Mutual Fund Dealers Association of Canada
Association canadienne des courtiers de fonds mutuels

IN THE MATTER OF A SETTLEMENT HEARING PURSUANT TO SECTION 24.4 OF BY-LAW NO. 1 OF THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA

Re: Berkshire Investment Group Inc.

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Settlement Hearing dated November 29, 2007, the Mutual Fund Dealers Association of Canada (the "MFDA") announced that it proposed to hold a hearing to consider whether, pursuant to section 24.4 of By-law No. 1, a Hearing Panel of the Pacific Regional Council of the MFDA (the "Hearing Panel") should accept the settlement agreement (the "Settlement Agreement") entered into between Staff of the MFDA ("Staff") and the Respondent, Berkshire Investment Group Inc. (the "Respondent").

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff and the Respondent recommend settlement of the matters disclosed by the MFDA investigation described below in accordance with the terms and conditions set out below. The Respondent agrees to the settlement on the basis of the facts set out in Parts

IV and V herein and consents to the making of an Order in the form attached as Schedule "A".

III. ACKNOWLEDGEMENT

3. Staff and the Respondent agree with the facts set out in Part V herein for the purposes of this Settlement Agreement only and further agree that this agreement of facts is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the MFDA (subject to paragraph 63) or any civil or other proceedings which may be brought by any other person or agency, whether or not this Settlement Agreement is accepted by the Hearing Panel.

Staff's Investigation

4. Staff conducted an investigation of the Respondent's activities. The investigation disclosed that the Respondent had engaged in activity for which the Respondent could be penalized on the exercise of the discretion of a Hearing Panel pursuant to s. 24.1 of By-law No.1.

IV. STAFF'S CONCLUSIONS REGARDING THE CONDUCT OF THOW

5. Staff's investigation concluded that Ian Gregory Thow ("Thow"), more particularly described in paragraph 10, had prior to his resignation, persuaded more than 40 individuals[1] to provide him with at least $18 million[2] for the purchase of investments

[1]This figure represents the total number of claims for compensation made against the Respondent which have been brought to the attention of the MFDA calculated on a "household" basis. If spouses and related corporations belonging to the same household are counted separately, then the total number of parties that provided monies to Thow for investments outside the Respondent is 65. Of those parties, 46 were clients of the Respondent at the time that they provided monies to Thow.

[2] In bankruptcy proceedings, Thow sought protection from creditors advancing claims of more than $30 million, but only some of these creditors were victims of Thow's investment schemes. The others were creditors in respect of goods and services that Thow acquired but failed to pay for. The MFDA is aware of claims for losses in the amount of approximately $18 million relating to monies provided to Thow for investments outside the Respondent. The British Columbia Securities Commission (the "BCSC") alleged in its Notice of Hearing that Thow misappropriated approximately $30 million, but stated during the

outside the Respondent. Thow represented to the individuals that he would purchase the following types of investments on their behalf[3]:

(a) shares of the National Commercial Bank Jamaica Limited ("NCBJ"), which Thow claimed he could acquire and hold in trust for the individuals (the "NCBJ Scheme");

(b) shares issued in connection with an alleged initial public offering of the Respondent, which Thow claimed he could acquire and hold in trust for the individuals (the "IPO Scheme"); and

(c) high interest rate short term loans to building contractors and property developers in British Columbia, which Thow claimed were secured by mortgages (the "Mortgage Scheme").

6. Many of the individuals who provided money to Thow in connection with the investment schemes described in paragraph 5 were clients or former clients of the Respondent whose accounts were then or formerly the responsibility of Thow. Thow did not use the monies that he received from the individuals to purchase investments on their behalf. Instead, Thow used the monies for his personal benefit. In its October 16, 2007 decision, the British Columbia Securities Commission described Thow's conduct as "one of the most callous and audacious frauds this province has seen."[4]

7. Evidence gathered by MFDA Staff during its investigation indicated that of the total amount of monies received by Thow, he repaid approximately $3.2 million to certain individuals prior to his resignation (using monies received from some individuals to repay others) but has not repaid or otherwise accounted for the remaining balance.

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hearing that it was not necessary to prove the full amount misappropriated to establish that Thow contravened the Act. The BCSC relied upon the evidence of 26 individuals (13 testified in-person at the hearing and transcripts of interviews with the other 13 were filed at the hearing) to establish that Thow had obtained approximately $8.7 million from those 26 investors, of which $6 million was never repaid or otherwise accounted for.

[3] The October 16, 2007 BCSC decision also described these 3 investment schemes [see Decision at para 8].

[4] Decision at para 181.

V. AGREED FACTS

Registration History

8. The Respondent has been a Member of the MFDA since March 8, 2002 and is registered to carry on business as a mutual fund dealer throughout Canada. The Respondent's Head Office is located in Burlington, Ontario.

9. The Respondent has not been the subject of previous MFDA disciplinary proceedings.

Agreed Facts Regarding The Conduct Of Thow

10. Between November 1998 and June 2005, Thow was registered in British Columbia as a mutual fund salesperson, branch manager and officer for the Respondent. Thow held the titles of Senior Vice-President of the Respondent and co-Branch Manager of the Respondent's Victoria branch office. Thow resigned from the Respondent effective June 1, 2005. On June 9, 2005, the Respondent reported Thow's resignation on the National Registration Database as resigned for cause.

11. None of the investments described in paragraph 5 were approved for sale by the Respondent. None of the monies that Thow obtained from individuals for the purpose of purchasing such investments were made payable to the Respondent, nor deposited in any account of the Respondent or its clients at the Respondent.

12. The Respondent did not benefit from any of the improper conduct of Thow described in this Settlement Agreement.

13. As set out in this Settlement Agreement, Thow actively concealed his misconduct from the Respondent. MFDA Staff accepts, and its investigation yielded no information that contradicts the Respondent's representation that except to the extent indicated in this Settlement Agreement, the Respondent was not informed about or otherwise made aware of Thow's involvement with the investment schemes described in paragraph 5 including the repayment of monies to certain individuals, prior to Thow's resignation.

14. MFDA Staff accepts, and its investigation yielded no information that contradicts the Respondent's representation that the Respondent did not receive, prior to June 7, 2005,[5] any complaints from clients of the Respondent, nor any complaints from non-clients of the Respondent other than those identified in this Settlement Agreement, with respect to Thow's involvement with the investment schemes described in paragraph 5.

The Report From LV

15. On approximately Thursday, September 16, 2004, a former senior executive of the Respondent (the "Former Senior Executive"), who was at the time working for a mutual fund company affiliated with the Respondent, received a telephone call from a lawyer (the "Lawyer") speaking on behalf of LV, a wealthy businessman. On the basis of discussions with LV on the golf course, the Lawyer called to inform the Former Senior Executive that LV had told the Lawyer that LV had given money to Thow to invest in a Jamaican bank and was seeking information about his investment. The Lawyer who provided this information to the Former Senior Executive as an intermediary for LV also acted as counsel for the Respondent on various matters. LV was not, in September 2004, nor at any time, a client of the Respondent, nor did the Respondent have any prior knowledge of, nor dealings with, LV.

16. The Former Senior Executive immediately conveyed the information reported by the Lawyer concerning LV's dealings with Thow to representatives of the Respondent including the President of the Respondent and the Respondent's Legal department. Although he was notified about the call from the Lawyer, the President of the Respondent did not play a role in dealing with the matter. Apart from being informed of the matter, he allowed the Respondent's Legal department, with assistance from the Former Senior Executive, to determine and take appropriate action.

[5] On June 7, 2005, six days after the effective date of Thow's resignation (which is described below), for the first time, the Respondent received a complaint letter from clients concerning Thow's involvement with them in the NCBJ scheme described in para 5(c) of this Settlement Agreement.

17. The Former Senior Executive told the Respondent's Legal department that the Lawyer had conveyed the following information to him:

- a group of four people gave money to Thow to buy shares of a bank in Jamaica
- one person gave Thow $1 million and another gave him $750,000.

18. After the Former Senior Executive told the Respondent's Legal department about the call from the Lawyer, the Respondent's Legal department immediately called the Lawyer to obtain a more detailed account of the facts. The Lawyer told the Respondent that the previous day, on the golf course, LV had told the Lawyer the following information:

- LV had been among a group of guests on a fishing trip hosted by Thow at a lodge on the coast of British Columbia and there had met Thow.
- During the fishing trip Thow stated that he and the President of the Respondent were involved with or had invested in a bank in Jamaica which was involved with or had invested in a bank in Trinidad.
- Thow told LV that he had the ability to invest in the Jamaican bank on LV's behalf and told LV that if LV invested, he could get his money back at any time.
- At least 3 or 4 individuals, including LV, provided money to Thow to purchase shares of the Jamaican bank. The names of the 2-3 investors other than LV were not provided by the Lawyer or LV.
- LV subsequently transferred $1.2 million to Thow's bank account for the purchase of shares in the Jamaican bank. LV believed that the other 2-3 investors had provided Thow with lesser amounts for shares in the Jamaican bank but the actual amounts provided to Thow by investors other than LV were not discussed.
- LV had not received any documentation concerning his purchase.
- When LV requested documentation from Thow, Thow had provided LV with $1.2 million in travel vouchers relating to Thow's aircraft leasing business.

19. The information communicated to the Respondent by the Lawyer was not confirmed in writing in follow-up correspondence from either the Respondent or the Lawyer. The Respondent did not request and neither LV nor the Lawyer provided the Respondent with documentation relating to the information communicated to the Respondent by the Lawyer. At no time prior to Thow's resignation for cause did LV communicate directly with the Respondent, except on September 22, 2004 as described in paragraph 24 below.

20. After obtaining the more detailed account of the facts from the Lawyer, the Respondent's Legal department notified the Compliance department about the information received concerning Thow's dealings with LV**,** but did not inform anyone at Thow's branch including the Branch Manager.

21. On Friday, September 17, 2004, the Former Senior Executive called Thow to tell him about the call that he had received from the Lawyer. In response, Thow claimed to the Former Senior Executive that the report received from the Lawyer was a "mistake".[6] Thow told the Former Senior Executive that he would contact LV and that LV or the Lawyer would call the Former Senior Executive concerning the matter later in the day. The Former Senior Executive informed the Respondent's Legal department and Compliance department about his discussion with Thow.

22. On Monday, September 20, 2004, Thow called the Respondent's Legal department to respond to the report that had been received from the Lawyer regarding Thow's dealings with LV and to provide an explanation. Thow denied that he had received monies from LV to invest in shares of NCBJ and claimed that LV had purchased a block of flight time on his aircraft and now wanted the return of his monies. Thow told the Respondent that if individuals expressed an interest in NCBJ, he provided them with a name of a registered dealer in Jamaica. Thow told the Respondent that LV and others were playing "some hardball"[7] and had made up the story about the NCBJ shares to put pressure on Thow to refund LV's purchase of the flight time.

[6] According to the Respondent's records, this was the word that Thow used in his response.
[7] According to the Respondent's records, the words in quotation marks are Thow's expression.

23. On Monday, September 20, 2004, after receiving the call from Thow, the Respondent's Legal department organized a meeting with the Compliance and National Sales departments to discuss Thow's response. It was agreed at the meeting that the Compliance department would follow up with Thow to obtain back-up for his account of the facts concerning his dealings with LV and to ensure that the details of Thow's involvement in outside business activities were clarified and appropriately disclosed to provincial securities regulators.[8]

24. On Wednesday, September 22, 2004, before the Respondent's Compliance department followed up with Thow as described in paragraph 23, LV called the Respondent's Legal department and told the Respondent that the information previously provided by the Lawyer was "a misunderstanding".[9] He also stated that Thow was his personal friend and that one of his companies intended to do business with Thow's aircraft leasing company. The Respondent asked LV to call the Lawyer to inform him of the misunderstanding. LV told the Respondent that he would. The Respondent heard nothing further from the Lawyer or LV.

25. Unbeknownst to the Respondent, after hearing about the Lawyer's call to the Respondent, Thow contacted LV and told LV that Thow would repay LV the $1.2 million that Thow had received from LV if LV would tell the Respondent that the account of their dealings provided to the Respondent by the Lawyer was a misunderstanding. Thow and LV agreed upon this arrangement and as a result, LV made the call to the Respondent as described in paragraph 24, and Thow repaid LV the $1.2 million that Thow had previously received from LV.

26. On Wednesday, September 22, 2004, the Respondent's Legal department informed the Former Senior Executive and the Respondent's Compliance department

[8] Prior to September 20, 2004, Thow had disclosed to the Respondent and provincial securities regulators that he owned an aircraft leasing company but during his discussion with the Respondent's Legal department on September 20, 2004, Thow informed the Respondent that he was spending more time working on the aircraft leasing business than he had previously indicated.

[9] According to the Respondent's records, the words in quotation marks were used by LV during his call to the Respondent.

about the call from LV. The Former Senior Executive subsequently informed the President of the Respondent about the call from LV.

27. On the basis of LV's telephone call to the Respondent on Wednesday, September 22, 2004, the Respondent accepted LV's statement that the information conveyed by the Lawyer about LV's dealings with Thow was a misunderstanding and considered the matter resolved. The Respondent's Legal and Compliance departments agreed between themselves that the Respondent's Compliance department should still proceed with its plan to direct Thow to update his regulatory disclosure with provincial securities regulators of his outside business activities, which activities included his previously disclosed aircraft company.

28. After receiving LV's call on Wednesday, September 22, 2004, the Respondent took no further steps to investigate the matters communicated by the Lawyer regarding LV and others, including not taking the step of notifying the co-Branch Manager of the Respondent's Victoria branch office of the information received from the Lawyer.

29. In light of the potentially serious implications of the information communicated to the Respondent about Thow's dealings with LV, the Respondent had an obligation to conduct a reasonable supervisory investigation over and above its communications with LV and Thow in order to ensure that Thow was complying with his regulatory obligations and was acting in the best interests of the Respondent's clients, but failed to do so.

30. In the circumstances, a reasonable supervisory investigation would have included, among other things, obtaining written confirmation and documentary corroboration of Thow's and LV's accounts of Thow's dealings with LV.

31. Had the Respondent conducted a further supervisory investigation of the information originally communicated by the Lawyer, it would have increased the likelihood that Thow's solicitation of monies for the purchase of investments outside the Respondent and improper outside business activities would have been discovered and

Thow would have been prevented from continuing to engage in such conduct while registered as an Approved Person of the Respondent.

32. MFDA Staff has concluded on the basis of its investigation that the Respondent's failure to conduct a reasonable supervisory investigation did not arise from any general failure to maintain and adhere to appropriate supervisory policies and procedures or from any intentional non-compliance on the part of the Respondent.

The Report by DS

33. On Wednesday, April 20, 2005, the Respondent's National Sales department received a telephone call from an individual named DS reporting concerns about money that DS had provided to Thow for an investment in shares of NCBJ. DS stated that he had not received any confirmation of his investment and that Thow was not returning phone calls or attending appointments to address the matter. DS stated that this had been going on for 6 months to 1 year. DS stated that he just wanted his money back.

34. The call from DS was immediately referred to the Respondent's Compliance department by the National Sales department. The Respondent's Compliance department determined that DS was not and had never been a client of the Respondent.

35. On Friday, April 22, 2005, the Respondent's Compliance department called DS to obtain more information concerning his dealings with Thow. DS told the Respondent that he had given Thow U.S. $200,000 to invest in shares of NCBJ. DS told the Respondent that he had received no share certificates, but when he requested documentation from Thow concerning his NCBJ shares, Thow sent him a receipt issued by Thow's aircraft leasing company in respect of a credit toward flight time. DS asked the Respondent for assistance in recovering the monies that he had provided to Thow personally for the purchase of NCBJ shares on his behalf.

36. On Friday, April 22, 2005, following the telephone call with the Respondent's Compliance department, in response to a request from the Respondent's Compliance department for documentation, DS sent the Respondent a cheque dated April 22, 2004, in the amount of U.S. $100,000 payable to Thow's numbered company[10] that he had provided to Thow. The words "NCB bank shares" were written on the memo line of the cheque. DS also provided the Respondent with two vouchers from Thow's aircraft leasing company, each one showing a U.S. $100,000 credit for flight time.

37. The report by DS was substantially similar to the information previously communicated by the Lawyer to the Respondent concerning LV.

38. On Tuesday, April 26, 2005, the report from DS was brought to the attention of the Respondent's senior management at a meeting of the Respondent's Compliance Committee.

39. Between Tuesday, April 26, 2005 and Thursday, May 5, 2005, the Respondent attempted to arrange for senior members of the Respondent's Compliance department to visit Thow's branch in Victoria to conduct an investigation into the report from DS. However, each time the Compliance department contacted Thow to schedule visits to his office, Thow declined requests by the Respondent to meet for the purpose of discussing his dealings with DS.

40. On Wednesday, April 27, 2005, the Respondent spoke with DS again, but subsequently DS cancelled a scheduled in-person meeting with the Respondent and thereafter, as it would turn out, refused to cooperate with the Respondent's investigation.

41. Unbeknownst to the Respondent, after DS contacted the Respondent to report Thow's conduct and agreed to attend an in-person meeting with the Respondent, Thow and DS, through their respective lawyers, entered into negotiations for the return of DS's money. While DS was en route to his in-person meeting with senior representatives of

[10] On June 13, 2005, subsequent to Thow's departure from the Respondent, DS provided the Respondent with a second cheque dated May 19, 2004, in the amount of $100,000 which was also payable to Thow's numbered company and showed the words "US $ NCB" in the memo line.

the Respondent's Compliance and National Sales departments at the Respondent's head office in Burlington, Ontario, DS was contacted by his lawyer who stated that Thow had the money in place. DS cancelled his meeting with the Respondent (without disclosing to the Respondent his reason for doing so), but has subsequently stated that he was never repaid by Thow.

42. During the period between Wednesday, April 20 and Thursday, May 5, 2005, the Respondent did not take sufficient steps in furtherance of a reasonable supervisory investigation of Thow's activities and did not impose any interim supervisory measures to protect its clients' interests until such time as it could assess the merits of DS's report.

43. On Thursday, May 5, 2005, at the request of the Respondent, senior representatives of the Respondent's Compliance and National Sales departments met with Thow at the Respondent's Head Office. At the commencement of the meeting, Thow submitted a letter of resignation. Thow advised the Respondent that he was resigning in order to spend more time on his outside business activities, including his aircraft leasing business. During the meeting, Thow refused to answer most of the Respondent's specific questions concerning his dealings with DS because he said he was bound by contractual confidentiality obligations with DS. Thow denied that he had sold shares in NCBJ to DS and insisted that DS had wired money to Thow's aircraft leasing company to purchase a block of flight time. Thow's story was inconsistent with the existence of the cheque provided to Thow by DS for NCBJ shares. Although Thow insisted to the Respondent that the money that he had received from DS had been wire transferred to his aircraft leasing business, when the cheque from DS was shown to him by the Respondent, Thow claimed that the memo line referencing "NCB bank shares" was not filled out on the copy of the cheque that he had received.

44. The Respondent accepted Thow's resignation, but agreed to defer the effective date to a mutually acceptable date in the future. Thow represented that he was going on vacation in New Zealand. By subsequent agreement, Thow's resignation became effective on June 1, 2005. The Respondent did not conduct any further supervisory investigations.

45. In the circumstances as outlined above, the Respondent had an obligation to, at a minimum, suspend Thow immediately on Thursday, May 5, 2005 and take such other interim supervisory and disciplinary measures as were appropriate to protect its clients' interests and preserve relevant documentation pending the outcome of an investigation of DS's report.

46. In the circumstances, a reasonable supervisory investigation of DS's report would have included, among other things, obtaining written confirmation and documentary corroboration of Thow's and DS's accounts of Thow's dealings with DS.

47. Had the Respondent conducted a reasonable supervisory investigation of DS's report, it is more likely that Thow's solicitation of monies for the purchase of investments outside the Respondent and improper outside business activities would have been discovered at that time and Thow would have been prevented from continuing to engage in such conduct while registered as an Approved Person of the Respondent.

48. MFDA Staff has concluded on the basis of its investigation that the Respondent's failure to conduct a reasonable supervisory investigation did not arise from any general failure to maintain and adhere to appropriate supervisory policies and procedures, or from any intentional non-compliance on the part of the Respondent.

Current Practices

49. MFDA Staff is satisfied that since these events occurred, the Respondent has reviewed its policies and procedures and supplemented them concerning outside business activity to ensure that reports of the type received from both non-clients such as LV and DS, as well as clients, and events such as the withdrawal of LV's report and DS's subsequent refusal to cooperate, will result in the Respondent conducting reasonable supervisory investigations of the relevant subject matter.

Losses by Individuals Following the Reports of LV and DS

50. The Respondent accepts that MFDA Staff's investigation has concluded that between September 16, 2004 and April 20, 2005, Thow solicited and obtained more than

$5.8 million[11] from individuals by means similar to those employed in his dealings with LV and DS. Of that amount, more than $4.3 million was obtained from clients of the Respondent. Thow has not repaid or otherwise accounted for these monies, other than any situations where Thow used monies received from some individuals to repay others.

51. The Respondent accepts that MFDA Staff's investigation has concluded that between April 20, 2005 and June 1, 2005, Thow solicited and obtained approximately $510,000 CDN and $30,000 USD[12] from individuals by means similar to those employed in his dealings with LV and DS. Of that amount, approximately $210,000 was obtained from clients of the Respondent. Thow has not repaid or otherwise accounted for these monies, other than any situations where Thow used monies received from some individuals to repay others.

Compensation By The Respondent

52. Following receipt of complaints from some individuals concerning losses sustained in connection with Thow's investment schemes as described in paragraph 5, the Respondent voluntarily initiated mediations with 29 of its clients. All of these mediations resulted in payments being made by the Respondent to the clients in settlement of their claims. 27 of the 29 clients had provided Thow with monies in connection with the Mortgage Scheme**.** The other two clients were an elderly couple who had been unclear as to the nature of their investment with Thow prior to the mediation but subsequently represented that some of the money they provided to Thow was provided in connection with the NCBJ Scheme. The total payments made by the Respondent to the 29 clients at the conclusion of the mediations was approximately $4.1 million.

[11] This figure represents the amount of claims that the Respondent has been informed about for losses sustained between September 16, 2004 and April 20, 2005 by both clients and non-clients of the Respondent as a result of new money being provided to Thow for his investment schemes.
[12] This figure represents the amount of claims that the Respondent has been informed about for losses sustained between April 20, 2005 and June 1, 2005 by both clients and non-clients of the Respondent as a result of new money being provided to Thow for his investment schemes.

Other Investor Losses

53. Except to the extent that the Respondent has agreed to compensate clients as described in paragraph 52, the Respondent has rejected claims for compensation and is defending itself in both civil litigation and alternative dispute resolution proceedings against claims for compensation for losses sustained by individuals (both clients and non-clients) who paid money directly to Thow in connection with the investment schemes described in paragraph 5, on grounds specific to each claim, including the following[13]:

(a) the individuals knew or ought to have known that they were not dealing with the Respondent when they made their investment with Thow;

(b) in some cases the individuals who provided money to Thow were not clients of the Respondent at the time that the investments were made;

(c) the investments were not purchased with funds payable to the Respondent or for the benefit of the Respondent;

(d) the investment transactions were not processed through the facilities or bank accounts of the Respondent; and

(e) the investment transactions were not recorded on the books and records of the Respondent or confirmed on investment account statements or trade confirmations provided by the Respondent to the individuals.

54. The MFDA continues to monitor the Respondent's complaint handling process in relation to MFDA Rule 2.11 and MFDA Policy No. 3 with respect to complaints arising from Thow's conduct and reserves the right to take further disciplinary action against the Respondent in respect of its future complaint handling and its obligations with respect to the Ombudservice under section 24.A of By-law No. 1, if warranted.

55. The Respondent has cooperated fully with Staff's investigation of the matters which are the subject of this Agreement.

[13] Although this paragraph appears in the Agreed Facts section of this Settlement Agreement, the MFDA should not be construed as taking a position on the merits of any of the listed defences that are being relied upon by the Respondent in other proceedings.

VI. CONTRAVENTIONS

56. On the basis of the facts set out in Parts IV and V of this Settlement Agreement, the Respondent admits that between September 16, 2004 and June 1, 2005, the Respondent failed to conduct reasonable supervisory investigations of Thow's activities in response to the concerns communicated by DS and on behalf of LV and to take such reasonable supervisory and disciplinary measures as would be warranted by the results of its investigations, contrary to MFDA Rules 2.5.1, 2.1.1(c) and the public interest.

VII. TERMS OF SETTLEMENT

57. Upon the acceptance of this Settlement Agreement, the Respondent agrees to:

(a) pay a fine in the amount of $500,000, pursuant to s. 24.1.2(b) of By-law No. 1; and

(b) pay costs of the MFDA's investigation and of this hearing in the amount of $50,000, pursuant to s. 24.2 of By-law No. 1.

VIII. STAFF COMMITMENT

58. If this Settlement Agreement is accepted by the Hearing Panel, Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent or any of its officers or directors in respect of any conduct or alleged conduct of the Respondent in relation to the facts set out in Parts IV and V of this Settlement Agreement except with respect to future compliance on the part of the Respondent with complaint handling obligations triggered by existing or future complaints concerning Thow's conduct or the Respondent's conduct in relation to Thow's activities and subject to the provisions of paragraph 63 below.

IX. PROCEDURE FOR APPROVAL OF SETTLEMENT

59. Acceptance of this Settlement Agreement shall be sought at a hearing of the Pacific Regional Council of the MFDA on a date agreed to by counsel for Staff and the Respondent.

60. Staff and the Respondent may refer to any part, or all, of the Settlement Agreement at the settlement hearing. Staff and the Respondent also agree that if this Settlement Agreement is accepted by the Hearing Panel, it will constitute the entirety of the evidence to be submitted respecting the Respondent in this matter, and the Respondent agrees to waive its rights to a full hearing, a review hearing before the Board of Directors of the MFDA or any securities commission with jurisdiction in the matter under its enabling legislation, or a judicial review or appeal of the matter before any court of competent jurisdiction.

61. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, then the Respondent shall be deemed to have been penalized by the Regional Council pursuant to s. 24.1.2 of By-law No. 1 for the purpose of giving notice to the public thereof in accordance with s. 24.5 of By-law No. 1.

62. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, neither Staff nor the Respondent will make any public statement inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict the Respondent from making full answer and defence to any civil or other proceedings against it.

63. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondent fails to honour any of the terms of settlement set out herein, Staff reserves the right to bring proceedings under the By-laws of the MFDA against the Respondent based on, but not limited to, the facts set out in Parts IV and V of the Settlement Agreement, as well as the breach of the Settlement Agreement.

64. If, for any reason whatsoever, this Settlement Agreement is not accepted by the Hearing Panel or an Order in the form attached as Schedule "A" is not made by the Hearing Panel, each of Staff and the Respondent will be entitled to any available proceedings, remedies and challenges, including proceeding to a disciplinary hearing pursuant to sections 20 and 24 of By-law No. 1, unaffected by this Settlement Agreement or the settlement negotiations.

65. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees that it will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any allegation against the MFDA of lack of jurisdiction, bias, appearance of bias, unfairness, or any other remedy or challenge that may otherwise be available.

X. DISCLOSURE OF AGREEMENT

66. The terms of this Settlement Agreement will be treated as confidential by the parties hereto until accepted by the Hearing Panel, and forever if, for any reason whatsoever, this Settlement Agreement is not accepted by the Hearing Panel, except with the written consent of both the Respondent and Staff or as may be required by law.

67. Any obligations of confidentiality of the terms of this Settlement Agreement shall terminate upon acceptance of this Settlement Agreement by the Hearing Panel.

XI. EXECUTION OF SETTLEMENT AGREEMENT

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

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

Dated: November 26th, 2007

"Julie Clarke"

Witness- Signature

"Frank Laferriere"

Berkshire Investment Group Inc.
Per: Frank Laferriere
Chief Operating Officer, Chief Financial Officer

"Mark T. Gordon"

Staff of the MFDA
Per: Mark T. Gordon
Executive Vice-President

Mutual Fund Dealers Association of Canada
Association canadienne des courtiers de fonds mutuels

File No. 200719

Schedule "A"

IN THE MATTER OF A SETTLEMENT HEARING PURSUANT TO SECTION 24.4 OF MFDA BY-LAW NO. 1 OF THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA

Re: Berkshire Investment Group Inc.

ORDER

WHEREAS on Thursday, November 29, 2007, the Mutual Fund Dealers Association of Canada (the "MFDA") issued a Notice of Settlement Hearing pursuant to section 24.4 of MFDA By-law No. 1 in respect of Berkshire Investment Group Inc. (the "Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated Monday, November 26, 2007 (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to ss. 20 and 24.1 of MFDA By-law No. 1;

AND WHEREAS the Hearing Panel is of the opinion that between September 16, 2004 and June 1, 2005, the Respondent failed to conduct reasonable supervisory investigations of the activities of former Approved Person, Ian Gregory Thow and to take such reasonable supervisory and disciplinary measures as would be warranted by the results of its investigations, contrary to MFDA Rules 2.5.1, 2.1.1(c) and the public interest.

IT IS HEREBY ORDERED THAT the Settlement Agreement is accepted, as a consequence of which:

1. The Respondent shall pay a fine in the amount of $500,000, pursuant to s. 24.1.2(b) of MFDA By-law No. 1.

2. The Respondent shall pay the costs of the MFDA's investigation and of this hearing in the amount of $50,000, pursuant to s. 24.2 of MFDA By-law No. 1.

DATED at Vancouver this 13th day of December, 2007.

Per: "_____"
[Name of Public Representative], Chair

Per: "_____"
[Name of Industry Representative]

Per: "_____"
[Name of Industry Representative]

Doc #127310