

**THE SECURITIES ACT**  
**Subsections 19(5) and 148.1**

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**Order No. 5260**  
**December 06, 2006**

**B2B TRUST**

**WHEREAS:**

(A) On February 24, 2004, The Manitoba Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice") giving notice of its intention to hold a hearing (the "Hearing") to consider whether or not it was in the public interest to grant an order pursuant to subsections 19(5) and 148.1 of The Securities Act (the "Act") with respect to B2B Trust;

(B) Staff of the Commission and B2B Trust entered into a Settlement Agreement (a copy of which is attached as Schedule "A") dated December 5, 2006 (the "Settlement Agreement"), which proposed settlement of the proceedings initiated by the Notice, subject to the approval of the Commission;

(C) B2B Trust has consented to the issuance of this Order and has waived its rights to a full hearing;

(D) The Commission has reviewed the Settlement Agreement and is of the opinion that it is in the public interest to make this Order.

**IT IS ORDERED:**

1. **THAT** the Settlement Agreement, Schedule "A", be and the same is hereby approved.
2. **THAT** B2B Trust will make a voluntary payment to the Treasury of the Province of Manitoba in the amount of \$10,000.00.

**BY ORDER OF THE COMMISSION**

**Director, Legal and Enforcement**

**SCHEDULE "A"**

**In the Matter of the Securities Act,  
S.M. 1988, c. S50 as amended  
- and -  
In the Matter of M.R.S. Trust Company, B2B Trust,**

**W.H. Stuart Mutuals Ltd., Eric Sonego, Ingram Jeffrey Eshun,  
Josephus Delacore Lewis and Marilyn Dianne Stuart**

**SETTLEMENT AGREEMENT**

**A. INTRODUCTION**

A.1 By way of Notice of Hearing and a Statement of Allegations of Staff of the Manitoba Securities Commission (collectively the "Notice of Hearing") notice was given to B2B Trust, and to the other parties named above, of the intention of the Manitoba Securities Commission (the "Commission") to hold a hearing under the Securities Act (the "Act") to consider the matters in the Statement of Allegations, and insofar as B2B Trust is concerned to consider:

(a) whether or not it is in the public interest to order, pursuant to subsection 19(5) of the Act, that subsections 19(1) and 19(3) of the Act do not apply to B2B Trust with respect to such of the trades referred to in those sections and that subsection 19(2) of the Act does not apply to B2B Trust with respect to such of the securities referred to in that section;

(b) whether or not it is in the public interest to order that B2B Trust pay an administrative penalty pursuant to Section 148.1 of the Act;

(c) whether or not it is in the public interest to order that B2B Trust pay the costs of and incidental to the hearing; and

(d) whether or not it is in the public interest to make any other order or orders.

A.2. Discussions have been held amongst B2B Trust and Staff of the Commission ("Staff") in an effort to settle all issues in connection with B2B Trust in relation to the matters set out in the Notice of Hearing (the "Proceedings"). A Settlement (the "Settlement") has been reached based on the terms and conditions set forth in this Agreement (the "Settlement Agreement").

A.3 Pursuant to the Settlement, Staff agrees to recommend to the Commission that the Proceedings initiated against B2B Trust be resolved and disposed of in accordance with the terms and conditions of this Settlement Agreement as set forth below. B2B Trust consents to the Settlement and to the making of the Consent Order referred to in subparagraph D.2 below, on the terms and conditions set forth in this Settlement Agreement.

**B. STATEMENT OF FACTS**

B.1 B2B Trust agrees with the facts set out in this Part B. B2B Trust

B.2 B2B Trust carries on the business of a trust company with its registered office in Toronto, Ontario. From time to time, B2B Trust acts as trustee of registered retirement savings plans and as custodian of the assets held therein, to comply with requirements of the Income Tax Act (Canada) and regulations. The Account Opening Documentation and Declarations of Trust set

out therein describe the role of B2B Trust. B2B Trust does not provide investment or tax advice under the retirement savings plans it administers as trustee. B2B Trust and the plan holders agree to be bound by the terms of the Declaration of Trust, which include that all client investments must comply with B2B Trust's policies, and that final responsibility for the administration of the retirement savings plan rests with B2B Trust. However, the plan holder recognizes that B2B Trust is in no way responsible with respect to the choice of investments made by the plan holder or for the consequences arising therefrom, even if B2B Trust had prior knowledge of the investments.

### The Pension/RRSP Scheme

B.3 Staff of the Commission allege the Pension/RRSP Scheme operated as set out below in paragraphs B.4 to B.9.

B.4 Between 1997 to 2000, Manitoba residents were solicited to convert their locked-in retirement plans or registered retirement savings plan holdings (the "Locked-in Funds") into shares of companies, and loans (the "Scheme"). Other than acting as trustee of the Locked-in Funds, B2B Trust did not participate in and was not aware of the Scheme.

B.5 Under the Scheme, shares of Canadian Controlled Private Corporations ("CCPCs") were utilized. CCPCs can constitute a qualified investment for registered retirement savings plans and similar types of registered plans (RRSP's") provided the requirements prescribed by the Income Tax Act and Regulations are met.

B.6 Individuals participating in the Scheme (the "Clients") had their Locked-in Funds transferred in cash to a trust company where self-directed RRSP accounts (the "Accounts") were opened. The promoters of the Scheme required the Clients to sign various documentation, including a new client application form and a letter of direction providing instructions to purchase shares of the CCPC. The documentation was then forwarded by the promoter of the Scheme, or individuals acting on their behalf, to a trust company where the Accounts were opened in the Clients' name.

B.7 Once received, the trust company would act on the letter of direction and forward the cash in the Client's account to the CCPC. Shares for the CCPC were then registered in the name of the trust company in trust for the Client.

B.8 The Clients who purchased shares of CCPCs using their Locked-in Funds would concurrently apply for a loan arranged by the promoter of the Scheme, representing a portion of the purchase price of the CCPC. The remaining portion of the purchase price would be charged by the promoters of the Scheme as a fee for consultation, processing, membership and pre-payment of interest on the loan made.

B.9 The CCPC's participating in the Scheme were not eligible investments under the Income Tax Act, and the Scheme thus facilitated the improper withdrawal of the Locked-in Funds from the Accounts.

## The Role of B2B Trust

B.10 Between 1998 and 2000, following the receipt of instructions from two investors, two self-directed registered accounts were opened by B2B Trust for the benefit of those investors, who are Manitoba residents. The CCPC's whose shares were purchased for these accounts were 1259037 Ontario Inc. and 1221634 Ontario Inc, and as required by the Income Tax Act, B2B acted as Trustee of the registered plans and custodian of the shares.

B.11 Other than acting as trustee and administrator, respectively, of the accounts described in B.10 above, B2B Trust did not participate in and was not aware of the Scheme.

B.12 Subsequent to the matters referred to in B.10 above, B2B Trust took steps to improve its administrative procedures with respect to the purchases of CCPCs by self-directed RRSP plans.

## **C. ACKNOWLEDGEMENTS OF B2B TRUST**

C.1 B2B Trust acknowledges that in relation to the registered accounts referred to in B. 10 above, it did not follow some of its own procedures with respect to the purchase of CCPC shares.

C.2 B2B Trust further acknowledges that it has taken steps to improve its administrative procedures with respect to the purchase of CCPC shares by self-directed RRSP plans and that these steps were in the public interest.

C.3 Staff acknowledges that B2B Trust has co-operated and assisted in the investigation of these matters, and that B2B Trust has provided information elaborating on its administrative procedures as requested by Staff.

## **D. TERMS OF SETTLEMENT**

D.1 Staff seek an Order (the "Consent Order") from the Commission consistent with the terms contained in Section D.2 of this Settlement Agreement, pursuant to provisions of the Act.

D.2 The Consent Order sought by Staff is as follows:

(a) that this Settlement Agreement be approved; and

(b) upon approval of this settlement, B2B Trust will make a voluntary payment of \$10,000.00 to the Treasury of the Province of Manitoba.

## **E. PROCEDURE**

E.1 The approval of this Settlement Agreement shall be sought at a public hearing.

E.2 If this Settlement Agreement is approved by the Commission, and if a Consent Order issues in accordance with this Settlement Agreement, this Settlement Agreement will constitute the entirety of the evidence to be submitted to the Commission in connection with the Proceedings

and, upon the making of the order contemplated by this Settlement Agreement, B2B Trust waives its right to a full hearing and appeal of this matter.

E.3 Notwithstanding any other provision of this Settlement Agreement, if, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the Consent Order referred to in Section D above is not made by the Commission, Staff will be entitled to proceed with whatever steps it is entitled by law to take, including but not restricted to, the commencement of a hearing before the Commission, unaffected by this Settlement Agreement or the settlement discussions. In the event that such steps are taken, B2B Trust shall have all of the rights of a person subject to such proceedings.

E.4 If the Settlement Agreement is not approved or the Consent Order set out in Section D above is not made by the Commission, the terms of this Settlement Agreement shall remain confidential and shall not be raised in this or any other proceeding, and any admissions contained in this Settlement Agreement shall be considered as without prejudice communications in furtherance of settlement discussions, which will not be binding upon the parties and which will be inadmissible in any proceeding whatsoever.

E.5 If this Settlement Agreement is approved by the Commission and the Consent Order made upon the terms set out in this Settlement Agreement, this Settlement Agreement will be a public document. B2B Trust however reserves its right to object to the admissibility of this document in any other proceeding whatsoever.

E.6 B2B Trust agrees that, if this Settlement Agreement is approved by the Commission and the Consent Order is made upon the terms set out in this Settlement Agreement, B2B Trust will not raise as a basis for attack on this Order, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement, alleged bias, alleged unfairness, or any other such challenges to the validity of the Consent Order.

E.7 B2B Trust further agrees that if this Settlement Agreement is approved by the Commission and the Consent Order is made upon the terms set out in this Settlement Agreement, it will not make any statements inconsistent with the terms of this Agreement.

Dated at Toronto, Ontario this "30" day of "November", 2006.

B2B TRUST COMPANY

Per: "*James Scobbie*"

Dated at Winnipeg, Manitoba this "5" day of "December", 2006.

STAFF OF THE MANITOBA SECURITIES  
COMMISSION

Per: "*Douglas R. Brown*"