14Jun01		SHAAE (2001) Master Limited Partnership - Units	6,364,170	392
06Jun01		SHAAE (2001) Master Limited Partnership - Limited Partnership Units	12,542,455	729
10May01		SHAAE (2001) Master Limited Partnership - Units (Amended)	111,128,056	646
21Jun01		Spider Resources Inc. - Common Shares	150,000	1,500,000
07Jun01		Sunblush Technologies Corporation, The - Common Shares and Series E Preference Shares	2,450,000	100,000, 2,450,000 Resp.
22May01		Toyota Credit Canada Incorporated -	997,150,000	10,000,000
25May01		Trident Global Opportunities Fund - Units	299,999	2,804
18May01		Trillium Credit Card Trust - 5.69% Credit Card Receivables-Backed Notes, Series 1999-3, Class A	100	10,000,000
31Dec96		Tuscarora Lendfund Limited Partnership - Notes	$21,370,000	$21,370,000
15Jun01		UTS Energy Limited - Common Shares	448,695	253,500
22Dec00		YMG Capital Management Inc. - Units	83,029,128	10,352,759
09Feb01 & 15Jun01		YMG Opportunities Fund - Units	300,000	300,000
20Jun01		Young Broadcasting Inc. - Common Stock	828,468	15,000

Resale of Securities - (Form 45-501f2)

Date of Resale	Date of Orig. Purchase	Seller	Security	Price ($)	Amount
25May01		Canadian Dominion Resources Limited Partnership 111	Alturas Resources Ltd. - (27) - Shares	23,784,651	8,838,804
25May01		Canada Dominion Resources Limited Partnership IV	Acetex Corp. - (35) - Shares	32,439,617	14,330,621

Reports Made under Subsection 5 of Subsection 72 of the Act with Respect to Outstanding Securities of a Private Company That Has Ceased to Be a Private Company -- (Form 22)

Name of Company	Date the Company Ceased to be a Private Company
Delex Therapeutics Inc.	14Jun01

Notice of Intention to Distribute Securities Pursuant to Subsection 7 of Section 72 - (Form 23)

Seller	Security	Amount
Mullan, Glenn J.	Canadian Royalties Inc. - Common Shares	400,000
Catherine and Maxwell Meighen Foundation, The	Canadian General Investment, Limited - Common Shares	1,199,000
Melnick, Larry	Champion Natural Health.com Inc. - Subordinate Voting Shares and Multiple Voting Shares	19,765, 100,000 Resp.
Gestion Drab Inc.	Cossette Communication Group Inc.- Subordinate Voting Shares	25,828
Les investments Maba Inc.	Cossette Communication Group Inc. - Subordinate Voting Shares	13,123
Communication Mens Sana Incorporee	Cossette Communication Group Inc.- Subordinate Voting Shares	7,677
Rivin, Mark	CryptoLogic Inc. - Common Shares	1,100,000
Gassenbeek, Tom	e-Manufacturing Networks Inc. - Common Shares	300,000
Estill, Glen R.	EMJ Data Systems Ltd. - Common Shares	39,000
Estill Holdings Limited	EMJ Data Systems Ltd. - Common Shares	1,244,700
Estill, James A.	EMJ Data Systems Ltd. - Common Shares	21,900
1461940 Ontario Inc.	Husky Injection Moulding Systems Ltd. - Common Shares	925,000
MTW Solutions Online Inc.	iFuture.com Inc. - Common Shares	400,000
Xenolith Gold Limited	Kookaburra Resources Ltd. - Common Shares	1,893,700
Martin, Rick	Liberty Oil & Gas Ltd. - Common Shares	69,234
Hasenfratz, Frank	Linamar Corporation - Common Shares	800,000
Hasenfratz, Frank	Linamar Corporation - Common Shares	800,000
Oncan Canadian Holdings Ltd.	Onex Corporation - Subordinate Voting Shares	995,900
Faye, Michael R.	Spectra Inc. - Common Shares	124,000
Malion, Andrew J.	Spectra Inc. - Common Shares	142,000
Catherine and Maxwell Meighen Foundation, The	Third Canadian General Investment Trust Limited - Common Shares	209,700
TLT Investments Corp.	Thomson Corporation, The - Common Shares	895,000

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Chapter 9

Legislation

THERE IS NO MATERIAL FOR THIS CHAPTER

IN THIS ISSUE

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
AltaRex Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated June 26th, 2001
Mutual Reliance Review System Receipt dated June 27th, 2001
Offering Price and Description:
$8,400,000 - 3,000,000 Common Shares issuable upon exercise of 3,000,000 Special Warrants
Underwriter(s) or Distributor(s):
HSBC Securities (Canada) Inc.
Promoter(s):
-
Project #370731

Issuer Name:
Beutel Goodman Canadian Equity Plus Fund
Beutel Goodman Canadian Intrinsic Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated June 28th, 2001
Mutual Reliance Review System Receipt dated July 4th, 2001
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s) or Distributor(s):
Beutel Goodman Managed Funds Inc.
Promoter(s):
-
Project #371455

Issuer Name:
Bombardier Capital Ltd.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Shelf Prospectus dated June 29th, 2001
Mutual Reliance Review System Receipt dated June 29th, 2001
Offering Price and Description:
$1,250,000,000 - Debt Securities (Unsecured)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #371646

Issuer Name:
Canadian Tire Receivables Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated June 28th, 2001
Mutual Reliance Review System Receipt dated June 28th, 2001
Offering Price and Description:
$ * * % Asset-Backed Senior Notes,
Series 2001-1
Expected Repayment Date *, 200*
$ * * % Asset -Backed Subordinated Notes,
Series 2001-1
Expected Repayment Date * , 200*
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc,
CIBC World Markets Inc.
Merrill Lynch Canada Inc.
RBC Dominion Securities Inc.
Promoter(s):
Canadian Tire Acceptance Limited
Project #371132

Issuer Name:
EPS Capital Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated June 29th, 2001
Mutual Reliance Review System Receipt dated July 3rd, 2001
Offering Price and Description:
$8,250,000 - 3,300,000 Units @ $2.50 per Unit
Underwriter(s) or Distributor(s):
Yorkton Securities Inc.
Promoter(s):
Clifford D. Giese
Kevin A. Giese
Project #371826

Issuer Name:
Hudson's Bay Company
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated June 29th, 2001
Mutual Reliance Review System Receipt dated June 29th, 2001
Offering Price and Description:
$500,000,000 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #371449

Issuer Name:
Juniper Equity Growth Fund
Type and Date:
Preliminary Simplified Prospectus dated June 28th, 2001
Receipt dated June 29th, 2001
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #354394

Issuer Name:
MacDonald, Dettwiler and Associates Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated June 29th, 2001
Mutual Reliance Review System Receipt dated June 29th, 2001
Offering Price and Description:
$34,650,000 - 1,650,000 Common Shares @ $21.00 per Common Share
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
RBC Dominion Securities Inc.
Merrill Lynch Canada Inc.
Dundee Securities Corporation
Raymond James Ltd.
Promoter(s):
-
Project #371717

Issuer Name:
Megawheels.com Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated June 27th, 2001
Mutual Reliance Review System Receipt dated June 28th, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Martin A. Hilsenteger
Project #371191

Issuer Name:
Viking Energy Royalty Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated June 28,th 2001
Mutual Reliance Review System Receipt dated June 29th, 2001
Offering Price and Description:
$33,200,000 - 4,000,000 Trust Units
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
Raymond James Ltd.
Promoter(s):
-
Project #371337

Issuer Name:
Viking Energy Royalty Trust
Principal Regulator - Alberta
Type and Date:
Preliminary and Amended and Restated Preliminary Short Form Prospectus dated June 28th, 2001
Mutual Reliance Review System Receipt dated June 29th, 2001
Offering Price and Description:
$33,200,000 - 4,000,000 Trust Units @ $8.30 per Trust Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
Raymond James Ltd.
Promoter(s):
-
Project #371337

Issuer Name:
VistaTech Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated June 29th, 2001
Mutual Reliance Review System Receipt dated July 4th, 2001
Offering Price and Description:
Minimum: * Units ($1,000,000)
Maximum: 2,000,000 Units ($*)
18,333,333 Common Shares ($5,500,000) @ $* per Unit
Underwriter(s) or Distributor(s):
Research Capital Corporation
Acadian Securities Incorporated
Promoter(s):
K. Barry Sparks
Project #371730

Issuer Name:
Income STREAMS III Corporation
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated June 27th, 2001
Mutual Reliance Review System Receipt dated 28th day of June, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Merrill Lynch Canada Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
TD Securities Inc.
Bieber Securities Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
Raymond James Ltd.
Yorkton Securities Inc.
BayStreetDirect Inc.

Promoter(s):
-
Project #361827

Issuer Name:
SEAMARK Asset Management Ltd.
Principal Regulator - Nova Scotia
Type and Date:
Final Base PREP Prospectus dated June 27th, 2001
Mutual Reliance Review System Receipt dated 28th day of June, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
Raymond James Ltd.
Beacon Securities Limited
Promoter(s):
-
Project #365131

Issuer Name:
Systems Xcellence Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated June 27th, 2001
Mutual Reliance Review System Receipt dated 28th day of June, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
Taurus Capital Markets Ltd.
Promoter(s):
-
Project #359600

Issuer Name:
Triple G Systems Group, Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated June 28th, 2001
Mutual Reliance Review System Receipt dated 29th day of June, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Yorkton Securities Inc.
Baystreetdirect Inc.
Promoter(s):
F. Lee Green
Project #340351

Issuer Name:
ATCO Ltd.

Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated June 29th, 2001
Mutual Reliance Review System Receipt dated 29th day of June, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #369801

Issuer Name:
Boliden Limited
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated June 29th, 2001
Mutual Reliance Review System Receipt dated 3rd day of July, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #369792

Issuer Name:
Inflazyme Pharmaceuticals Ltd.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated June 28th, 2001
Mutual Reliance Review System Receipt dated 29th day of June, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Yorkton Securities Inc.
Dlouhy Merchant Group Inc.
Promoter(s):
-
Project #368966

Issuer Name:
Ketch Energy Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated June 29th, 2001
Mutual Reliance Review System Receipt dated 29th day of June, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
TD Securities Inc.
Griffiths McBurney & Partners
FirstEnergy Capital Corp.
BMO Nesbitt Burns Inc.
Peters & Co. Limited
Research Capital Corporation
Yorkton Securities Inc.
Sprott Securities Inc.
Promoter(s):
TD Securities Inc.
Project #369347

Issuer Name:
Kingsway Financial Services Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form PREP Prospectus dated June 28th, 2001
Mutual Reliance Review System Receipt dated 28th day of June, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
HSBC Securities (Canada) Inc.
CIBC World Markets Inc.
Scotia Capital Inc.

Promoter(s):
-
Project #366857

Issuer Name:
Kingsway Financial Services Inc.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Short Form PREP Prospectus dated June 29th, 2001
Mutual Reliance Review System Receipt dated 4th day of July, 2001
Offering Price and Description:
$ * - 5,000,000 Common Shares
Underwriter(s) or Distributor(s):
HSBC Securities (Canada) Inc.
CIBC World Markets Inc.
Scotia Capital Inc.

Promoter(s):
-
Project #366857

Issuer Name:
Global Strategy World Companies RSP Fund
Global Strategy World Equity Fund
Global Strategy World Balanced RSP Fund
Global Strategy World Opportunities Fund
Global Strategy World Bond Fund
Global Strategy World Companies Fund
Global Strategy World Equity RSP Fund
Global Strategy Gold Plus Fund
Global Strategy Canadian Opportunities Fund
Global Strategy Canadian Small Cap Fund
Global Strategy Canada Growth Fund
Global Strategy Bond Fund
Global Strategy World Bond RSP Fund
(Series F Units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated June 27th, 2001
Mutual Reliance Review System Receipt dated 29th day of June, 2001
Offering Price and Description:
Mutual Fund Securities Net Asset Value
Underwriter(s) or Distributor(s):
AGF Funds Inc.
Promoter(s):
-
Project #364812

Issuer Name:
Ontario Teachers' Group Dividend Fund
Ontario Teachers' Group Investment Fund - Growth Section
Ontario Teachers' Group Investment Fund - Balanced Section
Ontario Teachers' Group Investment Fund - Diversified Section
Ontario Teachers' Group Investment Fund - Mortgage Income Section
Ontario Teachers' Group Investment Fund - Fixed Value Section
Ontario Teachers' Group Global Value Fund
Type and Date:
Final Simplified Prospectus and Annual Information Form dated June 22nd, 2001
Receipt dated 3rd day of July, 2001
Offering Price and Description:
Mutual Fund Securities Net Asset Value
Underwriter(s) or Distributor(s):
Ontario Teachers Group Inc.
Promoter(s):
-
Project #362120

Issuer Name:
University Avenue Canadian Small Cap Fund
University Avenue World Fund
University Avenue US Small Cap Fund
UNIVERSITY AVENUE MONEY FUND
UNIVERSITY AVENUE U.S. GROWTH FUND
UNIVERSITY AVENUE CANADIAN FUND
UNIVERSITY AVENUE BALANCED FUND
Type and Date:
Final Simplified Prospectus and Annual Information Form dated June 29th, 2001
Receipt dated 5th day of July, 2001
Offering Price and Description:
Mutual Fund Securities Net Asset Value
Underwriter(s) or Distributor(s):
University Avenue Management Ltd.
Promoter(s):
-
Project #359033

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Chapter 12

Registrations

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 IDA Discipline - Richard Mills

BULLETIN # 2842
April 17, 2001

FAILURE TO SUPERVISE BY BRANCH MANAGER, RICHARD MILLS – VIOLATION OF REGULATION 1300.2 AND POLICY 2

Person Disciplined

The Ontario District Council of the Investment Dealers Association of Canada has decided that discipline penalties ought to be imposed on **Richard Mills**, at the relevant time the Branch Manager with a Toronto Branch of Burns Fry Limited ("Burns Fry"), (now Nesbitt Burns Inc.,) a Member of the Association.

By-laws, Regulations, Policies Violated

By written decision dated the 13th of September, 2000, the District Council found that Mr. Mills had contravened Association Regulation 1300.2 by failing to fulfil his supervisory responsibilities with respect to two client accounts handled by Duncan Roy, a registered representative in his branch. A Notice of Hearing and Particulars was issued on November 8, 1999 and the hearing was held over seven days in January and February, 2000, concluding on February 3rd, 2000. After a penalty hearing held on February 23rd, 2001 and by further decision dated the 2nd day of April, 2001, the District Council imposed penalties on Mr. Mills.

Penalty Assessed

Mr. Mills shall pay to the Association:

a fine in the amount of $50,000, and
costs in the amount of $35,000

by no later than May 4, 2001. Also, as a condition of his continued approval, Mr. Mills shall rewrite and pass the Partners, Directors and Officers Examination administered by the Canadian Securities Institute by no later than October 31, 2001.

While the District Council found that supervisory failures like Mr. Mills' would ordinarily result in a suspension of some nature, it held that because of Mr. Mills' genuine attempts to supervise Mr. Roy's conduct and because the failure is unlikely to be repeated, there is no need for a suspension in this particular case.

Summary of Facts

The first client, a 63 year old businessman approaching retirement, had investment objectives in his personal account of 60% Long Term Growth, 20% Short-Term Trading and 20% Venture. The investment objectives in his company account were 25% Income, 65% Long Term Growth, 5% Short-Term Trading and 5% Venture. The client's annual income was shown as over $200,000 and his net worth was reflected as in excess of 3 million dollars. The New Account Application Forms (NAAFs) were signed by Mr. Roy and approved by Mr. Mills. The account codes used internally by Burns Fry for supervisory purposes were shown as "M" for medium risk in the personal account and "C" for conservative in the company account, which contained roughly 90% of the invested assets.

Although the codes were updated from "M" and "C" to "R" for risky, the percentages for the stated investment objectives for each account were not changed and the new coding did not correspond with the coding procedures required by Burns Fry's internal manual.

The trading in both accounts demonstrated a number of the characteristics identified in Policy II and the Burns Fry Manual as specific areas of concern. The trading and account profiles were inconsistent with the accounts' codes for part of the period and were inconsistent with the stated investment objectives throughout the period, suggesting a lack of suitability and inappropriate, high risk trading strategies. There were also indications of excessive trade activity or churning. In addition, the quality of the holdings in the accounts was downgraded after they were moved to Burns Fry. Finally, the accounts reflected undue concentration.

Mr. Mills was aware of the trading activity in these accounts. His response to all of these activities was to talk to Mr. Roy. He discussed them with Mr. Roy and concluded that the trading was appropriate for the client and indeed, was the kind of trading the client desired. He never obtained the NAAFs for the accounts, he did not review the update forms, and he did not consider contacting the client. The District Council found that in the circumstances of this case, he should have done more. There were too many indications of a need for further investigation for him to have relied solely on discussions with Mr. Roy.

With respect to the second client, the stated investment objectives for this 62 year old investor varied during the period from December 1993 when he opened the accounts to March 1997, when the accounts were closed. However, the objectives never allowed for more than 20% venture or short term trading and at some points, were as low as 10% aggressive trading. While all the trades in his accounts were authorized, nearly all the stocks traded were resource stocks or other stocks high on the risk spectrum and therefore not in line with the client's stated investment objectives. Mr. Mills had at least two opportunities to notice that the trading was not in accordance with the client's stated objectives: when the account was first opened and the NAAF was approved showing an initial trade in 100% speculative resource securities and, in March 1995, commissions generated in the account required a branch manager review and if properly done, should have disclosed the high concentration of speculative securities in the account.

Mr. Mills is currently a Vice-President and Director of Nesbitt Burns Inc. and its National Sales Manager.

For disciplinary action in relation to Duncan Roy, please see Association Bulletin #2631 dated September 28, 1999.

"Susanne M. Barrett"

13.1.2 IDA Penalty Decision - Richard Mills

IN THE MATTER OF
THE INVESTMENT DEALERS ASSOCIATION OF CANADA

AND

RICHARD MILLS

PENALTY DECISION OF THE ONTARIO DISTRICT COUNCIL

Hearing:

February 23, 2001

District Council:

Philip Anisman, Chair
Sean Church

Counsel:

Stephanie McManus,
for the Investment Dealers Association of Canada

Peter C. Wardle and Jason C. Markwell, for the respondent, Richard Mills

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A. INTRODUCTION

In its decision of September 13, 2000 (the "Prior Decision"), the District Council found that the respondent, Richard Mills, failed to supervise the conduct of Duncan Roy, a registered representative in his branch, with respect to the accounts of two clients, Robert Long and Hartley Catania, in accordance with the requirements of Policy No. 2 (the "Policy") of the Investment Dealers Association of Canada (the "Association"), contrary to paragraph 1300.2 of the Association's Regulations, as alleged in a Notice of Hearing dated November 8, 1999 (the "Notice"); see (2000) 23 O.S.C.B. 6623 (September 22). This

hearing was convened to consider the penalty that should follow this finding.

B. GENERAL PRINCIPLES

The issues presented in this hearing require the District Council to revisit the principles generally applicable to a penalty determination outlined in its previous decisions; see, e.g., In the Matter of Derivative Services Inc. and Malcolm Robert Bruce Kyle, (2000) 23 O.S.C.B. 5062 (July 21)("DSI"); In the Matter of Edward Richard Milewski, (1999) 22 O.S.C.B. 5404 (August 27) ("Milewski"). In addition, Ms. McManus, counsel for the Association, expressly requested direction from the District Council on the approach to be taken and the standards to be applied in hearings such as this one.

The District Council derives its disciplinary jurisdiction from paragraph 20.10 of the Association's By-laws, which authorizes it to impose penalties on a branch manager or other officer or employee of a member firm who fails to comply with the Association's By-laws, Regulations, rulings or policies. As this paragraph merely lists possible penalties[1], it provides no guidance on their imposition, leaving determination of an appropriate penalty to the discretion of the District Council in light of the circumstances of each case; see DSI, 23 O.S.C.B. at 5062.

As it has previously stated, in deciding on an appropriate penalty the District Council's main concerns are protection of the investing public, the Association's membership and the integrity of the Association's processes and the securities market. These general concerns flow from the objects enunciated in paragraphs 2(a), (b) and (c) of the Association's Constitution and encompass measures for prevention of a repetition of conduct of the type under consideration; see Milewski, 22 O.S.C.B. at 5407. A penalty imposed by the District Council thus reflects its assessment of the sanctions necessary in the case before it to accomplish these goals, taking into account the seriousness of the respondent's conduct and specific and general deterrence; see DSI, 23 O.S.C.B. at 5062.

In this process the District Council has looked for guidance to sources that reflect industry understandings and expectations, such as the Toronto Stock Exchange's Penalty Guidelines for Disciplinary Proceedings (November 5, 1996)(the "TSE Guidelines")[2]. Although the TSE Guidelines are neither exhaustive nor binding on the District Council, they may be of assistance in so far as they are indicative of industry expectations.

Industry expectations and understandings are particularly relevant to general deterrence[3]. If a penalty is less than industry understandings would lead its members to expect for the conduct under consideration, it may undermine the goals of the Association's disciplinary process; similarly, excessive penalties may reduce respect for the process and concomitantly diminish its deterrent effect. Thus the responsibility of the District Council in a penalty hearing is to determine a penalty appropriate to the conduct and respondent before it, reflecting that its primary purpose is prevention, rather than punishment.

An appropriate penalty will achieve both specific and general deterrence. The primary focus of the District Council, however, is the respondent; the appropriateness of the penalty relates most directly to the nature of the respondent's violation, the circumstances in which it was committed and other aggravating and mitigating factors relevant to the respondent's conduct and its consequences, like those identified in the TSE Guidelines. Such considerations may lead the District Council to conclude that a respondent should be prohibited from participation in the securities industry or that a lesser penalty is sufficient to prevent repetition of the misconduct. The emphasis is thus on specific deterrence on the assumption that general deterrence will follow from an appropriate decision; cf., e.g., In the Matter of CCI Capital Canada Ltd., (1999) 22 O.S.C.B. 6289 (October 8) at 6291.

Although the seriousness of a respondent's conduct may incline a District Council toward increasing a penalty in order to enhance its general deterrent effect[4], any temptation to treat general deterrence as providing an independent basis for an additional penalty should be resisted. A penalty based on general deterrence, considered separately, may result in a greater penalty than would otherwise be imposed on a respondent in order to influence the conduct of others who are not before the District Council. In the District Council's view, this would be unfair to the respondent; cf. R. A. Duff, Trials and Punishments 235-36 (1986), quoted in A. Manson, supra, at 52. An appropriate penalty should satisfy the demands of general deterrence without having to bump it up.

General deterrence may, however, provide a means of assessing the appropriateness of a penalty. In the course of its deliberations the District Council may consider the adequacy of a penalty in terms of its likely effect on others. Such consideration may indicate that a penalty is too low, or possibly too high, in the circumstances. General deterrence may thus serve as an additional factor assisting a District Council to weigh the appropriateness of a penalty under consideration and to relate it more closely to industry understandings and expectations.

A penalty decision thus inevitably involves an exercise of judgment by the District Council reflecting the values of the securities industry, as well as the goals embodied in the Association's Constitution. It must also be tailored to the circumstances of the matter before the District Council, see, e.g., DSI, 23 O.S.C.B. at 5068-69, but not in isolation, as one aspect of fairness is that like cases be treated alike.

Comparison with penalties imposed in similar cases may provide another means of ensuring proportionality, always recognizing that the imposition of sanctions is premised in large part on factors specific to the circumstances of each case and that only rarely will there be correspondence on all matters between two cases. As the penalty in each case must be determined on its own merits, precedents can serve only a limited function; cf. In re National Gaming Corp., (2000) 9 A.S.C.S. 4592 (November 10) at 4598. While they, like the TSE Guidelines, may assist in an attempt to treat similar cases similarly, they are no more than factors to be taken into account, whose weight varies with the degree of correspondence to the facts under consideration.

Although the preceding comments also apply to the settlement process, there is a distinction between penalties agreed to in a settlement and those imposed in a hearing such as this one. As has been previously stated, a penalty under a settlement

agreement is likely to be at the low end of the spectrum. The difference is highlighted by the District Council's responsibility to determine an appropriate penalty in a hearing such as this one, as opposed to accepting a penalty agreed to in a settlement; see, e.g., Milewski, 22 O.S.C.B. at 5407; In the Matter of Scott Alexander Clark, [1999] I.D.A.C.D. No. 40 (P.D.C.) ("settlement process is one of negotiation and compromise"; Quicklaw at 3). Penalties imposed under settlement agreements thus cannot define the parameters of the penalties available. These are defined in paragraph 20.10 of the Association's By-laws. Within these parameters, the District Council's responsibility is to determine the penalty that it believes is the correct one, taking into account relevant principles and factors, in the circumstances of the case before it.

C. SUBMISSIONS OF THE PARTIES

1. The Association's Submissions

Ms. McManus' submissions were based largely on the factors in the TSE Guidelines. She focussed on the extent and seriousness of Mr. Mills' supervisory failings, emphasizing deficiencies in his approach to supervision and asserting that he was reckless in failing to take notice of and pursue a number of "red flags" that were or should have been apparent to him. She treated as aggravating factors the losses incurred by Mr. Long and Mr. Catania, Mr. Mills' failure to take corrective measures, his failure to enter a settlement agreement with the Association and the lack of remorse shown in his assertion throughout the prior hearing of the legitimacy of his decisions concerning coding of the NAAFs for and the adequacy of his supervision of these clients' accounts.

Ms. McManus characterized this proceeding as having special significance because of Mr. Mills' position as Executive Vice-President and Managing Director, National Sales Manager of Nesbitt Burns and a possible perception that senior managers are not held to the same standards as front line staff. She advocated a penalty at the high end of the range in the TSE Guidelines as necessary to address the culture of Mr. Mills' firm by sending a message to its other officers and employees. She requested (i) a suspension for a period of twenty-five business days or, alternatively, a more limited suspension from acting in any supervisory capacity for a period of ninety business days, (ii) fines totalling $40,000, $30,000 for Mr. Long's accounts and $10,000 for Mr. Catania's, (iii) disgorgement of $6,300 received as "overrides" from commissions on Mr. Long's accounts, (iv) costs to the Association in the amount of $35,000, (v) a requirement that Mr. Mills rewrite and pass the Partners, Directors and Officers Examination (the "PDO Examination") administered by the Canadian Securities Institute within 180 days of the District Council's decision, and (vi) a requirement that the fines and costs be paid within thirty days of the District Council's decision.

2. The Respondent's Submissions

Mr. Wardle emphasized the District Council's findings that Mr. Mills had not wilfully ignored his supervisory responsibilities and that his contraventions were "understandable" and "errors of judgment". In a thoughtful submission, starting from the District Council's DSI and Milewski decisions, he emphasized issues of fairness.

Mr. Wardle argued that the District Council should take into account penalties imposed for similar conduct that occurred in 1993 and 1994, the period relevant in this proceeding, citing a number of settlement agreements relating to violations during that period. He said the TSE Guidelines, adopted in 1996, represented an attempt to increase penalties and submitted it would be unfair to apply them retroactively. Citing decisions of this and other District Councils, he said it would be an error in principle to fail to address the delay between Mr. Mills' conduct and this proceeding.

The major thrust of these submissions was directed against a suspension, which Mr. Wardle submitted would not have followed conduct of this nature prior to 1996. He said that in light of Mr. Mills' current position, a suspension would have a disproportionate impact on his reputation, much greater than even a significant fine. Arguing that these issues of fairness apply to all penalties, he suggested a fine at the upper end of those imposed under settlement agreements, which are the only available precedents as this is the first Association proceeding in which a branch manager's supervisory responsibilities have been the subject of a full hearing.

Mr. Wardle proposed fines totalling $20,000, $15,000 for the Long accounts and $5,000 for Mr. Catania's, which, he argued, would "send the appropriate message" to Mr. Mills, the investment community and the public. He submitted there is no basis for ordering disgorgement, but agreed to the Association's request for costs and to a requirement that Mr. Mills rewrite the Branch Manager's Examination, if the District Council so determines.

D. RELEVANT FACTORS

1. Nature and Extent of Misconduct

In its Prior Decision the District Council summarized its findings relating to Mr. Mills' failure to fulfil his supervisory obligations with respect to Mr. Long's accounts in the following manner:

(1) he accepted a dramatic departure from the investment objectives and the coding in Mr. Long's accounts immediately after they were opened. In view of Mr. Roy's experience, he should have paid more attention to the investment objectives specified on the initial NAAFs;

(2) he instructed Mr. Roy to update the accounts, based primarily on the trading activities being conducted in them and on his knowledge of Mr. Roy, within a short time of their being opened, without ensuring that Mr. Roy verified the new objectives with Mr. Long and without taking steps to do so himself;

(3) in view of the change in the accounts' profile from conservative to risk oriented and the concentration in them, particularly in Gold Reserve shares, Mr. Mills should have done more than simply talk to Mr. Roy, especially in view of the investment objectives on the NAAFs for these accounts;

(4) Mr. Mills failed to give due regard to a number of signals which were inconsistent with the objectives of the account and which cumulatively, when viewed with the facts already referred to, required further steps;

(5) Mr. Mills should not have accepted an R code for the NAAFs in June 1994, in view of the investment objectives reflected on them;

(6) the transfer of Mr. Long's accounts to Mr. Behan in June 1994 and the investment objectives on the NAAFs which differed significantly from the handling of those accounts over the preceding year and a half, as well as from the codes for these accounts, should also have alerted Mr. Mills to the need for further steps; had he not done so previously, he should have contacted Mr. Long at this time;

(7) the same conclusions apply to the investment objectives contained in the NAAFs of November 1, 1994. (23 O.S.C.B. at 6635; footnote omitted)

Mr. Mills' supervisory failures did not relate to deficiencies in his follow up practices concerning trading in a client's account. He was fully aware of the trading in Mr. Long's accounts and of Mr. Roy's normal trading practices. He monitored these accounts with some care, addressing issues on a regular basis with Mr. Roy and accepting Mr. Roy's explanations. As is stated in the Prior Decision, he "attempted, for the most part, to follow the requirements in the Policy and the Burns Fry Manual. His errors were errors of judgment. He assumed that as a manager he was entitled to override the coding guidelines in the Burns Fry Manual; he placed too much trust in an aggressive registered representative; and he failed to respond to a number of indications ... that should have led him to take further steps"; 23 O.S.C.B. at 6637.

Characterizing Mr. Mills' failure to supervise as involving errors of judgment, however, does not mean that it is a mitigating factor. Even though Mr. Mills' reliance on Mr. Roy may have been "understandable", it was neither reasonable nor acceptable in the circumstances of Mr. Long's accounts or in light of Mr. Mills' knowledge of them[5]. This involved errors of judgment, but serious ones.

As with other aspects of human conduct, errors of judgment cover a wide spectrum, from mere oversight to conscious decisions. Mr. Mills' errors in this case were closer to the latter end of the spectrum. His determination not to follow the coding required by Burns Fry's Manual when approving the NAAFs for Mr. Long's account is a telling example. According to his own evidence, he concluded that he was entitled to ignore the Manual's coding mandates based on his own assessment of the client's "real" investment objectives, rather than the information on the NAAFs. This was a conscious decision. In the District Council's view, this conduct constituted a serious departure from his supervisory obligations, as is indicated in the Prior Decision; see 23 O.S.C.B. at 6634. Although it was not wilful, and not intended to harm Mr. Long or profit Mr. Mills, it was clearly unacceptable under the standards applicable in 1993 and 1994 when it occurred, as it would be now.

The seriousness of Mr. Mills' supervisory deficiencies is highlighted by the number of signals indicating that the trading in Mr. Long's accounts was inconsistent with their stated objectives. These included the initial coding of the accounts, excessive trading, which in one account more than doubled the churning threshold in Burns Fry's Manual, downgrading of the quality of the securities held in the accounts, and undue concentration in speculative securities and in securities of a single resource corporation; see 23 O.S.C.B. at 6629-32. The District Council found there was reason to believe the trading in these accounts was unsuitable, that Mr. Mills should have taken additional steps, including contacting Mr. Long, at a number of points during thealmost two years the accounts remained in his branch, that he failed to follow his own practice of reviewing and approving updated account forms, that he failed to notice the relative values of the two Long accounts or that the turnover in these accounts approached and exceeded the churning threshold, and that he should have noticed a short sale in April 1993; 23 O.S.C.B. at 6631-32 and 6635 n. 28. Mr. Mills' failure to respond adequately to these "red flags" is an aggravating factor, as Mr. Wardle admitted.

Mr. Mills' supervision of Mr. Catania's accounts constitutes an additional aggravating factor, as well as an independent failure to fulfil his responsibilities. Although the District Council addressed the allegations concerning Mr. Long's and Mr. Catania's accounts separately in its factfinding in the Prior Decision, see 23 O.S.C.B. at 6627, its findings with respect to both accounts are relevant to its penalty determination.

A number of parallels in Mr. Mills' handling of Mr. Long's and Mr. Catania's accounts suggest a pattern of conduct. Although Mr. Catania's accounts presented fewer examples over a shorter period, Mr. Mills approved two NAAFs with coding that did not correspond to the objectives contained in them. As with Mr. Long's accounts, he based this approval on his knowledge of Mr. Roy and on factors other than the objectives, contrary to the requirements in Burns Fry's Manual[6]. In addition, he approved the first NAAF even though it identified an unsuitable initial trade and failed to notice unsuitable trading in the account in March, 1995, a month in which he was obligated to review trading in the account; see 23 O.S.C.B. at 6636.

Mr. Mills' approval of the NAAFs for Mr. Long's accounts after they were transferred to Mr. Behan is consistent with this pattern of supervisory failure. In June and November 1994, Mr. Mills again approved NAAFs on which the coding did not reflect the investment objectives. These errors became apparent from evidence adduced at the hearing on behalf of Mr. Mills, namely, his own and Mr. Behan's. Although Mr. Mills has not been charged with failure to supervise Mr. Behan and has not been found to have contravened the Association's rules with respect to that supervision, the District Council made findings on the evidence relating to the accounts with Mr. Behan which are relevant to its determination of the penalty for the violation alleged in the Notice, as they relate to his supervision of Mr. Roy and are indicative of Mr. Mills' supervisory conduct generally; see 23 O.S.C.B. at 6632-34. In the District Council's view, his supervision of Mr. Long's accounts with Mr. Behan constitutes an additional aggravating factor.

Ms. McManus submitted that the supervisory systems of Mr. Mills' firm were also inadequate and that this, too, is an aggravating factor. The District Council made no findings on the adequacy of Burns Fry's or Nesbitt Burns' supervisory systems, although it did note that review of Mr. Long's accounts at the firm level was also required under the Policy in most months; see 23 O.S.C.B. at 6629. This did occur, as the evidence showed that a number of issues were drawn to Mr. Mills' attention, particularly with respect to downgrading and concentration in Mr. Long's accounts; see 23 O.S.C.B. at 6628-32, referring to Exhibit 29. While it might be suggested that the procedures relating to updating of NAAFs were inadequate, the evidence was that they were not inconsistent with procedures in the industry in 1993 and 1994; see 23 O.S.C.B. at 6626. Apart from the fact that Mr. Mills' personal practices went further, this would arguably be a mitigating factor with respect to this aspect of his conduct. In all the circumstances, the District Council is of the view that the supervisory systems within the firm at the time in question are not factors to be taken into account in this case in deciding on the penalty.

The TSE Guidelines suggest that consideration should be given to the extent of a supervisor's periodic reviews and follow up on any problems noted. As stated in the Prior Decision, the Policy defines a "review" as a "preliminary screening to detect items for further investigation"; 23 O.S.C.B. at 6624 n. 2. There is no doubt that Mr. Mills reviewed Mr. Long's accounts and regularly followed up with Mr. Roy. Although this would ordinarily constitute a mitigating factor, in this case it is of limited effect, in view of the fact that Mr. Mills should have gone further than he did. His ongoing review, however, is relevant to the seriousness of his contravention in that it demonstrates that he attempted to supervise Mr. Roy and that his failure to do so adequately was neither wilful nor self-interested. To this extent, it is a mitigating factor.

2. Loss to Clients

Ms. McManus submitted that the consequences of Mr. Mills' supervisory failures for Mr. Long and Mr. Catania are an aggravating factor. By December 1994, when Mr. Long moved his accounts from Nesbitt Burns, he had incurred an overall loss of approximately $35,500, approximately 4.24 per cent of his total invested capital, as shown in the Additional Account Analysis prepared by Ms. Gardiner (Exhibit 5, Tab 1, p. 3). Ms. McManus stated that he lost additional amounts on the investments in his accounts after he withdrew them from Nesbitt Burns, but there is no evidence before the District Council concerning such losses. Mr. Catania incurred a loss of $25,221.53, amounting to 72.6 per cent of the funds he had invested with Mr. Roy; see 23 O.S.C.B. at 6636. Although both Mr. Long and Mr. Catania were compensated by Nesbitt Burns, Ms. McManus submitted that Mr. Long had to bring an action to obtain compensation, and Mr. Catania was reimbursed only after the District Council's Prior Decision. She argued, as well, that this compensation was relevant only if Mr. Mills had paid part of it. Mr. Wardle submitted that Mr. Long was sophisticated, had authorized each trade, had not complained during the year and a half in which he maintained his accounts with Mr. Roy, and had incurred a small loss compared to the size of his accounts and that Mr. Mills' involvement with Mr. Catania's accounts was quite limited. He informed the District Council that Mr. Long's action was settled for an amount of $125,000 and that Nesbitt Burns voluntarily paid Mr. Catania $45,000 in compensation.

In the District Council's view, the clients' losses do not constitute a major aggravating factor in the circumstances of this case[7]. Consideration of the effects of a supervisory failure on the clients should take into account, in addition to such losses, the risks to which the clients were exposed and any compensation received from the respondent or his firm. In view of the settlement of Mr. Long's action and the compensation paid Mr. Catania, both of which substantially exceeded the amounts lost in their accounts, the District Council does not view the losses resulting from Mr. Mills' supervisory failures as a significant aggravating factor.

3. Subsequent Events

The TSE Guidelines include as a principal factor whether a supervisor demonstrates that corrective measures were taken once the problem was discovered. Ms. McManus submitted that Mr. Mills has done nothing in this respect. He did, however, demote Mr. Roy. As the District Council found in its Prior Decision, Mr. Mills had appointed Mr. Roy an assistant manager who during the relevant period on occasion acted as a backup in performing daily reviews and other supervisory responsibilities. In late 1994, Mr. Mills requested Mr. Roy to step down "because he thought Mr. Roy had to refocus his business"; 23 O.S.C.B. at 6627. It is reasonable to infer that Mr. Mills' demotion of Mr. Roy was in part a result of his handling of Mr. Long's, and possibly other, accounts. Mr. Roy left Mr. Mills' branch in 1996; 23 O.S.C.B. at 6636.

Mr. Wardle submitted that the subsequent conduct of Mr. Mills' branch could be treated as a mitigating factor. He entered in evidence documents relating to a 1999 sales compliance review of the branch by the Association, including Nesbitt Burns' response and a letter dated November 14, 2000 from the Association's Manager, Sales Compliance indicating that all matters raised in the compliance report had been satisfactorily resolved (Exhibit 30).

He submitted, as well, that Mr. Catania was fully reimbursed, voluntarily, by Nesbitt Burns and that Mr. Mills contributed approximately ten per cent of this amount and of the settlement with Mr. Long as a result of the manner in which his compensation was determined.

He also argued that the change in Mr. Mills' responsibilities when he was promoted to his current position provides mitigation "to a small extent", for as National Sales Manager, Mr. Mills' supervisory responsibilities are quite different from those of a branch manager. Ms. McManus included with her submissions a copy of Mr. Mills' "job description" dated January 2000. The District Council requested Mr. Mills to address in some detail the duties and responsibilities listed in this document.

Although Mr. Mills performs some supervisory and compliance functions in his current position, they do not represent a majority of his responsibilities and are not central to them. His job description states that he approves "large concentration and/or debit balances" on accounts managed by a divisional manager and must approve and recommend all involvement of registered representatives "in private investments and fiscal

business"; in both cases, as he informed the District Council, his approval is a prerequisite to consideration of these matters by firm committees, the Risk Committee and the Corporate Compliance Committee, which make the ultimate decisions. He may be consulted on problems relating to supervision of division managers and compliance issues relating to management responsibilities and client complaints, but these do not occupy a substantial part of his time[8]. Mr. Mills informed the District Council that if his supervisory responsibilities were excluded under a suspension, it would be necessary to reshuffle some matters within the firm, but he would be able to perform approximately 90 per cent of his current responsibilities. Mr. Wardle submitted that in his current position there was little likelihood that Mr. Mills would reoffend. The District Council accepts that these developments are, to some extent, mitigating factors.

Mr. Wardle argued vigorously that the seniority of Mr. Mills' current position has resulted and will continue to result in this proceeding receiving industry and public attention, including press coverage, with a concomitant effect on Mr. Mills' reputation. He said the District Council should take this into account with respect to the nature of the penalty, asserting that a suspension would have a greater impact on Mr. Mills' reputation than a fine. The essence of this submission is that the attention a proceeding is likely to receive may constitute a mitigating factor.

The District Council does not accept this submission. In the District Council's view the effect of this proceeding on Mr. Mills' reputation will result from the findings contained in its Prior Decision and in the reasons for this one. The impact of a penalty on a respondent's reputation is a function of its appropriateness. Treating this as a factor in determining the penalty would involve circularity of reasoning and would substitute subjective factors relating to a respondent for the proportionality implied in the role of general deterrence and industry expectations described above. In the District Council's view, this type of consideration is not relevant to a penalty determination.

4. Admission of Wrongdoing

The TSE Guidelines suggest that a timely admission of wrongdoing may operate as a mitigating factor. Ms. McManus argued that a failure to make such an admission may operate as an aggravating factor and submitted that Mr. Mills' assertion throughout this proceeding of the correctness of his coding decisions and his handling of Mr. Long's accounts constituted such an aggravating factor, as did his failure to settle.

While Mr. Mills' position on coding is an aggravating factor in so far as it indicates a conscious misunderstanding of his supervisory responsibilities, his defence against the Association's allegations and his refusal to enter into a settlement agreement with the Association's staff are not. A respondent is entitled to conduct a defence in an Association disciplinary proceeding without fear it will have an adverse impact on any penalty that might be imposed, if it proves unsuccessful. Treating a vigorous defence as an aggravating factor would go some way toward denying the respondent's right to defend, as would consideration of a refusal to settle. The TSE Guidelines attempt to avoid any such implication by stating that an admission of wrongdoing is "to operate as a mitigating factor only"[9]. The District Council agrees.

5. Date of Violation

Mr. Wardle submitted that the District Council should take into account the fact that Mr. Mills' supervisory failures occurred in 1993 and 1994. Referring to the Association's Bulletin No. 2574, dated March 24, 1999, he said that since 1994 there has been an attempt on the part of securities regulators, including the TSE and the Association, to increase penalties for contraventions of their rules. Bulletin No. 2574 described this "trend toward increased regulatory vigilance and the recovery of higher penalties" and said that recent penalty guidelines issued by the TSE demonstrate support for it. The reference is clearly to the TSE Guidelines.

In Mr. Wardle's submission, applying the TSE Guidelines concerning suspensions to Mr. Mills' conduct in this proceeding would involve a retroactive application of current penalty practices, which would be unfair[10]. He referred to a number of District Council decisions accepting that a delay in proceeding against a respondent may constitute a factor in a penalty determination; see, e.g., In the Matter of Debra Patricia Lynne Barnes, [1999] I.D.A.C.D. No. 13 (P.D.C.) (Quicklaw at 4-5).

While the District Council accepts that a significant delay preceding a notice of hearing, or any other delay that is prejudicial to a respondent, may be a factor affecting the sanction[11], it is important to address the basis for this conclusion. In the District Council's view, the imposition of a penalty in these circumstances does not raise issues of retroactivity. Neither party has suggested that the penalties authorized by paragraph 20.10 of the Association's By-laws were increased after the failures found in the Prior Decision. Even if they had been, a suspension, revocation or prohibition of an individual's approval by the Association based on his conduct prior to the amendment would not be retroactive, as such penalties are preventive and reflect an assessment by the District Council of the person's qualifications to continue as an approved person; see Brosseau v. Alberta Securities Commission, (1989) 93 N.R. 1 (S.C.C.) at 19-22; see also R. Sullivan, Driedger on the Construction of Statutes (3d ed. 1994) at 520-21[12].

Supervisory failures were viewed as serious by securities regulators well before the events that led to this proceeding. In 1987 the Ontario Securities Commission ("OSC") declared that member firms are responsible to supervise the conduct of registered representatives, stating that compliance with securities laws and the rules of self-regulatory organizations "must be given the highest priority by [their] senior officials"; In the Matter of Christopher James Chappell, (1987) 10 O.S.C.B. 4000 (July 3) at 4008 (settlement approval). In this decision the Commission "put the industry on notice that in the future it proposes to consider more stringent penalties for compliance officers, senior officers and registered dealers in connection with the conduct of their employees"; ibid. at 4009. The OSC reiterated this position in 1990; see In the Matter of Gordon Capital Corp., (1990) 13 O.S.C.B. 2035 (May 25) at 2068.

Although in this case the District Council based its Prior Decision on standards of supervisory conduct applicable in 1993 and 1994, contained in the Association's By-laws and the Policy, which effectively required a branch manager to exercise reasonable care in attempting to fulfil his supervisory obligations, see 23 O.S.C.B. at 6627, this does not resolve the

question of penalty. Nevertheless, industry initiatives like the TSE Penalty Guidelines are not created instantaneously. They invariably follow a process of formal or informal consultation and reflect general industry understandings and expectations prior to and at the time of their adoption. Although no evidence of the process leading up to the adoption of the TSE Penalty Guidelines was presented to the District Council, the District Council infers that this was the case with them, as it was with the development of the Association's Policy; see Prior Decision, 23 O.S.C.B. at 6624.

Mr. Wardle's submission derives its strength from the concept that like cases should be treated alike. As a matter of fairness, penalties for similar conduct engaged in during the same period should have some correspondence, subject to the peculiarities of individual cases[13]. District Councils have treated delay as a mitigating factor on this basis with respect to both suspensions and fines; see, e.g., In the Matter of Ralph Manfred Osterwald, (1996) 19 O.S.C.B. 4843 (August 30) at 4844; In the Matter of Debra Patricia Lynne Barnes, [1999] I.D.A.C.D. No. 13 (P.D.C.) (Quicklaw at pp. 4-5); In the Matter of Scott Alexander Clark, [1999] I.D.A.C.D. No. 40 (P.D.C.) (Quicklaw at 3-4) (acceptance of settlement agreement); In the Matter of John Francis Aiken, (2000) 23 O.S.C.B. 8058 (November 24) at 8060. The District Council accepts that a significant delay in proceeding against a respondent, for which the respondent is not responsible, may be taken into account as a factor in terms of prejudice to the respondent from the delay and with respect to consistency of penalties.

In this case, the delay resulted, at least in part, from the Association's enforcement priorities. In a preliminary motion relating to production of documents by the Association, it appeared that investigation reports were prepared by an Association investigator in 1996 and 1998, both of which recommended that disciplinary action not be taken against Mr. Mills; see In the Matter of Richard Mills, (1999) 22 O.S.C.B. 8483 (December 24) at 8484-85. The District Council was informed by Ms. McManus that between 1996 and 1998 the Association's enforcement priorities changed, resulting in a new mandate to address issues relating to supervision in 1998; ibid. at 8487[14]. While this change may explain the delay in initiating proceedings against Mr. Mills, it is not relevant to his supervisory obligations and does not constitute a mitigating factor in addition to the delay[15].

Acceptance of the consequences of delay as a factor relevant to a determination of an appropriate penalty does not end the matter. Ordinarily, it would be necessary to consider the penalties imposed in earlier decisions of this and other District Councils for similar violations committed during the same period. As Mr. Wardle advised, however, this is the first Association disciplinary proceeding for supervisory failure to go to a hearing. There are no prior decisions.

The only "precedents" available and cited by Mr. Wardle are settlement agreements. These, as he readily admitted, represent the lower end of the penalty range. As a result, they provide only limited assistance in determining an appropriate penalty in this case. Mr. Mills' penalty, therefore, turns on individual factors concerning his conduct and the surrounding circumstances in light of the goals sought to be achieved through Association sanctions.

6. Income Tax Deductibility of Fines

In its DSI decision the District Council stated that the Supreme Court of Canada's decision in 65302 British Columbia Ltd. v. M.N.R., (1999) 248 N.R. 216, is relevant to the exercise of its discretion to fine; see 23 O.S.C.B. at 5068. As a result of the Supreme Court's decision, fines imposed by a self-regulatory organization on its members and their approved persons may be deductible as business expenses for income tax purposes. As this may undermine a fine's intended effects, the District Council concluded that deductibility is a factor that may be considered in determining the amount of the fine.

The chair of the District Council asked Mr. Mills if he was compensated by Nesbitt Burns as an employee or if he would be able to treat any fine imposed on him as a business expense for income tax purposes. He informed the District Council that he is compensated as an employee. Deductibility for income tax purposes is therefore not a factor in this case.

E. THE PENALTY

The range of penalties recommended in the TSE Guidelines for a branch manager's failure to supervise employees as necessary to ensure compliance with the Association's rules includes a fine of $5,000 to $50,000. The TSE Guidelines also recommend consideration of (i) a suspension of supervisory responsibilities for up to one month in a case involving a limited number of transactions and limited quantifiable harm to clients or the member firm, (ii) a suspension for one to six months where there are a greater number of transactions and more significant harm, and (iii) a permanent bar against any supervisory activities in egregious circumstances.

A branch manager's obligations to supervise the opening of new accounts and subsequent trading in them is intended to provide protection to member firms and their clients; a failure to fulfil these obligations may expose both to unwarranted losses. As a branch manager is on the front line of investor protection when performing these functions, the exercise of reasonable diligence in complying with the Policy and a firm's internal manual is important to the goals adopted in the Association's Constitution. The District Council views a failure to fulfil supervisory responsibilities, such as occurred in this case, as a serious matter.

Whether considered as negligent or a failure to exercise due diligence in fulfilling his supervisory responsibilities, Mr. Mills' conduct was particularly serious in view of his conscious decision to override the coding requirements in the Burns Fry Manual. Nevertheless, he did take steps to supervise Mr. Roy's accounts; his failure to fulfil his obligations was not wilful and was not intended to benefit himself or expose Mr. Long and Mr. Catania to harm. In these circumstances, and especially because this is a case of first instance for the District Council, careful consideration of the penalties requested by the Association is necessary.

1. Suspension

In the District Council's view, supervisory failures like Mr. Mills' would now ordinarily result in a suspension of some nature. This would also be consistent with industry expectations in 1993 and 1994, as reflected in the settlement agreements cited by Mr. Wardle, two of which contained suspensions, in one case for five years and in the other for three months; see In the Matter of Gilbert G. Gibb, [1996] I.D.A.C.D. No. 8

(A.D.C.); In the Matter of Kevin John Orr, [1997] I.D.A.C.D. No. 30 (O.D.C.). Nevertheless, in the circumstances of this case, the District Council has concluded that it is not necessary to suspend Mr. Mills, in part because of his genuine attempts to supervise Mr. Roy's conduct. It is the District Council's view that Mr. Mills is neither dishonest nor lackadaisical, and counsel for the Association did not suggest otherwise. His failure resulted from a misguided sense of his own authority and a misplaced confidence in a trusted employee, errors of judgment which, although serious, are not likely to be repeated in view of this proceeding and the District Council's assessment of Mr. Mills based on his testimony and conduct during the hearings.

This conclusion is also influenced by the change in Mr. Mills' responsibilities at Nesbitt Burns. In his current position he does not perform the functions of a branch manager. Supervisory activities constitute only a small part of his responsibilities and he does not perform them alone. Indeed, Ms. McManus conceded in reply that in view of Mr. Mills' current position, it is not necessary to suspend him in order to avoid a repetition of his conduct. Rather, she argued that a suspension is necessary to send a message to Mr. Mills' firm[16] and, presumably, to branch managers in other firms.

As the District Council has concluded that a suspension is not necessary for purposes of specific deterrence, suspending Mr. Mills in order to send a signal to other branch managers would punish him for purposes of general deterrence and would in these circumstances be unfair to him. The same is true of a suspension aimed at deficiencies in his firm's culture. There was no evidence before the District Council on the "culture" of Nesbitt Burns. If this requires the attention of the Association, it should be addressed through the Association's ongoing regulatory oversight or in a proceeding against the firm, providing the firm in both cases with an opportunity be heard. In the District Council's view, its Prior Decision and this penalty decision will serve as a warning that similar conduct by a branch manager in the future may result in a suspension or more severe penalty, subject to the circumstances of each case.

2. Fine

The submissions of both counsel were within the range of fines recommended in the TSE Guidelines. Ms. McManus requested fines aggregating $40,000 plus disgorgement of $6,300, and Mr. Wardle suggested fines aggregating $20,000. Both addressed Mr. Long's and Mr. Catania's accounts separately, accepting that a lower fine was appropriate for the latter. Neither made submissions on an aggregate fine or otherwise addressed an appropriate total in light of Mr. Mills' conduct overall.

The District Council has previously addressed the question of disgorgement; see In the Matter of Michael McCrea, (2000) 23 O.S.C.B. 748 (January 28) at 752. Although paragraph 20.10 of the Association's By-laws does not specifically authorize a penalty requiring disgorgement of profits, it does contemplate their relevance by authorizing a maximum fine based on treble the pecuniary benefit obtained from a violation. In determining the amount of a fine, the District Council may take into account the profit obtained by a respondent as a result of a violation of the Association's By-laws or other rules. A fine will ordinarily reflect the profit received by a respondent.

In this case, however, there is no evidence that Mr. Mills' conduct was motivated by a desire for profit; on the evidence, the District Council is of the view that it was not. As a component of Mr. Mills' compensation was based on profits earned in his branch, Ms. McManus submitted, in response to the District Council's McCrea decision, that his income from commissions paid by Mr. Long should be taken into account and said this amounted to approximately $6,300.

Mr. Wardle informed the District Council that Mr. Mills' compensation was based in part on his branch's net production and that he received ten per cent of the net profits from the branch. He said that a discount from Mr. Roy's gross commissions was required to deduct the expenses of the branch attributable to them[17]. He submitted that any profit obtained by Mr. Mills as a result of his contravention would therefore be indirect.

Mr. Wardle also stated that the amounts paid by Nesbitt Burns to Mr. Long and Mr. Catania were allocated as expenses to Mr. Mills' branch and that he thus incurred a personal liability of $17,000 (ten per cent of these payments). Accepting Ms. McManus' $6,300 figure as accurate, Mr. Mills' gain is balanced by this liability. Mr. Wardle expressly refrained from arguing that these contributions should be treated as mitigating factors. In the District Council's view, therefore, any profit that may have been received by Mr. Mills is not relevant to the fine in this case.

Mr. Wardle referred to a number of settlement agreements in which fines were imposed on branch managers and other supervisors. The fines in the agreements relied on by him were between $8,000 and $15,000, all within the range in the TSE Guidelines, and all above the $5,000 starting point. While Mr. Wardle's proposed fine of $15,000 for Mr. Long's accounts is at the top of the range in the settlement agreements, this is not determinative; penalties agreed to in settlement agreements tend to be at the low end of the penalty range, as he admitted; see, e.g., Milewski, 22 O.S.C.B. at 5407. In any event, the facts agreed to in the settlement agreements are not identical to this case.

In view of the seriousness of Mr. Mills' violations, a significant fine is warranted. The District Council has determined to impose an aggregate fine of $50,000, treating Mr. Mills' supervision of Mr. Roy as a single pattern of conduct. This is consistent with the Notice, which contains only one charge, although related to the accounts of two clients. If the District Council were required to address these matters severally, it would impose a fine of at least $35,000 for Mr. Long's accounts and $15,000 for Mr. Catania's. The $50,000 fine is at the top of the range in the TSE Guidelines, and higher than the total advocated by Ms. McManus, reflecting the seriousness with which the District Council views Mr. Mills' supervisory failures. It might have been higher still, if the costs that Mr. Mills must pay were less.

Ms. McManus requested costs of $35,000 to which Mr. Mills agreed. In her initial submissions, she informed the District Council that Mr. Mills intended to claim indemnification for these costs from Nesbitt Burns and indicated her intention to address this issue. In the course of the hearing Mr. Wardle advised the District Council that Mr. Mills will not request Nesbitt Burns to indemnify him for the costs or for any fine imposed on him, but will bear the total amount himself.

In the District Council's view, costs awarded in a disciplinary proceeding may be viewed "as an element of the sanction"; see In the Matter of Derivative Services Inc. and Malcolm Robert Bruce Kyle, (2000) 23 O.S.C.B. 5244 (July 28) at 5245; cf. In the Matter of W. H. Stuart Mutuals Ltd., 9 A.S.C.S. at 3331. As a result of this penalty decision, the total amount that Mr. Mills will be required to pay to the Association is $85,000, which is to be paid no later than May 4, 2001.

3. Rewriting Examinations

Ms. McManus requested that the District Council require Mr. Mills to rewrite and pass the PDO Examination administered by the Canadian Securities Institute. Mr. Wardle submitted that a requirement of this nature would only be appropriate if the District Council concludes that Mr. Mills does not understand the basic rules of the industry and that, in any event, the appropriate examination would be the Branch Managers Examination, since Mr. Mills' violations related to his conduct as a branch manager.

In the District Council's view, Mr. Mills' conduct reflected a serious misunderstanding of his supervisory responsibilities, especially as he took it upon himself to override the coding requirements in the Burns Fry Manual. This misunderstanding warrants a requirement that Mr. Mills review his responsibilities in a serious and structured manner. As Mr. Mills' current responsibilities are not those of a branch manager, but do involve supervisory and compliance elements, the District Council has concluded that he should be required to rewrite and pass the PDO Examination by no later than October 31, 2001, as a term of his continued approval.

4. Other Matters

In her written submission Ms. McManus also requested an order imposing a condition on Mr. Mills' continued approval that a failure to comply with any of these penalties within the time prescribed will entitle the District Council, on application by the Senior Vice-President, Member Regulation, without further notice to Mr. Mills, to suspend his approval until he complies. As paragraph 20.35 of the Association's By-laws confers this authority on the applicable District Council where a fine or conditions are imposed in a disciplinary proceeding, an order to this effect is unnecessary.

F. PENALTY DECISION

The District Council orders that:

1. Mr. Mills shall pay to the Association

   (a) a fine in the amount of $50,000, and

   (b) costs in the amount of $35,000

by no later than May 4, 2001; and

2. as a condition of his continued approval, Mr. Mills shall rewrite and pass the Partners, Directors and Officers Examination administered by the Canadian Securities Institute by no later than October 31,2001.

Dated this 2nd day of April, 2001.

Philip Anisman, Chair

Sean Church, Member

MILLS PENALTY DECISION

FOOTNOTES:

1. These penalties are (i) a reprimand, (ii) a fine not exceeding the greater of $1,000,000 per offence or an amount equal to three times the pecuniary benefit obtained as a result of a violation, (iii) suspension of an individual's approval to act as an officer or employee of a member firm for a specified period, possibly on terms, (iv) revocation of such approval, (v) prohibition of such approval in any capacity for any period of time, and (vi) conditions on such approval.

2. The District Council accepts that the NASD Sanction Guidelines may also provide some assistance on sanctioning principles and penalty ranges, subject to differences between regulatory requirements and industry and regulatory expectations in Canada and the United States; see DSI, 23 O.S.C.B. at 5062. In this case the excerpts from the NASD Sanction Guidelines provided by counsel for the Association relating to sanctioning principles, relevant factors and the range of penalties were consistent with principles enunciated in DSI and Milewski and the penalties suggested in the TSE Guidelines.

3. Although general deterrence based on penalty alone is viewed with skepticism in the criminal process, it is generally accepted that penalties can have some deterrent effect in a context in which violations are likely to be followed by enforcement and appropriate penalties; see, e.g., A. Manson, The Law of Sentencing 43-46 (2001). The deterrent, educative effect of sanctions is likelier in a self-regulatory organization, whose members represent a relatively small group with substantially similar economic goals and common practices, all subject to regulatory oversight, to whom notices of disciplinary proceedings and of decisions are sent, as is the case with the Association. The potential for general deterrence is further enhanced by the fact that decisions of the District Council are published in the Ontario Securities Commission Bulletin and receive attention in the press.

4. Cf., e.g., In the Matter of W. H. Stuart Mutuals Ltd., (2000) 9 A.S.C.S. 3321 (September 1) at 3330; In the Matter of National Gaming Corp., (2000) 9 A.S.C.S. 4592 (November 10) at 4600; In the Matter of Cartaway Resources Corp., (2001) 10 A.S.C.S. 796 (February 23) at 803. See also British Columbia Securities Commission v. Biller (B.C.C.A., March 16, 2001). Although it is not clear, it might be argued that securities legislation in Alberta and British Columbia contemplates the imposition of administrative fines for general deterrent purposes; see Securities Act, S.A. 1981, c. S-6.1, s. 13.3(5), as amended; Securities Act, R.S.B.C. 1996, c. 418, s. 15(3), as amended.

5. The District Council's finding in its Prior Decision reflected this conclusion. It said, "While Mr. Mills' conduct may be understandable in the circumstances, in the District Council's view it represents a failure to fulfil his supervisory responsibilities in a reasonable manner"; 23 O.S.C.B. at 6634.

6. The District Council found that "he made a conscious decision to rely on Mr. Roy and not to follow the coding requirements in Burns Fry's Manual"; 23 O.S.C.B. at 6636.

7. The TSE Guidelines state that "any resultant loss to either" a client or the member firm may be a factor in determining a penalty for inadequate supervision. Ms. McManus did not suggest that the expense incurred by Nesbitt Burns in resolving Mr. Long's claim and in compensating Mr. Catania was relevant to Mr. Mills' penalty.

8. In the prior hearing Mr. Mills testified that he was meeting weekly with a senior compliance officer in his firm to review and discuss compliance issues relating to division managers.

9. The same conclusion has been accepted by other securities regulatory authorities; see, e.g., In the Matter of Cartaway Resources Corp., (2000) 10 A.S.C.S. 796 (February 23) at 799.

10. Mr. Wardle agreed that the TSE Guidelines are relevant to a fine.

11. Delay may in some circumstances have the effect of a penalty on a respondent; see, e.g., In the Matter of Kenneth Francis Layden, [1997] I.D.A.C.D. No. 7 (N.B.D.C.) (respondent out of work for substantial part of period following complaint as a result of Association's investigation) (Quicklaw at 5-6); cf. R. v. Bosley, (1992) 59 O.A.C. 161 (C.A.) at 169. There is no evidence of prejudice to Mr. Mills from the delay in this case.

12. The Alberta Securities Commission has held that a presumption against retroactivity also does not apply to administrative fines which are intended not as punishment, but to protect the public; see In the Matter of Morrison Williams Investment Management Ltd., (2000) 9 A.S.C.S. 2888 (July 28) at 2900-01; and see note 4, above.

13. Cf. Sentencing Reform: A Canadian Approach - Report of The Canadian Sentencing Commission 154 (1987) ("a sentence should be consistent with sentences imposed on other offenders for similar offences committed in similar circumstances").

14. This change was announced in March 1999 in Association Bulletin No. 2574 ("staff of the Enforcement Division for some time now has been instructed to include a review of the adequacy of supervisory procedures in every investigation into an allegation of regulatory misconduct").

15. Ms. McManus also suggested, in effect, that treating contemporaneous penalties and Association enforcement policies as mitigating factors would enable a branch manager to engage in a risk analysis and then decide whether to comply with the Association's rules. This possibility raises complex issues of principle and practice. Suffice it to say that evidence of any such analysis would itself present an aggravating factor.

16. Ms. McManus based this submission on the fact that Mr. Mills' career was enhanced by the performance of his branch, presumably leading to his promotion. She argued that his current role in the firm is of critical importance because the culture of such organizations is "top down" and invited the District Council to infer that the position taken in Mr. Mills' defence is indicative of his firm's regulatory culture.

17. The Additional Account Analysis in Exhibit 5, Tab 1, page 3, shows commissions on trading in Mr. Long's accounts between January 1993 and December 1994 were $369,131.78. Ms. McManus derived the $6,300 figure from the percentage of total branch production received by Mr. Mills as annual override payments in 1994 and 1995. The figure thus reflects a net amount.

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Chapter 25

Other Information

25.1 Consent

25.1.1 Kinloch Resources Inc. - ss. 4(b), OBCA Reg.

Headnote

Consent given to OBCA corporation to continue under the ABCA.

Statutes Cited

Business Corporations Act, R.S.O. 1990. c. B.16, s. 181.
Canada Business Corporations Act, R.S.C. 1985, c. 144.

Regulations Cited

Regulation made under the Business Corporation Act, O. Reg. 289/00.

IN THE MATTER OF
THE REGULATION UNDER
THE BUSINESS CORPORATIONS ACT R.S.O. 1990
c. B 16 (the "OBCA")
O. Reg. 289/00 (the "Regulation")

AND

IN THE MATTER OF
KINLOCH RESOURCES INC.

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application of Kinloch Resources Inc. ("Kinloch") to the Ontario Securities Commission (the "Commission") requesting a consent from the Commission to continue into another jurisdiction pursuant to subsection 4(b) of the Regulation;

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

AND UPON Kinloch having represented to the Commission that:

1. Kinloch is proposing to submit an application to the Director under the OBCA pursuant to section 181 of the OBCA (the "Application for Continuance") for authorization to continue as a corporation under the Business Corporations Act (Alberta) S.A. 1981, c. B-15, as amended (the "ABCA").

2. Pursuant to subsection 4(b) of the Regulation, where a corporation is an offering corporation, the Application for Continuance must be accompanied by a consent from the Commission.

3. Kinloch was originally a corporation amalgamated under the provisions of the OBCA on January 1, 1997 under the name "China Clipper Gold Mines Ltd."

4. Effective April 27, 2001, the articles of China Clipper Gold Mines Ltd. were amended to change its name to "Kinloch Resources Inc." and to consolidate the issued and outstanding shares of Kinloch on a ratio of 13 old common shares for 1 new common share.

5. The authorized share capital of Kinloch is comprised of an unlimited number of common shares, of which 2,186,844 common shares are currently issued and outstanding, with an additional 410,000 common shares reserved for issuance pursuant to stock options.

6. Kinloch is an offering corporation under the OBCA, is a reporting issuer in Alberta, British Columbia and Ontario, and its common shares are listed for trading on the Canadian Venture Exchange Inc. ("CDNX"). Kinloch intends to remain a reporting issuer in Ontario.

7. Kinloch is not in default under any provision of the Act or the regulations of the Act.

8. Kinloch is not a party to any proceeding nor, to the best of its knowledge, information and belief, any pending proceeding under the Act.

9. The Application for Continuance of Kinloch under the ABCA is subject to approval by the shareholders of Kinloch by special resolution to be obtained at a Special Meeting of Shareholders (the "Meeting") to be held on June 29, 2001.

10. The management Information Circular dated May 24, 2001 provided to all shareholders of Kinloch in connection with the Meeting that pursuant to section 185 of the OBCA, if any shareholder of Kinloch objected to the continuation by way of written notice to Kinloch at or prior to the Meeting, and the Application for Continuance was nevertheless given effect, then in accordance with section 185 of the OBCA, the dissenting shareholder would be entitled to be paid the fair value of the shares held by the shareholder.

11. The head office of Kinloch is located at 1025, 400 – 5th Avenue S.W., Calgary, Alberta, for the purposes of conducting business as a junior natural resource issuer in the Province of Alberta.

12. The continuance of Kinloch under the ABCA is proposed in order that Kinloch may be governed by the same

corporate laws as the jurisdiction in which its head office, management, employees, and operations are located.

13. The material rights, duties and obligations of a corporation governed by the ABCA are substantially similar to those of a corporation governed by the OBCA.

THE COMMISSION HEREBY CONSENTS to the continuance of Kinloch as a corporation under the laws of Alberta.

June 22, 2001.

"Paul Moore" "R. Stephen Paddon"

25.2 Securities

25.2.1 Transfer Within Escrow

TRANSFER WITHIN ESCROW

COMPANY NAME	DATE	FROM	TO	NO. AND TYPE OF SHARES
Home Media Corp.	June 28, 2001	M. Blaine Lee	Michael Harrison	644,016 - Common
Home Media Corp.	June 28, 2001	Leemartin Associates Ltd.	Michael Harrison	330,984 - Common
Home Media Corp.	June 28, 2001	Jonathon B. Lee	Samuel J. Fisher	562,500 - Common
Home Media Corp.	June 28, 2001	Michael Harrison	Samuel J. Fisher	325,000 - Common

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