

THE SECURITIES ACT

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Order No. 2930

)

Section 8(1)

)

May 31, 2000

RICHARD MICHAEL SELLORS

WHEREAS:

(A) On March 2nd, 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, inter alia, whether or not it was in the public interest to suspend or cancel the registration of Richard Michael Sellors ("Sellors") as a salesman under The Securities Act (the "Act");

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

(C) The respondent has consented to the issuance of this Order and has waived his rights 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 section 8(1) of the Act, a written reprimand be placed on Sellors's registration file with the Commission relating to the matters set out in the Settlement Agreement, with a copy of the Settlement Agreement to be attached as Schedule "A" to the reprimand.
3. **THAT** Sellors make a one time payment to the Treasury of the Province of Manitoba in the amount of \$6,000.00, on or before June 30, 2000.
4. **THAT** Sellors pay to the Commission costs in the amount of \$1,000.00 to be paid within seven (7) days of the date of this order.

BY ORDER OF THE COMMISSION

Director, Legal and Enforcement

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Settlement Agreement

Richard Michael Sellors

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 March 2nd, 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 8(1) of The Securities Act (the "Act"), that the registration of Richard Michael Sellors ("Sellors") as a salesman under the Act be suspended or cancelled;
2. 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 Sellors;
 - (b) subsection 19(2) of the Act does not, with respect to such of the securities referred to in that subsection, apply to Sellors;
3. whether or not it is in the public interest to order that Sellors pay the costs of the investigation and the hearing;
4. 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.

B. Statement of Facts

B1. Richard Michael Sellors ("Sellors") was first registered as a salesman under the Act on August 16, 1976.

B2. From October 1, 1989 to October 4, 1995, both inclusive, Sellors was not registered in any capacity under the Act.

B3. From October 5, 1995 to present, Sellors has been registered as follows:

(a) from October 5, 1995 to July 22, 1996 with Standard Life Mutual Funds Limited ("Standard");

(b) from July 22, 1996 to February 18, 1997 with Manulife Securities International Ltd.;

(c) from February 27, 1997 to present with Partners in Planning Financial Services Ltd..

B4. The registration of Sellors under his current Certificate will expire on May 16, 2001, unless renewed.

B5. During the time that Sellors was registered with Standard, he was not authorized to sell Mackenzie Funds.

B6. Sellors & Associates is a business name registered with the Companies Office of the Province of Manitoba since on or about August 18, 1989. R. Michael Sellors Insurance Agencies Limited is a corporation incorporated under the laws of Manitoba and is a partner of the business operating under the name Sellors & Associates. Sellors is a director and the president and secretary of R. Michael Sellors Insurance Agencies Limited.

B7. Steve Bewsky ("Bewsky") was a businessman owning and operating a business (the "Bewsky Business") in the City of Winnipeg, Manitoba.

B8. Prior to 1991, Bewsky had known Sellors for many years, as Sellors had handled the group health, dental, and disability plans for the Bewsky Business. In or about 1991, Sellors also set up

a Registered Retirement Savings Plan for the employees of the Bewsky Business (the "Employee Plan").

B9. In or about 1991 or 1992, Sellors began telling Bewsky that, beyond any contributions to the Employee Plan, Sellors could manage Bewsky's other personal RRSP investments for him. In particular, Sellors advised that he through his business Sellors & Associates could help Bewsky amalgamate his registered guaranteed investments with various institutions and then invest his personal money properly to prepare for retirement.

B10. At the time, Bewsky's investments were guaranteed investments. Bewsky had no prior history of investing in mutual funds prior to receiving advice from Sellors.

B11. Bewsky trusted Sellors and provided him with the particulars of his guaranteed investments.

B12. Bewsky followed the advice of Sellors to have Sellors amalgamate and reinvest his guaranteed investments.

B13. As each guaranteed investment matured, Sellors would contact Bewsky to have Bewsky transfer over the matured monies to Sellors to invest. The monies were reinvested at first only into guaranteed investments and then later on also into segregated and mutual funds.

B14. In 1993, 1994, and 1995, various investments in segregated funds were made for Bewsky through an account managed by Sellors (the "account").

B15. Throughout 1993, 1994, and 1995, Sellors provided to Bewsky computer statements for the account (the "computer statements").

B16. The computer statements inaccurately described the segregated funds as "mutual funds". For his part, Sellors states that the inaccurate description was the result of the software, used to produce the computer statements, which described any variable equity fund as a "mutual fund".

B17. On or about November 17, 1995, Sellors met with Bewsky. Sellors was accompanied by Scott Gillis ("Gillis"), whom Sellors had arranged to also attend the meeting. Gillis had not previously provided investment advice to Bewsky.

B18. At all material times in 1995 and 1996, Gillis was registered to sell Mackenzie mutual funds. Gillis's registration under the Act was from June 16, 1995 to January 28, 1997.

B19. At all material times in 1995 and 1996, Gillis conducted his business in investment products, including mutual funds, from the premises of Sellors & Associates. Commissions received by Gillis from business sourced through Sellors & Associates were split with Sellors pursuant to a business agreement (the "Business Agreement").

B20. At all material times in 1995 and 1996, Sellors was not registered to sell Mackenzie mutual funds.

B21. Bewsky states that Sellors recommended that he invest in the Mackenzie Industrial Income Fund (the "M.I.I.").

B22. Sellors for his part states that during the meeting of November 17, 1995, Gillis made a specific recommendation to invest in the M.I.I. Sellors further states that he told Bewsky that he personally approved of Gillis's recommendation to invest in M.I.I. and that he expressly concurred with the recommendation.

B23. Following the initial meeting of November 1995, through to and inclusive of February 1996, Sellors and Gillis together met with Bewsky on other occasions.

B24. At no time, including the meeting of November 17, 1995, did Gillis meet with Bewsky unaccompanied by Sellors. Gillis states that he considered Sellors to be the primary salesperson to Bewsky.

B25. During the period of November 1995 through to March 1996 inclusive, Bewsky made five investments in M.I.I., in the total purchase amount of approximately \$140,750.00. Bewsky states that in so doing he relied upon Sellors.

B26. Sellors presented to Bewsky for his signature an Application for Investment in M.I.I.. Following the investments in M.I.I., Sellors forwarded to Bewsky statements recording the investments in M.I.I..

B27. As a result of Bewsky's investments in M.I.I., Gillis received commissions from his broker Manulife Securities International Ltd. (the "Gillis Commissions"), whom in turn had received commissions from the Mackenzie Industrial Income Fund.

B28. Sellors received a portion of the Gillis Commissions from Gillis, pursuant to the Business Agreement.

B29. For his part, Sellors states that the amount of commissions received by Sellors, from Bewsky's investments in M.I.I., was approximately \$3,500.00 and was less than what Sellors could have received had the Bewsky investments been placed into segregated funds.

C. Acknowledgements

C1. Sellors acknowledges and agrees that:

(a) He inaccurately described Bewsky's segregated fund investments as mutual funds in the computer statements provided to Bewsky during the years of 1993, 1994, and 1995;

(b) By arranging and participating in the meetings between himself, Bewsky and Gillis, by recommending investing in M.I.I., and by receiving a portion of the Gillis Commissions, he traded in a security without registration, contrary to section 6 of the Act.

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 pursuant to subsection 8(1) of the Act that:

- (a) the Settlement Agreement be approved;
- (b) a written reprimand be placed on Sellors's registration file with the Commission relating to the matters set out in this Settlement Agreement, with a copy of this Settlement Agreement to be attached as Schedule "A" to the reprimand;
- (c) Sellors make a one time payment to the Treasury of the Province of Manitoba in the amount of \$6,000.00, on or before June 30, 2000;
- (d) Sellors pay to the Commission costs in the amount of \$1,000.00 to be paid within seven (7) days of the date of the order.

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 respondent 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 respondent 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 the respondent 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. The respondent 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 "25th" day of May, 2000.

Witness

Richard Michael Sellors

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

Staff of the Manitoba Securities Commission

per:

Director, Legal and Enforcement