

THE SECURITIES ACT

)

Order No. 3604

)

Section 20

)

December 7, 2001

iPERFORMANCE FUND INC.

WHEREAS:

(A) iPerformance Fund Inc. (the "Issuer") has applied to The Manitoba Securities Commission (the "Commission") for an order pursuant to subsection 20(1) of the *Securities Act*, R.S.M. 1988 c. S50 (the "Act") exempting from sections 6 and 37 of the Act trades in connection with a distribution of securities which closed on September 28, 2001 which was intended to be carried out pursuant to Section 91 of the Securities Regulation.

(B) It has been representing to the Commission by the Issuer that:

1. The Issuer is a corporation incorporated on December 17, 1999 under the *Business Corporations Act* (Alberta).
2. The principal executive office of the Issuer is located in Toronto, Ontario.
3. The authorized share capital of the Issuer consists of an unlimited number of common shares (the "Common Shares") and an unlimited number of first preferred shares (the "First Preferred Shares") of which 21,725,016 Common Shares and 7,000,000 First Preferred Shares, Series A were issued and outstanding as of October 26, 2001.
4. The outstanding Common Shares currently trade on The Canadian Venture Exchange ("CDNX") under the trading symbol "IPR" and have been listed on CDNX since August 8, 2000.
5. The Issuer became a reporting issuer in the Province of Alberta under the *Securities Act* (Alberta) (the "Alberta Act") on July 12, 2000 and in the Province of British Columbia under the *Securities Act* (British Columbia) (the "B.C. Act") on July 12, 2000. The Issuer has made application to the Ontario Securities Commission to become a reporting issuer in such province, as required by section 19.2 of CDNX Policy 3.1.
6. The Issuer is not on the lists of defaulting reporting issuers maintained pursuant to section 113 of the Alberta Act or section 77 of the B.C. Act.
7. Pursuant to an offering memorandum of the Issuer dated June 29, 2001 (the "Offering Memorandum"), the Issuer proposed to offer for sale to certain members of the public in certain of the provinces of Canada (including

Manitoba), on a private placement basis, a minimum of 2,000,000 and a maximum of 4,400,000 Common Shares at a price of \$0.50 per share (the "Offering"). See prior mark-up. Pursuant to the Offering Memorandum, purchasers in Manitoba were said to be entitled to subscribe for Common Shares pursuant to either subsection 91(b) of the Securities Regulation to the Act (the "Sophisticated Purchaser Exemption") or pursuant to section 90 of the Securities Regulation to the Act.

8. On August 15, 2001, the Issuer obtained conditional approval of the Offering from CDNX.

9. In or about early August, 2001, the Issuer received executed subscription agreements to acquire an aggregate of 200,000 Common Shares pursuant to the offering from three individuals resident in Manitoba, namely, Gordon Wimble, Pina Aiello and Gary Wolfson (collectively, the "Manitoba Purchasers"), who purported to subscribe pursuant to the Sophisticated Purchaser Exemption. Each of the Manitoba Purchasers delivered to the Issuer an executed Form 25. These subscriptions were not accepted by the Issuer until the closing date of the Offering, September 29, 2001 (the "Closing Date").

10. Discussions as to the potential purchases by the Manitoba Purchasers, and acceptance of their subscriptions by the Issuer, occurred prior to the filing with the Commission by the Issuer of a Notice in Form 23. The Notice was not filed by the Issuer due to the inadvertence of legal counsel for the Issuer.

11. Each of the Manitoba Purchasers received a copy of the Offering Memorandum and, within 10 days of the Closing Date, an executed Form 27 report, in duplicate, of the Issuer, together with a completed Form 25 for each Manitoba Purchaser, were filed on behalf of the Issuer with the Commission.

12. Other than the non-filing of the Notice in Form 23, the Offering to the Manitoba Purchasers was conducted in compliance with Manitoba securities law.

(C) In the opinion of the Commission it would not be prejudicial to the public interest to grant the Order requested.

IT IS ORDERED:

1. THAT, pursuant to subsection 20(1) of the Act, trades to the Manitoba Purchasers in the course of the Offering are exempted from sections 6 and 37 of the Act, provided that the Manitoba Purchasers be provided with a copy of this order forthwith and be given 14 days from the date they receive this order to either confirm or rescind in writing the purchaser of Common Shares pursuant to the Offering, a copy of which confirmation or rescission shall be filed with the Commission upon receipt of same by the Issuer.

2. THAT the fee for this order is \$1,000.00.

BY ORDER OF THE COMMISSION

Deputy Director – Legal