

**Report on  
Enforcement Activities**  
From October 1, 2004 to March 31, 2005



**Canadian Securities  
Administrators**

**Autorités canadiennes  
en valeurs mobilières**



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## INTRODUCTION

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This report provides information about enforcement activity undertaken by members of the Canadian Securities Administrators (CSA) during the 6 months ended March 31, 2005. The CSA is the council of the securities regulators of Canada's provinces and territories whose objectives are to improve, coordinate and harmonize regulation of the Canadian capital markets. References in this report to the CSA include reference to its member regulators and associated tribunals.

## ENFORCEMENT: A CORE CSA RESPONSIBILITY

Investigation and enforcement are core CSA activities. By identifying contraventions of securities laws or conduct in the capital markets that is contrary to the public interest, and by imposing appropriate sanctions, the CSA deter wrongdoing, protect investors, and foster fair and efficient capital markets in which investors have confidence. Enforcement personnel of CSA member authorities deal with potential securities law violations identified through internal CSA compliance and surveillance or as a result of complaints from market participants and the public.

## COMPLEMENTARY ENFORCEMENT ROLES

The CSA's enforcement activity complements that of other agencies with whom we cooperate and share information on matters of mutual interest. This allows us to focus activity and resources where most appropriate.

## KEY PLAYERS

### SECURITIES TRIBUNALS

Enforcement personnel of CSA members can bring matters before a specialized administrative tribunal, which in most jurisdictions is the local securities commission. Such tribunals can impose sanctions including orders that trading in securities cease or that exemptions are unavailable, bans on individuals acting as corporate directors and officers, mandatory filing of specified disclosure, monetary administrative penalties and payment of costs. Enforcement personnel often negotiate settlement agreements under which those alleged to have contravened securities laws submit to agreed sanctions. In some jurisdictions settlement agreements are approved by staff; in other cases they are presented for the approval of the local securities commission or tribunal.

### SROs

Self-regulatory organizations (SROs) oversee regulated conduct of their members. For example, if the Investment Dealers Association of Canada (IDA) finds that a member has contravened its by-laws, it can impose monetary penalties and suspend or revoke IDA membership and registration under securities laws. The Mutual Fund Dealers Association of Canada (MFDA) assumes a similar role for members in its sector.

Market Regulation Services Inc. ("RS Inc.") oversees trading activity on Canadian equity markets. It imposes sanctions for contraventions of the Universal Market Integrity Rules ("UMIRs"), including fines and suspension or restriction of market access.

## INTRODUCTION

### EXCHANGES

Exchanges monitor compliance, by listed companies, with the terms of Exchange listing agreements and policies. Where appropriate, they can deny pre-approval of certain transactions, require corrective disclosure, halt or suspend trading and, in egregious cases, terminate a listing.

### POLICE

The RCMP and local and provincial police investigate commercial crimes, including market fraud. The federal government recently established IMET (Integrated Market Enforcement Teams, with combined RCMP and civilian membership) to target major economic crime.

### COURTS

Provincial and territorial Attorneys-General or equivalents can bring contraventions of securities laws, as well as of criminal laws, before a court. In some provinces, enforcement personnel of CSA members can also bring securities law contraventions before a court. Fraud and other contraventions of the Criminal Code can result in stiff penalties including large fines and imprisonment. The sanctions available to courts for securities law violations are also more extensive than those available to securities regulatory authorities, including imprisonment.

## CSA ENFORCEMENT ACTIVITY IN THE SECOND HALF OF 2004

During the 6 months from October 1, 2004 to March 31, 2005, CSA members pursued 65 enforcement matters. During the same period, 88 cases resulted in sanctioning orders or settlements that often included several persons or companies. This activity is summarized in the following table:

Proceedings Commenced <sup>1</sup>	Interim Order <sup>2</sup>	Matters Concluded				Appeals	
		Findings Issued (Sanction Decision Pending)	Sanctions Ordered	Settlement Agreements	Withdrawn	Decisions Appealed	Appeal Decision Rendered
65	27	14	34	54	4	3	8

During the same period, self-regulatory organizations (RS, MFDA and IDA) concluded 19 settlement agreements, and ordered sanctions in 8 cases. A number of enforcement matters are explained in more detail in the sections that follow.

<sup>1</sup> Proceedings before a CSA member Commission or associated tribunal may be commenced by a Notice of Hearing. Court proceedings may be commenced by way of "Information".

<sup>2</sup> Includes freeze orders and interim cease trade orders.

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## COURT RULINGS

### QUÉBEC

**Stevens Demers (Enviromondial Inc.)** – On December 14, 2004 Mr. Justice Claude Millette of the Court of Québec (Criminal and penal division) found Stevens Demers guilty on 25 counts of having contravened the Securities Act. Stevens Demers was ordered to pay a fine of \$89 000 within a period of 48 months. However, the AMF has appealed this sentence to the Superior Court as it had requested that Demers be sentenced to pay a fine and to imprisonment for these infractions. See <http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-3871/en/Communiqué-15dec2004-stevendemerse-ANGLAIS.pdf> for details.

### ONTARIO

**Emilia von Anhalt and Jurgen von Anhalt** – In November 2004, OSC staff obtained an interim Order pursuant to s. 128(4) of the Act, made by Justice Pepall in the Ontario Superior Court of Justice. The Order provides that the shareholders meeting requisitioned by the von Anhalts be adjourned sine die, and prohibits the von Anhalts from requisitioning a further shareholders meeting until further order of the court. See <http://www.canlii.org/on/cas/onsc/2005/2005onsc10130.html> for details.

### MANITOBA

**Shirleena Manchur De Escobar** - On November 19, 2004, Judge Sandhu of the Provincial Court of Manitoba found the accused Shirleena Manchur De Escobar guilty of one count of trading without registration. Judge Sandhu imposed a fine of \$350 plus surcharges. Costs were waived by the Court. De Escobar was given 6 months to pay. See <http://www.msc.gov.mb.ca/investigation/reasons/escobar.html> for details.

**Robert Walter Kalapaca** – On March 19, 2004, Robert Walter Kalapaca pled guilty in the Provincial Court of Manitoba to two counts of trading without registration. Prior to sentencing, Kalapaca paid the sum of \$5,400 (CDN) towards restitution. On October 14, 2004, Judge Chartier accepted the joint recommendation of 30 days imprisonment concurrent on both counts. Kalapaca was also placed on one year supervised probation which included a condition that he not work in the securities industry, nor manage or invest client money or trade in securities for others. See <http://www.msc.gov.mb.ca/investigation/reasons/kalapaca.html> for details.

**Joseph Ojars Undiks** - On January 20, 2005, Joseph Ojars Undiks pled guilty in the Provincial Court of Manitoba to two counts of trading in securities without registration. Investors did not receive their principal back or any return on their investment. There was no evidence that Undiks profited from this activity. Undiks advised he also invested and lost money as well. A fine of \$1,000 and costs of \$150 were imposed on each count for a total amount of \$2,300. Undiks was given time to pay the foregoing fine and costs. See <http://www.msc.gov.mb.ca/investigation/reasons/undiks.html> for details.



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### ALBERTA

**Thomas Kim Seto** - In October 2004, Thomas Kim Seto appeared in Edmonton Provincial Court charged with allegedly breaching an earlier 2000 ASC order which prohibited him until 2005 from trading in securities and from acting as a director or officer. The case is now scheduled for trial in May 2005.

**Phillip David Archer** - In October 2004, Philip David Archer appeared in Calgary Provincial Court charged with allegedly breaching an earlier 1991 ASC order prohibiting him until 2006 from trading in securities.

## CSA COMMISSION OR TRIBUNAL DECISIONS

### MANITOBA

**Norman W. Andrew** - On December 2, 2004, the MSC issued a denial of exemptions under the Act against Andrew for a period of four (4) years from the date of the Order. Andrew had previously pled guilty in the Provincial Court of Manitoba to 16 counts of trading without registration contrary to s.6(1) and 16 counts of trading without prospectus contrary to s.37(1). [See Enforcement Summary of October 29, 2003.] See <http://www.msc.gov.mb.ca/investigation/reasons/andrew.html> and [http://www.msc.gov.mb.ca/investigation/reasons/andrew\\_2.html](http://www.msc.gov.mb.ca/investigation/reasons/andrew_2.html) <http://www.msc.gov.mb.ca/orders/andrew.html> for details.

### ALBERTA

**Oxford Software Developers Inc. /J. Allen Capital et al.** - In October 2004, an interim cease trade order was issued against Oxford Investment Holdings Inc. (formerly Oxford Software Developers Inc.), Michael Bernard Donaghy, Joseph Edward Allen, carrying on business as J. Allen Capital, Mitchell O. Nwabuogu and Syed Kebis. See [http://www.albertasecurities.com/dms/1404/8895/11735\\_OXFORD\\_-\\_EXTENSION\\_ORDER\\_-\\_2004-11-12\\_-\\_1663863\\_v1.pdf](http://www.albertasecurities.com/dms/1404/8895/11735_OXFORD_-_EXTENSION_ORDER_-_2004-11-12_-_1663863_v1.pdf) for further details.

**Instadial Technologies Corp. et al.** - In January 2005, an interim cease trade order was issued against Instadial Technologies Corp., Vern Smith, Joseph Edward Allen, Douglas Atwell, and Christopher Shea. See [http://www.albertasecurities.com/dms/1404/11952/12047\\_INSTADIAL\\_-\\_EXTENSION\\_ORDER\\_-\\_2004-02-04\\_-\\_1731998\\_v2\\_-\\_pdf](http://www.albertasecurities.com/dms/1404/11952/12047_INSTADIAL_-_EXTENSION_ORDER_-_2004-02-04_-_1731998_v2_-_pdf) for further details.

**Douglas Wayne Schneider** - On February 16, 2005, the Commission issued its decision regarding Douglas Wayne Schneider for his dealings with securities of two reporting issuers. The panel prohibited Schneider for four years from trading in securities and from acting as a director and officer. Schneider was permitted after two years to trade securities for his own account through a registered representative. Schneider was ordered to pay an administrative penalty of \$10,000 and \$7,500 towards investigation costs. See [http://www.albertasecurities.com/dms/1404/11952/12133\\_SCHNEIDER,\\_Douglas\\_Wayne\\_-\\_DECISION\\_-\\_2005-02-16\\_-\\_1697823.pdf](http://www.albertasecurities.com/dms/1404/11952/12133_SCHNEIDER,_Douglas_Wayne_-_DECISION_-_2005-02-16_-_1697823.pdf) for further details.

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**Rundle Development Cooperative** - In February 2005, an interim cease trade order was issued respecting trading of securities of Integra Investment Service Ltd. and Rundle Development Cooperative and respecting trading in securities by Roy Jennix and Maxine Cooke.

See [http://www.albertasecurities.com/dms/1404/11952/12267\\_Integra\\_Investment\\_Service\\_Ltd.\\_Extension\\_ICTO\\_-\\_2005-03-11\\_-\\_1765682\\_v2.pdf](http://www.albertasecurities.com/dms/1404/11952/12267_Integra_Investment_Service_Ltd._Extension_ICTO_-_2005-03-11_-_1765682_v2.pdf) for further details.

**Euston Capital Corp. et al.** - On March 16, 2005, an interim cease trade order was issued respecting trading of securities of Euston Capital Corp. and respecting trading in securities by George Schwartz, Harry Gray, Bill Tevruchte, Carlos Carvao, Brent Madinger, Peter Robinson, Jackie Thomas, and Clement Singh.

See [http://www.albertasecurities.com/dms/1404/12059/12325\\_Euston\\_Capital\\_Corp.\\_-EICTO\\_-\\_2005-03-31\\_-\\_1786526\\_v1.pdf](http://www.albertasecurities.com/dms/1404/12059/12325_Euston_Capital_Corp._-EICTO_-_2005-03-31_-_1786526_v1.pdf) for further details.

### BRITISH COLUMBIA

**Carl Glenn Anderson and Douglas Victor Montaldi** - Anderson and Montaldi ran a loan company in the Burns Lake, BC area. They raised money by selling promissory notes to investors. The company's operations ended when the BC Financial Institutions Commission froze its bank accounts and ordered it to cease carrying on business at the end of April 2002. By then, the company had raised \$41-million from about 450 investors, nearly all of them residents of the Burns Lake area. The BCSC found that they illegally distributed the promissory notes and in doing so made misrepresentations and committed fraud and acted contrary to the public interest for failing to fulfill their director and officer duties. In the Spring of 2003, the BCSC ordered Anderson and Montaldi (a) with exceptions, for 12 years not to buy or sell securities, act as directors or officers or engage in investor relations activities and (b) to each pay administrative penalties of \$200,000 and costs. They appealed and the appeal court overturned the findings of misrepresentation and fraud. On December 7, 2004, the BCSC reduced its ban to six years and its administrative penalties to \$100,000. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a party or 2004 BCSECCOM 699 in the search box and go to the decision.

**Eric Wayne Nelson** – On March 31, 2005, the BCSC issued an order against Nelson for soliciting investments without being registered as an adviser and ordered Nelson (a) for 10 years not to buy or sell securities, act as a director or officer or engage in investor relations activities, and (b) to pay \$50,000 penalty and costs. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type Eric Wayne Nelson or 2005 BCSECCOM 195 in the search box and go to the decision.

## SETTLEMENT AGREEMENTS

### NEW BRUNSWICK

**Manulife Securities International LTD. (MSIL)** In January 2005, Staff concluded a settlement agreement with MSIL. Between 1997 and 2004, MSIL allowed 32 salespersons to trade in New Brunswick without being registered. The NBSC approved the settlement and ordered MSIL to pay a \$64,000 penalty and an additional \$2,000 for costs of the hearing. See <http://www.nbsc-cvmnb.ca/PDF/ManulifeOrderSettlementagreement-e.pdf> for details.

### ONTARIO

**Brian Anderson** – In October 2004, OSC staff concluded a settlement agreement with Brian Anderson with respect to his participation in the illegal distribution of securities known as “desks” of the “Flat Electronic Data

## ILLEGAL DISTRIBUTION

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Interchange” (the F.E.D.I.). The OSC ordered that Anderson be permanently prohibited from trading in the securities of F.E.D.I. and its successors; that he be permanently prohibited from providing copies of certain documents to any person or company; that the exemptions in Ontario securities law will not apply to him for 4 years (except for trades effected through a registered dealer); that he be reprimanded; and that he pay \$10,000 towards costs. See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set\\_20041101\\_andersonb.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set_20041101_andersonb.jsp) for details.

**Luke John McGee** – In November 2004, OSC staff concluded a settlement agreement with Luke John McGee with respect to his participation in the illegal distribution of ‘Saxton’ and ‘Sussex’ securities and his unregistered trading. The OSC ordered that McGee cease trading for 15 years (except that after three years, he may trade limited securities for his own account and for his RRSP); that he be prohibited from acting as a director or officer of any issuer for 15 years; that the registration exemption in the Securities Act be denied him for 15 years; and that he be reprimanded. See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set\\_20041112\\_mcgeel.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set_20041112_mcgeel.jsp) for details.

### MANITOBA

**Gary Thomas Brazzell** – In March of 2005, a settlement agreement with Brazzell was approved by a panel of the MSC. Brazzell acknowledged that he traded in securities without registration and prospectus, facilitated or permitted the purchase of shares by a number of investors under the sole name of one so as to minimize the number of apparent investors in an effort to purportedly rely upon the private company exemption under section 19(2)(i) of the Act, failed to ascertain whether the company in question was in fact a private company thereby causing shares to be traded in reliance upon the exemption when it was not available, and facilitated or permitted the purchase and sale of securities in the name of one investor when he knew or ought to have known that the shares were intended to be purchased by a number of other investors in addition to the one named. Brazzell agreed to an administrative penalty of \$3,000 plus costs of \$500. See <http://www.msc.gov.mb.ca/orders/brazzell.html> for details.

**I.G. Investment Management, Ltd.** - Following a joint settlement hearing with a panel of the OSC on December 16, 2004, the OSC approved a settlement agreement involving frequent trading market timing activities of certain mutual funds. The settlement requires a payment of \$19.2 million to be made to investors affected by the market timing activities. A plan setting out how the settlement payment will be disbursed is to be presented to the OSC by September 30, 2005. See [http://www.msc.gov.mb.ca/orders/iginvestment\\_4.html](http://www.msc.gov.mb.ca/orders/iginvestment_4.html) for details.

### SASKATCHEWAN

**Donald Wesley Fry** - SFSC staff entered into a settlement agreement with Donald Wesley Fry for trading in the securities of GR International Corporation, Lazer Technology Corporation, Newtech Distribution Corporation, Rampart Print & Marketing Corporation, Stonefield Capital Corporation (the "Securities"). Neither the Securities nor Fry were registered with the SFSC nor were any exemptions sought or granted. Fry cooperated fully with SFSC staff and agreed to pay an administrative penalty of \$3000 and costs of investigation of \$2,000. See [http://www.sfsc.gov.sk.ca/ssc/files/enforcementagreee/donaldwesleyfry\(agreementundertaking\)feb15-05.pdf](http://www.sfsc.gov.sk.ca/ssc/files/enforcementagreee/donaldwesleyfry(agreementundertaking)feb15-05.pdf) for details.

## ILLEGAL DISTRIBUTION

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### ALBERTA

**Bruce Darryl Hirsche** - On December 29, 2004, Hirsche entered into a settlement agreement and undertaking with the Executive Director for breaches to Alberta securities laws. Hirsche agreed to pay \$5,000 to settle the allegations and \$10,000 towards investigation costs.

See [http://www.albertasecurities.com/dms/1404/8895/11875\\_Envirodrive\\_-\\_SA&U\\_-\\_2004-12-29\\_-\\_1693144.pdf](http://www.albertasecurities.com/dms/1404/8895/11875_Envirodrive_-_SA&U_-_2004-12-29_-_1693144.pdf) for further details.

**Douglas Brian Wenzel** - On January 7, 2005, Wenzel, who was a control person and insider of Wenzel Downhole Tools Inc. ("WZL"), entered into a settlement agreement and undertaking with the Executive Director for breaches to the insider trading and control person provisions of Alberta securities laws. Wenzel undertook to the Executive Director that for a period of five years with some specific exceptions, he will cease acting as a director or officer of any issuer including WZL and cease trading in securities. Wenzel also agreed to pay an amount of \$10,000 to settle the allegations and \$25,000 towards investigation costs.

See [http://www.albertasecurities.com/dms/1404/11952/11955\\_Wenzel,\\_Douglas\\_-\\_SA&U\\_-\\_2005-01-07\\_-\\_1707435.pdf](http://www.albertasecurities.com/dms/1404/11952/11955_Wenzel,_Douglas_-_SA&U_-_2005-01-07_-_1707435.pdf) for further details.

**Duane Steve Wolanuk** - On January 18, 2005, Wolanuk entered into a settlement agreement and undertaking with the Executive Director relating to Wolanuk's trading activities in the shares of Wenzel Downhole Tools Inc. Wolanuk undertook to the Executive Director that for one year, with some specific exceptions he will cease trading in securities. Wolanuk agreed to pay \$5,000 to settle the allegations and \$ 2,500 towards investigation costs. See [http://www.albertasecurities.com/dms/1404/11952/11954\\_Wolanuk,\\_Duane\\_Steve\\_-\\_SA&U\\_-\\_2005-01-18\\_-\\_1694689.pdf](http://www.albertasecurities.com/dms/1404/11952/11954_Wolanuk,_Duane_Steve_-_SA&U_-_2005-01-18_-_1694689.pdf) for further details.

**Cathy Lynn Botting** - On January 18, 2005, Botting entered into a settlement agreement and undertaking with the Executive Director relating to Bottings's trading activities in the shares of Wenzel Downhole Tools Inc. Botting undertook to the Executive Director that for one year, she will with some specific exceptions cease trading in securities. Botting agreed to pay \$5,000 to settle the allegations and \$ 2,500 towards investigation costs. See [http://www.albertasecurities.com/dms/1404/11952/11953\\_Botting,\\_Cathy\\_Lynn\\_-\\_SA&U\\_-\\_2005-01-18\\_-\\_1693224.pdf](http://www.albertasecurities.com/dms/1404/11952/11953_Botting,_Cathy_Lynn_-_SA&U_-_2005-01-18_-_1693224.pdf) for further details.

**Brian Douglas Doubinin** - On February 3, 2005, Doubinin entered into a settlement agreement and undertaking with the Executive Director regarding his activities with Ashlar Financial Corp. as its investor relations representative. Doubinin undertook to the Executive Director that for a period of two and a half years, he will cease trading in all securities, except for his personal RRSP, and from acting as a director or officer of any issuer. Doubinin also undertook to pay \$5,000 to settle the allegations and \$2,500 towards investigation costs. See [http://www.albertasecurities.com/dms/1404/11952/12043\\_DOUBININ,\\_Brian\\_Douglas\\_-\\_SA&U\\_-\\_2005-02-03\\_-\\_1731952.pdf](http://www.albertasecurities.com/dms/1404/11952/12043_DOUBININ,_Brian_Douglas_-_SA&U_-_2005-02-03_-_1731952.pdf) for further details.

**Clinton Dean Wolstenholme** - On March 11, 2005, Wolstenholme entered into a settlement agreement and undertaking with the Executive Director relating to illegal trading in securities and other breaches of securities laws. Wolstenholme undertook that for five years, he will cease trading, except for his RRSP account, and from acting as a director or officer of any issuer. Wolstenholme also agreed to pay \$20,000 to settle the allegations and \$5,000 towards investigation costs.

See [http://www.albertasecurities.com/dms/1404/11952/12256\\_Genoray\\_Advanced\\_Technologies\\_Ltd.\\_\(Wolstenholme\)\\_-\\_SAU\\_-\\_2005-03-11\\_-\\_1769710\\_.pdf](http://www.albertasecurities.com/dms/1404/11952/12256_Genoray_Advanced_Technologies_Ltd._(Wolstenholme)_-_SAU_-_2005-03-11_-_1769710_.pdf) for further details.

## ILLEGAL DISTRIBUTION

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### BRITISH COLUMBIA

**Johnathan Lam Wai Tsang, Selena Ching Wan Tsang and RAB Energy Corp. (I) Limited** – On November 3, 2004, the Tsangs and RAB Energy entered into a settlement with the BCSC for illegally distributing securities. The Tsangs agreed to pay \$10,000 to the BCSC. The BCSC ordered RAB Energy permanently cease traded and the Tsangs for seven years (with conditions) not to buy or sell securities, act as directors or officers or engage in investor relations activities. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a party or 2004 BCSECCOM 632 in the search box and go to the settlement.

**Christopher Fung** – On November 22, 2004, Fung entered into a settlement with the BCSC for illegally distributing securities and failing to file insider trading reports. Fung agreed to pay \$9,000 to the BCSC relating to breaches of securities laws. The BCSC ordered Fung for one year not to act as an officer or director of any public company, except GHG Resources. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type Christopher Fung or 2004 BCSECCOM 661 in the search box and go to the settlement.

## APPEALS

### ALBERTA

**David John Del Bianco** - On February 14, 2003, after hearing, the ASC issued a decision regarding Del Bianco's role in the distribution of shares of Equal Rights Legal Defence Alliance (USA) Inc. At that time, Del Bianco was held responsible for an illegal distribution and trading while unregistered and was prohibited for four years from acting as a director or officer and from trading in securities. Del Bianco was ordered to pay an administrative penalty of \$10,000. Del Bianco and the issuer filed an appeal of the ASC's decision.

On October 15, 2004, the Alberta Court of Appeal upheld the ASC decision and dismissed Del Bianco's and the issuer's appeals of this decision.

See [http://www.albertasecurities.com/dms/1404/8895/11701\\_DEL\\_BIANCO,\\_David\\_John\\_-\\_Court\\_of\\_Appeal\\_Judgment\\_-\\_2004-10-15\\_-\\_1656026\\_v1.pdf](http://www.albertasecurities.com/dms/1404/8895/11701_DEL_BIANCO,_David_John_-_Court_of_Appeal_Judgment_-_2004-10-15_-_1656026_v1.pdf) for details.

## SETTLEMENT AGREEMENTS

### ONTARIO

**Murray Pollitt and Pollitt & Co. Inc.** – In November 2004, OSC staff concluded a settlement agreement with Murray Pollitt and Pollitt & Co. Inc. with respect to tipping and improper pre-marketing communications by a dealer in the context of a bought deal financing. The OSC ordered that Pollitt’s registration be suspended for 30 days; that Pollitt & Co. retain a regulatory consultant to ensure that its revised practices and procedures have been properly implemented and to ensure that compliance staff and trading officers are properly trained in their obligations, roles and responsibilities; that the respondents be reprimanded; and that they pay \$27,000 in costs. See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set\\_20041111\\_pollitt.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set_20041111_pollitt.jsp) for details.

**Robert Cassels** – In November 2004, OSC staff concluded a settlement agreement with Robert Cassels with respect to his trading on material inside information. Cassels, an investment counsel and portfolio manager was a client of Pollitt & Co. Inc. The OSC ordered that Cassels’ registration be suspended for 30 days; that he successfully completes the Canadian Securities Institute’s Conduct and Practices Handbook Course within one year; that he be reprimanded; and that he pay \$6,000 in costs. See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set\\_20041111\\_casselsr.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set_20041111_casselsr.jsp) for details.

**Robert Walter Harris** – In November 2004, OSC staff concluded a settlement agreement with Robert Walter Harris with respect to his trading on material, undisclosed inside information. Harris also failed to file insider trading reports, and failed to correct a management information circular. The OSC ordered that Harris cease trading securities for two years; that the exemptions in Ontario securities law not apply to him for two years; that he be reprimanded; that he be prohibited from acting as a director or officer of an issuer for two years; that he pay \$12,500 in costs; and that he make a settlement payment of \$39,500. See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set\\_20041104\\_harrisrw.pdf](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set_20041104_harrisrw.pdf) for details.

**Mary De La Torre and Alan Rae** – In March 2005, OSC staff concluded a settlement agreement with Mary De La Torre and Alan Rae, with respect to the tipping of inside information by Mary De La Torre to her husband, Alan Rae, and the subsequent insider trading of ATI Technologies Inc. shares by him. The OSC ordered that De La Torre and Rae be reprimanded; that they cease any trading in securities for six months; and that they make a settlement payment of \$11,050 (an amount equal to the loss they avoided). See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050329\\_ati-delatorre-rae.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050329_ati-delatorre-rae.jsp) for details.

### ALBERTA

**Paul Wayne Armstrong** - On December 8, 2004, Paul Wayne Armstrong entered into a settlement agreement and undertaking with the Executive Director. Armstrong admitted that he purchased securities of a public issuer with knowledge of a material fact that had not been generally disclosed. Armstrong undertook that for a period of six months, he will refrain from acting as a director or officer of any reporting issuer and agreed to pay \$5,000 to settle the allegations and \$5,000 towards investigation costs. See [http://www.albertasecurities.com/dms/1404/8895/11824\\_ARMSTRONG\\_paul\\_SA\\_2004-12-08\\_1666975.pdf](http://www.albertasecurities.com/dms/1404/8895/11824_ARMSTRONG_paul_SA_2004-12-08_1666975.pdf) for further details.

### APPEALS

#### ONTARIO

**Piergiorgio Donnini** – In January 2005, the Ontario Court of Appeal unanimously allowed the OSC’s appeal of the Ontario Divisional Court’s decision, and restored the OSC’s 15 year sanctions imposed on Piergiorgio Donnini. See <http://www.ontariocourts.on.ca/decisions/2005/january/C41330.htm> for details.

# MARKET MANIPULATION AND FRAUD

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## CSA COMMISSION OR TRIBUNAL DECISIONS

### ONTARIO

**Firestar Capital Management Corp. et al.** – In December 2004, the OSC extended the cease trade order against Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton, until the final disposition of this matter.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/rad\\_20041217\\_firestar.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/rad_20041217_firestar.jsp) for details.

### BRITISH COLUMBIA

**Tri-West Investment Club, Haarlem Universal Corp. and those holding themselves out as Jason Kingsley, Mark Goldman, Alan Richards and Alex Haarlem, Alyn Richard Waage, Cary Alyn Waage and James Michael Webb** - Tri-West Investment Club was used to perpetrate a prime bank instrument fraud. At its hearing, the BCSC was unable to determine who was behind the fraud. Consequently, on November 19, 2001, the BCSC (a) permanently banned Tri-West Investment Club, Haarlem Universal and those holding themselves out as Kingsley, Goldman, Richards and Haarlem from buying and selling securities, being directors or officers and engaging in investor relations activities and (b) ordered each to pay an administrative penalty of \$100,000 and costs. Recently, the Waages and Webb admitted to being behind the fraud. On October 18, 2004, the BCSC varied its orders to include them. They are currently incarcerated in California. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a party or 2004 BCSECCOM 591 in the search box and go to the variation order.

**Edward Andrew Durante (also known as Ed Simmons), Berkshire Capital Partners, Inc., Commonwealth Associates, Ltd., Dottenhoff Financial, Ltd. and Galton Scott & Golett Inc. and Gillian Hobson** – Durante manipulated securities on the US Over-the-Counter Bulletin Board. On November 10, 2004, the BCSC (a) permanently banned Durante from buying and selling securities, being a director or officer and engaging in investor relations activities and ordered him to pay the maximum penalty for individuals of \$250,000 (CDN) and costs, (b) permanently cease traded the securities of Berkshire, Commonwealth, Dottenhoff, and Galton, and ordered each to pay the maximum administrative penalty for corporations of \$500,000 (CDN) and costs, and (c) for five years banned Hobson from buying and selling securities, being a director or officer and engaging in investor relations activities and ordered her to pay costs. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type the full name of a party or 2004 BCSECCOM 634 in the search box and go to the decision.

U.S. authorities have also acted on the manipulations. The U.S. Securities and Exchange Commission began civil actions against Durante in October 2001 that led to default judgments ordering him to disgorge his ill-gotten gains. The U.S. Attorney's Office also charged Durante with securities fraud, wire fraud, and conspiracy to commit money laundering. He pled guilty and is in jail in Pennsylvania, US.

**Ronald Stephen Barker and Double Eagle Investments Inc.** – While defrauding clients, Barker made misrepresentations, sold securities without a prospectus and advised investors without registration. On March 4, 2005, the BCSC (a) with exceptions, permanently banned Barker from buying and selling securities, being a director or officer and engaging in investor relations activities and ordered him to pay the maximum penalty for individuals of \$250,000 (CDN) and costs, and (b) permanently cease traded the securities of Double Eagle and ordered it to pay costs.



## MARKET MANIPULATION AND FRAUD

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For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type Ronald Stephen Barker or 2005 BCSECCOM 146 in the search box and go to the decision.

**Steven Peter Hughes** – While defrauding clients, Hughes made misrepresentations, sold securities without a prospectus and advised investors without registration. On March 31, 2005, the BCSC permanently banned Hughes from buying and selling securities, being a director or officer and engaging in investor relations activities and ordered him to pay the maximum penalty for individuals of \$250,000 (CDN) and costs. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type Steven Peter Hughes or 2005 BCSECCOM 196 in the search box and go to the decision.

**Paul Larry O'Connor** – O'Connor defrauded his clients. On March 31, 2005, the BCSC permanently banned O'Connor from buying and selling securities, being a director or officer and engaging in investor relations activities and ordered him to pay a \$200,000 penalty and costs of \$48,368. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type Paul Larry O'Connor or 2005 BCSECCOM 197 in the search box and go to the decision.

## SETTLEMENT AGREEMENTS

### SASKATCHEWAN

**Gary L. Billingsley** - SFSC staff entered into a settlement agreement with Billingsley for upticking trades in securities of Great Western Minerals Group Ltd. Between July 2002 and October 2003 Billingsley executed approximately 56 small volume "uptick" purchases in Great Western Minerals Group Ltd. securities in his BMO account that established a closing price above the last traded price for the day. Billingsley as President of Great Western Minerals Group Ltd. agreed to pay an administrative penalty of \$8,000 and costs of investigation of \$2,000. Billingsley also agreed to cease the "upticking" practices.

See [http://www.sfsc.gov.sk.ca/ssc/files/enforcementagree/billingsley\(agreement\)feb8-05.pdf](http://www.sfsc.gov.sk.ca/ssc/files/enforcementagree/billingsley(agreement)feb8-05.pdf) for details.

### BRITISH COLUMBIA

**William Ronald Moll** – Moll defrauded investors in two schemes. On November 16, 2004, the BCSC entered into a settlement with Moll. Moll agreed to pay \$10,000 and the BCSC ordered him for 10 years not to buy or sell securities, act as a director or officer or engage in investor relations activities. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type William Ronald Moll or 2004 BCSECCOM 657 in the search box and go to the settlement.

**Hung Chi (Patrick) Woo** – On October 25, 2004, Woo entered into a settlement with the BCSC for trading without registration and market manipulation. Woo agreed to pay \$40,000. The BCSC ordered Woo, with exceptions, for 10 years not to buy or sell securities, act as a director or officer or engage in investor relations activities. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type Hung Chi Woo or 2004 BCSECCOM 610 in the search box and go to the settlement.

## DISCLOSURE VIOLATIONS

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### CSA COMMISSION OR TRIBUNAL DECISIONS

#### NOVA SCOTIA

**Portus Alternative Asset Management Inc.** – As a result of compliance review, wherein deficiencies were noted, the staff of the NSSC made application together with other regulators for interim orders. The matter remains under investigation. See [www.gov.ns.ca/nssc/docs/portusnoticeofhearing.pdf](http://www.gov.ns.ca/nssc/docs/portusnoticeofhearing.pdf) for details.

#### NEW BRUNSWICK

**Portus Alternative Asset Management and Boas Manor** - In February 2005, staff alleged that Portus Alternative Asset Management (PAAM) acted contrary to the public interest, failed to maintain proper records and failed to provide information to compliance officers. The NBSC concluded that it was in the public interest to impose conditions on the registrations of PAAM and Boaz Manor, while staff continued to review PAAM's records, and ordered PAAM to cease trading; PAAM and Manor to not open any new client accounts; not accept any new funds or other assets for investment in respect of any existing client accounts and; not pay out, redeem or otherwise return any funds or other assets from any existing client accounts; not undertake any action that directly or indirectly constitutes a trade; or act in furtherance of a trade; not appoint, authorize or direct any other party to make trades. See <http://www.nbsc-cvmnb.ca/PDF/PortusAlternative-e.pdf> for details.

#### QUÉBEC

**Regroupement des marchands actionnaires inc.** – On November 3, 2004, the Bureau de décision et de révision en valeurs mobilières issued a reprimand against the Regroupement des marchands actionnaires inc. and ordered it to file with the AMF a valid insider report within 20 days of its decision. The AMF has appealed this decision to the Court of Québec as it had asked that an administrative penalty be assessed against the Regroupement for this contravention to the Securities Act.

#### ALBERTA

**Bruno Stephen Dobler and Thomas Vernon Hochhausen** - On September 2, 2004 both were found to have breached a cease trade order, made misrepresentations to an investor, and in other ways acted contrary to the public interest. The misconduct arose in connection with a private placement of the issuer's shares. On December 9, 2004 Dobler was ordered to pay an administrative penalty of \$10,000, \$9,000 towards investigation costs, and for four years to cease trading in securities and acting as an officer or director. Hochhausen was issued similar bans for five years and was ordered to pay an administrative penalty of \$15,000 and \$10,000 towards investigation costs. See [http://www.albertasecurities.com/dms/1404/8895/11823\\_DOBLER,\\_Bruno\\_-\\_DECISION\\_-\\_2004-12-09\\_-\\_1694444.pdf](http://www.albertasecurities.com/dms/1404/8895/11823_DOBLER,_Bruno_-_DECISION_-_2004-12-09_-_1694444.pdf) for further details.

## DISCLOSURE VIOLATIONS

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### SETTLEMENT AGREEMENTS

#### ONTARIO

**Wells Fargo Financial Canada Corporation** – In January 2005, OSC staff concluded a settlement agreement with Wells Fargo Financial Canada Corporation with respect to its repeated failure to file prospectus supplements for its medium term note program on time. The OSC ordered that Wells Fargo immediately implement a plan approved by OSC staff to ensure timely filing of prospectus supplements; and that they pay an administrative penalty of \$20,000 and \$5,000 in costs. This was the first application of an administrative penalty by the OSC under expanded sanctioning powers granted to the OSC by legislation in 2003. This was also one of the first two proceedings brought under the OSC's new 'simplified process' by which OSC staff prioritize and bring to a hearing quickly those cases that do not require extensive investigation.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050120\\_wellsfargo.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050120_wellsfargo.jsp) and [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050124\\_wellsfargo-or.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050124_wellsfargo-or.jsp) for details.

**ATI Technologies Inc.** – In March, 2005, OSC staff concluded a settlement agreement with ATI Technologies Inc. with respect to its failure to disclose material information forthwith (contrary to the provisions of the TSX Company Manual and contrary to the public interest), and its misleading statements made to staff of the OSC (contrary to Ontario securities laws and contrary to the public interest). The OSC ordered that ATI Technologies pay \$100,000 in respect of the costs of the investigation and the proceeding concerning the failure to disclose material forthwith; that it pay \$300,000 in respect of the cost of the investigation in relation to the misleading statements made to staff; that it make a settlement payment of \$500,000; that it be reprimanded; and that it provide the OSC with a letter of comfort to confirm that it has instituted new practices and procedures related to trading and corporate governance matters consistent with the practices and procedures of other TSX listed companies.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050328\\_ati-technologies-inc.pdf](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050328_ati-technologies-inc.pdf) for details.

#### BRITISH COLUMBIA

**Canadian Metals Exploration Ltd. (now Hard Creek Nickel Corp.), Stewart Jackson, Barry Whelan and Yvonne Cole** – In November and December 2004 and January 2005, the BCSC entered into settlements with Hard Creek Michel Corp., Jackson, Whelan and Cole for breaching the disclosure standards for mining companies and making false and misleading statements in materials filed with the BCSC. Hard Creek Nickel agreed to pay \$20,000. Jackson and Whelan agreed to pay \$10,000 and \$5,000, respectively, not to prepare or disseminate mining disclosure under securities legislation without supervision for three years and two years, respectively, and to pass required training before acting as a director of a public company. Cole agreed to pay \$2,500 and to pass required training before acting as an officer or director of a public company. For details see [www.bpsc.bc.ca](http://www.bpsc.bc.ca), type Canadian Metals Exploration Ltd., Yvonne Cole or Barry Whelan or 2004 BCSECCOM 636, 655 or 729 and Stewart Jackson or 2005 BCSECCOM 38 in the search box and go to the settlement.

**Daniel Brennan Matthews** – On March 11, 2005, Matthews entered into a settlement with the BCSC for disclosure violations. Matthews agreed to pay \$25,000. The BCSC ordered Matthews, with exceptions, for five years not to act

## DISCLOSURE VIOLATIONS

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as a director or officer or engage in investor relations activities. Before returning to the industry, Matthews must pass required training for directors and officers. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type Daniel Brennan Matthews or 2005 BCSECCOM 169 in the search box and go to the settlement.

**Donald Nicholson** – On December 21, 2004, the BCSC entered into a settlement with Nicholson for disclosing misleading information. Nicholson agreed to pay \$15,000. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type Donald Nicholson or 2005 BCSECCOM 108 in the search box and go to the settlement

## MISCONDUCT BY REGISTRANTS

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### COURT RULINGS

#### ONTARIO

**Portus Alternative Asset Management Inc.** – In March 2005, the Ontario Superior Court of Justice made an Order pursuant to s. 129 of the Act, appointing KPMG Inc. as receiver of all of the assets, undertakings and properties of Portus Alternative Asset Management Inc., Portus Asset Management Inc., and BancNote Corp. See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050304\\_portus-non-osc.pdf](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050304_portus-non-osc.pdf) for details.

### CSA COMMISSION OR TRIBUNAL DECISIONS

#### NOVA SCOTIA

**Christopher Bevis** - The NSSC rendered written reason for its earlier decisions. See [www.gov.ns.ca/nssc/docs/bevisdecisionjan1205.pdf](http://www.gov.ns.ca/nssc/docs/bevisdecisionjan1205.pdf) for details.

#### QUÉBEC

**Gestion de placements alternatifs Portus** – On February 10, 2005 the Bureau de décision et de révision en valeurs mobilières imposed conditions on the exercise of the rights granted to Gestion de placements alternatifs Portus by its registration as an adviser with an unrestricted practice. Therefore, since February 11, 2005, Portus cannot open new accounts nor can it accept money or other assets from its clients. See <http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4055/en/Communique-16fév2005-PORTUS-ANGLAIS.pdf> for details

#### ONTARIO

**Terrence William Marlow et al.** – In December 2004, the OSC issued an amended temporary cease trade and suspension order in the matter of Terrence William Marlow, Marlow Group Private Portfolio Management Inc. and Marlow Group Securities Inc.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/rad\\_20041222\\_marlowtw.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/rad_20041222_marlowtw.jsp) for details.

**Portus Alternative Asset Management Inc.** – In February 2005, the OSC issued temporary orders imposing terms and conditions on the registration of Portus Alternative Asset Management Inc. and Boaz Manor. In particular, Portus is precluded from opening new client accounts, or accepting new funds or assets for investment in respect of any existing clients accounts; and is precluded from paying out, redeeming or otherwise returning investment funds to clients (except with respect to pre-authorized periodic withdrawals on behalf of clients); and precluded from trading in securities (again, except with respect to pre-authorized periodic withdrawals on behalf of clients). Boaz Manor is precluded from trading or conducting acts in furtherance of a trade in respect of the term notes invested in on behalf of Portus' clients.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050202\\_portus-temp.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050202_portus-temp.jsp); and [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050210\\_portus-temp-ord.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050210_portus-temp-ord.jsp) for details.

## MISCONDUCT BY REGISTRANTS

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### ALBERTA

**Christopher Wesley Stewart** - On February 4, 2005, a panel of the ASC found that Stewart engaged in discretionary trading relating to Wensel Downhole Tools Ltd that was not permitted by the terms of his registration under Alberta securities laws. A hearing to determine any sanctions warranted will be held in the future. See [http://www.albertasecurities.com/dms/1404/11952/12049\\_STEWART\\_DECISION\\_-\\_2005-02-04\\_-\\_1732342.pdf](http://www.albertasecurities.com/dms/1404/11952/12049_STEWART_DECISION_-_2005-02-04_-_1732342.pdf) for further details.

**Mark Edward Valentine** - On March 15, 2005, the ASC issued an order against Valentine and applied certain sanctions imposed on him by the OSC to Alberta. For a period of 15 years, Valentine was prohibited from trading in securities, except in certain instances, and from acting as an officer or director of Alberta issuers. See [http://www.albertasecurities.com/dms/1404/11952/12268\\_VALENTINE,\\_Mark\\_Edward\\_-\\_Order\\_-\\_2005-03-15\\_-\\_1708443.pdf](http://www.albertasecurities.com/dms/1404/11952/12268_VALENTINE,_Mark_Edward_-_Order_-_2005-03-15_-_1708443.pdf) for further details.

### BRITISH COLUMBIA

**Carey Brian Dennis** –On October 10, 2003, Dennis was found guilty of fraud and theft in the Supreme Court of British Columbia, and later sentenced to two years and three months in prison and ordered to make restitution. The BCSC adopted the court’s findings of fact and law, finding that Dennis committed fraud and failed to deal fairly, honestly, and in good faith with clients. The BCSC extended temporary orders that prohibit Dennis from buying and selling securities, from being a director or officer, and from engaging in investor relations activities, until the BCSC hears further submissions and decides what sanctions to impose. For details see [www.bcsc.bc.ca](http://www.bcsc.bc.ca), type Dennis or 2005 BCSECCOM 65 in the search box and go to the findings.

## SETTLEMENT AGREEMENTS

### NOVA SCOTIA

**Paul Bowser** – On February 10, 2005, an agreement was reached and an administrative penalty of \$4,000 was imposed together with costs of \$1,000 for acts in furtherance of trades while unregistered. See [www.gov.ns.ca/nssc/docs/bowersettlementfeb102005.pdf](http://www.gov.ns.ca/nssc/docs/bowersettlementfeb102005.pdf) for details.

**Select Money Strategies Inc.** – On February 9, 2005, an agreement was reached and an administrative penalty of \$10,000 was imposed together with costs of \$3,000 for breaches of securities laws relating to improper business records and procedures. See [www.gov.ns.ca/nssc/docs/selectmoneysettlement.pdf](http://www.gov.ns.ca/nssc/docs/selectmoneysettlement.pdf) for details.

### NEW BRUNSWICK

**Mark Edward Valentine** - In December 2004, as part of a settlement agreement approved by the OSC, Mark Valentine admitted that he breached Ontario securities laws; that he acted contrary to the public interest; and that he pleaded guilty to one count of securities fraud in the United States of America, and to receiving a sentence of probation for four years, including nine months of home detention. Mark Valentine consented to prohibitions by

## MISCONDUCT BY REGISTRANTS

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other regulators and the New Brunswick Securities Commission concluded that it was in the public interest to approve a Consent Order that prohibits Mark Valentine from trading in securities in New Brunswick for a period of 15 years, retaining any positions he may hold as director or officer of any New Brunswick issuer, becoming or acting as a director or officer of any issuer in New Brunswick.

See <http://www.nbsc-cvmnb.ca/PDF/MarkValentine-e.pdf> for details.

### ONTARIO

**Lloyd Bruce** – In October 2004, OSC staff concluded a settlement agreement with Lloyd Bruce with respect to his failure to adequately supervise the accounts of Brian Peter Verbeek (a registrant at Buckingham Securities Corporation) and Verbeek's actions in relation to his accounts regarding RRSP schemes. The OSC ordered that Bruce's registration be terminated; that he permanently cease trading in any securities (with the exception of trading in his personal and RRSP accounts); that he be permanently prohibited from acting as an officer or director of any reporting issuer or registrant; and that he be reprimanded. Bruce also filed a written undertaking with the OSC that he will never apply for registration in any capacity under Ontario securities law, and that he will never have any ownership interest, directly or indirectly, in any registrant.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set\\_20041027\\_brucelloyd.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set_20041027_brucelloyd.jsp) for details.

**CI Mutual Funds Inc.** – In December 2004, OSC staff concluded a settlement agreement with CI Mutual Funds Inc. with respect to market timing activities in its funds. The fund manager's conduct in failing to protect fully the best interests of the fund(s) was contrary to the public interest. This was one of five settlement agreements resulting from a probe into the trading practices and activities in the Canadian mutual fund industry launched in November, 2003. The OSC ordered CI Mutual Funds Inc. to make a payment of \$49.3 million to be distributed to affected investors through the Plan of Distribution appended to the settlement agreement.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set\\_20041210\\_cimutualfunds.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set_20041210_cimutualfunds.jsp) for details.

**AGF Funds Inc.** – In December 2004, OSC staff concluded a settlement agreement with AGF Funds Inc. with respect to market timing activities in its funds. The fund manager's conduct in failing to protect fully the best interests of the fund(s) was contrary to the public interest. This was one of five settlement agreements resulting from a probe into the trading practices and activities in the Canadian mutual fund industry launched in November, 2003. The OSC ordered AGF Funds Inc. to make a payment of \$29.2 million to be distributed to affected investors through the plan of distribution appended to the settlement agreement.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set\\_20041210\\_agffunds.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set_20041210_agffunds.jsp) for details.

**I.G. Investment Management, Ltd.** – In December 2004, OSC staff concluded a settlement agreement with I.G. Investment Management, Ltd. with respect to market timing activities in its funds. The fund manager's conduct in failing to protect fully the best interests of the fund(s) was contrary to the public interest. This was one of five settlement agreements resulting from a probe into the trading practices and activities in the Canadian mutual fund industry launched in November, 2003. The OSC ordered I.G. Investment Management, Ltd. to make a payment of \$19.2 million to be distributed to affected investors through the plan of distribution appended to the settlement agreement. See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set\\_20041210\\_iginvestment.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set_20041210_iginvestment.jsp) for details.

**AIC Limited** – In December 2004, OSC staff concluded a settlement agreement with AIC Limited with respect to market timing activities in its funds. The fund manager's conduct in failing to protect fully the best interests of the fund(s) was contrary to the public interest. This was one of five settlement agreements resulting from a probe into the trading practices and activities in the Canadian mutual fund industry launched in November 2003. The

## MISCONDUCT BY REGISTRANTS

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OSC ordered AIC Limited to make a payment of \$58.8 million to be distributed to affected investors through the plan of distribution appended to the settlement agreement.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set\\_20041214\\_aiclited.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set_20041214_aiclited.jsp) for details.

**Mark Edward Valentine** – In December 2004, staff concluded a settlement agreement with Mark Edward Valentine with respect to his conduct while he was the Chairman, a Director, and the largest shareholder of Thomson Kernaghan & Co. Ltd. (“TK”) which was contrary to Ontario securities law and/or contrary to the public interest. The OSC ordered that Valentine’s registration under Ontario securities law be terminated; that the exemptions in Ontario securities law not apply to him for 15 years (except that after 5 years, he may trade in certain specified securities); that he be permanently prohibited from acting as a director or officer of any issuer; and that he pay \$100,000 in costs. Valentine also agreed to consent to an order made by any provincial or territorial securities regulatory authority in Canada containing any or all of these prohibitions; that he would never re-apply for registration or recognition of any kind under Ontario securities law or any other Canadian securities legislation; and that he would never seek membership in, or approval in any capacity from, the IDA. See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set\\_20041215\\_valentineme.pdf](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set_20041215_valentineme.pdf) and [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050209\\_valentinem.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050209_valentinem.jsp) for details.

**Franklin Templeton Investments Corp.** - In February 2005, staff concluded a settlement agreement with Franklin Templeton Investments Corp. with respect to market timing activities in certain of its funds. The fund manager’s conduct in failing to protect fully the best interests of the relevant funds in respect of the frequent trading market timing was contrary to the public interest. The OSC ordered that Franklin Templeton make a payment of \$49.1 million to be distributed to affected investors through the plan of distribution appended to the settlement agreement. This was the last settlement agreement relating to the OSC’s probe into the trading practices and activities in the Canadian mutual fund industry. Together with payments arising from the other four settlement agreements approved in December 2004, a total of \$205.6 million will be repaid to investors harmed by market timing activities. See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set\\_20050228\\_franklin-templeton.pdf](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/set_20050228_franklin-templeton.pdf) for details.

### MANITOBA

**Iris Margaret McKay and Dundee Private Investors Inc.** – In January 2005, a settlement agreement with McKay was approved by a panel of the MSC, as to the handling of a client’s account. In the settlement agreement, McKay acknowledged having provided investment advice and having recommended a strategy (leveraging to purchase mutual funds) that was unsuitable and failing to avoid personal financial dealings with her client. Prior to approval of the settlement agreement, the client and McKay and Dundee had reached a resolution with respect to the client’s claim for financial loss compensation. Under the terms of the settlement agreement, McKay agreed to a written reprimand, an administrative penalty of \$1,000, close supervision for a period of six months, and successful completion of the CSI’s Conduct course within nine months. See <http://www.msc.gov.mb.ca/orders/mckay.html> for details.

### SASKATCHEWAN

**Kenneth Guy Jorgenson** - SFSC staff entered into a settlement agreement with Kenneth Guy Jorgenson for selling securities in Platinum Equities Corporation/Platinum Group Investments and Cascade Financial Corp. in 1999 in violation of prospectus and registration requirements of the Act. At the time of the trades Jorgenson was a registered representative with The Height of Excellence Financial Planning Group. He failed to act in the best interests of the investors as the trades in these securities were not suitable. Jorgenson agreed to pay an



## MISCONDUCT BY REGISTRANTS

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administrative penalty of \$7,500 and costs of investigation of \$500 as well as to cease trading for a period of 25 years. See [http://www.spsc.gov.sk.ca/ssc/files/enforcementagree/jorgenson\(agreement\)-jan-05.pdf](http://www.spsc.gov.sk.ca/ssc/files/enforcementagree/jorgenson(agreement)-jan-05.pdf) for details.

### ALBERTA

**Elysium Wealth Management Inc.** - On October 29, 2004, Elysium Wealth Management Inc. entered into a settlement agreement with the Executive Director. Elysium admitted that it had been advising clients in Alberta while unregistered and agreed to pay \$12,000 to settle these allegations and \$1,000 towards investigation costs. See [http://www.albertasecurities.com/dms/1404/8895/11710\\_ELYSIUM\\_-\\_SA\\_-\\_2004-10-29\\_-\\_1610279.pdf](http://www.albertasecurities.com/dms/1404/8895/11710_ELYSIUM_-_SA_-_2004-10-29_-_1610279.pdf) for further details.

**Eugene Vollendorf and Savoy Capital Management Ltd.** - On March 4, 2005, Vollendorf and Savoy Capital Management Ltd. entered into a settlement agreement and undertaking with the Executive Director in which they acknowledged failure to supervise an employee who allegedly traded in such a manner as to manipulate the price of certain publicly traded companies. Vollendorf and Savoy admitted that they did not have the appropriate safeguards in place to prevent such trading. Savoy undertook to pay the ASC an amount of \$15,000 to settle the allegations and \$5,000 towards investigation costs. Vollendorf undertook to remove himself from the compliance responsibilities of Savoy for six months, to pay \$5,000 to settle these allegations and \$2,500 towards investigation costs. See [http://www.albertasecurities.com/dms/1404/11952/12191\\_SAVOY\\_SA\\_-\\_2005-03-04\\_-\\_1721164.pdf](http://www.albertasecurities.com/dms/1404/11952/12191_SAVOY_SA_-_2005-03-04_-_1721164.pdf) for further details.

**Line Lucienne Pouliot** - On March 16, 2005, Pouliot, a former mutual fund salesperson, entered into a settlement agreement and undertaking with the Executive Director. Pouliot admitted that from 1998 to 2002, she misappropriated approximately \$28,500 from one of her clients for her own use. Pouliot has subsequently compensated the client regarding the misappropriated funds. Pouliot agreed to cease trading in securities for 10 years and to pay \$5,000 to settle these allegations and \$3,000 towards investigation costs. See [http://www.albertasecurities.com/dms/1404/11952/12283\\_POULIOT,\\_Line\\_Lucienne\\_-\\_SA\\_&\\_U\\_-\\_2005-03-16\\_-\\_1666832\\_v1.pdf](http://www.albertasecurities.com/dms/1404/11952/12283_POULIOT,_Line_Lucienne_-_SA_&_U_-_2005-03-16_-_1666832_v1.pdf) for further details.

### BRITISH COLUMBIA

**TD Securities Inc., George Melvin Grafton, Grafton Global Management Ltd. and Valley Mortgage and Investment Company Ltd.** – In October and December 2004, the BCSC entered into settlements with TD Securities and Grafton, Grafton Global and Valley Mortgage. TD Securities paid \$50,000 for acting contrary to the public interest. The BCSC acknowledged that TD Securities voluntarily settled with the investors and revised its compliance procedures. Grafton breached his duties to clients under the securities legislation. The BCSC (a) with exceptions, permanently banned Grafton from buying and selling securities, being a director or officer and engaging in investor relations activities and (b) permanently cease traded the securities of Grafton Global and Valley Mortgage. For details see [www.bpsc.bc.ca](http://www.bpsc.bc.ca), type TD Securities or 2004 BCSECCOM 616 or George Melvin Grafton, Grafton Global or Valley Mortgage or 2005 BCSECCOM 4 in the search box and go to the settlement.

**Partners in Planning Financial Services Ltd.** – On October 15, 2004, BCSC settled with Partners in Planning for failing to register. They agreed to pay \$3,500 and the BCSC issued a reprimand. For details see [www.bpsc.bc.ca](http://www.bpsc.bc.ca), type Partners in Planning or 2004 BCSECCOM 605 in the search box and go to the settlement.

## MISCONDUCT BY REGISTRANTS

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**Grant Claude Cramer** – On November 19, 2004, the BCSC entered into a settlement with Cramer for illegally distributing securities and breaching his duties to clients under the securities legislation. Cramer agreed to pay \$15,000 and not to apply for registration under the *Securities Act* until August 2009. The BCSC ordered Cramer until August 2009, with exceptions, not to buy or sell securities, act as an officer or director or engage in investor relations. In June 2003, Cramer’s father, and his brother, Michael, settled with the BCSC. They each agreed to pay \$37,000 to the BCSC. The BCSC banned them from the securities market for 12 years. Seven IDF Investment Services investment advisers settled with the BCSC in August 2001, made payments to the BCSC and agreed to strict supervision if they seek registration to sell securities in BC again. An eighth investment adviser settled with the BCSC in May 2003. For details see [www.bsc.bc.ca](http://www.bsc.bc.ca), type Grant Claude Cramer or 2004 BCSECCOM 659 in the search box and go to the settlement.

**Adrian Mastracci and KCM Wealth Management Inc.** – Mastracci is the principal of KCM Wealth Management. Both are registered under the securities legislation. In 2002 and 2003, KCM Wealth Management contravened the securities legislation when the company did not keep proper business records, have the required capital, file annual audited financial statements and subordinate Mastracci’s loan to claims of clients and creditors. On November 19, 2004, Mastracci and KCM Wealth Management entered into a settlement with the BCSC. Mastracci agreed to pay \$5,000. The BCSC reprimanded KCM Wealth Management. For details see [www.bsc.bc.ca](http://www.bsc.bc.ca), type the full name of a party or 2004 BCSECCOM 671 in the search box and go to the settlement.

**Jarislowsky, Fraser Limited** – Jarislowsky is a Montreal-based investment management firm with offices in Montreal, Toronto and Calgary. In August 2004, Jarislowsky registered under the securities legislation. However, for 13 years Jarislowsky advised clients in BC without registration. On December 16, 2004, in a settlement, the BCSC reprimanded Jarislowsky and they agreed to pay the BCSC \$235,850. For details see [www.bsc.bc.ca](http://www.bsc.bc.ca), type Jarislowsky or 2004 BCSECCOM 720 in the search box and go to the settlement.

**Forex Capital Markets, LLC** – Forex is a US foreign exchange trading firm based in New York. Since April 2000, Forex has been dealing with BC clients without registration under the securities legislation. On February 18, 2005, the BCSC entered into a settlement with Forex. They have agreed to pay \$142,500, to provide disclosure to its existing BC clients and to become registered. For details see [www.bsc.bc.ca](http://www.bsc.bc.ca), type Forex Capital or 2005 BCSECCOM 118 in the search box and go to the settlement.

**Mark Edward Valentine** – On December 23, 2004, the OSC approved a settlement with Valentine and made orders against him. On March 7, 2005, the BCSC by consent issued reciprocal orders. For details see [www.bsc.bc.ca](http://www.bsc.bc.ca), type Mark Edward Valentine or 2005 BCSECCOM 145 in the search box and go to the settlement.

### COURT RULINGS

#### QUÉBEC

**Micheline Beaulieu, Gilles P. Bernard, Jean-Marc Delorme, Pierrette Demers, Diane Desmarais, Denis Fortin, Michel Girard, Lucien Martin and Michel Raymond** – In February and March 2005, Beaulieu, Demers and Desmarais and Bernard, Delorme, Fortin, Girard, Martin and Raymond pleaded guilty before the Court of Québec (Criminal and penal division) to one count each of either having failed to appear or having refused to testify before AMF investigators. They were ordered by the court to pay a fine of \$1000 each. See <http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-4235/fr/Communiqué-23mars2005-Maximmom.pdf> for details (available in French only).

**Jean-Pierre Nadeau** – On July 6, 2004 the AMF obtained from the Québec Superior Court the issuance of a special rule ordering Nadeau to appear before the court to answer a charge of contempt of court. Nadeau had appeared before AMF investigators after having been duly summoned to do so, but had refused to answer any of the questions asked by the investigators and to provide the documents requested by them. On October 25, 2004, Mr. Justice Daniel H. Tingley agreed with the AMF’s motion and ordered Nadeau to appear and to testify before AMF investigators. If Nadeau does not comply with the court’s order, he would then be held in contempt of court and be liable to a fine not exceeding \$5000 or to imprisonment for a period not exceeding one year. See <http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-3543/en/Communiqué%2053%20A.pdf> for details.

**Coopérative de producteurs de bois précieux Québec Forestales et Michel Maheux** – On November 26, 2004 Mr. Justice Jean-Guy Dubois of the Québec Superior Court found Michel Maheux and the Coopérative de producteurs de bois précieux Québec Forestales (“Forestales”) guilty of contempt of court for having disobeyed an injunction issued last August by the Québec Superior Court. Therefore, on March 22, 2005 Mr. Justice Dubois condemned Michel Maheux to pay a fine of \$500 and to be imprisoned for a period of 10 days. As for Forestales, it was condemned to pay a fine of 250 \$.

Also, on December 14, 2004, Mr. Justice Roger E. Baker of the Québec Superior Court rejected Michel Maheux and Forestales’ motion to quash and annul a decision rendered on October 15, 2003 by the Commission des valeurs mobilières du Québec (the “Commission”). In that decision, the Commission had ordered Forestales to stop its distribution of investment contracts and any other form of investment to which the Securities Act applies and had also denied Forestales the benefit of the prospectus and registration exemption for cooperatives provided for in the Securities Act. See <http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-3868/fr/communiqué-14-dec04-requeteforestales.pdf> for details (available in French only).

#### BRITISH COLUMBIA

**Jesse Hogan** – A Burnaby man that the BCSC found used the Internet to perpetrate “pump and dump” schemes to manipulate stock prices has lost his court appeal contesting the penalty he received from the commission. In September 2002, the commission banned Hogan from the BC securities markets for 10 years and ordered him to pay a \$25,000 administrative penalty. Hogan appealed the penalty saying it was not reasonable. He argued that the

## MISCELLANEOUS

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penalty was disproportionate to penalties the commission imposed in other cases and that the penalty failed to take adequate account of his ability to pay.

In January 2005, in a unanimous judgment, the BC Court of Appeal dismissed Hogan's appeal. The court held that "administrative penalties in each case have to be viewed in light of the overall penalties imposed, the particular circumstances of the conduct involved, and the commission's reasonable perception of what is required in the public interest at the time the penalty is imposed." The court also held that "the administrative penalty imposed is not analogous to a fine imposed in criminal proceedings where the failure to pay the fine could result in default time in prison" and that it is not necessary for the amount of the penalty to be commensurate with ability to pay.

## CSA COMMISSION OR TRIBUNAL DECISIONS

### NOVA SCOTIA

**Bruce P. Schriver** - The NSSC rendered its decision dismissing a challenge to its jurisdiction to proceed in respect to section 30(3) of the Securities Act. The Respondent has sought judicial review of that decision. The matter is scheduled for a hearing in the Supreme Court of Nova Scotia on 3 May 2005.

See [www.gov.ns.ca/nssc/docs/decisionschriVERN0804.pdf](http://www.gov.ns.ca/nssc/docs/decisionschriVERN0804.pdf) for details.

### ONTARIO

**William Andrew Campbell** – In January 2005, an OSC hearing panel found that William Andrew Campbell had repeatedly breached Ontario securities law and engaged in conduct contrary to the public interest when he issued auditor reports for six publicly traded companies without being registered with the Canadian Public Accountability Board (CPAB). Campbell was reprimanded by the OSC panel and ordered to disgorge \$10,000 in audit fees gains to the OSC. This was one of the first two proceedings brought under the Commission's new 'simplified process' by which OSC staff prioritize and bring to a hearing quickly those cases that do not require extensive investigation.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad\\_20050124\\_campbella.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2005/rad_20050124_campbella.jsp) for details.

## SETTLEMENT AGREEMENTS

### ONTARIO

**Sally Daub** – In December 2004, OSC staff concluded a settlement agreement with Sally Daub with respect to her materially misleading staff of the OSC in a response to a written request made by staff for a detailed chronology of events leading up to an announcement that ATI Technologies would experience a loss for Q3 2000. The OSC ordered that Daub be reprimanded, and that she pay \$5,000 in costs.

See [http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set\\_20041214\\_daub-sally-ati.jsp](http://www.osc.gov.on.ca/Enforcement/Proceedings/2004/set_20041214_daub-sally-ati.jsp) for details.

### APPEALS

#### QUÉBEC

**Enviromondial Inc.** – On February 14, 2005, a panel of three judges of the Court of Québec (Civil division) rejected unanimously the appeal filed by Enviromondial Inc. against a decision rendered on December 9, 2003 by the Commission des valeurs mobilières du Québec. The court rejected the arguments of Enviromondial Inc. and concluded that the December 9, 2003 decision of the Commission was not a renewal but a new freeze order which had been correctly issued. See <http://www.lautorite.qc.ca/salle-de-presse/communiqués-presse/2004/communiqué-3824/en/Communique-24fev2005-Enviromondial-ANGLAIS.pdf> for details.

#### ONTARIO

**Brian K. Costello** – In December 2004, the Ontario Court of Appeal dismissed the application by Brian Costello for leave to appeal the decision of the Divisional Court dated July 12, 2004. The Divisional Court had dismissed Costello's appeal of the OSC's decisions dated Feb. 18, 2003 (on the merits) and April 29, 2003 (on sanctions), but for the issue of costs which was directed to be reconsidered by the OSC. The appeal routes available to Costello have now been exhausted.

See [http://www.osc.gov.on.ca/About/NewsReleases/2004/nr\\_20041210\\_osc-costellobrian.jsp](http://www.osc.gov.on.ca/About/NewsReleases/2004/nr_20041210_osc-costellobrian.jsp) for details.

## SELF-REGULATORY ORGANIZATIONS (SROs)

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### MUTUAL FUND DEALERS ASSOCIATION OF CANADA (MFDA)

#### ONTARIO

**Investors Group Financial Services Inc. (“IGFS”)** – On December 16, 2004, a Hearing Panel of the Ontario Regional Council of the MFDA approved a settlement entered into between IGFS and staff of the MFDA. IGFS admitted that it permitted a client to engage in market timing activity and failed to implement appropriate measures to protect investors from the associated harm, and therefore acted contrary to the public interest. Under the terms of settlement, IGFS agreed to pay a fine of \$2.65 million and to compensate affected investors by making a payment of \$2.65 million to the mutual funds in which the market timing activity occurred. IGFS also agreed to implement additional procedures for reporting to its board of directors on the status of compliance with MFDA By-laws, Rules and Policies and to pay costs of \$50,000. The settlement was the product of the joint late trading and market timing inquiry undertaken by the MFDA with the cooperation of the OSC and the IDA.

**Robert Roy Parkinson (“Parkinson”)** - On March 17, 2005, a Hearing Panel of the Ontario Regional Council of the MFDA found that Parkinson had engaged in conduct unbecoming a mutual fund salesperson. On February 26, 2004, Parkinson disappeared. As a result of Parkinson’s disappearance, the MFDA and the Member firm were unable to fully investigate his conduct. The Hearing Panel ordered that Parkinson be permanently prohibited from conducting securities related business, pay a fine of \$375,000 and costs of \$7,500.

### MARKET REGULATION SERVICES INC. (RS INC.)

#### QUÉBEC

**Desjardins Securities Inc. (“Desjardins”), Jean-Pierre De Montigny and Jean-Luc Brunet** – On March 16, 2005, an RS hearing panel approved a settlement agreement wherein, among other allegations, Desjardins, De Montigny and Brunet admitted that they failed to comply with its trading compliance and supervision obligations. Under the settlement agreement, Desjardins agreed to pay a fine of \$1,500,000 and to provide RS with a certification from the Board of Directors of the firm, by April 30, 2005, that the firm’s trading compliance and supervision systems comply with UMIR. It also agreed to pay costs of \$125,000. De Montigny agreed to pay a fine of \$300,000 and Brunet agreed to pay a fine of \$35,000. See <http://www.rs.ca/Enforcement - Settlement Agreements/Statements of Allegations> for details.

#### ONTARIO

**UBS Securities Canada Inc. (“UBS Securities Canada”)** – On October 8, 2004, an RS hearing panel approved a settlement agreement wherein UBS Securities Canada admitted that since 2003, among other allegations, it failed to comply with its trading compliance and supervision obligations. UBS Securities Canada agreed to pay a fine of \$2,000,000, to immediately stop the practice of double printing, to provide to RS, by June 30, 2005, a certification from the firm’s Board of Directors that all the recommendations of an independent consultant hired by the firm have been implemented and to pay costs of \$100,000. See <http://www.rs.ca/Enforcement - Settlement Agreements/Statements of Allegations> for details.

## SELF-REGULATORY ORGANIZATIONS (SROs)

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**Credit Suisse First Boston Inc. (“CSFB”)** – On December 3, 2004, an RS hearing panel approved a settlement agreement wherein CSFB admitted that on April 16, 2003, it conducted trades or participated in trades by means other than entry of an order on the marketplace and admitted other violations pertaining to audit trail requirements. Under the settlement agreement, CSFB agreed to pay to RS a fine of \$1,350,000 and costs of \$150,000. See <http://www.rs.ca/Enforcement - Settlement Agreements/Statements of Allegations> for details.

**CIBC World Markets Inc. (“CIBC World Markets”), Scott Mortimer and Carl Irizawa** – On December 15, 2004, an RS hearing panel approved a settlement agreement wherein CIBC World Markets admitted that it failed to comply with its trading supervision obligations, and Mortimer and Irizawa each admitted that they failed to meet their gatekeeper obligations to the marketplace, there engaging in conduct inconsistent with just and equitable principles of trade. Under the settlement agreement, CIBC World Markets agreed to pay a fine of \$700,000 and costs of \$92,500 and to implement certain supervisory and compliance measures. Mortimer agreed to pay a fine of \$50,000 and costs of \$15,000. Irizawa agreed to pay a fine of \$20,000 and costs of \$7,500. See <http://www.rs.ca/Enforcement - Settlement Agreements/Statements of Allegations> for details.

### BRITISH COLUMBIA

**Salman Partners Inc. (“Salman”), Sameh Magid, William Burk and Ian Todd** – On February 18, 2005, an RS hearing panel approved a settlement agreement wherein Salman agreed that it engaged in undeclared short selling, failed to record client consent to trade, failed to comply with audit trail requirements, conducted an improper off-marketplace trade and other violations relating to its trading supervision obligations. Under the settlement agreement, Salman agreed to pay a fine of \$600,000 and costs of \$90,000. Magid agreed to pay a fine of \$80,000 and costs of \$15,000 and executed an undertaking relating to restrictions on future supervisory and compliance positions. Burk agreed to pay a fine of \$30,000. Todd agreed to pay a fine of \$30,000. See <http://www.rs.ca/Enforcement - Settlement Agreements/Statements of Allegations> for details.

## INVESTMENT DEALERS ASSOCIATION (IDA)

### QUÉBEC

**Jean-Claude Paradis and Leduc & Associés (Canada) Itée** – In a decision rendered on August 12, 2004, the Hearing Panel found both Jean-Claude Paradis and Leduc & Associés guilty of having engaged in business conduct unbecoming or detrimental to the public interest. Paradis was fined \$10,000 and required to rewrite and pass the Partners, Directors and Officers examination. Leduc & Associés were fined \$40,000. Jean-Claude Paradis and Leduc & Associés are also jointly required to pay the sum of \$15,137.76 towards the Association’s costs in this matter. See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Laurier Villeneuve** - In a decision rendered on July 7, 2004, the hearing panel found Laurier Villeneuve guilty of ten offences related to conduct contrary to the Association’s By-Law. The Hearing Panel imposed a fine of \$25,000; suspended his registration approval for 12 months; prohibited him from acting as representative in the securities industry without having successfully written again the Conduct and Practices Handbook Course, and required him to be under strict supervision for a period of six months if he is again authorized to act as a Representative. Moreover, Villeneuve was ordered to pay investigation costs of \$5,000. See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

## SELF-REGULATORY ORGANIZATIONS (SROs)

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**Paul Joseph Paliotti** - In a decision rendered on September 28, 2004, the Hearing Panel found Paliotti guilty of violations standards of ethics and professional conduct and related to conduct unbecoming and detrimental to the public interest. The Hearing Panel assessed against Paul Joseph Paliotti permanent deregistration and fines totalling \$300,000. In addition, Paliotti is required to pay the Association's costs of \$28,501.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Timber Hill Canada Company ("Timber Hill")** – A Hearing Panel accepted a settlement agreement wherein Timber Hill admitted that, among other violations, that it failed to ensure that its Risk Adjusted Capital was calculated in accordance with the rules prescribed by the Association and, consequently, reported inaccurate financial information in its Monthly Financial Reports filed to the Association. The discipline penalty imposed a fine of \$40,000 on Timber Hill. In addition, Timber Hill is required to pay costs of the Association in the sum of \$3,500. See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

### ONTARIO

**Maurice Brazeau** - On October 20, 2004, a Hearing Panel of the Ontario District Council accepted a settlement agreement wherein Brazeau admitted that he engaged in conduct unbecoming or detrimental to the public interest. The Hearing Panel fined Brazeau \$35,000; imposed the disgorgement of commissions of \$1,568.28, a prohibition on receiving registration approval with any Member firm of the Association for three years, a condition of his re-approval by the Association in any registered capacity with any Member of the Association that he successfully rewrite the examination based on the Conduct and Practices Handbook for Securities Industry Professionals, close supervision for 12 months upon any subsequent registration approval with a Member firm of the Association, costs of the Association's investigation and prosecution of this matter of \$20,000, and in the event that Brazeau fails to comply with any of the above discipline penalties, the District Council may suspend his approval until the fine and costs are paid in full, and the other conditions fulfilled.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Nerio D'Ambrosi** - On October 25, 2004 the Hearing Panel accepted a settlement agreement wherein D'Ambrosi admitted that during 2000 and 2001, he failed to use due diligence to ensure that that short term trading recommendations made were appropriate for client EB and in keeping with her investment objectives, and that he effected inappropriate discretionary trades in client EB's account. He was fined \$20,000 and must be under close supervision for 6 months. D'Ambrosi is also required to pay the Association's costs of \$8,000. See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**RBC Dominion Securities Inc.** - On December 16, 2004, a Hearing Panel accepted a settlement agreement wherein RBC admitted that it failed to implement supervisory systems to address red flags and thereby to detect and prevent potentially harmful market timing practices. The total monetary penalty assessed against RBC is a fine of \$8,462,651.04, disgorgement of \$8,462,651.04, and costs of \$50,000. In addition to the monetary penalty assessed, RBC is required to set up an internal committee to consider how to identify and address emerging issues in the securities industry. See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**BMO Nesbitt Burns Inc.** - On December 16, 2004, a Hearing Panel accepted a settlement agreement wherein BMO admitted that it failed to implement supervisory systems to address red flags and thereby detect and prevent potentially harmful market timing practices. The total monetary penalty assessed against BMO is \$3,693,139.20. In addition to the monetary penalty assessed, BMO is required to set up an internal committee to consider how to identify and address emerging issues in the securities industry. BMO will consult with the IDA in setting up the mandate of the committee. See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.



## SELF-REGULATORY ORGANIZATIONS (SROs)

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**TD Waterhouse Canada Inc.** - On December 16, 2004, a Hearing Panel accepted a settlement agreement wherein TD admitted that it failed to implement supervisory systems to address red flags and thereby detect and prevent potentially harmful market timing practices. The total monetary penalty assessed against TD is a fine of \$10,324,356.69, disgorgement \$10,324,356.69, and costs of \$50,000. In addition to the monetary penalty assessed, TD is required to set up an internal committee to consider how to identify and address emerging issues in the securities industry. See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Brian Gruson** - A disciplinary hearing was held on Monday, December 13, 2004, with respect to an alleged violation of By-law 19.5. The facts were not in dispute. Gruson was prepared to attend an Association interview but failed to do so on the basis that he objected to the presence of a U. S. regulator at the interview. The legal issue that was argued was whether or not a representative of the United States Securities and Exchange Commission ("SEC") was entitled to attend and participate in an Association interview of Gruson, in the course of a properly constituted Association investigation. The Hearing Panel held that the SEC will not be allowed to attend the Association's interview. Gruson is still required to attend an interview with Association staff. Written reasons will follow in due course. Gruson was ordered to attend an Association interview within 90 days of the date of the order. The Hearing Panel also ordered that if he fails to attend, he will be fined \$50,000, receive a permanent ban on his registration with the Association and will be required to pay \$5,000 in costs.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Esther Inglis** - On February 2, 2005, the Hearing Panel found that Inglis committed the breaches relating to conduct unbecoming or detrimental to the public interest. The Hearing Panel imposed a fine of \$25,000 and a 3 year ban on registration; a second fine \$15,000 and a 2 year ban on registration (these two bans to run consecutively); a 10 year ban on registration in a supervisory capacity (this ban to run concurrently with the 5 year ban); required Inglis to re-write the CPH and pass the exam upon any return to the industry; and imposed costs of \$15,000. See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Jules Roger Mangin** - On February 4, 2005, the Hearing Panel found that Mangin had committed violations relating to conduct unbecoming or detrimental to the public interest. The Hearing Panel imposed a permanent ban on registration in any capacity, a fine of \$295,000, disgorgement of misappropriated funds of \$207,137.59 and \$10,000 towards costs. See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Geoffrey Robert Klein** - On January 28, 2005, a Hearing Panel accepted a settlement agreement wherein Klein admitted that he engaged in a business or conduct unbecoming or detrimental to the public interest. Klein was suspended from approval in any capacity with the Association for two years, is under strict supervision for one year upon any subsequent registration approval with a Member Firm of the Association; and must re-write and pass the examination based on the Conduct and Practices Handbook for Securities Industry Professionals. In addition, Klein is required to pay \$1,000 towards the costs of the Association.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Michael Druhan** - On March 14, 2005, the Hearing Panel held that Druhan engaged in conduct unbecoming, contrary to Association By-laws. The Hearing Panel imposed a permanent ban from acting in any registered capacity with the Association; disgorgement of commissions of \$403,366.52; and a fine of \$150,000. The Hearing Panel also ordered Druhan to pay Association costs in this matter of \$20,000.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

## SELF-REGULATORY ORGANIZATIONS (SROs)

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### ALBERTA

**Trevor Holowatiuk** - On October 14, 2004, the Alberta District Council accepted a settlement agreement wherein Holowatiuk admitted that he engaged in 76 acts of forgery by signing client signatures on client account documentation and thereby failed to observe a high standard of ethics and conduct in the transaction of his business and thus engaged in business conduct and practice that was unbecoming or detrimental to the public interest. Holowatiuk must pay a global fine of \$40,000, abide by a permanent prohibition from approval to act in any registered capacity with any member of the Association; and pay costs of \$5,000.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Emerging Equities Inc. and James Baker Hartwell** - On October 26, 2004, a Hearing Panel accepted a settlement agreement wherein EEI admitted, among other violations, that it failed to maintain adequate capital for the month ending January 31, 2001. EEI was fined \$55,000; whereas Hartwell was fined \$15,000 and prohibited for 12 months from acting in the registered capacities of Ultimate Designated Person, Alternate Designate Person, Chief Financial Officer, Chief Compliance Officer, Designated Registered Options Principal, Alternate Registered Options Principal, Designated Registered Futures Principal, Alternate Designated Registered Futures Principal, Branch Manager and Assistant Branch Manager, for any Member of the Association.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Dianne Lena Quimper** - Following a disciplinary hearing, held on October 15, 2000, a Hearing Panel found that Quimper, at all material times a Registered Representative, signed five client signatures on client investment account documentation and/or other client documents, without the clients' specific consent, and thereby failed in her duty to observe a high standard of ethics and conduct in the transaction of business and engaged in business conduct and practice that was unbecoming or detrimental to the public interest. Ms Quimper was fined \$15,000 to be paid within 24 months of the date of the decision; and as a condition of her re-registration, she must re-write and pass the examination based on the Conduct and Practices Handbook for Securities Industry Professionals and pay the fine within the prescribed period. See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

### BRITISH COLUMBIA

**Trevor Morrison** - On September 15, 2004, the Pacific District Council amended a settlement agreement wherein Morrison admitted violations relating to an illegal distribution. Morrison was fined \$5,000; suspended from approval in any capacity with the Association for a period of one year, which said suspension is deemed served by the more than 3 year period Morrison was under strict or close supervision; and his continuing approval by the Association is conditional on the fine and costs being paid. Morrison is also required to pay \$1,500 towards the Association's costs of this matter. The suspension above was not contained in the original settlement agreement as negotiated between Morrison and Association Staff but was added by the Pacific District Council with the consent of Morrison. See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**Warren Neil Gee** - In a penalty hearing held on November 10, 2004, Gee admitted that he forged the signature of a client on a document. Gee was fined \$5,000, must successfully re-write and pass the examination based on the Conduct and Practices Handbook Course, be subject to close supervision for a period of one year from the commencement of his employment, and must pay \$2,500 in costs.

See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

## SELF-REGULATORY ORGANIZATIONS (SROs)

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**Kenneth Miller** - On January 24, 2005, a Hearing Panel accepted a settlement agreement negotiated between Miller and Staff of the Enforcement Department of the Association wherein he admitted various violations of the association By-laws and regulations including effecting unauthorized transactions in client accounts, failing to communicate margin calls, acting without a registration in one jurisdiction and violating compliance obligations. Miller was permanently prohibited from acting in any registered capacity with any Member of the Association; was fined \$80,000 and must pay \$20,000 in costs. See [http://www.ida.ca/Enforcement/DisciplinaryBulletins\\_en.asp](http://www.ida.ca/Enforcement/DisciplinaryBulletins_en.asp) for details.

**INQUIRIES:**

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