

August 18, 2005

**IN THE MATTER OF: THE SECURITIES ACT**

**-and-**

**IN THE MATTER OF: The Crocus Investment Fund**

**AND IN THE MATTER OF: Charles Curtis, Peter Olfert, Waldron (Wally) Fox-Decent, Lea Baturin, Albert Beal, Ron Waugh, Diane Beresford, Sylvia Farley, Robert Hilliard, Robert Ziegler (the "Board Members")**

**REASONS FOR DECISION  
OF  
THE MANITOBA SECURITIES COMMISSION**

On April 4, 2005, the Manitoba Securities Commission issued allegations against Crocus Investment Fund and certain Directors, and a hearing is scheduled to begin on October 24, 2005.

On June 29, 2005, the panel heard applications by counsel for CBC and CTV to permit media access by the use of television cameras to the scheduled hearing in this matter. The motion was opposed by counsel for the Board of Directors of Crocus Investment Fund against whom allegations have been made by the Manitoba Securities Commission (MSC). Counsel for the MSC supported the application.

A preliminary application was made by counsel for several of the directors to have this issue referred to the Court of Queen's Bench, under s. 31(1) of the Securities Act, as a question of law which should be determined by a court. The panel is of the opinion that this is a question of process and, as the Commission has the right and the duty to determine its own procedures for hearings, the application for a referral is denied.

On the principal issue the panel heard argument for the need to have a public hearing with media access. Let us be clear - there was never a doubt but that this hearing would be open to the public and to the media, as are all MSC hearings, except when it may be necessary to conduct part of a hearing in camera, to protect confidential information. The issue is access by a form of media not usually permitted - television cameras.

Counsel indicated that in Manitoba at least one inquiry, the Aboriginal Justice Inquiry, was televised, as was a hearing of the Judicial Council. The difference, at least in the case of the AJI, is that it was broadcast in its entirety on public access stations, so as to be available to people in

remote parts of the province. That will not be the case in this hearing, where the probable broadcasting will consist of a short video clip of something a reporter considers newsworthy.

A concern was expressed that TV coverage will consist of brief news clips, possibly based on a "sound byte" and that the coverage could be edited unfairly.

The panel was assured by counsel for the TV stations that their clients are responsible corporations who do not engage in sensationalism, and that their coverage would be fair.

It was argued that the print media also has the ability to excerpt the most provocative quotes, and to report with a certain bias, yet it has unquestioned access to hearings and indeed to courts.

The Crocus Investment Fund matter is of interest to many Manitobans, most of whom will have no access to this hearing other than through the media.

As such, the panel accepts the position that fairness and the public interest will be best served by allowing television coverage of the hearing or parts thereof.

Therefore, for this hearing only, we will allow the proceedings to be videotaped.

In the absence of an MSC policy on this matter, the panel has established, for this hearing, the attached guidelines (Schedule "A"), which are consistent with policies established by the Ontario and British Columbia Securities commissions.

August 18, 2005

"K.E. Hughes"

K.E. Hughes  
Chair

"R.G. McEwen"

R.G. McEwen  
Member

"D.H. Smith"

D.H. Smith  
Member

## **SCHEDULE "A"**

### **Practice Guidelines – Media At Hearing**

#### **1. General**

- (1) The Commission hearing will be open to the public including all branches of the media.
- (2) Nothing in this guideline limits the authority of the Commission to exclude the media, including television, when the public interest so requires.

## **2. Procedure**

- (1) Media personnel will be subject to the direction of the Chair of the panel.
- (2) Media personnel will limit themselves to one position, in the case of a camera crew, at the back of the hearing room, and will not disrupt the hearing.
- (3) Interviews of parties will not take place in the MSC hearing room or premises.
- (4) There will be no special lighting for the television camera.
- (5) There will be no electronic flash for still photography.
- (6) There will be only one television camera and it will operate from a fixed position, so pooling arrangements will need to be made if more than one media outlet wishes to televise the hearing.
- (7) There are no restrictions on audio recording of the hearing, but microphones must not be placed at the witness area, counsel tables, or near the panel.
- (8) The panel reserves the right to amend these guidelines, if necessary, during the course of the hearing.