

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

**AND**

**IN THE MATTER OF  
ROBERT THOMISLAV ADZIJA, LARRY ALLEN AYRES, DAVID ARTHUR BENDING,  
MARLENE  
BERRY, DOUGLAS CROSS, ALLAN JOSEPH DORSEY, ALLAN EIZENGA, GUY  
FANGEAT, RICHARD  
JULES FANGEAT, MICHAEL HERSEY, GEORGE EDWARD HOLMES, TODD MICHAEL  
JOHNSTON,  
MICHAEL THOMAS PETER KENNELLY, JOHN DOUGLAS KIRBY, ERNEST KISS,  
ARTHUR KRICK,  
FRANK ALAN LATAM, BRIAN LAWRENCE, LUKE JOHN MCGEE, RON MASSCHAELE,  
JOHN NEWMAN,  
RANDALL NOVAK, NORMAND RIOPELLE, ROBERT LOUIS RIZZUTO AND MICHAEL  
VAUGHAN**

**ORDER**

**(Subsection 127(1) and section 127.1)**

**WHEREAS** on September 24, 1998, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") respecting John Douglas Kirby ("Kirby") and others;

**AND WHEREAS** on September 24, 1998, the Commission made a Temporary Order as against Kirby and others, such Temporary Order which was extended by Commission Orders dated October 9, 1998 and February 5, 1999 (the "Temporary Order");

**AND WHEREAS** Kirby entered into a Settlement Agreement executed September 30, 2002 and October 4, 2002 (the "Settlement Agreement") in which he agreed to a proposed settlement of the proceedings, subject to the approval of the Commission;

**AND UPON** reviewing the Settlement Agreement and the Statement of Allegations of Staff of the Commission and upon hearing submissions from Kirby and from Staff of the Commission;

**AND WHEREAS** the Commission is of the opinion that it is in the public interest to make this Order pursuant to subsection 127(1) and section 127.1 of the Act;

**IT IS ORDERED THAT:**

1. the attached Settlement Agreement is approved;
2. pursuant to subsection 127(1), paragraph 2, trading in any securities by Kirby cease for twelve years commencing on the date of this Order except that, after three years,

Kirby may trade securities for his own account and the account of his registered retirement savings plan (as defined in the *Income Tax Act (Canada)*);

3. pursuant to subsection 127(1), paragraph 8, Kirby is prohibited from becoming or acting as a director or officer of any issuer for twelve years commencing on the date of this Order;

4. pursuant to subsection 127(1), paragraph 6, Kirby is reprimanded; and

5. the Temporary Order as against Kirby no longer has any force or effect.

October 9, 2002.

"H. Lorne Morphy"

"Robert L. Shirriff"