GRYPHON
INVESTMENT COUNSEL INC.
VIGILANCE • COURAGE

June 20, 2007

By electronic mail

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Securities Commission
Manitoba Securities Commission
Ontario Securities Commission
Authorité des marchés financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Nunavut
Registrar of Securities, Yukon Territory

c/o John Stevenson, Secretary
Ontario Securities Commission
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Canada
Email: jstevenson@osc.gov.on.ca

and

Madame Anne-Marie Beaudoin
Directrice du secrétariat
Autorité des marchés financiers
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Montreal (Quebec), Canada
H4Z 1G3
Email: consultation-en-cours@lautorite.qc.ca

Re: National Instrument 31-103 Registration Requirements

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Dear Mr. Stevenson and Madame Beaudoin:

We are pleased to provide our comments on the proposed National Instrument 31-103 Registration Requirements ("NI 31-103"), together with its proposed companion policy issued by the Canadian Securities Administrators ("CSA") regarding registration reform.

Our comments on NI 31-103 will be limited to a few major points with which we are principally concerned. We will not address all of the questions raised in the materials accompanying the proposal. We are sure that others will highlight the obvious principles (with which we concur) that businesses of our nature would seek, including ensuring a level playing field amongst competitors, recognizing the distinction between institutional and retail investors, recognizing the difference between discretionary advisers and those providing advice only in connection with trading activity and balancing investors' need for a level of integrity and safeguards while at the same time avoiding undue and unnecessary regulatory burdens and costs. In that regard, we applaud the intended objective to be achieved through NI 31-103 of harmonizing the registration laws and standards amongst provinces in Canada (although we do note that there are still a few contemplated exceptions).

Gryphon Investment Counsel Inc. ("Gryphon") is registered as adviser in the category of investment counsel/portfolio manager in many provinces of Canada. Our client base is primarily comprised of institutions which enter into investment management agreements with us. We also have some private client accounts who similarly enter into investment management agreements. These agreements permit us to carry out the mandate given by the client by investing the clients in pooled funds managed by Gryphon. In addition to investing clients in pooled funds, we also manage segregated accounts. Gryphon may also be retained as investment manager to mutual or pooled funds of third parties. We do not carry on any other business.

Our main concerns are as follows:

Dealer Requirement

We understand NI 31-103 will require registration as a dealer, likely in the category of exempt market dealer, in each province where there is a private placement trade. As you are aware, it is currently the case that we require registration as a limited market dealer in Ontario and Newfoundland in order to put our discretionary clients in our pooled funds. We understand that NI 31-103 is intended to provide an exemption to advisers from having to register as a dealer to place clients in such proprietary pooled funds, a proposal with which we heartily agree as the interposition of a dealer requirement adds nothing of value to a client. We wanted to focus the CSA on the client relationship, which is to provide advice and take responsibility for this advice with a higher standard of care than is typical in the context of a dealer providing advice in the context of a trade only.

We have some concern that the proposal speaks in terms of a limited exemption and anti-avoidance and we wish to ensure that we do not run a regulatory risk of being second guessed. As the CSA may be aware, institutional clients typically do searches for managers for particular mandates. It is not uncommon for an institutional client to grant a focused mandate

to an adviser, which is carried out by placing that client in a single pooled fund. The fact that only a single pooled fund is used does not in any way detract from the bona fide nature of the discretionary advisory relationship. The pooled fund is simply a device and not a separate investment, to achieve cost savings for clients, such as custody costs, and to ensure that there has been fair allocation amongst clients with the same mandate. It is our responsibility to ensure that the pooled fund we place the client in is consistent with the mandate of the investment management agreement. Further it should be noted that the investment management agreement imposes additional obligations on us that would not exist if the client simply subscribed in a private placement. For example, if we are the portfolio manager to a pension plan, the investment management agreement will obligate us to comply with the plan's statement of investment policy. Further, if we were simply the investment manager to a pooled fund, we would only need registration in Ontario where the fund is located. There is a real regulatory burden that bona fide advisers undertake if there is an investment management agreement involved - namely to be registered where each client is located and to comply with all the relevant local laws. Accordingly, we ask that any commentary make it clear that as long as there is an agreement which imposes the obligations typical of an investment management agreement on the adviser, the exemption from the dealer requirement will be available to that adviser.

You also asked in the comment section whether the exemption ought to be extended to investments in third party funds. While we do not currently engage in such activity, we do not understand why there would be any difference as a matter of principle. The point is that it is in our capacity as adviser that we must ensure that the investment in the fund is consistent with our mandate and our investment management agreement and is suitable for the client. It is not possible to identify what added value there is to a client to interpose a dealer and typically that interposition of a dealer would add a cost to the transaction.

Manager Registration for Pooled Funds

NI 31-103 would appear to impose on Gryphon an obligation to register in the category of investment fund manager as well as adviser in order to run its proprietary pooled funds. We understand the rationale is that there are functions beyond the investment management functions that are involved in running a pooled fund. We do not really see it that way where the adviser is also the manager. We owe significant duties under the investment management agreements, which would not allow us to ignore whether the pooled fund is being properly valued or appropriate accounting or tax records are being kept. Our institutional accounts would soon notice if something of this nature was occurring. In short, the new manager category does not in our view add to our duties, just our regulatory burden.

Manager Capital and Insurance Requirements

It is unclear to us why the capital and insurance requirements for a manager would be so different than an adviser. Neither the manager nor the adviser is the custodian of the client's assets. Although Gryphon has consistently maintained working capital in excess of $25,000, we do not understand the principles on which the decision was made to increase the working capital from $25,000 for advisers to $100,000 for managers. As mentioned above, the pooled fund is a tool and not an investment. When we run segregated accounts, all the records must

be kept and tax reporting done. Like many groups, we use third parties to assist us in these efforts, whether we run a segregated account or a pooled fund.

Moreover, we do not begin to understand why the insurance requirements are so different. An adviser must have a $50,000 financial institution bond, whereas a manager must have a bond of the lesser of 1% of assets under management (minimum $200,000) or $25 million. We find the level of insurance for managers of pooled funds excessive. A manager is being penalized simply because it has been successful in performance and has more assets under management which it chooses to place in pooled funds. We can only speculate that perhaps the CSA thought that money to invest through the pooled fund was coming into a manager's account such as it does for public mutual funds before being transferred to a custodian or trustee. We want to ensure that the CSA realize that there is no difference between the process for a pooled fund versus a segregated fund as far as the handling of money is concerned. As you are likely aware, the service providers, are typically financial institution sponsored entities with much more capital than the managers. If the CSA's concern is errors in the processing and accounting, it may be suitable to distinguish between those managers who choose to provide those services and those who outsource it to such entities.

Trade Confirmations

NI 31-103 appears to require a dealer to send a trade confirmation to a client, unless the client requests it be sent to the portfolio manager. We would note at first instance that the dealer usually is not aware of the client and has no client relationship, a fact that is recognized by the fact that a dealer does not have any suitability requirements in relation to an account in the name of a registered adviser. Most clients do not receive confirmations of trades currently. They would be surprised to find that they will now need to receive monthly statement of investment portfolios merely because of this fact. The proposed requirements imposed on advisers do not appear to allow the client to opt out of more frequent reporting; it just contemplates the client can ask for more frequent reporting. One of the reasons why most clients will not seek more frequent reporting is that there is a custodian who settles the trades and is keeping records independently. The fact that there is a trade confirmation sent to the client does not represent any added value to the client.

Ultimate Designated Persons and Compliance Officers

Our main concerns in this area are that the requirements for these persons not be such that they would disentitle those who are currently performing those roles for advisers from continuing as such for managers due to any new educational or other proficiency requirements. Further, we are not sure that the roles of the UDP and the compliance officers have been appropriately delineated. A compliance officer should be tasked with implementing policies and procedures for carrying out the compliance model determined by the UDP. Ultimately, compliance models are intended "to seek to ensure compliance"; the compliance model cannot "ensure" compliance.

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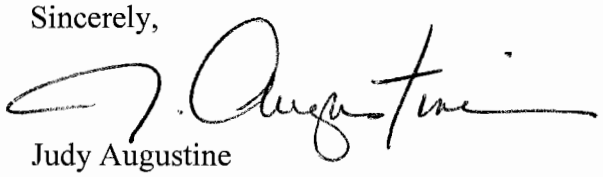
Associate Advising Representative

We understand that only advisers providing discretionary advisory services will now be required to register. Therefore, we do not understand why the comment is made that such category will accommodate individuals who work for a portfolio manager and are in charge of clients relationships but who do not perform portfolio management services. We believe it ought to be made clear that no registration is required for client relationship personnel of this nature.

We appreciate the opportunity to provide the CSA with our views on NI 31-103. We trust that the CSA will consider our issues and that a revised version will be published before the instrument is brought into effect. We also trust that the revised version will include details regarding transition periods and that such transition periods will be long enough to allow for orderly change, particularly if new categories of registration, such as investment fund manager are to proceed.

Sincerely,



Judy Augustine
Secretary Treasurer and
Managing Partner