

**IN THE MATTER OF THE SECURITY FRAUDS PREVENTION ACT  
R.S.N.B. 1973, c. S-6 AS AMENDED**

**AND**

**IN THE MATTER OF  
MacDOUGALL, MacDOUGALL, & MacTIER INC.**

**ORDER**

**WHEREAS** on June 29<sup>th</sup> 2001, the Administrator of the Securities Administration Branch issued a Notice of Hearing in respect of MacDougall, MacDougall & MacTier Inc. ("MacDougall");

**AND WHEREAS** MacDougall entered into a settlement agreement dated July 6, 2001 (the "Agreement") in which it agreed to a proposed settlement of the proceeding, subject to the approval of the Administrator;

**AND UPON REVIEWING** the Agreement and the Statement of Allegations of Staff of the Branch;


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

**IT IS HEREBY ORDERED THAT:**

The Agreement, a copy of which is attached to this Order, is hereby approved;

DATED this 13<sup>th</sup> day of July 2001.

  
DONNE W. SMITH, Jr.  
Administrator

13/07/01  


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IN THE MATTER OF  
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## SETTLEMENT AGREEMENT

### I INTRODUCTION

- 1.1 In the course of an investigation, staff of the Securities Administration Branch ("staff") learned that salespersons employed by MacDougall, MacDougall & MacTier Inc. ("MacDougall") in other provinces were trading on behalf of New Brunswick residents.
- 1.2 MacDougall is not registered as a broker to trade in securities in New Brunswick.
- 1.3 No salesperson employed by MacDougall is registered to trade in securities in New Brunswick.
- 1.4 MacDougall provided a list of 11 salespersons, responsible for New Brunswick accounts, who were not registered in New Brunswick.
- 1.5 MacDougall has submitted an application for registration as a broker and has submitted applications for registration of 11 salespersons and one compliance officer.

### II STATEMENT OF FACTS

- 2.1 MacDougall acknowledges the following facts as correct:
- 2.2 MacDougall is a body corporate, incorporated under the laws of the province of Quebec as enterprise #1147100516 and under the laws of Canada as federal business #103432472. MacDougall has made application to be registered in New Brunswick as an Extra-Provincial corporation
- 2.3 In response to a request for verification of MacDougall's registration, staff noted that the company was not registered.
- 2.4 Upon further investigation, staff noted that salespersons employed by MacDougall in other provinces were trading on behalf of New Brunswick residents. These salespersons were not registered in New Brunswick.
- 2.5 By letter dated May 16, 2001, MacDougall was required to provide, among other things, a list of New Brunswick clients with the name of the representative who serviced each one.

- 2.6 The letter was acknowledged May 16, 2001 and the requested information was provided by [REDACTED] A.A. [REDACTED], Compliance Officer, via fax dated May 18, 2001. It revealed that MacDougall had 11 salespersons who were not registered in New Brunswick, but who had traded on behalf of New Brunswick clients.
- 2.7 MacDougall has permitted unregistered salespersons to trade on behalf of New Brunswick clients over a period of years.
- 2.8 By permitting such unregistered trading, MacDougall has saved registration fees and has further benefited from the commissions earned on trades executed for its New Brunswick clientele by unregistered representatives.

### **III POSITION OF THE RESPONDENT**

- 3.1 There have been no client complaints or harm and no adverse impact upon the capital markets of New Brunswick as a result of the facts referred to in Part II of this agreement.
- 3.2 MacDougall has co-operated throughout with staff in the investigation of the activities referred to in Part II of this agreement and has responded promptly.

### **IV JOINT SETTLEMENT RECOMMENDATION**

- 4.1 Staff agree to recommend settlement in accordance with the terms and conditions set out below.
- 4.2 MacDougall agrees to the settlement based on the facts set out in Part II and consents to the making of an order on the basis of those facts.
- 4.3 This Settlement Agreement will be released to the public only if and when the settlement is approved by the Administrator.

### **V TERMS OF SETTLEMENT**

- 5.1 MacDougall agrees to:
- a) not make any statement which is inconsistent with the Statement of Facts, after the settlement is approved;
  - b) ensure that no salesperson, sponsored by MacDougall, trades on behalf of New Brunswick residents, without being registered in New Brunswick, other than to protect the interests of existing New Brunswick clients and preserve the capital of their accounts;
  - c) submit applications, by June 22, 2001, for registration of all salespersons who continue to trade on behalf of New Brunswick residents;
  - d) submit confirmation by June 22, 2001, of the transfer, to a registered salesperson, of any clients whose salesperson has chosen to not be registered in New Brunswick;

- e) voluntarily pay an amount of \$10,000 for the purposes of investor education. to the Investor Learning Centre;

## **VI STAFF COMMITMENT**

### **6.1 Staff agree to:**

- a) not seek suspension, cancellation or any other disciplinary order in respect of MacDougall's registration, in relation to the facts set out in Part II;
- b) not take any separate action against MacDougall, nor any of MacDougall's unregistered representatives, nor any of the company's officers or directors;
- c) accept and review each non-resident representative's application on its own merits, separate and apart from any illegal activities identified in this settlement agreement with MacDougall.

## **VII PROCEDURE FOR APPROVAL OF SETTLEMENT**

- 7.1 Upon execution of this agreement by staff and by MacDougall, staff will apply to the Administrator for an order approving the terms set out herein.
- 7.2 If this Settlement Agreement is approved by the Administrator, it will constitute the entirety of the evidence to be submitted respecting MacDougall in this matter and MacDougall agrees to waive any right to a hearing and/or appeal with respect to this matter.
- 7.3 If, for any reason whatsoever, this settlement is not approved by the Administrator, or the order set forth in Schedule "A" is not made by the Administrator:
  - a) staff and MacDougall will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing, unaffected by the Settlement Agreement or the settlement negotiations;
  - b) the terms of this agreement will not be referred to in any subsequent proceeding or disclosed to any person, except with the written consent of both staff and MacDougall or as may be required by law; and
  - c) MacDougall further agrees that it will not raise, in any proceeding, the Settlement Agreement or the negotiation or process of approval thereof, as a basis for any attack on the jurisdiction of the Administrator, alleged bias, appearance of bias, alleged unfairness or any other challenge that may otherwise be available.

**VIII DISCLOSURE OF SETTLEMENT AGREEMENT**

- 8.1 The terms of the Settlement Agreement will be treated as confidential by the parties hereto until approved by the Administrator and forever if, for any reason, the Settlement agreement is not approved by the Administrator.
- 8.2 Any obligation as to confidentiality shall terminate upon the approval of this Settlement Agreement by the Administrator and it will become public information.

**IX EXECUTION OF SETTLEMENT AGREEMENT**

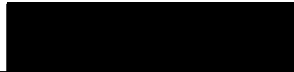
- 9.1 This Settlement Agreement shall constitute a binding agreement and a facsimile copy of any signature shall be as effective as an original signature.

DATED this 6<sup>th</sup> day of June 14, 2001.

SIGNED, SEALED AND DELIVERED  
MacDougall, MacDougall & MacTier  
By

\_\_\_\_\_

Staff of the Securities Administration Branch  
By



Ed LeBlanc  
Deputy Administrator  
Compliance and Enforcement

A handwritten signature in black ink, appearing to be 'Ed LeBlanc'.