

**IN THE MATTER OF THE SECURITIES ACT,  
R.S.N.S. 1989, CHAPTER 418, AS AMENDED (the "Act")  
AND  
IN THE MATTER OF  
CHRISTOPHER JOHN BEVIS (the "Respondent" or "Bevis")**

**Hearing:** September 10, 2004

**Panel:** Kenneth MacAulay, CA - Commission Member

**Counsel:** Mr. R. Scott Peacock - for Commission Staff  
Mr. Brian K. Awad - for the Respondent

**Reasons for Decision**

This proceeding was commenced by a Notice of Hearing (the "Notice") dated September 9, 2004, issued by the Nova Scotia Securities Commission (the "Commission") pursuant to sections 33, 134, 135, 135A and 136A of the Act to consider whether it was in the public interest to approve a settlement agreement (the "Settlement Agreement") entered into between staff of the Commission ("Staff") and the Respondent. A copy of the Settlement Agreement is attached as Appendix "A" to these reasons.

At the commencement of the hearing Mr. Peacock indicated the Notice was provided to Mr. Awad, counsel for the Respondent, in accordance with section 3.3 of the Commission's General Rules of Practice and Procedure. This was confirmed by Mr. Awad.

Mr. Peacock also moved to have the hearing held in camera with members of the public excluded until a decision was made to approve or not approve the Settlement Agreement. Mr. Peacock indicated the Settlement Agreement had been concluded on the basis that it was to be released to members of the public only if and when it was approved by the Commission.

The Commission approved the motion and ordered the hearing to proceed in camera until a decision was made to approve or not approve the Settlement Agreement.

Once the Commission moved to an in camera proceeding, it heard representations from Mr. Peacock on behalf of Staff and Mr. Awad on behalf of Bevis. Both counsel agreed that the Settlement Agreement set forth a full and fair disclosure of all relevant facts and circumstances necessary to resolve the matter. Mr. Awad on behalf of Bevis agreed with Mr. Peacock's submissions and made submissions of his own on his client's behalf.

Following these submissions and a submission from Mr. Bevis, the Commission determined that it was appropriate in the circumstances of the particular matter and in the public interest to approve the Settlement Agreement. At that time the Commission indicated its approval and further indicated the hearing was no longer in camera and members of the public were readmitted to the hearing room.

When the members of the public were readmitted, the Commission gave brief oral reasons for the decision to approve the Settlement Agreement and advised that written reasons would follow.

In this decision the facts stated are those that have been agreed upon by the parties to the Settlement Agreement and found in Part III, paragraphs (2) through (10) inclusive of the Settlement Agreement as set out below. The Commission notes that they are only for the purpose of the settlement hearing and that the facts agreed to here are important to the Commission in its decision to approve or not to approve the Settlement Agreement but do not go to prove any other matter not relevant to this particular settlement hearing.

2. Select Money Strategies Incorporated ( "Select") became a member and Bevis became an Approved Person of the Mutual Fund Dealers Association of Canada (the "M.F.D.A.") on the 16th day of April 2003.
3. During the period from the 18th. day of June 1999 to the 1st. day of June 2004 ("the relevant period" ) Bevis was an associate of Bruce Patrick Schriver ("Schriver") an Approved Person of the M.F.D.A. also employed by Select and was principally responsible for the completion of documentation and the execution of trades for clients of Select as directed by Schriver. Bevis was paid a fixed salary and did not have a book of business of his own.
4. During the relevant period, Select was registered under the Act as a mutual fund dealer and Schriver and Bevis were registered as salespersons of Select.

#### Facts

5. Bevis failed during the relevant period to obtain, record or update adequate Know Your Client information for Thomas Pellerin, Michael

- O'Reilly, Kristene O'Reilly, and Helen MacIntosh and did thereby contravene the provisions of section 31 of the General Securities Rules.
6. Bevis processed the documentation for and executed an order for the sale of securities on the 31st day of May 2001, having received direction from Schriver, and did not obtain the signature of the clients Michael O'Reilly and Kristene O'Reilly on the O'Reilly's redemption form, rather he submitted written trading instructions knowing that the clients' signatures had been cut and pasted from a copy held on the client file and did thereby contravene the provisions of section 61 of the General Securities Rules.
  7. Bevis processed the documentation for and executed orders for the sale and purchase of securities between the 26th day of July 1999 and the 23rd day of June 2003, having received direction from Schriver, and did not obtain the signatures of the clients Helen MacIntosh and James MacIntosh on the MacIntosh's redemption/switch request forms, rather he submitted written trading instructions knowing that the clients' signature had been cut and pasted from a copy held on the clients' file and did thereby contravene the provisions of section 61 of the General Securities Rules.
  8. Bevis processed the documentation for and executed orders for the sale and purchase of securities between the 16th day of March 2000 and the 13th day of September of 2000, having received direction from Schriver, and did not obtain the signatures of the client Thomas Pellerine on Pellerine's redemption/switch request forms, rather he submitted written trading instructions knowing that the client's signature had been cut and pasted from a copy held on the client's file and did thereby contravene the provisions of section 61 of the General Securities Rules.
  9. Bevis processed documents between the 21st day of January 2004 and the 1st day of June 2004 in respect to referral agreements between Bruce P. Schriver Inc. and Portus Alternative Asset Management Inc. ("Portus"). These documents transferred the portfolios of Select's clients to Portus and constituted a violation of M.F.D.A. Rules 1.2.1(d)(vi), 2.1.4 and 2.4.2 in that Bevis failed to address conflict of interest issues, and thereby contravened the provisions of section 30(3) of the Act.
  10. Bevis together with Schriver between the 1st day of June 2004 and the 9th day of August 2004, subsequent to their termination from Select and the deemed suspension of their registration, continued to hold himself out as a registered salesperson on a website, thereby contravening the provisions of section 51 of the Act.

The Commission determined that the sanctions in the Settlement Agreement are in the public interest. The details of the sanctions agreed to in the Settlement Agreement are those set out in the order of the Commission, a copy of which is attached as Appendix "B" to these reasons.

The agreed upon sanctions against Bevis must be assessed in light of the fact he cooperated fully with Staff's investigation.

The Commission turns next to why the sanctions are appropriate and in the public interest. The Commission's mandate is to provide investors with protection from practices and activities that tend to undermine investor confidence in the fairness and efficiency of capital markets and, where it would not be inconsistent with an adequate level of investor protection, to foster the process of capital formation, to quote subsection 1A(1) of the Act.

The decision of the Commission to accept the Settlement Agreement is consistent with the principles used in the Reasons for Decision re. "In the Matter of Bruce Elliott Clarke" dated July 21, 2004 (the "Clarke Decision") and recognizes that "the sanctions available to it under section 134 of the Act are regulatory and they are "not remedial or punitive, but rather are preventative in nature and perspective in application" to quote Le Bel J. in *Cartway Resources Corp.[2004] SCC 26* at para 58. Although LeBel J. was referring to section 127 of the Ontario Securities Act, it is similar in substance to section 134 of the Act" (page 7 of the Clarke Decision).

The Commission believes that the integrity of the marketplace is violated by behavior that serves to undermine investor trust or confidence in the fairness of the capital markets. To the extent that trust or confidence is lost, capital markets become less efficient and impair the process of capital formation.

The Commission recognizes that sanctions imposed by it will consider three criteria:

- they will serve to protect the public interest
- they will be proportionately appropriate
- they may consider mitigating circumstances

Protection of the public interest is best achieved by considering sanctions that provide both deterrence and, if necessary, specific protection to the public from a respondent. The Commission will consider all sanctions available to it in setting an appropriate penalty. Different sanctions have different functions. For example, the imposition of fines by the Commission provides both general deterrence (it serves to protect the public from repetition of the sanctioned behavior by others in similar positions) and specific deterrence (it serves to deter a respondent from repeating the sanctioned behavior). Compulsory education courses, in contrast, are less effective as a general deterrent but more effective in protecting the public from the actions of a specific respondent (by ensuring that, in the future, the respondent is in possession of the appropriate knowledge to act in the public's interest). Suspensions can clearly act as a deterrent or act to provide specific protection to the public from a specific respondent. Thus the Commission deems it appropriate and consistent with previous decisions to consider the following factors to protect the public interest:

- the seriousness of the allegations (*Belteco Holdings Inc. (1998), 21 O.S.C.B. 7743*)

- the restraint any sanction may have on the ability of the respondent to participate without check in the capital markets (*Daniel Duic (2004), 27 O.S.C.B. 2754*)
- previous patterns of behavior to the extent they indicate a propensity to violate a public trust

The Commission also recognizes that the sanctions must be proportionately appropriate. "...This requires us to be satisfied that the proposed sanctions are proportionately appropriate with respect to the circumstances facing the particular respondents. We should not just look at absolute values, e.g. what has been paid voluntarily in other settlements..." (*M.C.J.C. Holdings and Michael Cowpland (2002), 25 O.S.C.B. 1133* quoted on page 6 of the Clarke Decision). Thus the Commission considers it appropriate and consistent with previous decisions to consider the following factors when considering the appropriateness of the sanctions relative to the offence:

- the seriousness of the allegations (*Belteco Holdings Inc. (1998), 21 O.S.C.B. 7743*)
- the size of the profit or size of the loss avoided from the illegal conduct (*Daniel Duic (2004), 27 O.S.C.B. 2754*)
- the effect any sanction may have on the livelihood of the respondent (*Daniel Duic (2004), 27 O.S.C.B. 2754*)
- the respondent's experience in the marketplace (*Belteco Holdings Inc. (1998), 21 O.S.C.B. 7743*)

Finally the Commission recognizes that mitigating factors can play a legitimate role in determining the appropriateness of the sanctions imposed. These are factors which either directly or indirectly impact the protection of the public interest or affect the assessment of the appropriateness of the sanctions relative to the offence. For example, acknowledgement of guilt and cooperation with Staff conserves the Commission's limited resources and benefits the public by allowing these resources to be deployed elsewhere for their protection. Thus the Commission considers it appropriate and consistent with previous decisions to consider the following mitigating factors:

- the acknowledgement of guilt
- the cooperation with Staff
- the remorse shown by the individual (*Daniel Duic (2004), 27 O.S.C.B. 2754*) to the extent that it suggests that the individual is unlikely to violate the Act again
- the shame that the sanction would cost the individual (*Daniel Duic (2004), 27 O.S.C.B. 2754*)

Following a review of the Settlement Agreement in light of the jurisprudence and general principles noted above, the Commission considers the following factors relevant in approving the Settlement Agreement:

- Bevis admits that he breached the securities law and that his conduct was contrary to the public interest;
- Bevis's admissions eliminate the need for a full hearing, and therefore, conserve the resources of the Commission;
- Bevis has agreed to a six month suspension and to complete a Conduct and Practices course prior to applying for registration;

- Bevis recognizes the seriousness of his activities and accepts the consequences; and finally
- Bevis accepts an administrative penalty and agrees to make a payment in respect of costs.

In the circumstances the Settlement Agreement has been approved as being in the public interest and the order, a copy of which is attached hereto as Appendix "B", has been issued.

DATED at Antigonish, Nova Scotia, this 12th day of January, 2005.

“Ken MacAulay”

Kenneth MacAulay, Commission Member

**IN THE MATTER OF THE SECURITIES ACT,  
R.S.N.S. 1989, C. 418, as amended ( “the Act” )**

**-AND-**

**IN THE MATTER OF  
Bruce Patrick Schriver and Christopher John Bevis (the “Respondents”)**

**SETTLEMENT AGREEMENT - CHRISTOPHER JOHN BEVIS ( “BEVIS”)**

**I INTRODUCTION:**

1. By Notice of Hearing dated the 10<sup>TH</sup>. day of August, 2004, as amended by an Amended Notice of Hearing dated the 25<sup>th</sup>. day of August 2004, the Nova Scotia Securities Commission ( the “Commission” ) announced that it proposed to hold a hearing to consider allegations made by Staff of the Commission (“Staff”) as set forth in a Statement of Allegations dated the 9<sup>th</sup>. day of August, 2004, in respect to the Respondents.

And whereas Bevis and Staff have executed this Settlement Agreement; the Commission announced by Notice of Hearing dated the 9<sup>th</sup>.day of September, 2004,( the “Notice of Hearing” ) that it proposed to hold a hearing to consider whether pursuant to sections 33,134,135 and 135A of the Act, in the opinion of the Commission, it is in the public interest for the Commission to:

- a. make an order pursuant to section 135(a)(i) of the Act determining that Christopher John Bevis has contravened the Act or its regulations;
- b. make an order pursuant to section 33(1) of the Act suspending the registration of Bevis for a period of six ( 6 ) months commencing on the 1<sup>st</sup>. day of June 2004 and ending on the 30<sup>th</sup> day of November 2004;
- c. make an order pursuant to section 135(b) that Bevis should pay an administrative penalty in an amount to be determined by the Commission upon hearing Staff of

the Commission, who will recommend an administrative penalty of five thousand dollars (\$5,000.00);

- d. make an order pursuant to section 135A of the Act that Bevis should pay costs in connection with the Staff's investigation and conduct of the proceedings in an amount to be determined by the Commission upon hearing Staff of the Commission, who will recommend an order for costs in the amount of one thousand dollars (\$1,000.00).
- e. make an order pursuant to section 134(1)(c) denying Bevis all of the exemptions to the Act enumerated therein for the period specified in I.1.(b).
- f. pursuant to section 136A of the Act, Bevis is required to provide evidence to the Deputy Directory, Capital Markets of the Commission that he has taken and successfully completed the Conduct and Practices Course set by the Canadian Securities Institute prior to making application for registration under the provision of section 34 of the Act.

## **II JOINT SETTLEMENT RECOMMENDATION**

1. Staff of the Commission ("Staff") agree to recommend settlement of the proceedings initiated in respect of Bevis by the Notice of Hearing dated the 10<sup>th</sup>. day of August, 2004, as amended by an Amended Notice of Hearing dated the 25<sup>th</sup>. day of August, 2004, in accordance with the terms and conditions set out below. Bevis agrees to the settlement on the basis of the facts agreed to as hereinafter provided and the Respondent consents to the making of an Order in the form attached as Schedule "A" on the basis of the facts set out below in respect to the violation of the Act and the General Securities Rules.
2. This settlement agreement including the attached Schedule "A" (collectively the "Settlement Agreement"), will be released to the public only if and when the settlement is approved by the Commission.



### **III SETTLEMENT OF FACTS AND CONCLUSIONS**

#### **Acknowledgment**

1. Staff and Bevis agree with the facts and conclusions set out in Part III of the Settlement Agreement.

#### **Introduction**

2. Select Money Strategies Incorporated ( "Select") became a member and Bevis became an Approved Person of the Mutual Fund Dealers Association of Canada ( the "M.F.D.A." ) on the 16<sup>th</sup>. day of April 2003.
3. During the period from the 18<sup>th</sup>. day of June 1999 to the 1<sup>st</sup>. day of June 2004 ( "the relevant period" ) Bevis was an associate of Bruce Patrick Schriver ( "Schriver" ) an Approved Person of the M.F.D.A. also employed by Select and was principally responsible for the completion of documentation and the execution of trades for clients of Select as directed by Schriver. Bevis was paid a fixed salary and did not have a book of business of his own.
4. During the relevant period, Select was registered under the Act as a mutual fund dealer and Schriver and Bevis were registered as salespersons of Select.

#### **Facts**

5. Bevis failed during the relevant period to obtain, record or update adequate Know Your Client information for Thomas Pellerin, Michael O'Reilly, Kristene O'Reilly, and Helen MacIntosh and did thereby contravene the provisions of section 31 of the General Securities Rules.
6. Bevis processed the documentation for and executed an order for the sale of securities on the 31<sup>st</sup>. day of May 2001, having received direction from Schriver,

and did not obtain the signature of the clients Michael O'Reilly and Kristene O'Reilly on the O'Reilly's redemption form, rather he submitted trading instructions knowing that the client's signatures had been cut and pasted from a copy held on the client file and did thereby contravene the provisions of section 61 of the General Securities Rules.

7. Bevis processed the documentation for and executed orders for the sale and purchase of securities between the 26<sup>th</sup>. day of July 1999 and the 23<sup>rd</sup>. day of June 2003, having received direction from Schriver, and did not obtain the signatures of the clients Helen MacIntosh and James MacIntosh on the MacIntosh's redemption/switch request forms, rather he submitted written trading instructions knowing that the client's signature had been cut and pasted from a copy held on the clients' file and did thereby contravene the provisions of section 61 of the General Securities Rules.
8. Bevis processed the documentation for and executed orders for the sale and purchase of securities between the 16<sup>th</sup>. day of March 2000 and the 13<sup>th</sup>. day of September of 2000, having received direction from Schriver, and did not obtain the signatures of the client Thomas Pellerine on Pellerine's redemption/switch request forms, rather he submitted written trading instructions knowing that the client's signature had been cut and pasted from a copy held on the client's file and did thereby contravene the provisions of section 61 of the General Securities Rules.
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10. Bevis together with Schriver between the 1<sup>st</sup>. day of June 2004 and the 9<sup>th</sup>. day of August 2004, subsequent to their termination from Select and the deemed suspension of their registration, continued to hold himself out as a registered salesperson on a website, thereby contravening the provisions of section 51 of the Act.

### **Conduct Contrary to the Public Interest**

- 11.. In summary, during the relevant period, Bevis violated provisions of the Act and General Securities Rules and engaged in conduct contrary to the public interest. In that he failed to deal fairly, honestly or in good faith with his clients and failed to comply with the by-laws, rules ,regulations and policies of the M.F.D.A. as described above.

#### **IV POSITION OF BEVIS**

1. Bevis states and it is acknowledged by Staff that he cooperated throughout the investigation by Staff and provided statements when requested, and further by entering into this Settlement Agreement has acknowledged his violation of the Act and General Securities Rules and has saved Staff and the Commission expense and time.
2. Bevis believed that it was accepted procedure at Select that trading instructions did not require an original client signature, that oral instructions and a “signature on file” were adequate. Bevis believed that the practice was permitted as a convenience to clients and equivalent to having a limited trading authority from the client.

#### **V TERMS OF SETTLEMENT**

1. Bevis admits the allegations set forth in the Statement of Allegations of Staff dated the 9<sup>th</sup>. day of August, 2004 and acknowledges his violation of the Act and General Securities Rules.

#### **VI STAFF COMMITMENT**

1. If this Settlement Agreement is approved by the Commission, Staff will not initiate any further complaint to the Commission in respect to conduct of Bevis that is currently known to Staff during the relevant period in accordance with the procedures described herein and such further procedures as may be agreed upon between Staff and Bevis.

2. If this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted respecting Bevis in this matter and Bevis agrees to waive any right to a full hearing and all appeals of this matter under the Act.
3. If this Settlement Agreement is approved by the Commission, the parties to this Settlement Agreement will not make any statement that is inconsistent with this Settlement Agreement.
4. If, for any reason whatsoever, this settlement is not approved by the Commission, or the order set forth in Schedule "A" is not made by the Commission:
  - (a) Each of Staff and Bevis will be entitled to proceed to a hearing of the allegations in the Notice of Hearing unaffected by the Settlement Agreement or the settlement negotiations; and
  - (b) Bevis agrees that he will not raise in any proceeding the Settlement 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.
5. If, prior to the approval of this Settlement Agreement by the Commission, there are new facts or issues of substantial concern, in the view of Staff, regarding the facts set out in Part III of this Settlement Agreement, Staff will be at liberty to withdraw from this Settlement Agreement. Notice of such intention will be provided to Bevis in writing. In the event of such notice being given, the provisions of paragraph 4 in this part will apply as if this Settlement Agreement had not been approved in accordance with the procedures set out herein.

#### **VIII DISCLOSURE OF SETTLEMENT AGREEMENT**

1. Staff or Bevis may refer to any part or all of this Settlement Agreement in the course of the hearing convened to consider this agreement. Otherwise, this

Settlement Agreement and its terms will be treated as confidential by all the parties to the Settlement Agreement 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**

1. This Settlement 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** this 10th. day of September, 2004.

**Signed in the presence of:**

**“Brian K. Awad”**

**“C. Bevis”**

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( **Witness** )

Christopher John Bevis

**Dated** this 10th. day of September, 2004.

**Staff of the Commission**

**“R. Scott Peacock”**

**Per:** \_\_\_\_\_

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