

THE SECURITIES ACT

)

Order No. 2901

)

Section 19(5)

)

May 10, 2000

THOMAS KENNETH PROVAK

WHEREAS:

(A) By Notice of Hearing (the "Notice of Hearing") dated February 23, 2000, The Manitoba Securities Commission (the "Commission") gave notice of its intention to hold a hearing under subsection 19(5) of The Securities Act (the "Act") to consider whether or not it is in the public interest to order, pursuant to subsection 19(5) of the Act, that:

1. 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 Thomas Kenneth Provak ("Provak");
2. subsection 19(2) of the Act does not, with respect to such of the securities referred to in that section, apply to Provak;
3. whether or not it is in the public interest to order that Provak pay the costs of the investigation and hearing in this matter;
4. such further and other matters and the making of such further and other orders as the Commission may deem appropriate.

(B) Provak and staff of the Commission entered into a settlement agreement (the "Settlement Agreement") in which the staff of the Commission, and Provak agreed to a proposed settlement of the proceedings initiated by the Notice of Hearing, subject to the approval of the Commission;

(C) Provak has consented to the issuance of this order and has waived his rights to a full hearing of this matter;

(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 (a copy of which is attached hereto as Appendix "A") be and the same is hereby approved.

2. **THAT**, pursuant to subsection 19(5) of 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 sections, apply to Provak;

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

for 15 years from the date of this Order.

BY ORDER OF THE COMMISSION

Director - Legal

Settlement Agreement

Thomas Kenneth Provak

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 February 23, 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 subsection 19(5) of 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 Thomas Kenneth Provak ("Provak");

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

2. whether it is in the public interest to order that Provak pay the costs of the investigation and Hearing in this matter; and

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 Provak 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 agreement (the "Settlement Agreement").

A3. Pursuant to the Settlement, Staff agrees to recommend to the Commission that the Proceedings initiated against Provak be resolved and disposed of in accordance with the terms and conditions of this Settlement Agreement as set forth below. Provak 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.

B. Statement of Facts

Registration

B1. Provak was registered as a salesman and then as a branch manager under the Act as follows:

1. Provak was registered under the Act as a salesman on August 23, 1989 until March 9, 1995.

2. From May 3, 1995 until March 5, 1999 Provak was registered as a Branch Manager with Fortune Investment Corp. ("Fortune").

3. At Fortune, Provak's registration under the Act was restricted to mutual funds.

4. Provak resigned from Fortune on March 5, 1999.

5. TWC Financial Corp. (TWC) requested the transfer of Provak to Branch Manager on March 8, 1999.

6. The Commission received notice from TWC on April 14, 1999 withdrawing "effective immediately" the TWC request to sponsor the registration of Provak.

7. Provak has not been registered under the Act in any capacity since March 5, 1999.

STATEMENT OF FACTS:

Re: Frank Smid and Susan Smid ("FS" and "SS")

8. FS and SS became Provak's clients February 4, 1998. They had very little investment experience and prior to Provak they had not used an investment adviser.

9. The new client forms that FS and SS signed February 18, 1998 were incomplete at the time they signed the forms. Provak told them he would complete the forms after he left the meeting.
10. SS first invested on February 20, 1998 into Dynamic Dividend DSC mutual fund units. Provak told SS that she would not have to pay fees.
11. The second SS investment was made March 9, 1998 in Global Income Plus DSC mutual fund units.
12. SS did not receive prospectuses from Provak.
13. FS also received investment advice from Provak.
14. Provak told FS that he would not have to pay any fees if he invested with Provak.
15. FS did invest with Provak and did not receive a prospectus from Provak.
16. When FS and SS asked Provak about the acronym DSC on their statements, Provak told them DSC was an office code.
17. FS and SS asked Provak again whether there were fees associated with transfers and redemptions of their accounts. Provak told SS there was not a fee associated with transferring her accounts. Provak wrote FS a cheque for \$107. to cover the cost of transferring his account.
18. SS subsequently learned she would be charged a transfer fee on one of her mutual fund accounts in the amount of \$333. and a charge of about \$100. on the other mutual fund account.

Re: Rudolph Weiser and Susan Weiser ("RW" and "SW")

19. RW and SW met Provak in December 1997 at a Fortune investment seminar. RW and SW had minimal investment experience. They had not previously invested in mutual funds or stocks.
20. Before investing RW and SW discussed with Provak whether there would be fees charged to them for any investments they would make. Provak repeatedly told RW and SW that they would not have to pay any fees.
21. RW invested in Trimark Select Balanced DSC mutual funds on December 15, 1997.
22. On December 23, 1997 SW invested in a Global Income Plus A DSC, a mutual fund. Provak told her she would not have to pay any fees.
23. Provak did not give RW or SW prospectuses.
24. RW and SW asked Provak about the DSC acronym on their statements.

25. Provak explained to RW and SW that DSC was as an insignificant designation and it was not a fee.

26. Prior to August 1998 RW received an account statement for the period of March 31, 1998 to June 30, 1998. The statement showed a 1998 trustee fee of \$80.25 confirming that the fee would be debited to RW's account at the Civic Credit Union on August 17, 1998.

27. On August 17, 1998 the trustee fee was debited to RW's Civic Credit Union account, charging him the \$80.25 trustee fee.

28. RW called Provak to tell him a fee had been charged to his credit union account.

29. Provak told RW the fee charged was a mistake. Provak again told RW that he would take care of the fee. Provak told RW that he might give him a cheque to reimburse him.

30. Provak never reimbursed RW for the \$80.25 trustee fee.

31. SW was charged fees on her December 1997 investment.

32. Sales charges were charged to SW's account because of monthly withdrawals made by SW from her investment. The charges started in May of 1998 and continued every month through to December of 1998.

33. RW and SW asked Provak about the sales charges. Provak told them these charges were errors and that they would be reversed.

34. The charges were not reversed.

59. Provak did not reimburse RW and SW for the fees charged to their accounts.

Re: William Bullman ("WB")

35. WB was a securities client of Provak's prior to Provak becoming a salesman with Fortune.

36. On May 29, 1999 WB signed a form, given to him by Provak, entitled Transfer Authorization for Registered Investments to transfer his mutual fund investments to Maritime Life. The form was incomplete when WB signed it. Provak completed it after WB had signed it.

37. WB did not know that the transfer would involve fees. Provak did not explain to him that fees would be charged to his account.

38. WB incurred \$2,560.62 in fees as a result of the redemption of his mutual fund securities.

Re: Jennie Fletcher ("JF")

39. JF became Provak's client in the spring of 1997. She had very limited investment experience. JF was to receive a lump sum settlement payment September 5, 1997.

40. On September 8, 1997, Provak invested the lump sum settlement payment into Dynamic Partners Fund, a mutual fund.

41. Provak did not provide JF with a prospectus.

42. On several occasions Provak told JF that she would not have to pay any charges or any fees. At no time did Provak tell JF that a deferred sales charge was applicable to transactions in Dynamic Partners Fund.

Re: Richard Chin and Cindy Chin ("RC" and "CC") or ("the C's")

43. RC and CC became Provak's clients in January 1997. They had three investment accounts, one for RC and two for CC.

44. Provak told RC that he would waive the July 1997 trustee fees on their accounts. Provak told RC the first trustee fees RC and CC would have to pay would be in July 1998.

45. On July 23, 1997 RC received trustee fee invoices for all three accounts advising that the C's they would be charged fees. RC asked Provak about the trustee fees. Provak told RC to ignore the fees.

46. Trustee fees were deducted from all three accounts on September 10, 1997. Provak told RC he would arrange to have these trustee fees reversed. The trustee fee charges were not reversed.

47. Provak showed RC the January 8, 1998 statements for RC and CC's accounts' for the year ending December 1997. Provak highlighted what he said were refunds for the 1997 trustee fees. Provak falsely told RC that a portion of the dividends shown on the statements were the trustee fee reimbursements.

48. Provak met with RC in May or June of 1998. Provak falsely told RC that the 1997 trustee fees reimbursement was included in the dividends on the May 25, 1998 statement.

49. RC checked the January 1998 and May 1998 statements. The dividends were only those to which he was ordinarily entitled and did not include a fee refund. RC told Provak. Provak told RC he would contact Fortune head office to arrange for a reimbursement of the 1997 trustee fees for RC and CC.

50. In November 1998, Provak gave RC a personal cheque for the amount of the trustee fees paid by RC and CC for the 1997 trustee fees.

51. Provak never provided RC and CC with prospectuses.

Re: George Braun ("GB")

52. GB became Provak's client in July 1997. GB met Provak when he attended one of Provak's seminars.

53. Provak promised to pay a referral fee to GB for clients referred to Provak if GB transferred his investments to Provak.

54. A referral agreement entitled "Gentlemen's Agreement" dated December 9, 1997 was signed by Provak and GB. GB agrees to refer clients to Provak and Provak agrees to pay GB for the referrals. GB referred 19 clients to Provak. Provak never paid GB any referral fees. GB was not registered to trade in securities.

55. Provak promised GB he would not be charged to transfer his investment account to Provak at Fortune. Provak told GB that the fees would be covered by Fortune.

56. Provak told GB he would not have to pay any charges or fees when he redeemed any of his investments.

57. GB transferred his investments to Provak.

58. GB asked Provak about the redemption fees charged to his account. Provak told GB the fees would be reimbursed to him in the form of dividends at the end of the year.

59. In January 1998, GB received a dividend. Provak wrongly told GB the reimbursement for the redemption fees were included in that dividend payment.

60. GB contacted Trimark, the company that distributed the dividend. Trimark confirmed that the dividend amount did not include any reimbursement for fees paid. When GB confronted Provak about this he told GB that it must be an error and that Fortune would fix it.

61. Provak signed a hand written note dated April 20, 1999. In the note Provak promised to reimburse GB for the amount of the fees charged.

62. Provak did not reimburse GB for the fees.

Re: George Arbez ("GA")

63. GA first invested with Provak in February 1997. Provak told him that there would be no fees charged to his accounts.

64. In 1997, GA saw on his statements that he had been charged fees. He brought these charges to Provak's attention. Provak assured GA that the fees were errors at Fortune's head office and the errors would be rectified.

65. In 1997, Provak issued GA a personal cheque for the 1997 fees charged to GA's account.

66. In 1999, GA noted that fees were again being charged to the accounts.

67. In April 1999, GA requested reimbursement from Provak of \$478. for the fees being charged. Provak responded by email, indicating that he would "cover [GA] as outlined".

68. Provak never paid GA the \$478. to reimburse GA for the fees.

69. GA was aware that Provak had left Fortune in March 1999. At first Provak told GA that he was not registered under the Act to trade in securities. But two or three days later Provak told GA he could trade again through TWC because he was now registered to trade.

Re: Victor Bryll ("VB")

70. VB had invested with Provak prior to 1997 and VB had not paid fees. VB invested with Provak at Fortune when he retired in 1997. VB was under the impression that he would not have to pay fees with Provak at Fortune. Provak did not discuss fees with VB.

71. VB received a trustee fee schedule in June 1998 along with trustee fee invoices for VB's account and his wife's account.

72. VB asked Provak about the charges. VB told Provak he wanted a refund of the fees. Provak told him that Fortune would provide the refund.

73. VB received a \$6,000 cheque from Fortune. VB assumed that it was a reimbursement of the fees. But when VB asked Provak about the redemption, Provak told VB that he had redeemed the \$6,000.

74. Provak did not provide prospectuses to VB.

Re: Sharon Bruce ("SB")

75. SB became Provak's client in mid-1998. SB had previously invested in mutual funds and guaranteed investment certificates ("GIC's"). SB was familiar with the acronym DSC.

76. At their first meeting Provak told her that if she transferred to Fortune, Fortune would cover all of the charges she would incur on the redemption of funds she currently held elsewhere. Provak told her that Fortune would cover all of the transaction fees on any new funds and she could move her funds around as often as she liked and Fortune would cover all of the charges.

77. SB transferred her funds to Fortune in mid-1998.

78. Fees were charged to SB's account on the initial transfer of her investments to Fortune. Provak told SB she would be reimbursed for the fees charged to her accounts and the reimbursements would be reinvested in her accounts. SB saw from her statements the DSC charges were not being reimbursed.

79. In February 1999, Provak told SB that the reimbursements had been made in the form of dividends to her accounts.

80. Provak never reimbursed SB for the charges of redemption fees for the initial transfer and redemption of her accounts.

Re: John Doiron ("JD")

81. JD became client of Provak's prior to Provak becoming employed with Fortune. When Provak moved to Fortune, JD transferred his accounts to Fortune.

82. When JD transferred his accounts to Fortune, Provak told him he would not have to pay any fees. In the past when fees had been charged, Provak told JD the fees had been reimbursed to him in the form of dividends.

83. JD and Provak met May 12, 1999. Provak told JD that a portion of the money he had with Fortune might be better invested in different types of investments. Provak wanted to transfer JD's securities from Dynamic to Maritime Life. Provak did not discuss any fees that might apply to the transfer from Fortune to Maritime Life. JD never asked Provak about any fees because Provak had always told JD that he was being reimbursed for fees in with his dividends.

84. JD transferred his investments to Maritime Life.

85. To effect the transfer, JD signed a Maritime Life Investment Portfolio document. The document was incomplete when JD signed it. JD also signed an incomplete Transfer Authorization for Registered Investments document. JD was never given copies of the incomplete documents he had signed.

86. As a result of the redemption of JD's Fortune account, JD was charged fees.

Re: Alan McMillan ("AM")

87. AM became Provak's client in the spring of 1997.

88. Provak told AM any fees charged to AM in the transfer to Fortune would be reimbursed to him. Provak told AM he would not have to pay any fees, including administrative fees.

89. AM transferred his accounts to Fortune.

90. About six weeks later, AM received confirmation slips showing he had been charged almost \$600. in redemption fees. AM was also charged administrative fees of about \$200.

91. Provak told AM that he would attempt to get the fees reimbursed to AM by Fortune's head office.

92. AM kept after Provak for the refund of the \$800. in fees. Provak told AM he could not give him a cash refund. The reimbursement would have to be in the form of a reinvested dividend.

93. After approximately one year, Provak told AM that \$400. of the fees had been refunded to him in the form of reinvested dividends.

94. AM was charged trustee fees. AM received invoices for the charges. AM did not send in payment of the fees noted on his invoices as Provak had told him that he would not be required to pay any fees.

95. The fees were eventually debited to AM's account.

96. AM had not been reimbursed by Provak for any of the fees.

Re: Lori Gaboury and Pat Gaboury ("LG"and "PG")

97. LG and PG became Provak's clients sometime in the mid-1990's prior to Provak's employment with Fortune. They had not been paying fees with Provak at his prior place of employment.

98. When Provak started working at Fortune, Provak told LG and PG that if they transferred their accounts to Fortune they would not have to pay administration fees or redemption fees.

99. LG and PG transferred their accounts to Fortune.

100. LG started noticing fees being charged sometime in 1998. Fees were charged to LG and PG's accounts.

101. In April 1999 LG asked Provak about the fees. Provak told him that he did not know why the fees had been charged. Provak blamed Fortune. Provak told LG he would straighten it out.

102. Provak did not refund any fees to LG and PG.

Re: Randy Wawryk ("RW")

103. RW became Provak's client in 1997.

104. Provak told RW there would not be fees or charges associated with the transfer of his account from his former investment company to Fortune.

105. RW's accounts were transferred to Fortune.

106. Fees were charged to RW's accounts. RW was also charged trustee fees during the year. RW brought these fees to Provak's attention every week or so. Provak told RW the charges would be covered by Fortune. Provak told RW not to worry about the charges.

107. In September 1997 Provak told RW the reimbursement would occur as a portion of the dividends at the end of the year.

108. In early 1998 RW received a year end investment statement.

109. In early 1998 RW went to Provak's office. RW told Provak he had not been reimbursed \$800. He had only received \$300.-\$400.

110. Provak wrote RW a personal cheque for \$600.-\$700. to reimburse RW for the fees charged to his account.

Re: Jason Seimens ("JS")

111. JS first became Provak's client in either 1996 or 1997.

112. Based on Provak's representations to him, JS agreed to sell his existing shares.

113. JS invested with Provak for about three years. In that time JS had invested in many different mutual funds including Trimark, Dynamic, Skudder and Fidelity. Provak did not provide JS with prospectuses.

Re: Ben Smook and Betty Smook ("BnS" and "ByS")

114. BnS and ByS became Provak's clients in January 1998.

115. Provak assured them there would be no fees of any kind associated with the transfer of their accounts to Fortune or for any redemptions from their accounts.

116. In October 1998 BnS and ByS noticed they were being charged fees. DSC was appearing on their statements. ByS called Dynamic directly. BnS and ByS were informed by Dynamic that DSC meant that there were fees involved with their investment.

117. BnS and ByS told Provak about the fees. Provak said he would arrange for a reimbursement of the fees of approximately \$995. charged to BnS and ByS in 1998.

118. Provak never reimbursed BnS and ByS for the fees charged to their accounts.

Re: Donald Gordon ("DG")

119. DG became Provak's client in or about 1994, prior to Provak's employment with Fortune. DG had a portfolio with Provak, as did his wife, his mother and his daughter.

120. At the end of March 1999 Provak told DG that existing mutual funds could be transferred from Fortune to TWC without redemption fees. They would have the same mutual funds but they would be handled by TWC instead of by Fortune.

121. DG transferred his accounts.

122. Provak told DG that until he got the matter of his registration under the Act resolved, he would be working under Robert Craig who was with TWC.

123. In late April 1999, after Provak was no longer registered under the Act to trade in securities, Provak contacted DG to arrange for a general review of the DG's mutual fund portfolio.

124. Provak met with DG and his wife in mid-May 1999. Provak told DG that he would be looking after their accounts under Robert Craig's direction.

125. DG received a \$5,000. cheque from his mother. She wanted the \$5,000. placed into a mutual fund. DG made out a cheque payable to TWC to deposit it into his mother's securities account to purchase mutual funds. About a week later, DG put a hold on the cheque at the bank and asked Provak to return the cheque.

126. At the same mid-May 1999 meeting, Provak left investment application forms for signatures by DG and his family members in order to transfer five accounts to TWC. Two of the accounts were for DG's wife, one for his daughter, one for his mother and one for himself. The G's were to sign incomplete applications and return them to Provak to be completed.

127. On or around May 27, 1999 DG received news that Provak was having problems with his registration to trade in securities under the Act and DG called Provak to get the cheque payable to TWC returned to him. Provak dropped off the cheque to DG.

Re: William Graham and Cathy Graham ("WG" and "CG")

128. WG and CG became Provak's clients in or around 1991 prior to Provak's employment with Fortune. WG and CG had been purchasing mutual funds.

129. When Provak moved to Fortune, WG and CG transferred their accounts to Fortune. At that time, Provak told them that they would not have to pay any fees. Provak told them there would not be any costs associated with the transfer of their accounts to Fortune.

130. WG and CG were charged trustee fees on their accounts with Fortune.

131. In January 1999, WG asked Provak to draw up a portfolio summary that would show what money WG would be able to access for his upcoming retirement.

132. Also in late April 1999, Provak led WG to believe that his registration issue with the Commission had been resolved. Provak told WG he had rented office space and was working with TWC. WG and CG were led to believe that Provak was registered to trade in securities under the Act and now he could advise them.

Re: Emil Manchulenko ("EM")

133. EM became Provak's client in the spring or summer of 1996.

134. Provak told EM there were no front end, back end or redemption fees of any kind. Provak told EM that he, Provak, gets paid via trailer fees from the fund companies.

135. EM learned that he was charged fees. Provak told EM that he would be reimbursed for the fees.

136. Provak did not reimburse EM for fees charged to his account.

137. Provak did not provide EM with prospectuses.

Re: Marlene Kovacs ("MK")

138. MK became Provak's client in the summer of 1996. She had no previous mutual fund experience. Provak had told her that there would be no front end, back end or redemption fees of any kind.

139. In July 1996, Provak redeemed a R.R.S.P. account of MK's prior to the maturity date and a charge was assessed.

140. Provak assured MK that Fortune would reimburse her.

141. MK was never reimbursed for the fees charged to her account in 1996.

142. In 1998, MK contacted Provak regarding fees that she had been charged. Provak told her that the fees were in error and she would be reimbursed.

143. On April 9, 1999 Provak told MK that part of the fees would not be reimbursed to her and the fees could be used as an income tax deduction.

144. Also on April 9, 1999, Provak gave her a list of fees that were still outstanding and told MK that the money would be put back into her account.

145. On April 15, 1999 Provak told MK the cheque for reimbursement was all ready to do but was not done.

146. When MK asked Provak about the DSC that she saw on her statements, Provak told her that it was an office code and that she should not be concerned with it.

147. Provak did not give MK prospectuses for her investments.

C. Acknowledgements

Provak acknowledges and agrees

Re: Frank Smid and Susan Smid

1. Provak failed to provide his clients with prospectuses at the time of their investments or at any time afterward;
2. Provak acted contrary to the clients' interest by having his clients' sign incomplete documents and then by completing the documents with inaccurate client information; and
3. Provak failed to provide adequate disclosure and provided inaccurate disclosure to his clients with respect to fees and the meaning of deferred sales charges.

Re: Rudolph Weiser and Susan Weiser

1. Provak failed to provide adequate disclosure and provided inaccurate disclosure to his clients with respect to fees and the meaning of deferred sales charges;
2. Provak misrepresented to his clients that fees charged would be reimbursed; and
3. Provak failed to provide his clients with prospectuses at the time of their investments or at any time afterward.

Re: William Bullman

1. Provak failed to provide adequate disclosure to his client with respect to fees; and
2. Provak acted contrary to the client's interest by having his client sign incomplete documents and by completing the documents afterward.

Re: Jennie Fletcher

1. Provak failed to provide his client with a prospectus at the time of the investment or at any time afterward; and
2. Provak failed to provide adequate disclosure and provided inaccurate disclosure to his client with respect to fees.

Re: Richard Chin and Cindy Chin

1. Provak failed to provide his clients with prospectuses at the time of their investments or at any time afterward;

2. Provak failed to provide adequate disclosure and provided inaccurate disclosure to his clients with respect to fees; and
3. Provak misrepresented to his clients that the fees charged had been reimbursed in the form of dividends.

Re: George Braun

1. Provak failed to provide adequate disclosure and provided inaccurate disclosure to his client with respect to fees;
2. Provak misrepresented to his client that the fees charged had been reimbursed in the form of dividends;
3. Provak misrepresented to his client that he would be reimbursed for fees charged; and
4. Provak agreed to pay commissions for client referrals to GB, his client, who was not registered to trade in securities.

Re: George Arbez

1. Provak provided false information to his client respecting his registration status under the Act;
2. Provak failed to provide adequate disclosure and provided inaccurate disclosure to his client with respect to fees; and
3. Provak misrepresented to his client that the fees charged would be reimbursed.

Re: Victor Bryll

1. Provak failed to provide his client with prospectuses at the time of the investments or at any time afterward;
2. Provak failed to provide adequate disclosure and provided inaccurate disclosure to his client with respect to fees; and
3. Provak misrepresented to his client that he would be reimbursed for fees charged.

Re: Sharon Bruce

1. Provak provided inadequate disclosure and provided inaccurate disclosure to his client respect to fees; and

2. Provak misrepresented to his client that she would be reimbursed for fees charged.

Re: John Doiron

1. Provak failed to provide adequate disclosure to his client with respect to fees; and
2. Provak acted contrary to the client's interest by having his client sign incomplete documents and then by completing the documents afterward.

Re: Alan McMillan

1. Provak failed to provide adequate disclosure and provided inaccurate disclosure to his client with respect to fees;
2. Provak misrepresented to his client that fees charged would be reimbursed; and
3. Provak misrepresented to his client that fees charged had been reimbursed.

Re: Lori Gaboury and Pat Gaboury

1. Provak failed to provide adequate disclosure and provided inaccurate disclosure to his clients' with respect to fees; and
2. Provak misrepresented to his clients' that fees charged would be reimbursed.

Re: Randy Wawryk

1. Provak failed to provide adequate disclosure and provided inaccurate disclosure to his client with respect to fees; and
2. Provak misrepresented to his client that fees charged would be reimbursed in the form of a dividend payment.

Re: Jason Siemens

1. Provak failed to provide his client with prospectuses at the time of the investments or at any time afterward.

Re: Ben Smook and Betty Smook

1. Provak failed to provide adequate disclosure and provided inaccurate disclosure to his clients with respect to fees; and
2. Provak misrepresented to his clients that the fees charged would be reimbursed.

Re: Donald Gordon

1. Provak provided false information to his clients leading him to believe that Provak could trade in securities under the supervision of someone who was registered to trade in securities under section 6 of the Act; and
2. Provak acted contrary to the client's interest by having his client sign incomplete documents.

Re: William Graham and Cathy Graham

1. Provak provided false information to his client with respect to his registration status under the Act; and
2. Provak provided inadequate disclosure and provided inaccurate disclosure to his clients with respect to fees.

Re: Emil Manchulenko

1. Provak failed to provide adequate disclosure and provided inaccurate disclosure with respect to fees;
2. Provak misrepresented to his client that fees charged would be reimbursed; and
3. Provak failed to provide his client with prospectuses at the time of the investments or at any time afterward.

Re: Marlene Kovacs

1. Provak failed to provide his client with prospectuses at the time of the investments or at any time afterward;
2. Provak failed to provide adequate disclosure and provided inaccurate disclosure with respect to fees and the meaning of deferred sales charges; and
3. Provak misrepresented to his client that fees charged would be reimbursed.

D. Terms of Settlement

D1. In order to effect a resolution of the issues raised by the Notice of Hearing, Staff and Provak 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 sections, apply to Provak;
and

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

for 15 years from the date of the Consent Order.

D2. Provak has made certain representations to Staff as to his current financial situation including the loss of his business and the dissolution of his marriage. Based upon the representations, 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 Provak 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 Provak hereby waives his 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 Provak agree that 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.

E5. Provak agrees that he 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 day of April, 2000.

"Kelly Laforte"
Witness

"Thomas Provak"
Thomas Kenneth Provak

DATED at Winnipeg, Manitoba, this "3" day of ~~April~~ "May", 2000.

"Douglas R. Brown"
Staff of The Manitoba Securities Commission
Director, Legal and Enforcement

TO: Thomas Kenneth PROVAK