

June 20, 2007

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**VIA EMAIL & FAX
COPY VIA COURIER**

RE: My Submission regarding Proposed National Instrument 31-103 Requirements, Proposed Companion Policy 31-103CP Registration Requirements and Proposed Amendments to National Instrument 33-109 Registration Information

Dear Mr. Stevenson,

As discussed with Ms. Jakab, Manager Policy and Exemptions Capital Markets Regulation British Columbia Securities Commission on Monday June 18, 2007, please find enclosed my Recommendations for changes to the proposed National Instruments referred to above. I provide this Submission by EMAIL and by FAX (for the *Exhibits*) in order to meet the June 20, 2007 deadline for submission. Additionally, I am couriering a complete copy to ensure readability of the *Exhibits*.

Please convert this document into PDF form prior to forwarding to others as I do not have the ability to convert it into PDF form myself.

I write as a former Investment Advisor registered to sell mutual funds through the Alberta Securities Commission and the Mutual Fund Dealer Association (MFDA) in Calgary, Alberta in the employment of the following two mutual fund dealers:

- 1) ATB Investment Services Inc. (“ATB Investor Services”) and Alberta Treasury Branches (“ATB Financial”) from April 7, 2003 to September 12, 2003 as an Investment Specialist “Trainee” at the time of the launch of ATB’s new ATB Investor Services Division and at the time of the launch of my new career in the financial/investment services industry after a successful career in sales, marketing and business development in the telecommunications/computing industry.
- 2) RBC Royal Mutual Funds Inc. (RBC Royal Bank) from December 5, 2005 to October 20, 2006 first as a Personal Financial Services Representative (PFSR) “Trainee” and, upon successfully graduating from the (PFSR) training program, as a Personal Financial Services Representative . Due to the apparent bad faith manner of ATB’s termination of me, I was unable to recommence my new-found career in the financial/investment services industry for two years after ATB’s abrupt termination of

me effective September 12, 2003. I started working for RBC Royal Mutual Funds Inc./RBC Royal Bank effective December 5, 2005 as a Personal Financial Services Representative “Trainee” and successfully graduated from the training program approximately at the end of March 2007. I was left with no alternative but to resign from RBC on October 20, 2006 due to the working conditions that included much unpaid overtime - as is now the subject of a Canada-wide class action law suit in regards to CIBC.

I write to you in response to the Request for Submissions regarding the National Instruments referred to above. Also, I appreciate the ability to address my concerns regarding securities issues in Alberta to the British Columbia Securities Commission, to the Ontario Securities Commission and to other provincial Securities Commissions across Canada instead of to the Alberta Securities Commission due to the apparent lack of accountability and lack of enforcement by the Alberta Securities Commission over the past 3.5+ years in regards to my case. (The apparent lack of enforcement of the Alberta Securities Commission in Alberta has been known for some time and is documented on the following web-site: <http://www.investorvoice.ca/regulators/PI/ASC/ASC.htm>).

My Submission reveals the apparent lack of enforcement by the Alberta Securities Commission that I address in my recommendations for changes to:

- Multilateral Instrument 31-103 Registration Requirements
- Form 33-109F4 Registration Information for an Individual
- Form 33-109F1 Notice of Termination

Importantly, despite apparent serious issues, neither the Alberta Securities Commission nor the Mutual Fund Dealer Association (MFDA) under which I was also registered to sell mutual funds has contacted me to indicate that they have conducted an investigation regarding the conduct of ATB Investment Services Inc. and Alberta Treasury Branches regarding the circumstances involving ATB’s abrupt termination of me. Nor have these regulatory organizations contacted me to inform me of the results of any investigation into RBC’s apparently unsupported and wrongful comments provided to the National Registration Database/Alberta Securities that state “*not related to the sales of mutual funds*”, as per **Exhibit #16. This apparent lack of investigation provides a cautionary note to the wide-ranging powers of collection, use and disclosure of information that are proposed under point 8.1 of the proposed National Instrument 31-103 and under the new clauses added to Form 33-109F4 regarding Self-Regulatory Organizations.** See further, my Recommendations in Section III, following.

Thus, I provide in this letter to you my Recommendations for changes to the information collected, used and disclosed by dealer firms regarding the Investment Advisors they employ, manage and terminate. I start with summarizing the nature of my employment with the two mutual fund dealers with whom I was employed in order to give perspective to my Recommendations, by first clearly identifying the key Problems that my Recommendations address.

Unfortunately, I only learnt of this Review process three days ago. Thus with not much time to prepare this Submission, I offer it in time to meet the June 20, 2007 deadline for Submission in order to act as a point of further discussion regarding the interests of Investment Advisors.

Also, I have had 3.5+ years of experience with privacy act processes in Alberta including my verbal presentation on May 1, 2007 to the PIPA Review Committee in Edmonton, Alberta that is tasked with making changes to the Personal Information Protection Act (PIPA) and whose web site is at <http://www.assembly.ab.ca/PIPAReview/default.htm>. My verbal presentation can be found at the “Transcripts” link for May 1, 2007. The Submissions to the PIPA Review Committee – including the Submission by Frank J. Work, Privacy Commissioner (#33) and the Submission by Ministry of Alberta Government Services (#63) can be found at the “Submissions” link at the same web site.

My verbal presentation to the PIPA Review Committee is revealing in regards to the apparent lack of privacy rights in Alberta that needs to be addressed not only by the PIPA Review Committee in Alberta but also in the Review also in progress in regards to the changes to the proposed National Instruments referred to above and in regards to which I provide this Submission.

I. THE PROBLEM: as revealed in the circumstances concerning my employment and termination with ATB Investor Services/ATB Financial and RBC Mutual Funds/RBC Royal Bank - an apparent lack of accountability and apparent lack of enforcement of securities legislation by the Alberta Securities Commission and an apparent lack of accountability and enforcement of privacy legislation by the Alberta Office of the Information and Privacy Commissioner that leads to a lack of privacy rights for individuals in Alberta and that also leads to an apparent WILD WEST lawlessness in regards to securities issues that favors the powerful few at the expense of the hard-working individual Albertans (Investment Advisor, investor, etc.) that constitute the Albertan Advantage

1. **I was employed by ATB Investment Services Inc. (“ATB Investor Services”) and Alberta Treasury Branches (“ATB Financial”) as an Investment Specialist “Trainee” from April 7, 2003 to September 12, 2003, the date on which ATB abruptly terminated my employment.** My employment marked the start of a new career for me in the securities/financial services industry after a successful career in sales, marketing and business development in the telecommunications/industry. I was accredited to sell mutual fund through the Alberta Securities Commission on July 28, 2003 and my first day of mutual fund trading after systems were set up was Monday August 11, 2003.

Wrongful and unsupported accusations regarding my performance were first made to me by Michael Wood, Regional Manager ATB Investor Services and my “Branch Manager” under Mutual Fund Dealer Association (MFDA) Rules on Thursday August 21, 2003. Wrongful and unsupported accusations regarding my performance were next made to me on Tuesday August 26, 2003. During the meeting on August 26, 2003 Michelle Hare, Sales Manager ATB Financial Customer Contact Centre provided me with new performance criteria that I was to meet that were not included in: my letter of hire; the ATB Investment Specialist position description; the Wealth Management Training provided to me as required under Mutual Fund Dealer Association (MFDA) Rules; nor the ATB Investor Services Process Business Rules. These new performance criteria – including zero compliance errors – were impossible to meet and set me up to fail.

ATB’s abrupt termination of me effective Friday September 12, 2003 by ATB’s letters of termination to me dated Monday September 8, 2003 was in response to issues that warrant my protection against adverse employment action under Section 58 (protection of employee) of the Alberta Personal Information Protection Act (PIPA). Notably, ATB’s abrupt termination of me effective September 8, 2003 was in response to...:

- i. ...My requests dated Wednesday August 27, 2003 and Thursday September 4, 2003 for access to my personal information.
- ii. ...My requests to ATB dated August 27, 2003 for completeness and accuracy of my personal information. Note that no performance review was conducted by ATB of me prior to ATB’s abrupt termination of me although the “Quality Call Monitoring” system was the standard performance review process at the ATB Financial Customer Contact Centre where I was training/mentoring. Note that as per [Exhibit #11/F15B](#) no performance review was provided to me by ATB prior to ATB’s termination of me – although I requested it of several ATB Executives on more than one occasion.

NOTE: Multilateral Instrument 33-109F4 at Part 6 Due Diligence and Record-Keeping states, in part, that:

“6.1 (1) A sponsoring firm must make reasonable efforts to ensure that information submitted by
(a) the firm for a non-registered individual; or
(b) a registered individual, or an individual applying for registration, for whom the firm
is the sponsoring firm
is true and complete.

(2) A sponsoring firm must retain all documents used by the firm to satisfy its obligation
under subsection (1),
(a) in the case of a non-registered individual, for a period of 7 years after the individual
ceases to be a non-registered individual, or
(b) in the case of a registered individual, or an individual applying for registration, for a
period of 7 years after the individual ceases to be a registered individual with the
firm.....”

iii. ...My request to ATB dated Wednesday August 27, 2003 for confidentiality of my personal information as being processed by the Mutual Fund Representative on the Wealth Management Team at the ATB Financial Customer Contact Centre where I was also being trained/mentored in an informal manner. This Mutual Fund Representative was also identified by ATB prior to ATB's abrupt termination of me to be the source of the comments regarding me. These comments are apparently no more than rumors that are disallowed according to the Conduct and Practices Handbook that forms the standard of practice in the securities industry. The ATB Financial Code of Conduct and Ethics warns against "Self-Dealing" – in regards to employees using customer information for personal advantage or gain. The Canadian Securities Industry Standards of Conduct as detailed in the Canadian Securities Course and the Code of Conduct and Practice that forms the foundation of practice in the securities industry recognizes Confidentiality of client information as a Standard of Conduct.

iv. ...My email dated Friday September 5, 2003 informing Michael Wood, Regional Manager ATB Investor Service of incongruities with my personal locked-in (pension-related) RRSP mutual funds held through ATB Investor Services and my personal non-locked in RRSP mutual funds also held through ATB Investor Services that were being processed by the same Mutual Fund Representative who was identified to me by ATB to be the source of the (unsupported and wrongful) comments regarding me.

NOTE: Importantly, the Know-Your-Client documents regarding my personal locked-in (pension-related) RRSP and non-locked in RRSP mutual fund investments held through ATB Investment Services Inc. ("ATB Investor Services") apparently no longer exist in the records of ATB despite my multiple requests for my personal information and investment-oriented information to ATB over the past 3.5+ years. At the time of my Trial on October 3 and 4, 2006 against ATB Investment Services Inc. and Alberta Treasury Branches in Provincial Court (Civil) regarding breach of employment contract, breach of benefits contract and misrepresentation/bad faith, I proved the existence of my investment documents such as the completed ATB Investor Services Client Account agreement dated August 13, 2003 for my locked-in RRSP mutual funds in [Exhibit #12/L-L2](#). This proof is documented in the Transcripts of the Trial. [Exhibit #12/L-L2](#) clearly indicates my entitlement to obtain access to this information as my personal information at point 5 that states, in part:

“ATBIS [ATB Investment Services Inc.] will ensure the physical, organizational and electronic security of your Personal Information. Your Personal Information will be retained only for the time it is required for the purposes explained to you in the Application, regardless of the termination of this Agreement. ATBIS is committed to

keeping your Personal Information accurate. It is your responsibility to keep your Account Information up to date by providing prompt notification of changes to your telephone number, address or other information.”

I consider it serious that my “Know-Your-Client” investment documents have been withheld under privacy legislation and otherwise from me by ATB for the past 3.5+ years given the time sensitivity of the information in these documents and my right to them as they constitute my personal information that I own title to as much as I own title to money that I deposit in a bank account.

- v. ...My email dated Wednesday August 27, 2003 to several ATB Investor Services Executives including Deb Kerr, Compliance Officer to honor the completeness and accuracy of the Know-Your-Client investment instructions of a business mutual fund ATB Investor Services customer – my first trade on Monday August 11, 2003 that was approved by two levels of ATB Investor Services Management (Michael Wood, Regional Manager ATB Investor Services as per the ATB Investor Services Process Business Rules and Houman Mobarrez, Team Leader Wealth Management Team ATB Financial Customer Contact Center). Despite this – and as per information provided to me by ATB under the Personal Information Protection Act – Deb Kerr, ATB Investor Services Compliance Officer cancelled the trade only to apparently back-date it at the insistence of the business ATB Investor Services customer after ATB terminated my employment. The response of who I believe to be Deb Kerr, ATB Investor Services Compliance Officer to my request is provided in [Exhibit #4/ATB PIPA #200114](#) in which the following is stated to Donna Dawson, Senior ATB Investor Services Compliance Officer:

“Can you please read this. I am so ticked off that it is all I can do to not go over to the CCC [ATB Financial Customer Contact Centre] and throw her out a window. I know what I want to answer, however, have to calm down long enough not to kill. What gives her the experience to think she can have all of the answers on her first call, and I know if you speak to Helen [Helen Rawa – Manager Investment Solutions Coaching] about this, Helen will be just as mad as I am.”

The Canadian Securities Industry Standards of Conduct as detailed in the Canadian Securities Course and the Code of Conduct and Practice that forms the foundation of practice in the securities industry recognizes the “Know-Your-Client” standard to be the paramount standard in the securities industry. The Canadian Securities Course is a requirement for an Investment Advisor to successfully complete prior to becoming accredited to sell mutual funds acknowledges in the Registrant Code of Ethics and states that *“Registrants must use proper care and exercise independent judgment.”*

The role of the Compliance Officer is defined according to Mutual Fund Dealer Association Rules. Specifically, Section 2.5.2 of the Mutual Fund Dealers Association (MFDA) Rules (v February 23, 2001) states that:

“...The compliance officer shall be responsible for monitoring adherence by the Member and any person conducting business on account of the Member to the By-laws, Rules and Policies, including without limitation, standards of business conduct under Rule 2 and applicable securities legislation requirements....”

MFDA Rule 2.1.1 (v February 23, 2001) defines the Standards of Conduct referred to above:

“Each Member and Approved Person of a Member shall:

- (a) deal fairly, honestly and in good faith with its clients;*
- (b) observe high standards of ethics and conduct in the transaction of business;*
- (c) not engage in any business conduct or practice which is unbecoming or detrimental to the public interest;*
- (d) be of such character and business repute and have such experience and training as is consistent with the standards described in this Rule 2.1.1, or as may be prescribed by the Corporation.”*

The Mutual Fund Dealer Association (MFDA) Rules can be found at the following web site: <http://www.mfda.ca/regulation/rules.html>. Note that current Rules are effective January 8, 2007. The Rules dated February 23, 2001 were in effect during my employment with ATB (and with RBC).

I became a “New Registrant” – newly accredited to sell mutual funds effective July 28, 2003. MFDA Policy No. 1: New Registrant Training and Supervision (v February 23, 2001) (at <http://www.mfda.ca/regulation/policies/policy01.pdf>) concerns the training and supervision regarding New Registrants and requires that all supervisory activities be documented including those compliance issues that required action on the part of the Branch Manager or other compliance staff.

MFDA Policy No. 2: Minimum Standards for Account Supervision (v February 23, 2001) (at <http://www.mfda.ca/regulation/policies/policy02.pdf>) states that Members must establish and maintain procedures which are supervised by qualified individuals. MFDA Policy No. 2 further states that a complete set of documentation regarding “Know-Your-Client” must be maintained by the Member.

As a result of the apparent hostile environment at ATB, I became sick and unable to work effective August 27, 2003. ATB terminated me while I was sick and unable to work – as is referred to in ***Exhibit #11/F15B***. ATB abruptly terminated my eligibility to receive short- and long- term disability payments effective Monday September 8, 2003 by paying my last week of work (September 8 – 12) as vacation pay.

As per ATB’s letters of termination to me dated September 8, 2003 ATB terminated me with “*cause*” at a time that I believed I was terminated “*without cause*”. (As per information obtained from ATB under PIPA, I determined in ATB’s March 10, 2004 submission that ATB had actually terminated me “*without cause*” + “*with cause*”.)

ATB refused to provide me with a letter of reference at the time of termination and as well in September 2004 when the failure to provide me a letter of reference was the one and only block to me being hired for a career-oriented position with Scotiabank starting September 2004. ATB refused to correct my personal information in response to my requests to do so under PIPA and otherwise, for reasons in part due to the existing dispute regarding my termination - an argument that is looked negatively upon by privacy act precedent in British Columbia.

Importantly, ATB did not provide to me nor to my lawyer at the time a copy of the information that ATB filed with the National Registration Database/Alberta Securities Commission on September 19, 2003 as per *Exhibit #39/ATB PIPA # 39*. Had the Personal Information Protection Act (PIPA) not been launched effective January 1, 2004 I most likely would not have received this information from ATB. (Note that the Alberta Securities Commission required that I obtain this information under the Freedom of Information and Protection of Privacy Act and did not provide me a copy of the termination information in

the National Registration Database in response to my direct request to them on September 19, 2003 the day that ATB filed information regarding my termination with the National Registration Database/Alberta Securities Commission.)

ATB also confirmed the information provided to the National Registration Database/Alberta Securities Commission as per *Exhibits* that I obtained from ATB in ATB's submission under the Personal Information Protection to me dated February 24, 2004 in *Exhibit #2/ATB PIPA #41 and Exhibit #3/ATB PIPA #42*.

As per *Exhibit #1/ATB PIPA #39* and *Exhibit #2/ATB PIPA #41* the information that ATB provided to the National Registration Database/Alberta Securities Commission that was apparently inaccurate/misleading information in the circumstances in which it was provided was:

- A. *"Ms. Landry's skill sets did not match the job requirements."*
- B. *"Ms. Landry's skills were more on the technical and analytical side, where the position required more customer service skills."*

For two years from the time of ATB's abrupt termination of me effective September 12, 2003 to September 2005, I attempted to obtain the completeness and accuracy of my performance and the correction of the information that ATB provided to the National Registration Database/Alberta Securities Commission through privacy act processes in Alberta. When processes under the Personal Information Protection Act (PIPA) involving ATB and when processes under the Freedom of Information and Protection of Privacy (FOIP) Act involving the Alberta Securities Commission had not concluded by September 2005, I was left with little alternative but to file Statements of Claim against ATB Investment Services Inc. ("ATB Investor Services") and Alberta Treasury Branches ("ATB Financial") in Provincial Court Civil (Small Claims Court) for breach of employment contract (P0590104618) and breach of benefits contract (P0590104619). Because of my severe financial distress and the complexity of the issues I led the case myself in the Courts.

During October 2004 and May 2005 and while in private practice, Wayne Alford, former Director of Enforcement at the Alberta Securities Commission provided to me his Opinions regarding securities issues involving ATB at the time of my termination. Wayne Alford became employed in a leading Compliance role with ATB Investor Services effective (approximately) April/May 2006.

On March 7, 2006 I filed the Amended Consolidated Statement of Claim in *Exhibit #5/4618-4619-O* against ATB Investment Services Inc. and Alberta Treasury Branches in regards to breach of employment contract, breach of benefits contract and misrepresentation/bad faith. Note my reference to ATB's withholding of information regarding the completeness and accuracy of my performance as well as regarding my health and thus my entitlement to receive short-term and long-term disability benefits from ATB as my disability benefits provider. Note that Point 10 lists the remarkable, consistent and very obvious successes that I was achieving at the time of ATB's abrupt termination of me effective September 12, 2003.

The transcript of the Trial held in Provincial Court (Civil) on October 3 and 4, 2006 regarding Actions P0590104618 and P0590104619 reveals the existence of many pieces of evidence that constitute my personal information and personal employee information that ATB has withheld from me to this date under PIPA (or otherwise) and that also prove the completeness and accuracy of my performance as well as the circumstances of ATB's abrupt termination of me effective September 12, 2003. (I provided 1,140 pieces of evidence to ATB for Trial while ATB provided me with 35 records, 33 of which ATB had already provided to me under PIPA. Note that the Honorable Judge McCarthy considered that Frank J. Work, Privacy Commissioner had not yet rendered Decisions on my three Inquiries under privacy legislation and ruled that the issues regarding

ATB's responses – or failures to respond - under PIPA were outside the jurisdiction of the Provincial Court (Civil.)

To this date – after over 3.5+ years of privacy act processes and 1.5+ years of litigation - ATB has not provided to me objective evidence that supports its comments to the National Registration Database/Alberta Securities Commission. The objective evidence that I provided to ATB and that I presented at Trial as per the Transcript of the Trial held on October 3 and 4, 2007 in Provincial Court (Civil) serve to disprove the statements ATB made to the National Registration Database/Alberta Securities Commission regarding my performance and termination as well as serve to disprove the cause ATB forwarded in its letters of termination to me dated September 8, 2003.

In response to my Amended Consolidated Statement of Claim, ATB filed the Amended Dispute Note in [Exhibit #6/4618-4619-O](#) on August 14, 2006. This Amended Dispute Note denied my claims in the Amended Consolidated Statement of Claim filed in Provincial Court (Civil) March 7, 2006. **Notably, ATB's Amended Dispute Note also denied (at point 5) that I was employed by ATB Investment Services Inc and claimed costs in the litigation as a result. As per the Transcript of the Trial held against ATB on October 3 and 4, 2007 in Provincial Court Civil, I provided evidence that proved that I was dually employed by ATB Investment Services Inc. and Alberta Treasury Branches, which of course is known as per my filings in the National Registration Database/Alberta Securities Commission.**

ATB also mentions the dual employment of mutual fund sales people in the small print that accompanies the Know-Your-Client information gathered on the Client Account Agreement regarding mutual funds. Note, for example, point 12 in the Client Account Agreement regarding my own locked-in RRSP mutual funds held with ATB Investor Services in [Exhibit #12/L-L2](#) that states:

“12. Dual Employment Disclosure

ATBIS [ATB Investment Services Inc.] mutual fund representatives are employed by both ATB Financial and ATBIS. Mutual Fund recommendations are offered by ATBIS. Product recommendations for non-mutual fund products are offered by ATB Financial and are not the responsibility of ATBIS.”

I am currently involved in three Inquiries under privacy legislation in Alberta in regards to obtaining access to and completeness and accuracy of my personal information at ATB and in the National Registration Database:

- Inquiry under Request for Review #P0008 under the Personal Information Protection Act (PIPA) involving ATB Investment Service and Alberta Treasury Branches and concerning my access to and the completeness and accuracy of my personal information and personal employee information at ATB.
- Inquiry under Request for Review #3112 and #3113 under the Freedom of Information and Protection of Privacy (FOIP) Act involving the Alberta Securities Commission and concerning my access to and the completeness and accuracy of my personal information in the National Registration Database/Alberta Securities Commission as a result of ATB's filing and confirming of information regarding my termination and performance under Section 84 (Notice of changes) of the Alberta Securities Act and under Multilateral Instruments 31-102 and 33-109.)
- Inquiry under Request for Review #3309 under the Freedom of Information and Protection of Privacy (FOIP) Act involving the Alberta Securities Commission involving my access to my

termination records in the National Registration Database/Alberta Securities Commission as amended under FOIP.

Despite the fact that my original access request under PIPA is dated December 18, 2003 and is one of the first access requests under the Personal Information Protection Act (PIPA), I still do not have access to, nor completeness and accuracy of, nor correction of my personal information as held by ATB and by the Alberta Securities Commission. Nor has Frank J. Work, Alberta Privacy Commissioner rendered decisions on my Inquiries.

Importantly, the Recommendations provided to the Alberta PIPA Review Committee by Frank J. Work, Privacy Commissioner in Submission #33 will render my Inquiries obsolete by empowering the Privacy Commissioner under Section 52 (commissioner's orders) of PIPA to have the discretion not to issue a decision and therefore apparently eliminate all possibility of an appeal under Section 54 (duty to comply with order) of PIPA. (Note the Submissions to the PIPA Review Committee at the PIPA Review Committee web site at <http://www.assembly.ab.ca/PIPAReview/default.htm> at the "Submissions" link.)

As well, the Alberta Privacy Commissioner's recommendation to the PIPA Review Committee to set a two year limit on the prosecution of offences under Section 59 of PIPA will enable ATB to avoid accountability as my case is now 3.5+ years with no Decision under Inquiry by the Alberta Privacy Commissioner. Already, the amendment to Section 92 (5) of the Alberta Freedom of Information and Protection of Privacy (FOIP) Act that sets a two year limit from the time an offence has occurred to the time of prosecution under this Act has allowed the Alberta Securities Commission to avoid accountability for offences under FOIP involving my case. This amendment apparently occurred while my Inquiries under FOIP involving the Alberta Securities Commission were in progress .

I note that it is **mandatory for the Privacy Commissioner of British Columbia to issue an Order** resulting from an Inquiry under Section 52 (Commissioner's orders) of the British Columbia Personal Information Protection Act (PIPA) and under Section 58 (Commissioner's Orders) of the British Columbia Freedom of Information and Protection of Privacy (FOIP) Act.

I further note that **neither** the British Columbia Personal Information Protection Act (PIPA) (at Section 56 – offences and penalties) nor the British Columbia Freedom of Information and Protection of Privacy (FOIP) Act (at Section 74 – offences and penalties) **have set a time limit for prosecuting offences**.

As I referred to above, a review of changes to the Alberta Personal Information Protection Act (PIPA) is currently proceeding as per the PIPA Review Committee's web site <http://www.assembly.ab.ca/PIPAReview/default.htm>. I provided a verbal submission to the PIPA Review Committee on May 1, 2006 that can be viewed at the link to "Transcripts" at the PIPA Review web site. The Submissions of Frank J. Work, Privacy Commission (Submission #33) and the Submission of the Ministry of Alberta Government Services (Submission #63) can also be viewed at this site at the link to "Submissions".

My verbal submission to the PIPA Review Committee is relevant to the privacy issues that relate to changes involving Multilateral Instrument 31-103, Form 33-109F4 (Registration Information for an Individual) and Form 33-109F1 (Notice of Termination).

With 3.5+ years experience with privacy act processes – PIPA and FOIP - in Alberta resulting from my employment as a registered mutual fund salesperson, I stated in my verbal submission to the PIPA Review Committee on May 1, 2007 the following:

“ ..the current privacy act processes in Alberta do not protect the privacy rights of individual Albertans under the Personal Information Protection Act (PIPA) [nor – I now add – under the Freedom of Information and Protection of Privacy (FOIP) Act.] Instead, I see one main fundamental problem that needs to be addressed under the current review of PIPA:

the apparent rampant lack of accountability of those enforcing PIPA that results in a privacy act process that erodes the privacy rights of individual Albertans in favor of organizations and in, so doing, ignores objective evidence and existing privacy act precedent.

As a result of the absence of privacy rights for individuals in Alberta, Albertans can be fired for requesting the completeness and accuracy of their performance. As well, the RRSP investment documents of Albertans can be withheld indefinitely despite the urgency of investment decisions. Furthermore, much time and tax payers’ money is wasted pondering self-evident questions concerning discretionary definitions of ‘work product’ that individuals do not have access to, including such questions as: “Do salespeople have the right of access to the sales reports by which they are compensated, managed and even perhaps terminated?”

In relation to the lack of accountability of those enforcing PIPA, the most obvious forms of this erosion of the privacy rights of individual Albertans are the Submissions to this PIPA Review Committee of Frank J. Work, Alberta Privacy Commissioner (Submission #33) and of the Ministry of Alberta Government Services (Submission #63).

Overall, these Recommendations strip hardworking Albertans of their privacy rights at a time that I find that individual Albertans are not really aware of the Personal Information Protection Act (PIPA) and what their privacy rights are in Alberta. Individuals usually only discover their privacy rights in times of distress, dispute and urgent need – for example when an individual who was been abruptly and wrongfully terminated by an employer uses PIPA to obtain his/her personal employment information in order to establish the truth of his/her performance so as to be able to quickly obtain gainful re-employment.

*Another example of the violation of Albertans’ privacy rights is the recent **Order P2006-001 dated April 4, 2007 - by the Alberta Privacy Commissioner and involving the Alberta Association of Registered Occupational Therapists**. This Order allows anything about an employee to be said about the employee whether it is right or wrong, whether it is supported by objective evidence or not. And the employee has no right to know who said it and no right to get a copy of what was said – as per PIPA. In this case, the employee lost a job opportunity. This is an outrageous violation of the privacy rights of individual Albertans in favor of the rights of organizations. If similar privacy decisions were made that so negatively impacted the income-earning ability of organizations, there would be immediate outcry by organizations in Alberta and the decision would be repealed as being unfair.*

Consequently, the solution is not just to make changes to the wording of PIPA in order to improve PIPA for individuals as well as organizations, but to also radically overhaul the Ministry of Alberta Government Services and the Office of the Information and Privacy Commissioner to ensure that PIPA is enforced objectively under the law and not in a manner that covertly and – not so covertly - inappropriately favors organizations over hard-working Albertans who are employed by, customers of, and investors in these organizations.

Simply put, Madam Chair and Honorable PIPA Review Committee Members – the Submissions by the Alberta Privacy Commissioner and by the Ministry of Alberta Government Services unjustly and unfairly strip individuals of their privacy rights in Alberta and are such a violation of the rights of hard-working Albertans that should not be tolerated. Overall, these recommendations will result in harm to individual Albertans.”
[Emphasis added]

One clear demonstration of the failure of the privacy act processes in Alberta to protect my privacy rights is the **unprecedented and unpublished** decision dated October 3, 2005 by Frank J. Work, Privacy Commissioner (in [Exhibit #9/R6-J](#)) that **indefinitely disallows me access to my personal termination information in the National Registration Database/Alberta Securities Commission**. In this Decision, Frank J. Work, Alberta Privacy Commissioner referred to only one privacy act precedent, a Decision by David Loukidelis Privacy Commissioner of British Columbia that was a Decision on a Section 43 [Power to authorize a public body to disregard requests] Application by the Vancouver Police Board, December 22, 1999 (in [Exhibit #10/R6-Ja](#)).

In rendering his unprecedented and unpublished decision, Frank J. Work, Alberta Privacy Commissioner failed to require the Alberta Securities Commission to substantiate its Submission under Section 55 of FOIP with the evidence referred to in the Privacy Commissioner of B.C.’s Decision. Note the absence of evidence in the 1.5-page Submission under Section 55 (power to authorize a public body to disregard requests) of FOIP dated June 28, 2005 that the Alberta Securities Commission provided to the Alberta Privacy Commissioner. The ASC’s Submission under Section 55 of FOIP was attached to the letter to me dated June 30, 2005 from Frank J. Work, Privacy Commissioner (in [Exhibit #8/R6-G](#)) that requested that I provide a submission under Section 55 (power to authorize a public body to disregard requests) of the Freedom of Information and Protection of Privacy (FOIP) Act.

Had Frank J. Work, Alberta Privacy Commissioner appropriately applied the Privacy Commissioner of B.C.’s Section 43 Decision in [Exhibit #10/ R6-Ja](#), the Alberta Securities Commission would have had to provide me with my personal information from the National Registration Database that I sought based on the failure of the Alberta Securities Commission to substantiate its Submission with (any) objective evidence. **(It seems to have been forgotten that I – and NOT the Alberta Securities Commission, and NOT the Alberta Privacy Commissioner and NOT ATB Investor Services and NOT ATB Financial – own title to my personal information and my personal employee information.)**

Furthermore, the information that I sought from the Alberta Securities Commission was the appended version of my personal information in my National Registration Database/Alberta Securities Commission termination records. In the letter to me dated September 23, 2004 from Roger Mariner, ASC FOIP Coordinator (in [Exhibit #7/R1-BP3](#)), the Alberta Securities Commission refused to correct my personal information in the National Registration Database. Instead, the ASC stated that it would append my letter requesting that the correction be made to my personal information in the National Registration Database. To append my letter was against my consent as my letter dated August 20, 2004 was clearly marked “Confidential” and the text of my letter confirmed that I had only provided my request under assurances of confidentiality to me by the Alberta Securities Commission.

2. RBC Royal Mutual Funds and RBC Royal Bank

I was employed as a Personal Financial Services Representative (PFSR) “Trainee” at Transit 02089 (1333 32nd Ave NE, Calgary AB) of the RBC Royal bank starting December 5, 2005. I was left with no alternative but to resign on October 20, 2006 due to the work conditions that included much and consistent unpaid over time that is now the subject of a Canada-wide class action suit involving CIBC.

My letter of resignation to George Morin, Branch Manager is contained as [Attachment #2](#) of my letter dated November 9, 2006 to Bruce Mackenzie, Regional President – Alberta & Prairies RBC Royal Bank in [Exhibit #13](#). **APPENDIX A** of this letter lists refers to my successes and the reasons for my abrupt resignation from ATB including, the unpaid overtime on pages 4 and 5 of 5 of **APPENDIX A**:

*“As a result – and in the absence of any customer-focused strategy beyond greeting customers at the door and due to very limited administrative time allotted to complete customer solutions – the focus at Transit 02089 was on serving as many customers as possible, but not on serving them well. This is reflected in the high profitability rating for the branch and the low and falling (25%) likelihood-to-recommend score that was much below target (39%). **The onus therefore was on the Financial Services Representative (FSRs) to provide and ensure “10-out-of-10 service” often on unpaid overtime before- and after-hours as well as during lunch time. I resigned because I care about providing excellent service to customers and I grew weary of doing so on my unpaid overtime especially as the compensation was already low.**”*
[Emphasis added]

My Record of Employment from RBC dated November 1, 2006 (in [Exhibit #14](#) listed as comments regarding the reason for my resignation from RBC as “work pressures/conditions”.

The SalesPlatform customer tracking database that is accessible from RBC branches across Canada testifies to the overtime that I was required to provide in order to keep customer satisfaction levels high at a time that customers were used for training purposes and we were short-staffed at the branch.

My request for information under PIPEDA from RBC in my second letter dated November 9, 2006 to Bruce Mackenzie, Regional President – Alberta & Prairies RBC Royal Bank in [Exhibit #13A](#) also points to the existence of much objective evidence that demonstrates that I was successful when measured against the objective performance criteria – the “SalesPlatform targets” – that I was to achieve.

[Exhibit #15](#) is the letter dated November 27, 2006 to me from Andrew MacNair, Regional Vice President Calgary RBC Royal Bank. This letter contained the Notice of Termination (in [Exhibit #16](#)) required to be filed under [Multilateral Instruments 31-102](#) and [33-109](#) that was filed October 20, 2006 in the National Registration Database by whom I believe to be George Morin, Branch Manager at Transit 02089 (at the 32nd Ave NE Calgary, AB) and as approved by his manager, Andrew MacNair Regional Vice President Calgary, AB.

This Notice of Termination demonstrates that I resigned in “good standing” from a securities perspective and having satisfied other securities compliance requirements. However, the Notice of Termination also indicates that RBC provided information not related to the sales of mutual funds under the section “Other comments”:

“Did not meet day to day requirements of the job. Did not meet Sales Targets, and could not meet administrative tasks and could not get along with some other staff members. Not related to the sales of mutual funds.”

Also RBC stated “Yes” to question #2 regarding:

“Does the individual have any internal discipline matters? (Including discipline matters resulting from non mutual fund related activities.)

Herein lies the problem. The above information is apparently not securities-related and apparently not supported by objective evidence relating to objective performance criteria, objective performance review processes, objective disciplinary procedures, etc. As such, the above information has no role in the National Registration Database. That this information is now contained in the National Registration Database is a breach of my privacy according to the permission that I provided to collect my personal information in Form 33-1094 and according to Multilateral Instrument 33-109 that requires information that dealers provide to the NRD be true and complete and not inaccurate/misleading in the circumstances in which the information is provided. Moreover, these comments – because they are not securities-related - are not subject to investigation by the provincial securities regulators nor by SROs such as the Mutual Fund Dealer Association. Neither the Alberta Securities Commission nor the MFDA have advised me of an investigation of these comments nor provided me with a written report supported by objective evidence regarding the above statements.

Importantly, I was not advised by RBC at any point that I was in a disciplinary process or given information regarding the existence of a disciplinary process at RBC. At the time of my last meeting with George Morin, Branch Manager on October 19, 2003 that I refer to in my letter of resignation dated October 20, 2006 (in [Exhibit #13](#), attached as [Attachment #2](#)) I stated my unwillingness to work unpaid overtime. My successes are documented in the sales-tracking software SalesPlatform that should be accessible from RBC employee’s terminal across Canada.

At the last quarterly review before my resignation – on September 12, 2003 my first quarter of my sales having completed training – I demonstrated the successes in **TABLE B** in **APPENDIX A** of my letter dated November 9, 2006 to Bruce Mackenzie, Regional Vice President – Alberta & Prairies in [Exhibit #13](#). Despite these successes I was provided with a “Does Not Meet Goals” performance rating instead of the “Developing” rating usually provided to New Trainees during the first quarter of their sales tracking. I was told by George Morin, Branch Manager that I received the “Does Not Meet Goals” rating because that was the rating that he had received. (Note that an overall rating of “Does Not Meet Goals” precludes an RBC employee from receiving his annual bonus/variable pay “incentive” as does not being employed on the date of the financial year end October 31, 2006 – as per the letter dated February 9, 2007 to me from Andrew MacNair, Regional Vice-President Calgary in [Exhibit #19](#).)

Although I requested it from George Morin during our last meeting on October 19, 2006, I was not provided with any written information regarding his performance concerns and the steps that I was to take to remedy them. I was told by George Morin that he had consulted with “RBC Human Resources Legal” and that I had 8 days to prove myself. As I stated to Bruce Mackenzie, Regional President – Alberta & Prairies in my letter dated November 9, 2003 to him in [Exhibit #13](#), I found this threatening and was left with no alternative but to immediately resign when I returned to work the next day on October 20, 2006.

As per my second letter dated November 9, 2007 to Bruce Mackenzie, Regional President – Alberta & Prairies in [Exhibit #13A](#) as well as my letter dated January 16, 2007 in [Exhibit #17](#), I requested that RBC provide me with information under PIPEDA. RBC provided me with some of this information but withheld other information including the agreed upon SalesPlatform sales targets that included my comments in my handwriting as well as my training results as a PFSR “Trainee”, my compliance targets and my compliance file, my calendar schedule for days off, documents I had signed and other records/information regarding personal information and personal employee information.

The letter dated February 9, 2007 to me from Andrew MacNair in *Exhibit #18* indicates how easy it is for a dealer firm to withhold information from an individual registrant that disproves information that the dealer firm has provided to the National Registration Database/Alberta Securities Commission regarding the individual. It also shows that individuals who speak up against unpaid overtime risk losing their careers in the financial/investment services industry as well as their reputations – as well as their entitlement to receive their “incentive bonus” (variable pay) that is a key element of compensation as per the RBC letter of hire.

II. THE HARM: loss of employment, loss of career, severe financial distress including near-bankruptcy, negative effect on my health, negative effect on my personal life – including an enormous amount of time spent over the past 3.5+ years forwarding my efforts to establish the completeness and accuracy of my performance when it should not have taken ATB more than 1 week to comply with my direct requests prior to ATB’s abrupt termination of me effective September 12, 2003 for access to and completeness and accuracy of my personal information

It should not have taken ATB more than one week to comply with my requests for completeness and accuracy of and access to my personal information and personal employee information that I made prior to ATB’s abrupt termination of me effective September 12, 2003: my list of my successes dated August 27, 2003 and the Investment Specialist performance description dated March 11, 2003 (the same date as ATB’s letter of offer to me) made the process of complying to my request indeed very simple and straight forward.

However, it has taken 3.5+ years of privacy act processes and 1.5+ years of litigation and I still have not obtained from ATB nor from the Alberta Securities Commission the completeness and accuracy of my personal information and access to key elements of my personal information, including:

- a) Documents regarding my personal mutual fund investments held through ATB Investor Services that were involved in the circumstances of ATB’s abrupt termination of me. Note for example, the Client Account Agreement for my personal locked in RRSP mutual fund investments in [Exhibit #12/L-L2](#). This “Know-Your-Client” document seemingly no longer exists in the records of ATB although securities legislation, standards, rules and policies require that it does.
- b) My sales performance tracking information that proves I achieved 43% of monthly sales target in the first week of sales (August 11 - 15, 2003) and 83% of monthly sales target to August 27, 2003 even though my position description, letter of hire, Wealth Management training, the termination information and securities standards, policies and rules (including [MFDA Policy No. 1: New Registrant Training and Supervision](#)) all indicate that my sales performance was a key element of my performance and should be tracked.
- c) My training information – including the marks (84.5% Honors) that I received on the Canadian Securities Course and the 99% that I received on the ATB Financial Customer Contact Centre initial training.
- d) Documents regarding my hiring, management and termination to/from Michael Wood, Regional Manager ATB Investor Services to whom I reported and who was my Branch Manager under MFDA Rules but for which “no records maintained” was stated in ATB’s first response to me under PIPA dated February 9, 2004. (As per the Transcript of the Trial held in Provincial Court Civil in Alberta I proved that several documents that constitute my personal information actually do exist but have been apparently been withheld from me by ATB under PIPA or otherwise – as I also refer to in my Amended Consolidated Statement of Claim filed March 7, 2003 in [Exhibit #5/4618-4619-0](#).)
- e) And other documents.

The harm to me as a result of the apparent lack of privacy rights in Alberta - at a time that privacy act processes should have long ago ensured the completeness and accuracy of my personal information and my personal employee information at ATB Investor Services/ATB Financial and at the National Registration Database/Alberta Securities Commission - has been severe, as I mentioned in my verbal submission to the PIPA Review Committee on May 1, 2006 (as per the link to Transcripts for May 1, 2006 at <http://www.assembly.ab.ca/PIPAReview/default.htm>) :

*“Much harm to me has resulted due to the failures of the Alberta privacy act process to protect my privacy rights in Alberta: **my career, my finances, my health and my personal life have all been severely negatively affected. Several times I have been on the brink of bankruptcy and I am now over \$100,000+ in debt.** I was unemployed for most of two years and I have now also apparently lost my new-found career in the financial/investment services industry. But for the grace of God and my family and those who came to my aid I would now be on the streets.*

*And I still do not have access to nor the completeness and accuracy of my personal information including my performance information as well **my personal investment information regarding my RRSP mutual fund investments through ATB Investor Services.***

*As well, there has been **NO** Decision rendered by the Alberta Privacy Commissioner regarding my three Inquiries and it is now more than 3.5+ years since my original request for access to and completeness and accuracy of my personal information prior to ATB’s abrupt termination of me effective September 12, 2003.”*

It is important to note that at the time ATB first abruptly made wrongful and unsupported accusations regarding my performance on Thursday August 21, 2007 I had not even been a New Registrant for a full month and had been trading/selling mutual funds for less than 10 business days and was nevertheless achieving the remarkable, consistent and very obvious successes referred to the Amended Consolidated Statement of Claim filed March 7, 2007 in Provincial Court (Civil) in *Exhibit #5/4618-4619-O*.

How is it possible that so much harm to me has occurred at a very vulnerable time in the launch of my new career in the financial/investment services industry and at a time of my remarkable, consistent and very obvious successes and in compliance with securities laws? The answer is straight forward and I believe known to most: the apparent lack of accountability of and lack of enforcement by the Alberta Securities Commission and the apparent lack of accountability of and lack of enforcement by the Office of the Information and Privacy Commissioner. Apparently, this lack of accountability and lack of enforcement gives free reign to firms in the favor of these regulatory bodies – the “powerful few” - to act as they wish to the detriment of hard-working individual Albertans like myself who constitute the Albertan Advantage and upon who those in government and in the bureaucracy seem to have forgotten that they rely on to be elected or hired into their positions.

How do we ensure that the harm that has occurred to me does not befall other Investment Advisors employed by and customers of the dealer firms that employ them? This is the subject of my Recommendations in the following section - Section III, following.

III. THE SOLUTION: My Recommendations

As I mentioned above, I have only just become aware of the current review concerning Proposed National Instrument 31-103 Requirements, Proposed Companion Policy 31-103CP Registration Requirements and Proposed Amendments to National Instrument 33-109 Registration Information in the last couple of days. Thus, my recommendations are currently brief. I request the opportunity to add to these recommendations at a later date upon further discussion of and reflection of the key issues.

It is my hope that my recommendations will prevent the enormous difficulty and challenges that I have needlessly faced from occurring to other New Registrants and short-term employees as well as to other longer-employed Investment Advisors in Canada.

The Recommendations I provide at this time are as follows:

1. **Provide Investment Advisors with direct access to their personal information – including termination information – in the National Registration Database.** This would eliminate any delays and costs in obtaining information from the dealer firm. Currently, Investment Advisors do not have access to their personal information in the National Registration Database and must rely on dealer firms to make submissions for them.

The Alberta Securities Commission did not provide me with direct access to my records in the National Registration Database but required that I obtain them under the Freedom of Information and Protection of Privacy (FOIP) Act – at a delay of time and extra expense to me and a hindrance in my re-employment efforts.

ATB did not provide either to me or to my lawyer (at the time) my termination records in the National Registration Database/Alberta Securities Commission; had the Personal Information Protection Act (PIPA) not launched on January 1, 2004 it is likely that I would not have received this information from ATB. I received ATB's National Registration Database filing regarding my termination dated September 19, 2003 **Exhibit #1/ATB PIPA #39** in ATB's Submission under PIPA to me dated February 24, 2006 – **fully 5 months after ATB's termination of me effective September 12, 2003 and the filing of the information regarding me in the Alberta Securities Commission.**

2. Require that dealer firms must provide a copy to the Investment Advisor of any filing – registration, termination, etc. - made to the National Registration Database/provincial securities commission **at the time that the filing is made.** This filing is to be supported by **clearly specified objective evidence when it concerns reasons for termination, disciplinary measures etc.** And this objective evidence is to be provided to both the securities commission and to the Investment Advisor **at the same time.**

The dealer's filing is not to be registered in the National Registration Database until the Investment Advisor confirms that he/she has received a copy of the filing as well as the objective evidence that supports it from the dealer firm and that he/she has no issues with the filing. The minimum types of objective evidence to be provided to the provincial securities commissions and to the Investment Advisor in order to support opinions and statements provided by the firm regarding termination, discipline, etc are to include at minimum but not be limited to:

- i. Policies of the dealer firm relating to the comments
- ii. Objective performance standards as having been provided to the Investment Advisor
- iii. Written notice from the dealer firm to the Investment Advisor of deficiencies in performance to objective standards, including written notice of steps recommended by the dealer firm to correct deficiencies
- iv. Written notice to the Investment Advisor of any disciplinary meetings held and corrective action taken including written confirmation of disciplinary policies and procedures.
- v. Responses of the Investment Advisor to coaching and disciplinary meetings.
- vi. Position description
- vii. Letter of offer and letter of acceptance
- viii. Letter of termination and related termination information
- ix. Performance reviews
- x. Etc.

Any filing by the dealer without the minimum objective evidence is not to be considered true and complete and therefore to be rejected and the dealer fined for failing to comply with the requirement under Section 84 (notice of changes) of the Alberta Securities Act to provide information regarding changes within 5 business days of the change occurring.

Any filing that the Investment Advisor objects to **must be investigated by the provincial securities commission** within 5 business days and **a written report** provided to the Investment Advisor and to the dealer employer regarding the findings based on objective evidence, including attaching the objective evidence itself to the written report. This written report is to be provided not later than 10 business days after being advised by the Investment Advisor of objectionable information regarding the filing of the employer dealer.

Any and all objective evidence used by the dealer to substantiate statements and opinions in filings must be retained for a period of **7 years**. (As per my case – now 3.5 years old – 2 years is far too little to take into account all privacy act and legal proceedings that may uncover relevant issues.)

- 3. Require that any filing regarding reasons for termination in Form 33-109F1 be limited to filings regarding securities issues affecting securities legislation – as is referred to in Form 33-109F4 in regards to the Notice of Collection and Use of Personal Information. Thus, filings made by the dealer firm at termination that are not related to securities issues are not to be allowed as they do not relate to issues regarding securities legislation** and therefore not subject to investigation by the provincial securities commission to determine the completeness and accuracy of the comments and to provide fines for providing false information. Consequently, filings regarding termination to include issues regarding standards, rules and policies developed by SROs such as the Mutual Fund Dealer Association) to be allowed only if these are incorporated in securities legislation and only if these are subject to investigation.

The information provided by ATB and by RBC that was non-securities related was apparently not documented with objective evidence; my objective evidence disproves the comments. To my knowledge neither the Alberta Securities Commission nor the Mutual Fund Dealer Association (MFDA) have required ATB to provide objective evidence to prove these comments. Yet these comments damage my employment opportunities with other firms in the securities industry and with companies outside the securities industry because of the unjustified validity given to comments that are retained in the National Registration Database without being based on objective evidence.

Moreover the Conduct and Practices Handbook that forms the foundation of practice in the securities industry forbids the spreading of rumors regarding others by stating the following (in the section just prior to discussion of/warnings against Insider Trading):

“A registrant may also come into contact with confidential information concerning his or her employer. The registrant must....not participate in the spreading of rumors about the employer or others in the securities business...”

Consequently, I recommend that statements and opinions that are currently in the National Registration Database that cannot be supported by objective evidence within 5 business days of a request by the Investment Advisor to the dealer firm be removed.

- 4. Disallow Section 8.1 of National Instrument 31-103** regarding disclosure of information from one employer to another for the purposes of hiring and continuing to retain an employee Section 8.1 **constitutes a breach of the privacy rights of the individual Advisor** because the information is not provided with the consent or awareness of the individual Investment Advisor nor is the Individual Advisor provided with a copy of what has been exchanged. Consequently, there is no assurance of the accuracy of the information provided or whether the information provided is based on objective evidence or – as in my case - based on rumors that are disallowed by the Conduct and Practices Handbook that forms the standard of practice in the securities industry or based on spiteful opinion that is more reflective of management issues of the dealer employer rather issues regarding the performance of the Investment Advisor.

Note my comments regarding my verbal presentation to the PIPA Review Committee in point I1, above regarding **Order P2006-001 dated April 4, 2007 - by the Alberta Privacy Commissioner and involving the Alberta Association of Registered Occupational Therapists.** This Order involved an

employee who lost a potential employment opportunity due to comments made regarding her without her consent that she was not allowed to have access to and not allowed to know who said them. As I stated:

*“...Another example of the violation of Albertans’ privacy rights is the recent **Order P2006-001 dated April 4, 2007 - by the Alberta Privacy Commissioner and involving the Alberta Association of Registered Occupational Therapists.** This Order allows anything about an employee to be said about the employee whether it is right or wrong, whether it is supported by objective evidence or not. And the employee has no right to know who said it and no right to get a copy of what was said – as per PIPA. In this case, the employee lost a job opportunity. This is an **outrageous** violation of the privacy rights of individual Albertans in favor of the rights of organizations. If similar privacy decisions were made that so negatively impacted the income-earning ability of organizations, there would be immediate outcry by organizations in Alberta and the decision would be repealed as being unfair....”*

Note other Submissions to the Alberta PIPA Review Committee at <http://www.assembly.ab.ca/PIPARReview/default.htm> (at the “Submissions” link) that look negatively upon the sharing of information regarding current or potential employees without their consent – especially Submission #60 by Cenera, Integrated Human Resource and business Consultants that states, in part:

“Personal Employee Information

The collection of personal employee information for recruiting purposes in s.15, especially collection of reference information on employment capabilities is not only permissible without consent, the wording of the very stringent notification provisions under s. 15(2) seems to exempt collection under this circumstance. In effect, this would allow an employer to gather reference information about a candidate from another source other than those provided by the candidate AND to collect this personal information secretly without notifying the candidate.

Not only does this standard for collecting information without consent or notice go beyond the a reasonable interpretation of privacy principles of consent and identifying purposes, it is in fact a lower standard than many businesses with dedicated human resources programs would implement themselves. It is a widely accepted policy among human resources professionals that a recruiter will only obtain reference information from names provided by the candidate or at least that they will be asked if an additional reference source can be contacted. On the other side, many company officials would refuse to offer opinions about a former employee without their knowledge, given the liability exposure to civil action should the candidate not be hired.

Our suggestion is to require organizations to obtain consent of the applicant to obtain references or, at the very least, make the notification provision apply to this collection. This will bring this section in line with the highest standards of professional human resources practice.”

As well, information exchanged between dealer firms for the purpose of hiring and retention should only be exchanged in regards to issues concerning securities legislation as it is only in regards to legislation that investigations are (one hopes) conducted in by provincial securities commissions and only with the consent of the Investment Advisor.

Importantly, all information is to be exchanged only with the consent of the Investment Advisor.

Also importantly, the Investment Advisor should be given a copy of all and any (written, verbal, electronic...) information exchanged at the time that it is exchanged and be advised of the name and title of the author(s) of the information. The reason being, is that the information is the personal information and personal employee information of the Investment Advisor – owned by the Investment Advisor.

It is important to understand the objective of section 8.1. I hope that I have correctly understood from my very brief conversation with Sandy Jakab Manager, Policy & Exemptions Capital Markets Regulation British Columbia Securities Commission that the purpose of implementing Section 8.1 is to address the failure of dealer firms to report securities infractions of their employees who then leave and become hired by other firms and commit similar securities infractions.

The answer then is not to strip away the privacy rights of every Investment Advisor in Canada to address the apparent wrongdoing of a specific Investment Advisor and the dealer firm it is employed by. Instead I recommend that penalties be awarded to dealer firms for not reporting the securities infractions and that penalties be awarded to the specific Investment Advisor responsible for committing the infraction.

It is important to create a climate of compliance in which dealer firms are penalized for infractions. The nature of the offence should be made public. I believe the tendency for provincial securities commissions and Sores such as the Mutual Fund Dealer Association to turn a blind eye to the infractions of dealer firms – such as is evident in my case – sends a clear message that securities infractions are tolerated.

A system of review of the dealers' operations by the provincial securities commission should be set up to discover and penalize securities infractions as well as to reward dealer firms for commendable action in addressing infractions themselves and for excellence in conduct.

My case could be used as a test case. How is it possible, for example, that the Alberta Securities Commission and the Mutual Fund Dealer Association have apparently ignored *Exhibit #4/ATB PIPA #200114* and the fact that I still do not have access from ATB to my personal information and personal employee information including documents regarding my personal mutual fund locked-in RRSP investments? How could they possibly have missed this in 3.5+ years of audits, 3.5+ years of a privacy act process (including investigation by Alberta Justice under section 59 [offences and penalties] of PIPA and a 1.5-year litigation period involving ATB?

6. Allow provincial securities commissions other than the provincial securities commission in which the Investment Advisor resides and sells mutual funds to resolve issues regarding the Investment Advisor's concern regarding the appropriateness of collection, use or disclosure of the individual's personal information by the dealer firm involving information in the National Registration Database/provincial securities commission. This should be stated clearly on Form 33-109F4 Registration Information for an Individual and on Form 33-109F4 Notice of Termination.

This clause is necessary due to the apparent lack of accountability and lack of enforcement in Alberta by the Alberta Securities Commission. Until this is resolved, I – and I believe other Investment Advisors in Alberta - would like the ability to have resolved in a timely manner issues regarding the collection, use and disclosure of the Investment Advisor's personal information. As per my case, a fair, objective and timely rendering of issues does not seem possible with the Alberta Securities Commission.

7. Further to the above, specify in the appropriate legislation the timelines by which the provincial securities commissions should complete investigations regarding the collection, use and/or disclosure of the Investment Advisor's personal information by the dealer firm. Also, specify that provincial securities commissions must report in writing (with relevant objective evidence) regarding the outcome of concerns forwarded by Investment Advisors.

For example, if the dealer firm is required under Section 84 (notice of changes) to provide information to the National Registration Database within 5 business days of the change occurring then provincial securities administrators should be required to investigate and report (in writing, with objective evidence) on the investigation to the Investment Advisor within a 5 day period – so as to avoid a situation such as mine in which it is now 3.5 years and I have yet to obtain the completeness and accuracy of my personal information in the National Registration Database or indeed even access to my termination information in the National Registration Database.

8. Provide severe fines for every year or part of a year that statements remain in the National Registration Database that are not supported by objective evidence and that are not true and complete. These fines are payable by the dealer firm to the Investment Advisor for providing information regarding the Investment Advisor that was misleading/inaccurate in the circumstances in which it was provided based on consideration of clearly defined objective evidence.

This should be stated clearly on Form 33-109F4 Registration Information for an Individual and on Form 33-109F4 Notice of Termination.

This is to apply to statements currently registered in the National Registration Database since the inauguration of the National Registration Database effective March 2003 (one month before the start of my employment with ATB Investor Services on April 7, 2003).

IV. *Exhibits* Included with this Submission

Please find attached the following *Exhibits* that support the statements that I have made in this Submission. Note that I have blacked out portions of *Exhibits* in order to ensure confidentiality.

ATB Investment Services Inc. (“ATB Investor Services”) and Alberta Treasury Branches (“ATB Financial”)

1. ***Exhibit #1/ATB PIPA #39:*** ATB’s filing regarding my termination to the National Registration Database/Alberta Securities Commissioner dated September 19, 2003.
2. ***Exhibit #2/ATB PIPA #41:*** EMAIL dated Tuesday October 7, 2003 from Fred Vance, Senior Manager ATB Investor Services Compliance to Michael Maze, Vice President ATB Investor Services and to Kerry Day, Vice President Legal & Corporate Secretary. Referring to MW – Michael Wood, Regional Manager ATB Investor Services and Branch Manager (“Br Mgr”).
3. ***Exhibit #3/ATB PIPA #42:*** Handwritten notes of who I believe to be Fred Vance, Senior Manager ATB Investor Services Compliance of his apparent conversation with Michael Wood, Regional Manager ATB Investor Services – as further documented in ***Exhibit #2/ATB PIPA #41***. These handwritten notes are written on an email dated September 26, 2003 from Sherry Proven her, ATB Investor Services Compliance Officer – Registrations to Fred Vance, Senior Compliance Officer
4. ***Exhibit #4/ATB PIPA #200114:*** Email dated August 27, 2003 by who (based on this and other information provided to me by ATB and otherwise) I believe to be Deb Kerr, ATB Investor Services Compliance Officer to Donna Dawson, Senior ATB Investor Services Compliance Officer regarding my attached request to honor the completeness and accuracy of the Know-Your-Client investment instructions of a business ATB Investor Mutual Fund customer. The identity of the person addressing this email has been blacked out by ATB and is to be resolved under the Inquiry under Request for Review #P0008 under the Alberta Personal Information Protection Act (PIPA). The email is not expressly indicated to be confidential. Nor is this email implicitly indicated to be confidential due to the request by the author to “*speak to Helen about this*”. I have blacked out the name of the business customer to protect the company’s confidentiality.
5. ***Exhibit #5/Claim 4618-4619 – O:*** My Amended Consolidated Statement of Claim filed in Provincial Court (Civil) in Alberta on March 7, 2006 against ATB Investment Services Inc. (“ATB Investor Services”) and Alberta Treasury Branches (“ATB Financial”) for breach of employment contract, breach of benefits contract and misrepresentation/bad faith – Action Nos. P0590104618 and P0590104619.
6. ***Exhibit #6/Claim 4618-4619 Boca:*** ATB’s Amended Dispute Note filed in Provincial Court (Civil) in Alberta on August 14, 2006. Note at point 5 that the following is stated:

“The Defendant ATB Investment Services Inc. did not employ or terminate the employment of the Plaintiff and seeks costs in this litigation.”

Several *Exhibits* that ATB provided to me under PIPA identify that I was an employee of ATB Investment Services Inc – notably ***Exhibit #1/ATB PIPA #39***, the Notice of Termination regarding me filed by ATB in the National Registration Database (NRD). Note also that the ATB Investor Services Client Account

Agreement in [Exhibit #12/L-L2](#) states at point 12 that I am dually employed by ATB Investment Services Inc. and Alberta Treasury Branches – as would nevertheless be well known according to my filed Form 33-109F4 Registration information for an individual that was filed with the National Registration Database/Alberta Securities Commission in order to obtain my accreditation to sell mutual funds.

7. [Exhibit #7/R1-BP3](#): Letter dated September 23, 2004 to me from Roger Mariner, Alberta Securities Commission FOIP (Freedom of Information and Protection of Privacy) Coordinator in which the Alberta Securities Commission refused to correct my personal information in the National Registration Database/Alberta Securities Commission and instead states (on page 1) that it will append my August 20, 2004 letter requesting correction of my personal information. This was against my consent as my August 20, 2004 letter is clearly marked confidential and the text of the letter confirms that I provided my request for correction only under assurances from the Alberta Securities Commission that it would be confidential.
8. [Exhibit #8/R6-G](#): Letter dated June 30, 2005 to me from Frank J. Work, Alberta Privacy Commissioner and containing the 1.5-page Submission dated June 28, 2005 under [Section 55](#) (power to authorize a public body to disregard requests) of the Freedom of Information and Protection of Privacy (FOIP) Act by the Alberta Securities Commission.
9. [Exhibit #9/R6-J](#): The unprecedented and unpublished October 3, 2005 decision under [Section 55](#) (power to authorize a public body to disregard requests) of the Freedom of Information and Protection of Privacy (FOIP) Act by Frank J. Work, Alberta Privacy Commissioner that indefinitely disallows me access to my personal information regarding my termination information (as appended by the Alberta Securities Commission according to [Exhibit #7/R1-BP3](#)) in the National Registration Database/Alberta Securities Commission.
10. [Exhibit #10/R6-Ja](#): The sole privacy act precedent referred to in the October 3, 2005 decision under [Section 55](#) of FOIP in [Exhibit #9/R6-J](#): [A Decision on a Section 43 Application by the Vancouver Police Board](#), December 22, 1999 by David Loukidelis, Privacy Commissioner of British Columbia. Had Frank J. Work, Alberta Privacy Commissioner appropriately applied this privacy act precedent, the Alberta Securities Commission would have had to provide me with the personal information I sought – my termination records in the National Registration Database/Alberta Securities Database as appended according to the letter dated September 23, 2004 from Roger Mariner, ASC FOIP Coordinator in [Exhibit #7/R1-BP3](#) due to the lack of evidence provided by the Alberta Securities Commission in its Submission under [Section 55](#) (power to authorize a public body to disregard requests) that is attached in [Exhibit #8/R6-G](#).
11. [Exhibit #11/F15B](#): My email dated September 4, 2003 to the following four ATB Executives that were involved with my termination from ATB (effective September 12, 2003):
 - i. Fred Dunn, Director ATB Investor Services
 - ii. Michael Wood, Regional Manager ATB Investor Services and Branch Manager under Mutual Fund Dealer Association [MFDA] Rules
 - iii. Mary Johnson, ATB Financial Employee Advocate and Key Contact for the ATB Financial Code of Conduct and Ethics
 - iv. Gordon Wollenburg, ATB Financial Human Resources Consultant

Note the earlier attached email from Fred Dunn – to me and copying those listed above dated earlier on the day of Thursday September 4, 2003 and requesting that I attend a meeting with Michael Wood and Gordon Wollenberg to “*facilitate the proper process*”.

I provided this email to Bob Normand, ATB Financial President and CEO and copied the Alberta Office of the Information and Privacy Commissioner at the time that I provided them my detailed Submission dated December 18, 2004 requesting the completeness and accuracy of my personal information under the Alberta Personal Information Protection Act (PIPA). In my December 18, 2004 Submission I stated the following regarding [Exhibit #11/15B](#):

“Note that this email seemingly no longer exists in ATB’s records as per the letter by Stuart McKellar, ATB Financial Counsel in [Exhibit #31/RI-N](#) – ATB’s initial response to my request for access to personal employment information under PIPA. Note that the response “no records maintained” is provided for Michael Wood [Regional Manager ATB Investor Services and Branch Manager under MFDA Rules], when clearly such a record as provided in [Exhibit #12/F15B](#) [in the December 21, 2004 Submission] existed.”

- 12. [Exhibit #12/L-L2](#):** This is my copy of the ATB Investor Services Client Account Agreement for my personal locked-in RRSP mutual funds that were involved in the circumstances of ATB’s termination of me. To this date I have not received this document from ATB under PIPA or otherwise despite the fact that the wording of this document (at point 5) identifies it to be my personal information.

Note also that this document identifies (at point 12) that as a mutual fund representative, I was dually employed by ATB Investment Services Inc. and Alberta Treasury Branches. ATB’s amended Dispute Note filed August 14, 2006 in Alberta Provincial Court (Civil) in [Exhibit #6/Claim 4618-4619 BCa](#) (at point 5) stated that I was not employed by ATB Investment Services Inc.

RBC Mutual Funds Inc. and RBC Royal Bank

- 13. [Exhibit #13](#):** My letter dated November 9, 2006 to Bruce Mackenzie, Regional President Alberta & Prairies RBC Royal Bank stating that I was left with no alternative but to resign on October 20, 2006 at a time that I was experiencing successes as a New Personal Financial Services Representative. Attached are:
 - [APPENDIX A](#): Describes my successes at RBC Royal Bank and the reasons for my resignation
 - [Attachment #1](#): Email dated October 31, 2006 to me from Andrew MacNair, Regional Vice President RBC Royal Bank and attached to my earlier email to him dated October 31, 2006. In his EMAIL Andrew MacNair states that he is not prepared “*to review nor reverse the decision regarding your rehire status*”.
 - [Attachment #2](#): My letter of resignation dated October 20, 2006 to George Morin, Branch Manager RBC Royal Bank 1333 32nd Ave NE Calgary, Alberta T2E 7Z5
 - [Attachment #3](#): The SalesPro testing I took on July 7, 2005 prior to hire by RBC that indicates that I possess many qualities key to being successful in the Personal Financial Services Representative (PFSR) position for which I was hired. Also, the testing results appropriately

stated under “What Types of Opportunities Should You Avoid?”: “...Avoid opportunities which you believe do not really appreciate its associates or provides incompetent or inadequate operational support....Avoid situations which you feel do not have any real human merit in them. As well, avoid situations in which everyone is treated alike regardless of their effort and performance. You can use your talents best where both the ‘people’ element and the challenge element are present...”

- 13A. **Exhibit #13A:** My second letter dated November 9, 2006 to Bruce Mackenzie, Regional President Alberta & Prairies RBC Royal Bank in which I request: my personal information regarding my hiring, management and my resignation as a Financial Services (FSR) at Transit 02089 under the Personal Information Protection and Electronic Documents Act (PIPEDA). Andrew MacNair, Regional Vice President RBC Royal Bank replied with some but not all records of my personal information in his submission to me dated December 7, 2006. My letter dated January 16, 2007 to Bruce Mackenzie – Regional President – Alberta & Prairies RBC Royal Bank in **Exhibit #17** requested my missing personal information.
14. **Exhibit #14:** Record of Employment dated November 1, 2006 that states the following regarding the reasons for my resignation: “*work pressures/conditions*”. My Record of Employment lists my first day worked as October 2, 2006 due to the unpaid leave of absence I took from Wednesday September 20, 2006 to Friday September 29, 2006 to prepare for my Trial against ATB Investment Services Inc. (“ATB Investor Services”) and Alberta Treasury Branches (“ATB Financial”) in Provincial Court (Civil) on October 3 and 4, 2006 for breach of employment contract, breach of benefits contract and misrepresentation/bad faith. The week of October 2, 2006 I took off as vacation time.
15. **Exhibit #15:** Letter to me dated November 27, 2006 to me from Bruce Mackenzie, Regional Vice President Calgary RBC Royal Bank. Included with this letter was **Exhibit #14**, the Notice of Termination RBC Royal Mutual Funds Inc. that was filed with the National Registration Database/Alberta Securities Commission under Section 84 (Notice of changes) of the Alberta Securities Act and as per Multilateral Instruments 31-102 and 33-109.
16. **Exhibit #16:** The Notice of Termination RBC Royal Bank that was attached in **Exhibit #15**. See **Exhibit #15** for details.
17. **Exhibit #17:** My detailed letter dated January 16, 2007 to Bruce Mackenzie – Regional President – Alberta & Prairies RBC Royal Bank requesting my missing personal information as a result of RBC’s submission to me under PIPEDA dated December 7, 2006.
18. **Exhibit #18:** Letter dated February 9, 2007 from Andrew MacNair, Regional Vice President RBC Royal Bank to me in reply to my letter dated January 16, 2007 to me in **Exhibit #18**. This letter states “*accordingly we now consider this matter closed*” without providing me key information that I requested in **Exhibit #18** that refutes the statements RBC made to the National Registration Database/Alberta Securities Commission. The reply of Andrew MacNair in this **Exhibit** as well as in **Attachment #1** of **Exhibit #13** shows just how easy it is for dealer firms to inappropriately withhold personal information from an Investment Advisor that would prove the completeness and accuracy of the Investment Advisor’s performance and in so doing refute statements that the dealer firm has provided to the National Registration Database/provincial securities commission regarding the Investment Advisor.

I look forward to further discussions regarding the topics above.

Sincerely,

Anne Landry
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Calgary, AB T2R 1N1
TEL: 403-228-7982