

Headnote:

Mutual Reliance Review System for Exemptive Relief Applications - relief granted to certain vice presidents of reporting issuer from insider reporting requirements subject to certain conditions.

Applicable Ontario Statutory Provisions:

Securities Act, R.S.A 2000, c. S-4, as amended, section 182 and ss. 212(2)

Rules Cited:

National Instrument 55-101 - Exemption From Certain Insider Reporting Requirements.

Citation: Superior Plus Income Fund, 2004 ABASC 1116 **Date:** 20041110

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ALBERTA, SASKATCHEWAN, MANITOBA, QUEBEC, NEWFOUNDLAND &
LABRADOR, NOVA SCOTIA AND ONTARIO (THE "JURISDICTIONS")

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
SUPERIOR PLUS INCOME FUND (THE "FILER")

Background

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "Legislation") for an exemption from the insider reporting requirements for certain Vice-Presidents of the Filer (the "Requested Relief").

Under the Mutual Reliance Review System for Exemptive Relief Applications

(a) the Alberta Securities Commission is the principal regulator for this application, and

(b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 Definitions have the same meaning in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer is a limited purpose, unincorporated trust established under the laws of the Province of Alberta by a Declaration of Trust made as of August 2, 1996, as amended and restated on October 7, 2003 with its head and registered office located in Calgary, Alberta.
2. The Filer does not conduct active business operations, but rather, it distributes to its unitholders the income it receives from Superior Plus Inc. ("Superior"). The Filer holds all of the outstanding securities of Superior.
3. Superior has four operating divisions: Superior Propane, a distributor of propane, related products and services; ERCO Worldwide, a supplier of chemicals and technology to the pulp and paper and water treatment industries; Winroc, a distributor of wall and ceiling construction products in North America; and Superior Energy Management which provides natural gas supply services, predominantly to commercial and industrial markets in Ontario.
4. The trust units of the Filer trade on the Toronto Stock Exchange (the "TSX") under the trading symbol "SPF.UN". The Filer also has Series 1 and Series 2, 8% Convertible Unsecured Subordinated Debentures outstanding, that trade on the TSX under the trading symbols "SPF.DB" and "SPF.DB.A", respectively.
5. The Filer is a reporting issuer in all of the provinces and territories of Canada that have such a concept.
6. To its knowledge, the Filer is not in default of any of the requirements of the applicable securities legislation in any of the provinces or territories in which it is a reporting issuer.
7. As of the date of this application, the Filer has 29 persons who are insiders of the Filer by reason of being an officer or director of Superior, a subsidiary of the Filer, or of any of Superior's divisions.
8. There are not any persons who are insiders of the Filer who are currently exempted from the insider reporting requirements by reason of an existing exemption or a previous decision or order.
9. The Filer has developed a corporate disclosure policy (the "Disclosure Policy"), which includes procedures governing insider trading that apply to all insiders of the Filer. The Disclosure Policy also applies to employees of the Filer who have knowledge of material undisclosed information. The Filer has also designated the Chairman of the Board, Chief Executive Officer, Chief Financial Officer and the Secretary of Superior (collectively, the "Disclosure Policy Officers") to oversee compliance with the Disclosure Policy.

10. The objective of the Disclosure Policy is to ensure that the Filer's insiders are aware of the Filer's approach to disclosure and promote compliance.

11. Under the Disclosure Policy, insiders and other employees with knowledge of material undisclosed information may not trade in securities of the Filer. In addition, insiders and other employees may not trade in securities of the Filer during any "blackout" periods which may be prescribed.

12. The number of persons on whose behalf relief is being sought (the "Exempted Vice-Presidents") on the grounds that they are "nominal vice-presidents" (as defined below) of the divisions of Superior is 11.

13. The 18 insiders of the Fund for whom no relief is being sought include all the directors and officers of Superior, the presidents of each of Superior's operating divisions and the vice-presidents of finance, if any, of each of Superior's operating divisions.

14. The Disclosure Policy Officers have considered the job requirements and principal functions of the insiders of the Filer to determine which of them met the definition of "nominal vice-president" contained in Canadian Securities Administrators Staff Notice 55-306 Applications for Relief from the Insider Reporting Requirements by Certain Vice-Presidents (the "Staff Notice").

15. Each of the Exempted Vice-Presidents meets the following criteria and definition of "nominal vice-president", as defined in the Staff Notice:

(a) the individual is a vice-president;

(b) the individual is not in charge of a principal business unit, division or function of the Filer or a "major subsidiary" of the Filer (as such term is defined in National Instrument 55-101 Exemption from Certain Insider Reporting Requirements);

(c) the individual does not in the ordinary course receive or have access to information as to material facts or material changes concerning the Filer before the material facts or material changes are generally disclosed; and

(d) the individual is not an insider of the Filer in any other capacity.

16. On an ongoing basis, the Filer will monitor the eligibility for the exemption available under the Staff Notice for each of the Exempted Vice-Presidents by monitoring such persons' respective job requirements and principal functions and assessing the extent to which in the ordinary course they receive notice of material facts or material changes with respect to the Filer prior to such material facts or material changes being generally disclosed.

17. If the Filer determines that any of the Exempted Vice-Presidents no longer satisfy the criteria of "nominal vice-presidents" set out in the Staff Notice, the Filer will inform such individuals of their ongoing obligations under the Insider Reporting Requirements.

18. The Filer has filed with the Decision Makers a copy of the Disclosure Policy.

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that:

(a) The Filer agrees to make available to the Decision Makers, upon request, a list of all individuals who are relying on the exemption granted by this Decision as at the time of the request; and

(b) the relief granted under this decision will cease to be effective on the date that National Instrument 55-101 is amended.

DATED at Calgary, Alberta on this 10th day of November, 2004.

“Original signed by”

Mavis Legg, CA

Manager, Securities Analysis