

**THE QUEEN'S BENCH
Winnipeg Centre**

BETWEEN:

THE MANITOBA SECURITIES COMMISSION,

Applicant,

– and –

CROCUS INVESTMENT FUND,

Respondent.

**RECEIVER'S REPORT NO. 10
DATED: November 10, 2008**

DELOITTE & TOUCHE INC.
Receiver and Manager of
CROCUS INVESTMENT FUND
2300 - 360 Main Street
Winnipeg, Manitoba
R3C 3Z3

Telephone: (204) 942-0051

**THE QUEEN'S BENCH
Winnipeg Centre**

BETWEEN:

THE MANITOBA SECURITIES COMMISSION,

Applicant,

– and –

CROCUS INVESTMENT FUND,

Respondent.

RECEIVER'S REPORT NO. 10

1. Deloitte & Touche Inc. was appointed Receiver and Manager of Crocus Investment Fund (hereinafter "Crocus") on June 28, 2005. The appointment was continued on July 13, 2005. Attached hereto and marked as Appendices "A" and "B" are true copies of the said Orders.

2. Crocus is a company that was incorporated by statute in 1992 pursuant to *The Manitoba Employee Ownership Fund Corporation Act*. Over time, that Act was ultimately replaced with *The Crocus Investment Fund Act*.

3. The objects of Crocus as of the date of the Receivership were restricted to the operation of an investment fund that would make investments in qualified Manitoba business entities. Crocus therefore solicited funds from the public. At the date of Receivership, there were 33,363 Class A shareholders of the fund.

4. Since the date of the Receivership, the Receiver has been involved in attempting to divest itself of many of its interests in various investments. It still retains an interest in eighteen (18) investments.

5. As a result of its efforts, the Receiver is in possession of a large quantity of funds. The amount of cash and equivalents available to it as of September 30, 2008 was approximately \$64.4 million.

6. In March 2006, the Receiver made application to this Honourable Court for authority to distribute funds to shareholders. At that time, the Court did not provide authority in the face of objections by individuals and companies who claimed indemnities from Crocus. One of the major concerns was the existence of a class action which on its face was claiming over one hundred million dollars from a number of defendants, some of whom claimed indemnities from Crocus. The former officers and directors of Crocus were amongst those claiming indemnity. Attached hereto and marked as Appendix "C" is a true copy of the Amended Amended Statement of Claim.

7. Significant efforts have been made by the Class Action Plaintiffs and the Defendants to resolve the class action. In the case of the Defendant the Province of Manitoba and the Defendant Nesbitt Burns Inc., settlements have been reached. Attached as Appendices "D", "E" and "F", respectively, is a true copy of the Order of Mr. Justice Hanssen approving the settlement with the Province of Manitoba, a copy of the settlement agreement reached with the Defendant Nesbitt Burns Inc., and a copy of the Order updating the form of notice approved in the settlement with the Defendant the Province of Manitoba and the Defendant Nesbitt Burns Inc.

8. Tentative settlements were also made between the Class Action Plaintiffs and the former officers and directors listed in the Statement of Claim. Those settlements, however, were not approved by Mr. Justice Hanssen on the basis that the bar orders negotiated by the parties were too broadly worded. Attached as Exhibit "G" is a copy of the Settlement Agreement placed before Mr. Justice Hanssen and bearing the signatures of counsel for the Class Action Plaintiffs and counsel for certain of the defendants, which was not approved by Mr. Justice Hanssen due to the breadth of the bar order contemplated.

9. The inability of the directors and officers to secure their broadly worded bar order has therefore caused them to refrain from providing a complete release to the Receiver (Crocus) although they continue to insist upon a complete release from Crocus and the Receiver if this matter is to be settled. None of the listed officers or directors have specified to the Receiver the existence of any claim or possible claim against them, but the Receiver is reluctant to put Crocus at risk for the unknown. It has been the Receiver's view that the officers and directors should bear that risk.

10. The Receiver therefore proposes that it make an application to the Court for an Order the purpose of which is to ascertain if there are in fact any such claims, in order to provide some certainty in the administration of the Receivership, to encourage the finalization of a settlement with the directors and officers and to facilitate the ultimate distribution of monies to shareholders.

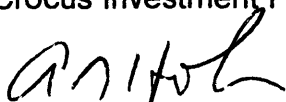
11. In this regard, the Receiver proposes to make the following notices:

- (a) By placing this report, the Order requested and the notice attached as Schedule A (the "Notice") on its website;
- (b) By sending the Notice by ordinary mail to persons who, to the knowledge of the Receiver, may have a claim;
- (c) By publishing the Notice in one edition of *The Winnipeg Free Press*.

12. The existence of the indemnities alleged to be enforceable by the officers and directors of Crocus has materially complicated the Receiver's ability to distribute money to shareholders. A bar order that encompasses claims against officers and directors of Crocus is therefore of great assistance to the administration of this Receivership.

RESPECTFULLY SUBMITTED BY:

Deloitte & Touche Inc. in its capacity as
Court-Appointed Receiver and Manager
of Crocus Investment Fund



Per: A.R. Holmes
Senior Vice-President

Appendix “A”

**THE QUEEN'S BENCH
Winnipeg Centre**

BETWEEN:

THE MANITOBA SECURITIES COMMISSION,

Applicant,

– and –

CROCUS INVESTMENT FUND,

Respondent,

Application under Section 27 of the Securities Act, CCSM c. S50
and Queen's Bench Rule 14.05(2)(b)

IDENTIFIED COPY

RECEIVING ORDER

HILL ABRA DEWAR
Litigation Counsel
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R3C 3Z3

R.A. Dewar

Telephone: (204) 943-6740
Fax: (204) 943-3934
File No. 05157 RAD

**THE QUEEN'S BENCH
Winnipeg Centre**

THE HONOURABLE)
MR. JUSTICE SCURFIELD)

Tuesday, the 28 of June, 2005

BETWEEN:

THE MANITOBA SECURITIES COMMISSION,

Applicant,

- and -

CROCUS INVESTMENT FUND,

Respondent,

Application under Section 27 of the Securities Act, CCSM c. S50
and Queen's Bench Rule 14.05(2)(b)

ORDER

THIS MOTION, made by the Applicant for an Order pursuant to Section 27 of The Securities Act, CCSM c. S50 and Queen's Bench Rule 14.05(2)(b) appointing DELOITTE & TOUCHE, Inc. as receiver and manager (the "Receiver") without security, of all of the assets, undertakings and properties of CROCUS INVESTMENT FUND (the "Respondent"), and for such other Orders as may be just and convenient in the circumstances was heard this day on June 28, 2005 at the Law Courts, 408 York Avenue, in the City of Winnipeg.

ON READING the affidavit of Robert B. Bouchard sworn June 27, 2005 and the Exhibits thereto and on hearing the submissions of counsel for the applicant, ~~no one~~ *for the respondents, and for THE MANITOBA FEDERATION OF LAWYERS* appearing for the respondent although duly served, and on reading the consent of DELOITTE & TOUCHE, Inc. to act as the Receiver, and this matter coming on for final decision on this date:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to Section 27 of The Securities Act, CCSM c. S50, DELOITTE & TOUCHE, Inc. is hereby appointed Receiver, without security, of all of the Respondent's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate and carry on the business of the Respondent, including the powers to enter into any agreements, incur any

obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Respondent;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Respondent or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Respondent and to exercise all remedies of the Respondent in collecting such monies, including, without limitation, to enforce any security held by the Respondent;
- (g) to settle, extend or compromise any indebtedness owing to the Respondent;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Respondent, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Respondent;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Respondent, the Property or the Receiver, and to settle or compromise any such proceedings.

The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000;
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Respondent;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Respondent may have, including but not limited to the right to designate representatives of the Receiver to the board of directors of any company to which the Respondent had such right immediately preceding the granting of this order; and
- (r) to take any steps reasonably incidental to the exercise of these powers,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Respondent, and without interference from any other Person.

4. This Court orders that the ability of the Receiver to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, other than those transactions described in paragraph 3(l) hereof, shall be the subject of future application to this Court.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

5. THIS COURT ORDERS that (i) the Respondent, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related

to the business or affairs of the Respondent, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE RESPONDENT OR THE PROPERTY

9. THIS COURT ORDERS that no Proceeding against or in respect of the Respondent or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Respondent or the Property are hereby stayed and suspended pending further Order of this Court, provided that the within stay shall not apply to proceedings initiated or continued by the Applicant.

NO EXERCISE OF RIGHTS OR REMEDIES

10. THIS COURT ORDERS that all rights and remedies against the Respondent, the Receiver, or affecting the Property, including, but not limited to, the exercise of any contractual rights, including but not limited to a right to a setoff, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or the Respondent to carry on any business which the Respondent is not lawfully entitled to carry on, (ii) exempt the Receiver or the Respondent from compliance with statutory or regulatory provisions relating to securities, health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Respondent, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Respondent or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation

services, utility or other services to the Respondent are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Respondent's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Respondent or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Respondent who have not yet been terminated effective as of the time of this Order, shall remain the employees of the Respondent until such time as the Receiver, on the Respondent's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts, other than such amounts as the Receiver may specifically agree in writing to pay, or such amounts as may be determined in a Proceeding before a court or tribunal of competent jurisdiction.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Receiver by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. THIS COURT ORDERS that any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel, incurred at the standard rates and charges of the Receiver and its counsel, shall be allowed to it in passing its accounts and shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (the "Receiver's Charge").

18. THIS COURT ORDERS the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of this Honourable Court.

19. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$1,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge .

21. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE

24. THIS COURT ORDERS that the Receiver is directed to serve notice of its appointment as Receiver by placing advertisements regarding such appointment substantially in the form attached as Schedule "B" hereto in at least one (1) local newspaper and one (1) Canadian daily newspaper with national distribution.

25. THIS COURT ORDERS that the Receiver shall use reasonable efforts to serve notice of its appointment as Receiver within 21 days hereof, by forwarding by ordinary mail ^{or e-mail,} a copy of a notice substantially in the form attached as Schedule "B" hereto, to the shareholders of the Respondent at the addresses as last indicated in the records of the Respondent.

26. THIS COURT ORDERS that the Receiver is directed to serve notice of its appointment as Receiver within 21 days hereof by forwarding by ordinary mail a copy of this Order to all creditors who have registered a security interest against the assets of Respondent in the Personal Property Registry of Manitoba.

GENERAL

27. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Respondent.

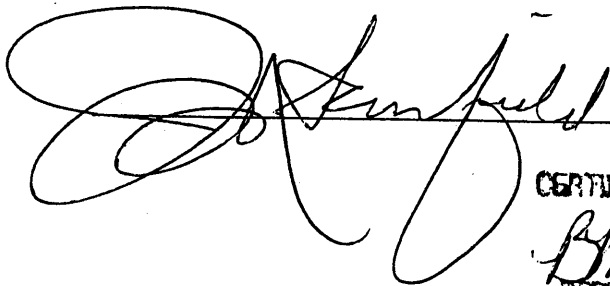
29. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

30. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

31. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

32. THIS COURT DIRECTS that given the appearance before this Court by the Manitoba Federation of Labour, a hearing shall be held on WEDNES day, the 13th day of July, 2005, ^{OR SOONER BY CONSENT} or such further date set by this Honourable Court, to continue the appointment of the Receiver.

 SIGNED this 28th day of June, 2005, at 1:50 p.m.


CERTIFIED A TRUE COPY
B. Mitchell
DEPUTY REGISTRAR

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Deloitte & Touche, Inc., the receiver and manager (the "Receiver") of all of the assets, undertakings and properties of Crocus Investment Fund appointed by Order of the Manitoba Court of Queen's Bench (the "Court") dated the ___ day of _____, 2005 (the "Order") made in an action having Court file number CI _____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded no more frequently than monthly not in advance after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at _____ [address of Lender].

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this

certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 2005.

Deloitte & Touche, Inc., solely in its capacity
as Receiver of the Property (as defined in
the Order), and not in its personal capacity

Per: _____

Name:

Title:

SCHEDULE "B"

NOTICE

in respect of

CROCUS INVESTMENT FUND (the "Respondent")

Please be advised that pursuant to the Order of the Honourable Mr. Justice J.M. Scurfield of the Court of Queen's Bench dated June 28, 2005 in Court File No. _____ (the "Order"), Deloitte & Touche, Inc. has been appointed as receiver and manager (the "Receiver") of all of the Respondents' assets, undertakings and properties. The appointment of the Receiver was made under Section 27 of the *Manitoba Securities Act*.

A copy of the Order and other information regarding the Receiver's appointment are available online at www._____. The Receiver has established a helpline available at _____.

Appendix “B”

Appendix "B"

File No. CI 05-01-43350

**THE QUEEN'S BENCH
Winnipeg Centre**

BETWEEN:

THE MANITOBA SECURITIES COMMISSION,

Applicant,

- and -

CROCUS INVESTMENT FUND,

Respondent,

**Application under Section 27 of the Securities Act, CCSM c. S50 and Queen's Bench
Rule 14.05(2)(b)**

ORDER

**HILL ABRA DEWAR
Litigation Counsel
2670 - 360 Main Street
Winnipeg, Manitoba
R3C 3Z3**

R.A. Dewar

**Telephone: (204) 943-6740
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File No. D5157 RAD**

File No. CI 05-01-43350

**THE QUEEN'S BENCH
Winnipeg Centre**

THE HONOURABLE)
MR. JUSTICE CLEARWATER)

Wednesday, the 13 of July, 2005

BETWEEN:

THE MANITOBA SECURITIES COMMISSION,

Applicant,

- and -

CROCUS INVESTMENT FUND,

Respondent,

Application under Section 27 of the Securities Act, CCSM c. S50 and Queen's Bench Rule 14.05(2)(b)

ORDER

THIS MATTER coming on this day before this Court pursuant to paragraph 32 of the Order of Mr. Justice Scurfield pronounced on June 28,2005 and the Manitoba Federation of Labour having presented to this Honourable Court an alternate plan in regards to the Respondent (the "Plan"); and

ON HEARING the request of the Applicant to adjourn this hearing regarding the permanent order of receivership, so that the Applicant could consider the Plan and provide its comments with respect thereto; and

ON HEARING counsel for the Applicant, counsel for Manitoba Federation of Labour, and counsel for the Receiver, counsel for Bernie Bellan appearing on a watching brief, consenting to the request of the Applicant provided that all counsel will

make themselves available hereafter on a short notice basis for the matter to be determined.

1. THIS COURT ORDERS THAT the appointment of Deloitte & Touche Inc. as Receiver and Manager of Crocus Investment Fund on the terms and conditions set forth in the Order of Mr. Justice Scurfield pronounced June 28, 2005 excepting paragraph 32 thereof, be and is hereby continued, until further order of the court.

2. THIS COURT ORDERS that notwithstanding the current indefinite term of the Receiver's appointment, the Receiver be and the same is at liberty to hire or otherwise make contractual employment arrangements for a period up to three months in duration.

3. THIS COURT ORDERS that the Receiver be at liberty to continue to consider and prepare a report setting forth, to the extent possible, its proposal for achieving value for Class A shareholders of Crocus Investment Fund.

SIGNED: July 14, 2005.

Chris Besko
I.

APPROVED AS TO FORM:

MANITOBA SECURITIES COMMISSION

Per: *Chris Besko*
Mr. Chris Besko

PITBLADO LLP

Per: *D. G. Ward*
Mr. D. G. Ward
Solicitors for Manitoba Federation of Labour

Appendix “C”

Appendix "C"

File No. CI 05-01- 42765

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

BERNARD W. BELLAN

Plaintiff,

- and -

CHARLES E. CURTIS, PETER OLFERT, WALDRON (WALLY)
FOX-DECENT, LEA BATURIN, ALBERT R. BEAL, RON WAUGH,
DIANE BERESFORD, SYLVIA FARLEY, ROBERT HILLIARD,
ROBERT ZIEGLER, JOHN CLARKSON, DAVID G. FRIESEN,
HUGH ELIASSON, SHERMAN KREINER, JAMES UMLAH,
JANE HAWKINS, JANICE LEDERMAN, PRICEWATERHOUSECOOPERS LLP, NESBITT
BURNS INC., WELLINGTON WEST CAPITAL INC., CROCUS CAPITAL INC., THE
MANITOBA SECURITIES COMMISSION, and THE CROCUS INVESTMENT FUND
Defendants.

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

AMENDED AMENDED STATEMENT OF CLAIM

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Avocats et Notaires

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THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

BERNARD W. BELLAN

Plaintiff,

- and -

CHARLES E. CURTIS, PETER OLFERT, WALDRON (WALLY)
FOX-DECENT, LEA BATURIN, ALBERT R. BEAL, RON WAUGH,
DIANE BERESFORD, SYLVIA FARLEY, ROBERT HILLIARD,
ROBERT ZIEGLER, JOHN CLARKSON, DAVID G. FRIESEN,
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BURNS INC., WELLINGTON WEST CAPITAL INC., CROCUS CAPITAL INC., THE
MANITOBA SECURITIES COMMISSION, and THE CROCUS INVESTMENT FUND
Defendant,

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

AMENDED STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the
plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a Manitoba lawyer
acting for you must prepare a statement of defence in Form 18A prescribed by the *Queen's
Bench Rules*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer,
serve it on the plaintiff, and file it in this court office, WITHIN 20 DAYS after this statement of
claim is served on you, if you are served in Manitoba.

RE Amended this 23rd day of January 2007 on Requisition.

Amended this 9th day of June 2006 on Requisition.

V. ZANT
DEPUTY REGISTRAR
COURT OF QUEEN'S BENCH
WINNIPEG CENTRE

V. ZANT
DEPUTY REGISTRAR
COURT OF QUEEN'S BENCH
WINNIPEG CENTRE

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is 40 days. If you are served outside Canada and the United States of America, the period is 60 days.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

July 12, 2005

Issued by:

"J. DOUGLAS"

DEPUTY REGISTRAR
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FOR MANITOBA

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AND TO: JANICE LEDERMAN
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AND TO: PRICEWATERHOUSECOOPERS LLP
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AND TO: WELLINGTON WEST CAPITAL INC.
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AND TO: CROCUS CAPITAL INC.
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AND TO: THE MANITOBA SECURITIES COMMISSION
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AND TO: THE CROCUS INVESTMENT FUND
275 Broadway
Suite 303
Winnipeg, Manitoba
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AMENDED AMENDED CLAIM

1. The plaintiff claims, on his own behalf and on behalf of all shareholders who owned class A common shares in The Crocus Investment Fund on December 10, 2004 ~~each and every person, wherever resident, who dealt in shares of the Crocus Investment Fund (the Crocus Fund) between October 1, 2000 to December 10, 2004 (the Class Period) and suffered a loss as a result thereof, except those persons hereinafter excluded (the Class Members):~~

- (a) an order certifying this proceeding as a class proceeding and appointing the plaintiff as representative plaintiff, and directing that this action be tried together, or in sequence with another, related proposed class proceeding, entitled *Bellan and Nelson v. The Government of Manitoba*, Manitoba Court file No. CI 06-01-46955;
- (b) a declaration that the defendants, Charles E. Curtis, Peter Olfert, Waldron (Wally) Fox-Decent, Lea Baturin, Albert R. Beal, Ron Waugh, Diane Beresford, Sylvia Farley, Robert Hilliard, Robert Ziegler, John Clarkson, David G. Friesen and Hugh Eliasson, Sherman Kreiner, James Umlah, Jane Hawkins, and Janice Lederman (collectively hereinafter referred to as the Insiders) or any of them, or persons acting under their direction and control, priced the Crocus Investment Fund (the Crocus Fund) at inflated values, overstated the Crocus Fund share price valuations and issued or caused to be issued prospectuses which were materially false because they contained the Representation (described in paragraph 8 below);
- (c) a declaration that the Representation made by the Insiders, were made oppressively and in breach of s. 141 of *The Securities Act*, C.C.S.M. c. S50 (the

Securities Act) and s. 234 of *The Corporations Act*, C.C.S.M. c. C225 (the *Corporations Act*);

- (d) a declaration that the Insiders, by making the Representation, breached s. 52(1) of the *Competition Act*, R.S.C. 1985, c. C-34, as amended (the *Competition Act* (Canada)), and are liable for damages under s. 36;
- (e) a declaration that the defendants, Wellington West Capital Inc. (Wellington West) and Nesbitt Burns Inc. (Nesbitt Burns), breached their duties of care to the plaintiff and the other class members s. 141 of the ~~Securities Act~~ and s. 52(1) of the *Competition Act* (Canada);
- (f) a declaration that PricewaterhouseCoopers LLP (PWC) breached its duty of care to the plaintiff and the other class members and negligently represented in its auditors' reports which were incorporated into the Crocus Fund prospectuses that the Crocus Fund financial statements were materially accurate and that the share price valuation was reasonable and accurate and did not contain any misrepresentation of material facts (the PWC Opinion), which opinion was given in part for the purpose of allowing the Crocus Fund to offer shares to the public and with the expectation and knowledge that investors would rely on it and was negligent in the performance of the professional services it provided as auditor of the Crocus Fund;
- (g) a declaration that PWC breached s. 52(1) of the *Competition Act* (Canada) by representing in its PWC Opinion that the financial statements were fairly presented and that the share price valuation was reasonable and accurate, and is liable for damages under s. 36;

- (h) a declaration that The Manitoba Securities Commission (MSC) owed a duty of care to the plaintiff and to the other class members to ensure the Crocus Fund prospectuses contained full, true and plain disclosure of all material facts relating to the value of the Crocus Fund and its class A shares and to undertake a reasonable and prudent investigation of complaints concerning the valuation of the Crocus Fund and the MSC has breached its duty of care and has thereby acted in a grossly careless and reckless manner, amounting to bad faith;
- (i) an order compensating the plaintiff and class as aggrieved persons pursuant to s. 234 of *The Corporations Act* (Manitoba) for oppression;
- (j) a declaration that the business or affairs of the Crocus Fund have been carried on or conducted in a manner that is oppressive, unfairly prejudicial or which unfairly disregards the interests of the plaintiff and the class;
- (k) a declaration that the powers of the directors of the Crocus Fund have been exercised in a manner that is oppressive or unfairly prejudicial or which unfairly disregards the interests of the plaintiff and the class;
- (l) damages in the sum of \$150,000,000 for oppression, negligence, (gross negligence and recklessness as against MSC), breach of s. 141 of the *Securities Act*, s. 234 of the *Corporations Act* and ss. 36 and 52 of the *Competition Act* (Canada);
- (m) punitive and exemplary damages in the sum of \$50,000,000 or such other sum as this Honourable Court may find appropriate;
- (n) a reference or such other directions as may be necessary to determine issues relating to liability and damages not determined in the trial of the common issues;

- (o) prejudgment and post-judgment interest pursuant to *The Court of Queen's Bench Act*, C.C.S.M. c. C280;
- ~~(p) an order granting leave to have the issues in this action tried by a jury in accordance with s. 64(2) of *The Court of Queen's Bench Act*, C.C.S.M., c. C280;~~
- (q) costs of this action pursuant to *The Court of Queen's Bench Act*, C.C.S.M. c. C280 and s. 36 of the *Competition Act* (Canada) as between a solicitor and his own client, including any applicable taxes; and,
- (r) such other relief as this Honourable Court may deem just.

2. Excluded from the class membership are the defendants, members of the immediate family of each of the individual defendants, subsidiaries or affiliates of the corporate defendants, corporations or entities controlled by any person referred to above and the legal representatives, heirs, successors and assigns of any person referred to above.

3. The plaintiff has joined the defendants, the Crocus Fund and Crocus Capital Inc., in order to be bound by the orders issued by way of judgment in this action. No financial relief is sought by the plaintiff and class members as against the Crocus Fund and Crocus Capital Inc..

DEFINED TERMS

4. The defined terms used throughout this statement of claim are attached in schedule 1 and hereby incorporated by reference into this claim.

OVERVIEW

5. The Crocus Fund is a labour sponsored venture capital corporation created by *The Crocus Investment Fund Act*, C.C.S.M. c. C308 (the *Crocus Act*). The Crocus Fund was incorporated March 21, 1992. The Crocus Fund has been a reporting issuer in Manitoba since 1992. The class period in this action (the "Class Period") runs from the date of the Crocus Fund's incorporation, on March 21, 1992, until trading in its shares was halted on December 10, 2004.

6. The Crocus Fund engaged in a continuous offering of its class A common shares under a prospectus since its incorporation which have not changed in any material respect. ~~which did not change in any material respect from the commencement of the class period on October 1, 2000.~~ The most recent prospectus is dated January 21, 2004, amended October 14, 2004. The 1999 prospectus was used to sell the class A common shares in 1999 and 2000. Prospectuses which were identical in all material respects, except as provided otherwise below, were generally issued annually during the Class Period in 2001, 2002, 2003 and 2004. They are collectively referred to as "the prospectus".

7. The prospectus, at all material times, contained a certificate signed by two officers of the Crocus Fund and two members of the board of directors on behalf of all of the board of directors that the prospectus constituted full, true and plain disclosure of all material facts relating to the securities offered by the prospectus in accordance with part VII of the *Securities Act* and the regulations thereunder and does not contain any misrepresentation.

8. Throughout the class period the Insiders continually made the Representation, namely, that the Crocus Fund was properly valued at fair value and that the share price was not overstated (the Representation). This single Representation was made by the Insiders or any of them and persons acting under their direction and control and by Wellington West and Nesbitt Burns (the latter is liable for the period 1999-2001 only) through the prospectus.

PARTIES AND BACKGROUND

Plaintiffs

9. The plaintiff, Bernard W. Bellan (Bellan), lives in the City of Winnipeg, in the Province of Manitoba, and is a letter carrier. He owns 350 class A common shares of the Crocus Fund, the particulars of which are as follows:

DATE	NUMBER OF SHARES	PURCHASE COST PER SHARE	REDEMPTION COST PER SHARE	TOTAL COST (PROCEEDS)
September 1993	350 bought	\$10.00		\$3,500.00
February 1996	255.755 bought	\$11.73		\$3,000.00
January/February 2001	350 reinvestment	\$13.98		\$4,893.00

DATE	NUMBER OF SHARES	PURCHASE COST PER SHARE	REDEMPTION COST PER SHARE	TOTAL COST (PROCEEDS)
March 2003	(255.755) sold		\$12.64	(\$3,232.74)

10. As set out above, the Crocus Fund offers class A common shares (the A shares) to the public by prospectus. The subscription process for A shares is described in the prospectus.

Valuation Process

11. On every Valuation Date (every Friday), the Crocus Fund calculates a pricing NAV (net asset value) per common share (the A share price) as at 3:00 p.m. on the Valuation Date. The A share price is the price at which one A share can be purchased or redeemed on the Valuation Date. All subscriptions for A shares and requests for redemption for A shares which have been received since the last Valuation Date are processed on the Valuation Date using the A share price. All purchases and redemptions are processed in this manner.

12. The Crocus Fund prospectus sets out the manner in which the A share price is established starting at page 27, in its most recent iteration. In summary, the process is:

- (a) on each Valuation Date the board of directors (the board) is required to determine the fair value of the A shares;
- (b) the board must follow a specific set of rules for determining the fair value of the A shares. This requires the board to determine the value of the investment assets of the Crocus Fund on each Valuation Date;
- (c) there are specific rules for determining the value of the investment assets based upon whether or not the investment assets have a public market (e.g., are listed on a stock exchange);
- (d) if, on a Valuation Date, the board has determined there is a change which may have a material effect on the value of any investment asset the board shall cause a reevaluation of that investment asset or investment assets as at the Valuation Date;
- (e) the board, in 1999, delegated the setting of the A share price to any two directors of the board who were authorized to sign a share price valuation certificate on behalf of the board as a whole.

13. The board established a process for determining the value of the investee companies to establish a net realizable value for the portfolio.

14. The staff valuation committee prepared the valuation for each investee company in the portfolio. Valuations were to be prepared at least annually where there was no public market for the securities of the investee company.

15. A valuation was not to be accepted unless all the members of the staff valuation committee agreed on a value.
16. Once valuations were completed they were to go to the valuation subcommittee of the board which comprised two or three board members and an external valuator who was to do a limited review of the valuations and advise the valuation subcommittee.
17. The valuation subcommittee was scheduled to meet monthly. If valuations were not available to be considered the meeting was to be cancelled.
18. On October 1, 2000 there were approximately 30,000 shareholders with approximately 11,000,000 outstanding shares. At the end of the class period (December 10, 2004) there were approximately 35,000 shareholders with approximately 13,500,000 outstanding shares. The publicly announced value of the Crocus Fund on October 1, 2000 was \$14.93. On October 1, 2004 the publicly announced value of the Crocus Fund was approximately \$190,000,000 and the price per share was \$10.61.

2002 Solidarité Transaction

19. Under the *Crocus Act*, the Crocus Fund is required to maintain a minimum reserve account equal to the greater of:
- (a) 15% of the fair market value of its investment assets; and
 - (b) 50% of the total of its outstanding guarantees.

20. Under the *Crocus Act*, in the event that the Crocus Fund fell below its minimum reserve requirements for a period of more than 60 days, the Minister responsible for the Crocus Fund could declare the common shares of the Crocus Fund ineligible for tax credits. If that happened, the ability of the Crocus Fund to raise additional capital would be seriously curtailed or precluded.
21. In 2002, the Crocus Fund prepared an internal cashflow projection analysis covering the period July 2002 to September 2004. That analysis showed that without significant additional capital the Crocus Fund could fall short of its minimum reserve requirements by October 2002 and would stay below its minimum requirements until December 2002—a 90 day period.
22. In order to prevent a shortfall in its minimum reserve requirements, the Crocus Fund negotiated a short term institutional “investment” of \$10,000,000 from the Fonds de Solidarité FTQ (Solidarité) a Québec-based labour sponsored investment fund.
23. Prior to receiving the funds from Solidarité, the Crocus Fund had fallen below its minimum reserve requirement. Without the Solidarité funds, the Crocus Fund would have been in breach of its minimum reserve requirements and would have been unable to raise additional capital.
24. In the summer of 2002, the Crocus Fund arranged with Solidarité for Solidarité to make a \$10,000,000 “investment” in institutional shares (class I) of the Crocus Fund, a special class of

preferred shares created by the Crocus Fund especially for the transaction. On November 15, 2002, a final agreement was signed for the issuance of 790,513.83 series 3 class I special shares for consideration of \$10,000,000. The shares carried a 10% guaranteed annual dividend rate.

25. The agreement was highly restrictive and one-sided in favour of Solidarité. The plaintiff pleads that the transaction, rather than being an “investment” was in effect an onerous loan and was improperly and inaccurately characterised in the relevant financial statements of the Crocus Fund as an investment. The agreement further provided that Solidarité could require the Crocus Fund to purchase all or any part of said shares after May 15, 2004 and that the Crocus Fund was required to purchase any remaining outstanding shares at November 15, 2004. The agreement provided as well for a 10% penalty (in addition to the annual dividend) on any shares outstanding after November 15, 2004 and 10% interest on unpaid dividends. Under the agreement, Solidarité had a guaranteed right to the dividend payment and it was not discretionary. Had the Crocus Fund not paid dividends (which were paid even when the Crocus Fund was in a loss and deficit position) Solidarité could have taken action to collect the principal investment amount, outstanding dividends and any interest penalties from the Crocus Fund. These characteristics are fundamental characteristics of a liability rather than an investment. The unconditional requirement to repay demonstrates that the transaction was a loan.

26. The plaintiff pleads that the mis-characterisation of the “investment” in the financial statements referred to in this pleading, constitutes a part of the Representation in that the effect inflated the value of the shares of the Crocus Fund.

27. The plaintiff pleads that the conduct of the Insiders in participating and consenting to or in failing to disclose the true nature of that arrangement constitutes oppression.

Regulatory Intervention

28. The defendant, the MSC, issued a cease trading order and the Crocus Fund ceased redeeming its shares on December 10, 2004. In April 2005 the acting CEO of the Crocus Fund suggested that the current value of its shares was just below \$7.00, almost a third less than their supposed value when trading was halted. The devaluation amounts to a \$46,000,000 decrease in the Crocus Fund's net asset value. Trading remains halted and more than 30,000 Manitoba investors are still unable to access their investments which total more than \$150,000,000. An interim receiver of the Crocus Fund was appointed on the motion of the MSC on or about June 27, 2005. In fact, the net asset value of the Crocus Fund is now substantially less than \$7.00 per share and the plaintiffs and the class will likely recover less than 20% of their investment.

29. In a May 2005 report Manitoba's Auditor General identified several issues concerning the Crocus Fund, including:

- (a) a lack of oversight by the Crocus Fund's board of directors;
- (b) flaws in the Crocus Fund's investment procedures;
- (c) abuse of the Crocus Fund's travel and expense policy;
- (d) the value of the Crocus Fund's assets appeared to have been overstated;
- (e) the implementation of the valuation process was flawed.

30. In a statement of allegations dated April 4, 2005, the MSC alleged, among other things that:

- (a) the most recent Crocus Fund prospectus did not contain plain and full disclosure concerning the A share price;
- (b) the board of the Crocus Fund acted contrary to the public interest in numerous ways.

The Defendants and Other Related Individuals

The Insiders

31. The defendant, Charles E. Curtis (Curtis), currently resides in the Province of Manitoba. He was a director of the Crocus Fund from 1992 until 2005.

32. The defendant, Peter Olfert (Olfert), currently resides in the Province of Manitoba. He was a director of the Crocus Fund from 1995 until 2004. He also executed a certificate attached to a number of the prospectuses, including and without limitation, the 1997, 1998, 1999, 2001, 2002 and 2004 prospectuses, attesting to the disclosure of all material facts relating to the distribution of the class A shares.

33. The defendant, Waldron (Wally) Fox-Decent (Fox-Decent), currently resides in the Province of Manitoba. He was a director of the Crocus Fund from 1999 until 2004. He also

executed a certificate attached to the 2002 and 2003 prospectuses attesting to the disclosure of all material facts relating to the distribution of the class A shares.

34. The defendant, Lea Baturin (Baturin), currently resides in the Province of Manitoba. She was a director of the Crocus Fund from 1999 until 2004.

35. The defendant, Albert R. Beal (Beal), currently resides in the Province of Manitoba. He was a director of the Crocus Fund from 1999 until 2004.

36. The defendant, Ron Waugh (Waugh), currently resides in the Province of Manitoba. He was a director of the Crocus Fund in 2004.

37. The defendant, Diane Beresford (Beresford), currently resides in the Province of Manitoba. She was a director of the Crocus Fund from 1998 until 2004.

38. The defendant, Sylvia Farley (Farley), currently resides in the Province of Manitoba. She was a director of the Crocus Fund.

39. The defendant, Robert Hilliard (Hilliard), currently resides in the Province of Manitoba. He was a director of the Crocus Fund from 1992 until 2004. He also executed a certificate attached to a number of the prospectuses, including and without limitation, the 1997, 1998, 1999, 2001, 2002 and 2004 prospectuses, attesting to the disclosure of all material facts relating to the distribution of the class A shares.

40. The defendant, Robert Ziegler (Ziegler), currently resides in the Province of Manitoba. He was a director of the Crocus Fund until 2004.
41. The defendant, John Clarkson (Clarkson), currently resides in the Province of Manitoba. He was a director of the Crocus Fund from 2002 until 2004. He also executed a certificate attached to the 2002 and 2003 prospectuses attesting to the disclosure of all material facts relating to the distribution of the class A shares.
42. The defendant, David G. Friesen (Friesen), currently resides in the Province of Manitoba. He was a director of the Crocus Fund from 1998 until 2004.
43. The defendant, Hugh Eliasson (Eliasson), currently resides in the Province of Manitoba. He was a director of the Crocus Fund until 2002.
44. The defendant, Sherman Kreiner (Kreiner), currently resides in the Province of Manitoba. He was president and CEO of the Crocus Fund from 1993 until December 2, 2004. He also executed a certificate attached to a number of the prospectuses, including and without limitation, the 1997, 1998, 1999, 2001, 2002, 2003 and 2004 prospectuses, attesting to the disclosure of all material facts relating to the distribution of the class A shares.
45. The defendant, James Umlah (Umlah), currently resides in the Province of Manitoba. He was president of Crocus Capital Inc. and chief investment officer of the Crocus Fund from 1993

until summer 2004. He also executed a certificate attached to a number of the prospectuses, including and without limitation, the 1997, 1998, 1999, 2001, 2002, 2003 and 2004 prospectuses, attesting to the disclosure of all material facts relating to the distribution of the class A shares.

46. The defendant, Janice Lederman (Lederman), currently resides in the Province of Manitoba. She was vice president of corporate development of the Crocus Fund until approximately 2002, when she left the Crocus Fund. She also executed a certificate attached to the 1999 prospectus attesting to the disclosure of all material facts relating to the distribution of the class A shares.

47. The defendant, Jane Hawkins (Hawkins), currently resides in the Province of Manitoba. She was vice president and CFO of the Crocus Fund until March 2005. She also executed a certificate attached to the 2001, 2002, 2003 and 2004 prospectuses attesting to the disclosure of all material facts relating to the distribution of the class A shares.

Liability

48. The plaintiff alleges that each of Charles E. Curtis, Peter Olfert, Waldron (Wally) Fox-Decent, Lea Baturin, Albert R. Beal, Ron Waugh, Diane Beresford, Sylvia Farley, Robert Hilliard, Robert Ziegler, Sherman Kreiner, James Umlah, Jane Hawkins, John Clarkson, David G. Friesen, Hugh Eliasson, and Janice Lederman breached s. 141 of *The Securities Act*, s. 234 of the *Corporations Act* and s. 52 of the *Competition Act* (Canada). These breaches were so egregious that they constitute gross or serious carelessness and recklessness.

Oppression

49. The plaintiff alleges that the acts and omissions of each of the Insiders described herein breached s. 234 of the *Corporations Act* and caused the business or affairs of the Crocus Fund to be carried on or conducted in a manner that was oppressive, unfairly prejudicial or which unfairly disregarded the interests of the plaintiff and the class.

50. The plaintiff also alleges that, as set out herein, the powers of the directors of the Crocus Fund have been exercised in a manner that was oppressive or unfairly prejudicial or which unfairly disregarded the interests of the plaintiff and the class contrary to s. 234 of the *Corporations Act*.

The Competition Act (Canada)

51. The Insiders and the Financial Advisor breached s. 52(1) of the *Competition Act (Canada)* by issuing to the public the prospectus containing the Representation.

52. The prospectus was made for the purpose of promoting the supply or sale of the Crocus Fund shares and directly or indirectly the business activities or interest of the Crocus Fund, the Insiders and the Financial Advisor.

53. The prospectus contained the Representation which the Insiders, Wellington West and Nesbitt Burns (the latter only for the period 1999-2001) made to the public. The Representation

was false or misleading in a material respect, namely, the A share price was not fairly valued and was overstated and the Crocus Fund was not fairly valued and was overstated.

54. The plaintiff and other class members relied upon the Representation and purchased or held shares of the Crocus Fund and suffered loss or damage as a result.

The Auditor

55. PWC are chartered accountants with offices in Winnipeg and elsewhere. Throughout the class period PWC was engaged as auditors of the Crocus Fund for each fiscal year. Each of the audits prepared by PWC was done in part to further its own business interests.

56. PWC issued unqualified audit opinions in respect of the financial statements of the Crocus Fund for each year in the class period. PWC consented to the inclusion of these financial statements, together with its unqualified audit opinion thereon, in each prospectus.

57. In each applicable year PWC provided its clean or unqualified audit opinion in accordance with Canadian GAAS applying Canadian GAAP with respect to the consolidated statements of net assets of the Crocus Fund as at September 30, 2000, 2001, 2002 and 2003, and prior years, and the related consolidated statements of investment portfolio and of deficit (two statements), consolidated statements of changes in net assets and consolidated statements of cashflow.

58. PWC was negligent in the performance of its duties and obligations. The conduct of PWC fell well below the standard of care that it owed to the plaintiff and the class, and such conduct was grossly or seriously careless and reckless. PWC also breached s. 52 of the *Competition Act* (Canada).

The Financial Advisor

59. Wellington West and Nesbitt Burns are investment dealers and registrants under the *Securities Act*. They are referred to in this claim, both together and separately, as the Financial Advisor. They carry on business in Manitoba and elsewhere.

60. Some time prior to 1999, the Crocus Fund engaged Wellington West as agent of the Crocus Fund for the financing described in this claim.

61. Nesbitt Burns also acted as agent of the Crocus Fund but only for the financings described herein for the period 1999-2001. All claims made against Nesbitt Burns are only for this period.

61.1 During the Class Period, Wellington West and Nesbitt Burns both signed certificates to the prospectus pursuant to s.53 of the *Securities Act*. The most recent iteration of the prospectus signed by Wellington West promised as follows

“To the best of our knowledge, information and belief, the financial statements of Crocus Investment Fund for the financial period ended September 30, 2003 and the auditors’

reports thereon, together with this prospectus constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part VII of *The Securities Act* (Manitoba) and the regulations thereunder and do not contain any misrepresentations.”

61.2 Similarly, the most recent certificate signed by Nesbitt Burns promised as follows:

“The financial statements of Crocus Investment Fund for the financial period ended September 30, 2000 and the auditors’ report thereon, together with the prospectus required to be sent or delivered to a purchaser during the currency of this prospectus constitute full, true and plain disclosure of all material facts relating to the securities offered by the prospectus as required by Part VII of *The Securities Act* (Manitoba) and the regulations thereunder.”

61.3 It is a requirement of s.53(1) of the *Securities Act* that a prospectus contain these signed certificates from the Financial Advisors promising that the prospectus contains full, true and plan disclosure of all material facts. If the Financial Advisors had refused to sign these certificates to the prospectus because they could not warrant that the prospectus was accurate, then the prospectus could not have been issued, and shares in the Crocus Fund could not have been sold to the Plaintiff and other class members.

61.4 In signing the certificates, the Financial Advisors voluntarily undertook a duty of care to the Plaintiff and other class members. They pledged that the prospectus and accompanying information were accurate. They knew that damages were reasonably foreseeable to the Plaintiff

and other class members if this was not true. By virtue of their professional expertise and position as underwriters, they had a special role in the operation and financing of the Crocus Fund, and a level of access to information concerning the Crocus Fund which exceeded that available to the Plaintiff and other class members. The Financial Advisors knew the consequences to investors if they failed to conduct appropriate due diligence, as promised in the certificates. The Financial Advisors received compensation for their promised due diligence, whether directly or indirectly from the Plaintiff and other class members, in the form of commissions and other financial benefits from the sale of Crocus shares. The Financial Advisors had the ability to prevent harm to the Plaintiff and other class members by refusing to sign the certificate, thereby blocking the issuance of the prospectus and the sale of Crocus shares.

61.5 The Financial Advisors were negligent and failed in their duties. They knew or ought to have known that the prospectus and accompanying information were inaccurate and misleading, and that valuation of the Crocus shares was over-stated and unsustainable. They knew or ought to have known that the Crocus Fund was headed for collapse. In spite of this knowledge, they signed the certificate and permitted Crocus shares to be sold.

61.6 In certifying the prospectus as containing full disclosure, and in making the Representation, the Financial Advisors were negligent. The Plaintiff and other class members suffered damage as a result of the Financial Advisors' negligence. Had the Financial Advisors performed proper due diligence on the Crocus Fund they would not have signed the certificates and the Crocus shares could not have been sold, or alternatively, the Crocus shares could not

have been sold at the artificially inflated values assigned to the shares, and the Plaintiff and other class members would not have suffered loss.

61.7 . The Plaintiff and other class members reasonably relied upon the Financial Advisors' certification and Representation in purchasing shares of Crocus and suffered damages as a result.

62. Wellington West and Nesbitt Burns are liable for their negligence and breach of s. 141 of the Securities Act, and s. 52 of the Competition Act (Canada). Their conduct was grossly or seriously careless and reckless. In addition, Wellington West, as a recipient of investment funds from the Crocus Fund, was in a conflict of interest.

The Manitoba Securities Commission (MSC)

63. The defendant, MSC, is responsible for the administration of the *Securities Act*. It is a corporation whose members are appointed by the Lieutenant Governor in Council.

64. It owed a duty of care to the plaintiff and members of the class who were purchasers of shares of the Crocus Fund to ensure that the prospectuses filed were accurate and not misleading and to investigate complaints and ensure that the Crocus Fund was carrying on its operations in compliance with the *Securities Act* and in particular with respect to the obligation to provide accurate valuations as the Crocus Fund indicated would be undertaken as set out in the prospectuses.

The Value of the Crocus Fund was Overstated

65. The plaintiff alleges that throughout the Class Period the Insiders, the Financial Advisor and PWC defendants (the definition of defendants hereafter shall not include MSC against whom separate allegations are pleaded) overstated the Crocus Fund's assets and overstated the value of its shares. In part, this resulted from the failure of the Insiders to exercise proper oversight with respect to the business and affairs of the Crocus Fund. The Crocus Fund's shareholders were, therefore, misled into purchasing shares at inflated prices. The non-disclosure of the true value of the shares and the continuation of trading in the Crocus Fund shares created a real monetary loss for innocent shareholders.

66. Had the board of directors and other Insiders applied reasonable skill and diligence they would have discovered and disclosed the material adverse facts or the risk of material adverse facts. The defendants who are officers and directors failed to apply reasonable skill and diligence and failed to discover and disclose the material adverse facts. Instead, the due diligence efforts of the Insiders were so inadequate, and their corporate governance and oversight so lacking, that the Insiders did not have a reasonable basis for believing that the disclosure they were authorizing on behalf of the Crocus Fund was lawful.

67. The plaintiff does not allege that the defendants were intentionally actively dishonest. Rather, the plaintiff alleges that the defendants' conduct, when coupled with their immediate pecuniary interests, were such as to make them liable in damages for breach of s. 141 of the *Securities Act* (Insiders), negligence (PWC, MSC and Financial Advisor~~only~~), oppression

(directors) and under the Competition Act (Canada)(Insiders, Financial Advisor and PWC). The conduct of each defendant fell well below the standard of care that was owed by each defendant to the plaintiff and the class, and such conduct was grossly or seriously careless and reckless.

68. The Financial Advisor, the directors and the other Insiders asked no proper questions, did not observe applicable securities law, applied no common prudence and were reckless in their conduct.

69. The defendants, in their various capacities and in their varying degrees, represented the Crocus Fund as a major success story, a business enterprise benefiting Manitoba with the expectation of growth in the future. The picture thus created was a sham.

Non-Disclosure

70. The Crocus Fund prospectus contained the Representation that the Crocus Fund would be properly priced at fair value and that the share price would not be overstated and expressly incorporated the PWC Opinion. The prospectus failed to make full, true and plain disclosure concerning the A share price in the following respects:

- (a) the board routinely and consistently overstated the class A share price valuations and priced the Crocus Fund at inflated values;
- (b) the board routinely and consistently failed to determine the fair value of the class A common shares of the Crocus Fund as at each Valuation Date;

- (c) the Crocus Fund accepted subscriptions and paid out redemptions for A shares using an A share price which had not been approved by the board as at each Valuation Date;
- (d) the board failed to establish appropriate procedures to ensure compliance with its statutory obligations and the other obligations disclosed in the prospectus, i.e., that the fair value of the class A common shares of the Crocus Fund shall be determined by the board as at each Valuation Date;
- (e) the board failed to ensure valuations were completed in a timely manner;
- (f) the board failed to seek a suspension of trading for the A shares as soon as they knew or ought to have known of changes which might have had a material effect on the value of any investment asset of the Crocus Fund;
- (g) the board knew or ought to have known throughout the class period that there was an overvaluation of the share price and failed to cause a revaluation of the investment asset or assets affected by such changes as at the earliest possible Valuation Date;
- (h) the Insiders executed or are bound by share valuation certificates thereby signifying the board approved the A share price after the appropriate Valuation Date and after the price had been set by the Crocus Fund staff and used for the purposes of sales and redemptions of A shares which were completed prior to the board members approving the share price;
- (i) valuations were issued which did not reflect a fair valuation of the Crocus Fund's portfolio and specifically did not reflect net realizable value.

71. The plaintiff also states that the statements to the contrary in the prospectus in general and the Representation in particular were lacking a reasonable basis when they were made.

72. At all material times the defendants knew or ought to have known that the statements to the contrary in the prospectus and the Representation in particular were lacking in a reasonable basis when they were made.

73. By virtue of their position of authority and responsibility within the Crocus Fund, each of the Insiders as well as Wellington West and Nesbitt Burns had access to material information respecting the business and affairs of the Crocus Fund. Each of the Insiders and Wellington West and Nesbitt Burns reviewed, approved, ratified and/or authorized, whether explicitly or implicitly, the statements in the prospectuses.

74. By virtue of their positions of authority and responsibility within the Crocus Fund, each of the Insiders as well as Wellington West and Nesbitt Burns had a duty to disseminate promptly, or to ensure the prompt dissemination of, truthful, complete and accurate statements, i.e., to make full, plain and true disclosure regarding the Crocus Fund's business and affairs and promptly to correct previously issued materially incorrect information so that the share price and the value of the Crocus Fund would be based upon complete, accurate and truthful information.

75. In certifying that each prospectus contained no material misrepresentations or omissions, Wellington West and Nesbitt Burns, as well as the directors and the officers who certified the

prospectus participated in or facilitated the wrongdoing described herein as they knew or ought to have known that it did contain such misrepresentations and/or omissions.

S. 141 of the *Securities Act*

76. ~~Wellington West, Nesbitt Burns,~~ The directors, and the other Insiders who signed the certificates attached to the prospectus, are liable to the plaintiff and the class by virtue of s. 141 of the *Securities Act*. These defendants are liable to pay compensation for all loss or damage sustained as a result of the purchase by the plaintiff and the class of shares in the Crocus Fund.

PWC's Negligence

77. PWC audited the financial statements of the Crocus Fund and expressed its opinions and specifically the PWC Opinion about the Crocus Fund's operations for the financial years in the class period.

78. PWC delivered its audit opinions and specifically the PWC Opinion in the course of business deliberately in part for the purpose of permitting the Crocus Fund to obtain access to the Manitoba capital market.

79. PWC intended, expected and knew that prospective purchasers of shares of the Crocus Fund would reasonably rely upon PWC's audit of the financial statements, and specifically the PWC Opinion in making the personal investment decision of whether to purchase, hold or sell Class A shares of Crocus Fund.

80. PWC knew the plaintiff and other class members would rely and were relying on PWC's special skill and knowledge and PWC's audit opinions and financial statements and the PWC Opinion in making the personal investment decision of whether to purchase, hold or sell the Crocus Fund shares.

81. As a result of its status as Crocus' auditor, the issuance of PWC's audit opinions and the PWC Opinion and PWC's intention, expectation and knowledge that members of the public would rely upon the PWC audit opinions and the PWC Opinion in making the personal investment decision to purchase, hold or sell class A shares of the Crocus Fund and to scrutinize the conduct of the Crocus Fund affairs, PWC owed a duty of care to prospective shareholders and shareholders under the law of the Province of Manitoba.

82. PWC was negligent in the following respects:

- (a) PWC "signed off" that the Crocus Fund investments in Manitoba companies were appropriately valued, year after year, when such was not the case;
- (b) PWC signed unqualified audit reports that failed to explain that Crocus' financial statements were materially misleading to shareholders and, in particular, to buyers and sellers of the Crocus Fund's shares;
- (c) PWC permitted the inclusion of these misleading annual audited financial statements in prospectuses for the Crocus Fund and thereby facilitated the solicitation that the public should purchase and the shareholders not sell the Crocus Fund's shares;

- (d) PWC audit opinions and the financial statements were not prepared in accordance with GAAP as described below;
- (e) PWC audit opinions and the financial statements were not prepared on a consistent basis;
- (f) PWC audit opinions and the financial statements were not audited in accordance with GAAS as described below;
- (g) PWC audit opinions and the financial statements contained material misstatements of the Crocus Fund's financial position and results, including:
 - (i) an overstatement of the value of the company's investments in Manitoba corporations;
 - (ii) an overstatement of assets;
 - (iii) an understatement of losses;
 - (iv) an overstatement of equity of the owners;
- (h) in fiscal year 2003 PWC failed to disclose or, in the alternative, failed to identify that a \$10,000,000 transaction in 2002 between Fonds de Solidarité FTQ and the Crocus Fund had been materially misstated to give the impression of a share or equity investment when it was in reality a short term loan that should have been viewed as a "bailout" as discussed in more detail above;
- (i) the following additional allegations of negligence against PWC apply with respect to the Solidarité transaction:
 - (i) the Crocus Fund's September 30, 2003 audited consolidated financial statements reflected the proceeds received from Solidarité as shareholders' equity on the balance sheet. This classification of the investment as equity

did not comply with s. 3860 of the CICA handbook (financial instruments) and was in fact a financial liability;

(ii) the loss for the year ended September 2003 was understated by \$875,000 or 16%. Thus, a better financial picture of the Crocus Fund than actually existed was set out in that financial statement;

(iii) the notes to the 2003 and 2004 financial statements did not fully disclose all of the significant covenants of the agreement between Solidarité and the Crocus Fund. As a result, readers were not provided with sufficient information to be able to assess the nature of the transaction between Solidarité and the Crocus Fund. Thus, the transaction was misrepresented in the prospectus as an equity investment while the fundamental characteristics were those of a liability. Because of these factors, a reader of the prospectus would not have been able to adequately assess the risk of investing in the shares of the Crocus Fund. PWC was aware, or ought to have been aware, of all of these shortcomings and failed to take any action to correct same.

(j) PWC's equity valuation methodology did not comply with the requirements in s. 15 of the *Crocus Act* in that the net realizable value per share was not properly determined.

83. PWC failed for fiscal years 2000 to 2003 to ensure that GAAP were followed by the Crocus Fund, in the following respects:

(a) investments were valued at other than net realizable value;

- (b) the exigible value of specific loans was uncertain and doubtful and no proper allowance was made;
- (c) under the circumstances of how the trading prices of the Crocus Fund shares were computed, accounting materiality should have approximated zero, and all detected differences and errors should have been recorded;
- (d) losses were recorded in improper periods;
- (e) inadequate disclosure was given to how specific groups of investments were valued;
- (f) owners' equity valuations were materially overstated; and
- (g) operating expenses, including selling expenses, were capitalized.

84. PWC failed to comply with GAAS in that the audits for the years ended September 30, 2000 to September 30, 2003:

- (a) were not planned, executed, reviewed, and finalized in accordance with the auditing firm's standards and with Canadian standards;
- (b) were deficient because internal control weaknesses were not compensated for by gathering sufficient, appropriate, external corroborative evidence;
- (c) failed to design and execute audit procedures that responded to the nature and risks of the client's business, especially the holding of private company investments, and the manner in which the Crocus Fund shares were being traded and how prices were directly linked to accounting numbers;
- (d) were deficient because audit staff were not adequately trained and supervised;

- (e) were deficient because excessive reliance was placed on management instead of on sufficient and appropriate audit evidence;
- (f) did not display a level of scepticism that was necessary given the nature of the company's investments and the uncertainty that surrounded specific companies;
- (g) did not reflect the utilization of knowledgeable experts to assist in identifying appropriate values and risks inherent in assets;
- (h) did not recognize and respond to the existence of scope limitations given the absence of asset values that were appropriate in determining net asset values, which in turn determined the buying and selling prices of the Crocus Fund's shares;
- (i) failed to result in audit reports that disclaimed responsibility for the financial position and results of operations of the Crocus Fund;
- (j) inadequately responded to the Crocus Fund's control weaknesses, which enabled management to override principles and valuations and interpretations of what constituted net realizable value;
- (k) failed to result in warning the Crocus Fund's investors of the magnitude of management optimism that was inherent in the chosen asset values of the Crocus Fund and the corresponding overstated share price; and
- (l) failed to respond to indicators of non-compliance with applicable legislation regarding use of cash.

85. PWC was fully aware that its equity valuation methodology, as reflected in its annual auditing of asset and liability valuations, was the cornerstone of valuing the Crocus Fund and setting purchase and sale prices of the Crocus Fund's A shares.

86. The plaintiff and other class members suffered damage and loss because of PWC's negligence. Had PWC met the requisite standard of conduct expected of it in the circumstances the Crocus Fund would either not have continued trading as a public company or, alternatively, its shares would only have been publicly traded at proper values.

87. Had PWC met the requisite standard of conduct expected of it in the circumstances, the plaintiff and other class members would not have purchased shares of the Crocus Fund and would not have suffered losses and damages.

88. By expressing the PWC audit opinions PWC also represented that the Crocus Fund prospectus contained full, plain and true disclosure concerning the A share price and thereby gave the PWC Opinion. The PWC Opinion was made negligently knowing that the plaintiff and the class members relied upon the PWC Opinion, which they did to their detriment, by purchasing and holding the Crocus Fund shares. The plaintiff pleads that, as a matter of law, each member of the class who purchased the Crocus Fund shares is deemed to have relied upon the PWC Opinion and pleads and relies upon s. 141 of the *Securities Act*.

89. The plaintiff and other class members suffered loss and damage as a result of relying upon the PWC Opinion.

The Competition Act

90. PWC breached s. 52(1) of the *Competition Act* (Canada) by issuing the PWC audit opinions to the public.

91. The PWC audit opinions and the PWC Opinion were made for the purpose of promoting, directly or indirectly, the supply or sale of the Crocus Fund shares, and directly or indirectly the business interests of the Crocus Fund and PWC.

92. The PWC audit opinions contained the PWC Opinion which it provided to the public. The PWC Opinion was false or misleading in material respects as set out above. As a result, the prospectus did not make full, plain and true disclosure concerning the A share price in that the fair value of the Crocus Fund and the price of the class A common shares were overstated at all material times.

93. The plaintiff and other class members relied upon the PWC audit opinions and the PWC Opinion and purchased or held shares of the Crocus Fund and suffered loss and damage. In this regard, the plaintiff pleads and relies upon s. 141 of the *Securities Act*.

Liability of MSC

94. Starting in 1999, MSC received and approved the prospectus with respect to the Crocus Fund as detailed herein. This prospectus, to the knowledge of MSC, was used by the Crocus Fund to solicit sales in 2000-2004.

95. The plaintiff states, and the fact is, that MSC knew or ought to have known, commencing in or about October 2000, of the valuation irregularities as detailed in this statement of claim. In approving the prospectus and failing to undertake any or any adequate investigation until 2003 as detailed below, of the valuation or irregularities and in approving the prospectuses for the years 1999 and thereafter, MSC acted with such carelessness and/or recklessness so as to constitute bad faith and gross negligence.

96. In or about 2002, the plaintiff brought to the attention of MSC the irregularities (as set out in detail in the statement of claim), including, without limitation, information pertaining to the misleading valuation of the Crocus Fund.

97. On or about April 28, 2003, MSC purported to conduct a continuous disclosure review of the Crocus Fund. Notwithstanding this "review", MSC failed to:

- (a) arrive at any conclusions on the quality of the continuous disclosure documents reviewed;
- (b) utilize a program or checklist in carrying out its investigation;
- (c) identify the true nature of the 2002 Solidarité transaction;

(d) require the Crocus Fund to cease trading.

98. The plaintiff states, and the fact is, that in approving the prospectus and in failing to conduct its investigation in a reasonable and prudent manner, MSC acted with serious carelessness or recklessness and otherwise carried out an investigation of such poor quality as to constitute bad faith and gross negligence. In the alternative, MSC acted in bad faith in that it failed or neglected to carry out a proper or reasonable review of the prospectus or a proper and reasonable investigation at all.

99. The plaintiff states that MSC owed a duty of care to the plaintiff and to the other class members to comply with the provisions of the *Securities Act* in authorizing the prospectus with respect to the Crocus Fund and to act with reasonable care and diligence in issuing receipts for the prospectus. In failing to do so and in acting with gross carelessness and recklessness, MSC acted to the detriment of the plaintiff and the other class members and is thereby liable for all damages suffered.

100. In or about the years 1999-2004, MSC provided exemption orders pursuant to s. 20 of the *Securities Act* allowing individuals who were designated by Crocus Capital Inc. as work site coordinators, to market Crocus Fund shares. It was a condition of the exemption orders that the work site coordinators would be supervised by Crocus Capital Inc.

101. The plaintiff states, and the fact is, that after 2000, when MSC knew or ought to have known of the accounting and valuation irregularities as particularized in the statement of claim

herein, it ought not to have allowed exemption orders during that period without ensuring that steps were taken to correct the valuation irregularities. MSC knew or ought to have known that work site coordinators were acting in an unsupervised manner, marketing Crocus Fund shares during RRSP season using prospectuses that were deficient in the manner as pleaded herein. MSC's conduct amounted to serious carelessness and recklessness which amounts to bad faith for which it is liable to the plaintiff and the members of the plaintiff class, all of whom suffered damages as a result.

DAMAGES

102. The plaintiff pleads that by virtue of the defendants' actions described herein the plaintiff and other class members suffered loss and damages and the defendants or any or more of them are liable for special damages and general damages to the plaintiff and the other class members which are in excess of \$150,000,000.

COSTS (INCLUDING THE COST OF INVESTIGATION)

103. Pursuant to s. 36 of the *Competition Act* (Canada), the plaintiff and plaintiff class are entitled to recover their full costs of investigation and their solicitor and own client costs paid in accordance with *The Class Proceedings Act*.

104. The plaintiff and the other class members are also entitled to recover, as damages or costs in this action, the cost of administering the plan to distribute the recovery in this action which will probably exceed \$1,000,000.

PUNITIVE AND EXEMPLARY DAMAGES

105. The plaintiff pleads that the defendants' conduct was highhanded, outrageous, reckless, wanton, entirely without care, deliberate, callous, disgraceful, wilful, in disregard of the rights of each class member, indifferent to the consequences, and motivated by economic considerations and as such render them liable to pay punitive damages in the amount of \$50,000,000.

RELEVANT STATUTES

106. The plaintiffs plead and rely upon *The Class Proceedings Act*, *The Securities Act*, the *Corporations Act* and the *Competition Act*, R.S.C. 1985, c. C-34, as amended, and, in particular, ss. 36(1) and 52(1) thereof.

Dated: July 12, 2005

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Co-Counsel for the Plaintiff

Co-Counsel for the Plaintiffs

SCHEDULE 1

1. Crocus Fund: Crocus Investment Fund.
2. Class Period: March 21, 1992 ~~October 1, 2000~~ to December 10, 2004.
3. Class Members: All shareholders who owned Class A common shares in The Crocus Investment Fund on December 10, 2004.

Excluded from the Class are the defendants, members of the immediate family of each of the individual defendants, subsidiary or affiliates of the corporate defendants, corporations or entities controlled by any person referred to above and the legal representatives, heirs, successors and assigns of any person referred to above.

~~Every person, wherever resident, who dealt in shares of the Crocus Investment Fund (Crocus) between October 1, 2000 to December 9, 2004 (the Class Period) and suffered a net loss as a result thereof, except those persons hereinafter excluded.~~
 4. Insiders: Charles E. Curtis, Peter Olfert, Waldron (Wally) Fox-Decent, Lea Baturin, Albert R. Beal, Ron Waugh, Diane Beresford, Sylvia Farley, Robert Hilliard, Robert Ziegler, John Clarkson, David Friesen, Hugh Eliasson, Sherman Kreiner, James Umlah, Jane Hawkins, and Janice Lederman.
 5. Representation: That Crocus Fund was properly valued at fair value and that the share price was not overstated.
 6. *Securities Act*: *The Securities Act*, C.C.S.M. c. S50.
 7. *Competition Act* (Canada): *The Competition Act*, R.S.C. 1985, c. C-34, as amended.
 8. *Corporations Act*: *The Corporations Act*, C.C.S.M. c. C225.
 9. PWC: PricewaterhouseCoopers LLP.

10. PWC Opinion: PWC negligently represented in its auditors' reports which were incorporated into the Crocus Fund prospectuses that the Crocus Fund financial statements were materially accurate and that the share price valuation was reasonable and accurate and did not contain any misrepresentation of material facts, which opinion was given in part for the purpose of allowing the Crocus Fund to offer shares to the public and with the expectation and knowledge that investors would rely on it.
11. *Crocus Act*: *The Crocus Investment Fund Act*, C.C.S.M. c. C308.
12. GAAS: Canadian generally accepted auditing standards.
13. GAAP: Canadian generally accepted accounting principles.
14. Financial Advisor: Wellington West or Nesbitt Burns or both of them.
15. *The Class Proceedings Act*: *The Class Proceedings Act*, C.C.S.M. c. C130.
16. 2002 Solidarité Transaction: The loan described in paragraphs 19-27.

Appendix “D”

File No. CI 05-01- 42765

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

BERNARD W. BELLAN,

Plaintiff

- and -

CHARLES E. CURTIS, PETER OLFERT, WALDRON (WALLY) FOX-DECENT, LEA BATURIN, ALBERT R. BEAL, RON WAUGH, DIANE BERESFORD, SYLVIA FARLEY, ROBERT HILLIARD, ROBERT ZIEGLER, JOHN CLARKSON, DAVID G. FRIESEN, HUGH ELIASSON, SHERMAN KREINER, JAMES UMLAH, JANE HAWKINS, JANICE LEDERMAN, PRICEWATERHOUSE COOPERS LLP, NESBITT BURNS INC., WELLINGTON WEST CAPITAL INC., CROCUS CAPITAL INC., THE MANITOBA SECURITIES COMMISSION and THE CROCUS INVESTMENT FUND

Defendants

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

File No. CI 06-01-46955

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

BERNARD W. BELLAN, and ROBERT NELSON,

Plaintiffs,

- and -

THE GOVERNMENT OF MANITOBA,

Defendant,

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

ORDER

(RE: Settlement with Government of Manitoba and Manitoba Securities Commission)

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Counsel for the Plaintiffs

THE QUEEN'S BENCH
Winnipeg Centre

THE HONOURABLE
MR. JUSTICE HANSEN

)
)
)

Tuesday, May 20, 2008

BETWEEN:

BERNARD W. BELLAN,

Plaintiff

- and -

CHARLES E. CURTIS, PETER OLFERT, WALDRON (WALLY) FOX-DECENT, LEA BATURIN, ALBERT R. BEAL, RON WAUGH, DIANE BERESFORD, SYLVIA FARLEY, ROBERT HILLIARD, ROBERT ZIEGLER, JOHN CLARKSON, DAVID G. FRIESEN, HUGH ELIASSON, SHERMAN KREINER, JAMES UMLAH, JANE HAWKINS, JANICE LEDERMAN, PRICEWATERHOUSE COOPERS LLP, NESBITT BURNS INC., WELLINGTON WEST CAPITAL INC., CROCUS CAPITAL INC., THE MANITOBA SECURITIES COMMISSION and THE CROCUS INVESTMENT FUND

Defendants

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

File No. CI 06-01-46955

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

BERNARD W. BELLAN, and ROBERT NELSON,

Plaintiffs,

- and -

THE GOVERNMENT OF MANITOBA,

Defendant,

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

ORDER

THIS MOTION, made by the Plaintiff, Bernard Bellan, for an order approving a settlement with the Defendants, the Manitoba Securities Commission and the Government of Manitoba (the "Settling Defendants"), was heard this day at Winnipeg.

ON READING the affidavits of Mark Lyons and Bernard Bellan and on hearing the submissions of counsel for the parties,

THIS COURT ORDERS AS FOLLOWS:

1. The Agreement, attached to this Order as Schedule A, is approved as fair and reasonable and in the best interests of the Settlement Class. The Agreement is incorporated into, and forms part of this Order, including the definitions contained therein.
2. The Class Actions are certified as against the Settling Defendants for settlement purposes only.
3. The Settlement Class is defined as the class of persons who own Class A common shares in the Crocus Investment Fund including their legal representatives, heirs, successors and assigns, and who have not opted out of the Agreement but excludes each of the Defendants named or ever named in the Class Actions.
4. The common issue is defined as whether the Settling Defendants owed a duty to the Settlement Class.
5. Bernard Bellan is appointed as the Representative Plaintiff for the Settlement Class. His counsel, Klein Lyons, Booth Dennehy LLP and Prober Law Offices, are appointed as counsel to the Settlement Class.
6. The Settling Parties and all Settlement Class members are ordered to comply with the Agreement.
7. The deadline for exclusion (“opting out”) from the Settlement Class is 30 days following the mailing of the Notice of Certification and Settlement Approval (“Opt Out Deadline”).

8. Any Settlement Class Member who has not opted out from the Settlement Class in accordance with the procedures set out in this Agreement by the Opt Out Deadline shall be bound by the terms of this Agreement.

9. The Receiver, Deloitte & Touche Inc., is appointed as the Administrator of the settlement.

10. The form of Notice of Certification and Settlement Approval is approved as attached as Schedule B. Within 14 days after the Approval Date, the Administrator shall mail by ordinary mail a copy of the Notice of Certification and Settlement Approval to the last known address it has in its records for each holder of Crocus Investment Fund Class A shares. The Notice of Certification and Settlement Approval will also be posted on the Klein Lyons web site, and on the Receiver's web site. The Administrator will further cause the Notice of Certification and Settlement Approval to be published in one weekday edition of the Winnipeg Free Press.

11. There shall be a bar to any and all claims for contribution, indemnification, subrogation or other claims over against the Settling Defendants by any Non-Settling Defendants, or by any other person, in respect of the subject matter of the Class Actions or any other matter arising out of the operation of the Crocus Investment Fund.

12. The Non-Settling Defendants shall have discovery rights against the Settling Defendants in the Class Actions as if the Non-Settling Defendants had issued third party claims against each Settling Defendant, and the Plaintiff shall have the right to participate as a party to such discoveries.

13. With respect to the collective several liability of the Non-Settling Defendants at paragraphs 11.2.2 and 11.2.3 of the Agreement, the Non-Settling Defendants shall not be made to pay a greater amount to the Settlement Class, as a result of this settlement, than would have occurred in the absence of a settlement.

14. It is declared that, in the event of termination of the Agreement pursuant to Section 13 of the Agreement, this Order is null and void and of no force and effect.

15. The Court shall retain continuing jurisdiction over the Agreement to ensure that all payments are properly made, and over the interpretation and enforcement of the Agreement's terms, conditions and obligations.

J. S. HANCOCK

J.

SCHEDULE "A"

File No. CI 05-01-42765

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

BERNARD W. BELLAN

Plaintiff

- and -

CHARLES E. CURTIS, PETER OLFERT, WALDRON (WALLY) FOX-DECENT,
LEA BATURIN, ALBERT R. BEAL, RON WAUGH, DIANE BERESFORD,
SYLVIA FARLEY, ROBERT HILLIARD, ROBERT ZIEGLER, JOHN CLARKSON,
DAVID G. FRIESEN, HUGH ELIASSON, SHERMAN KREINER, JAMES UMLAH,
JANE HAWKINS, JANICE LEDERMAN, PRICEWATERHOUSE COOPERS LLP,
NESBITT BURNS INC., WELLINGTON WEST CAPITAL INC.,
CROCUS CAPITAL INC., THE MANITOBA SECURITIES COMMISSION
and THE CROCUS INVESTMENT FUND

Defendants

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

File No. CI 06-01-46955

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN

BERNARD W. BELLAN and ROBERT NELSON

Plaintiffs

- and -

THE GOVERNMENT OF MANITOBA

Defendant

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

SETTLEMENT AGREEMENT

WHEREAS:

A. Bernard W. Bellan (the "Plaintiff"), in his own capacity and in his capacity as representative plaintiff for the Settlement Class, and the Government of Manitoba and the Manitoba Securities Commission (the "Settling Defendants"), (collectively, the "Settling Parties"), hereby enter into this Agreement providing for settlement of the claims described below, pursuant to the terms and conditions set forth below, subject to the approval of the Court.

B. Class Actions have been filed by the Plaintiff against the Settling Defendants pursuant to the *Class Proceedings Act*, C.C.S.M. c. C130 in the Manitoba Court of Queen's Bench.

C. Robert Nelson has, on the advice of his physician, requested that his name be removed as a plaintiff in action CI 06-01-46955.

D. The Settling Defendants, notwithstanding their consent to this Agreement, have denied and continue to deny the claims of the Plaintiff and the Settlement Class Members in the Class Actions, have denied and continue to deny any wrongdoing and have raised numerous defences, including defences relating to the certification of the claims in the Class Actions and, except to the extent of their obligations under this Agreement, deny liability of any kind to the Plaintiff or the Settlement Class Members.

E. The Class Actions have not yet been certified. The Settling Defendants are not opposing certification of the Class Actions as against them for settlement purposes only.

F. The Settlement Class Members will have the right to exclude themselves ("opt out") from this Agreement pursuant to Section 16 of *The Class Proceedings Act*, C.C.S.M. c.C130, and as provided in this Agreement.

G. Based upon an analysis of the facts and the law applicable to the claims of the Settlement Class, taking into account the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted trials and appeals, as well as the fair, cost-effective and assured method of resolving claims of the Settlement Class provided in this Agreement, the Plaintiff and Plaintiff's Counsel have concluded that this Agreement provides substantial

benefits to the Settlement Class and is fair, reasonable, and in the best interests of the Settlement Class.

H. The Settling Defendants have similarly concluded that this Agreement is desirable in order to avoid the time, risk and expense of defending multiple and protracted litigation, and to resolve finally and completely the pending and potential claims of the Settlement Class Members and all pending and potential claims, proceedings, crossclaims and third party actions against them.

NOW THEREFORE, subject to the Court's approval, this Agreement embodies the terms of resolution of the claims asserted or which could have been asserted against the Settling Defendants in the Class Actions.

1. **Definitions**

Unless the specific context of a particular section of this Agreement calls for another interpretation, the following terms, as used in this Agreement, shall have the meanings set forth below. Terms used in the singular shall be deemed to include the plural, and *vice versa*. Masculine pronouns and male references shall be deemed to include the female and *vice versa*, where appropriate. The terms "person" or "party" includes individuals, partnerships and corporations.

"Administrator" means the person appointed by the Court as provided in Section 7 of this Agreement.

"Agreement" means this Settlement Agreement.

"Approval Date" means the date on which the Approval Order becomes a final order meaning that the time to appeal has expired and there has been no appeal or, if there have been any appeals from the Approval Order, all rights of appeal have been exhausted and there has been no change to the Approval Order.

“Approval Order” means the Order referred to in section 3.2.1 of this Agreement.

“Class Actions” means the two proceedings filed under the *Class Proceedings Act*, C.C.S.M. c.C130 in the Manitoba Court of the Queens Bench bearing File Nos. CI 05-01-42765 and CI 06-01-46955.

“Class Counsel” means the law firms of Klein Lyons, Booth Dennehy LLP and Prober Law Offices, which firms act on behalf of the Plaintiff and the Settlement Class herein and which shall continue acting on behalf of the Plaintiff and Settlement Class with respect to all acts or consents pursuant to this Agreement.

“Court” means the Manitoba Court of the Queen’s Bench which has jurisdiction over the Class Actions, and the Honourable Mr. Justice Hanssen, or his successor.

“Defendants” means any of the defendants ever named or to be named in either of the Class Actions.

“Effective Date” means the date that Settling Defendants pay the Settlement Amount as provided in section 6.1 of this Agreement.

“Non-Settling Defendants” means any of the Defendants, excluding the Settling Defendants, ever named or to be named in either of the Class Actions.

“Notice of Certification and Settlement Approval” means the Notice advising Settlement Class Members of the Court’s approval of this Agreement.

“Opt Out Deadline” means the date 30 days after the date of mailing of the Notice of Certification and Settlement Approval pursuant to Section 3.3 of this Agreement.

“Receiver” means Deloitte & Touche, Inc. as Receiver of Crocus Investment Fund.

"Settlement Amount" means the sum of \$2,750,000.00 (two million, seven hundred and fifty thousand dollars) payable by or on behalf of the Settling Defendants under this Agreement.

"Settlement Class" means the class of persons who own Class A common shares in Crocus Investment Fund including their legal representatives, heirs, successors and assigns, and who have not opted out of this Agreement but excludes each of the Defendants named or ever named in the Class Actions.

"Settlement Class Member" means a person who falls within the definition of the Settlement Class.

"Settlement Fund" means the Settlement Amount less the amount approved by the Court for payment of Class Counsel fees and disbursements.

2. **Preliminary Matters**

- 2.1 Promptly after execution of this Agreement, the Plaintiff will serve a true copy of this Agreement on counsel for each of the Non-Settling Defendants.
- 2.2 Where the time on or by which any action to be taken under this Agreement falls on a day that is not a business day, such action may be done on the next day that is a business day.
- 2.3 All references to money in this Agreement are to Canadian currency.

3. **Matters Relating to Certification and Settlement Approval**

- 3.1 Within 14 days of the execution of this Agreement by all Settling Parties, the Plaintiff will bring an application for Court approval of this Agreement. The Settling Defendants will not oppose certification of the Class Actions as against them for settlement purposes only.

3.2 Certification and Settlement Approval Order

3.2.1 Subject to the Court's approval, and as provided in a form of Order to be agreed by the Parties, the order approving this Agreement shall:

- (a) certify the action as a Class Actions as against the Settling Defendants for settlement purposes only;**
- (b) appoint Bernard Bellan as the Representative Plaintiff for the Settlement Class;**
- (c) approve this Agreement and order the Settling Parties and all Settlement Class Members to comply with it;**
- (d) order that the deadline for exclusion ("opting out") from the Settlement Class be 30 days following the mailing of the Notice of Certification and Settlement Approval ("Opt Out Deadline");**
- (e) declare that any Settlement Class Member who has not opted out from the Settlement Class in accordance with the procedures set out in this Agreement by the Opt Out Deadline shall be bound by the terms of this Agreement;**
- (f) declare that this Agreement is fair, reasonable, and in the best interests of the Settlement Class;**
- (g) order mailing of the Notice of Certification and Settlement Approval;**
- (h) appoint the Receiver as the Administrator;**
- (i) bar any and all claims for contribution, indemnification, subrogation or other claims over against the Settling Defendants by any Non-Settling Defendants, or by any other person, in respect of the subject matter of the Class Actions or any other matter arising out of the operation of the Crocus Investment Fund;**

- (j) order that the Non-Settling Defendants shall have discovery rights against the Settling Defendants in the Class Actions as if the Non-Settling Defendants had issued third party notices against each Settling Defendant, and the Plaintiff shall have the right to participate as a party to such discoveries; and
- (k) declare that, in the event of termination of this Agreement pursuant to Section 13 below, the Order is null and void and of no force and effect.

3.2.2 Following Court approval of this Agreement, Class Counsel will apply to the Court for approval of Class Counsel fees and disbursements. On the Effective Date, the amount approved by the Court will be paid to Class Counsel out of the Settlement Amount that was paid to Klein Lyons in trust pursuant to section 6.1 of this Agreement. The approval of this Agreement is not conditional on approval of Class Counsel's fees or disbursements. The Settling Defendants take no position as to the amount that should be paid to Class Counsel for fees and disbursements.

3.3 **Notice of Certification and Settlement Approval**

3.3.1 The content of the Notice of Certification and Settlement Approval shall be as agreed by the Settling Parties and approved by the Court.

3.3.2 Within 14 days after the Approval Date, or on such other date as is approved by the Court, the Receiver shall mail by ordinary mail a copy of the Notice of Certification and Settlement Approval to the last known address it has in its records for each holder of Crocus Investment Fund Class A common shares. The Notice of Certification and Settlement Approval will also be posted on the Klein Lyons web site, and the Plaintiff will request that it be posted on the Receiver's web site.

4. **Waiver of Limitation Defences**

4.1 Nothing in this Agreement shall constitute or be deemed to constitute a waiver by the Settling Defendants of defences based upon statutes of limitations or repose, prescription

periods or any other limitation or prescription defence with respect to any action brought or continued by any person who opts out of this Agreement, or is deemed to opt out of this Agreement, or if this Agreement is terminated.

5. **Entitlement to Compensation**

5.1 Subject to the payment of administration expenses referred to in section 7.1 of this Agreement, only Settlement Class Members who have not opted out shall be entitled to receive payments out of the Settlement Fund pursuant to this Agreement.

6. **Payments and Related Issues**

6.1 Within 14 business days after the expiration of the time period in paragraph 13.2.2, the Government of Manitoba on behalf of the Settling Defendants will pay the Settlement Amount (\$2,750,000.00) to Klein Lyons in trust in full and final settlement of all claims by the Plaintiff and the Settlement Class, whether direct, subrogated, asserted or unasserted or asserted in a representative capacity in the Class Actions, inclusive of all interest, GST and costs.

6.2 Klein Lyons will forthwith upon receipt of the Settlement Amount transfer the Settlement Fund to the Administrator to be held in trust by the Administrator for the benefit of the Settlement Class.

6.3 Any payments contemplated by this Section 6 are automatically cancelled and rendered null and void if this Agreement is terminated.

7. **Administrator**

7.1 The Settling Parties will propose that the Receiver be appointed by the Court as the Administrator for the purpose of administering this Agreement. All expenses of the Receiver related to the administration of this Agreement will be paid out of the Settlement Fund.

8. Procedures and Deadlines for Exclusion

- 8.1 Any person who is a holder of Crocus Investment Fund Class A common shares, other than Bernard W. Bellan, will have the right to exclude herself or himself ("opt out") from this Agreement and from the Settlement Class by delivering a letter to the Administrator on or before the Opt Out Deadline signed by the person opting out and setting out that person's name, address, number of shares held and reason for opting out. Persons who elect to opt out shall be excluded from this Agreement and from the Settlement Class. It is the responsibility of the person opting out to ensure that the requisite signed letter is received by the Administrator on or before the Opt Out Deadline. Any member of the Settlement Class who does not deliver to the Administrator a complete and signed opt out letter by the Opt Out Deadline shall be considered a Settlement Class Member and shall be bound by the terms of this Agreement and by the Court Order approving this Agreement.
- 8.2 By entering into this Agreement, Bernard W. Bellan agrees that he will not opt out of this Agreement.

9. Distribution of Settlement Fund

- 9.1 The Settlement Fund will be held in trust by the Administrator for the benefit of the Settlement Class. All Settlement Class Members who have not opted out will be eligible for payment from the Settlement Fund. The Settlement Fund will be distributed to the Settlement Class Members by the Administrator at the same time that the Receiver makes its first distribution of funds from the Crocus Investment Fund to the holders of Crocus Investment Fund Class A common shares. The Settlement Fund will be distributed pro rata to the Settlement Class Members based on the monies paid for each Settlement Class Member's Class A common shares of the Crocus Investment Fund which remained unredeemed as of the date of the Receivership.

10. **Exclusive Remedy/Dismissal of Action**

10.1 **Exclusive Remedy**

10.1.1 This Agreement shall be the exclusive remedy for any and all Settlement Class Members with respect to claims asserted or which could have been asserted against the Settling Defendants in the Class Actions. The Settling Defendants shall not be subject to liability or any other expense of any kind to any Settlement Class Member with respect to the Class Actions, except as provided in this Agreement. Settlement Class Members who have not opted out of this Agreement on or before the Opt Out Deadline shall be forever barred from continuing, initiating, asserting or prosecuting any and all claims asserted or which could have been asserted against the Settling Defendants in the Class Actions.

10.2 **Dismissal of Action**

10.2.1 Forthwith after the Effective Date, the Settling Parties will file a consent to a judgment dismissing the Class Actions as against the Settling Defendants with prejudice and any or all crossclaims and third party claims as against the Settling Defendants, on a "without costs" basis, along with any other documents that may be necessary to give effect to the dismissal of the Class Actions. Notwithstanding the dismissal of the Class Actions as against the Settling Defendants, the Court will retain ongoing jurisdiction to deal with matters arising out of the administration of the settlement provided for in this Agreement.

11. **Releases/Bar Order/Third Party Claims**

11.1 **Release of Class Action Claims Against Settling Defendants**

11.1.1 The claims of the Plaintiff and every Settlement Class Member who has not opted out of this Agreement on or before the Opt Out Deadline, whether their claims are direct, subrogated, asserted or unasserted or asserted in a representative capacity in the Class Actions, inclusive of all interest, GST and costs, shall be conclusively compromised, settled, released and discharged as against the Settling Defendants, and Settlement Class

Members shall be deemed to have forever released and discharged the Settling Defendants from any past, present and future claims, actions, demands and liabilities of any nature whatsoever relating to all claims asserted or which could have been asserted in the Class Actions.

11.2 Bar Order

- 11.2.1 All claims for contribution, indemnity, subrogation or other claims over, by any Non-Settling Defendant or any other person against the Settling Defendants in respect of the subject matter of the Class Actions or any other matter arising out of the operation of the Crocus Investment Fund, whether direct, subrogated, asserted or unasserted or asserted in a representative capacity, inclusive of interest, GST and costs, will be barred by order of the Court.
- 11.2.2 Forthwith after the Effective Date, the Plaintiff will amend the Statement of Claim in Manitoba Queen's Bench Action No. CI 05-01-42765 so as to restrict the claims against the Non-Settling Defendants to the collective several liability of the Non-Settling Defendants. In other words, the Plaintiff agrees to exclude the proportionate share of liability of the Settling Defendants from any judgment which may be granted against, the Non-Settling Defendants.
- 11.2.3 If any action is instituted by a Settlement Class Member seeking damages against persons who are not currently parties to the Class Actions ("non-parties") in respect of claims asserted or which could have been asserted in the Class Actions, such action will be limited to the non-parties' collective several liability. In other words, the Settlement Class Member's claim shall exclude the proportionate share of liability of the Settling Defendants from the claims against the non-parties, and from any judgment which may be granted against the non-parties.

11.3 **Reservation of Rights/Third Party Claims**

11.3.1 Except as otherwise provided herein, nothing in this Agreement shall prejudice or in any way interfere with the rights of the Settlement Class Members to pursue all of their other rights and remedies against persons and/or entities other than the Settling Defendants.

12. **Submissions to the Court by the Administrator**

12.1 The Administrator may apply to the Court for directions, as required, upon notice served on Class Counsel and Settling Defendants' Counsel no later than fourteen (14) days prior to the date of any hearing.

13. **Termination of this Agreement**

13.1 **Defendants' Right of Termination**

13.1.1 If persons holding a total of more than .5 percent (one half of one percent) of the Crocus Investment Fund Class A common shares elect to opt out of this Agreement on or before the Opt Out Deadline, the Settling Defendants shall have the unilateral right to terminate this Agreement as set forth in Section 13.2.

13.2 **Procedures and Time for Termination**

13.2.1 Within thirty (30) days following the Opt Out Deadline the Administrator shall notify counsel for the Settling Defendants and Class Counsel of the total number of persons who have opted out of this Agreement, including all particulars of their Crocus Investment Fund shareholdings and copies of their opt out letters.

13.2.2 The Settling Defendants or any of them may exercise their right to terminate this Agreement pursuant to Section 13.1 above by providing written notice to Class Counsel and to the Court within thirty (30) days from the date on which the Administrator

provides counsel for the Settling Defendants with the information and documentation pursuant to Section 13.2.1 above.

13.3 Notice of Settlement Class Members

13.3.1 If the Settling Defendants exercise their right of termination pursuant to Section 13 of this Agreement, Notice of Termination shall be given to all Settlement Class Members. The content and method of dissemination of the Notice of Termination shall be determined by the Court. If any of the Settling Defendants exercises the right to terminate this Agreement, any costs associated with disseminating the Notice of Certification and Settlement and the Notice of Termination shall be paid in equal shares by the Settling Defendants who chose to terminate this Agreement.

13.4 Automatic Termination of the Agreement

13.4.1 This Agreement shall, without notice, be automatically terminated if the Court declines to approve this Agreement in any respect or, in the event of an appeal, if the Court's approval order is not affirmed in all respects.

13.5 Effect of Termination

13.5.1 If this Agreement is terminated pursuant to Section 13 herein, the certification of the Class Actions for settlement purposes pursuant to this Agreement shall be null and void and this Agreement shall have no further force or effect and shall not be used or referred to in any litigation involving any of the Settling Parties and/or the Non-Settling Defendants.

14. **Miscellaneous Provisions**

14.1 **Ongoing Authority**

14.1.1 The Court shall retain continuing jurisdiction over this Agreement to ensure that all payments under this Agreement are properly made, and over the interpretation and enforcement of this Agreement's terms, conditions and obligations.

14.2 **Entire Agreement**

14.2.1 This Agreement constitutes the entire agreement by and among the Settling Parties with regard to the subject of this Agreement and supersedes any previous agreements and understandings between the Settling Parties with respect to the subject matter of this Agreement. This Agreement may not be amended except in writing signed by all Settling Parties, and such amendments are subject to the Court's approval.

14.3 **Other Originals**

14.3.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one instrument.

14.4 **Dates**

14.4.1 Dates and deadlines referred to in this Agreement may be altered only with the consent of the Settling Parties and with the approval of the Court.

14.5 **Use of Agreement**

14.5.1 Neither the existence nor the terms of this Agreement may be used as evidence of any admission by the Settling Defendants regarding fault, liability, causation, damages, and/or any other issue. This Agreement may, however, be relied upon by any Settling Party for purposes of enforcing any right possessed by such Settling Party or for purposes

of any motion or application made to the Court for interpretation or enforcement of its terms.

14.6 Notification

14.6.1 Any notification, request, instruction or other document to be given by any party to this Agreement to any other party to this Agreement shall be in writing and delivered personally, sent by facsimile, or sent by registered mail, postage prepaid, if to the Plaintiff, to the attention of Class Counsel and, if to the Settling Defendants, to the attention of their counsel:

For the Plaintiff Bernard W. Bellan and the Settlement Class:

David A. Klein, Douglas Lennox, Jay Prober and J. R. Norman Boudreau

For the Defendant The Government of Manitoba:

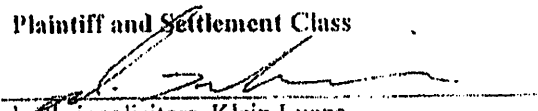
E. W. (Bill) Olson, Q.C. and Robert W. Olson

For Defendant The Manitoba Securities Commission:

William S. Gange and Jacqueline G. Collins

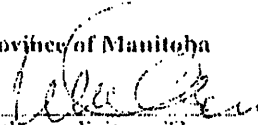
Dated this 13th day of April, 2008.

Plaintiff and Settlement Class


by their solicitors, Klein Lyons
Per: David A. Klein

Dated this 31st day of March, 2008.

Province of Manitoba


by their solicitors, Thompson Dorfman
Sweatman

Per: E. W. (Bill) Olson, Q.C.

Dated this _____ day of _____, 2008.

Manitoba Securities Commission

by their solicitors, Gange Goodman French
Per: William S. Gange

SCHEDULE "B"

Crocus Investment Fund Class Actions Notice of Certification and Settlement Approval

To all persons who own Class A common shares in the Crocus Investment Fund (the "Fund"), this notice will be important to you.

Settlements have been approved by the Court in lawsuits brought on behalf shareholders in the Fund. This notice is published by Order of The Honourable Mr. Justice Hanssen of the Manitoba Court of Queen's Bench and explains:

1. the lawsuits;
2. the terms of settlement;
3. your right to choose to opt out of the class actions;
4. legal fees; and
5. where to get more information.

1. The Lawsuits

Bernard Bellan commenced class action lawsuits relating to the Fund on behalf of shareholders in the Manitoba Court of Queen's Bench as action nos. CI 05-01-42765 and CI 06-01-46955. The Manitoba Securities Commission and the Government of Manitoba have agreed to settle these lawsuits (the "Settling Defendants"). Proposed settlements with the former officers and directors of the Fund, Pricewaterhouse Coopers LLP, Nesbitt Burns Inc., Crocus Capital Inc., and the Crocus Investment Fund are also pending finalization and court approval. There has been no settlement with one remaining defendant, Wellington West Capital Inc., and this claim is continuing.

On May 20 2008, Mr. Justice Hanssen certified these lawsuits as class actions for the purposes of settlement as against the Settling Defendants, and approved the settlement agreements reached with the Settling Defendants. The court defined the class as persons who own Class A common shares in the Fund including their legal representatives, heirs, successors and assigns, and who have not opted out but excludes each of the Defendants named or ever named in the lawsuits. The court appointed Mr. Bellan as representative plaintiff for the class. The court appointed the firms of Klein Lyons, Booth Dennehy LLP and Prober Law Offices, (collectively, "Class Counsel") as counsel to the class.

2. The Terms of Settlement

The Settling Defendants have agreed to pay up to a total of \$2.75 million to compensate class members and have agreed to release any claims against the Fund. Subject to court approval, the pending settlements could add up to an additional \$9.25 million to this amount. These other defendants have also agreed to drop most claims for indemnity against the Fund with respect to claims asserted in the lawsuits, thereby significantly reducing one of the major obstacles to the distribution of money to shareholders held in the Fund's receivership. In exchange, the claims against the Settling Defendants will be dismissed. No admission of liability has been made.

Compensation will be distributed pro rata to the Settlement Class Members based on the monies paid for each Settlement Class Member's Class A common shares of the Crocus Investment Fund which remained unredeemed as of the date of the Receivership. Compensation will be distributed by Deloitte & Touche Inc., the Receiver to the Fund, which the court has appointed as the Administrator for the settlements. It is anticipated that compensation will be distributed to class members at the same time that the Administrator makes a distribution of monies from the Receivership to shareholders. If this settlement is concluded, a distribution is anticipated in late fall 2008, at the earliest. To be eligible to receive compensation, it is not necessary for you to take any steps, other than make sure that the Administrator has your correct mailing address. The Administrator is mailing a copy of this notice to all shareholders in the Fund. If you received a copy of this notice in the mail from the Administrator, ^{and it is addressed to you at your current address KRH} this confirms that it has your mailing address.

The class members' recoveries will be subject to payment of Class Counsel's fee, in an amount to be determined by the Court. Copies of the Settlement Agreements are available online at www.kleinlyons.com. Hard copies can be obtained by calling Class Counsel at 1-800-216-1383.

3. Your Right to Choose Whether or Not to be Part of the Class Actions

(a) How to be Included in the Class

If you are a class member, you will automatically be included in the class actions and eligible to receive compensation unless you opt out.

(b) How to be Excluded from the Lawsuits

To opt out of the class actions, you must deliver a letter to the Administrator on or before the **[Opt Out Deadline]** signed by the person opting out and setting out that person's name, address, number of shares held and reason for opting out.

All class members who do not opt out of these class actions will be bound by the settlements.

The address for writing to the Administrator to opt out is: Crocus Class Action Settlement Administrator, Deloitte & Touche Inc., 360 Main Street, Suite 2300, Winnipeg MB, R3C 3Z3.

4. Legal Fees

Mr. Bellan retained Class Counsel to represent him and the Class in the lawsuits. Class Counsel are paid legal fees only if the lawsuit is successful, and then only in an amount approved by the Court.

5. More Information

For further information about the class actions you may contact: Klein Lyons, Barristers & Solicitors, P.O. Box 85, Suite 1220, 65 Queen St. W., Toronto, ON M5H 2M5, 1-800-216-1383, Attn: Doug Lennox dlennox@kleinlyons.com, www.kleinlyons.com.

Appendix “E”

Appendix "E"

DRAFT #1

File No. CI 05-01-42765

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

BERNARD W. BELLAN

Plaintiff

- and -

CHARLES E. CURTIS, PETER OLFERT, WALDRON (WALLY) FOX-DECENT,
LEA BATURIN, ALBERT R. BEAL, RON WAUGH, DIANE BERESFORD,
SYLVIA FARLEY, ROBERT HILLIARD, ROBERT ZIEGLER, JOHN CLARKSON,
DAVID G. FRIESEN, HUGH ELIASSON, SHERMAN KREINER, JAMES UMLAH,
JANE HAWKINS, JANICE LEDERMAN, PRICEWATERHOUSE COOPERS LLP,
NESBITT BURNS INC., WELLINGTON WEST CAPITAL INC.,
CROCUS CAPITAL INC., THE MANITOBA SECURITIES COMMISSION
and THE CROCUS INVESTMENT FUND

Defendants

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

SETTLEMENT AGREEMENT

WHEREAS:

- A. Bernard W. Bellan (the "Plaintiff"), in his own capacity and in his capacity as representative plaintiff for the Settlement Class, and BMO Nesbitt Burns Inc. ("Nesbitt"), hereby enter into this Agreement providing for settlement of the claims described below, pursuant to the terms and conditions set forth below, subject to the approval of the Court.
- B. A Class Action has been filed by the Plaintiff against Nesbitt pursuant to the *Class Proceedings Act*, C.C.S.M. c. C130 in the Manitoba Court of Queen's Bench.
- D. Nesbitt, notwithstanding its consent to this Agreement, has denied and continues to deny the claims of the Plaintiff and the Settlement Class Members in the Class Action, has denied and continues to deny any wrongdoing and has raised numerous defences, including defences relating to the certification of the claims in the Class Action and, except to the extent of its



obligations under this Agreement, denies liability of any kind to the Plaintiff or the Settlement Class Members.

E. The Class Action has not yet been certified. Nesbitt will not oppose certification of the Class Action as against it for settlement purposes only.

F. The Settlement Class Members will have the right to exclude themselves ("opt out") from this Agreement pursuant to Section 16 of *The Class Proceedings Act*, C.C.S.M. c.C130, and as provided in this Agreement.

G. Based upon an analysis of the facts and the law applicable to the claims of the Settlement Class, taking into account the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted trials and appeals, as well as the fair, cost-effective and assured method of resolving claims of the Settlement Class provided in this Agreement, the Plaintiff and Plaintiff's Counsel have concluded that this Agreement provides substantial benefits to the Settlement Class and is fair, reasonable, and in the best interests of the Settlement Class.

H. Nesbitt has similarly concluded that this Agreement is desirable in order to avoid the time, risk and expense of defending multiple and protracted litigation, and to resolve finally and completely the pending and potential claims of the Settlement Class Members and all pending and potential claims, proceedings, crossclaims and third party actions against them.

NOW THEREFORE, subject to the Court's approval, this Agreement embodies the terms of resolution of the claims asserted or which could have been asserted against the Settling Party in the Class Action.

1. **Definitions**

Unless the specific context of a particular section of this Agreement calls for another interpretation, the following terms, as used in this Agreement, shall have the meanings set forth below. Terms used in the singular shall be deemed to include the plural, and *vice versa*.



Masculine pronouns and male references shall be deemed to include the female and *vice versa*, where appropriate. The terms "person" or "party" includes individuals, partnerships and corporations.

"Administrator" means the person appointed by the Court as provided in Section 6 of this Agreement.

"Agreement" means this Settlement Agreement.

"Approval Date" means the date on which the Approval Order becomes a final order meaning that the time to appeal has expired and there has been no appeal or, if there have been any appeals from the Approval Order, all rights of appeal have been exhausted and there has been no change to the Approval Order.

"Approval Order" means the Order referred to in section 3.2.1 of this Agreement.

"Class Action" means the proceeding filed under the *Class Proceedings Act*, C.C.S.M. c.C130 in the Manitoba Court of the Queens Bench bearing File No. CI 05-01-42765

"Class Counsel" means the law firms of Klein Lyons, Booth Dennehy LLP and Prober Law Offices, which firms act on behalf of the Plaintiff and the Settlement Class herein and which shall continue acting on behalf of the Plaintiff and Settlement Class with respect to all acts or consents pursuant to this Agreement.

"Court" means the Manitoba Court of the Queen's Bench which has jurisdiction over the Class Action, and the Honourable Mr. Justice Hanssen, or his successor

"Defendants" means any of the defendants ever named or to be named in the Class Action (including affiliates and each Defendant and its affiliates' present and former directors, officers, agents, partners, servants and employees and each individual's successors, heirs, executors, estate trustees, administrators and assigns). For greater certainty, "Defendants" includes Deloitte & Touche Inc. in its capacity as receiver of the Crocus Investment Fund.



“Effective Date” means the date that Nesbitt pays the Settlement Amount as provided in section 5.2 of this Agreement.

“Non-Settling Defendants” means any of the Defendants, excluding Nesbitt, ever named or to be named in the Class Action.

“Notice of Certification and Settlement Approval” means the Notice advising Settlement Class Members of the Court’s approval of this Agreement.

“Opt Out Deadline” means the date 30 days after the date of mailing of the Notice of Certification and Settlement Approval pursuant to Section 3.3 of this Agreement.

“Receiver” means Deloitte & Touche, Inc. as Receiver of Crocus Investment Fund.

“Related Action” means the action commenced under *Class Proceedings Act*, C.C.S.M. c.C130 by Bernard W. Bellan and Robert Nelson against the Government of Manitoba in the Manitoba Court of the Queen’s Bench bearing File No. CI 06-01-46955.

“Settlement Amount” means the sum of \$100,000.00 (one hundred thousand dollars) payable by Nesbitt under this Agreement.

“Settlement Class” means the class of persons who own Class A common shares in Crocus Investment Fund including their legal representatives, heirs, successors and assigns, and who have not opted out of this Agreement but excludes each of the Defendants named or ever named or to be named in the Class Action.

“Settlement Class Member” means a person who falls within the definition of the Settlement Class.

“Settlement Fund” means the Settlement Amount less the amount approved by the Court for payment of Class Counsel fees and disbursements.



“Settling Party” means Nesbitt and its affiliates, and each of Nesbitt’s and its affiliates’ present and former directors, officers, agents, partners, servants and employees, and each individual’s successors, heirs, executors, estate trustees, administrators and assigns.

2 **Preliminary Matters**

- 2.1 Promptly after execution of this Agreement by the Plaintiff and Nesbitt, the Plaintiff will serve a true copy of this Agreement on counsel for each of the Non-Settling Defendants.
- 2.2 Where the time on or by which any action to be taken under this Agreement falls on a day that is not a business day, such action may be done on the next day that is a business day.
- 2.3 All references to money in this Agreement are to Canadian currency

3 **Matters Relating to Certification and Settlement Approval**

- 3.1 Within 14 days of the execution of this Agreement by the Plaintiff and Nesbitt, the Plaintiff will bring an application for Court approval of this Agreement. Nesbitt will not oppose certification of the Class Action as against it for settlement purposes only.

3.2 **Certification and Settlement Approval Order**

- 3.2.1 Subject to the Court’s approval, and as provided in a form of Order to be agreed by the Plaintiff and Nesbitt, acting reasonably, the order approving this Agreement shall:
- (a) certify the Class Action as a class proceeding as against Nesbitt for settlement purposes only;
 - (b) appoint Bernard Bellan as the Representative Plaintiff for the Settlement Class;
 - (c) approve this Agreement and order the Plaintiff, all Settlement Class Members, the Settling Party and all Defendants to comply with it;



- (d) order that the deadline for exclusion (“opting out”) from the Settlement Class be 30 days following the mailing of the Notice of Certification and Settlement Approval (“Opt Out Deadline”);
- (e) declare that any Settlement Class Member who has not opted out of the Settlement Class in accordance with the procedures set out in this Agreement by the Opt Out Deadline shall be bound by the terms of this Agreement;
- (f) declare that this Agreement is fair, reasonable, and in the best interests of the Settlement Class;
- (g) order mailing of the Notice of Certification and Settlement Approval;
- (h) appoint the Receiver as the Administrator;
- (i) bar any and all claims for contribution, indemnification, subrogation or any other claims against Nesbitt by any Non-Settling Defendants, or by any other person, in respect of the subject matter of the Class Action;
- (j) order that the Non-Settling Defendants shall have discovery rights against Nesbitt in the Class Action with respect only to the claims specifically asserted against Nesbitt in the statement of claim issued July 12, 2005, as it has been and may be amended, as if the Non-Settling Defendants had issued third party notices against Nesbitt, and the Plaintiff shall have the right to participate as a party to such discoveries; and
- (k) declare that, in the event of termination of this Agreement pursuant to Section 12 below, the Order is null and void and of no force and effect.

3.2.2 Following Court approval of this Agreement, Class Counsel will apply to the Court for approval of Class Counsel fees and disbursements. The amount approved by the Court will be paid to Class Counsel out of the Settlement Amount on the Effective Date. The



approval of this Agreement is not conditional on approval of Class Counsel's fees or disbursements. Nesbitt takes no position as to the amount that should be paid to Class Counsel for fees and disbursements.

3.3 **Notice of Certification and Settlement Approval**

3.3.1 The content of the Notice of Certification and Settlement Approval shall be as agreed by the Plaintiff and Nesbitt, acting reasonably, and approved by the Court.

3.3.2 Within 14 days after the Approval Date, or on such other date as is approved by the Court, the Receiver shall mail by ordinary mail a copy of the Notice of Certification and Settlement Approval to the last known address it has in its records for each holder of Crocus Investment Fund Class A common shares. The Notice of Certification and Settlement Approval will also be posted on the Klein Lyons web site, and the Plaintiff will request that it be posted on the Receiver's web site.

4 **Waiver of Limitation Defences**

4.1 Nothing in this Agreement shall constitute or be deemed to constitute a waiver by the Settling Party of defences based upon statutes of limitations or repose, prescription periods or any other limitation or prescription defence in law or in equity or under any applicable statute with respect to any action brought or continued by any person who opts out of this Agreement, is deemed to opt out of this Agreement, or if this Agreement is terminated.

5 **Payments and Related Issues**

5.1 Subject to the payment of administration expenses referred to in this Agreement and all other conditions set out in this Agreement, only Settlement Class Members who have not opted out shall be entitled to receive payments out of the Settlement Fund pursuant to this Agreement.



- 5.2 Within 14 days after the expiration of the time period in paragraph 12.2.2, Nesbitt will pay the Settlement Amount (\$100,000.00) to Klein Lyons in trust in full and final settlement of all claims by the Plaintiff and the Settlement Class, whether direct, subrogated, asserted or unasserted or asserted in a representative capacity in the Class Action, inclusive of all interest, GST and costs.
- 5.3 Klein Lyons will forthwith upon receipt of the Settlement Amount transfer the Settlement Fund to the Administrator to be held in trust by the Administrator for the benefit of the Settlement Class.
- 5.4 Any payments contemplated by this Section 5 are automatically cancelled and rendered null and void if this Agreement is terminated. In the event this Agreement is terminated, the Settlement Fund held by Klein Lyons or the Administrator shall be forthwith returned to Nesbitt.

6. **Administrator**

- 6.1 The Plaintiff and Nesbitt will propose that the Receiver be appointed by the Court as the Administrator for the purpose of administering this Agreement. All expenses of the Receiver related to the administration of this Agreement will be paid out of the Settlement Fund.

7. **Procedures and Deadlines for Exclusion**

- 7.1 Any person who is an owner of Crocus Investment Fund Class A common shares, other than Bernard W Bellan, will have the right to exclude herself or himself ("opt out") from this Agreement and from the Settlement Class by delivering a letter to the Administrator on or before the Opt Out Deadline signed by the person opting out and setting out that person's name, address, number of shares held and reason for opting out. Persons who elect to opt out shall be excluded from this Agreement and from the Settlement Class. It is the responsibility of the person opting out to ensure that the requisite signed letter is received by the Administrator on or before the Opt Out Deadline. Any member of the



Settlement Class who does not deliver to the Administrator a complete and signed opt out letter by the Opt Out Deadline shall be considered a Settlement Class Member and shall be bound by the terms of this Agreement and by the Court Order approving this Agreement.

7.2 By entering into this Agreement, Bernard W Bellan agrees that he will not opt out of this Agreement.

8. **Distribution of Settlement Fund**

8.1 The Settlement Fund will be held in trust by the Administrator for the benefit of the Settlement Class. All Settlement Class Members who have not opted out will be eligible for payment from the Settlement Fund. The Settlement Fund will be distributed to the Settlement Class Members by the Administrator at the same time that the Receiver makes its first distribution of funds from the Crocus Investment Fund to the holders of Crocus Investment Fund Class A common shares. The distribution will be pro rata to the Settlement Class Members based on the monies paid for each Settlement Class Member's Class A common shares of the Crocus Investment Fund which remained unredeemed as of the date of the Receivership.

9. **Exclusive Remedy/Dismissal of Action**

9.1 **Exclusive Remedy**

9.1.1 This Agreement shall be the exclusive remedy for any and all Settlement Class Members with respect to claims asserted or which could have been asserted against the Settling Party in the Class Action. The Settling Party shall not be subject to liability or any other expense of any kind to any Settlement Class Member with respect to the Class Action, except as provided in this Agreement. Settlement Class Members who have not opted out of this Agreement on or before the Opt Out Deadline shall be forever barred from continuing, initiating, asserting or prosecuting any and all claims asserted or which could have been asserted against the Settling Party in the Class Action.



9.2 Dismissal of Action

9.2.1 Forthwith after the Effective Date, the Plaintiff and Nesbitt will file a consent to a dismissal of the Class Action as against Nesbitt with prejudice and any or all crossclaims and third party claims as against Nesbitt, on a “without costs” basis, along with any other documents that may be necessary to give effect to the dismissal of the Class Action. Notwithstanding the dismissal of the Class Action as against Nesbitt, the Court will retain ongoing jurisdiction to deal with matters arising out of the administration of the settlement provided for in this Agreement.

10. Releases/Bar Order/Third Party Claims

10.1 Release of Class Action Claims Against the Settling Party

10.1.1 The claims of the Plaintiff and every Settlement Class Member who has not opted out of this Agreement on or before the Opt Out Deadline, whether their claims are direct, subrogated, derivative, asserted or unasserted or asserted in a representative capacity in the Class Action, inclusive of all interest, GST and costs, shall be conclusively compromised, settled, released and discharged as against the Settling Party, and Settlement Class Members shall be deemed to have forever released and discharged the Settling Party from any past, present and future claims, actions, demands and liabilities of any nature whatsoever relating to all claims asserted or which could have been asserted in the Class Action.



10.2 Bar Order

10.2.1 All claims for contribution, indemnity, subrogation or any other claims by any Non-Settling Defendant or any other person against the Settling Party in respect of the subject matter of the Class Action and the Related Action, whether direct, subrogated, derivative, asserted or unasserted or asserted in a representative capacity, inclusive of interest, GST and costs, will be barred by order of the Court.

10.2.2 Forthwith after the Effective Date, the Plaintiff will amend the Statement of Claim in the Class Action so as to restrict the claims against the Non-Settling Defendants to the collective several liability of the Non-Settling Defendants.

10.2.3 Forthwith after the Effective Date, the Plaintiff will amend the Statement of Claim in the Related Action so as to restrict the claims against the Defendant in that action to the several liability of that Defendant.

10.2.4 If any action is instituted by a Settlement Class Member seeking damages against persons who are not currently parties to the Class Action ("Non-parties") in respect of claims asserted or which could have been asserted in the Class Action or the Related Action, such action will be limited to the non-parties' collective several liability.

10.3 Reservation of Rights/Third Party Claims

10.3.1 Subject to section 10.1, 10.2 and 10.4 of this Agreement, nothing shall prejudice or in any way interfere with the rights of the Settlement Class Members to pursue all of their other rights and remedies against persons and/or entities other than the Settling Party.

10.4 Mutual Release with Crocus Investment Fund

10.4.1 Nesbitt releases all claims it has or in the future may have for indemnity from Crocus Investment Fund or from any of its subsidiaries or affiliates with respect to all claims



asserted or which could have been asserted against the Settling Party in the Class Action, save and except in respect of any Opt Out claims.

10.4.2 This Agreement is conditional on the Receiver executing a release, in a form satisfactory to Nesbitt, releasing all claims Crocus Investment Fund, its subsidiaries and affiliates, have or in the future may have with respect to all claims asserted or which could have been asserted in the Class Action against the Settling Party.

11. **Submissions to the Court by the Administrator**

11.1 The Administrator may apply to the Court for directions, as required, upon notice served on Class Counsel and Nesbitt's counsel no later than fourteen (14) days prior to the date of any hearing.

12. **Termination of this Agreement**

12.1 **Nesbitt's Right of Termination**

12.1.1 If persons owning a total of more than 71,100 (0.5 percent) of the Crocus Investment Fund Class A common shares elect to opt out of this Agreement on or before the Opt Out Deadline, Nesbitt shall have the unilateral right to terminate this Agreement as set forth in Section 12.2.

12.2 **Procedures and Time for Termination**

12.2.1 Within thirty (30) days following the Opt Out Deadline the Administrator shall notify counsel for Nesbitt and Class Counsel of the total number of persons who have opted out of this Agreement, including all particulars of their Crocus Investment Fund shareholdings and copies of their opt out letters.

12.2.2 Nesbitt may exercise its right to terminate this Agreement pursuant to Section 12.1 above by providing written notice to Class Counsel and to the Court within thirty (30) days



from the date on which the Administrator provides counsel for Nesbitt with the information and documentation pursuant to Section 12.2.1 above.

12.3 Notice of Settlement Class Members

12.3.1 If Nesbitt exercises its right of termination pursuant to Section 12 of this Agreement, Notice of Termination shall be given to all Settlement Class Members. The content and method of dissemination of the Notice of Termination shall be determined by the Court. If Nesbitt exercises the right to terminate this Agreement, any costs associated with disseminating the Notice of Certification and Settlement and the Notice of Termination shall be paid by Nesbitt.

12.4 Automatic Termination of the Agreement

12.4.1 This Agreement shall, without notice, be automatically terminated without admission by and without prejudice to Nesbitt if the Court declines to approve this Agreement in any respect or, in the event of an appeal, if the Court's approval order is not affirmed in all respects.

12.5 Effect of Termination

12.5.1 If this Agreement is terminated pursuant to Section 12 herein, the certification of the Class Action for settlement purposes pursuant to this Agreement shall be null and void and this Agreement shall have no further force or effect and shall not be used or referred to in any litigation.

13 Miscellaneous Provisions

13.1 Ongoing Authority



13.1.1 The Court shall retain continuing jurisdiction over (i) this Agreement to ensure that all payments under this Agreement are properly made, and (ii) the interpretation and enforcement of this Agreement's terms, conditions and obligations.

13.2 Entire Agreement

13.2.1 This Agreement constitutes the entire agreement by and among the Plaintiff and Nesbitt with regard to the subject of this Agreement and supersedes any previous agreements and understandings between the Plaintiff and the Settling Party with respect to the subject matter of this Agreement. This Agreement may not be amended except in writing signed by the Plaintiff and Nesbitt, and, following the making of the Approval Order, such amendments are subject to the Court's approval

13.3 Other Originals

13.3.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one instrument.

13.4 Dates

13.4.1 Dates and deadlines referred to in this Agreement may be altered only with the consent of the Plaintiff and Nesbitt and, following the making of the Approval Order, with the approval of the Court.

13.5 Use of Agreement

13.5.1 Neither the existence nor the terms of this Agreement may be used as evidence of any admission by the Settling Party regarding fault, liability, causation, damages, and/or any other issue. This Agreement may, however, be relied upon by the Plaintiff or Nesbitt for purposes of enforcing any right possessed by such person or for purposes of any motion or application made to the Court for interpretation or enforcement of its terms



13.6 Notification

13.6.1 Any notification, request, instruction or other document to be given by any party to this Agreement to any other party to this Agreement shall be in writing and delivered personally, sent by facsimile, or sent by registered mail, postage prepaid, if to the Plaintiff, to the attention of Class Counsel and, if to Nesbitt, to the attention of its counsel:

For the Plaintiff Bernard W. Bellan and the Settlement Class:

David A. Klein, Douglas Lennox, Jay Prober and J. R. Norman Boudreau

For the Defendant Nesbitt Burns Inc.:

Sharon Haward-Laird

Dated this _____ day of _____, 2008.

Plaintiff and Settlement Class

by their solicitors, Klein Lyons
Per: David A. Klein

Dated this 11th day of May, 2008.

BMO Nesbitt Burns Inc.

Sharon Haward-Laird

Per: Sharon Haward-Laird

13.6 Notification

13.6.1 Any notification, request, instruction or other document to be given by any party to this Agreement to any other party to this Agreement shall be in writing and delivered personally, sent by facsimile, or sent by registered mail, postage prepaid, if to the Plaintiff, to the attention of Class Counsel and, if to Nesbitt, to the attention of its counsel:

For the Plaintiff Bernard W. Bellan and the Settlement Class:


David A. Klein, Douglas Lennox, Jay Prober and J. R. Norman Boudreau

For the Defendant Nesbitt Burns Inc.:

Sharon Haward-Laird

Dated this 16th day of May, 2008.

Plaintiff and Settlement Class


by their solicitors, Klein Lyons
Per: David A Klein

Dated this _____ day of _____, 2008.

BMO Nesbitt Burns Inc.

Per: Sharon Haward-Laird

Appendix “F”

File No. CI 05-01- 42765

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

BERNARD W. BELLAN,

Plaintiff

- and -

CHARLES E. CURTIS, PETER OLFERT, WALDRON (WALLY) FOX-DECENT, LEA BATURIN, ALBERT R. BEAL, RON WAUGH, DIANE BERESFORD, SYLVIA FARLEY, ROBERT HILLIARD, ROBERT ZIEGLER, JOHN CLARKSON, DAVID G. FRIESEN, HUGH ELIASSON, SHERMAN KREINER, JAMES UMLAH, JANE HAWKINS, JANICE LEDERMAN, PRICEWATERHOUSE COOPERS LLP, NESBITT BURNS INC., WELLINGTON WEST CAPITAL INC., CROCUS CAPITAL INC., THE MANITOBA SECURITIES COMMISSION and THE CROCUS INVESTMENT FUND

Defendants

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

File No. CI 06-01-46955

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

BERNARD W. BELLAN, and ROBERT NELSON,

Plaintiffs,

- and -

THE GOVERNMENT OF MANITOBA,

Defendant.

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

ORDER

(RE: Updating Notice)

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NORMAN BOUDREAU

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**DAVID KLEIN
& DOUGLAS LENNOX**
Tel (604) 874-7171
Fax (604) 874-7180

Counsel for the Plaintiffs

THE QUEEN'S BENCH
Winnipeg Centre

THE HONOURABLE)
) Wednesday, July 2, 2008
MR. JUSTICE HANSSEN)

BETWEEN:

BERNARD W. BELLAN, Plaintiff

- and -

CHARLES E. CURTIS, PETER OLFERT, WALDRON (WALLY) FOX-DECENT, LEA BATURIN, ALBERT R. BEAL, RON WAUGH, DIANE BERESFORD, SYLVIA FARLEY, ROBERT HILLIARD, ROBERT ZIEGLER, JOHN CLARKSON, DAVID G. FRIESEN, HUGH ELIASSON, SHERMAN KREINER, JAMES UMLAH, JANE HAWKINS, JANICE LEDERMAN, PRICEWATERHOUSE COOPERS LLP, NESBITT BURNS INC., WELLINGTON WEST CAPITAL INC., CROCUS CAPITAL INC., THE MANITOBA SECURITIES COMMISSION and THE CROCUS INVESTMENT FUND

Defendants

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

File No. CI 06-01-46955

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

BERNARD W. BELLAN, and ROBERT NELSON, Plaintiffs,

- and -

THE GOVERNMENT OF MANITOBA, Defendant,

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

ORDER

THIS MOTION, made by the Plaintiff, Bernard Bellan, on consent, for an order updating the form of notice approved in the settlement with the Defendants, Manitoba Securities Commission and the Government of Manitoba, and co-ordinating this notice

with notice in the settlement with the Defendant, BMO Nesbitt Burns Inc., was heard this day,

ON HEARING the submissions of counsel for the Plaintiff,

THIS COURT ORDERS AS FOLLOWS:

1. Further to the order approving the settlement with the Manitoba Securities Commission and the Government of Manitoba, granted May 20, 2008, and signed May 30, 2008, the form of Notice of Certification and Settlement Approval in that settlement is hereby replaced and substituted with the form substantially as attached at Schedule A.
2. Further to the order approving the settlement with BMO Nesbitt Burns Inc., granted May 30, 2008, and signed June 18, 2008, the form of Notice of Certification and Settlement with the respect to that settlement is approved in substantially the form attached at Schedule A.
3. To permit and co-ordinate a single notice with respect to these two settlements, on or before July 14, 2008 the Administrator shall mail by ordinary mail a copy of the Notice of Certification and Settlement Approval approved in this order to the last known address it has in its records for each holder of Crocus Investment Fund Class A shares. The Notice of Certification and Settlement Approval will also be posted on the Klein Lyons web site, and on the Receiver's web site. The Administrator will further cause the Notice of Certification and Settlement Approval to be published in one weekday edition of the Winnipeg Free Press.

July 2, 2008

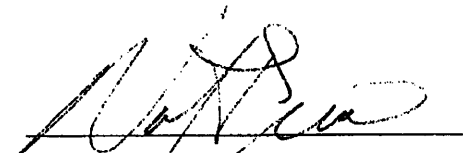
K. R. HANSSEN

J.

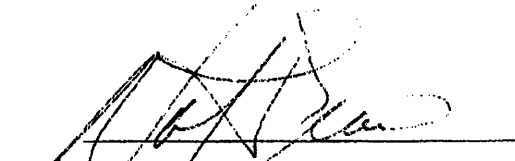
Approved and consented as to form and content by:

Counsel for the
Government of Manitoba

Counsel for the
Manitoba Securities Commission



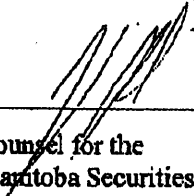
Counsel for the
Plaintiff



Counsel for
BMO Nesbitt Burns Inc.

Approved and consented as to form and content by:

Counsel for the
Government of Manitoba

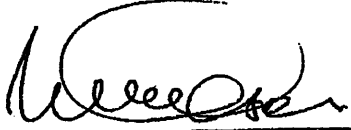


Counsel for the
Manitoba Securities Commission

Counsel for the
Plaintiff

Counsel for
Nesbitt Burns Inc.

Approved and consented as to form and content by:

A handwritten signature in black ink, appearing to be 'W. J. ...', written over a horizontal line.

Counsel for the
Government of Manitoba

Counsel for the
Manitoba Securities Commission

Counsel for the
Plaintiff

Counsel for
Nesbitt Burns Inc.

**Crocus Investment Fund Class Actions
Notice of Certification and Settlement Approval**

To all persons who own Class A common shares in the Crocus Investment Fund (the "Fund"), this notice will be important to you.

Settlements have been approved by the Court in lawsuits brought on behalf of shareholders in the Fund. This notice is published by Order of The Honourable Mr. Justice Hanssen of the Manitoba Court of Queen's Bench and explains:

1. the lawsuits;
2. the terms of settlement;
3. your right to choose to opt out of the class actions;
4. legal fees; and
5. where to get more information.

1. The Lawsuits

Bernard Bellan commenced class action lawsuits relating to the Fund on behalf of shareholders in the Manitoba Court of Queen's Bench as action nos. CI 05-01-42765 and CI 06-01-46955. The Manitoba Securities Commission, the Government of Manitoba, and BMO Nesbitt Burns Inc. have agreed to settle these lawsuits (the "Settling Defendants"). In addition, on June 23, 2008, proposed settlements with the former officers and directors of the Fund, Pricewaterhouse Coopers LLP, Crocus Capital Inc., and the Crocus Investment Fund were given provisional approval, subject to certain amendments, before they can be finalized. As of the date hereof, it is uncertain whether the required amendments will be satisfactory to the former officers and directors or PricewaterhouseCoopers LLP. There has been no settlement at all with one remaining defendant, Wellington West Capital Inc., and this claim is continuing.

On May 20, 2008 and May 30, 2008, Mr. Justice Hanssen certified these lawsuits as class actions for the purposes of settlement as against the Settling Defendants, and approved the settlement agreements reached with the Settling Defendants. The court defined the class as persons who own Class A common shares in the Fund including their legal representatives, heirs, successors and assigns, and who have not opted out but excludes each of the Defendants named or ever named in the lawsuits. The court appointed Mr. Bellan as representative plaintiff for the class. The court appointed the firms of Klein Lyons, Booth Dennehy LLP and Prober Law Offices, (collectively, "Class Counsel") as counsel to the class.

2. The Terms of Settlement

The Settling Defendants have agreed to pay up to a total of \$2.85 million to compensate class members (\$2.75 million paid by the Government of Manitoba on behalf of the Government of Manitoba and the Manitoba Securities Commission, and \$100,000 plus a release of a claim for costs which substantially exceeded this amount in the case of BMO Nesbitt Burns Inc.). In exchange, the claims against the Settling Defendants will be dismissed. No admission of liability has been made.

If the settlements with the former directors and officers and Pricewaterhouse Coopers receive final approval from the Court, this could add up to an additional \$9.15 million to the amount of \$2.75 million being paid by the Government of Manitoba on behalf of the Government of Manitoba and the Manitoba Securities Commission and the amount paid by BMO Nesbitt Burns Inc. Should the former directors and officers and the Pricewaterhouse Coopers settlements be finalized, those other defendants have also proposed to drop most claims for indemnity against the Fund with respect to claims asserted in the lawsuits, thereby significantly reducing one of the major obstacles to the distribution of money to shareholders held in the Fund's receivership.

The ongoing status of the potential settlements with the former directors and officers and PricewaterhouseCoopers can be obtained by reviewing the Klein Lyons web page at www.kleinlyons.com.

Compensation will be distributed pro rata to the Settlement Class Members based on the monies paid for each Settlement Class Member's Class A common shares of the Crocus Investment Fund which remained unredeemed as of the date of the Receivership. Compensation will be distributed by Deloitte & Touche Inc., the Receiver to the Fund, which the court has appointed as the Administrator for the settlements. It is anticipated that compensation will be distributed to class members at the same time that the Administrator makes a distribution of monies from the Receivership to shareholders. If this settlement is concluded, a distribution is anticipated in late fall 2008, at the earliest. To be eligible to receive compensation, it is not necessary for you to take any steps, other than make sure that the Administrator has your correct mailing address. The Administrator is mailing a copy of this notice to all shareholders in the Fund. If you received a copy of this notice in the mail from the Administrator, and it is addressed to you at your current address, this confirms that it has your mailing address.

The class members' recoveries will be subject to payment of Class Counsel's fee, in an amount to be determined by the Court. Copies of the Settlement Agreements are available online at www.kleinlyons.com. Hard copies can be obtained by calling Class Counsel at 1-800-216-1383.

3. Your Right to Choose Whether or Not to be Part of the Class Actions

(a) How to be Included in the Class

If you are a class member, you will automatically be included in the class actions and eligible to receive compensation unless you opt out.

(b) How to be Excluded from the Lawsuits

To opt out of the class actions, you must deliver a letter to the Administrator on or before the **[Opt Out Deadline]** signed by the person opting out and setting out that person's name, address, number of shares held and reason for opting out. Note that the within Notice only involves the settlements which have been conclusively approved to date, namely the settlements with the Government of Manitoba, the Manitoba Securities Commission, and BMO Nesbitt Burns Inc. You will be given notice in the future of any settlements reached with the former directors and

officers and PricewaterhouseCoopers if and when they have been finalized, at which time you will have the opportunity to consider whether to accept or opt out of those settlements.

All class members who do not opt out of the settlements with The Government of Manitoba, the Manitoba Securities Commission, and BMO Nesbitt Burns Inc. as described above will be bound by the settlements.

The address for writing to the Administrator to opt out is: Crocus Class Action Settlement Administrator, Deloitte & Touche Inc., 360 Main Street, Suite 2300, Winnipeg MB, R3C 3Z3.

4. Legal Fees

Mr. Bellan retained Class Counsel to represent him and the Class in the lawsuits. Class Counsel are paid legal fees only if the lawsuit is successful, and then only in an amount approved by the Court.

5. More Information

For further information about the class actions you may contact: Klein Lyons, Barristers & Solicitors, P.O. Box 85, Suite 1220, 65 Queen St. W., Toronto, ON M5H 2M5, 1-800-216-1383, Attn: Doug Lennox dlennox@kleinlyons.com, www.kleinlyons.com.

Appendix “G”

Schedule "A"

COURT OF QUEEN'S BENCH OF MANITOBA

File No. CI 05-01-42765

BETWEEN:

BERNARD W. BELLAN

Plaintiff

- and -

**CHARLES E. CURTIS, PETER OLFERT, WALDRON (WALLY) FOX-DECENT,
LEA BATURIN, ALBERT R. BEAL, RON WAUGH, DIANE BERESFORD,
SYLVIA FARLEY, ROBERT HILLIARD, ROBERT ZIEGLER, JOHN CLARKSON,
DAVID G. FRIESEN, HUGH ELIASSON, SHERMAN KREINER, JAMES UMLAH,
JANE HAWKINS, JANICE LEDERMAN, PRICEWATERHOUSE COOPERS LLP,
NESBITT BURNS INC., WELLINGTON WEST CAPITAL INC.,
CROCUS CAPITAL INC., THE MANITOBA SECURITIES COMMISSION
and THE CROCUS INVESTMENT FUND**

Defendants

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

SETTLEMENT AGREEMENT

WHEREAS:

A. Bernard W. Bellan (the "Plaintiff"), in his own capacity and in his capacity as representative plaintiff for the Settlement Class, and Charles E. Curtis, Peter Olfert, Waldron (Wally) Fox-Decent, Lee Baturin, Albert R. Beal, Ron Waugh, Diane Beresford, Sylvia Farley, Robert Hilliard, Robert Ziegler, John Clarkson, David G. Friesen, Hugh Eliasson, Sherman Kreiner, James Umlah, Jane Hawkins, Crocus Investment Fund and Crocus Capital Inc. (the "Settling Defendants"), (collectively, the "Settling Parties"), hereby enter into this Agreement providing for settlement of the claims described below, pursuant to the terms and conditions set forth below, subject to the approval of the Court.

- B. An action has been filed by the Plaintiff against the Settling Defendants pursuant to the *Class Proceedings Act*, C.C.S.M. c. D130 in the Manitoba Court of Queen's Bench;**
- C. Plaintiff's counsel have conducted settlement negotiations with counsel for the Settling Defendants;**
- D. The Settling Parties engaged in mediation to attempt to resolve this dispute;**
- E. The Settling Defendants, notwithstanding their consent to this Agreement, have denied and continue to deny the claims of the Plaintiff and the Settlement Class Members they seek to represent in the Class Actions, have denied and continue to deny any wrongdoing and have raised numerous defences, including defences relating to the certification of the claims in the Class Actions and, except to the extent of their obligations under this Agreement, deny liability of any kind and anywhere to the Plaintiff or the Settlement Class Members he seeks to represent;**
- F. The Class Actions have not been certified to date and the Settling Defendants are not opposing the Plaintiff's motion for certification for settlement purposes only;**
- G. The Settlement Class Members have the right to exclude themselves ("opt out") from this Agreement under Section 16 of *The Class Proceedings Act*, C.C.S.M. c.C130, and as provided in this Agreement;**
- H. Based upon an analysis of the facts and the law applicable to the claims of the Settlement Class, taking into account the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted trials and appeals, as well as the fair, cost-effective and assured method of resolving claims of the Settlement Class provided in this Agreement, the Plaintiff and Plaintiff's Counsel have concluded that this Agreement provides substantial benefits to the Settlement Class and is fair, reasonable, and in the best interests of the Settlement Class;**
- I. The Settling Defendants have similarly concluded that this Agreement is desirable in order to avoid the time, risk and expense of defending multiple and protracted litigation, and to**

resolve finally and completely the pending and potential claims of the Settlement Class Members and all pending and potential claims, proceedings, crossclaims and third party actions against them;

J. The Settling Director and Officer Defendants may have claims for indemnity against Crocus Investment Fund with respect to costs, charges and expenses, including any amount paid to settle any action or satisfy a judgment, reasonably incurred by them by reason of being or having been a director or officer of Crocus Investment Fund;

K. Crocus Investment Fund may have claims for indemnity or otherwise against the Settling Director and Officer Defendants with respect to their conduct while acting as directors or officers of Crocus Investment Fund;

L. Crocus Investment Fund has commenced an action in the Manitoba Court of Queen's Bench against Chubb Insurance Company of Canada seeking coverage under Chubb Venture Capital Asset Protection Policy No. 7043-00-36 (the "Policy") for, inter alia, the payment of defence costs incurred by former directors and officers of Crocus Investment Fund;

M. The Settling Director and Officer Defendants may have claims, in law or in equity, for contribution or indemnity against the Non-Settling Defendants and other third parties in respect of the claims asserted by the Plaintiff and the Settlement Class Members in the Class Actions;

N. Crocus Investment Fund was placed into receivership on June 28, 2005 with Deloitte and Touche Inc. appointed as the Receiver;

NOW THEREFORE, subject to the Court's approval, this Agreement embodies the terms of resolution of the claims contemplated, asserted and/or unasserted against the Settling Defendants in the Class Actions.

1. **Definitions**

Unless the specific context of a particular section of this Agreement calls for another interpretation, the following terms, as used in this Agreement, shall have the meanings set forth below. Terms used in the singular shall be deemed to include the plural, and *vice versa*. Masculine pronouns and male references shall be deemed to include the female and *vice versa*, where appropriate. The terms "person" or "party" includes individuals, partnerships and corporations.

"Administrator" means the person appointed by the Court as provided in Section 7 of this Agreement.

"Agreement" means this Settlement Agreement.

"Approval Date" means the date on which the Approval Order becomes a final order meaning that the time to appeal has expired and there has been no appeal or, if there have been any appeals from the Approval Order, all rights of appeal have been exhausted and there has been no change to the Approval Order.

"Approval Order" means the Order referred to in section 3.2.1 of this Agreement.

"Class Actions" means the proceedings filed under the *Class Proceedings Act*, C.C.S.M. c.C130 in the Manitoba Court of the Queens Bench bearing File Nos. CI 05-01-42765 and CI 06-01-46955.

"Class Counsel" means the law firms of Klein Lyons, Booth Dennehy LLP and Prober Law Offices, which firms act on behalf of the Plaintiff and the Settlement Class herein and which shall continue acting on behalf of the Plaintiff and Settlement Class with respect to all acts or consents pursuant to this Agreement.

"Court" means the Manitoba Court of the Queen's Bench which has jurisdiction over the Class Actions, and the Honourable Mr. Justice Hanssen, or his successor.

"Defendants" means any of the defendants ever named in either of the Class Actions.

“Effective Date” means the date that Settling Director and Officer Defendants pay the Settlement Amount as provided in section 6.1 of this Agreement.

“Non-Settling Defendants” means any of the Defendants, excluding the Settling Defendants, ever named in either of the Class Actions.

“Notice of Certification and Settlement Approval” means the Notice advising Settlement Class Members of the Court’s approval of this Agreement.

“Opt Out Deadline” means the date 30 days after the date of mailing of the Notice of Certification and Settlement Approval pursuant to Section 3 of this Agreement.

“Receiver” means Deloitte & Touche, Inc. as Receiver of Crocus Investment Fund.

“Settlement Amount” means the sum of \$3,150,000.00 payable by the Settling Director and Officer Defendants under this Agreement.

“Settlement Class” means the class of persons who own Class A common shares in Crocus Investment Fund including their legal representatives, heirs, successors and assigns and who have not opted out of this Agreement but excludes each of the Defendants named or ever named in the Class Actions.

“Settlement Class Member” means a person who falls within the definition of the Settlement Class.

“Settlement Fund” means the Settlement Amount less the amount approved by the Court for payment to Class Counsel pursuant to Section 3 of this Agreement.

“Settling Director Defendants” means Charles E. Curtis, Peter Olfert, Waldron (Wally) Fox-Decent, Lee Baturin, Albert R. Beal, Ron Waugh, Diane Beresford, Sylvia Farley, Robert Hilliard, Robert Ziegler, John Clarkson, David G. Friesen, and Hugh Eliasson, and their

respective representatives, agents, successors, assigns, all of whom are released by the Plaintiff and Settlement Class Members pursuant to this Agreement.

“Settling Officer Defendants” means Sherman Kreiner, James Umlah, Jane Hawkins and Janice Lederman and their respective representatives, agents, successors, assigns, all of whom are released by the Plaintiff and Settlement Class Members pursuant to this Agreement.

“Settling Director and Officer Defendants” means collectively the Settling Director Defendants and the Settling Officer Defendants.

2. **Preliminary Matters**

- 2.1 The Settling Parties hereby affirm the accuracy of the recitals set out above.
- 2.2 Promptly after execution of this Agreement, the Plaintiff shall serve a true copy of this Agreement on the Non-Settling Defendants.
- 2.3 Where the time on or by which any action to be taken under this Agreement falls on a day that is not a business day, such action may be done on the next day that is a business day.
- 2.4 All references to money in this Agreement are to Canadian currency.

3. **Matters Relating to Certification and Settlement Approval**

- 3.1 Within 14 days of the execution of this Agreement by all Parties, the Plaintiff will bring an application for Court approval of this Agreement on behalf of the Settlement Class Members and the Settling Defendants shall not oppose class certification for the purpose of Court approval of this Agreement only, subject to the terms and conditions below.
- 3.2 Certification and Settlement Approval Order
 - 3.2.1 Subject to the Court’s approval, and as provided in a form of Order to be agreed by the Parties, the order approving this Agreement shall:

- (a) certify the action as a Class Action as against the Settling Defendants for the purposes of settlement only;
- (b) appoint Bernard Bellan as the Representative Plaintiff for the Settlement Class;
- (c) approve this Agreement and order the Settling Parties and all Settlement Class Members to comply with it;
- (d) order that the deadline for exclusion (“opting out”) from the Settlement Class be 30 days following the mailing of the Notice of Certification and Settlement Approval (“Opt Out Deadline”);
- (e) declare that any Settlement Class Member who has not opted out from the Settlement Class in accordance with the procedures set out in this Agreement by the Opt Out Deadline shall be bound by the terms of this Agreement;
- (f) declare that this Agreement is fair, reasonable, and in the best interests of the Settlement Class;
- (g) order mailing of the Notice of Certification and Settlement Approval;
- (h) appoint the Receiver as the Administrator;
- (i) bar any and all claims for contribution, indemnification, subrogation or otherwise against the Settling Defendants by any Non-Settling Defendants or by any other person or party, against the Settling Defendants and every other person who has served as a director or officer of Crocus Investment Fund at any time, in respect of the subject matter of the Class Actions or any other matter arising out of the business, operations and affairs of the Crocus Investment Fund;
- (j) declare that any and all claims the Settling Defendants may have, in law or in equity, for contribution or indemnity from any of the Non-Settling Defendants or

against any other party in respect of the claims asserted in the Class Actions are assigned to the Plaintiff on behalf of the Settlement Class;

- (k) subject to the Court's ongoing jurisdiction over this Agreement, dismiss the Plaintiff's action as against the Settling Defendants (being Manitoba Court of Queen's Bench action bearing file number CI 05-01-42765) pursuant to Section 11.1 of this Agreement;
- (l) declare that the Policy is exhausted to the extent of payment by Chubb of the Settlement Amount and any Defense Costs (as defined in the Policy) paid by Chubb on behalf of the Settling Director and Officer Defendants;
- (m) order that the Non-Settling Defendants shall have discovery rights against the Settling Director and Officer Defendants in the Class Actions as if the Non-Settling Defendants had issued third party notices against each Settling Director and Officer Defendant, and the Plaintiff shall have the right to participate as a party to such discoveries; and
- (n) declare that, in the event of termination of this Agreement pursuant to Section 13 below, the said Order is null and void and of no force and effect.

3.2.2 Concurrently with the application for Court approval of this Agreement, Class Counsel will apply to the Court for approval of a payment of 25% of the Settlement Amount to Class Counsel. This amount, or such other amount as is approved by the Court, will be held by Class Counsel in trust and will be used to fund past and future disbursements incurred by Class Counsel in the prosecution of the Class Actions. Any amount remaining at the conclusion of the Class Actions will be applied toward any Class Counsel fees that are approved by the Court. The approval of this Agreement is not conditional on approval of Class Counsel's requested payment. The Settling Defendants take no position as to the amount that should be paid to Class Counsel.

3.2.3 Following Court approval of this Agreement, Class Counsel will apply to the Court for approval of Class Counsel fees and disbursements. On the Effective Date, the amount approved by the Court will be paid to Class Counsel out of the Settlement Amount that was paid to Klein Lyons in trust pursuant to section 6.1 of this Agreement. The approval of this Agreement is not conditional on approval of Class Counsel's fees or disbursements. The Settling Defendants take no position as to the amount that should be paid to Class Counsel for fees and disbursements.

3.3 **Notice of Certification and Settlement Approval**

3.3.1 The content of the Notice of Certification and Settlement Approval shall be as agreed by the Settling Parties and approved by the Court.

3.3.2 Within 14 days after the Approval Date, the Receiver shall mail by ordinary mail a copy of the Notice of Certification and Settlement Approval to the last known address it has in its records for each holder of Crocus Investment Fund Class A common shares. The Notice of Certification and Settlement Approval will also be posted on the Receiver's web site and on the Klein Lyons web site.

4. **Waiver of Limitation Defences**

4.1 Nothing in this Agreement shall constitute or be deemed to constitute a waiver by the Settling Defendants of defences based upon statutes of limitations or repose, prescription periods or any other limitation or prescription defence with respect to any person who opts out of this Agreement, is deemed to opt out of this Agreement, or, if this Agreement is terminated, brings or continues an action against the Settling Defendants.

5. **Entitlement to Compensation**

5.1 Only Settlement Class Members who have not opted out shall be entitled to receive payments out of the Settlement Fund pursuant to this Agreement.

6. **Payments and Related Issues**

- 6.1 Within 14 business days after the expiration of the time period in paragraph 13.2.2 , the Settling Director and Officer Defendants shall pay the Settlement Amount (\$3,150,000.00) to Klein Lyons in trust in full and final settlement of all claims by the Plaintiff, whether direct, subrogated, asserted or unasserted or asserted in a representative capacity in the Class Actions, inclusive of all interest, GST and costs.
- 6.2 Klein Lyons will forthwith upon receipt of the Settlement Amount transfer the Settlement Fund to the Administrator to be held in trust by the Administrator for the benefit of the Settlement Class.
- 6.3 Any payments contemplated by this Section 6 are automatically cancelled and rendered null and void if this Agreement is terminated.

7. **Administrator**

- 7.1 The Settling Parties will propose that the Receiver be appointed by the Court as the Administrator for the purpose of administering this Agreement. All expenses of the Receiver related to the administration of this Agreement will be borne by Crocus Investment Fund.

8. **Procedures and Deadlines for Exclusion**

- 8.1 Any person who is a holder of Crocus Investment Fund Class A common shares, other than Bernard W. Bellan, will have the right to exclude herself or himself ("opt out") from this Agreement and from the Settlement Class by delivering a letter to the Administrator on or before the Opt Out Deadline signed by the person opting out and setting out that person's name, address, number of shares held and reason for opting out. Persons who elect to opt out shall be excluded from this Agreement and from the Settlement Class. It is the responsibility of the person opting out to ensure that the requisite signed letter is received by the Administrator on or before the Opt Out Deadline. Any member of the

Settlement Class who does not deliver to the Administrator a complete and signed opt out letter by the Opt Out Deadline shall be considered a Settlement Class Member and shall be bound by the terms of this Agreement and by the Court Order approving this Agreement.

8.2 By entering into this Agreement, Bernard W. Bellan agrees that he will not opt out of this Agreement.

9. **Distribution of Settlement Fund**

9.1 The Settlement Fund will be held in trust by the Administrator for the benefit of the Settlement Class. All Settlement Class Members who have not opted out will be eligible for payment from the Settlement Fund. The Settlement Fund will be distributed to the Settlement Class Members by the Administrator at the same time that the Receiver makes its first distribution of funds from the Crocus Investment Fund to the holders of Crocus Investment Fund Class A common shares. The Settlement Fund will be distributed pro rata to the Settlement Class Members based on the monies paid for each Settlement Class Member's Class A common shares of the Crocus Investment Fund which remained unredeemed as of the date of the Receivership.

10. **Exclusive Remedy/Dismissal of Action**

10.1 **Exclusive Remedy**

10.1.1 This Agreement shall be the exclusive remedy for any and all Settlement Class Members with respect to the Class Actions *vis-à-vis* the Settling Defendants. The Settling Defendants shall not be subject to liability or any other expense of any kind to any Settlement Class Member with respect to the Class Actions, except as provided in this Agreement. Settlement Class Members who have not opted out of this Agreement on or before the Opt Out Deadline shall be forever barred from continuing, initiating, asserting or prosecuting any and all claims related to Crocus Investment Fund against the Settling

Defendants and every person who has served as a director or officer of Crocus Investment Fund at any time.

10.2 Dismissal of Action

10.2.1 Forthwith after the Effective Date, the Settling Parties will file a consent to a dismissal of the Plaintiff's action against the Settling Defendants (being Manitoba Court of Queen's Bench action bearing file number CI 05-01-42765) with prejudice and any or all crossclaims and third party claims as against the Settling Defendants, on a "without costs" basis, along with any other documents that may be necessary.

11. Releases/Bar Order/Third Party Claims

11.1 Release of Class Action Claims Against Settling Defendants

11.1.1 The claims of the Plaintiff and every Settlement Class Member who has not opted out of this Agreement on or before the Opt Out Deadline, whether their claims are direct, subrogated, asserted or unasserted or asserted in a representative capacity in the Class Actions, inclusive of all interest, GST and costs, shall be conclusively compromised, settled, released and discharged as against the Settling Defendants, and Settlement Class Members shall be deemed to have forever released and discharged the Settling Defendants and every other person who has served as a director or officer of Crocus Investment Fund at any time, and their insurer, Chubb Insurance Company of Canada and any of its subsidiaries, parents, affiliates, directors, officers, shareholders, representatives and agents from any past, present and future claims, actions, demands and liabilities of any nature whatsoever relating to all claims asserted or which could have been asserted in, or relating to the Class Actions or the conduct of any person who has served as a director or officer of Crocus Investment Fund at any time or based upon or seeking any amount or form of coverage under the Policy.

11.2 Bar Order

- 11.2.1 All claims for contribution, indemnity, subrogation or other claims over, by any Non-Settling Defendant or any other person or party, against the Settling Defendants and every other person who has served as a director or officer of Crocus Investment Fund at any time in respect of the subject matter of the Class Actions or any other matter arising out of the business, operation and affairs of the Crocus Investment Fund, whether direct, subrogated, asserted or unasserted or asserted in a representative capacity, inclusive of interest, GST and costs, will be barred by order of the Court.
- 11.2.2 Forthwith after the Effective Date, the Plaintiff will amend the Statements of Claim in the Class Actions so as to restrict the claims of the Settlement Class against the Non-Settling Defendants to the collective several liability of the Non-Settling Defendants. In other words, the Plaintiff agree to exclude the proportionate share of liability of the Settling Defendants and of every person who has served as a director or officer of Crocus Investment Fund at any time from their claims against, and from any judgment which may be granted against, the Non-Settling Defendants.
- 11.2.3 Except as provided in Section 11.3 of this Agreement, if any action is instituted by a Settlement Class Member seeking damages against persons who are not currently parties to the Class Actions ("non-parties") in respect of claims that are or could have been asserted in the Class Actions, such action will be limited to the non-parties' collective several liability. In other words, the Settlement Class Member's claim shall exclude the proportionate share of liability of the Settling Defendants and of every person who has served as a director or officer of Crocus Investment Fund at any time from their claims against, and from any judgment which may be granted against the non-parties.
- 11.2.4 The Settlement Class shall, as a disbursement in the Class Actions, indemnify the Settling Director and Officer Defendants for their reasonable costs associated with retaining counsel in connection with providing discovery and evidence in the Class Actions or in any action commenced pursuant to paragraph 11.3.2 .
- 11.2.5 Notwithstanding its release from the Class Actions, Crocus Investment Fund agrees to participate in the Class Actions in such manner as is ordered by the Court.

11.3 Reservation of Rights/Third Party Claims

11.3.1 Except as otherwise provided herein, nothing in this Agreement shall prejudice or in any way interfere with the rights of the Settlement Class Members to pursue all of their other rights and remedies against persons and/or entities other than the Settling Defendants.

11.3.2 The Settling Director and Officer Defendants shall assign to the Plaintiff on behalf of the Settlement Class any and all claims they may have, in law or in equity, for contribution or indemnity from any of the Non-Settling Defendants or against any other person or party in respect of the claims asserted in the Class Actions.

11.3.3 Within 14 days of the Effective Date, the Receiver, on its own behalf and on behalf of Crocus Investment Fund will consent to a with prejudice dismissal of Manitoba Queen's Bench Action No C1 06-01-46191 commenced by Crocus Investment Fund against Chubb Insurance Company of Canada and will provide a release of all claims under or in respect of the Policy against Chubb Insurance Company of Canada.

11.3.4 Within 14 days of the Effective Date:

(1) the Settling Director and Officer Defendants agree to provide full and final releases of any and all claims they may have had or, now or in the future, may have against each other and each others' heirs, successors and assigns for all matters arising out of the business, operation, and affairs of the Crocus Investment Fund, both before and after the receivership of the Crocus Investment Fund, to the date of this Agreement;

(2) the Settling Director Defendants agree to provide full and final releases of any and all claims they may have had or, now or in the future, may have against Crocus Investment Fund, the Receiver and Crocus Capital Inc. for all matters arising out of the business, operation, and affairs of the Crocus Investment Fund, both before and after the receivership of the Crocus Investment Fund, to the date of this Agreement; except that a) nothing in the said releases will take away the rights of the Settling Director Defendants to receive distributions as shareholders from funds collected by the Receiver other than

from the Class Actions and b) nothing in the said releases will foreclose the Settling Director Defendants to claim to be indemnified by Crocus Investment Fund for any judgments, fines or monetary penalties that may be imposed by the Manitoba Securities Commission, except that nothing herein is to be taken as an admission by Crocus Investment Fund or the Receiver of Crocus Investment Fund that they are responsible for payment of such judgments, fines or monetary penalties and c) the said release will not apply to the Settling Director Defendants' entitlement to the \$250,000 indemnity advance provided for in paragraph 11.3.4 (3)(a) below.

(3) Crocus Investment Fund and the Receiver agree to:

- a. pay the sum of \$250,000 to D'Arcy & Deacon LLP to be used by that law firm and such other law firms representing any one or more of the Settling Director Defendants for paying any amounts, including legal expenses, incurred for matters other than the Class Action litigation, save and except that the said \$250,000 will not be used for judgments, fines or monetary penalties which one or more of the Settling Director Defendants successfully recovers under the indemnity claims referred to in paragraph 11.3.4(2)(b) above, including any legal expenses incurred to pursue such recovery. The payment of the \$250,000 will be subject to the proviso that any amount of the said \$250,000 which remains unexpended at a date to be agreed between the Settling Director Defendants and the Receiver shall be returned to the Receiver for distribution amongst the shareholders of Crocus Investment Fund; and
- b. provide an incontrovertible undertaking not to pursue reimbursement of any legal expenses previously paid for and on behalf of the Settling Director Defendants and including the \$250,000 advance as aforesaid; and
- c. provide full and final releases of any and all claims they may have had or, now or in the future, may have against the Settling Director Defendants and their heirs, successors and assigns for all matters arising out of the business, operation and affairs of

the Crocus Investment Fund, both before and after the receivership of the Crocus Investment Fund to the date of this Agreement, including the \$250,000 payment as aforesaid and the reimbursement of any legal expenses previously paid for and on behalf of the Settling Director Defendants. Crocus Capital Inc. will provide a similar release.

(4) The Settling Officer Defendants agree to provide full and final releases of any and all claims they may have had or, now or in the future, may have against Crocus Investment Fund, the Receiver and Crocus Capital Inc. for all matters arising out of the business, operation and affairs of the Crocus Investment Fund, both before and after the receivership of the Crocus Investment Fund to the date of this Agreement, save and except that nothing in the said release will take away the right of the Settling Officer Defendants to claim payment of their indemnity for legal fees incurred for matters other than the Class Action litigation, except that nothing herein is to be taken as an admission by Crocus Investment Fund or the Receiver of Crocus Investment Fund that they are responsible for payment of same and nothing in the said releases will take away the rights of the Settling Officer Defendants to receive distributions as shareholders from funds collected by the Receiver other than from the Class Actions;

(5) Crocus Investment Fund, the Receiver and Crocus Capital Inc. agree to provide full and final releases of any and all claims they may have had or, now or in the future, may have against the Settling Officer Defendants and their heirs, successors and assigns for all matters arising out of the business, operation and affairs of the Crocus Investment Fund, both before and after the receivership of the Crocus Investment Fund to the date of this Agreement, save and except that nothing in the said release will take away the right of the Crocus Investment Fund or the Receiver to claim reimbursement for legal fees paid by Crocus Investment Fund or the Receiver to or for the benefit of the Settling Officer Defendants.

12. Submissions to the Court by the Administrator

12.1 The Administrator may apply to the Court for directions, as required, upon notice served on Class Counsel and Settling Defendants' Counsel no later than fourteen (14) days prior to the date of any hearing.

13. Termination of this Agreement

13.1 Defendants' Right of Termination

13.1.1 If persons holding a total of more than .5 percent (one half of one percent) of the Crocus Investment Fund Class A common shares elect to opt out of this Agreement on or before the Opt Out Deadline, the Settling Defendants shall have the unilateral right to terminate this Agreement as set forth in Section 13.2.

13.2 Procedures and Time for Termination

13.2.1 Within thirty (30) days following the Opt Out Deadline the Administrator shall notify counsel for the Settling Defendants and Class Counsel of the total number of persons who have opted out of this Agreement, including all particulars of their Crocus Investment Fund shareholdings and copies of their opt out letters.

13.2.2 The Settling Defendants or any of them may exercise their right to terminate this Agreement pursuant to Section 13.1 above by providing written notice to Class Counsel and to the Court within thirty (30) days from the date on which the Administrator provides counsel for the Settling Defendants with the information and documentation pursuant to Section 13.2.1 above.

13.3 Notice of Settlement Class Members

13.3.1 If the Settling Defendants exercise their right of termination pursuant to Section 13 of this Agreement, Notice of Termination shall be given to all Settlement Class Members. The

content and method of dissemination of the Notice of Termination shall be determined by the Court. If any of the Settling Defendants exercises the right to terminate this Agreement, any costs associated with disseminating the Notice of Termination shall be paid by the Settling Defendants who chose to terminate this Agreement.

13.4 Automatic Termination of the Agreement

13.4.1 This Agreement shall, without notice, be automatically terminated if the Court declines to approve this Agreement in any respect or, in the event of an appeal, if the Court's approval order is not affirmed in all respects.

13.5 Effect of Termination

13.5.1 If this Agreement is terminated pursuant to Section 13, the certification of the Class Actions for settlement purposes pursuant to this Agreement shall be null and void and this Agreement shall have no further force or effect and shall not be used or referred to in any litigation involving any of the Settling Parties and/or the Non-Settling Defendants.

14. Miscellaneous Provisions

14.1 Ongoing Authority

14.1.1 The Court shall retain exclusive and continuing jurisdiction over the Class Actions; over all parties named or described herein, including, but not limited to, all Settlement Class Members and Settling Defendants; over this Agreement, to ensure that all payments and disbursements are properly made; and over the interpretation and enforcement of this Agreement's terms, conditions and obligations.

14.2 Entire Agreement

14.2.1 This Agreement constitutes the entire agreement by and among the Settling Parties with regard to the subject of this Agreement and shall supersede any previous agreements and

understandings between the Settling Parties with respect to the subject matter of this Agreement. This Agreement may not be modified or amended except in writing signed by all Settling Parties hereto and subject to the Court's approval.

14.3 Other Originals

14.3.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one instrument.

14.4 Notification

14.4.1 Any notification, request, instruction or other document to be given by any party to this Agreement to any other party to this Agreement shall be in writing and delivered personally, sent by facsimile, or sent by registered mail, postage prepaid, if to the Plaintiff, to the attention of Class Counsel and, if to the Settling Defendants, to the attention of their counsel:

For the Plaintiff Bellan and the Settlement Class:

David A. Klein, Douglas Lennox, Jay Prober and J. R. Norman Boudreau

For the Defendants Curtis, Olfert, Fox-Decent, Baturin, Beal, Waugh, Beresford, Farley, Hilliard, Ziegler, Clarkson and Eliasson:

Kenneth A. Filkow, Q.C. and Diane M. Stasiuk

For Defendants Kreiner and Hawkins:

G. Patrick S. Riley

For Defendant Umlah:

Robert L. Tapper, Q.C. and Jason D. Kendall

For Defendant David Friesen:

J. Kenneth McEwan, Q.C.

For Crocus Investment Fund, Crocus Capital Inc and the Receiver:

Dave Hill, Robert A. Dewar, Q.C. and Karen R. Wittman

For Chubb Insurance Company of Canada:

Mary Margaret Fox

14.5 Dates


14.5.1 Dates referred to in this Agreement may be altered only with the consent of the Settling Parties and with the approval of the Court.

14.6 Use of Agreement

14.6.1 Neither the existence nor the terms of this Agreement may be used as evidence of any admission by the Settling Defendants regarding fault, liability, causation, damages, and/or any other issue. This Agreement may, however, be relied upon by any Settling Party for purposes of enforcing any right possessed by such Settling Party or for purposes of any motion or application made to the Court for interpretation or enforcement of its terms pursuant to Section 14 of this Agreement.

Dated this 28th day of May, 2008.

Plaintiff and Settlement Class


by their solicitors, Klein Lyons
Per: Douglas Lennox

Dated this _____ day of _____, 2008.

Settling Director and Officer Defendants

by their solicitors, Kenneth A. Filkow, Q.C.

by their solicitors, G. Patrick S. Riley

by their solicitors, Robert L. Tapper, Q.C.

by their solicitors, J. Kenneth McEwan, Q.C.

Dated this _____ day of _____, 2008.

**Crocus Investment Fund, Crocus Capital Inc.
and the Receiver**

by their solicitors, Hill, Dewar, Vincent
Per: Robert Dewar, Q.C.

Dated this _____ day of _____, 2008.

Chubb Insurance Company of Canada

by their solicitors, Nicholl Paskell-Mede
Per: Mary Margaret Fox

Dated this _____ day of _____, 2008.

Settling Director and Officer Defendants

by their solicitors, Kenneth A. Filkow, Q.C.

by their solicitors, G. Patrick S. Riley

by their solicitors, Robert L. Tapper, Q.C.

by their solicitors, J. Kenneth McBwan, Q.C.

Dated this 29th day of May, 2008.

**Crocus Investment Fund, Crocus Capital Inc.
and the Receiver**



by their solicitors, Hill, Dewar, Vincent
Per: Robert Dewar, Q.C.

Dated this _____ day of _____, 2008.

Chubb Insurance Company of Canada

by their solicitors, Nicholl Paskell-Mede
Per: Mary Margaret Fox

Dated this 20th day of MAY, 2008.

Settling Director and Officer Defendants

by their solicitors, Kenneth A. Filkova, Q.C.

by their solicitors, G. Patrick S. Riley

by their solicitors, Robert L. Tapper, Q.C.

by their solicitors, J. Kenneth McEwan, Q.C.

Dated this _____ day of _____, 2008.

**Crocus Investment Fund, Crocus Capital Inc.
and the Receiver**

by their solicitors, Hill, Dewar, Vincent
Per: Robert Dewar, Q.C.

Dated this _____ day of _____, 2008.

Chubb Insurance Company of Canada

by their solicitors, Nicholl Paskell-Mede
Per: Mary Margaret Fox

Dated this 29th day of May, 2008.

Settling Director and Officer Defendants


by their solicitors, Kenneth A. Filkow, Q.C.

by their solicitors, G. Patrick S. Riley

by their solicitors, Robert L. Tapper, Q.C.

by their solicitors, J. Kenneth McEwan, Q.C.

Dated this _____ day of _____, 2008.

**Crocus Investment Fund, Crocus Capital Inc.
and the Receiver**

by their solicitors, Hill, Dewar, Vincent
Per: Robert Dewar, Q.C.

Dated this _____ day of _____, 2008.

Chubb Insurance Company of Canada

by their solicitors, Nicholl Paskell-Mede
Per: Mary Margaret Fox