

**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O. 1990, c. S.5, AS AMENDED**

and

**IN THE MATTER OF ERNEST ANDERSON,
GOLDEN GATE FUNDS LP, BERKSHIRE CAPITAL LIMITED,
GP BERKSHIRE CAPITAL LIMITED AND
PANAMA OPPORTUNITY FUND**

**STATEMENT OF ALLEGATIONS
(Section 127(1) of the *Securities Act*)**

Staff of the Ontario Securities Commission (“Staff”) make the following allegations:

A. The Respondents

1. Ernest Anderson is an individual who resides in Ontario. Anderson was the owner and the signatory and/or an officer and director of the Golden Gate entities described below from December 31, 2003 until at least October 1, 2008 when GP Golden Gate Ltd., the limited partner, was assigned into bankruptcy. In or about February 2009, Anderson became the founding Chairman and managing director of the Berkshire entities also described below.
2. Anderson has never been registered in accordance with Ontario securities laws.
3. Golden Gate Funds LP is a limited partnership which was registered with the Ontario Ministry of Consumer and Businesses Services on December 31, 2003 (“Golden Gate Funds”). The stated general nature of business of Golden Gate Funds was investments. Anderson is the signatory.
4. Golden Gate Funds has never been registered in accordance with Ontario securities laws.

5. Golden Gate Funds has never been a reporting issuer in Ontario.
6. Golden Gate Funds has never filed a preliminary or final prospectus with the Ontario Securities Commission (the “Commission”) and receipts have not been issued for them by the Director.
7. Berkshire Capital Limited is a company incorporated in the Republic of Panama (“Berkshire”).
8. GP Berkshire Capital Limited is a company incorporated in the Republic of Panama (“GP Berkshire”).
9. Panama Opportunity Fund is purported to be a fund wholly owned and operated by Berkshire (“POF”).
10. Berkshire, GP Berkshire, POF (collectively, the “Berkshire entities”) have never been registered in accordance with Ontario securities laws.
11. The Berkshire entities have never been reporting issuers in Ontario.
12. The Berkshire entities have never filed a preliminary or final prospectus with the Commission and receipts have not been issued for them by the Director.

B. Illegal distribution and unregistered trades of Golden Gate Funds securities

13. Golden Gate Funds was a fund that purported to invest in cash, cash equivalents, liquid investments, residential and commercial mortgages and real property assets.
14. Golden Gate Funds offered for sale to investors, units of Golden Gate Funds for \$100 each with a guaranteed annual rate of return of 8% and “100% protection of principal”. The minimum investment required per person was \$10,000 for 100 units and there were no restrictions on the maximum investment. In addition, Golden Gate Funds offered the opportunity to share 50% of the company’s net profit, no fees to invest or withdraw funds, no minimum investment period and low risk and volatility.

15. Between September 9, 2004 and May 21, 2007 approximately \$8,169,687.10 worth of units in Golden Gate Funds were sold to at least 155 Ontario investors.

16. Golden Gate Funds sold units: (i) directly by unregistered salespeople who were employees of Golden Gate Funds or a related company; (ii) indirectly by at least one unregistered salesperson at an unregistered entity; and (iii) approximately \$3,525,429 worth of units indirectly by a dealer/registrant.

17. On August 10, 2005, May 31, 2006 and October 19, 2007, Golden Gate Funds filed 45-106 forms (or its predecessor form 45-501) with the Commission and claimed the accredited investor exemption from prospectus and registration requirements in paragraph 2.3 of National Instrument 45-106. Several Golden Gate investors who invested directly through unregistered salespeople were not accredited at the time they purchased the units.

18. Anderson and Golden Gate Funds traded in approximately \$4,644,258.10 worth of Golden Gate Funds securities in breach of the prospectus and registration requirements of Ontario securities laws.

19. Contrary to the Golden Gate Limited Partnership agreement, investor funds were not used to purchase an investment portfolio of mortgages.

20. Investor money was transferred from Golden Gate Funds to the bank accounts of other related companies, used to pay operating costs for Golden Gate Funds and other related companies, used to pay monthly interest payments to other investors and, used to re-pay investors from a previous investment scheme operated by Anderson.

21. Although Golden Gate Funds stated business was investments, Golden Gate Funds has been holding itself out as and have been engaging in the business of trading securities in Ontario as described above. Accordingly, Golden Gate Funds has been acting as a market intermediary and is required to be registered in accordance with Ontario securities laws.

C. Illegal distribution and unregistered trades of Panama Opportunity Fund securities

22. In February or March of 2008, Anderson moved to Panama where he started a similar business offering a new investment called POF. Anderson was the founding Chairman and managing director of Berkshire and GP Berkshire, the Panamanian companies that offered POF for sale on Berkshire's website.

23. Anderson also put together some forms for the Berkshire entities, including a subscription agreement. These promotional documents are similar to the Golden Gate Funds' promotional documents and promised "a simple 8% annual return" and "investor principal is 100% protected and a steady income is generated by investing in a diverse portfolio of mortgages".

24. As a result of these acts in furtherance of a trade of POF securities, on January 27, 2009, Staff obtained a temporary cease trade order against the Berkshire entities and against Anderson personally, which order has been extended.

D. Conduct contrary to the Act and the public interest

25. Between September 9, 2004 and May 21, 2007, Anderson and Golden Gate Funds traded in securities of Golden Gate Funds without being registered to trade in securities contrary to section 25(1) of the under the *Securities Act*, R.S.O. 1990 c. S.5 as amended (the "Act") and contrary to the public interest.

26. Between September 9, 2004 and May 21, 2007, Anderson and Golden Gate Funds traded in securities of Golden Gate Funds when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the Director contrary to section 53(1) of the Act and contrary to the public interest.

27. Between October 12, 2008 and January 27, 2009, Anderson and the Berkshire entities traded in securities of POF without being registered to trade in securities contrary to section 25(1) of the Act and contrary to the public interest.

28. Between October 12, 2008 and January 27, 2009, Anderson and the Berkshire entities traded in securities of POF when a preliminary prospectus and a prospectus had not been filed

and receipts had not been issued for them by the Director contrary to section 53(1) of the Act and contrary to the public interest.

29. Such further and other allegations as Staff may advise and the Commission may permit.

September 21, 2009