

FURTHER AMENDED this 15th day of October 2008

IN THE MATTER OF:

THE SECURITIES ACT

and

IN THE MATTER OF:

PORTFOLIO STRATEGIES CORPORATION
JOHN DAVID GRIFFITHS and
RANDY KENNETH REYNOLDS

FURTHER AMENDED STATEMENT OF RESPONSE
OF PORTFOLIO STRATEGIES CORPORATION

In answer to the Statement of Allegations herein, Portfolio Strategies Corporation ("PSC") says as follows:

1. Pursuant to s. 96 of the Constitution Act, 1982, the authority to determine civil claims and award financial compensation in the nature of damages is one of the "core functions" of a Superior Court appointed pursuant to s. 96. Any attempt by a provincial legislature to transfer this core function to any entity other than a s. 96 Superior Court is unconstitutional. Thus, sub-sections 148.2(3) and (4) of the Securities Act are unconstitutional and *ultra vires* the Legislature of the Province of Manitoba because they purport to confer a s. 96 power on a provincially appointed tribunal.
2. During the period May 1999 to May 2003 the Respondents Griffiths and Reynolds were registered under The Securities Act C.C.S.M. c. S50 as amended (the "Securities Act") and sponsored by PSC. Thereafter, the other respondents

were registered under the Securities Act sponsored by Manulife Securities International ("MSI")

2A. Neither Griffiths, nor Reynolds were employed by PSC and at all material times both Griffiths and Reynolds were independent contractors.

2B. However, at all material times the other respondents were also registered under The Insurance Act C.C.S.M. c. I40 (the "Insurance Act") as follows:

Randy Reynolds representing Structured Insurance Agency Ltd t/a Griffiths Financial Services

David Griffiths representing Structured Insurance Agency Ltd t/a Griffiths Financial Services

and PSC had no jurisdiction over, nor means of control over the insurance business of the other respondents. Further, PSC had no relationship with, no jurisdiction over, nor means of control over the business and affairs of Structured Insurance Agency Ltd..

2C PSC says that the GIC (Guaranteed Investment Certificate) Notes which are the subject of the alleged transactions (the "GIC Notes") were each stated not to be "a security" and were not "securities" within the meaning of the Securities Act and the Manitoba Securities Commission (the "Commission") has no jurisdiction to make an order under the Act as alleged or at all.

2D In the alternative, GIC Notes sold to MG and BG were exempt from registration under the Securities Act.

2E. PSC had no knowledge of the alleged or any trades in “off book” product by Reynolds and/or Griffiths and says that any such transactions were unauthorized and prohibited both by PSC and the requirements of the self-regulatory organization of which the other Respondents were “Approved Persons”. Moreover, PSC has no knowledge of the alleged claims of M.G., B.G. and the estate of P.D., nor any knowledge of the circumstances under which they acquired “off-book” product from Reynolds and Griffiths, as alleged.

2F. The transactions which are the subject of this proceeding (the “Alleged Transactions”) were undertaken by either the Respondent Griffiths or the Respondents Reynolds and Griffiths by and through Structured Insurance Agency Ltd..

2G. Neither M.G., nor B.G. were clients of PSC and PSC had no knowledge, nor means of knowledge of their existence, let alone any transactions which they might undertake through the other Respondents and Structured Insurance Agency Ltd.

2H. By reason of the foregoing, no act occurred in the course of the employment of Reynolds and Griffiths by or which they were acting on behalf of PSC and no relief or remedy may or ought to be ordered under section 148.2 as alleged or at all.

3. Further, it is not “in the public interest” for the Manitoba Securities Commission (the “Commission”) to order PSC to pay financial loss compensation to M.G., B.G. and the estate of P.D. where:

- the nature and circumstances of the alleged claims of M.G., B.G. and P.D. against the other respondents and the Structured Insurance Agency Ltd. were unknown to PSC;

- at all material times, the claimants or some of them were not residents of Manitoba;
- PSC cannot be liable for any act or omission during the MSI Period, that is when the Respondents Griffiths and Reynolds were registered under the Securities Act as sponsored by MSI.
- the primary liability and financial wherewithal of Reynolds and Griffiths have not been tested;
- no act of PSC caused or contributed to the alleged or any loss or damage allegedly suffered by M.G., B.G., and the estate of P.D.; and
- no principle of liability exists in public law for a registrant such as PSC to be held liable for the conduct of others in the present circumstances;
- the claims herein of the persons aggrieved are barred by The Limitation of Actions Act C.C.S.M. c. L150 as amended; and
- such other particulars as counsel may provide.

5. Moreover, it would be unjust, contrary to the principles of procedural fairness, and contrary to applicable regulatory policy and principles for the Commission to require PSC to pay or be liable for the alleged claims of M.G., B.G. and the estate of P.D., when the alleged claims of M.G., B.G., and the estate of P.D. may be advanced in a civil trial or other due process in the Court of Queen's Bench of Manitoba.

6. PSC does not admit that M.G., B.G. and P.D. or her estate suffered the alleged or any financial loss and puts the director and each of the claimants to the strict proof thereof.

7. Further, if M.G., B.G., and P.D. or her estate suffered the alleged financial loss, which is not admitted, PSC did not cause or contribute to the alleged loss, which was caused or contributed to by M.G., B.G., and P.D. (who were guilty of

contributory negligence) themselves and the respondents other than PSC, and PSC pleads and relies on The Tortfeasors and Contributory Negligence Act C.C.S.M c. T90.

8. Finally, if M.G., B.G., and P.D. or her estate suffered the alleged financial loss, which is not admitted, then M.G., B.G., and P.D. and her estate failed to take any steps, or any reasonable steps, to mitigate the alleged loss .

9. Section 148.2 was enacted by The Securities Amendment Act, S.M. 2002, c. 32 (the "Amendment") which came into force by proclamation on February 1, 2003. There were no investments or renewals or trades of securities in the period February 1, 2003 (when the Amendment came into force) to May 1, 2003 (when the Respondents Reynolds and Griffiths ceased to be registered with PSC) so there can be no claims against PSC under the Act or at all and the liability of PSC is denied.

WHEREFORE PSC seeks an Order that section 148.2 of the Securities Act is and be declared to be *ultra vires* the Legislature of the Province of Manitoba and invalid, inapplicable or inoperable.

FURTHER, PSC seeks an Order that this proceeding be dismissed summarily as against PSC and such further and other relief as counsel may advise.

DATED this 12th day of July, 2007.

TO: The DIRECTOR, Legal and Enforcement

AND TO: JOHN DAVID GRIFFITHS

AND TO: RANDY KENNETH REYNOLDS

AND TO: THE ATTORNEY GENERAL (Manitoba)

AND TO: THEIR RESPECTIVE COUNSEL

This FURTHER AMENDED STATEMENT OF RESPONSE is given by Thomas Manson, Associate Counsel with the firm of Forstrom Jackson (File Number 斧力 0766) solicitors for the Respondent PSC herein, whose place of business and address for delivery is Suite 1200 – 625 Howe Street, Vancouver, BC V6C 2T6 Telephone: (604) 661.0740 Fax: (604) 661-0759.