

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

**- and -**

**IN THE MATTER OF DANIEL DUIC**

**SETTLEMENT AGREEMENT**

**I. INTRODUCTION**

1. By Notice of Hearing dated ●, the Ontario Securities Commission announced that it proposed to hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, it is in the public interest for the Commission to make an order:
  - (a) that trading in securities by Daniel Duic cease permanently or for such other period as specified by the Commission;
  - (b) that any exemptions contained in Ontario securities law do not apply to Daniel Duic permanently or for such period as is specified in the order;

- (c) that Daniel Duic resign all position that he holds as a director or officer of an issuer;
- (d) that Daniel Duic be prohibited from becoming or acting as a director or officer of any issuer;
- (e) that Daniel Duic be reprimanded;
- (f) that Daniel Duic pay costs pursuant to s. 127.1 of the Act; and
- (g) such other order as the Commission may deem appropriate.

## **II. JOINT SETTLEMENT RECOMMENDATION**

2. Staff of the Commission recommends settlement in accordance with the terms and conditions set out below. The respondent consents to the making of an order against him in the form attached as Schedule "A" on the basis of the facts set out below.

## **III. STATEMENT OF FACTS**

### **ACKNOWLEDGEMENT**

3. Staff and the respondent agree with the facts set out in Part III. Staff and Duic also stipulate that the facts agreed to herein are for the purpose of this settlement only, and are made without prejudice to Duic in any other proceeding including, but not limited to, any civil proceeding which may be brought by another person or entity.

**FACTS**

4. Daniel Duic is an individual resident of Toronto, Ontario.
5. Andrew Rankin was the Manager Director in the Merger and Acquisition Department of RBC DS from early 1999 to mid-2001. In his former position at RBC DS, Rankin was privy to and possessed confidential material information about pending mergers and acquisition transactions of various reporting issuers in Ontario. On April 4, 2001, RBC DS announced an investigation of certain suspicious trading activities and as a result of this investigation, on April 23, 2001 the firm announced that it had suspended Rankin without pay. On •, RBC DS terminated the employment of Rankin.
6. Duic is a close friend of Rankin and has been close friends with him for some twenty years.
7. Between October, 1999 and March 2001, Rankin told Duic confidential information concerning material facts or material changes of Ontario reporting issuers not generally disclosed that Rankin had learned as a result of his fiduciary position at RBC DS. The material fact or change related to a pending merger and acquisition transaction about certain reporting issuers. Rankin had knowledge of these transactions in advance of their being publicly announced in that RBC DS was acting as an advisor to one of the parties or proposed parties in each of the merger or acquisition transaction.
8. Based upon the confidential information divulged by Rankin and during this period, Duic bought securities of two reporting issuers in Ontario in advance of the public announcement of their respective merger and acquisition transaction.
9. At the time Duic purchased the securities, the confidential information concerning the material fact or material change had not been generally disclosed to the public.

10. After the public announcement, the value of the securities of each reporting issuer increased in value. Immediately thereafter, Duic sold some of the securities of the reporting issuers to realize a profit of \$1,292,023 and an unrealized gain of \$600,075 for the remaining securities which he held.
11. For each of the merger and acquisition transaction, RBC DS and Rankin possessed confidential information concerning material facts or material changes of reporting issuers in that the Merger and Acquisition Department of RBC DS was the advisor to one of the parties, or to one of the proposed parties in the merger and acquisition transaction. For each company, the material fact or material change was the pending merger and acquisition transaction.
12. Particulars of the companies' securities which Duic purchased as set out above are as follows (hereinafter collectively defined as "the Companies"):

Canadian Pacific Limited

November 9, 2000	2,000 shares at \$43.850
November 14, 2000	3,000 shares at \$43.150
November 14, 2000	3,100 shares at \$43.200
November 14, 2000	3,900 shares at \$43.200
December 15, 2000	500 shares at \$43.100
December 15, 2000	4,600 shares at \$43.050
December 15, 2000	900 shares at \$43.100
December 19, 2000	10,000 shares at \$42.000
January 29, 2001	100 shares at \$42.900
January 29, 2001	200 shares at \$42.900

Canadian Pacific Limited (call options – Feb 42.5)

January 11, 2001	50 contracts at \$1.980
January 12, 2001	95 contracts at \$1.936
January 19, 2001	80 contracts at \$1.350
January 19, 2001	20 contracts at \$1.350
January 19, 2001	220 contracts at \$1.354
January 22, 2001	100 contracts at \$2.140

Canadian Pacific Limited (call options – Feb 45)

January 19, 2001	20 contracts at \$0.650
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January 19, 2001	20 contracts at \$0.550
January 19, 2001	40 contracts at \$0.600
January 19, 2001	20 contracts at \$0.600

Canadian Pacific Limited (call options – Mar 42.5)

January 24, 2001	400 contracts at \$2.695
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Canadian Pacific Limited (call options – Apr 45)

January 11, 2001	25 contracts at \$2.000
January 12, 2001	95 contracts at \$2.000

Moffat Communications Limited

November 13, 2000	15,000 shares at \$27.6083
November 24, 2000	9,000 shares at \$29.5667
November 24, 2000	7,400 shares at \$29.2990
November 30, 2000	9,750 shares at \$29.9505
December 4, 2000	250 shares at \$28.5000

13. At the time that Rankin told Duic of the material facts or material changes, he was the Managing Director of the Merger and Acquisition Department of RBC DS, and as such, Rankin was a person in a special relationship for each of the reporting issuers as defined in s. 76(5)(b) of the *Securities Act*.
14. In that Duic then possessed the material facts or material changes not generally disclosed to the public, Duic was also in a special relationship with each of the Companies at the material time as defined in s. 76(5)(e) of the Act.
15. Duic as a person in a special relationship with each of the Companies, sold securities of each of the Companies with knowledge of a material fact that had not been generally disclosed. Accordingly Duic breached s. 76(1) of the Act.

**CONDUCT CONTRARY TO LAW AND TO THE PUBLIC INTEREST**

16. By engaging in the conduct described above, Duic breached Ontario securities law and also acted contrary to the public interest.

#### **IV. TERMS OF SETTLEMENT**

17. Duic agrees to the following terms of settlement:

- (a) Duic will cooperate with Staff in its insider trading investigation, including testifying as a witness for Staff at any proceedings which may be commenced by Staff before the Commission, the Ontario Court of Justice or the Ontario Superior Court;
- (b) Duic will make a settlement payment of \$1,925,000.00 to the Commission to be allocated as follows:
  - i) \$1,900,000.00 to such third parties as the Commission may determine for purposes that benefit Ontario Investors; and
  - ii) \$25,000.00 for costs.
- (c) Trading in any securities by Duic will cease permanently;
- (d) Any exemptions in Ontario securities law do not apply to Duic permanently;
- (e) Duic will be reprimanded by the Commission;
- (f) Duic will resign any positions that he holds as a director or officer of a reporting issuer; and
- (g) Duic is permanently prohibited from becoming or acting as director or officer of a reporting issuer.

**V. STAFF COMMITMENT**

18. If this settlement is approved by the Commission, Staff will not initiate any other proceeding under the *Securities Act* against Duic concerning those matters deposed to by him at his examination under oath pursuant to s. 13 of the *Securities Act*.

**VI. APPROVAL OF SETTLEMENT**

19. Approval of the settlement shall be sought at a public hearing of the Commission on a date as agreed to by Counsel for Staff and Duic.
20. Counsel for Staff and for Duic may refer to any part, or all, of this settlement agreement at the settlement hearing. Unless otherwise agreed to by the parties, Staff and Duic agree that this settlement agreement will constitute the entirety of the evidence to be submitted at the settlement hearing.
21. If this settlement is approved by the Commission, Duic agrees to waive his right to a full hearing, judicial review or appeal of the matter under the Act.
22. As a fundamental term of the agreement, Duic and his Counsel agree that if this settlement is approved by the Commission, they will not make any public statement which is inconsistent with the spirit of this settlement agreement or any of the terms as set out herein.
23. Whether or not the settlement is approved by the Commission, Duic 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 of 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.

24. If, for any reason whatsoever, this settlement is not approved by the Commission 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 Duic or as may be required by law.

**VII. DISCLOSURE OF AGREEMENT**

25. Except as permitted under paragraph 20 above, this settlement agreement and its terms will be treated as confidential by Staff and Duic until approved by the Commission.
26. Any obligations of confidentiality shall terminate upon approval of this settlement by the Commission.

**VIII. EXECUTION OF SETTLEMENT AGREEMENT**

27. This settlement agreement may be signed in one or more counterparts which together shall constitute a binding agreement.
28. A facsimile copy of any signature shall be as effective as an original signature.

**DATED** this 20th day of November,

“Chris Kostopoulos”

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“Daniel Duic”

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**WITNESS**

**DANIEL DUIC**



**DATED** this 3rd day of March, 2004.

**STAFF of the ONTARIO SECURITIES  
COMMISSION**

**“Michael Watson”**

**(Per)** \_\_\_\_\_  
**MICHAEL WATSON**  
**Director of Enforcement**

Schedule "A"

**IN THE MATTER OF THE SECURITIES ACT  
R.S.O. 1990, c. S.5, as amended**

**- and -**

**IN THE MATTER OF DANIEL DUIC**

**ORDER**

WHEREAS on • [date], the Ontario Securities Commission issued a Notice of Hearing pursuant to sections 127(1) and 127.1 of the *Securities Act* in respect of Daniel Duic;

AND WHEREAS Daniel Duic entered into a settlement agreement with Staff of the Commission in which he agreed to a proposed settlement of the proceeding, subject to the approval of the Commission;

AND WHEREAS Staff recommend approval of the settlement agreement;

AND UPON reviewing the settlement agreement and the Notice of Hearing of Staff of the Commission and upon hearing submissions of Counsel for Staff and Daniel Duic;

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

IT IS HEREBY ORDERED THAT pursuant to ss. 127(1) and 127.1 of the Act:

1. the Settlement Agreement is hereby approved which includes the following terms:
  - a) Duic will cooperate with Staff in its insider trading investigation, including testifying as a witness for Staff at any proceedings commenced by Staff before the Commission, the Ontario Court of Justice or the Ontario Superior Court;
  - (b) Duic will make a settlement payment of \$1,892,098.00 to such third parties as the Commission may determine for purposes that benefit Ontario Investors; and
2. Duic will pay \$32,000.00 for costs pursuant to s. 127.1 of the Act.
3. Trading in any securities by Daniel Duic shall cease permanently;
4. Any exemptions contained in Ontario securities law do not apply to Daniel Duic permanently;
5. Daniel Duic is hereby reprimanded;

6. Daniel Duic must resign from all positions that he holds as a director or officer of a reporting issuer, and
  
7. Daniel Duic is permanently prohibited from becoming or acting as a director or officer of a reporting issuer.

DATED at Toronto this    day of                    ,

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