

IN THE MATTER OF
THE *SECURITIES ACT*, R.S.N.S. 1989, CHAPTER 418, AS AMENDED ("Act")

- and -

IN THE MATTER OF KEYBASE FINANCIAL GROUP INC.
("Respondent")

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. The parties to this Settlement Agreement ("Agreement") are the Respondent and the Director of Enforcement for the Nova Scotia Securities Commission, Enforcement Branch ("Director of Enforcement").
2. The parties agree that the Nova Scotia Securities Commission ("Commission") has jurisdiction over this matter.
3. The parties agree to recommend to the Commission approval of this Agreement in accordance with the terms and process set out herein.

PART II – PROCEDURE FOR APPROVAL OF THE AGREEMENT

4. The Director of Enforcement agrees to request that a Notice of Hearing be issued setting down a hearing, ("Settlement Hearing") wherein the Commission will consider whether it is in the public interest to approve this Agreement and to issue an Order in the form attached as **Schedule "A"**.
5. The parties agree that the Agreement constitutes the entirety of evidence to be submitted to the Commission at the Settlement Hearing.
6. The Director of Enforcement agrees to recommend that the allegations acknowledged and admitted by the Respondent be resolved and disposed of in accordance with this Agreement.
7. The parties acknowledge that this Agreement will become a public document upon its approval by the Commission at the Settlement Hearing.

PART III – STATEMENT OF AGREED FACTS

8. The Director of Enforcement and the Respondent agree with the facts and conclusions set out in this Part of the Agreement.



9. The Respondent is a mutual fund dealer with its head office located in Markham, Ontario and branch offices in Nova Scotia. The Respondent has been registered with the Commission as a mutual fund dealer since January, 2003.
10. In March 2007, a number of Nova Scotia-based mutual-fund advisors and a manager, Gregory Matthew Duncan ("Duncan"), transferred their registrations from another dealer to Keybase. In conjunction with those transfers, Keybase opened a new branch in Halifax, with sub-branches in Truro and Springhill.
11. Duncan is a resident of Halifax, Nova Scotia.
12. Duncan has held continuous registration with the Commission in the capacity of Dealing Representative since October, 1995 with various mutual fund dealers. In particular, he has been registered as a representative with the Respondent since March 23, 2007.
13. Duncan was also registered with the Commission, in the category of Branch Manager with the Respondent, from September 17, 2008 to May 11, 2009.
14. Beginning in March, 2007, Duncan was the Branch Manager of the Respondent's Halifax branch and the Truro sub-branch.
15. Section 22(2) of the Securities Regulations required Keybase to have the manager of the new Halifax branch approved by the Director of Capital Markets. Duncan acted as manager of the Halifax branch of Keybase upon his transfer in March 2007. While Duncan had previously acted as a manager of a branch of a mutual fund dealer, and was duly qualified to do so, Keybase failed to seek or obtain the approval of the Director for Duncan to act as manager of its new Halifax branch.
16. At all material times, pursuant to section 31(1) of the Securities Regulations, Keybase was required to establish procedures for dealing with its clients that conformed with prudent business practice and that enabled it to service its clients adequately. Furthermore, Keybase was required to take whatever steps were necessary or appropriate to supervise those procedures properly.
17. Further to the above-referenced requirements, Keybase maintained two levels of internal supervision of trading activity. The two levels comprised: (1) supervision by the local branch manager (in the case of the Halifax branch, Duncan); and (2) supervision by qualified persons employed by Keybase and based at Keybase's head office.
18. Where clients of Keybase purchased mutual funds using borrowed money ("Leveraged Investing"), Keybase's compliance policies required that the loan application be approved by both the local branch manager and compliance personnel at Keybase's head office.



19. Keybase had adopted internal guidelines that were intended to limit the use of leverage as an investment strategy by Keybase clients ("the Guidelines"). Pursuant to the Guidelines, there were several factors that limited the availability and amount of leverage that Keybase would facilitate, including: the client's investment knowledge level; the client's investment "time horizon"; the ratio of the amount of the loan to the client's net worth; and the ratio of the loan-servicing cost to the client's income.
20. At all material times, pursuant to section 31(4) of the Securities Regulations, Keybase was required to make enquiries that were appropriate in view of the nature of the client's investment and of the type of transaction being effected for the client's account in order to determine the general investment needs and objectives of each client and the suitability of a proposed purchase or sale for that client.
21. Between March 23, 2007 and September 4, 2007 ("the Relevant Period"), the Respondent employed John Alexander Allen ("Allen") a Dealing Representative who was a party to a separate Commission Settlement Agreement approved on June 29, 2011.
22. During the Relevant Period, Allen submitted for approval a series of at least 43 applications ("the Applications") on behalf of clients seeking investment loans from third-party lenders ("the Lenders"), together with other required and related documents. Without alerting Duncan or any other manager or colleague at Keybase, Allen completed each of the Applications and many of the associated documents in an inaccurate manner, over-stating the client's income, assets, objectives or risk tolerance. Allen's purpose of doing so was to obtain a larger loan – and, thus, investment capital – for the client than would otherwise have been available.
23. During the Relevant Period, Duncan and head-office employees of Keybase reviewed the Applications for compliance with the Guidelines, and approved the Applications for submission to the Lenders.
24. In 32 instances during the Relevant Period, the head-office review was conducted by Elaine Mitchell, an individual who was registered in other provinces, but was not registered with the Commission, contrary to section 31(1)(a) of the Act.
25. In all instances, during the Relevant Period, the Lenders accepted the Applications, advanced funds to accounts in the names of the clients, and Keybase purchased mutual funds on behalf of the clients in those accounts.



26. When reviewing and approving the Applications, the Respondent relied on the third-party lender of the investment loans to determine the credit-worthiness of each client instead of making that determination themselves.
27. During the Relevant Period, the Respondent received approximately \$148,798.00 in commissions in relation to the business conducted by Allen.
28. While Duncan and the head-office compliance personnel involved in reviewing the Applications were unaware that the Applications bore inaccurate information, in several cases, the false information may have been detected through the exercise of a greater level of vigilance by those supervisors to guard against the risk of deliberate falsification of client information. Such additional measures could have included (1) asking Allen for proof of indicated sources of income and assets, and (2) contacting the clients to confirm the accuracy of the indicated investment objectives and risk tolerances.
29. By failing to conduct sufficient inquiries to ensure that the information recorded on the Applications was true, accurate and consistent, the Respondent failed to establish procedures that conform with prudent business practice and enable it to adequately service their clients, thereby violating section 31(1)(a) of the General Securities Regulations, as rep. by Rule 31-801.
30. By failing to conduct sufficient inquiries to ensure the information recorded on the Applications was true, accurate and consistent, the Respondent failed to take whatever steps necessary or appropriate to supervise their procedures properly, thereby violating section 31(1)(b) of the General Securities Regulations, as rep. by Rule 31-801.
31. By relying on the third-party lender of the investment loans to determine the credit-worthiness of each client instead of making that determination themselves, the Respondent failed to make enquiries allowing it to establish the credit-worthiness of each client, thereby violating section 31(4)(a) of the General Securities Regulations, as rep. by Rule 31-801.

PART IV – STATEMENT OF ALLEGATIONS ACKNOWLEDGED AND ADMITTED BY THE RESPONDENT

32. The Respondent admits the facts set forth in Part III herein and acknowledges that it violated Nova Scotia securities laws.
33. The Respondent acknowledges and admits that it violated sections 22(2)(b), 31(1)(a) and (b), and 31(4)(a) of the General Securities Regulations as rep. by Rule 31-801, and section 31(1)(a) of the Act, as rep. by S.N.S. 2008, c. 32, s 6.



34. The Respondent acknowledges that such violations undermine investor confidence in the fairness and efficiency of capital markets in Nova Scotia and are otherwise contrary to the public interest.

PART V – MITIGATING FACTORS

35. In August 2007, Keybase discovered that Allen had been completing some applications in an inaccurate manner. He was terminated. Allen's clients were advised of the fact of his termination, and the reasons for his termination, and were immediately assigned other Keybase advisors.
36. In 2009, Keybase retained an independent monitor to, among other things, assess Keybase's compliance department and implement changes as needed. This included, but was not limited to, reviewing leverage positions.
37. The review, assessment and remedying process was extensive and continued into 2011. In total, Keybase spent approximately \$700,000 paying for the services of the independent monitor to conduct the review and assist with ameliorating its compliance systems.
38. The Respondent acknowledges and accepts responsibility for its conduct which is the subject matter of this Agreement.
39. The Respondent cooperated with the Director of Enforcement's investigation of this matter.

PART VI – TERMS OF SETTLEMENT

40. The terms of settlement are set forth in the Order contained in **Schedule "A"** to this Agreement which is expressly incorporated herein.
41. The Respondent consents to the Order contained in **Schedule "A"**.

PART VII – COMMITMENTS

42. If this Agreement is approved and the Order, as set out in **Schedule "A"**, is granted, the parties agree to waive any right to a full hearing and judicial review and appeal of this matter.
43. If this Agreement is approved by the Commission, the parties will not in any way make any statement, public or otherwise, that is inconsistent with the terms of this Agreement.
44. If this Agreement is approved by the Commission, the Respondent agrees to abide by all terms of this Agreement as set out in the Order attached as **Schedule "A"**.

45. If, for any reason whatsoever, this Agreement is not approved, or the Order set forth in **Schedule "A"** is not granted by the Commission:
- a) The Director of Enforcement and the Respondent will be entitled to proceed to a hearing of the allegations which are the subject matter of this Agreement, unaffected by the Agreement or the settlement negotiations;
 - b) The terms of the Agreement will not be raised in any other proceeding or disclosed to any person except with the written consent of the Director of Enforcement and the Respondent or as may otherwise be required by law; and
 - c) The Respondent agrees that it will not raise in any proceeding the Agreement or the negotiations or process of approval thereof as a basis of any attack or challenge of the Commission's jurisdiction, alleged bias, appearance of bias, alleged unfairness or any other challenge that may otherwise be available.
46. If, in the view of the Director of Enforcement and prior to the approval of this Agreement by the Commission, there are new facts or issues of substantial concern regarding the facts set out in Part III of this Agreement, the Director of Enforcement will be at liberty to withdraw from this Agreement. Notice of such intention will be provided to the Respondent in writing. In the event of such notice being given, the provisions of paragraph 45 in this Part will apply as if this Agreement had not been approved in accordance with the procedures set out herein.

VIII – DISCLOSURE OF SETTLEMENT AGREEMENT

47. The Director of Enforcement or the Respondent may refer to any or all parts of this Agreement as required by the General Rules of Practice and Procedure and in the course of the Settlement Hearing. Otherwise, this Settlement Agreement and its terms will be treated as confidential by all parties to it until approved by the Commission, and forever if, for any reason whatsoever, this settlement is not approved by the Commission.



IX – EXECUTION OF SETTLEMENT AGREEMENT

48. This Agreement may be signed in one or more counterparts that together shall constitute a binding agreement and a facsimile copy of any signature shall be as effective as an original signature.

Dated at Toronto, Ontario, this 2nd day of October, 2012.

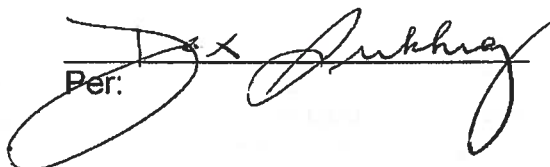
SIGNED, SEALED AND DELIVERED

In the presence of:

Keybase Financial Group Inc.



Witness

Per: 

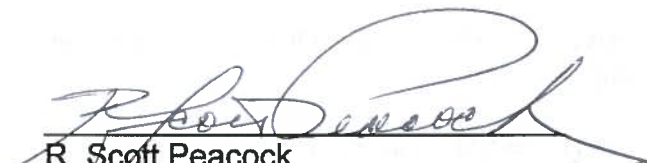
Dated at Halifax, Nova Scotia, this 4th day of October, 2012.

SIGNED, SEALED AND DELIVERED

In the presence of:



Witness



R. Scott Peacock
Director of Enforcement
Nova Scotia Securities Commission
Enforcement Branch

SCHEDULE "A"

IN THE MATTER OF
THE *SECURITIES ACT*, R.S.N.S. 1989, CHAPTER 418, AS AMENDED ("Act")

- and -

IN THE MATTER OF KEYBASE FINANCIAL GROUP INC.
("Respondent")

ORDER

(Sections 134, 135 and 135A)

WHEREAS on _____, 2012 the Nova Scotia Securities Commission ("Commission") issued a Notice of Hearing to the Respondent pursuant to sections 134, 135 and 135A of the Act;

AND WHEREAS the Respondent entered into a Settlement Agreement with the Director of Enforcement for the Nova Scotia Securities Commission, Enforcement Branch ("Director of Enforcement") whereby it agreed to a proposed settlement of the proceeding, subject to the approval of the Commission;

AND WHEREAS the Director of Enforcement recommended approval of the Settlement Agreement;

AND UPON reviewing the Settlement Agreement and the Notice of Hearing, and upon hearing submissions of counsel for the Director of Enforcement and the Respondent;

AND UPON the Commission considering it to be in the public interest to make this Order;

IT IS HEREBY ORDERED that:

1. The Settlement Agreement dated _____, 2012, a copy of which is attached, is approved;
2. Pursuant to section 134(1)(a) of the Act, the Respondent shall comply with Nova Scotia securities laws;
3. Pursuant to section 134(1)(f) of the Act, the registration of the Respondent is subject to the terms and conditions that it shall make a payment in the amount of one hundred forty-eight thousand seven hundred ninety eight dollars (\$148,798.00), within three months of the date of this order;

4. Pursuant to section 134(1)(f) of the Act, the registration of the Respondent is subject to the terms and conditions that it comply with the Mutual Fund Dealers Association MR-0069;
5. Pursuant to section 134(1)(h) of the Act, that the Respondent be reprimanded;
6. Pursuant to section 135 of the Act, the Respondent shall forthwith pay an administrative penalty in the amount of one hundred thousand dollars (\$100,000.00); and
7. Pursuant to section 135A of the Act, the Respondent shall forthwith pay costs in connection with the investigation and conduct of the proceedings before the Commission in the amount of ten thousand dollars (\$10,000.00).

DATED at Halifax, Nova Scotia, this _____ day of _____ 2012.

NOVA SCOTIA SECURITIES COMMISSION



(Chair)