

IN THE MATTER OF
THE SECURITIES ACT (Saskatchewan)
(the "Commission")

and

JOHN HILARY McLEOD
("McLeod")

HEARING PANEL

David Wild

Dale Hillmer

W. F. Ready, Q. C.

COUNSEL

P. Pacholek (Staff of Sask.
Securities Commission)
Robert Borden (John Hilary
McLeod)

DECISION

The hearing herein was requested by McLeod and was held for the purpose of determining whether a Temporary Cease Trade Order made by the Commission on January 24th, 1996, relative to McLeod as extended by Order of the Commission made February 8th, 1996, should remain in force and effect, and whether McLeod is suitable, and not objectionable, for registration under section 28 of The Securities Act (the "Act") as a Mutual Funds Representative.

At the outset of the hearing a book of exhibits was submitted by Ms. Pacholek comprised of numerous documents. Mr. Borden consented "to the tendering of the exhibit book...as full exhibits in the hearing without proof of same." The exhibit book was marked as exhibit SC 1. Accordingly the documentation therein contained is in evidence.

In May of 1995, one Cheryle Sutherland paid McLeod \$3600.00 to purchase shares of Consolidated Ewing Industries Inc. ("ConEw") on the representation by McLeod to her that such shares would double in value "over the week end". Since she needed some money in the near future she inquired of McLeod, at the time of purchase, if she would be able to receive back the sum of \$1000.00 of these funds for her June income and she was so assured by him. When the \$1000.00 was not received, she attempted to contact McLeod on the telephone without success and he did not return her calls. Sutherland then contacted ConEw. Thereafter McLeod called her on the telephone, and he agreed to return all of the money to her. When this did not occur Sutherland contacted the Commission in August of 1995. As a result the Commission investigated the matter and determined that McLeod was not registered under the Act, and that ConEw was not

a reporting issuer. On January 24th, 1996, the Commission issued a Cease Trader Order relative to McLeod effective up to and including February 8th, 1996. This Temporary Order was extended by Order of the Commission issued February 8th, 1996, to be effective "until the Commission is provided with satisfactory information to enable it to make a further order....".

McLeod misrepresented to Sutherland the potential for earnings from an investment by her in ConEw, and while he admitted to the Commission that he sold said shares of ConEw to Sutherland and while he provided her with a letter of acknowledgment reading - "This letter is to confirm that Cheryle Sutherland has purchased 3800 Canadian dollars worth of stock options at 0.07 dollars per share in Consolidated Ewing", he said at the hearing that no shares of ConEw were purchased with the Sutherland moneys and that these moneys were deposited into his bank account.

During the course of the investigation leading up to the Temporary Cease Trade Order it was discovered by the Commission that Elwin Nelson, on behalf of his son Greg Nelson had delivered a cheque for \$10,000.00 to McLeod, payable to Business Integration Group ("Business Integration") to purchase shares in Korte Oil Co. Inc. ("Korte"). This purchase was made on the representation by McLeod that the returns would be \$800.00 U.S. per day. Relative to this purchase, McLeod furnished the Nelsons with a "Letter of Confirmation of Shares" which reads in part "This letter is to confirm \$10,000 CDN dollars worth of stock options in Consolidated Ewing for Greg Nelson, at 17 cents per share,". When there were no returns from the investment Nelsons were unhappy with the result that Business Integration issued a cheque to Greg Nelson for \$14000.00. However when the payee endeavoured to cash it the cheque was returned by the bank unpaid because of insufficient funds.

The dealings between Greg Nelson and Elwin Nelson and McLeod are a little blurred in that no distinction was made between Greg Nelson and Elwin Nelson. McLeod treated them as one and the same.

While the exact nature of the business relationship between one James Mann ("Mann") and McLeod is unclear it would seem that in large part Mann was to arrange for the sale of shares in ConEw and Sky Fox Aviation ("Sky Fox") to investors and was to be paid a commission of some sort by McLeod although no precise terms seem to have been agreed upon. Mann says he received small amounts of cash and a cheque for \$6600.00 from McLeod which Mann was never able to cash because it was NSF. Mann arranged for the sale of some \$15,000.00 worth of shares in Sky Fox to two persons, and some \$83,500.00 worth of shares of ConEw from twelve persons. McLeod says he knew nothing about the ConEw purchases. However, notwithstanding, he signed a number of confirmations as to these investments. With the exception of Sky Fox the moneys paid to Mann, or at least a portion of them, were transmitted to a brokerage firm in Vancouver by Mann. Its name was Canacord Capital Corporation ("Canacord"). In due course some 185,000 shares of ConEw were issued to Business Integration relative to said purchases.

On the stand McLeod said that the moneys paid to Mann relative to Sky Fox were not to purchase shares of Sky Fox but rather were loans.

In 1979 McLeod went bankrupt as to which he was discharged in 1980.

Several lawsuits have been commenced against McLeod, as follows:

- (1) By Cheryle Sutherland on February 6th, 1996, judgment May 23rd for \$3664;
- (2) By Omega Commercial Investigators (Canada) Ltd. on February 9th, 1995, judgment for \$6800.60
- (3) By Merchant Law Group on December 21, 1994, for \$12,944.99;
- (4) By Sasknative Economic Development Corporation on August 1, 1991, judgment for \$24,201.05
- (5) By Simonot and Hansen on December 11, 1997, for \$1052.78

So far as Business Integration is concerned McLeod says this is a business name under which Crystal Kozar operated. He said she is a treaty Indian and as such there are some tax advantages to the operation being conducted in her name. However in his dealings McLeod uses the name Business Integration as if he, or he and Crystal Kozar, were the sole proprietors. He makes no distinction between himself and Business Integration. In his application to the Commission for registration as a mutual funds representative he indicates in two places that he operated under the name of Business Integration. The various confirmations or acknowledgments furnished and signed by McLeod were on the letterhead of Business Integregation. In some instances when he was sued the statement of claim refers to him as carrying on under the name of Business Integration Accordingly we have concluded that McLeod carried on his business activities under the firm name of Business Integration.

Throughout the various transactions so far as ConEw is concerned reference was made as to the purchase of shares but in the said confirmations given by McLeod in this regard the securities purchased were referred to as "options". We think this is six of one and half a dozen of the other.

Late in 2001, under the sponsorship of London Life Insurance Company McLeod was licensed to sell life insurance and accident and sickness insurance. He also wanted to be registered, under The Securities Act, as an employee of Quadrus Investment Services Ltd. ("Quadrus") to trade in securities on behalf of Quadrus relative to shares or units of mutual funds qualified for distribution in Saskatchewan. In that regard he applied for such registration and on March 26th, 2002 such registration was granted. As to the application for such registration, McLeod had to submit to the Commission an Application in Form 1-U-2000. This form required that information be given by McLeod. Three of the questions asked and his answers thereto were as follows, namely:

(1) Question 16 - "Has any claim been made successfully or, to your knowledge, is any claim pending in any civil or alternative dispute resolution proceedings before a

court or other tribunal in any province, territory, state, or country?" To this question McLeod answered "No".

(2) Question 17 reads in part as follows: "A) Under the law of any province, territory, state or country have you ever, (a) been declared bankrupt or made a voluntary assignment in bankruptcy?" To this question McLeod answered "No".

(3) Question 18 reads in part "Has any judgment or garnishment ever been rendered or is any judgment or garnishment outstanding in any civil court in any province, state or country?" To this question McLeod answered "No".

At the top of the signature page of the said application form, in bold type, is a caution against the furnishing of false information in the application. McLeod swore an affidavit relative to the application, which affidavit reads as follows" I, the undersigned applicant, do hereby depose and state that I have read and understand the questions in this application form as well as the answers made by myself thereto and the Caution set out above, and that the statements of fact made therein and in the attachments, if any, are true."

As to questions 16, 17 and 18 referred to above, the answers given by McLeod were false. However notwithstanding the litigation against him as referred to above he maintained on the stand that his answer to question 16 is correct. As to questions 17 and 18, he says the answers were incorrectly typed in by the office of London Life, with the correct and true information as to these questions having been given earlier to London Life in the document which he completed by hand (exhibit R1). There does appear to have been a mistake in the typing of the answer to question 17, and while it could be argued that McLeod should have noticed this mistake, particularly in view of the caution and his affidavit, we think he should have the benefit of any doubt in this regard. Accordingly we are ignoring the answer to said question 17. However there was no mistake as to the answer to question 18, because the question in exhibit R1 in all material respects is the same as said question 18 and the answer shown is the same in each document.

Subsequent to the granting of the registration of McLeod by the Commission it came to the attention of the Commission's staff that McLeod was subject to an outstanding and current Cease Trade Order and as result the said registration was cancelled.

The Securities Act provides that "its purposes are to provide protection to investors and to foster fair, efficient capital markets and confidence in capital markets."

To satisfy these purposes the Commission must determine, inter alia, that persons trading in securities be honest and of good repute. The form of application for registration seeks to determine these qualities.

We find that McLeod is not honest and of good repute for the following reasons, namely:

(1) He represented to Sutherland that her investment would double over the week end. It did not.

(2) He assured Sutherland that she could get \$1000.00 back to supplement her June income. She did not.

(3) He confirmed in writing that shares of ConEw had been purchased by Sutherland. He now says on the stand that shares were never purchased, and that the moneys paid by Sutherland were deposited into his own bank account

(4) He represented an exaggerated return to the Nelsons, namely \$800.00 US per day. They received no return.

(5) Moneys were provided by the Nelsons to purchase shares in Korte. McLeod applied these moneys to purchase ConEw securities as indicated in the confirmation furnished by him.

(6) Moneys were provided to purchase securities in Sky Fox. McLeod says these were treated as a loans to Sky Fox.

(7) He says he knows nothing about the purchases of ConEw as arranged by Mann, but this is contradicted by his issuance of confirmatory acknowledgments as to same.

(8) He does not pay his debts as evidenced by the numerous law suits against him as referred to above. In particular he has not paid Sutherland nor the Nelsons despite his agreement with them to make payment and his undertaking with the Commission to do so. As well a cheque to Mann could not be cashed because of insufficient funds in the account.

(9) He misled the Staff of the Commission in his application for registration by providing false answers to questions 16 and 18 of his application to the Commission.

Having found that McLeod is not honest and of good reputation it is our decision that he is not suitable for registration, and that his registration would be objectionable, under section 28 of The Securities Act.

It is also our decision that, since McLeod is not registered and cannot be registered because he is unsuitable for registration, and his registration would be objectionable, under section 28 of the Act, the said Cease Trade Order as extended, should not be rescinded and therefore remains in force and effect.

There will be no Order as to the costs of or relating to the Hearing.

Dated this 19th day of June 2002

"David Wild"
(David Wild)

"Dale Hillmer"
(Dale Hillmer)

"W.F. Ready"
(W. F. Ready, Q.C.)