

IN THE MATTER OF: THE SECURITIES ACT

-and-

IN THE MATTER OF: CHARLES DOUGLAS SPIRING

STATEMENT OF ALLEGATIONS OF STAFF OF THE
MANITOBA SECURITIES COMMISSION

STAFF OF THE MANITOBA SECURITIES COMMISSION ALLEGE, AMONG OTHER THINGS, THAT:

A. REGISTRATION

1. Charles Douglas Spiring ("Spiring") has been continuously registered under The Securities Act (the "Act") since July 3rd, 1981. Spiring has been registered as a trading officer of Wellington West Capital Inc since October 20, 1993 to the present.
2. Wellington West Capital Inc. has been continuously registered as a broker and investment dealer under the Act since October 21, 1993.

B. ACTIVITY

MTS OFFERING

1. In late 1996 The Province of Manitoba, pursuant to The Reorganization Act provided for the reorganization of the capital structure of The Manitoba Telephone System from a crown corporation to a share capital corporation known as Manitoba Telecom Services Inc. ("MTS").
2. Pursuant to The Reorganization Act the authorized share capital of MTS consists of an unlimited number of common shares, an unlimited number of preference shares and one special share. In order to effect the reorganization, 70,000,000 common shares and the one special share were issued to the Province of Manitoba. Common shares would then be acquired by a group of underwriters for the purpose of distributing the shares to the public by way of an initial public offering by secondary distribution pursuant to a prospectus.
3. On December 20, 1996 MTS filed with The Manitoba Securities Commission (the "Commission") and obtained a receipt from the Director for a prospectus (the "Final Prospectus") qualifying the distribution of 70,000,000 common shares of MTS (the "MTS Shares"). The offering of the MTS Shares to the public was done by a group of underwriters which included Wellington West (the "MTS Offering").
4. The MTS Offering consisted of three parts: the offering of MTS shares in all the provinces of Canada (the "National Offering"), the offering of Common Shares to Manitoba residents only pursuant to an instalment plan for which instalment receipts (the "Instalment Receipts") were issued (the "Instalment Offering"), and an offering to MTS employees pursuant to an employee

share plan (the "Employee Offering"). Of the 70,000,000 shares being offered, 50,540,706 were reserved to be issued pursuant to the Instalment Offering.

5. Commission Order No. 1509, dated October 29, 1996, was issued permitting certain activities taking place in connection with the Instalment Offering and the Employee Offering prior to a receipt being issued for the Final Prospectus.

6. To subscribe for Instalment Receipts under the Instalment Offering Commission Order No. 1509 required potential purchasers to complete a form which was referred to as a Priority Application Form Under the Instalment Plan (the "PAF"). All PAFs had to be received by a Dealer, Registered Representative or Financial Institution (as those terms are defined in Commission Order No. 1509) no later than December 14, 1996.

7. The PAF was required to be completed in addition to whatever other documentation a registered dealer would require for trading on an account with that registered dealer. If the purchaser was not an existing client of the registered dealer, the registered dealer would complete the necessary documentation to establish an account with the registered dealer for the purchaser.

8. The underwriting group, pursuant to the terms of the Final Prospectus, placed limits on the number of Instalment Receipts that a person could subscribe for (the "Personal Allotment"). The initial restriction was a maximum of 4,000 Instalment Receipts available to each Manitoba resident which was subsequently changed to a maximum of 1,600 Instalment Receipts in the Final Prospectus.

9. An Instalment Receipt entitled a holder to pay for an MTS Share in two payments, the first payment of \$7.00 per MTS Share on or before January 7, 1997 and the second payment of \$6.00 per MTS Share on or before January 8, 1998.

10. CIBC Wood Gundy Securities Inc., the lead underwriter with respect to the MTS Offering, circulated a memo dated December 12, 1996 to all members of the underwriting group as well as financial institutions forming part of the selling group to deal with certain inappropriate sales practices which had been identified as occurring. One of the points raised in the memo was that the Commission had received reports that syndicate and selling group employees were counseling Manitobans to borrow the name and Social Insurance Numbers of other Manitobans for the purposes of exceeding their Personal Allotments. The memo stated that any such allocations were considered fraudulent.

DOUGLAS PERCIVAL BARRETT

11. Douglas Percival Barrett ("Barrett") has been registered as a salesman of Wellington West Capital since February 9, 1998. Prior to that time and at all material times Barrett was a client of Spiring.

12. Barrett had several accounts with Wellington West including Account No. 4A0066 (the "Barrett Trading Account") and Account No. 4A0067 (the "Barrett Personal Account").

13. Barrett initially heard about the MTS Offering in the fall of 1996 through the media. Over a series of meetings and telephone calls with Spiring in the fall of 1996, Barrett expressed an interest in buying MTS Shares

14. Barrett along with his brothers Kris Barrett ("Kris") and Karl Barrett ("Karl") owned and operated several family businesses including Northern Tax Service (an income tax preparation firm operating in Northern Manitoba), Playgreen Farms (a farming operation located in Fisher Branch, Manitoba) and the Playgreen Inn (a hotel in Norway House, Manitoba).

15. Barrett told Spiring that in addition to their Personal Allotments, Barrett Kris and Karl wanted to purchase MTS Shares for other family members, as well as for certain employees of their businesses and clients of Northern Tax Services. Barrett told Spiring that Barrett, Kris and Karl intended to finance the purchase of the MTS Shares which, they would sell as soon as possible splitting any profits received amongst the persons in whose names the shares were purchased. If there was a loss incurred Barrett, Kris and Karl would be solely responsible for the loss.

16. Spiring provided Barrett with blank Wellington West New Account Application Forms ("New Account Forms") with the instructions that Barrett have the forms completed by those persons that Barrett, Kris and Karl intended to purchase shares for.

17. Barrett believed that a separate account would be opened for each of the persons completing the New Account Forms.

18. Barrett, Kris and Karl arranged for the preparation and completion of 33 New Account Forms by family members, employees and clients of Northern Tax Services. Barrett returned the completed forms to Wellington West.

19. Barrett subsequently discovered that while accounts were opened for some of the persons for whom they prepared and completed New Account Forms, no accounts were opened for the following individuals:

Roland Percival Barrett, Debra Lee Barrett Hrominchuk, John Edward Hrominchuk, Kelly Barrett, Andrew Barylski, Karen Lee Barylski, Kevin James Barylski, Jules Giasson, Jeff Barylski, Tammy I. Murdock, Dale Jeffrey Peebles, Clara Alvine inclair, Clarence O. Sinclair, Barry Leo Peebles, Derwin Stevenson, Jennifer L. Peebles, Fredrick T. Stevenson, Timothy L. Sinclair, Marilyn G. Stevenson, Tammy L. Stevenson, Walter James Peebles, Don Bilinski, Tannis Grimolfson and Fred H. Stevenson (collectively, the "Barrett Group").

20. PAFs were also completed for members of the Barrett Group and in several instances the suitability information recorded on the PAF was inconsistent with that recorded on the same person's Wellington West New Account Application Form.

21. Barrett believed based on Spiring's initial advice that Instalment Receipts could be purchased on margin. Subsequently Barrett was advised by Spiring that he could not buy on margin and that funds would have to be available at the time the purchases were made.

22. Barrett did not have the necessary funds for the purchases. Spiring suggested that Barrett could borrow funds from Pulse Financial Corporation ("Pulse"), a company owned by Patrick Spiring, Spiring's brother.

23. Barrett was a friend of Patrick Spiring and arranged to borrow \$268,800.00 from Pulse on January 7, 1997. Unknown to Barrett, Spiring had actually drawn the \$268,800.00 from his own credit facilities and provided the funds to Pulse so that it would appear that Pulse had loaned the money to Barrett.

24. Bank draft number 29615126-054 drawn on the Royal Bank of Canada payable to Doug Barrett in the amount of \$268,000.00 dated January 7, 1997 was provided to Doug Barrett.

25. Barrett provided Wellington West with \$344,200.00 which was deposited to the Barrett Trading Account on January 7, 1997 comprised of cheque number 12575 drawn on the Northern Tax Service Account with the Canadian Imperial Bank of Commerce dated January 7, 1997 in the amount of \$310,600.00, a cheque from Donald Bilinski, a member of the Barrett Group, drawn on Gimli Credit Union dated January 6, 1997 in the amount of \$22,400.00, and a further deposit in the amount of \$11,200.00 from another source.

26. Of the \$344,400.00 deposited to the Barrett Trading Account on January 7, 1997, on that same day \$11,200 to the Barrett Personal Account and \$8,200 was transferred to the account of Gudrun Finsson, the mother-in-law of one of Barrett's brothers.

27. On January 7, 1997, 37,300 Instalment Receipts were purchased on the Barrett Trading Account at \$7.00 per Instalment Receipt for a total consideration of \$261,100.00.

28. All purchases and sales in the Barrett Trading Account were made on Barrett's instructions only.

29. Spiring did not obtain any written form of trading authorization from the members of the Barrett Group granting Barrett authority to provide trading instructions on their behalf.

30. On January 7, 1997 1,600 Instalment Receipts were purchased on the Barrett Personal Account at \$7.00 per Instalment Receipt for a total consideration of \$11,200.00.

31. Barrett gave instructions to Wellington West to sell 37,100 Instalment Receipts from the Barrett Trading Account. On January 13, 1997 300 Instalment Receipts were sold at \$8.00 per Instalment Receipt for a total consideration of \$2,370.00. On January 14, 1997 36,800 Instalment Receipts were sold at \$8.15 per Instalment Receipt for a total consideration of \$296,920.00

32. Barrett gave instructions to Wellington West to sell 1,600 Instalment Receipts from the Barrett Personal Account. On January 14, 1997 300 Instalment Receipts were sold at \$8.15 per Instalment Receipt for a total consideration of \$12,840.00.

33. Barrett gave instructions to Wellington West to issue a number of cheques from the Barrett Trading Account on January 17, 1997, each in the amount of \$1,710 payable to certain member

of the Barrett Group being: Roland Percival Barrett, Debra Lee Barrett-Hrominchuk, John Edward Hrominchuk, Kelly Barrett, Andrew Barylski, Karen Lee Barylski, Kevin James Barylski and Jules Giasson.

34. In addition, on January 17, 1997 Barrett instructed Wellington West to issue a cheque from the Barrett Trading Account in the amount of \$22,230.00 payable to Northern Tax Services. This cheque represented the balance of the profits from the transactions involving Instalment Receipts in the Barrett Trading Account which had not already been disbursed as described in paragraph 22 above. Barrett intended to issue cheques from Northern Tax Service to the remaining members of the Barrett Group to distribute the profits.

35. Shortly after giving the instructions to prepare the cheque described in paragraph 23, Barrett became aware of media reports suggesting that a Winnipeg doctor may have circumvented the Personal Allotment by using the names and social insurance numbers of other Manitoba residents to purchase Instalment Receipts in excess of the Personal Allotment.

36. Concerned that similar accusations might be made concerning the trades in the Barrett Trading Account, Barrett requested that Wellington West reverse the cheque described in paragraph 23 above and instead issue separate cheques in the amount of \$1,710 each. On January 24, 1997, Wellington West cancelled the cheque for \$22,230.00 as of January 17, 1997 and issued cheques from the Barrett Trading account, each dated January 24, 1997 and in the amount of \$1,710.00 to the following people: Jeff Barylski, Tammy Murdock, Dale Peebles, Clara Alvina Sinclair, Clarence Sinclair, Barry Peebles, Derwin Stevenson, Jennifer Peebles, Fredrick Stevenson, Timothy Sinclair, Marilyn Stevenson, Tammy Stevenson, Walter James Peebles, Don Bilinski, Tannis Grimolfson, and Fred H. Stevenson.

MERIL RIVARD

37. Meril Rivard ("Rivard") is a Manitoba resident and at all material times was a client of Spiring. Rivard had a number of accounts with Wellington West, including account number 4A2505 (the "Rivard Trading Account").

38. Rivard had seen media coverage concerning MTS in the fall of 1996. He spoke to a number of relatives suggesting they should purchase MTS Shares. He indicated he was prepared to finance their purchases in full. In the event that they did not want to hold the shares he offered to retain the shares purchased in their name and pay them a profit of \$100 for their full Personal Allotment. If they chose to let him retain a portion of their Personal Allotment, the \$100 payment would be pro-rated.

39. Wellington West provided Rivard with blank PAFs. Rivard provided the PAFs to those persons whose purchase he was financing. They completed the forms, returned them to Rivard who in turn provided the completed forms to Wellington West. In total, Rivard returned 34 forms to Wellington West for the following individuals:

Dennis Kolly, Derrick Kolly, Jennifer Kolly, Louis Kolly, Lucille Kolly, Rose Kolly, Stephanie Kolly, Billie Laxdal, Robert Laxdal, Tania Laxdal, Catherine Rideout, Celine Rivard, Claire Rivard, Patrick Rivard, Pauline Rivard-Rey, Garry Toews, Adam Warelis, Jocelyne Warelis,

Larry Warelis, Lindsay Warelis, Leonard Baumgartner, Barbara Bertrand, Rene Bertrand, Susan Cepanec, Norman Chabot, Alan Edmondson, Lori Edmondson, David Gudmundson, Daniel Holpainen, Shirley Jesso, Blair Johnson, Adrien Kolly, Amy Kolly, and Carli-Anne Kolly (collectively, the "Rivard Group").

40. Spiring did not obtain any written form of trading authorization from the members of the Rivard Group granting Rivard authority to provide trading instructions on their behalf.

41. On January 6, 1997 Rivard provided Wellington West with cheque number 1779 drawn on the Royal Bank of Canada dated January 6, 1997 in the amount of \$493,990.00 which was deposited to the Rivard Trading Account.

42. On January 7, 1997, 69,730 Instalment Receipts were purchased through the Rivard Trading Account for a total consideration of \$488,110.00.

43. Between January 9, 1997 and January 20, 1997 Rivard issued cheques to members of the Rivard Group for their guaranteed profits, and in no instance did the payment exceed \$100.00

44. Rivard gave instructions to sell 30,000 Instalment Receipts for a total consideration of \$242,605.00. On January 16, 1997 7,900 Instalment Receipts were sold at \$8.15 each for net proceeds of \$63,595.00 after commissions paid to Wellington West. On January 17, 1997 7,100 Instalment Receipts were sold at \$8.20 each for net proceeds of \$57,510.00 after commissions paid to Wellington West. On January 20, 1997 15,000 Instalment Receipts were sold at \$8.20 each for net proceeds of \$121,500.00 after commissions paid to Wellington West.

45. Rivard transferred 3,213 Instalment Receipts to self-directed registered retirement savings plan accounts held with Wellington West: 1,785 Instalment Receipts to Rivard's self directed RSP, Account number A42505S and 1,428 to account number A42504S. Rivard retained the balance of 36,517 Instalment Receipts in the Rivard Trading Account.

STAN BARDAL

46. Stan Bardal ("Bardal") is a Manitoba resident and was at all material times a client of Spiring. Bardal had an account with Wellington West, account number 4A0058, which was used as a trading account (the "Bardal Account").

47. Bardal first heard of the proposed MTS Offering through media reports. In discussions with Spiring, Bardal expressed a strong interest in purchasing MTS Shares when they became available.

48. Bardal believed that the MTS Offering would be a good opportunity. He approached a number of persons including friends, employees and business associates about investing. He advised the persons he approached that he would loan them the money to purchase their Personal Allotment. Bardal would make all decisions concerning how to handle the shares and would reinvest the profits from the sale of MTS Shares in other securities. Bardal would have the sole discretion in dealing with the MTS Shares or other securities. All purchases would be made

through the Bardal Account to ensure Bardal maintained sole control over the MTS Shares or other securities.

49. Bardal approached the following investors: Darcy Bodnaryk, Pat Coutu, Mike Siwack, Bob Swan, Roger De Guelde, Denise De Guelde, Bill Gladstone, Janet Hansen, Wayne Hargrave, Joe Haywood, Jim Johanson, Walter Kassian, Richard Konowalchuk, Gabe Kovacs, Richard Le Clair, Jeff Mead, Ken Moore, Lorna Moore, Jim Reynolds, Carlos Simao, Garth Somers, Kelly Thomas, Wendy Thomas, and Jim Whaphem (the "Bardal Group").

50. Each Member of the Bardal Group either completed or had completed for them a PAF, a New Account Form which designated the Bardal Account as their own trading account, and a letter directing Wellington West that they wished to purchase the full allotment of MTS Shares. In most instances, suitability information recorded on the New Account Form was inconsistent with that noted on the PAF. The declaration confirming the accuracy of the information recorded on the PAF was in each case executed in Spiring's name with Spiring's authorization.

51. On January 7, 1997 40,000 Instalment Receipts were purchased in the Bardal Account for a total consideration of \$280,000.00. At the time of the purchase, there was only \$1,497.90 cash in the Bardal Account. On January 10, 1997 80,000 shares of Aurex Resources at \$0.37 per share and 105,500 shares of St. Genevieve Resources at \$1.32 per share were sold for a total consideration of \$168,460.00, sufficient proceeds to meet margin requirements for the account as required by the Investment Dealer Association.

52. On January 13, 1997 40,000 Instalment Receipts were sold from the Bardal Account at \$8.05 per Instalment Receipt for total proceeds after commission of \$314,000.00.

53. On January 15, 1997 80,000 shares of Aurex Resources Corporation at \$0.385 per share and 105,500 shares of St. Genevieve Resources Limited at \$1.34 per share (total consideration of \$172,570.00) were purchased in the Bardal Account. On January 17, 1997 30,000 shares of Central Asia Goldfields was purchased for a total consideration of \$30,750 in the Bardal Account leaving a cash balance in the Bardal Account, after interest charges, of \$437.84 as of January 31, 1997.

54. No members of the Bardal Group have received any proceeds from the sale of Instalment Receipts nor were they ever consulted concerning use of the proceeds.

C. ALLEGATIONS

1. Staff of the Commission allege that with respect to Spiring's dealings with Barrett, Spiring acted improperly and contrary to the public interest in that:

(a) Spiring provided to, or arranged for the provision to, Barrett of blank Wellington West New Account Application Forms with instructions on how to complete same so that Barrett could approach Manitoba residents for the purpose of performing acts in furtherance of trades when he knew or ought to have known Barrett was not registered to trade in securities.

(b) Spiring recorded or authorized the recording of incorrect suitability information on the PAF for certain members of the Barrett Group.

(c) Spiring permitted the purchase and sale of securities in the Barrett Trading Account for persons other than Barrett.

(d) Spiring permitted the purchase and sale of securities on Barrett's instructions alone when he believed those securities to be owned by persons other than Barrett in the Barrett Account without having obtained or recorded the authorization of members of the Barrett Group appointing Barrett as a person to give trading instructions on their behalf.

(e) Spiring loaned \$268,000.00 to Barrett for the purpose of financing the purchase of Instalment Receipts without disclosing Spiring was the source of the funds.

2. Staff of the Commission allege that with respect to Spiring's dealings with Rivard, Spiring acted improperly and contrary to the public interest in that:

(a) Spiring provided to, or arranged for the provision to, Rivard of blank PAFS with instructions on how to complete same so that Rivard could approach Manitoba residents for the purpose of performing acts in furtherance of trades when he knew or ought to have known Rivard was not registered to trade in securities.

(b) Spiring recorded or authorized the recording of incorrect suitability information on the PAF for certain members of the Rivard Group.

(c) Spiring permitted the purchase and sale of securities in the Rivard Trading Account for persons other than Rivard.

(d) Spiring permitted the purchase and sale of securities on Rivard's instructions alone when he believed those securities to be owned by persons other than Rivard in the Rivard Trading Account without having obtained or recorded the authorization of members of the Rivard Group appointing Rivard as a person to give trading instructions on their behalf.

3. Staff of the Commission allege that with respect to Spiring's dealings with Bardal, Spiring acted improperly and contrary to the public interest in that:

(a) Spiring provided to, or arranged for the provision to, Bardal Group members blank PAFS with instructions on how to complete same so that Bardal could approach Manitoba residents for the purpose of performing acts in furtherance of trades when he knew or ought to have known Bardal was not registered to trade in securities.

(b) Spiring recorded or authorized the recording of incorrect suitability information on the PAF for certain members of the Bardal Group.

(c) Spiring permitted the purchase and sale of securities in the Bardal Trading Account for persons other than Bardal.

(d) Spiring permitted the purchase and sale of securities on Bardal's instructions alone when he believed those securities to be owned by persons other than Bardal in the Bardal Trading Account without having obtained or recorded the authorization of members of the Bardal Group appointing Bardal as a person to give trading instructions on their behalf.

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

DATED at Winnipeg, Manitoba this "24th" day of February, 2000.

"Douglas R. Brown"
Director - Legal

TO: CHARLES DOUGLAS SPIRING