ALBERTA SECURITIES COMMISSION

DECISION

Citation: Kearl, Re, 2008 ABASC 491 **Date: 20080813**

Richard George Kearl, Coadum Capital Fund 1, LLC, Coadum Capital Fund II, LP, Coadum Advisors, Inc., James Albert Jeffery and Thomas Edward Repke

Panel:	Stephen Murison Dennis Anderson, FCA Roderick McKay, CA
Appearing:	Tom Percy for Commission Staff
	Richard George Kearl for himself
	Pat Huddleston II for Coadum Capital Fund 1, LLC, Coadum Capital Fund II, LP, and Coadum Advisors, Inc., in receivership
	Joel Wiesenfeld for James Albert Jeffery and Thomas Edward Repke
Date of Hearing:	5 August 2008
Date of Decision:	13 August 2008

I. INTRODUCTION

[1] Alberta Securities Commission (the "Commission") staff ("Staff") issued an amended notice of hearing (the "Notice of Hearing") on 18 December 2007 against Richard George Kearl ("Kearl"), Coadum Capital Fund 1, LLC ("Coadum 1"), Coadum Capital Fund II, LP ("Coadum 2"), Coadum Advisors, Inc. ("CAI"), James Albert Jeffery ("Jeffrey"), Thomas Edward Repke ("Repke"), Daystar Holdings Inc. ("Daystar") and Timothy Michael Lawler ("Lawler"). The Notice of Hearing alleged that those named had traded and distributed securities of Coadum 1 or Coadum 2 (or both); that certain of those named had made misrepresentations or contravened a Commission cease-trade order (or both); and that these activities were contrary to Alberta securities laws and the public interest.

[2] The allegations against Daystar and Lawler were addressed in a separate hearing before a different panel, which issued its decision on 5 March 2008 (*Re Daystar Holdings Inc.*, 2008 ABASC 120).

[3] The allegations against Coadum 1, Coadum 2, CAI, Jeffrey, Repke and Kearl (together, the "Respondents") were addressed in the present hearing on 5 August 2008 (the "Hearing"). Each Respondent was represented at the Hearing. We heard oral submissions and received written evidence including, notably, two statements of admissions and joint recommendations as to sanction (the "Statements"), one pertaining specifically to Kearl and executed by him and by Staff (the "Kearl Statement") and the second pertaining to the other Respondents and executed by them and by Staff (the "Coadum Statement").

[4] Our decision and reasons follow.

II. BACKGROUND

[5] We summarize here the factual background pertinent to our decision. Except where otherwise noted, this summary is derived from the Statements.

A. The Respondents

[6] Coadum 1 is a corporation incorporated in the United States. Coadum 2 is a US limited partnership. CAI is a US corporation that provided management services to Coadum 1 and was the general partner of Coadum 2.

[7] None of Coadum 1, Coadum 2 or CAI was a reporting issuer in Alberta or a registrant under the *Securities Act*, R.S.A. 2000, c. S-4 (the "Act"). No preliminary prospectus or prospectus has ever been filed with the Commission for the distribution of securities of Coadum 1, Coadum 2 or CAI and, it follows, no such prospectus was ever receipted under the Act.

[8] Jeffrey, a resident of Ontario, was the president of Coadum 1, Coadum 2 and CAI and also a director or member of each entity. The Coadum 1 website is registered to Jeffrey. Jeffrey has never been registered under the Act.

[9] Repke is a resident of Utah. He was an officer of Coadum 2 and CAI, and a director or member of Coadum 1, Coadum 2 and CAI. Repke has never been registered under the Act.

[10] Kearl is an Alberta resident. He has never been registered under the Act.

[11] We were informed at the Hearing by the receiver for Coadum 1, Coadum 2 and CAI (in receivership) that those entities "are out of business" and will not resume capital market activity. Pursuant to a US court proceeding, Coadum 1, Coadum 2, CAI, Jeffrey and Repke are subject to a receivership order under which assets have been frozen, money is being held by a receiver and the receiver is pursuing the return or liquidation of additional money or assets in several jurisdictions. Alberta investors, among others, were invited to file claims with the receiver and, we were told at the Hearing, some did so.

B. Impugned Activity

1. Coadum 1

[12] Between January and May 2006 Coadum 1, CAI, Jeffrey, Repke and Kearl solicited Alberta residents to invest in Coadum 1 securities. (The Coadum Statement also names Coadum 2 as having engaged in these solicitations; this appears to be an error because the same document states that Coadum 2 was formed on 10 July 2006, after the Coadum 1 solicitations.) These solicitations were made through advertisements, meetings or seminars, and representations on the Coadum 1 website. Investors were promised security of principal and earnings of 2.5% to 8% per month. Investors' money was apparently pooled as security for a line of credit which Coadum 1 "proposed to leverage . . . six to seven times" through a "contracted investment program".

[13] In response to these solicitations, Alberta investors (at least 10, according to the Kearl Statement; 13, according to the Coadum Statement) invested approximately US$2.5 million in Coadum 1 securities.

[14] Kearl was told by Lawler (the sole director and shareholder of Daystar, which was the "Canadian Regional Director" for Coadum 1) – and apparently relied on Lawler's advice – that the Coadum 1 investments being solicited were not securities and that Kearl need not be registered under the Act. Kearl stated that he did not profit from the sale of Coadum 1 securities; this was not disputed.

2. Interim Order

[15] The Coadum 1 solicitations apparently came to the attention of Staff, who sought, and on 12 May 2006 obtained, an interim pre-hearing order of the Commission for the

cessation of trading. The Commission modified and extended that order on 26 May 2006 until a full hearing was concluded and a decision rendered, and further modified the order on 27 November 2007. The order as so modified (the "Interim Order"):

- banned all trading and purchasing with respect to the securities of Coadum 1 and CAI, and of any other issuer that is a subsidiary or affiliate of, or a successor to the business of, Coadum 1 or CAI, or that Jeffery, Repke or Kearl cause to be organized or incorporated or of which Jeffrey, Repke or Kearl is an insider;

- barred Coadum 1, CAI, Jeffery, Repke and Kearl from trading or purchasing the securities of Coadum 1 and CAI; and

- denied Coadum 1, CAI, Jeffery, Repke and Kearl the use of all exemptions in Alberta securities laws with respect to the securities of Coadum 1 and CAI.

3. Coadum 2

[16] Subsequently, despite the Interim Order:

- Jeffrey and Repke directed the transfer of money of "many" of the Alberta Coadum 1 investors into Coadum 2; and

- Coadum 2 accepted additional "deposits" from Alberta Coadum 1 investors for limited partnership interests in Coadum 2.

[17] Coadum 2 accepted new money from Alberta Coadum 1 investors for investment in Coadum 2 until at least December 2006. At least 10 of the Alberta Coadum 1 investors invested over $2.9 million (whether in Canadian or US currency is unclear) in Coadum 2. It was admitted that Coadum 2 "was an affiliate [of] or successor to the business of [Coadum 1], organized by Jeffrey and Repke after the extension of the [Interim Order]".

[18] Coadum 2, CAI, Jeffery and Repke admitted engaging in this second round of activity. Coadum 1 did not. Kearl apparently was not involved.

C. Admissions and Findings of Misconduct

1. Contraventions of the Act

(a) Coadum 1 – Illegal Trades and Distribution

[19] Coadum 1, CAI, Jeffery, Repke and Kearl admit, and we find, that they each traded in Coadum 1 securities without registration (required under section 75 of the Act) and distributed Coadum 1 securities without a prospectus (required under section 110), and without an exemption from the registration and prospectus requirements. These Respondents therefore engaged in illegal trading and distribution.

[20] Although Coadum 2 also admits in the Coadum Statement to having engaged in the Coadum 1 solicitations, the fact (mentioned above) that it was not apparently in existence at the time of the relevant activity leads us to conclude that this admission was made in error. We therefore make no finding against Coadum 2 in respect of the trades and distribution of Coadum 1 securities.

(b) Coadum 2 – Illegal Trades and Distribution

[21] Coadum 2, CAI, Jeffery and Repke admit, and we find, that they each traded in and distributed Coadum 2 securities without registration, a prospectus or an exemption from the registration and prospectus requirements of the Act. This, too, was therefore illegal trading and distribution. We make no finding against Coadum 1 or Kearl in respect of activity involving Coadum 2 securities.

2. Breach of Commission Order

[22] Coadum 2, CAI, Jeffery and Repke also admit, and we find, that their trading and distribution of Coadum 2 securities breached the Interim Order. We consider this breach particularly flagrant, inasmuch as the Interim Order explicitly named three of these four Respondents and was, moreover, drafted in a manner intended to prevent precisely what these Respondents went on to do, namely to continue the impugned activity through an affiliate or successor vehicle (Coadum 2).

3. Conduct Contrary to the Public Interest

[23] The Respondents admit that their misconduct described above was contrary to the public interest. We agree and we so find.

[24] First, the prospectus and registration requirements of the Act are fundamental elements of our securities regulatory system, designed (respectively) to furnish a prospective investor with information to assist in making an informed investment decision and to ensure the involvement of a qualified registrant who is able (and obligated) to assess a contemplated investment's suitability for that prospective investor. The illegal trades and distributions here at issue deprived Alberta investors of those basic protections.

[25] Second, the Interim Order was issued with a view to protecting Alberta investors and the Alberta capital market from activity that was prima facie troubling. The flagrant breach of that order by Coadum 2, CAI, Jeffery and Repke was clearly contrary to the public interest.

III. JOINT PROPOSALS FOR SANCTION

[26] Staff and the respective Respondents jointly proposed the following sanctions:

- against Jeffery and Repke:
  - orders that would, for five years, deny each the use of any exemptions contained in Alberta securities laws and bar each from acting as a director or officer (or both) of any issuer; and
  - administrative penalties of $50 000 each; and

- against Kearl:
  - a two-year ban on trading or purchasing securities except for "personal trading and purchasing in an RRSP/RESP account maintained with a registrant to whom Kearl has first provided a copy of the order" (emphasis in the original);
  - a two-year denial of exemptions; and
  - an administrative penalty of $15 000.

[27] The parties did not propose any sanctions against Coadum 1, Coadum 2 or CAI (although, as discussed below, they proposed costs orders which they described as sanctions).

IV. SANCTIONS

A. The Law

[28] As an administrative tribunal performing a regulatory function, we are to exercise our public interest authority with a view to protecting Alberta investors and the Alberta capital market, and to preventing future misconduct in that market. We are empowered to order sanctions under sections 198 and 199 of the Act if we consider it to be in the public interest to do so. The types of sanctions jointly proposed by Staff and the Respondents are within the contemplation of sections 198 and 199 of the Act.

[29] We are not bound by the parties' joint proposals for sanctions, but we accord them considerable weight. As this Commission recently stated (in *Re Executive Marketing & Strategies Ltd.*, 2008 ABASC 384 – a case also involving a joint proposal for sanctions – at paras. 30-32):

> . . . such orders are not designed to punish or remedy (see *Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, 2001 SCC 37 at paras. 39-45; and *Re Podorieszach*, 2004 ABASC 567 at para. 17). Deterrence is an appropriate object of our orders – both specific deterrence (deterring a particular respondent from future similar misconduct) and general deterrence (deterring others from similar misconduct) (see *Re Cartaway Resources Corp.*, 2004 SCC 26 at paras. 52-62).
>
> As the Respondents acknowledged in the Statement, the parties' joint proposal as to orders does not bind the panel. We consider the appropriateness of their joint proposal on sanction in light of the principles and objectives just mentioned, having regard to

potentially relevant factors including the following (which were enumerated in *Re Lamoureux*, [2002] A.S.C.D. 125 at para. 11, aff'd on other grounds 2002 ABCA 253):

- the seriousness of the allegations proved against the respondent,
- the respondent's past conduct, including prior sanctions,
- mitigating factors,
- the respondent's experience in the capital markets,
- the level of the respondent's activity in the capital markets
- whether the respondent recognizes the seriousness of the improper activity
- the harm suffered by investors as a result of the respondent's activities
- the benefits received by the respondent as a result of the improper activity
- the risk to investors and the capital markets in the jurisdiction, were the respondent to continue to operate in capital markets in the jurisdiction
- the damage caused to the integrity of the capital markets in the jurisdiction by the respondent's improper activities
- the need to deter not only those involved in the case being considered, but also any others who participate in the capital markets, from engaging in similar improper activity
- the need to alert others to the consequences of inappropriate activities to those who are permitted to participate in the capital markets and
- previous decisions made in similar circumstances

Although not bound by joint proposals on sanction, we incline to issue orders consistent therewith if we are satisfied that they fall within a range of sanctions we consider will reasonably serve the public interest; see *Re TSS Management Corp.*, 2008 ABASC 215 at para. 24:

> While we are not bound to order jointly proposed sanctions, we will do so if we are satisfied that they fall within a range of sanctions we perceive will reasonably serve the public interest. As this Commission explained in [*Daystar*] at para. 19:
>
> > The role of a panel reviewing agreed statements of facts and joint submissions on appropriate sanction is not to impose the sanction we would order after a full hearing. Rather we are to ensure that the parties provided the panel with the facts necessary to decide the case and that the proposed sanctions are within a range of sanctions that we consider reasonable in the circumstances of the particular respondents. This approach recognizes that the panel is not aware of all the considerations that the parties faced when reaching their agreed position on fact and sanction.

[30] When parties to an enforcement proceeding are able to reach agreed positions on merits, sanctions or both, this tends to facilitate the effective resolution of the proceeding. That serves the public interest and ought not to be discouraged.

[31] We also appreciate that the Statements containing the joint proposals (and admissions of fact and misconduct) were the product of serious analysis and negotiations on the part of both the Respondents and Staff. We think it reasonable to conclude that the joint positions reached by the parties on sanctions informed their agreement on facts and other admissions, and vice versa. In other words, we infer that each Statement was drafted as a whole, and should be assessed in that light.

[32] For these reasons, we consider that a hearing panel generally ought not to tinker lightly with particular elements of a joint proposal that, in totality, it considers to be in the public interest. We assessed the joint proposals for sanctions before us accordingly.

B. Public Interest

1. Factors for Significant Sanctions

[33] We consider the misconduct of the Respondents serious. It exposed Alberta investors to harm. Albertans invested a considerable amount of money in Coadum 1 and Coadum 2. While we cannot predict the outcome of the US receivership proceeding, it appears that the Alberta investors are at risk of financial loss. These factors argue for significant sanctions against each Respondent.

[34] The admitted, and flagrant, breach of the Interim Order by Coadum 2, CAI, Jeffery and Repke is, in our view, a serious aggravating factor that also argues for significant sanctions against these four Respondents.

2. Factors for Moderation in Sanctions

[35] There are also factors militating for moderation in the sanctions against some, or all, of the Respondents.

[36] The Statements indicate that the Respondents, other than Kearl, have not been previously sanctioned by the Commission.

[37] Kearl has been previously sanctioned by the Commission. However, he apparently relied on incorrect information or advice from Lawler as to the legalities of the Coadum 1 trades and distribution – the Kearl Statement refers to a "failure to exercise due diligence" by Kearl in this regard. Further, Kearl apparently did not profit from the sale of Coadum 1 securities.

[38] According to the Statements, the Respondents cooperated with Staff in the investigation. The Respondents also saved the Commission the time and expense associated with a contested hearing.

[39] The very fact that the Respondents executed the Statements we take as an indication of their understanding of the seriousness of their misconduct.

[40] That Coadum 1, Coadum 2 and CAI are apparently out of business and that direct monetary sanctions against them would likely diminish the prospects of financial recovery by aggrieved investors argue against imposing significant (or any) sanctions – in particular, direct monetary sanctions (administrative penalties) – on these entities.

3. Conclusion on Factors

[41] On balance, and taking into account the other considerations set out below, we consider that it is in the public interest to order sanctions against the three individual Respondents. We further consider that the types of sanctions jointly proposed by the parties (market-access restrictions and administrative penalties) would, by and large, serve appropriate protective and preventative purposes.

4. Other Considerations

[42] There are puzzling aspects to the parties' joint proposals.

Inconsistencies in Types of Sanctions Proposed

[43] The Kearl Statement calls for a cease-trade order and a denial-of-exemptions order but not for a director-and-officer ban against Kearl, whereas the Coadum Statement calls for only the latter two types of sanctions against Jeffery and Repke. These seeming inconsistencies were not explained.

(i) No Director-and-Officer Ban Proposed for Kearl

[44] We infer from the admitted facts that Kearl's misconduct arose solely in connection with trading and distributing activities, whereas Jeffery's and Repke's misconduct involved such activities in respect of entities of which they were also serving as directors, officers or members. The imposition of director-and-officer bans on Jeffery and Repke, but not on Kearl, would thus be logical and consistent with the public interest.

(ii) Cease-Trade Order Proposed only for Kearl

[45] Because all three individual Respondents' misconduct involved trading activity, we discern no reason for the sanctions to include a cease-trade order only against Kearl.

[46] There is considerable overlap between a broad denial-of-exemptions order and a cease-trade order. The former would, of course, bar trading activity that can legally be undertaken only pursuant to a registration or prospectus exemption. Under Alberta securities laws, such an exemption is required even for what might be considered routine "retail" trading through a registered broker or dealer. This is because section 75 of the Act bars all trading by anyone not registered. The basis for typical retail trading activity is the exemption provided by section 3.1 of National Instrument 45-106 *Prospectus and*

Registration Exemptions (part of "Alberta securities laws" as defined in the Act) for trades through the agency of a registered dealer. Accordingly, the broad denial-of-exemption orders proposed for each individual Respondent would, among other things, also bar them from trading (less clearly from purchasing) unless they were themselves to become registrants. The substantive effect of a cease-trade order would thus, to a large extent, be inherent in a denial-of-exemptions order alone.

[47] Because there is not complete overlap between the two types of orders, it is a typical practice of this Commission, when seeking to bar trading access to the Alberta capital market, to couple a denial of exemptions with a cease-trade order.

[48] We also consider that a cease-trade order sends an obvious, readily understood message both to affected respondents and to other market participants, and may thus serve useful deterrent and market-confidence purposes.

[49] For these reasons, we would have preferred to see in this case joint proposals for both denial-of-exemptions orders and cease-trade orders against each individual Respondent. However, in all the circumstances – including the additional proposed sanctions in the form of administrative penalties – we do not consider that the public interest would be prejudiced in this case by the absence of cease-trade orders against Jeffery and Repke.

[50] Given that, and given our disinclination to tinker with particular elements of a joint proposal unless necessary in the public interest, we conclude that the sanctions against Jeffery and Repke need not be supplemented by explicit cease-trade orders.

[51] However, having reached that conclusion, we are hard-pressed to discern a public interest in treating Kearl differently (and possibly unfairly) by imposing such an order on him alone. We conclude that it is not in the public interest to do so in the circumstances of this case.

Carve-out for Certain RRSP/RESP Trading

[52] Kearl and Staff jointly recommended an exception to the cease-trade order proposed for Kearl, which would permit limited personal trading in a registered retirement savings plan ("RRSP") or registered education savings plan ("RESP") (as defined in the *Income Tax Act* (Canada)) account that he maintains with a registrant. Such an exception is not unusual. To achieve the apparently intended objective, though, such an exception or "carve-out" would also have to been attached to any denial-of-exemptions order imposed since (as just discussed) it too would otherwise bar Kearl from trading even through a registrant. In this case we are satisfied that allowing such limited trading, with the associated protections proposed, would not jeopardize the public interest.

[53] Having concluded that such a carve-out from the denial-of-exemptions order for Kearl would be appropriate, we perceive no basis to conclude differently with respect to Jeffery or Repke. We do not know why no such exception was proposed but we conclude that it is not in the public interest to treat the individual Respondents inconsistently in this respect.

No Sanctions Proposed against Business Organizations

[54] The parties proposed no sanctions against Coadum 1, Coadum 2 or CAI. We accept that direct monetary sanctions (administrative penalties) against these entities might not be in the interests of the affected investors. The absence of a proposal for market-access bans against these entities, however, is somewhat puzzling.

[55] As noted, the receiver for these entities represented that they are out of business and will not resume capital market activity. Staff counsel appeared to accept this as sufficient reason not to impose market-access bans against these entities.

[56] That market-access bans would be inappropriate is not readily apparent – plans can change and business organizations can resume operation. We would, therefore, have preferred to see market-access restrictions included in the joint proposals.

[57] However, given the representations made and the parties' joint positions, we are prepared to accept, in all the circumstances, that such restrictions are not necessary in the public interest.

Extent of Sanctions Proposed

[58] We noted above our conclusion that the misconduct in this case – admitted by each Respondent – was serious. We are satisfied that Kearl's role was less egregious than that of the other two individual Respondents and that it is appropriate that the sanctions against him be less extensive than those against the other two individual Respondents. That said, the sanctions jointly proposed are, in our view, rather modest relative to the misconduct of the Respondents, even taking into account the factors arguing for moderation in sanctions. Had the Respondents not cooperated as they did in providing the Statements (thereby obviating the need for a more extensive and involved hearing to uncover the facts), and had a panel nonetheless reached similar conclusions on the merits, the Respondents would almost certainly be facing sanctions considerably more extensive than those proposed.

[59] The Statements are, however, an important factor in this case, and for reasons mentioned we give the parties' joint proposals for sanctions considerable weight. We consider that the sanctions jointly proposed for the individual Respondents fall within a range – albeit (particularly for Jeffery and Repke) at the low end of that range – that would adequately serve the public interest. In all the circumstances, therefore, we

conclude that the sanctions proposed, modified as discussed above, are in the public interest.

V. COSTS

[60] The parties also jointly proposed that we order each Respondent to pay a portion of the costs of the investigation and Hearing.

[61] The Statements characterize such orders as sanctions. They are not. Such orders – contemplated under section 202 of the Act, not section 198 or 199 – serve as a mechanism for recovering costs that the Commission (itself funded by market participants) has incurred in the course of investigating suspected capital market misconduct or conducting an enforcement hearing. We generally consider it appropriate that a respondent found to have contravened the Act or to have acted contrary to the public interest (or both) pay at least a portion of the investigation and hearing costs. The considerations that go into a costs order may, or may not, be similar to those that factor into a sanction order, but the purpose is different.

[62] Staff counsel represented that the Commission incurred, in the course of this investigation and Hearing, costs (computed in accordance with the regulations under the Act) not less (and indeed considerably more) than the aggregate value of the proposed costs orders.

[63] The Respondents' acknowledged cooperation in the investigation presumably contributed to efficiency and the Respondents also saved the Commission the time and expense associated with a contested hearing, factors that can (in part, as an incentive to others) warrant orders for less than full cost recovery.

[64] We are satisfied that each Respondent should pay a portion of the costs incurred. We also consider that, as among the Respondents, it is appropriate that Jeffery and Repke bear the largest proportionate share of the costs so ordered.

[65] In short, we conclude that the proposed costs orders are appropriate.

VI. ORDERS

A. Sanctions and Costs

[66] For the reasons given, we make the following orders for sanctions in the public interest under sections 198(1)(c), (d) and (e) and 199 of the Act, and for payment of costs under section 202:

- Coadum 1 must pay $1 000 toward the costs of the investigation and Hearing;

- Coadum 2 must pay $1 000 toward the costs of the investigation and Hearing;

- CAI must pay $1 000 toward the costs of the investigation and Hearing;

- in respect of Jeffery:
    - all of the exemptions contained in Alberta securities laws do not apply to him for five years from the date of this decision, except that this order does not preclude him from trading in or purchasing securities through a registrant (who has first been given a copy of this decision) in an RRSP or RESP account for the benefit of one or more of himself, his spouse and his dependent children;
    - he must resign all positions he holds as a director or officer of any issuer and he is prohibited for five years from the date of this decision from becoming or acting as a director or officer (or both) of any issuer;
    - he must pay an administrative penalty of $50 000; and
    - he must pay $10 000 toward the costs of the investigation and Hearing;

- in respect of Repke:
    - all of the exemptions contained in Alberta securities laws do not apply to him for five years from the date of this decision, except that this order does not preclude him from trading in or purchasing securities through a registrant (who has first been given a copy of this decision) in an RRSP or RESP account for the benefit of one or more of himself, his spouse and his dependent children;
    - he must resign all positions he holds as a director or officer of any issuer and he is prohibited for five years from the date of this decision from becoming or acting as a director or officer (or both) of any issuer;
    - he must pay an administrative penalty of $50 000; and
    - he must pay $10 000 toward the costs of the investigation and Hearing; and

- in respect of Kearl:
    - all of the exemptions contained in Alberta securities laws do not apply to him for two years from the date of this decision, except that this order does not preclude him from trading in or purchasing securities through a registrant (who has first been given a copy of this decision) in an RRSP or RESP account for the benefit of one or more of himself, his spouse and his dependent children;

- he must pay an administrative penalty of $15 000; and
- he must pay $5 000 toward the costs of the investigation and Hearing.

B. Interim Order Expires

[67] The Interim Order expires by its terms with the issuance of this decision.

C. Proceeding Concluded

[68] This proceeding is concluded.

13 August 2008

For the Commission:

"original signed by"
Stephen Murison

"original signed by"
Dennis Anderson, FCA

"original signed by"
Roderick McKay, CA