

SETTLEMENT AGREEMENT

BETWEEN:

INGRAM JEFFREY ESHUN
-AND
STAFF OF THE MANITOBA SECURITIES COMMISSION

The Manitoba Securities Commission
500 — 400 St. Mary Avenue
Winnipeg, Manitoba
R3C 4K5

SETTLEMENT AGREEMENT

A. INTRODUCTION

By way of Notice of Hearing and a Statement of Allegations (collectively the "Notice of Hearing") of Staff of The Manitoba Securities Commission (the "Commission") notice was given to Ingram Jeffrey Eshun ("Eshun") to consider:

- (a) whether or not it is in the public interest to order, pursuant to subsection 19(5) of the The Securities Act . (the "Act"), that subsections 19(1) and 19(3) of the Act do not apply to Eshun with respect to such of the trades referred to in those sections and that subsection 19(2) of the Act does not apply to Eshun with respect to such of the securities referred to in that section;
- (b) whether or not it is in the public interest to order that Eshun pay an administrative penalty pursuant to Section 148.1 of the Act;
- (c) whether or not it is in the public interest to order that Eshun pay the costs of and incidental to the hearing;
- (d) whether or not it is in the public interest to make any other order or orders.

A.2 Discussions have been held amongst Eshun and Staff of the Commission ("Staff") in an effort to settle all issues in connection with the matters set out in the Notice of Hearing (the "Proceedings") and this Agreement. A Settlement (the "Settlement") has been reached based on the terms and conditions set forth in this Agreement (the "Settlement Agreement").

A.3 Pursuant to the Settlement, Staff agrees to recommend to the Commission that the Proceedings initiated against Eshun be resolved. Eshun consents to the Settlement and to the

making of the Consent Order referred to in subparagraph D.1 below, on the terms and conditions set forth in this Settlement Agreement.

B. STATEMENT OF FACTS

B.1 Eshun agrees with the facts set out in this Part B.

W.H. Stuart

B.2 W.H. Stuart carries on the business as a mutual fund dealer throughout Canada. The head office of W.H. Stuart is located in Toronto, Ontario.

B.3 W.H. Stuart is registered with the Commission as a mutual fund dealer.

Eshun

B.4 At all material times, Eshun was a registered salesperson with W.H. Stuart in Ontario. Eshun is not, and has never been, registered under the Act to trade in securities in Manitoba.

The Pension/RRSP Scheme

B.5 Between 1997 to 2000, Manitoba residents were solicited to convert their locked-in pension accounts and/or registered retirement savings plan holdings (the "Locked-in Funds") into shares of companies and loans (the "Scheme").

B.6 Under the Scheme, shares of Canadian Controlled Private Corporations ("CCPCs") were utilized. CCPCs can constitute a qualified investment for registered retirement savings plans and similar types of registered plans ("RRSPs") provided the requirements prescribed in the *Income Tax Act* and Regulations are met.

B.7 Locked-In Funds would be transferred to a trust company or W.H. Stuart where self-directed RRSP accounts (the "Accounts") would be opened. The Clients were required to sign various documentation, including a new client application form and a letter of direction providing instructions to purchase shares of the CCPC. The documentation was then obtained by the promoter of the Scheme, or individuals acting on their behalf, and forwarded to a trust company and/or W.H. Stuart where the Accounts were opened in the Clients' name.

B.8 Under the Scheme, a registrant would identify himself as the account representative for the Clients.

B.9 Once received, the trust company and/or W.H. Stuart would act on the letter of direction and forward the cash in the Client's Account to the CCPC. Shares for the CCPC were then registered in the name of the trust company and/or W.H. Stuart in trust for the Client.

B.10 The Clients who purchased shares of CCPCs using their Locked-in Funds, would concurrently apply for a loan arranged by the promoter of this Scheme representing a portion of

the purchase price of the CCPCs. The remaining portion of the purchase price would be charged by the promoter of the Scheme as a fee for consultation, processing, membership and pre-payment of interest on the loan made.

B.11 The CCPCs participating in the Scheme were not eligible investments under the *Income Tax Act*, and the Scheme thus facilitated the improper withdrawal of the Locked-in Funds from the Accounts.

B.12 Under the Scheme, Eshun received documentation from the promoter to open Accounts with a trust company for Manitoba residents. Eshun proceeded to review and/or complete this documentation to open Accounts with a trust company for Manitoba residents, including identifying himself as the account representative and W.H. Stuart as the dealer.

B.13 Eshun did not meet, nor have any contact, with the Manitoba residents for whom Accounts were opened with a trust company under the Scheme.

B.14 Eshun forwarded the account opening documentation to W.H. Stuart, who, in turn, forwarded this documentation to a trust company where Accounts were opened for the Manitoba residents.

B.15 Between approximately September 1997 and December 1998, Eshun was involved in opening 27 Accounts for the Manitoba residents with trust companies. Subsequent to these Accounts being opened with the trust companies, Locked in Funds were transferred into the trust company Accounts which were used to purchase CCPCs under the Scheme.

B.16 Once the account opening documentation was sent to the trust company, Eshun had no further involvement in the purchase of the CCPCs through the trust company.

B.17 Eshun received, from time to time, statements from the trust company confirming the account activity for the Manitoba residents where Eshun was listed as the account representative.

B.18 Other than forwarding the account documentation to W.H. Stuart to open an account, Eshun did not participate in, and was not aware of, the Scheme. Eshun did not receive any commissions for the foregoing activity.

1259037 Ontario Inc. and 1343575 Ontario Inc.

B.19 1259037 Ontario Inc. and 1343575 Ontario Inc. are corporations incorporated pursuant to the laws of the Province of Ontario (the "Corporations").

B.20 No preliminary prospectus or prospectus was filed under the Act with respect to the Corporations. The Corporations were used as CCPCs under the Scheme.

B.21 In or about May, 1999, Eshun opened two further Accounts at W.H. Stuart with Manitoba residents. In doing so, he forwarded documentation to W.H. Stuart on behalf of the Manitoba residents, which included:

W.H. Stuart Account Applications.

- Financial Needs and Asset Allocation Surveys.
- W.H. Stuart and Associates Self-Directed Retirement Savings Plan Applications.

B.22 The foregoing documentation was signed by Eshun and listed Eshun as the account representative for the two Manitoba residents, notwithstanding he was not registered under the Act to trade in securities in Manitoba. Eshun did not have any contact or meet with the two Manitoba residents.

B.23 Accounts were opened for the two Manitoba residents by W.H. Stuart and the sums of \$18,750.00 and \$36,350.00 were transferred into their respective W.H. Stuart Accounts.

B.24 Subsequent to the Accounts being opened, the promoter of the Scheme provided W.H. Stuart Letters of Direction for the two Manitoba residents directing W.H. Stuart to use the proceeds of their Account to purchase shares in the Corporations.

B.25 Shares in 1259037 Ontario Inc. were purchased by one of the Manitoba residents through W.H. Stuart, and shares in 1343575 Ontario Inc. were purchased by the other Manitoba resident through W.H. Stuart.

B.26 Eshun did not receive any commissions for the foregoing trades in the Corporations.

B.27 Eshun has made certain representations to Staff as to his current financial situation confirming limited ability to pay the administration penalty referred to herein.

C. ACKNOWLEDGEMENTS BY ESHUN

C.1 Eshun acknowledges and agrees he traded in securities without being registered to do so under the Act and without a prospectus being filed under the Act and that his actions were contrary to the public interest.

D. TERMS OF SETTLEMENT

D.1 Staff seek an Order (the "Consent Order") from the Commission consistent with the terms contained in Section D.2 of this Settlement Agreement, pursuant to the provisions of the Act.

D.2 The Consent Order sought by Staff is as follows:

- (a) that this Settlement Agreement be approved;
- (b) pursuant to subsection 148.1(1) of the Act, Eshun pay an administrative penalty of \$10,000 with a payment of \$1,500 to be paid forthwith and the balance to be paid within 12 months of the approval referred to in paragraph D.2(a).

(c) pursuant to subsection 19(5) of the Act:

- i) subsections 19(1) and 19(3) of the Act do not, with respect to such of the trades referred to in those sections, apply to Eshun; and
- ii) subsection 19(2) of the Act does not, with respect to such securities referred to in that section, apply to Eshun.

E. PROCEDURE

E.1 The approval of this Settlement Agreement shall be sought at a public hearing.

E.2 If this Settlement Agreement is approved by the Commission, and if a Consent Order issues in accordance with this Settlement Agreement, this Settlement Agreement will constitute the entirety of the evidence to be submitted to the Commission in connection with the Proceedings and, upon the making of the order contemplated by this Settlement Agreement, Eshun waives his right to a full hearing and appeal of this matter.

E.3 Notwithstanding any other provision of this Settlement Agreement, if, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the Consent Order referred to in Section D above is not made by the Commission, Staff will be entitled to proceed with whatever steps it is entitled by law to take, including but not restricted to, the commencement of a hearing before the Commission, unaffected by this Settlement Agreement or the settlement discussions. In the event that such steps are taken, Eshun shall have all of the usual rights of a person subject to such proceedings.

E.4 If the Settlement Agreement is not approved or the Consent Order set out in Section D above is not made by the Commission, the terms of this Settlement Agreement shall remain confidential and shall not be raised in this or any other proceeding, and any admissions contained in this Settlement Agreement shall be considered as without prejudice communications and furtherance of settlement discussions which will not be binding upon the parties and which will be inadmissible in any proceeding whatsoever.

E.5 If this Settlement Agreement is approved by the Commission and the Consent Order made upon the terms set out in this Settlement Agreement, this Settlement Agreement will be a public document.

E.6 Eshun agrees that, if this Settlement Agreement is approved by the Commission and the Consent Order is made upon the terms set out in this Settlement Agreement, Eshun will not raise as a basis for attack on the Order this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement, alleged bias, alleged unfairness, or any such other challenges to the validity of the Consent Order.

E.7 Eshun further agrees that if this Settlement Agreement is approved by the Commission and the Consent Order is made upon the terms set out in this Settlement Agreement, he will not make any statements inconsistent with the terms of this Agreement.

Dated at Toronto, Ontario this "11" day of "September", 2006

"Kashif Sher"
Witness

"Ingram J. Eshun"
Ingram Jeffrey Eshun

Dated at Winnipeg, Manitoba this 16 day of November, 2006

STAFF OF THE MANITOBA SECURITIES
COMMISSION
Per: "Douglas R. Brown"