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John Stevenson, Secretary
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Dear Mr. Stevenson and Ms. Brousseau:

Subject : CSA National Instrument 81-107 (NI 81-107) [1]
Independent Review Committee for Mutual Funds

I am writing today to request that the Ontario Securities Commission ("OSC") and the Canadian Securities Administrators ("CSA") not implement its proposed rule National Instrument 81-107 ("NI 81-107"). NI 81-107 is fundamentally flawed and will not regain investors' trust in the mutual fund industry, in the wake of the mutual fund industry scandal in the U.S. Mr. David Brown, Chairman of the OSC, has recently acknowledged that preliminary investigation suggests that there may be similar conflict of interest abuses in the Canadian mutual fund industry. Adoption of National Instrument 81-107 in its present form deregulates the Canadian mutual fund industry, when Canadian conflict of interest abuses are suspected and the U.S. securities regulators are enforcing stricter regulation and onerous enforcement actions to deter abuses discovered in the U.S. mutual fund industry. Adoption of National Instrument 81-107 is irresponsible securities regulation and lays the foundation for a future scandal in the Canadian mutual fund industry.

NI 81-107 is not in the public interest and we recommend that it be replaced with fund governance as contemplated in the following reports:

Stromberg, Glorianne, "Investment Funds in Canada and Consumer Protection: Strategies for the Millennium". This Report dated October 1998 was prepared for the Office of Consumer Affairs, Industry Canada (ISBN-0-662-27425-3/code 52487E). It examined the requirements for the reasonable protection of investors and made recommendations to enhance investor protection.

Stromberg G., "Regulatory Strategies for the Mid '90s ", January 1995 (this important study on the investment fund industry in Canada which was prepared for the Canadian Securities Administrators has been virtually ignored in the formulation of NI 81-1

NI 81-107 is fundamentally flawed in the following respects:

(a) it removes all current conflict of interest prohibitions concerning related party transactions in provincial securities acts;
(b) it replaces these laws by the mandatory creation of independent review committees ("IRC") who have the duty to review conflicts of interest activities brought to its attention, but have no authority to stop these conflicts of interest activities;
(c) the IRC's rely upon voluntary disclosure of potential conflicts of interest activities to its attention, without mutual fund employee whistleblowing protection or measures to enable independent IRC investigation of suspected misconduct;
(d) when the IRC's disapprove of conflict of interest activities, mutual fund companies may continue the activity provided it discloses the discrepancy to mutual fund unitholders in mutual fund prospectuses and annual reports;
(e) mutual fund prospectuses and annual reports are not required to be sent to the mutual fund unitholders, unless they have specifically requested to receive them;
(f) investors can have limited confidence that provincial securities regulators will enforce the public disclosure of IRC disputes given that the provincial securities regulators have a poor record of enforcing mandatory public disclosures in public companies, such as insider trading reports and continuous disclosure misrepresentation;
(g) no whistleblowing protection for IRC members who find themselves compelled to inform provincial securities regulators and mutual fund unitholders that there are conflict of interest activities going on that have not been publicly disclosed or disclosed adequately by the mutual fund companies;
(h) the OSC and CSA propose to remove other current restrictions on investment policies and practices in the future

Under NI 81-107, the Canadian securities regulators, will not have the legal powers necessary to prevent, sanction and deter conflicts of interest activities whose prohibition has been removed from securities legislation. Similarly, they could not prevent, sanction or deter inappropriate investment practices and policies whose restriction is removed in future legislation revisions. IRC members who disapprove of conflict of interest activities or inappropriate investment policies and practices cannot ensure that mutual fund unitholders are adequately informed of the consequences, without taking considerable

personal risk of being sued by the mutual fund company for defamation or interference of economic relations. While mutual fund unitholder lawsuits against the IRC members have limited prospects for success due to their lack of fiduciary responsibility and authority, such lawsuits will nonetheless be costly and time-consuming. No-one should want to be a powerless and exposed IRC member. Most importantly, investors damaged by the future misconduct of a mutual fund company and its insiders will have limited recourse for restitution of their investment losses caused by this misconduct. Court claims, based on breaches of fiduciary duty or fraudulent conduct, are difficult to prove and prohibitively expensive for both mutual fund independent review committee members and mutual fund unitholders.

I have personal experience as an independent director of a B.C. based public company, who was ineffective in stopping illegal securities activities by the company and its insiders. I believe that my experience is analogous to what mutual fund unitholders could expect from IRC members confronted with conflicts of interest activities and inappropriate investment policies and procedures. The IRC members would likely have a more difficult task protecting investors than I did as a corporate director since the securities law violations I dealt with were clearly defined and their non-compliance were capable of being sanctioned by the securities regulators. While one might think that at least the IRC members would perform the task of making conflicts of interest and inappropriate investment policies and procedures known to the mutual fund unitholders, my experience suggests that even this simple responsibility is likely to fail.

As an independent director, I witnessed unauthorized management compensation and related party transactions, continuous disclosure misrepresentation, stock trading manipulation, and illegal issuer bids paid to members of the control group who had inside information not publicly disclosed to the public. The company's board of directors took no actions to stop the alleged illegal securities activities that I brought to its attention in various memoranda and reports to the Board of Directors. Furthermore, the majority owner of the public company did not vote to re-elect myself to the board of directors and the public company launched a lawsuit claiming defamation and interference of economic relations as a result of my complaints to the securities regulators, auditors and others.

I performed my director's fiduciary duty and legal obligations in April 2001 to inform the TSX Venture Exchange, British Columbia Securities Commission ("BCSC") and the OSC that the company and its insiders refused to stop the illegal securities activities. The TSX Venture Exchange remedied the unauthorized management compensation and related party transactions in June 2001. The BCSC was finally convinced to start an investigation in July 2002 and reached a Settlement Agreement with the C.E.O. on continuous disclosure misrepresentation and stock trading manipulation in October 2002. The OSC staff refused to collaborate with the BCSC's investigation and settlement arrangements on the illegal issuer bids paid to another director and five members of the control group who had inside information on the investigation and other material information not disclosed to the public. The OSC staff agreed there were illegal issuer bids paid, but determined that there was insufficient public interest to utilize its alleged

scarce resources to take enforcement action. Neither the BCSC staff nor the OSC staff found sufficient public interest to enforce the filing of the insider trading reports for the six members of the control group, who accepted the illegal issuer bids. An OSC application was submitted by myself as a director/shareowner and five other shareowners for a compliance order and for sanctions on the insiders who executed the illegal issuer bids. OSC Commissioners Robert Shiriff and Wendel Wigle have refused to permit our application to be heard, saying that the matter should be addressed in the court and not at the Commission. Even though I was a director protecting the interests of all public shareowners, my involvement in the OSC application was called vexatious since an Ontario judge had stayed a civil action. The other five shareowners, whose interests I was protecting as a director, were called silent partners. These public shareowners were, in fact, silent victims of the illegal issuer bids.

I even failed as an independent director to ensure public disclosure on the wrongdoings I disapproved of as a director of this public company. There has not been any public disclosure of the TSX Venture Exchange or BCSC remedies or sanctions in the continuous disclosure documents of the B.C. public company. Only the BCSC has published the October 2002 CEO Settlement Agreement on its website for those expert enough to know that they should look there. Similarly, the company did not publicly disclose our OSC application for a compliance order and request for sanctions on the illegal issuer bids. Without our applicants' insistence, the OSC itself had no intention to publish our application on the illegal issuer bids and of our applicants' motion to enforce the filing of the insider trading reports that were not filed. The OSC decision not to hear our application is now published on the OSC website. Sadly, the OSC Commissioners found our request for the OSC to enforce the filing of the insider trading reports bids to be mute. Mutual fund unitholders should not be optimistic that the OSC or the other provincial securities regulators will be any more diligent in enforcing the public disclosure of IRC members' disapproval of mutual fund insiders' misconduct .

Anyone wishing to learn more details on what I faced as a whistleblowing director, including the OSC decision and the transcript of our OSC pre-hearing can find them at the following website.

http://regulators.itgo.com/Cases/Urquhart/Insider_trading.htm

I strongly urge that the OSC and the CSA not adopt National Instrument 81-107. It is not executing the primary purpose of securities regulations and regulators, which is to protect investors. National Instrument 81-107 substantially increases the non-market risks of investing money with mutual fund managers. The IRC members do not have the authority to stop inappropriate conflicts of interest activities and inappropriate investment policies and procedures. Insiders who intend to take unfair advantage of public investors and to earn ill-gotten gains will do so despite the existence of IRC's. The provincial securities commissions cannot enforce these miscreants without conflicts of interest prohibitions and investment restrictions ensconced in law. Most insiders on the take will not make the public disclosure on the IRC members' disapproval of their conduct. The provincial securities commissions have a poor record of enforcing continuous disclosure requirements and insider trading reports and why would they be more effective enforcing public disclosure on IRC disagreements.

Once again, the OSC and the other provincial securities regulators are abdicating their responsibility for investor protection laws and enforcement. Proceeding with National Instrument 81-107 will simply give Canadians more reason to avoid Canadian mutual fund investing and to focus on investments that will be subject to American regulation and enforcement. The Canadian mutual fund industry, Canadian corporations and Canada's economy will suffer as a consequence.

Yours sincerely,

Diane A. Urquhart