

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

- and -

**IN THE MATTER OF
MICHAEL GOSELIN, IRVINE DYCK,
DONALD McCRORY and ROGER CHIASSON**

**SETTLEMENT AGREEMENT BETWEEN STAFF OF THE
ONTARIO SECURITIES COMMISSION AND MICHAEL GOSELIN**

I. INTRODUCTION

1. By Notice of Hearing dated November 9, 2001 (the "Notice of Hearing"), the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing to consider, among other things, whether pursuant to subsection 127(1) and section 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5 (the "Act"), it is in the public interest for the Commission to make an order:

- (a) that trading in any securities by the respondent Michael Goselin ("Goselin") cease permanently or for such time as the Commission may direct;
- (b) prohibiting Goselin from becoming or acting as a director or officer of any issuer permanently or for such period as specified by the Commission;
- (c) reprimanding Goselin;
- (d) requiring Goselin to pay the costs of the Commission's investigation and the hearing; and
- (e) such other terms and conditions as the Commission may deem appropriate.

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission ("Staff") agrees to recommend settlement of the proceeding respecting Goselin initiated by the Notice of Hearing in accordance with the terms and conditions set out below. Goselin consents to the making of an order against him in the form attached as Schedule "A" based on the facts set out in Part III of this Settlement Agreement.

III. STATEMENT OF FACTS

Acknowledgement

3. Solely for the purposes of this proceeding, and of any other proceeding commenced by a securities regulatory agency, Staff and Goselin agree with the facts set out in paragraphs 4 through 23 of this Settlement Agreement.

Facts

(i) Goselin's Registration

4. Goselin became registered with the Commission as a mutual funds representative in May 1988. From April 1989, Goselin was registered to sell mutual funds and limited market products. During the material time, Triple A Financial Services Inc. ("Triple A") sponsored Goselin's registration. Goselin has not been registered since December 2, 2001. Prior to becoming registered, Goselin was a bank manager for several years.

5. During the time that Triple A sponsored Goselin, Roderick Alton ("Alton") was Triple A's President and a director.

(ii) The North George Capital Limited Partnerships

6. In the mid-nineteen nineties, Alton and Michael Magee ("Magee") formed several limited partnerships. North George Capital Limited Partnership was formed on September 8, 1995 pursuant to the laws of Ontario. North George Capital II Limited Partnership, North George Capital III Limited Partnership, North George Capital IV Limited Partnership and North George Capital V Limited Partnership (collectively with North George Capital Limited Partnership, the "North George Limited Partnerships" or the "Partnerships") were formed on August 16, 1996.

7. The general partner of the North George Limited Partnerships was North George Capital Management Limited ("North George Management"). North George Management was a private corporation owned equally by Alton and Magee.

(iii) The Distribution of Units of the North George Limited Partnerships

8. The North George Limited Partnerships raised funds by offering investors/subscribers the opportunity to purchase units in one or more of the Partnerships. Each subscriber became a limited partner of the Partnership(s) in which he or she invested.

9. The North George Limited Partnerships initially promised a rate of return of over 120%, 60% to investors with the possibility of a bonus. Through the sale of units, the North George Limited Partnerships raised approximately US\$4.4 million. Such sales did not go through Triple A or any other registered dealer.

10. The distribution of the North George Limited Partnerships securities contravened section 53 of the Act. None of the North George Limited Partnerships filed a preliminary prospectus or prospectus with the Commission.

11. The North George Limited Partnerships prepared Offering Memoranda, according to which the Partnerships relied on the seed capital prospectus exemption contained in paragraph 72(1)(p) of the Act. Neither this, nor any other, prospectus exemption under the Act was available to the Partnerships.

12. Effectively, the Partnerships were one issuer. Among other things, such Partnerships raised funds based on virtually identical Offering Memoranda and co-mingled investors' funds to be used for a common purpose. The North George Limited Partnerships represented five tranches of the same investment program. Several Partnerships were formed as an attempt to circumvent the seed capital exemption requirement that sales be made to no more than 25 purchasers.

13. Only the Offering Memorandum of North George Capital IV Limited Partnership was filed with the Commission. Only North George Capital IV Limited Partnership filed reports (Form 20's) as required under the Act.

14. The North George Limited Partnerships generated little income. Any "interest" paid to subscribers came largely out of other subscribers' capital. A small number of investors redeemed successfully their investment. Most investors lost a significant portion of their investment.

(iv) The Distribution of Lionaird Capital Corp. Promissory Notes

15. In May 1997, Lionaird Capital Corp. ("Lionaird") was incorporated pursuant to the laws of Ontario. Lionaird was a private corporation the shares of which were held by Alton, Magee and others in trust for an unnamed party. Alton was the President, Chief Operating Officer and a director of Lionaird. Magee was Lionaird's Vice-President and a director. Kenneth Gill ("Gill") also was an officer and a director.

16. Lionaird raised monies through the sale of promissory notes to investors. Through the purchase of promissory notes by investors, Lionaird raised in excess of \$3.4 million. Such sales did not go through Triple A or any other registered dealer.

17. The distribution of Lionaird promissory notes contravened section 53 of the Act. Lionaird did not file a preliminary prospectus or a prospectus with the Commission. On September 12, 1997, Lionaird filed with the Commission an Offering Memorandum dated July 25, 1997. The Lionaird Offering Memorandum related to a purported private placement of 12% secured redeemable promissory notes. Such notes were described in the Offering Memorandum as having a five year term and paying interest of 12% per year with a potential bonus payment of up to 12% to investors (the overall rate of return generated to be significantly higher).

18. According to its Offering Memorandum, Lionaird relied on the private placement and seed capital prospectus exemptions contained in paragraphs 72(1)(d) and (p) of the Act. Neither these, nor any other, prospectus exemptions under the Act were available to Lionaird.

19. Most of the investors in Lionaird lost all, or substantially all, of their investment.

(v) Goselin's Conduct

20. Between August 1995 and February 1998, Goselin sold approximately US\$1.5 million worth of units in the North George Limited Partnerships to 52 Ontario investors and approximately \$570,000 worth of Lionaird promissory notes to 19 investors. Many of Goselin's clients were retired or on the cusp of retirement. Many investors had been clients of Goselin for several years and trusted him implicitly.

21. Goselin participated in illegal distributions of a security and engaged in other conduct contrary to Ontario securities law and the public interest by:

- (a) failing to deal fairly and in the best interests of his clients.

When Goselin started to sell the North George Limited Partnerships units to his clients, he had been registered for seven years. Goselin failed to conduct the appropriate due diligence concerning the nature and quality of the Partnerships and Lionaird investments and the requirements of Ontario securities law relating to their distributions.

Goselin made inquiries only of the principals of the Partnerships and Lionaird, individuals who were in an obvious conflict position. For the most part, Goselin took their representations at face value notwithstanding discrepancies in the Offering Memoranda, a lack of credible supporting documentation and a logical inconsistency between a "no risk" investment and high rates of return.

Goselin sold the North George Limited Partnerships and Lionaird investments without fully understanding the nature of the investments and how they worked.

The Offering Memoranda prepared by the Partnerships and Lionaird contained inconsistent statements and did not provide a clear or logical explanation as to how the investment worked and why it was able to generate significant rates of return (in excess of 120% (60% to investors) in the case of the Partnerships). He did not provide to certain investors a copy of the Offering Memorandum prior to their purchase. Further, Goselin made statements to his clients which were directly contradicted in the Offering Memoranda.

Goselin failed to review adequately the financial statements of the Partnerships, which indicated that the “interest” being paid to investors was taken largely from other investors’ capital;

- (b) representing to his clients:
 - (i) that the North George Limited Partnerships and Lionaird investments were safe and that an investors’ principal was 100% guaranteed notwithstanding, among other things, that the Offering Memoranda stated that the securities were speculative and the Lionaird Offering Memorandum stated that each note was secured against the assets of the company.

Goselin continued to assure clients that their principal invested in Lionaird was 100% guaranteed even in the face of a company memorandum which explicitly stated that the notes were not guaranteed. Goselin told certain clients that their principal was insured;
 - (ii) that the North George Limited Partnerships investment product was like a GIC;
 - (iii) that all his or her funds could be retrieved on 30 days’ (90 days’ for Lionaird) notice notwithstanding, among other things, that the Lionaird notes matured in five years and were only redeemable by the company;
 - (iv) that the minimum investment was larger than enumerated in the Offering Memoranda;
 - (v) that the Commission had approved for sale the investments; and
 - (vi) that the government had declared Lionaird as RRSP-eligible.
- (c) recommending that investors borrow funds, or mortgage their homes, to invest in the North George Limited Partnerships and/or Lionaird;
- (d) selling Lionaird notes to investors notwithstanding that the North George Limited Partnerships were facing difficulties and were failing to pay the promised return, particularly given that the principals and general investment strategy were the same for both investments; and

- (e) recommending and selling investments unsuitable for his clients. Goselin advised clients to transfer and redeem conservative investments to invest in the Partnerships and Lionaird. In at least two cases, Goselin paid the redemption fee. Certain elderly clients invested virtually all of their retirement savings/RRSP monies in the North George Limited Partnerships and/or Lionaird on the advice of Goselin.

Many of Goselin's clients were financially and emotionally devastated by the loss of their savings. Several of his clients' health suffered because of their resulting anxiety and stress.

22. By selling units in the North George Limited Partnerships and promissory notes of Lionaird to clients, Goselin earned commissions and trailer fees (ie monthly or quarterly payments on each client's investment) of approximately \$378,600. The Offering Memoranda stated that no commissions were payable.

23. In 1997, Goselin's wife invested US\$50,000 in the North George Limited Partnerships.

IV. GOSELIN'S POSITION

24. Goselin represents to Staff that in connection with his sales of units in the North George Limited Partnerships and Lionaird promissory notes:

- (a) he trusted Alton and relied on Alton's representations and assurances that higher rates of returns were possible, that the principal was guaranteed and that the investment was liquid;
- (b) he believed that the investments were liquid and guaranteed as to the principal; and
- (c) he believed that the investments complied with Ontario securities law.

V. TERMS OF SETTLEMENT

25. Goselin agrees to the following terms of settlement:

- (a) the making of an order:
 - (i) approving this settlement;
 - (ii) that trading in any securities by Goselin cease for twenty years with the exception that, after three years from the date of the approval of this settlement, Goselin is permitted to trade securities through a registered dealer for the account of his registered retirement savings plan (as defined in the *Income Tax Act (Canada)*);

- (iii) that Goselin is prohibited from becoming or acting as an officer or director of a reporting issuer for twenty years; and
- (iv) reprimanding Goselin.

VI. STAFF COMMITMENT

26. If this settlement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Goselin in relation to the facts set out in Part III of this Settlement Agreement.

VII. APPROVAL OF SETTLEMENT

27. Approval of the settlement set out in this Settlement Agreement shall be sought at the public hearing of the Commission scheduled for November 18, 2002 or such other date as may be agreed to by Staff and Goselin (the "Settlement Hearing"). Goselin will attend in person at the Settlement Hearing.

28. Counsel for Staff or Goselin may refer to any part, or all, of this Settlement Agreement at the Settlement Hearing. Staff and Goselin agree that this Settlement Agreement will constitute the entirety of the evidence to be submitted at the Settlement Hearing.

29. If this settlement is approved by the Commission, Goselin agrees to waive his rights to a full hearing, judicial review or appeal of the matter under the Act.

30. Staff and Goselin agree that if this settlement is approved by the Commission, they will not make any public statement inconsistent with this Settlement Agreement.

31. If, for any reason whatsoever, this settlement is not approved by the Commission, or an order in the form attached as Schedule "A" is not made by the Commission:

- (a) this Settlement Agreement and its terms, including all discussions and negotiations between Staff and Goselin leading up to its presentation at the Settlement Hearing, shall be without prejudice to Staff and Goselin;
- (b) Staff and Goselin shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the Notice of Hearing and Statement of Allegations of Staff, unaffected by this Agreement or the settlement discussions/negotiations;

- (c) the terms of this Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person, except with the written consent of Staff and Goselin or as may be required by law; and
- (d) Goselin agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement, the settlement discussions/negotiations or the process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

VIII. DISCLOSURE OF SETTLEMENT AGREEMENT

32. Except as permitted under paragraph 28 above, this Settlement Agreement and its terms will be treated as confidential by Staff and Goselin until approved by the Commission, and forever, if for any reason whatsoever this settlement is not approved by the Commission, except with the consent of Staff and Goselin, or as may be required by law.

33. Any obligations of confidentiality shall terminate upon approval of this settlement by the Commission.

IX. EXECUTION OF SETTLEMENT AGREEMENT

34. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.

35. A facsimile copy of any signature shall be as effective as an original signature.

DATED this 15th day of November, 2002

WITNESS

MICHAEL GOSELIN

DATED this 18th day of November, 2002

**STAFF OF THE ONTARIO
SECURITIES COMMISSION**

MICHAEL WATSON
Director, Enforcement Branch