

THE SECURITIES ACT

)

Order No. 3067

)

Section 19(5)

)

September 27, 2000

RICK GORDON LACQUEMENT

WHEREAS:

(A) On June 21st, 2000, The Manitoba Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice") giving notice of its intention to hold a hearing (the "Hearing") to consider whether or not it was in the public interest to grant an order pursuant to subsection 19(5) of The Securities Act (the "Act") with respect to Rick Gordon Lacquement ("Lacquement");

(B) Staff of the Commission and Lacquement entered into a Settlement Agreement (a copy of which is attached as Schedule "A") dated September 25th, 2000 (the "Settlement Agreement"), which proposed settlement of the proceedings initiated by the Notice, subject to the approval of the Commission;

(C) Lacquement has consented to the issuance of this Order and has waived his right to a full hearing;

(D) The Commission has reviewed the Settlement Agreement and is of the opinion that it is in the public interest to make this Order.

IT IS ORDERED:

1. **THAT** the Settlement Agreement, Schedule "A", be and the same is hereby approved.

2. **THAT** pursuant to subsection 19(5) of the Act:

(a) 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 Lacquement; and

(b) subsection 19(2) of the Act does not, with respect to such securities referred to in that section, apply to Lacquement;

for a period of twenty years from the date of this Order.

BY ORDER OF THE COMMISSION

Director, Legal and Enforcement

SETTLEMENT AGREEMENT

Rick Gordon Lacquement

and

The Staff of The Manitoba Securities Commission

The Manitoba Securities Commission
1130 - 405 Broadway
Winnipeg, Manitoba
R3C 3L6

SETTLEMENT AGREEMENT

A. Introduction

A1. On June 21st, 2000, The Manitoba Securities Commission (the "Commission") issued a notice of hearing (the "Notice of Hearing") giving notice of its intention to hold a hearing under *The Securities Act* (the "Act") to consider:

1. whether or not it is in the public interest to order, pursuant to section 19(5) of *The Securities Act* (the "Act"), that:

(a) subsections 19(1) and 19(3) of the Act do not, with respect to such of the trades referred to in those subsections, apply to Rick Gordon Lacquement;

(b) subsection 19(2) of the Act does not, with respect to such securities referred to in that subsection, apply to Rick Gordon Lacquement;

2. whether or not it is in the public interest to order that the respondents, or either of them, pay the costs of and incidental to the hearing;

3. such further and other matters and the making of such further and other orders as the Commission may deem appropriate.

A2. Discussions have been held between the respondent and staff of the Commission ("Staff") in an effort to settle the matters set out in the Notice of Hearing and Statement of Allegations (the "Proceedings"). A settlement (the "Settlement") has been reached based on the terms and conditions set forth in the herein agreement (the "Settlement Agreement").

A3. Pursuant to the Settlement, Staff agrees to recommend to the Commission that the Proceedings initiated against the respondent be resolved and disposed of in accordance with the terms and conditions of this Settlement Agreement as set forth below. The respondent consents to the Settlement and to the making of the consent order referred to in paragraph D. below, on the terms and conditions set forth in this Settlement Agreement.

B2. Statement of Facts

B1. Rick Gordon Lacquement ("Lacquement") was at all material times a resident of Brandon, Manitoba.

B2. Lacquement was first registered under *The Securities Act* (the "Act") as a salesman on December 21, 1992 and remained so registered in the employ of RBC Dominion Securities Inc. ("RBC") until on or about July 24, 1997 at which time his employment with RBC terminated and his Certificate of Registration No. F 030015 (the "Certificate") was suspended.

B3. On June 1, 1998, the Certificate expired.

B4. Lacquement has not been registered under the *Act* since June 1, 1998 and remains unregistered at this time.

B5. At all material times, Lacquement's employer was registered as a Broker & Investment Dealer under the *Act*.

Respecting Mr. D :

B6. Mr. D was first introduced to Lacquement in or about February of 1995.

B7. Mr. D had seen an advertisement for a Government of Ontario Guarantee Strip Bond (the "Bond"). Mr. D was interested in purchasing the Bond as it was guaranteed, had a good rate of return and had a term consistent with his retirement objectives.

B8. Mr. D contacted Lacquement about the Bond.

B9. The Bond was purchased through Lacquement in February of 1995, at a cost of \$99,999.96.

B10. To purchase the Bond, Mr. D borrowed money. Mr. D had not previously borrowed money to purchase such an investment.

B11. Mr. D told Lacquement that the source of the funds for the Bond was borrowed money.

B12. On or about February 8, 1995, in conjunction with the Bond purchase, Lacquement had completed a New Account Application, which specified certain objectives and risk factors, as determined by Lacquement (the "D-KYC Form"). The D-KYC Form was completed at Mr. D's office. The D-KYC Form also showed that Mr. D had past investment experience with stocks, had an account with Richardson Greenshields, had done short-term trading in the past, and had a

spouse earning an income of \$160,000.00. In fact, Mr. D did not have experience with stocks, did not have an account with Richardson Greenshields and had not done short-term trading. In addition, his wife's gross income was only \$60,000.00.

B13. No further investing was done through Lacquement for over a year.

B14. In or about March of 1996, Lacquement contacted Mr. D to recommend the purchase of common stocks.

B15. Mr. D had no prior experience in purchasing common stocks.

B16. Lacquement presented to Mr. D a sheet representing stocks recommended by RBC. Shortly thereafter, Lacquement recommended that Mr. D purchase stock in Dia Met Minerals ("Dia Met"). Lacquement advised that Dia Met was one of the stocks recommended by RBC.

B17. Mr. D told Lacquement of his investment objectives. If Mr. D was going to consider buying stocks, he only wanted stock in companies with real assets and a pretty solid chance of making money – not risky stock. Mr. D. told Lacquement that he wanted to make as much money as possible in as short a time period as possible.

B18. Lacquement advised that Dia Met was trading in the range of \$17 and was anticipated to go to approximately \$25 in the next few months. Lacquement further informed Mr. D that Dia Met's mine would be going into production that fall, that Dia Met was a proven entity with proven reserves and that Dia Met was partners with a major corporation.

B19. Lacquement did not advise that the investment was speculative.

B20. Lacquement further advised Mr. D that Mr. D could purchase up to \$200,000.00 of stock without putting up any money by pledging the \$100,000.00 Bond. At the time, the bond had already been pledged. Mr D. told Lacquement that he would be coming into some money shortly but the money did not come through so Mr. D. needed to borrow on margin.

B21. Mr. D followed the advice of Lacquement.

B22. On or about April 1, 1996, approximately \$192,500.00 worth of Dia Met common shares was purchased. This was the first time Mr. D had purchased common stock.

B23. In conjunction with the purchase of Dia Met, Lacquement requested that Mr. D sign a Margin Agreement. Mr. D complied with the request.

B24. The purchase of Dia Met was done on margin. Prior to this transaction, Mr. D had never purchased on margin.

B25. Mr. D understood that he pledged the stocks he was buying. In the meantime, he understood from Lacquement that interest was to be paid, but that the money for the payment would come out of the margin account.

B26. In April of 1996, Lacquement contacted Mr. D to inform him that the Bond could not be pledged for the purchase of Dia Met as had been done. Mr. D was required to provide payment for the purchase.

B27. On or about April 30, 1996, Mr. D deposited monies in the amount of \$200,000.00 with Lacquement. The monies were required to cover the Dia Met purchase as well as the purchase of stock in Istar Internet Inc. ("Istar"), the latter of which is described below.

B28. Following the Dia Met purchase, Lacquement contacted Mr. D to further recommend additional purchases in other stocks, namely Istar, Canmine, and an herbal company called Chai Na Ta.

B29. As to Istar, Lacquement presented Istar as being recommended by RBC, as the largest internet company in Canada, as having a great future, as being actively traded, and as having a low price. No risk factors were presented.

B30. Based upon Lacquement's recommendation, Mr. D purchased approximately \$189,635.00 worth of Istar stock in early May of 1996.

B31. As to Chai Na Ta, Lacquement presented Chai Na Ta as being recommended by RBC, as being very solid, and as having been profitable in every year of its operation.

B32. Based upon Lacquement's recommendation, Mr. D purchased approximately \$59,000.00 worth of Chai Na Ta stock on or about May 24 of 1996.

B33. As to Canmine, Lacquement presented Canmine as being recommended by RBC, with proven assets being producing mines. In addition, Lacquement guaranteed to Mr. D that there would be assay results announcement in a matter of days.

B34. Based upon the recommendation of Lacquement, Mr. D purchased \$108,500.00 of Canmine in September of 1996.

B35. Following the Canmine purchase, assay results that were only average results were released.

B36. Following the purchases made by Mr. D at the recommendation of Lacquement, the value of the stocks dropped.

B37. Mr. D contacted Lacquement with his concerns as to the drop in value. Lacquement advised Mr. D to hold on. Mr. D followed the advice of Lacquement.

B38. The stocks continued to drop in value resulting in losses to Mr. D. Due to the losses, Mr. D sold the Bond on or about February 3, 1997.

B39. All of the above-described stocks were speculative, of which Mr. D was not made aware by Lacquement. Mr. D had wanted a diversified portfolio but was not aware of the speculative nature of the stocks purchased for him.

B40. None of the above-described stocks had in fact been recommended by RBC.

B41. In or about June of 1996, shares in JNR Resources ("JNR") were purchased through the account of Mr. D. Mr. D and Lacquement had discussed the purchase of the stocks several weeks prior to the purchase.

B42. Mr. D had not provided any specific instructions to Lacquement to purchase JNR.

B43. Upon discovering the purchase of JNR, Mr. D contacted Lacquement.

B44. Lacquement told Mr. D that JNR was speculative, but a good buy, because he was well aware of the party who managed the particular company.

B45. Based upon the assurance of Lacquement, Mr. D agreed to keep the investment. Mr. D also remembered his earlier conversation with Lacquement about JNR stock several weeks prior to its purchase. At this material time, Mr. D was not aware that his other stocks were speculative.

B46. At all material times, Mr. D relied upon Lacquement's expertise, advice and recommendations.

Mr. N :

B47. Mr. N first opened an account with Lacquement in 1993. The account was opened in the name of Mr. N's company.

B48. At the time, Mr. N had no prior experience in stocks. Mr. N had previously invested in rental homes and guaranteed investments.

B49. On or about October 1, 1993, a New Account Application ("N-KYC Form") was completed. The objectives and risk factors were stated on the N-KYC Form as follows:

<u>Objectives</u>		<u>Risk Factors</u>	
Income	70%	Investment Grade	70%
Growth (Long Term)	30%	Good Quality	30%
Growth (Inter Term)	0%	Speculative	0%
Growth (Short Term)	0%	High Risk	0%

B50. The Investment Adviser Comment portion of the N-KYC bore the following comment: "FIXED INCOME VEHICLES. MAYBE SOME GROWTH ORIENTED IN FUTURE." Mr. N wanted to get into stocks slowly. As a percentage of net worth Mr. N's stock portfolio was small.

B51. On or about October 7, 1993, Lacquement recommended to Mr. N a purchase of stock in Kalaway Golf ("Kalaway"), which he described as a good solid company.

B52. Mr. N knew nothing of stocks, was not a risk taker, and did not want to lose any money. Mr. N stressed his lack of experience, these objectives, and his reliance upon Lacquement. Lacquement advised that he could make money for Mr. N.

B53. Based upon the recommendation of Lacquement, in or about October of 1993, \$6,000.00 worth of stock in Kalaway was purchased.

B54. After the initial purchase of Kalaway, Lacquement made further recommendations to purchase additional stock, as follows:

<u>Approximate Date</u>	<u>Stock</u>	<u>Approximate Amount invested</u>
Nov. 3/95	Methanex Corporation	\$ 6,000.00
1997	Anvil Range Mining Corp	\$10,230.00
Jan. 16/97	Canmine Resources Corp	\$10,196.00

B55. Lacquement advised Mr. N that the above stocks were good stocks, in solid companies, which should make money.

B56. Mr. N followed the advice of Lacquement. The above investments were made pursuant to his recommendations.

B57. Borrowed funds were used in order to make some of the investments. Lacquement was not aware that borrowed funds were used by Mr. N to purchase the investments.

B58. Some of the investments made at the recommendation of Lacquement were not investments recommended by RBC. Lacquement acknowledges this is true but that Lacquement did not represent to Mr. N that the recommendations were RBC recommendations.

B59. In respect of the above investments, losses were suffered of approximately \$19,000.00, not including costs associated with borrowed funds.

Mr. C, Mrs. C and Company C (the "C's"):

B60. Mr. C first opened an account with Lacquement in 1994 (the "First C Account"). The account was opened in the name of the company of which Mr. C's wife, Mrs. C, was president and secretary ("Company C "). This was a holding company. Beneficiaries of the account were Mr. and Mrs. C.

B61. Shortly thereafter, two further accounts were opened - one in the name of Mr. C (the "Second C Account") and the second in the name of Mrs. C (the "Third C Account"). Second C Account and Third C Account were both RRSP accounts.

B62. At the time, neither Mr. C nor Mrs. C had any prior experience with investing in stocks. Mr. C had actively traded in mutual funds.

B63. Approximately one year later, a fourth account was opened jointly by Mr. and Mrs. C (the "Joint C Account").

First C Account

B64. As to the First C Account, on or about April 26, 1994, a New Account Application was completed ("C-KYC Form"). The objectives and risk factors were stated on the C-KYC Form as follows:

<u>Objectives</u>		<u>Risk Factors</u>	
Income	0%	Investment Grade	50%
Growth (Long Term)	50%	Good Quality	30%
Growth (Inter Term)	25%	Speculative	20%
Growth (Short Term)	25%	High Risk	0%

B65. Company C transferred mutual fund investments valued at approximately \$75,000.00 into the First C Account. These funds represented all of the money of Company C ("Company C's Monies").

B66. Lacquement recommended that Company C's Monies be invested into a stock called Captive Air International, also known as KIK Tire Technologies Inc. ("Captive"). In so doing, Lacquement advised Mr. C that the stock was trading at \$0.85 and the stocks target was \$2.00 per stock by the end of the year.

B67. Lacquement gave Mr. and Mrs. C several recommendations for a diversified portfolio. Lacquement told the C's to go home and think about investing in Captive and if they were comfortable with it to return the next week to buy Captive stock. The advice to purchase Captive stock by Lacquement was relied upon. From June of 1994 through to October of 1994, a number of purchases of stock in Captive were made.

B68. By early October of 1994 all of Company C's Monies were invested in Captive.

B69. The Captive stock declined in value.

B70. On more than one occasion, Mr. C requested that the stock be sold. On more than one occasion, Lacquement strongly recommended that the stock not be sold as it would be going up in value.

B71. Based upon the reassurances of Lacquement, Company C continued to hold on to the stock until early 1997, at which time Mr. C demanded that the stock be sold.

B72. In or about early March of 1997, the stock was sold for approximately \$14,500.00, resulting in a loss to Company C of approximately \$60,500.00.

Second C Account and Third C Account

B73. As to Second C Account and Third C Account, New Account Applications were completed on or about June 7, 1994, which stated the following:

<u>Objectives</u>		<u>Risk Factors</u>	
Income	25%	Investment Grade	50%
Growth (Long Term)	25%	Good Quality	30%
Growth (Inter Term)	25%	Speculative	20%
Growth (Short Term)	25%	High Risk	0

B74. Mr. C transferred mutual fund investments valued at approximately \$140,000.00 into the Second C Account; Mrs. C transferred mutual fund investments valued at approximately \$80,000.00 into the Third C Account.

B75. All of the above referred to RRSP monies of Mr. and Mrs. C were invested in strip bonds at the recommendation of Lacquement.

B76. In or about October of 1995, Lacquement advised Mr. and Mrs. C they had earned about 20% on the strip bond investments and that it was time to sell.

B77. Lacquement suggested some names of investments into which the strip bond proceeds should be invested.

B78. Lacquement did not identify the investments as being closed ended mutual funds. The C's assumed the investments to be in mutual funds.

B79. Lacquement did not discuss risk factors for the newly recommended investments.

B80. Mr. and Mrs. C relied upon the advice of Lacquement to re-invest the strip bond proceeds. Lacquement made numerous purchases of common stock.

Joint C Account

B81. As to the Joint C Account, on or about June 21, 1995, a New Account Application was completed ("J-KYC Form"). The investment objectives and risk factors were the same as for the Second C Account and Third C Account.

B82. In August of 1995, the Joint C Account was established with the transference in of mutual funds valued at approximately \$100,000.00.

B83. The assets within the Joint C Account continued to be 100% mutual funds until April of 1996.

B84. In April of 1996, Mr. C had an additional sum of approximately \$20,000.00 to invest. Mr. C needed a short-term investment as he would need the monies in the near future.

B85. Lacquement recommended the purchase of Adventure Electronics. Lacquement did tell Mr. C that this was a stock.

B86. Based upon the recommendation of Lacquement, on or about April 30, 1996, \$20,800.00 of stock in Adventure Electronics was purchased through the Joint C Account at a price of \$2.30 per share.

B87. As at April 30, 1996, the assets within the Joint C Account consisted of \$20,800.00 of common shares and \$114,515.62 of mutual funds.

B88. At time of the above-described purchase of Adventure Electronics, except for the investments in the Company C Account, Mr. C understood this purchase to be the first and only investment he and/or his wife had in stock, as opposed to mutual fund investments.

B89. The Adventure Electronics stock declined in value. On or about April 9, 1997, the stock was sold at a loss for \$9,000.00 or \$1.00 per share.

Second C Account and Third C Account

B90. Following the purchase of Adventure Electronics in the Joint C Account, as described above, Mr. C discovered that stock in Adventure Electronics had previously been purchased in his Second C Account and in the Third C Account.

B91. Mr. C further became aware that some of the investments held in the Second C Account and the Third C Account were in common shares, not mutual funds. Many of the shares were in closed ended mutual funds.

The C's:

B92. In general amongst the accounts, investments as recommended by Lacquement, which had been in common shares, were not in fact recommended by Lacquement's employing broker RBC.

C. Acknowledgements

C1. Lacquement acknowledges and agrees that as to Mr. D he:

(a) did not provide adequate disclosure to Mr. D with respect to the risks associated with the particular stocks recommended and the methods by which the stocks were purchased;

(b) recommended investments and strategies and provided investment advice to Mr. D that, in all of the circumstances, including investment knowledge, experience and objectives, age and financial position, were unsuitable;

(c) failed to follow the Know Your Client Rule thereby exposing Mr. D to unsuitable risk;

and that as to Mr. N he:

(a) failed to make recommendations following the Know Your Client Rule thereby exposing Mr. N to unsuitable risk;

and that as to Mr. C, Mrs. C, and/or Company C he:

(a) did not provide adequate disclosure to the C's with respect to the nature of and the risks associated with the investments recommended;

(b) recommended investments and provided investment advice to the C's that, in all of the circumstances, including investment knowledge, experience and objectives, age and financial position, were unsuitable;

(c) failed to make recommendations following the Know Your Client Rule thereby exposing the C's to unsuitable risk;

D. Terms of Settlement

D1. In order to effect a resolution of the issues raised by the Notice of Hearing, Staff and the respondent have entered into this Settlement Agreement. Upon this basis, Staff seek an order (the "Consent Order") from the Commission that:

1. Pursuant to subsection 19(5) of the Act:

(a) subsections 19(1) and 19(3) of the Act do not, with respect to such of the trades referred to in those subsections, apply to Lacquement; and

(b) subsection 19(2) of the Act does not, with respect to such securities referred to in that subsection, apply to Lacquement;

for a period of twenty (20) years from the date of the order.

D2. Lacquement is currently living in Roswell, Georgia. He advises he is married with two small children, ages two and four years. His wife is currently attending school and does not earn any income. Lacquement's income in 1999 was US\$45,000.00. Lacquement has debt in US funds in the aggregate of US\$145,000.00. This includes his mortgage of US\$120,000.00, US\$10,000.00 in credit card debt and US\$5,000 in a student loan. Lacquement also has CDN\$20,000.00 debt in the form of a credit line. In the circumstances, the claim for costs as raised by the Notice of Hearing is abandoned and no order for costs is sought.

E. Procedure for Approval of Settlement

E1. The approval of this Settlement Agreement and the making of the Consent Order set out in this Settlement Agreement shall be sought at a public hearing pursuant to the Notice of Hearing.

E2. Staff and the respondents agree that if this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted to the Commission in connection with the Proceedings and the respondents each for themselves hereby waive their right to a full hearing and appeal of this matter.

E3. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the Consent Order referred to in paragraph D. above is not made by the Commission, Staff will be entitled to proceed with the hearing commenced by the Notice of Hearing unaffected by this Settlement Agreement or the settlement discussions. If this Settlement Agreement is not approved or the Consent Order set out in paragraph D. above is not made by the Commission, the terms of this Settlement Agreement will not be raised in the Proceedings or in any other proceeding.

E4. Staff and the respondents agree 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, this Settlement Agreement will be a public document.

E5. The respondents each for themselves agree that they will not raise in any proceeding this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as a basis for an attack on the Commission's jurisdiction, alleged bias, alleged unfairness or any other challenge that may be available.

DATED at Winnipeg, Manitoba, this 25th day of September, 2000.

Witness

Rick Gordon Lacquement

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

Staff of the Manitoba Securities Commission
per:
Director, Legal and Enforcement