

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

**- and -**

**IN THE MATTER OF  
ALLAN EIZENGA, RICHARD JULES FANGEAT, MICHAEL HERSEY,  
LUKE JOHN MCGEE and ROBERT LOUIS RIZZUTO**

**- and -**

**IN THE MATTER OF MICHAEL TIBOLLO**

**ORDER  
(Subsection 127(1))**

**WHEREAS** on September 24, 1998, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”) respecting Luke John McGee (“McGee”) and others and issued Amended Notices of Hearing against McGee and others on February 7, 2003 and May 21, 2004;

**AND WHEREAS** on September 24, 1998, the Commission made a Temporary Order as against McGee and others, such Temporary Order that was extended by Commission Orders dated October 9, 1998 and February 5, 1999 (the “Temporary Order”);

**AND WHEREAS** McGee and Staff of the Commission entered into a Settlement Agreement in which they agreed to a proposed settlement of the proceedings, subject to the approval of the Commission (the “Settlement Agreement”);

**AND UPON** reviewing the Settlement Agreement and the Amended Statement of Allegations of Staff of the Commission and upon hearing submissions from the agent for McGee and from Staff of the Commission, the Commission is of the opinion that it is in the public interest to make the following Order pursuant to subsection 127(1) of the Act;

**IT IS ORDERED THAT:**

1. the attached Settlement Agreement is approved;

2. pursuant to subsection 127(1), paragraph 2, trading in any securities by McGee cease for fifteen years commencing on the date of this Order except that, after three years, McGee is permitted to trade securities for his own account and the account of his registered retirement savings plan (as defined in the *Income Tax Act (Canada)*) if the securities are:
  - (a) referred to in clause 1 of subsection 35(2) of the Act; or
  - (b) listed and posted for trading on the TSX or NYSE (or their successor exchanges); or
  - (c) issued by mutual funds that are reporting issuers in Ontario;
3. pursuant to subsection 127(1), paragraph 8, McGee is prohibited from becoming or acting as a director or officer of any issuer for fifteen years commencing on the date of this Order;
4. pursuant to subsection 127(1), paragraph 3, the exemption in subsection 34(b) of the Act does not apply to McGee for fifteen years commencing on the date of this Order;
5. pursuant to subsection 127(1), paragraph 6, McGee is reprimanded; and
6. the Temporary Order as against McGee no longer has any force or effect.

**DATED** at Toronto this 17<sup>th</sup> day of November 2004

“H. Lorne Morphy”

“Robert W. Davis”

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H. Lorne Morphy

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Robert W. Davis