

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

- AND -

**IN THE MATTER OF
SOHAN SINGH KOONAR,
SPORTS & INJURY REHAB CLINICS INC.,
SELECTREHAB INC.,
SHAKTI REHAB CENTRE INC.,
NIAGARA FALLS INJURY REHAB CENTRE INC.,
962268 ONTARIO INC.,
APNA HEALTH CORPORATION AND APNA CARE INC.**

SETTLEMENT AGREEMENT

I INTRODUCTION

1. By Notice of Hearing dated June 18, 2001 (the “Notice of Hearing”), the Ontario Securities Commission (the “Commission”) announced that it proposed to hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the *Ontario Securities Act* (the “Act”), in the opinion of the Commission, it is in the public interest for the Commission:
 - (a) to make an order that trading in securities by the respondents cease permanently or for such other period as specified by the Commission;
 - (b) to make an order that Sohan Singh Koonar (“Koonar”) resign his position as an officer and/or director of the respondents, Sports & Injury Rehab Clinics Inc. (“SIRCI”), SelectRehab Inc. (“SelectRehab”), Shakti Rehab Centre Inc. (“Shakti”), Niagara Falls Injury Rehab Centre Inc., 962268 Ontario Inc. (“962268”), Apna Health Corporation (“Apna Health”), Apna Care Inc. (“Apna Care”) and any other issuer in which he holds the position of officer and/or director;
 - (c) to make an order that Koonar is prohibited from becoming or acting as a director or officer of any issuer;
 - (d) to make an order that the respondents or any of them be reprimanded;

- (e) to make an order that the respondents, or any of them, pay the costs of Staff's investigation in relation to this proceeding;
- (f) to make an order that the respondents, or any of them, pay the costs of the proceeding incurred by or on behalf of the Commission; and/or
- (g) to make such other order as the Commission considers appropriate.

II JOINT SETTLEMENT RECOMMENDATION

- 2. Staff of the Commission ("Staff") agree to recommend settlement of the proceedings initiated in respect of the respondents by the Notice of Hearing in accordance with the terms and conditions set out below. The respondents agree to the settlement on the basis of the facts agreed to as provided in Part III and each of the respondents consents to the making of an Order in the form attached as Schedule "A" on the basis of the facts set out in Part III.
- 3. This settlement agreement, including the attached Schedule "A" (collectively, the "Settlement Agreement"), will be released to the public only if and when the settlement is approved by the Commission.

III FACTS

- 4. Koonar is an individual residing in Ontario, and is, and was at all material times, an officer and/or director of SIRCI, SelectRehab, Shakti, Niagara Falls Injury Rehab Centre Inc., 962268, Apna Health Corporation and Apna Care Inc. (collectively, referred to as the "Companies"). Koonar has not been registered to sell securities in any capacity under the Act.

5. Each of the Companies is incorporated under the laws of Ontario, with the exception of Apna Health, which is incorporated under the laws of the State of Delaware. Each of the Companies has not been registered to sell securities in any capacity under the Act. The Companies are not reporting issuers in Ontario.
6. As set out below, during the period from August 1995 to May 1998 (the “material time”) Koonar and the Companies traded in securities, where such trading was a distribution of such securities, without having filed a preliminary prospectus and a prospectus and obtaining receipts therefor from the Director as required by section 53(1) of the Act, and without registration contrary to section 25(1) of the Act. As a result of these illegal distributions, an amount in excess of \$1,000,000 was raised from over 300 investors during the material time.

Trading by the Respondents Without a Prospectus or Registration Contrary to the Requirements of Ontario Securities Law

Sports & Injury Rehab Clinics Inc. (“SIRCI”)

7. Between August 21, 1995 and February 29, 1996, 15 investors made payments to SIRCI in the amount of \$534,686. As consideration for these payments, investors received promissory notes from SIRCI (the “SIRCI Notes”) in the amount of their payments. The notes provided for interest to be paid on the principal amount at the rate of 25% per annum.
8. SIRCI and Koonar traded in securities, namely the SIRCI Notes, where such trading constituted a distribution of such securities, without filing and obtaining a receipt for a prospectus and without an exemption to the prospectus requirement, contrary to section 53(1) of the Act. Koonar and SIRCI traded in securities, namely the SIRCI Notes, without registration and without an exemption to the requirement for registration, contrary to section 25(1) of the Act.

SelectRehab Inc. (“SelectRehab”)

9. Between August 31, 1996 and December 9, 1996, 28 investors made payments to SelectRehab in the amount of approximately \$408,237. As consideration for these payments, investors received promissory notes from SelectRehab (the “Select Notes”) in the amount of their payments. The notes provided for interest to be paid on the principal amount at the rate of 2% per month and the notes were to be repaid within 45 days of the payment being received by Select.
10. Koonar signed the Select Notes for and on behalf of Shakti, Niagara Falls Injury Rehab Centre Inc., 962268 and SelectRehab. Many of the payments made by investors to Select were deposited into a bank account held in the name of Shakti.
11. Shakti, Niagara Falls Injury Rehab Centre Inc., 962268, SelectRehab and Koonar traded in securities, namely the Select Notes, where such trading constituted a distribution of such securities, without filing and obtaining a receipt for a prospectus and without an exemption to the prospectus requirement, contrary to section 53(1) of the Act. Koonar, Shakti, Niagara Falls Injury Rehab Centre Inc., 962268 and SelectRehab traded in securities, namely the Select Notes, without registration and without an exemption to the requirement for registration, contrary to section 25(1) of the Act.

Apna Health Corporation (“Apna Health”)

12. Between April 1, 1997 and approximately January 5, 1998, Koonar and Apna Health sold shares of Apna Health to a number of investors. The 77 shareholders of record in Apna Health owned an aggregate of 11,637,750 issued and outstanding shares and consisted of the following: (i) 27 investors paid either \$1.00 or \$2.00 per share and received shares from the treasury of Apna Health; (ii) 19 investors paid either \$1.00 or \$2.00 per share directly to Koonar and received Apna Health shares that had been previously issued to Koonar; (iii) 27 investors exchanged their Select securities or SIRCI securities for shares in Apna Health; and (iv) the balance of investors received Apna Health shares for

services rendered to Apna Health or for no consideration, as reflected in the records of Apna Health.

13. As referred to above, Koonar sold 44,000 of his Apna Health shares to 19 investors and received funds in the amount of \$72,000 (the “Secondary Trades”). Apna Health received funds in the amount of approximately \$66,000 from the sale of shares to 22 shareholders of record.
14. Apna Health and Koonar traded in securities, namely the Apna Health shares, where such trading constituted a distribution of such securities, without filing and obtaining a receipt for a prospectus and without an exemption to the prospectus requirement, contrary to section 53(1) of the Act.
15. As the distribution of securities by Apna Health in the first instance was a violation of section 53(1) of the Act, the subsequent secondary trading of these shares by Koonar without filing and obtaining a receipt for a prospectus was a further distribution in violation of section 53(1) of the Act.
16. Both Koonar and Apna Health traded in securities, namely the Apna Health shares, without registration and without an exemption to the requirement for registration, contrary to section 25(1) of the Act.

Apna Care Inc. (“Apna Care”)

17. Between November, 1997 and the end of January, 1998, Koonar and Apna Care sold units of Apna Care to at least 270 investors for proceeds of at least \$132,200.
18. Each unit consisted of 100 Apna Care shares, and warrants to purchase an additional 100 shares at a specific price (the “Apna Care Warrants”). Units were generally sold to investors at a price of \$200 per unit.

19. Apna Care and Koonar traded in securities, namely the Apna Care units, where such trading constituted a distribution of such securities, without filing and obtaining a receipt for a prospectus and without an exemption to the prospectus requirement, contrary to section 53(1) of the Act. Both Koonar and Apna Care traded in securities, namely the Apna Care units, without registration and without an exemption to the requirement for registration, contrary to section 25(1) of the Act.

Books and Records /Failure to Account/Use of Proceeds

20. Koonar and the Companies did not maintain books and records necessary to record properly the business transactions and financial affairs of the Companies. Further, Koonar and the Companies have failed to provide to Staff and investors an accounting of the use of any or all the funds raised from investors who purchased securities in the Companies.
21. Koonar has not made repayment to investors of the principal and interest amounts paid by investors for the purchase of securities in the Companies, with the exception of repayment of principal in the amount of \$108,065 to certain SIRCI investors and repayment of interest in the amount of \$58,873 to certain SIRCI investors. As noted in paragraph 7 above, SIRCI investors made payments in the amount of \$534,686. The SIRCI notes provided for interest to be paid on the principal amount at the rate of 25% per annum.
22. As noted in paragraph 13 above, Koonar received proceeds in the amount of \$72,000 from the illegal trading of his holdings of Apna Health shares to 19 investors (referred to above in paragraph 13 as the Secondary Trades). Koonar has failed to provide to Staff an accounting of the use of these funds.
23. In addition, Koonar and his wife, N.K., also directly received at least \$33,300 of investor funds from investors who purchased shares of Apna Care. Koonar has not provided to Staff an accounting of the use of these funds.

24. During the material time, Koonar used the services of a cheque cashing business to negotiate cheques received from investors for the purchase of shares of Apna Health and Apna Care for cash. These cheques were made payable to Apna Health and Apna Care. Between approximately April, 1997 to December, 1997, Koonar cashed at least 62 cheques from Apna Health and Apna Care investors, payable to Apna Health or Apna Care, for proceeds of at least \$52,600. Koonar has not provided to Staff an accounting of the use of these funds.
25. In summary, during the material time, Koonar and his wife, N.K., directly received proceeds of at least \$157,900 from the Secondary Trades, the Apna Care sales and cheques from investors negotiated for cash, as outlined above in paragraphs 22, 23 and 24. Koonar has not provided to Staff an accounting of the use of these funds.

Representations Made by Koonar to Staff

26. On or about March 26, 1998, in response to inquiries made by Staff, Koonar told Staff that 37 investors had purchased shares of Apna Care for proceeds in the amount of \$60,000. As described above, by the end of January, 1998, Koonar and Apna Care had sold shares of Apna Care to at least 270 investors for proceeds of at least \$132,200. At the time Koonar made his representation to Staff, he knew or ought to have known that at least 270 investors purchased Apna Care shares for proceeds of at least \$132,200.

Further Violations of Ontario Securities Law

27. In or about April 1998, Koonar solicited further funds from investors in Apna Care in respect of the exercise of certain Apna Care Warrants (as defined above in paragraph 18). At a meeting held on or about April 16, 1998 for shareholders of the Companies (the “Shareholders Meeting”), Koonar represented to investors that the Apna Care Warrants would expire if such warrants were not exercised by April 30, 1998. Contrary to Koonar’s representations, the Apna Care subscription agreements signed by investors did not reflect any expiry date in respect of the exercise of the Apna Care Warrants. Koonar

further made representations to investors relating to the future value or price of Apna Care securities.

28. Following the Shareholders Meeting, in or about late April 1998 and May 1998, certain investors made payments to Apna Care for the purchase of additional Apna Care shares.
29. Accordingly, in April and May, 1998, Apna Care and Koonar traded in additional securities, namely the Apna Care shares, where such trading constituted a distribution of such securities, without obtaining a receipt for a prospectus and without an exemption to the prospectus requirement, contrary to section 53(1) of the Act. Koonar and Apna Care traded in securities, namely the Apna Care shares, without registration and without an exemption to the requirement for registration, contrary to section 25(1) of the Act. At the time that Koonar traded in these securities, he was aware that Staff was reviewing whether Koonar and one or more of the Companies had breached the registration and prospectus requirements of Ontario securities law.

Conduct Contrary To The Public Interest

30. In summary, during the material time Koonar and the Companies violated Ontario securities law and engaged in conduct contrary to the public interest, by reason of the following
 - (a) Koonar and the Companies traded in securities, as outlined above, where such trading constituted a distribution of such securities, without filing and obtaining a receipt for a prospectus and without an exemption to the prospectus requirement, contrary to section 53(1) of the Act;
 - (b) Koonar and the Companies traded in securities without registration and without an exemption to the requirement for registration, contrary to section 25(1) of the Act;

- (c) Koonar and the Companies failed to maintain books and records necessary to record properly the business transactions and financial affairs of the Companies;
- (d) Koonar and the Companies have failed to account for the funds in excess of \$1,000,000 raised from investors from any of the distributions of securities by Koonar and the Companies. In relation to the funds raised, Koonar and his wife, N.K., directly received proceeds of at least \$157,900.00 from investors. Koonar has failed to provide to Staff an accounting of the use of these funds;
- (e) Koonar represented to Staff in March 1998 that 37 investors had purchased shares of Apna Care for proceeds in the amount of \$60,000 when Koonar knew or ought to have known that by the end of January, 1998, Koonar and Apna Care had sold shares of Apna Care to at least 270 investors for proceeds of at least \$132,200;
- (f) Koonar made certain representations to Apna Care shareholders in April 1998, relating to the future value or price of Apna Care securities for the purpose of effecting further sales of Apna Care shares to investors;
- (g) In April, 1998, Koonar solicited further funds from investors in Apna Care in respect of the exercise of certain Apna Care Warrants. At the time Koonar solicited investors for additional funds, Koonar was aware that Staff was reviewing whether Koonar and one or more of the Companies had breached the registration and prospectus requirements of Ontario securities law; and
- (h) In April and May 1998, Apna Care and Koonar traded in additional securities, namely the Apna Care shares, without a prospectus contrary to section 25(1) and section 53(1) of the Act and without registration contrary to section 25(1) of the Act.

IV POSITION OF KOONAR

31. The respondent, Koonar, has represented to Staff of the Ontario Securities Commission (“Staff”) that the Companies are not active and do not have any assets. Koonar further represents to Staff that he has no assets or funds, with the exception of limited funds to pay for household expenses. Koonar acknowledges that he has not provided any documents or information to Staff to support the foregoing representations. In response to Staff’s requests for tax returns to be provided by Koonar and the Companies for the past five years, Koonar has represented to Staff that he and the Companies have not filed tax returns for the past five years, and that Koonar is subject to prosecution by Revenue Canada for non-filing of tax returns. Mr. Koonar has acknowledged that he intends to pay an amount of \$50,000 to the Commission in respect of a portion of the costs incurred by the Commission and its Staff in this proceeding when Koonar is in funds to pay such costs.

V TERMS OF SETTLEMENT

32. The respondents agree to the following terms of settlement:
- (a) pursuant to clause 2 of subsection 127(1) of the Act, the respondents, SIRCI, SelectRehab, Shakti, Niagara Falls Injury Rehab Centre Inc., 962268, Apna Health and Apna Care will cease trading in securities permanently, effective the date of the Order of the Commission approving the proposed settlement agreement herein;
 - (b) pursuant to clause 2 of subsection 127(1) of the Act, Koonar will cease trading in securities for a period of ten years effective the date of the Order of the Commission approving the proposed settlement agreement herein;
 - (c) pursuant to clause 7 of subsection 127(1) of the Act, Koonar is required to resign his position as an officer and/or director of the respondents, SIRCI, SelectRehab,

Shakti, Niagara Falls Injury Rehab Centre Inc., 962268, Apna Health and Apna Care, and any other issuer in which he holds the position of officer and/or director, effective the date of the Order of the Commission approving the proposed settlement agreement herein;

- (d) pursuant to clause 8 of subsection 127(1) of the Act, Koonar is prohibited from becoming or acting as an officer and/or director of any issuer for a period of fifteen years effective the date of the Order of the Commission approving the proposed settlement agreement herein;
- (e) Koonar undertakes not to apply for registration in any capacity under Ontario securities law;
- (f) pursuant to clause 6 of subsection 127(1) of the Act, the respondents will be reprimanded by the Commission;
- (g) pursuant to subsection 127.1(1)(b) of the Act, Koonar will make payment to the Commission in the amount of \$50,000 in respect of a portion of the costs incurred by the Commission and Staff in relation to this proceeding; and
- (h) Mr. Koonar agrees to attend, in person, the hearing before the Commission scheduled on Monday April 15, 2002 commencing at 10:00 a.m., to consider this proposed settlement, or such other date as may be agreed to by the parties for the scheduling of the hearing to consider the proposed settlement.

VI STAFF COMMITMENT

33. If this Settlement Agreement is approved by the Commission, Staff will not initiate any complaint to the Commission or request the Commission to hold a hearing or issue any order in respect of any conduct or alleged conduct of the respondents in relation to the facts set out in Part III of this Settlement Agreement.

VII PROCEDURE FOR APPROVAL OF SETTLEMENT

34. The approval of the settlement as set out in the Settlement Agreement shall be sought at a public hearing before the Commission scheduled for such date as is agreed to by Staff and the respondents in accordance with the procedures described herein and such further procedures as may be agreed upon between Staff and the respondents.
35. If this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted respecting the respondents in this matter and the respondents each agree to waive any right to a full hearing and appeal of this matter under the Act.
36. If this Settlement Agreement is approved by the Commission, the parties to this Settlement Agreement will not make any statement that is inconsistent with this Settlement Agreement.
37. The respondents acknowledge that any or all of the members of the panel of the Commission (the "Hearing Panel"), scheduled to hear the matter on the merits beginning April 15, 2002, may consider this proposed settlement on April 15, 2002, or such other date as may be agreed to by the parties for the scheduling of the hearing to consider a proposed settlement. The respondents consent to and waive any arguments they may have relating to the Hearing Panel's jurisdiction, alleged bias, alleged unfairness or any other challenge as a result of the Hearing Panel considering or commenting on the proposed settlement.
38. If, for any reason whatsoever, this settlement is not approved by the Commission, or the Order set forth in Schedule "A" is not made by the Commission:
 - (a) each of Staff and the respondents will be entitled to proceed to a hearing of the allegations in the Notice of Hearing and related Statement of Allegations

unaffected by the Settlement Agreement or the settlement negotiations, and the respondents agree that such hearing may be held before any or all of the Commissioners of the Hearing Panel who presided at the hearing to consider this proposed settlement;

- (b) the terms of the Settlement Agreement will not be raised in any other proceeding or disclosed to any person except with the written consent of Staff and the respondents or as may be otherwise required by law; and
- (c) the respondents further agree that each will not raise in any proceeding the Settlement Agreement or the negotiation or process of approval thereof as a basis for any attack on the Commission's jurisdiction, alleged bias, appearance of bias, alleged unfairness or any other challenge that may otherwise be available.

39. If, prior to the approval of this Settlement Agreement by the Commission, there are new facts or issues of substantial concern, in the view of Staff, regarding the facts set out in Part III of this Settlement Agreement, Staff will be at liberty to withdraw from this Settlement Agreement. Notice of such intention will be provided to the respondents in writing. In the event of such notice being given, the provisions of paragraph 38 in this part will apply as if this Settlement Agreement had not been approved in accordance with the procedures set out herein.

VIII DISCLOSURE OF AGREEMENT

40. Staff or the Respondents may refer to any part or all of this Settlement Agreement in the course of the hearing convened to consider this agreement. Otherwise, this Settlement Agreement and its terms will be treated as confidential by all parties to the Settlement Agreement until approved by the Commission, and forever if, for any reason whatsoever, this settlement is not approved by the Commission.

- 41. Any obligation as to confidentiality shall terminate upon the approval of this Settlement Agreement by the Commission.

IX EXECUTION OF SETTLEMENT AGREEMENT

- 42. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement and a facsimile copy of any signature shall be as effective as an original signature.

DATED this 9th day of April, 2002

Sohan Singh Koonar

Signed in the presence of:

**Sports & Injury Rehab Clinics Inc.
Per:**

Signed in the presence of:

Authorized Signing Officer

**SelectRehab Inc.
Per:**

Signed in the presence of:

Authorized Signing Officer

Shakti Rehab Centre Inc.
Per:

Signed in the presence of:

Authorized Signing Officer

Niagara Falls Injury Rehab Centre Inc.
Per:

Signed in the presence of:

Authorized Signing Officer

962268 Ontario Inc.
Per:

Signed in the presence of:

Authorized Signing Officer

Apna Health Corporation
Per:

Signed in the presence of:

Authorized Signing Officer

Signed in the presence of:

Apna Care Inc.

Per:

Authorized Signing Officer

Signed in the presence of:

**Staff of the Ontario Securities
Commission**

Per:

**Michael Watson
Director, Enforcement Branch**