

Court File No.

ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

B E T W E E N:

ONTARIO SECURITIES COMMISSION

Applicant

- AND -

PORTUS ALTERNATIVE ASSET MANAGEMENT INC.,
PORTUS ASSET MANAGEMENT INC.
and BANCNOTE CORP.

Respondents

AFFIDAVIT OF KELLY EVEREST
(Sworn March 4, 2005)

I, Kelly Everest, of the City of Toronto, in the Province of Ontario, MAKE
OATH AND SAY:

1. I am an Accountant, Compliance, with the Ontario Securities Commission (the "Commission"). I have been leading the compliance team in the joint compliance review and investigation of Portus Alternative Asset Management Inc. ("Portus") which has been taking place on-site at the business premises of Portus since January 24, 2005. As such, I have personal knowledge of the matters deposed to herein save for those matters of which I am informed by others and do believe.

THE PARTIES

2. Portus is an Ontario corporation and is registered under Ontario securities law as an Investment Counsel/Portfolio Manager and Limited Market Dealer.
3. My best information is that, to date, Portus has opened managed accounts for approximately 26,000 clients, with approximately \$730 million under management. The majority of these funds and clients are from Ontario.
4. Boaz Manor ("Manor") is the owner and Managing Director of Portus. Manor is registered as an Associate Investment Counsel/Portfolio Manager.
5. Portus Asset Management Inc. ("PAM") is an Ontario corporation. PAM shares the same office as Portus and has (until recent lay-offs) provided back-office administrative support and marketing to Portus. PAM's function was, among other things, to maintain client information in electronic and hard copy. PAM is the owner/lessee of the computer equipment used to facilitate the operations of Portus/PAM.
6. As a result of the investment structure described below, the series of the BancNote Trust mutual funds ("BNT") or the BancLife Trust mutual funds ("BLT") being offered at the relevant time, purchases the term notes in which

client funds are invested. BNote Management Inc. (a company incorporated in the Caymans) and Manor are the unit holders of BNT and BLT.

7. BancNote Corp. ("BNC") is an Ontario corporation. As a result of the investment structure described below, BNC receives client funds which it uses to pay fees to referral agents, the administrative costs of PAM and a fixed payment to Portus in lieu of management fees.
8. John Campbell is an officer of BNote Management Inc. and BNC.

JOINT COMPLIANCE REVIEW AND INVESTIGATION

9. The joint compliance review and investigation has, to date, focused on obtaining answers to the following three questions: (1) Can the funds invested with Portus be located and accounted for? (2) Were the funds raised in accordance with Ontario securities laws? and (3) Did Portus conduct its operations in a manner that complied with securities laws relating to, for example, "know your client" and suitability obligations, disclosure obligations and books and records maintenance obligations?
 - (a) **The Investment Funds**
10. With respect to the first question, I believe that we have located all client funds invested with Portus (subject to the provision by Portus of further

information reconciling fees). We have put measures in place to safeguard client funds.

(b) The Legality of the Investment Structure

11. The following is my understanding of the investment offered by Portus. The structure remains the subject of ongoing investigation.
12. Portus appears to be offering the same investment structure to all managed account clients. The investment structure achieves the economic return of five to seven year principal protected term notes issued by Société Générale (Canada) (the "Notes") by investing in options with off-shore counterparties that swap the return on the Notes for the return on two equities purportedly purchased by offshore counterparties on behalf of clients and selected by Portus.
13. Société Générale (Canada) invests the funds received in a number of hedge funds selected by Portus and returns (through the structure) the higher of the original client investment or the return achieved by the hedge funds over the five to seven year period (less performance fees).
14. The structure of the investment is such that clients' funds flow through bank accounts held by Portus on behalf of clients, off-shore counterparties (one of which is BNote Management Inc.) and BNT and BLT mutual funds (more

particularly described in paragraph 16 below). Portus deposits sufficient client funds into the Notes from the BNT and/or BLT accounts to guarantee a minimum return of the principal initially invested by clients with Portus.

15. In accordance with the investment structure offered by Portus, clients' funds have been invested in the following series of BNT and BLT mutual funds: Portus BancLife Trust Series 1, Portus BancNote Trust Series II, III, IV, V, VI, VIa, VIII, VIIIa, X and X(a). The current series of mutual funds offered by Portus/PAM is BancLife II and BancNote XII and XII(a) (all series referred to collectively as the "Funds"). As set out above, the Funds purchase the Notes.
16. There appear to be client funds held in account/s at the Royal Bank of Canada and/or RBC Dominion Securities Inc. in the name of Portus Market Neutral Preservation Fund. Portus acts as an advisor to Market Neutral Preservation Fund.
17. Client funds also appear to have been deposited into accounts held by or on behalf of BNC. As set out above, these funds are used to pay referral, administration and management fees to agents, PAM and Portus respectively.
18. The issue which is under investigation is whether this investment is, in reality, a mutual fund offered at the retail level. Such funds, unless offered

exclusively to accredited investors, require a prospectus. This investment was not offered by Portus exclusively to accredited investors. A prospectus was not filed.

(c) Numerous and Significant Compliance Deficiencies

19. Our review indicates that Portus' disclosure to clients led many clients to believe that they were investing directly in units of the BNT or BLT (non-prospectus mutual funds).
20. In addition, we have identified numerous and significant compliance deficiencies relating to, among other things, Portus':
 - (a) failure to perform capital calculations;
 - (b) failure to fulfill books and records maintenance obligations; and
 - (c) failure to uphold "know and your client" and suitability assessment obligations.

OSC ISSUED TEMPORARY ORDERS

21. On February 2, 2005, the Commission issued a temporary order precluding Portus from opening new client accounts and taking on new funds or assets from existing clients. Attached hereto and marked as Exhibit "A" is a copy of the temporary order dated February 2, 2005.

22. On February 10, 2005, the Commission issued a second temporary order cease trading Portus, precluding redemptions/withdrawals by clients of Portus, and precluding Manor from trading in the Notes. Attached hereto and marked as Exhibit "B" is a copy of the temporary order dated February 10, 2005. On consent of the parties, the temporary orders will remain in effect until, at least, May 17, 2005. Attached hereto and marked as Exhibit "C" is a copy of the Commission Order of February 15, 2005, extending the temporary orders to May 17, 2005.
23. The Temporary Orders state that Portus appears to have contravened sections 113 and 123 of Ontario Regulation 1015, R.R.O. 1990 of the *Securities Act*, and subsections 2.1(1) and 1.5(1)(b) of OSC Rule 31-505.

THE NEED FOR A RECEIVER: ASSET MANAGEMENT, DOCUMENT PRESERVATION AND INFORMATION GATHERING, COMPETING INVESTOR OBJECTIVES

24. On February 17, 2005, I became aware that Portus is operating without back-office staff. Portus does not appear to be in control of its business or its assets.
25. I have been advised by Mr. Ogg, Portus' Compliance Officer, that only Mr. Manor has access to all electronic data, including client data. Mr. Ogg advised me that, previously, all of this information was available to him and to

back-office staff. It is of the utmost importance for our review and investigation that all documentation is preserved and its integrity maintained.

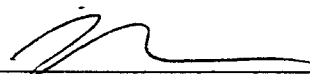
26. We have been informed by Portus that some clients who have agreements for pre-authorized periodic withdrawals (which are exempt from the Temporary Orders) are not receiving these withdrawals.

27. I believe that withdrawals of clients' funds prior to maturity of the Notes could create liquidity issues such that the clients would not receive (assuming an entitlement to the Notes through BNT or BLT) a total return of principal. I understand that numerous clients have made requests for withdrawals since the fact of our review and investigation became public.

SWORN before me at the City of Toronto)
in the Province of Ontario)
this 7th day of March , 2005)

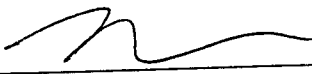


Kelly Everest



A Commissioner, etc.
Melissa J Macken

This is Exhibit "A" referred to in the
Affidavit of Kelly Everest
Sworn before me, this 4th
day of March, 2005



A Commissioner for Taking Affidavits



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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20 Queen Street West
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Web site: www.osc.gov.on.ca
TDX 76
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IN THE MATTER OF THE SECURITIES ACT
R.S.O. 1990, c.S.5, AS AMENDED

February 20, 2005

Ravi G. Aranha

- and -

PORTUS ALTERNATIVE ASSET
MANAGEMENT INC.

TEMPORARY ORDER
(Section 127)

WHEREAS it appears to the Ontario Securities Commission (the "Commission") that:

1. Portus Alternative Asset Management Inc. ("Portus") is a registered Investment Counsel/Portfolio Manager and Limited Market Dealer.
2. At present, Portus has opened managed client accounts for approximately 26,000 clients across Canada. The majority of these clients are resident in Ontario. Portus appears to be selling to all clients the same portfolio of securities. Each portfolio contains securities which are held and/or traded to mimic the performance of BancNote Trust mutual funds, non-prospectus mutual funds which Portus also manages.
3. Portus Asset Management Inc. ("PAM") created the BancNote Trust funds. PAM is not registered with any securities commission in Canada. Portus acts as the Investment Adviser of the BancNote Trust.
4. Portus receives approximately \$20 million of new investment funds or assets from a combination of existing and new clients each week.
6. Portus has approximately \$800 million under management at present. The majority of these funds are from Ontario clients.
7. Portus appears to have contravened sections 113 and 123 of Ontario Regulation 1015, R.R.O. 1990 of the *Securities Act*, and subsections 2.1(1) and 1.5(1)(b) of OSC Rule 31-505 and, to date, has failed to take adequate steps to remedy these breaches.

8. The conduct referred to above appears to be contrary to the public interest.

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

AND WHEREAS the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest;

AND WHEREAS by Commission order made March 15, 2004 pursuant to section 3.5(3) of the Act, any one of David A. Brown, Paul M. Moore and Susan Wolburgh Jenah acting alone, is authorized to make orders under section 127 of the Act;


IT IS HEREBY ORDERED that, pursuant to subsections 127(1)1 and 127(5) of the Act, the following terms and conditions are imposed on Portus' registration (the "Terms"):

1. Effective immediately, Portus shall not open any new client accounts; and
2. Effective immediately, Portus shall not accept any new funds or other assets for investment in respect of any existing client accounts.

IT IS FURTHER ORDERED that the Terms supplement and do not replace any other specific terms and conditions that currently apply to Portus and Portus continues to be subject to all applicable general terms, conditions and other requirements contained in the Act and any Regulations made thereunder; and

IT IS FURTHER ORDERED that, pursuant to subsection 127(6) of the Act, this Order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by the Commission.

DATED at Toronto this 2nd day of February 2005.



A handwritten signature in black ink, appearing to read "Paul M. Moore", is written over a horizontal line.

This is Exhibit "B" referred to in the

Affidavit of Kelly Everest

Sworn before me, this 4th

day of March, 2005



A Commissioner for Taking Affidavits



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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certified to be a true copy
IN THE MATTER OF THE SECURITIES ACT
R.S.O. 1990, c.S.5, AS AMENDED
at Toronto this 10th day
February, 2005

- and -


PORTUS ALTERNATIVE ASSET MANAGEMENT INC.
and BOAZ MANOR

TEMPORARY ORDER
(Section 127)

WHEREAS it appears to the Ontario Securities Commission (the "Commission") that:

1. Portus Alternative Asset Management Inc. ("Portus") is a registered Investment Counsel/Portfolio Manager and Limited Market Dealer. The most accurate information provided to date indicates that Portus has approximately \$730 million under management. The majority of these funds are from Ontario clients.
2. At present, Portus has opened managed client accounts for approximately 26,000 clients across Canada. The majority of these clients are resident in Ontario. Portus appears to be offering clients the same portfolio of Canadian equities and assets. Each portfolio appears to contain securities and assets which are held and/or traded to mimic the performance of BancNote Trust mutual funds, non-prospectus mutual funds which Portus also manages.
3. The structure of the investment provided by Portus appears to be such that clients' funds flow through bank accounts held by Portus on behalf of Portus's off-shore counterparties, and eventually flow to an account held by Portus. Portus deposits sufficient client funds into five to seven year term notes issued by Société Générale (Canada) (the "Notes") to guarantee a minimum return of the principal invested with Portus. Société Générale then promises to return to the holder of the Note (BancNote Trust) the higher of the principal invested with Portus or the return achieved by a fund of funds selected by Portus. This appears to be the basis for Portus's representation to clients that their investments are guaranteed.

4. At the same time, Portus transacts with two off-shore counterparties to achieve a position whereby the Canadian equities referred to in paragraph 2 above, appear to be held in client name by one of the off-shore counterparties. Portus transacts in two derivatives which provide the client with the return on the Notes in exchange for the return on the Canadian equities.
5. The Notes are presently held in an account at RBC Dominion Securities Inc. ("RBCDS") over which Boaz Manor ("Manor") has trading authority. At maturity, the Notes will have a value of at least the principal invested by the clients.
6. Withdrawals of clients' funds prior to maturity of the Notes could result in a loss to certain clients and preferential treatment for some clients to the detriment of others.
7. Manor is the owner and Managing Director of Portus. Manor is registered as an Associate Investment Counsel/Portfolio Manager. Manor has trading authority with respect to the RBCDS account.
8. BancNote Trust buys the Notes on behalf of investors. Manor is the advisor to BancNote Trust.
9. Portus appears to have contravened sections 113 and 123 of Ontario Regulation 1015, R.R.O. 1990 of the *Securities Act*, and subsections 2.1(1) and 1.5(1)(b) of OSC Rule 31-505 and, to date, has failed to take adequate steps to remedy these breaches.
10. The conduct referred to above appears to be contrary to the public interest.

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

AND WHEREAS the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest;

AND WHEREAS by Commission order made March 15, 2004 pursuant to section 3.5(3) of the Act, any one of David A. Brown, Paul M. Moore and Susan Wolburgh Jenah acting alone, is authorized to make orders under section 127 of the Act;

IT IS HEREBY ORDERED that, pursuant to subsections 127(1)1 and 2 and 127(5) of the *Act*:

1. Trading in any securities by Portus cease, except with respect to the pre-authorized periodic withdrawals permitted pursuant to paragraph 2(b) below;
2. The following terms and conditions are imposed on Portus' and Manor's registration (the "Terms"):
 - a) Effective immediately, Portus shall not pay out, redeem or otherwise return any funds or other assets from any existing client accounts, except as provided in paragraph (b), below.
 - b) Notwithstanding the restrictions imposed under paragraph 2(a), above, Portus may continue to make periodic payments from any existing client account in respect of which a client has entered into a pre-authorized periodic withdrawal plan with Portus, provided (a) such plan was entered into before February 10, 2005, (b) such payments are made in compliance with the provisions of the plan, and (c) the amount of such future payments may not be increased from the amount of the most recent previous payment.
 - c) Effective immediately, Manor shall not undertake any action that directly or indirectly constitutes a trade or act in furtherance of a trade in the Notes.
 - d) Without limiting the generality of the foregoing, Manor shall not authorize, direct or execute trades in the Notes or appoint, authorize or direct any other party to make trades in the Notes.

IT IS FURTHER ORDERED that the Terms supplement and do not replace any other specific terms and conditions that currently apply to Portus and Manor, including but not limited to the terms and conditions imposed on Portus' registration pursuant to the Temporary Order issued by the Commission on February 2, 2005, and Portus and Manor continue to be subject to all applicable general terms, conditions and other requirements contained in the *Act* and any Regulations made thereunder; and

IT IS FURTHER ORDERED that, pursuant to subsection 127(6) of the *Act*, this Order shall take effect immediately and shall expire on February 17, 2005, unless extended by the Commission.

DATED at Toronto this ^{13th} day of February, 2005.



Paul H. [unclear]

This is Exhibit "C" referred to in the

Affidavit of Kelly Everest

Sworn before me, this 4th

day of March, 2005



A Commissioner for Taking Affidavits



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Certified to be a true copy
IN THE MATTER OF THE SECURITIES ACT
R.S.O. 1990, c.S.5, AS AMENDED
Filed at Toronto this 15th day
of February, 2005

- and -

Daisy G. Anable

Ontario Securities Commission
**PORTUS ALTERNATIVE ASSET
MANAGEMENT INC. and BOAZ MANOR**

**ORDER
(Section 127)**

WHEREAS on February 10, 2005, the Ontario Securities Commission (the "Commission") issued an Amended Notice of Hearing pursuant to s. 127 of the *Securities Act*, R.S.O. 1990, c.S.5, to consider whether it is in the public interest to extend the temporary orders made on February 2, 2005 and February 10, 2005 (the "Temporary Orders");

AND WHEREAS on February 2, 2005, the Commission ordered that terms and conditions be imposed on the registration of Portus Alternative Asset Management Inc. ("Portus") such that Portus is precluded from opening new client accounts and accepting any new funds or other assets for investment in respect of any existing client accounts;

AND WHEREAS on February 10, 2005, the Commission ordered that:

- (a) trading in any securities by Portus cease, except with respect to certain pre-authorized periodic account withdrawals (as described in paragraph 2(b) of the Order);
- (b) an additional term and condition be imposed on Portus' registration such that Portus be precluded from redeeming or returning funds or assets from any existing client accounts except with respect to pre-authorized periodic account withdrawals (as described in paragraph 2(b) of the Order);
- (c) Boaz Manor ("Manor") be precluded from undertaking any action that directly or indirectly constitutes a trade or act in furtherance of a trade with respect to the Notes in which client funds are deposited (as defined in the Temporary Order of February 10, 2005, the "Notes");

- (d) that Manor shall not authorize, direct or execute trades in the Notes or appoint, authorize or direct any other party to make trades in the Notes;

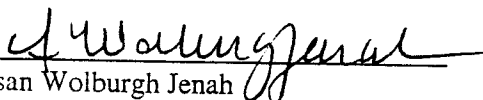
AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

AND WHEREAS Staff of the Commission and counsel for the Respondents have consented to the making of this Order;

IT IS HEREBY ORDERED that:

1. the hearing to consider whether to extend the Temporary Orders is adjourned until May 17, 2005 at 10:00 a.m.;
2. the Temporary Orders issued on February 2 and 10, 2005 are continued until the hearing on May 17, 2005, or until further order of this Commission; and
3. any person or company affected by this Order may apply to the Commission for an order revoking or varying the terms of this Order pursuant to s.144 of the *Securities Act*.

DATED at Toronto this 15th day of February, 2005.


Susan Wolburgh Jenah