

**IN THE MATTER OF THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA,
ONTARIO, QUÉBEC, NOVA SCOTIA, NEW BRUNSWICK, NEWFOUNDLAND
AND LABRADOR, AND PRINCE EDWARD ISLAND**

- and -

IN THE MATTER OF OPTIONSPRESS, INC.

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. In this settlement agreement (the “Settlement Agreement”), the staffs (the “Staffs” and individually, the “Staff”) of the Securities Regulatory Authorities as defined in National Instrument 14-101 or, in Québec, the Autorité des marchés financiers (collectively, the “Authorities” and individually, the “Authority”) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, New Brunswick, Newfoundland and Labrador, and Prince Edward Island (collectively, the “Jurisdictions” and individually, the “Jurisdiction”), optionsXpress, Inc. (“Options”) and its affiliate optionsXpress Canada Corp./Corporation optionsXpress Canada (“Options Canada”) wish to settle certain issues outstanding between the Authorities and Options.
2. The Staff of the Ontario Securities Commission (“OSC”) have acted throughout the settlement negotiations on behalf of the Staffs with their knowledge and approval.
3. The Staffs each agree to recommend the terms set out in the Settlement Agreement for approval pursuant to the required procedure in each Jurisdiction.

II. AGREED STATEMENT OF FACTS

4. Options acknowledges the following facts as correct:
 - (a) Options is a corporation organized under the laws of Delaware and is registered as a broker-dealer with the United States (“U.S.”) Securities and Exchange Commission in each of the U.S. states;
 - (b) In late 2000, Options began operations as a web-based Internet securities firm from its principal office in Chicago, Illinois;
 - (c) In early 2001, Options started to trade U.S. securities on behalf of residents in the Jurisdictions without being registered in the Jurisdictions;
 - (d) Residents in the Jurisdictions could log-on to the Options website and open an Options account to execute on-line trades of securities listed or traded in the U.S.;
 - (e) The Securities Legislation (as defined in National Instrument 14-101) in each of the Jurisdictions requires a securities firm trading for residents of that Jurisdiction to be registered as a dealer in the category of investment dealer or equivalent in that Jurisdiction. Options is not registered in any capacity in any of the Jurisdictions;
 - (f) All Options accounts are self-directed as Options employees do not offer advice or make recommendations regarding the purchase or sale of securities. Options has no offices or employees in the Jurisdictions, and does not advertise for or otherwise solicit customers in the Jurisdictions;
 - (g) In May 2004, as a result of inquiries by the Authorities, Options stopped opening accounts for residents in the Jurisdictions.

Options has subsequently continued to preclude the opening of accounts by residents in the Jurisdictions pending resolution of this matter and has otherwise co-operated with the Authorities; and

- (h) A summary of accounts opened by Options for residents of the Jurisdictions (the "Accounts"), and gross commissions earned by Options from January 1, 2001 to May 6, 2004 is attached hereto as Schedule "A".

III. MITIGATING FACTORS

- 5. Options represents that in 2001, as a start-up Internet securities firm focussed on its U.S. operations, Options had limited knowledge and experience regarding the regulatory requirements of the Jurisdictions. Options erroneously believed in good faith that its non-solicitation of residents in the Jurisdictions exempted Options from registration requirements in the Jurisdictions.
- 6. The Staffs are not aware of any complaints by Options customers in the Jurisdictions. Options represents that it has not received complaints from any Options customers in the Jurisdictions.

IV. AGREEMENT AND UNDERTAKING BY OPTIONS AND OPTIONS CANADA

- 7. Options and Options Canada each agrees and undertakes as follows:
 - (a) Options agrees to pay to the Authorities the sum of (CDN) \$550,000 in accordance with the Protocol attached hereto as Schedule "B".
 - (b) Options undertakes to seek from each Authority an exemption from registration ("Registration Exemption") until December 31, 2005 in respect of the Accounts pending the registration of its

affiliate Options Canada, as required under the Securities Legislation and more particularly described in paragraph 7(c) below.

- (c) Options Canada will diligently seek membership with the Investment Dealers Association of Canada and registration as a dealer in the category of investment dealer or equivalent in each Jurisdiction with the goal of meeting all requirements to permit registration by December 31, 2005, or such later date as provided in paragraph 9. For greater certainty, neither Options nor Options Canada will be required to open an office in Canada or to employ Canadian residents in connection with such registration. Prior to Options Canada obtaining registration, and subject to the Registration Exemption for Options with respect to the Accounts, Options will comply with all other requirements of the Securities Legislation as though it were registered as a dealer in the category of investment dealer or equivalent in each Jurisdiction, and will not open any new client accounts on behalf of residents of the Jurisdictions.
- (d) During the term of any Registration Exemption, Options and Options Canada will provide information and will co-operate fully with each Authority to which an application for registration has been made in a manner required of a dealer in the category of investment dealer or equivalent in that Jurisdiction.
- (e) After obtaining registration, Options Canada will comply with the Securities Legislation in each Jurisdiction.
- (f) Options and Options Canada consent to an order by the OSC in the form attached hereto as Schedule "C" or to the issuance by other Authorities or, in Québec, the Bureau de décision et de révision en valeurs mobilières (the "Bureau") of substantially equivalent

orders or, where appropriate, to a no-action letter in the form attached hereto as Schedule “D” or substantially equivalent no-action letters.

- (g) Upon approval of the Settlement Agreement, Options and Options Canada each waives any right it may have under the Securities Legislation of the Jurisdictions to a full hearing, hearing and review, judicial review or appeal related to the Settlement Agreement.

V. COMMITMENT BY THE STAFFS

- 8. If the Settlement Agreement is approved by the Authorities and the Bureau in the manner described in paragraph 7(f) above, the Staffs will not initiate any complaint or request that the Authorities or the Bureau hold a hearing or issue any order in respect of any conduct or alleged conduct of Options or any of its affiliates or subsidiaries or the officers, directors, employees or agents of Options or any of its affiliates or subsidiaries in relation to the facts set out in Part II of the Settlement Agreement.
- 9. If the Registration Exemption is granted by the Authorities in the manner described in paragraph 7(b) above, and provided that Options Canada has been diligently seeking registration in the Jurisdictions, the Staffs will not oppose a request from Options to extend the Registration Exemption past December 31, 2005, as reasonably required to complete the registration process.

VI. PROCEDURE FOR APPROVAL OF SETTLEMENT AGREEMENT

- 10. If the Settlement Agreement must be approved by a hearing before an Authority or the Bureau, the Settlement Agreement and, where required, the Registration Exemption application for Options made under paragraph 7(b) above, will constitute the entirety of the evidence to be submitted respecting this matter.

11. If the Settlement Agreement is approved by the Authorities and the Bureau, neither the Staffs nor Options or Options Canada will make any statement inconsistent with the Settlement Agreement.
12. If the Settlement Agreement is not approved by the Authorities and the Bureau in the manner described above in paragraph 7(f), then:
 - (a) The Settlement Agreement, including all discussions and negotiations leading up to its presentation to the Authorities and the Bureau, and all negotiations between the Staff of the OSC, Options and Options Canada concerning proposed settlement terms shall be without prejudice to the Staffs and to Options and Options Canada;
 - (b) The Staffs, Options and Options Canada will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing unaffected by the Settlement Agreement or the settlement negotiations;
 - (c) The terms of the Settlement Agreement will not be referred to or relied upon in any subsequent proceeding, disclosed to any person or put to any use, except with the written consent of the Staff of the OSC, Options and Options Canada, or as may be required by law; and
 - (d) Options and Options Canada each agree that it will not, in any proceeding, refer to or rely upon the Settlement Agreement or the negotiations or process of approval of the Settlement Agreement as the basis for any attack on the jurisdiction of any Authority or the Bureau, alleged bias, appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

VII. DISCLOSURE OF SETTLEMENT AGREEMENT

- 13. The Staffs or counsel for Options and Options Canada may refer to any part or all of the Settlement Agreement during any hearing convened to consider the Settlement Agreement before any Authority or the Bureau. Otherwise, except in connection with the registration applications by Options Canada, the Settlement Agreement and its terms will be treated as confidential by all parties to the Settlement Agreement until approved by the Authorities and the Bureau and, forever, if for any reason the Settlement Agreement is not approved by the Authorities and the Bureau.
- 14. Any obligation as to confidentiality shall terminate upon approval of the Settlement Agreement by the Authorities and the Bureau.

VIII. EXECUTION OF SETTLEMENT AGREEMENT

- 15. The Settlement Agreement may be signed in one or more counterparts, which together shall constitute a binding agreement.
- 16. A facsimile copy of any signature shall be as effective as an original signature.

SIGNED AT CHICAGO, ILLINOIS this day of August, 2005.

Authorized Signatory for optionsXpress,
Inc.

Witness Signature

SIGNED AT CHICAGO, ILLINOIS this day of August, 2005.

Authorized Signatory for optionsXpress
Canada Corp./Corporation optionsXpress
Canada

Witness Signature

SIGNED at Toronto, Ontario on
August , 2005.

Michael Watson, Director, Enforcement
Ontario Securities Commission

SIGNED at Vancouver, British Columbia
on August , 2005.

Brenda M. Leong, Executive Director
British Columbia Securities Commission

SIGNED at Calgary, Alberta on
August , 2005.

John Petch, Director of Enforcement
Alberta Securities Commission

SIGNED at Winnipeg, Manitoba on
August , 2005.

Douglas R. Brown
Director, Legal and Enforcement
Manitoba Securities Commission

SIGNED at Montreal, Québec on
August , 2005.

Richard Perron, Manager of Inquiries
Autorité des marchés financiers

SIGNED at Halifax, Nova Scotia on
August , 2005.

R. Scott Peacock, Deputy Director,
Compliance and Enforcement
Nova Scotia Securities Commission

SIGNED at St. John's, New Brunswick on
August , 2005.

David R. Colwell, Director Enforcement
New Brunswick Securities Commission

SCHEDULE "A"

SUMMARY OF ACCOUNTS & COMMISSIONS

Jurisdiction	Number of Accounts	Commissions Received (\$ CDN)
Ontario	784	\$1,037,525.00
British Columbia	370	\$ 551,500.37
Alberta	173	\$ 270,685.63
Québec	85	\$ 102,715.51
Manitoba	21	\$ 14,411.28
New Brunswick	12	\$ 9,510.53
Nova Scotia	10	\$ 5,378.44
Saskatchewan	10	\$ 9,758.96
Newfoundland & Labrador	1	\$ 359.52
Prince Edward Island	<u>1</u>	<u>\$ 483.18</u>
Totals	1,467	\$2,002,328.42

SCHEDULE “B”

PROTOCOL FOR IMPLEMENTATION OF SETTLEMENT AGREEMENT

1. In this protocol (the “Protocol”), capitalized terms not otherwise defined shall have the meanings ascribed to them in the settlement agreement (the "Settlement Agreement") among optionsXpress, Inc. (“Options”), optionsXpress Canada Corp./Corporation optionsXpress Canada (“Options Canada”), and the staffs (the "Staffs" and individually, the “Staff”) of the Securities Regulatory Authorities as defined in National Instrument 14-101 or, in Québec, the Autorité des marchés financiers (collectively, the "Authorities" and individually, the "Authority") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, New Brunswick, Newfoundland and Labrador, and Prince Edward Island (collectively, the "Jurisdictions" and individually, the "Jurisdiction").
2. When the Settlement Agreement is in agreed form, counsel for Options and Options Canada shall deliver to the Staff of the Ontario Securities Commission (“OSC”) an executed Settlement Agreement together with a certified cheque or bank draft in the amount of (CDN) \$550,000 payable to the OSC, or to the order of the OSC, all of which will be held by the OSC in escrow until released therefrom in accordance with paragraphs 4 or 5, as applicable.
3. Prior to the issuance of any Notice of Hearing in relation to the matters addressed by the Settlement Agreement, the Staff of the OSC will advise counsel for Options and Options Canada in a letter delivered on behalf of the Staffs that:
 - (i) the Authority in each of Alberta, Manitoba, Ontario, Nova Scotia, New Brunswick and, in Québec, the Bureau de décision et de révision en valeurs mobilières (the “Bureau”) will consider the Settlement Agreement at a hearing on a date specified in the letter;
 - (ii) the Executive Director of the Authority in British Columbia has executed the Settlement Agreement and has advised that no further approvals are required from the Authority to implement the terms of the Settlement Agreement; and
 - (iii) the Staff of the OSC has received a letter from the Staffs of the Authority in each of Saskatchewan, Newfoundland and Labrador, and Prince Edward Island, which explicitly adopts the terms of the Settlement Agreement and states that no further approvals are required from the Authority to implement the terms of the Settlement Agreement.

4. The OSC will release from escrow the original executed Settlement Agreement and the certified cheque or bank draft for (CDN) \$550,000 in complete satisfaction of Options' obligations to all Authorities upon acknowledgement by counsel for Options and Options Canada to the Staff of the OSC that such counsel has received from the Staff of the OSC: a receipt from the OSC for the certified cheque or bank draft and the following documentation evidencing approval and implementation of the Settlement Agreement by each of the Authorities :
 - (i) an order issued by the Authority in each of Alberta, Manitoba, Ontario, Nova Scotia, New Brunswick and, in Québec, by the Bureau which approves the Settlement Agreement;
 - (ii) the Settlement Agreement executed by the Executive Director of the Authority in British Columbia; and
 - (iii) the letters contemplated in paragraph 3(iii) above from the Staffs of the Authority in each of Saskatchewan, Newfoundland and Labrador and Prince Edward Island.
5. In the event the Settlement Agreement is not approved by each Authority and the Bureau as outlined in this Protocol, the Staff of the OSC will return the certified cheque or bank draft and the executed Settlement Agreement to counsel for Options and Options Canada forthwith.

SCHEDULE "C"

**IN THE MATTER OF THE *SECURITIES ACT*,
R.S.O. 1990, CHAPTER S. 5, AS AMENDED**

- AND -

IN THE MATTER OF OPTIONSXPRESS, INC.

ORDER

WHEREAS on • , 2005, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the "Act") in respect of optionsXpress, Inc. ("Options");

AND WHEREAS Options entered into a settlement agreement dated August 11, 2005 (the "Settlement Agreement") in which it agreed to a proposed settlement of the proceeding, subject to the approval of the Commission;

AND UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from counsel for Options and from staff of the Commission;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

IT IS HEREBY ORDERED THAT the Settlement Agreement attached to this Order, is approved.

Dated at Toronto, Ontario this • day of • , 2005

SCHEDULE "D"

- , 2005

All Jurisdictions

Attention: Staff of the OSC

Dear Sirs/Mesdames:

Re: In the matter of optionsXpress, Inc.

This is to confirm that the • Securities Commission, having reviewed the terms of the settlement agreement dated August 11, 2005 (the "Settlement Agreement") entered into among optionsXpress, Inc. ("Options"), optionsXpress Canada Corp./Corporation optionsXpress Canada ("Options Canada") and certain provincial securities regulators described in paragraph 1 of the Settlement Agreement, adopts the terms of the Settlement Agreement. No further approvals are required to implement the terms of the Settlement Agreement.

The • Securities Commission will take no action against Options unless Options fails to comply with the terms of the Settlement Agreement. The • Securities Commission relies upon the terms of the Settlement Agreement in settling with Options.

This will also confirm that the • Securities Commission will take no action against Options for non-registration in respect of Options' accounts within this jurisdiction as described in Schedule "A" to the Settlement Agreement provided that Options Canada obtains registration as a dealer in the category of investment dealer or equivalent in • on or before December 31, 2005. Further, the Staff of the • Securities Commission undertake not to oppose a future request by Options to extend this date beyond December 31, 2005, as reasonably required to complete the registration process, provided that Options Canada has diligently been seeking registration in •.

Yours truly,

