

IN THE MATTER OF: THE SECURITIES ACT

-and-

IN THE MATTER OF: RICHARD MICHAEL SELLORS

AMENDED

STATEMENT OF ALLEGATIONS OF STAFF OF THE
MANITOBA SECURITIES COMMISSION

STAFF OF THE MANITOBA SECURITIES COMMISSION ALLEGE, INTER ALIA, THAT:

A. REGISTRATION

1. Richard Michael Sellors ("Sellors") was first registered as a salesman under The Securities Act (the "Act") on August 16, 1976.
2. From October 1, 1989 to October 4, 1995, both inclusive, Sellors was not registered in any capacity under the Act.
3. From October 5, 1995 to present, Sellors has been registered as follows:
 - (a) from October 5, 1995 to July 22, 1996 with Standard Life Mutual Funds Limited ("Standard");
 - (b) from July 22, 1996 to February 18, 1997 with Manulife Securities International Ltd.;
 - (c) from February 27, 1997 to present with Partners in Planning Financial Services Ltd..
4. Unless renewed, the Registration of Sellors under his current Certificate will expire on May 16, 2000.
5. During the time that Sellors was registered with Standard, he was not authorized to sell Mackenzie Funds.
6. Sellors & Associates is a business name registered with the Companies Office of the Province of Manitoba since on or about August 18, 1989. R. Michael Sellors Insurance Agencies Limited is a corporation incorporated under the laws of Manitoba and is a partner of the business operating under the name Sellors & Associates. Sellors is a director and the president and secretary of R. Michael Sellors Insurance Agencies Limited.

B. DETAILS

1. Mr. B was a businessman owning and operating a business ("Company AD") in the City of Winnipeg, Manitoba.

2. Prior to 1991, Mr. B had known Sellors for many years, as Sellors had handled the group health, dental, and disability plans for Company AD.
3. In or about 1991, Sellors also set up a Registered Retirement Savings Plan for the employees of Company AD ("Company AD Employee Plan").
4. In or about 1991 or 1992, Sellors began telling Mr. B that, beyond any contributions to the Company AD Employee Plan, Sellors could manage Mr. B's other personal RRSP investments for him. In particular, Sellors advised that he through his business Sellors & Associates could help Mr. B amalgamate his registered guaranteed investments with various institutions and then invest his personal money properly to prepare for retirement.
5. At the time, Mr. B's investments were guaranteed investments. Mr. B had no prior history of investing in stocks; Mr. B had no prior history of investing in mutual funds prior to receiving advice from Sellors.
6. Mr. B trusted Sellors and provided him with the particulars of his guaranteed investments such as maturity dates and copies of statements.
7. Mr. B told Sellors that the guaranteed investments were his retirement monies and that when he did retire, in addition to selling out of his business, he would have no other source of income.
8. Mr. B followed the advice of Sellors to have Sellors amalgamate and reinvest his guaranteed investments.
9. As each guaranteed investment matured, Sellors would contact Mr. B to have Mr. B transfer over the matured monies to Sellors to invest. The monies were reinvested at first only into guaranteed investments and then later also in segregated and mutual funds.
10. In or about 1992, Mr. B transferred to Sellors approximately \$150,000.00 of investment monies.
11. In or about 1993, Sellors recommended to Mr. B that he invest in mutual funds.
12. Mr. B understood from Sellors that the interest rates for mutual funds were better than for guaranteed investments, mutual funds were on average returning about 18%, the principal was safe, and the only risk on interest was if the mutual fund interest rate went for a slide.
13. In 1993 and 1994, based upon the advice of Sellors, Mr. B agreed to invest some guaranteed investment monies as they matured into mutual funds. As guaranteed investments matured, the matured monies were reinvested. This practice continued into 1995.
14. In 1993, 1994, and 1995, Mr. B received statements from Sellors and/or Sellors & Associates showing purchases in "GWL CDN Equity Fund" and "GWL Equity Investment" both of which were listed under the heading "Mutual Fund".

15. GWL CDN Equity Fund and GWL Equity Investment were not in fact mutual funds but segregated funds.

16. In February 1996, Mr. B had a guaranteed investment at National Trust maturing at the end of the month in an amount in excess of \$92,000.00 (the "National Trust GI").

17. In February of 1996, Sellors met with Mr. B . They discussed the National Trust GI. Mr. B told him that he wanted nothing more to do with mutual funds and that his intentions were to have everything go into guaranteed investments.

18. Mr. B wanted no risk and wanted to know exactly what dollar amount he would have at retirement. Mr. B 's ownership interest in Company AD would be bought out on or about April 1, 1996 and he planned to work for maybe three years before retirement.

19. Mr. B specifically instructed Sellors to reinvest the National Trust GI into a guaranteed investment, not into a mutual fund.

20. Sellors told Mr. B that the fund for him was Mackenzie Industrial Income ("M.I.I."). Sellors did not state that this was a mutual fund.

21. On February 20, 1996, Mr. B signed paper(s) presented to him by Sellors. Based upon their discussion, Mr. B believed the paper(s) to be necessary to invest in the guaranteed investment. Mr. B trusted Sellors to do what was necessary to invest in a guaranteed investment pursuant to his verbal instructions.

22. In addition to the National Trust GI monies which were being transferred, Mr. B provided a cheque in the amount of \$2,000.00 to be added to the amount being reinvested. The total amount to be reinvested by Sellors was \$94,619.13 (the "March Investment").

23. The paper signed on February 20, 1996 was a Mackenzie Financial Investment Application requesting that the March Investment be reinvested in the M.I.I. fund.

24. M.I.I. is a mutual fund.

25. No prospectus for the M.I.I. fund was given to Mr. B by Sellors at any time in February or March of 1996.

26. Mr. B received statements from Sellors dated April 25, 1996 and May 2, 1996 itemizing Mr. B 's registered investments, including the March Investment.

27. Mr. B immediately contacted Sellors about the March Investment as the investment was described on the statement(s) as having been made in mutual funds, contrary to his instructions.

28. On the May statement, the value of the March Investment had decreased from the amount invested as follows: the \$92,619.13 was now \$90,938.23 and the \$2,000.00 was now \$1,935.22.

29. Sellors wrongfully told Mr. B that the M.I.I. fund was not a mutual fund as such. Sellors told Mr. B that it was 80% bond and 20% equity and "safe as a rock".

30. Mr. B, not satisfied with the explanation from Sellors, wanted to discuss getting out of the M.I.I. fund.

31. Sellors informed Mr. B that there would be a 5% cost associated with pulling out of the M.I.I. fund, namely, rear-load fees. Sellors had not advised Mr. B of rear-load fees applicable to the March Investment at the time of the making of the March Investment.

32. On more than one occasion Mr. B requested that Sellors provide him with the actual cost to get out of the M.I.I. fund, which Sellors promised to do. Mr. B never did receive the cost information requested from Sellors.

33. In May of 1996, Mr. B withdrew the March Investment from the M.I.I. fund and transferred from Sellors to another salesman.

34. In or about late May of 1996, Mr. B received confirmation from Mackenzie as to the total amount of the fees for selling all of his Mackenzie funds, including the March Investment, being \$6,825.70.

35. Mr. B has not received any compensation from any person or entity for the fees paid or for the loss in value of the March Investment.

36. The Investment Application for the March Investment into the M.I.I. fund named Mr. G as the representative.

37. At all material times in 1995 and 1996, Mr. G worked for Sellors and/or Sellors & Associates and was registered to sell Mackenzie mutual funds. Mr. G's registration under the Act was from June 16, 1995 to January 28, 1997.

38. At all material times in 1995 and 1996, Sellors was not registered to sell Mackenzie mutual funds.

39. A portion of the commissions received by Mr. G for the March Investment into the M.I.I. fund were paid to Sellors and/or Sellors & Associates pursuant to Mr. G's commission arrangements with Sellors.

C. ALLEGATIONS

1. Staff of the Commission allege that:

(a) Sellors failed to follow his client's instructions to invest in a guaranteed investment, and not to invest in a mutual fund;

(b) Sellors conducted an unauthorized trade by investing his client's money in a mutual fund, the Mackenzie Industrial Income Fund, without his client's informed instruction, authorization or consent;

(c) Sellors traded in a security, being the Mackenzie Industrial Income Fund, without registration to do so, contrary to section 6 of the Act;

(d) Sellors provided to or caused to be provided to Mr. B misleading statements summarizing Mr. B's investments, by identifying segregated funds as mutual funds;

(e) Sellors acted contrary to the best interests of his client;

and that due to these allegations, it is in the public interest that the registration of Sellors as a salesman under the Act be suspended or cancelled.

2. Such further and other matters as counsel may advise and the Commission may permit.

DATED at Winnipeg, Manitoba this 27th day of March, 2000.

Director, Legal and Enforcement

TO: RICHARD MICHAEL SELLORS