



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

P.O. Box 55, 19th Floor
20 Queen Street West
Toronto ON M5H 3S8

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20, rue queen ouest
Toronto ON M5H 3S8

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

- and -

CHRISTOPHER JOSEPH GEDDES

ORDER

WHEREAS on April 1, 2010, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”) in relation to Christopher Joseph Geddes (“Geddes”);

AND WHEREAS Geddes entered into a settlement agreement with Staff of the Commission (“Staff”) dated April 7, 2010 (the “Settlement Agreement”), a copy of which is attached as Schedule “A” to this Order, in which he agreed to a settlement of the proceeding commenced by the Notice of Hearing dated April 1, 2010, subject to the approval of the Commission;

AND UPON reviewing the Settlement Agreement, and upon hearing submissions from counsel for Staff and Geddes;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;
2. Geddes shall be and is hereby reprimanded;

3. Geddes is prohibited from becoming registered under the Act for a period of 5 years from the date of approval of the Settlement Agreement;
4. Geddes is prohibited from becoming or acting as an officer or director of a reporting issuer, an investment fund, an investment fund manager and a registrant for a period of 5 years from the date of approval of the Settlement Agreement;
5. Geddes will make a voluntary payment to the Commission in the amount of \$218,400 to be allocated under s. 3.4(2)(b) of the Act to or for the benefit of third parties;
6. Geddes will cooperate with the Commission and Staff in respect of any proceeding commenced with respect to the subject-matter of this Settlement Agreement and will appear and give truthful and accurate testimony at the hearing of any such proceeding, if requested by Staff; and
7. Geddes will pay the sum of \$15,000 in respect of the costs of the investigation of this matter.

DATED at Toronto this 12th day of April, 2010.

“David L. Knight”

David L. Knight, FCA

“Carol S. Perry”

Carol S. Perry

SCHEDULE “A”

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

- and -

CHRISTOPHER JOSEPH GEDDES

**SETTLEMENT AGREEMENT BETWEEN STAFF OF THE ONTARIO
SECURITIES COMMISSION AND CHRISTOPHER JOSEPH GEDDES**

PART I – INTRODUCTION

1. By Notice of Hearing and related Statement of Allegations dated April 1, 2010 (the “Notice of Hearing”), the Ontario Securities Commission (the “Commission”) announced that it proposed to hold a hearing to consider whether, pursuant to s. 127 and s. 127.1(1) and (2) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), it is in the public interest to make certain orders against the Respondent, Christopher Joseph Geddes (“Geddes”), as described in the Notice of Hearing.

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) agree to recommend settlement of the proceeding initiated in respect of Geddes by the Notice of Hearing in accordance with the terms and conditions set out below. Geddes agrees to the settlement on the basis of the facts agreed to in Part IV and consents to the making of an Order in the form attached as Schedule “A”.

PART III – ACKNOWLEDGEMENT

3. For the purposes of this settlement hearing only, Geddes agrees with the facts set out in Part IV of the settlement agreement (the “Settlement Agreement”).

PART IV - FACTS

(a) The Fund and Fund Manager

4. Retrocom Growth Fund (“Retrocom” or the “Fund”) is a reporting issuer in Ontario and was incorporated in 1995 as a labour-sponsored investment fund. In December of 2005, Retrocom suspended redemptions because it did not have sufficient liquidity to meet outstanding redemption requests. On August 2, 2006, Retrocom issued a press release announcing that it was insolvent and had filed a Notice of Intention to make a Proposal under the *Bankruptcy and Insolvency Act* (Canada). RSM Richter Inc. (“Richter”) was named as trustee. It is not expected that any assets will be available for distribution to the Fund’s investors.

5. In its prospectus dated January 14, 2003, as amended from time to time (the “Prospectus”), Retrocom stated that it was “established to invest in small and medium-sized companies involved in high-tech communications, fibre optics, health-care development, innovative building technologies, energy and environmental conservation, construction and real estate development.” At all Material Times (defined to include all financial reporting periods between 2003 and 2005), approximately 90% of Retrocom’s holdings were comprised of direct and/or indirect investments in real property. Retrocom’s labour-sponsored status provided investors with favourable tax treatment for investments in the Fund.

6. Retrocom Investment Management Inc. (“RIMI”) was, from June 2001, Retrocom’s manager. RIMI was incorporated in Ontario in 1995. RIMI was registered with the Commission as an Investment Counsel and Portfolio Manager (“ICPM”) on April 2, 1998 and as a Limited Market Dealer (“LMD”) on September 5, 2000. On October 2, 2006, the Commission issued an Order accepting RIMI’s surrender of registration.

7. Pursuant to section 116 of the Act, RIMI, as Retrocom’s manager, was required to exercise its powers and discharge its duties honestly, in good faith and in the best interests of the Fund and to exercise the degree of care, diligence and skill that a reasonably prudent fund manager would exercise in the circumstances.

(b) The Respondent

8. Geddes was, from May, 2003 to June, 2006, the Fund's Chief Financial Officer. He also assisted RIMI with the conduct of valuations of the Fund's assets on a contract basis and liaised with the Fund's auditor, KPMG, in the performance of its audit work. From March, 2004 to March, 2005 Geddes served as Chief Financial Officer of the Retrocom Mid-Market Real Estate Investment Trust ("REIT"), an entity established partly through the transfer of assets from Retrocom on the advice of RIMI and for which RIMI acted as manager. Geddes has never been registered with the Commission.

9. Geddes' compensation from the Fund for the years 2003, 2004 and 2005 (exclusive of the Personal Benefit defined and described herein) was \$24,000.00 (2003), \$24,000.00 (2004) and \$8,300.00 (2005), respectively and his compensation from RIMI for those years (also exclusive of the Personal Benefit) was \$94,793.00 (2003), \$152,453.00 (2004) and \$153,532.00 (2005), respectively.

(c) Significant Over-Valuation of Assets During Fiscal 2000 to 2005

10. The financial year-end for the Fund was August 31. For fiscal years ending August 31, 2001 to 2004 the Fund's financial statements were audited by a professional audit firm and, in conjunction therewith, an annual valuation policy compliance review was conducted by a different professional audit firm. During this period, RIMI valued the Fund's assets.

11. In its audited financial statements for the period ending August 31, 2003, Retrocom recorded assets with a value of approximately \$68 million. For the year ending August 31, 2004 Retrocom's assets were valued in its audited financial statements in the approximate amount of \$52 million. Audited financial statements for the year ending August 31, 2005 were never completed.

12. In or about February of 2006 a Special Committee of Retrocom's Board of Directors was formed. The Special Committee retained Richter to review Retrocom's financial affairs during the period September 1, 2000 to August 31, 2005 (the "Period"). In summary, Richter found that:

- (a) As at August 2000, Retrocom had invested in 25 projects. An additional 13 projects were invested in subsequent to August 31, 2001. During the Period, 13 projects were disposed of or realized;
- (b) RIMI received management fees calculated as a percentage (3.25%) of the Fair Value of the Fund's assets;
- (c) Net asset values ("NAVs") for the Fund were prepared on the Fair Values ascribed to the Fund's assets;
- (d) The NAV for the Fund during the Period was overstated by \$54 million; and
- (e) The overstatement of the Fund's NAV during the Period resulted in an overpayment of fees to RIMI of between \$1.8 and \$4.8 million.

13. In 2005, in the context of the Fund's year-end audit, Cole & Partners performed a valuation of the Fund's assets as at August 31, 2005. Cole & Partners reported that the Fund's NAVs were cumulatively overstated by approximately \$147 million during the Period.

(d) Additional Fees and Conflict of Interest

14. In or about December of 2003, the Fund purchased a property from a developer (the "Developer") for approximately \$23 million. This property was then resold to the REIT as part of a larger transaction. Geddes was Chief Financial Officer of the Fund at the time in addition to working for RIMI and he participated in the Fund's consideration and review of this acquisition in that capacity.

15. On April 5, 2004, the Developer paid Geddes, through Christopher J. Geddes Limited, \$168,000 (the "Personal Benefit") for his future services in respect of acquisitions or investment opportunities, then at the conceptual stage, in which the Developer intended to seek out the Fund's involvement.

16. Geddes did not obtain the Fund's consent prior to his acceptance of the Personal Benefit, nor did he disclose to the Fund that he had received it.

17. Geddes acknowledges that a potential conflict of interest was created by his acceptance and non-disclosure to the Fund of the Personal Benefit given his role as Chief Financial Officer of the Fund. Accordingly, Geddes acknowledges that his conduct in respect of the Personal Benefit as described above was contrary to the best interests of the Fund and the public interest.

PART V – RESPONDENT'S POSITION

18. As set out above, the Fund appears to have been significantly over-valued during the period September 1, 2000 to August 31, 2005. At a meeting of the Fund's Valuation Committee in February, 2005 Geddes recommended against a write-up of the Fund's NAV by \$8.5 million, which would have effectively reversed an \$8.5 million write-down of the Fund's NAV which had been recommended by the Fund's auditors as at August 31, 2004.

19. In addition, at a meeting of the Fund's Investment Committee held in April, 2005, Geddes advised those present at the meeting that he believed that that the Fund's assets were over-valued and recommended that their values be significantly reduced. He provided this advice on his own initiative without having been asked by the Fund to do so.

PART VI – TERMS OF SETTLEMENT

20. Geddes agrees to the terms of settlement listed below.

21. The Commission will make an order pursuant to section 127(1) and section 127.1 of the Act that:

- (a) the Settlement Agreement is approved;
- (b) Geddes shall be reprimanded;

- (c) Geddes is prohibited from becoming registered under the Act for a period of 5 years from the date of approval of the Settlement Agreement;
- (d) Geddes is prohibited from becoming or acting as an officer or director of a reporting issuer, an investment fund, an investment fund manager and a registrant for a period of 5 years from the date of approval of the Settlement Agreement;
- (e) Geddes will make a voluntary payment to the Commission in the amount of \$218,400 to be allocated under s. 3.4(2)(b) of the Act to or for the benefit of third parties;
- (f) Geddes will cooperate with the Commission and Staff in respect of any proceeding commenced with respect to the subject-matter of this Settlement Agreement and will appear and give truthful and accurate testimony at the hearing of any such proceeding, if requested by Staff; and
- (g) Geddes will pay the sum of \$15,000 in respect of the costs of the investigation of this matter.

22. Geddes will not be reimbursed for, or receive a contribution toward, this or any other payment made pursuant to this Settlement Agreement from any other person or company subject to paragraph 23 below.

23. Geddes hereby agrees and acknowledges that, in the event that he should receive any further or additional funds in connection with Retrocom or RIMI he will provide notice to Staff forthwith and: (i) if the amounts owing pursuant to this Settlement Agreement are not paid in full, he will direct those funds to the Commission; (ii) if the amounts owing pursuant to this Settlement Agreement are paid in full, he will direct those funds to Richter in its capacity as trustee for Retrocom; and (iii) should Richter no longer be acting as trustee, he will return to the Commission for direction in respect of those funds.

PART VII – STAFF COMMITMENT

24. If the Commission approves this Settlement Agreement, Staff will not commence any proceedings against Geddes under Ontario securities law in relation to the facts alleged in the Notice of Hearing, subject to paragraph 25 below.

25. If the Commission approves this Settlement Agreement and Geddes fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against Geddes. These proceedings may be based on, but are not limited to, the facts alleged in the Notice of Hearing as well as the breach of the Settlement Agreement.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

26. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission according to the procedures set out in this Settlement Agreement and the Commission's Rules of Practice. At the request of the parties, approval of this Settlement Agreement will be considered at a joint hearing at which settlement agreements for other respondents will also be considered.

27. Staff and Geddes agree that this Settlement Agreement will form all of the agreed facts that will be submitted in respect of this settlement at the settlement hearing, unless the parties agree that additional facts should be submitted at the settlement hearing.

28. If the Commission approves this Settlement Agreement, Geddes agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

29. If the Commission approves this Settlement Agreement, Geddes will not make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.

30. Whether or not the Commission approves this Settlement Agreement, Geddes will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on the Commission's jurisdiction,

alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT

31. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule “A” to this Settlement Agreement:

- i. this Settlement Agreement and all discussions and negotiations between Staff and Geddes before the settlement hearing takes place will be without prejudice to Staff and Geddes; and
- ii. Staff and Geddes will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.

32. Both parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement, except that the Settlement Agreement may be disclosed to the other respondents who are in attendance at the settlement hearing, as provided in paragraph 26 above. Upon approval of the Settlement Agreement by the Commission, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, both parties and every other respondent in attendance at the settlement hearing must continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or if otherwise required by law.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

33. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.

34. A fax copy of any signature will be treated as an original signature.

Dated at Toronto this 8th day of April, 2010

Witness: “Maria Cabral”

“Chris Geddes”
Christopher Joseph Geddes

Dated at Toronto this 7th day of April, 2010

Staff of the Ontario Securities Commission

“Tom Atkinson”

Tom Atkinson
Director of Enforcement

SCHEDULE "A"



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AND WHEREAS Geddes entered into a settlement agreement with Staff of the Commission ("Staff") dated April 1, 2010 (the "Settlement Agreement"), a copy of which is attached as Schedule "A" to this Order, in which he agreed to a settlement of the proceeding commenced by the Notice of Hearing dated April 1, 2010, subject to the approval of the Commission;

AND UPON reviewing the Settlement Agreement, and upon hearing submissions from counsel for Staff and Geddes;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

IT IS ORDERED THAT:

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7. Geddes will pay the sum of \$15,000 in respect of the costs of the investigation of this matter.

DATED at Toronto this day of April, 2010.
