

**In the Matter of
*The Securities Act, 1988***

and

**In the Matter of
I.A. Michael Investment Counsel Ltd.
and
Irwin A. Michael**

Order

(Pursuant to Section 135.1 of *The Securities Act, 1988* (the Act))

WHEREAS I.A Michael Investment Counsel Ltd. (IAM), Irwin A. Michael and the Director of the Securities Division (the Director) of Financial and Consumer Affairs Authority of Saskatchewan (the Authority) have entered into a settlement agreement dated October 28, 2014 (the Settlement Agreement), the original of which is attached hereto as Appendix "A";

AND WHEREAS an application has been received by the Authority from staff of the Authority for an order that:

1. Pursuant to section 135.1 of the Act, IAM and Irwin A. Michael shall jointly or severally pay an administrative penalty to the Authority, in the amount of \$4,450.00.

AND WHEREAS, pursuant to section 135.3 of the Act, proceedings may be disposed by an agreement approved by the Authority, without the necessity of a hearing;

AND WHEREAS the Authority has approved the Settlement Agreement;

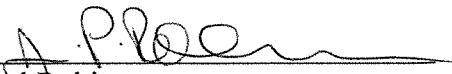
AND WHEREAS IAM and Irwin A. Michael have waived their rights to a hearing in this matter as well as their rights to any appeal with respect to this matter, and have consented to the issuance of this Order;

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

NOW THEREFORE IT IS HEREBY ORDERED THAT:

1. Pursuant to section 135.1 of the Act, IAM and Irwin A. Michael shall jointly or severally pay an administrative penalty to the Authority, in the amount of \$4,450.00.

DATED at Regina, Saskatchewan on December 10, 2014.



Paul Robinson
Chairperson of the Hearing Panel
Financial and Consumer Affairs Authority
of Saskatchewan

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I.A. Michael Investment Counsel Ltd.
and
Irwin A. Michael**

SETTLEMENT AGREEMENT

WHEREAS the Director of the Securities Division (the Director) of Financial and Consumer Affairs Authority of Saskatchewan (the Authority) issued a Statement of Allegations of Staff of the Authority, dated July 24, 2014 (the Statement of Allegations), with the Authority, in which it was alleged that I.A Michael Investment Counsel Ltd. (IAM) and Irwin A. Michael engaged in specified activities that were contrary to the public interest and in contravention of *The Securities Act, 1988* (the Act);

AND WHEREAS IAM, Irwin A. Michael and the Director each desire to dispose of the allegations against IAM and Irwin A. Michael, as contained in the Statement of Allegations, by way of agreement, as permitted by section 135.3 of the Act;

AND WHEREAS IAM, Irwin A. Michael and the Director acknowledge that this Settlement Agreement is subject to the approval of the Authority and, if approved by the Authority, will be published on the Authority's website;

AND WHEREAS, pursuant to the terms of the within Settlement Agreement, IAM and Irwin A. Michael have agreed to pay an administrative penalty to the Authority, in the amount of \$4,450.00, which is the sum of the registration fees that would have been payable by IAM and Irwin A. Michael during the relevant time, as set out below;

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, IAM, Irwin A. Michael and the Director hereby agree as follows:

1. The following facts are hereby admitted by IAM and Irwin A. Michael:
 - (a) IAM, is a business corporation incorporated pursuant to the laws of the province of Ontario. IAM is a firm registered in Ontario under the investment fund manager category, the exempt market dealer category and the portfolio manager category. IAM has been registered in the former category since in or around 2011

and the latter two categories since in or around 2009. From in or around 2003 to in or around 2009 IAM was registered in Ontario under the limited market dealer category, the investment counsel category, and the portfolio manager category.

- (b) Irwin A. Michael is a resident of Toronto, Ontario. He is registered in Ontario with IAM as an advising representative under the portfolio manager category, and a dealing representative under the exempt market dealer category, and listed as an officer and director under the permitted individuals category;
- (c) From in or around 2009 to date, Irwin A. Michael has been registered in Ontario as IAM's Ultimate Designated Person (UDP) and Chief Compliance Officer (CCO) under the exempt market dealer category and the portfolio manager category. From in or around 2011 to date, Irwin A. Michael has been registered in Ontario as IAM's CCO under the investment fund manager category;
- (d) At all material times Irwin A. Michael acted as agent in Saskatchewan for IAM.
- (e) IAM is indirectly, wholly-owned by Irwin A. Michael and Irwin A. Michael is the sole director of IAM;
- (f) From in or around 2010 to in or around 2013, IAM and Irwin A. Michael engaged in the business of trading in securities of ABC American Value Fund (the Fund) in Saskatchewan. IAM is the Fund's principle distributor and investment portfolio manager;
- (g) The particulars of IAM and Irwin A. Michael's trading activities are as follows:
 - i. IAM and Irwin A. Michael sold approximately 15921.397 units of the Fund to Investor 1, a resident of Lumsden, Saskatchewan, on or about December 31, 2010, for a total sum of \$240,227.14,
 - ii. IAM and Irwin A. Michael sold approximately 19817.677 units of the Fund to Investor 2, a resident of Regina, Saskatchewan, on or about January 31, 2011, for a total sum of \$150,000,
 - iii. IAM and Irwin A. Michael sold a total of approximately 10405.466 units of the Fund to Investor 3, a resident of Regina, Saskatchewan, from in or around November 2013 to in or around December 2013, for a total sum of \$216,804.25, and
 - iv. IAM and Irwin A. Michael sold a total of approximately 787.584 units of the Fund to Investor 4, a resident of Regina, Saskatchewan, from in or around January 2013 to in or around December 2013, for a total sum of \$14,817.09;
- (h) In a filing submitted to the Authority April 2, 2014, IAM claimed exemptions from the prospectus requirement pursuant to section 2.10 (minimum amount investment) of National Instrument 45-106 – *Prospectus and Registration*

Exemptions (NI 45-106) for the trades engaged in with Investor 1 and Investor 2. In this same filing, IAM also claimed exemptions from the prospectus requirement pursuant to section 2.19 (additional investment in investment funds) of NI 45-106 for the trades engaged in with Investor 3 and Investor 4;

- (i) In carrying out the acts indicated in subparagraphs (e) –(f) IAM and Irwin A. Michael engaged in the business of trading in securities in Saskatchewan;
- (j) From in or around 2010 to in or around 2013, Irwin A. Michael also advised Investor 1, Investor 2, Investor 3 and Investor 4 as to the investing in securities of the Fund, thereby engaging in the business of advising as to the investing in securities in Saskatchewan;
- (k) Neither IAM nor Irwin A. Michael has ever been registered as a “dealer” pursuant to the Act, and therefore, each of IAM and Irwin A. Michael contravened clause 27(2)(a) of the Act; and
- (l) Irwin A. Michael has never been registered as an “adviser” pursuant to the Act, and therefore, has contravened clause 27(2)(b) of the Act.

2. IAM and Irwin A. Michael represent to the Director that:

- (a) The facts related to activities engaged in by IAM and Irwin A. Michael and set out in paragraph 1 were brought to the attention of the Director by IAM and Irwin A. Michael;
- (b) IAM and Irwin A. Michael’s failure to register as required under the Act was due to an oversight during the transition and implementation of National Instrument 31-103. While IAM and Irwin A. Michael take full responsibility for this oversight, they wish to note that IAM was advised during this period by a prominent national law firm who failed to advise IAM of the registration requirement;
- (c) IAM has been dealing with similar issues in each of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Northwest Territories, Prince Edward Island and Yukon;
- (d) The securities regulatory authority in each of Alberta and British Columbia has accepted payment of the fees that would have been payable by IAM during the period for which it was not registered, and effective July 24, 2014, have granted it registration in the category of exempt market dealer;
- (e) The securities regulatory authority in each of Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Northwest Territories, Prince Edward Island and Yukon registered IAM with no back-fees or penalties payable. Only Saskatchewan has initiated an administrative proceeding.

3. IAM and Irwin A. Michael hereby waive their rights to a hearing in these matters as well

as their rights to any appeal with respect to these matters.


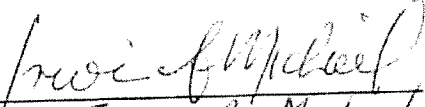
4. IAM and Irwin A. Michael hereby agree that all of the facts set out in paragraphs 1 and 2, above, are true, and that there are no material facts relating to these matters that are not set out in said paragraphs.
5. IAM, Irwin A. Michael and the Director agree \$4,450.00 is the sum of the registration fees that would have been payable by IAM and Irwin A. Michael during the relevant time.
6. IAM, Irwin A. Michael and the Director hereby consent to the issuance of an order by the Authority, in substantially the form attached hereto as Appendix "A", ordering that:
 - (a) Pursuant to section 135.1 of the Act, IAM and Irwin A. Michael shall jointly or severally pay an administrative penalty to the Authority, in the amount of \$4,450.00.
7. Based upon the facts contained herein, the Director hereby agrees that the sanctions set out in paragraph 6, above, are the only sanctions the Director will seek to have the Authority impose upon IAM and Irwin A. Michael with respect to the matters set out in paragraph 1 herein, provided that nothing shall prohibit the Director from considering or dealing with any new matter not set out in herein or any new complaint brought to the Director's attention against IAM or Irwin A. Michael.
8. Nothing in this Settlement Agreement shall prohibit any claimant from applying for financial compensation, pursuant to section 135.6 of the Act, nor shall it prohibit the Director from requesting that the Authority make an order that a claimant be paid compensation for financial loss.
9. The terms of this Settlement Agreement shall be treated as confidential by IAM, Irwin A. Michael and the Director, and may not be disclosed to any person except with the consent of IAM, Irwin A. Michael and the Director, or as required by law, until such time as it is signed by all parties and approved by the Authority.
10. IAM and Irwin A. Michael hereby affirm that they have read and understood the terms of this Settlement Agreement, and are signing it voluntarily.
11. This Settlement Agreement may be signed in one or more counterparts and shall together constitute a binding agreement.
12. A facsimile copy of any signature shall be as effective as an original signature.
13. This Settlement Agreement shall be governed by and construed in accordance with the laws of the province of Saskatchewan.
14. IAM and Irwin A. Michael hereby acknowledge that they have been given a reasonable opportunity to obtain independent legal advice with respect to this Settlement Agreement, and that either:

- (a) they have obtained such independent legal advice and are satisfied with the same, prior to executing this Settlement Agreement; or
- (b) they have willingly chosen not to obtain such advice prior to executing this Settlement Agreement.

15. This Settlement Agreement, and any referenced appendices or amendments hereto constitutes the entire agreement between IAM, Irwin A. Michael and the Director in connection with the matters set out in paragraph 1 herein.

IN WITNESS WHEREOF



I.A Michael Investment Counsel Ltd. has executed this Settlement Agreement at TORONTO, ONTARIO, this 21 day of OCTOBER, 2014.

SIGNED in the presence of:)	I.A Michael Investment Counsel Ltd.
)	
)	
_____)	
Name: <u>TIMOTHY SENNEMA</u>)	Per: 
)	Name: <u>IRWIN A. MICHAEL</u>
)	Title: <u>PRESIDENT</u>

Irwin A. Michael has executed this Settlement Agreement at TORONTO, ONTARIO, this 21 day of OCTOBER, 2014.

SIGNED in the presence of:)	Irwin A. Michael
)	
)	
_____)	_____
Name: <u>TIMOTHY SENNEMA</u>)	<u>Irwin A. Michael</u>

The Director, has executed this Settlement Agreement at Regina, Saskatchewan, this 28 day of October, 2014.

SIGNED in the presence of:)	Dean Murrison
)	
)	
_____)	_____
Name: <u>Dallas Smith</u>)	Dean Murrison
)	Director,
)	Securities Division
)	Financial and Consumer Affairs Authority
)	of Saskatchewan

Appendix “A”

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I.A. Michael Investment Counsel Ltd.
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DATED at Regina, Saskatchewan on _____, 2014.

Chairperson of the Hearing Panel
Financial and Consumer Affairs Authority
of Saskatchewan