

IN THE MATTER OF  
*THE SECURITIES ACT, 1988*, S.S. 1988, c. S-42.2

AND

IN THE MATTER OF  
EUSTON CAPITAL CORPORATION  
GEORGE SCHWARTZ  
CHARLES SAKS  
NORMAN MACLEOD  
PETER ROBINSON  
MICHAEL DICAPRIO

**NOTICE OF HEARING**

TAKE NOTICE that the Saskatchewan Financial Services Commission (the “Commission”) will hold a hearing pursuant to sections 134, 135 and 161 of *The Securities Act, 1988* (the “Act”) at 7<sup>th</sup> Floor – 1919 Saskatchewan Drive, Regina, Saskatchewan on March, 29, 30 and 31, 2005 at 9 a.m.;

TO CONSIDER WHETHER:

1. It is in the public interest that a permanent cease trade order pursuant to clause 134(1)(d) of the Act and a permanent order prohibiting the use of statutory exemptions pursuant to clause 134(1)(a) of the Act be made with respect to Euston Capital Corp. (“Euston”), George Schwartz (“Schwartz”), Charles Saks (“Saks”) and Norman MacLeod (“MacLeod”) (together referred to as the “Respondents”).
2. It is in public interest to order pursuant to section 135.1 of the Act that the Respondents, either collectively, or individually, pay an administrative penalty of up to \$100,000.
3. It is in the public interest to order pursuant to section 161 of the Act that the Respondents, either collectively, or individually, pay the costs of or relating to the hearing.

BY REASON OF THE FOLLOWING MATTERS AND ALLEGATIONS:

**Facts and Allegations**

1. Euston was incorporated under *The Business Corporation Act* (Ontario) on August 21, 2001 and has its registered office in Toronto, Ontario. Euston is not registered or continued under *The Business Corporation Act* (Saskatchewan).
2. According to their website at [www.eustoncapital.com](http://www.eustoncapital.com), and press releases provided to some investors, Euston is a venture capital corporation that focuses on pharmaceutical and medical diagnostic investment opportunities. Euston assists Americans and associated health groups, through its electronic technology network, in the delivery of prescription medications from Canada at reduced prices.
3. Schwartz is the president, secretary and the only named director of Euston.
4. Saks holds himself out as the Senior Consultant – Investor Relations for Euston and MacLeod holds himself out as being part of Investor Relations at Euston. Saks and MacLeod act as representatives of Euston for selling securities issued by Euston.
5. Between September 2003 and November 2004, Euston, through its sales representatives, sold non-assessable common shares of Euston (the “Euston Securities”) to residents of Saskatchewan using a telemarketing campaign. Approximately 53 investors resident in Saskatchewan purchased 73,480 Euston Securities for a total of \$220,440.
6. Schwartz planned and oversaw the execution of a scheme for the distribution of Euston Securities to investors in Saskatchewan that generally involved the following processes:
  - (a) staff at Euston’s head office searched the Internet and other sources of public information to find people who were owners or proprietors of healthy, established businesses in Saskatchewan;
  - (b) from this information Schwartz prepared an investor profile of each owner/proprietor that enabled Schwartz to identify potential investors;
  - (c) acting on Schwartz’s instructions, Euston’s sales representatives called potential investors in Saskatchewan by telephone to solicit the purchase of Euston Securities. Some of the potential investors contacted verbally agreed to purchase Euston Securities;
  - (d) acting on Schwartz’s instructions, the Euston sales representatives did not make any inquiries as to the net worth or income of the potential investors;
  - (e) staff at Euston’s head office faxed or couriered a confirmation of purchase to the investors who agreed to purchase Euston Securities over the telephone;

- (f) if investors received the confirmation of purchase by fax, the investors would mail to Euston their signed confirmation and a cheque made payable to Euston for the purchase price of the Euston Securities they purchased;
  - (g) if investors received the confirmation of purchase by courier, a courier would come to the investor's residence and wait while the investor signed the confirmation, and gave it and a cheque for the purchase price of the Euston Securities to the courier;
  - (h) a few days later, each investor received a package by registered mail. The package included a letter from Schwartz, a purchase agreement and a certificate for the Euston Securities that the investor had purchased. The letter acknowledged the investor's investment in Euston and requested that the investor sign the enclosed purchase agreement and return it to Euston;
  - (i) most investors signed the purchase agreement and mailed it back to Euston; and
  - (j) sales representatives from Euston often contacted investors who had already purchased Euston Securities to solicit the purchase of more Euston Securities.
7. Schwartz's actions in developing and overseeing the execution of the scheme of distribution of Euston Securities to investors in Saskatchewan were acts directly or indirectly in furtherance of trades of Euston Securities.
8. Particulars of the distribution of Euston Securities to investors in Saskatchewan include, but are not limited to, the following:
- (a) between September 2003 and October 2004 sales representatives from Euston sold by telephone a total of 5,700 Euston Securities to George Staranchuk ("Staranchuk"), Ken Fritz ("Fritz") and David Weinberger ("Weinberger"), all residents of Saskatchewan for a total of \$17,100;
  - (b) on or about September 29, 2004, Saks telephoned Randy Zaiser ("Zaiser") of Preeceville, Saskatchewan about purchasing Euston Securities. Zaiser verbally agreed to invest \$1,500 in Euston Securities. Zaiser was concerned about the proposed investment and contacted staff at the Commission. Zaiser did not complete the purchase;
  - (c) in September 2003 MacLeod sold 500 Euston Securities for \$1,500 by telephone to Kevin Fandrey ("Fandrey") of Yorkton, Saskatchewan; and
  - (d) in August 2004 MacLeod sold 350 Euston Securities for \$1,050 by telephone to Joe Gilewicz ("Gilewicz") of Saskatoon, Saskatchewan.
9. Between September 2003 and October 2004 Euston filed several Form 45-103F4 *Report of Exempt Distribution* forms ("Reports of Trade") to report trades of Euston Securities as required by Multilateral Instrument 45-103 *Capital Raising Exemptions* ("MI 45-

103”). The Reports of Trade stated that all trades to Saskatchewan investors, which included trades to Staranchuk, Fritz, Weinberger, Fandrey and Gilewicz (including Zaiser, referred to herein as the “Investors”), were made in reliance on the accredited investor exemption contained in Part 5.1 of MI 45-103 (the “Accredited Investor Exemption”).

10. The Accredited Investor Exemption gives exemptions from the prospectus requirements in section 58 of the Act and the registration requirements in section 27 of the Act for trades of securities to investors who have financial assets exceeding \$1,000,000 or net assets of at least \$5,000,000 or net income exceeding \$200,000 and who thereby meet the definition criteria of an accredited investor in Part 1 of MI 45-103 (an “Accredited Investor”).
11. None of the Investors were Accredited Investors, and therefore the Accredited Investor Exemption did not apply to the trades in the Euston Securities to investors in Saskatchewan.
12. Neither Euston nor any of the individual Respondents was registered by the Director of the Securities Division of the Commission (the “Director”) pursuant to section 27 of the Act.
13. The Director has not issued a receipt for a prospectus for the Euston Securities pursuant to section 58 of the Act.
14. Neither the Commission nor the Director has issued an order pursuant to section 83, 160 or any other provision of the Act exempting the Respondents or trades in the Euston Securities from the registration and prospectus requirements in the Act.
15. The Respondents breached the prospectus requirements in section 58 of the Act because they traded Euston Securities to the Investors without the Director having issued a receipt for a prospectus.
16. The Respondents breached the registration requirements in section 27 of the Act because they traded Euston Securities to the Investors without being registered to sell securities in Saskatchewan.
17. On November 4, 2004 the Director issued a Temporary Order (the “Temporary Order”) pursuant to section 134 of the Act that the Respondents, together with Peter Robinson (“Robinson”) and Michael DiCaprio (“DiCaprio”) cease trading the Euston Securities because the Respondents breached the prospectus and registration requirements of the Act.
18. On November 16, 2004 the Director extended the Temporary Order (the “Extending Order”) pursuant to subsection 134(3) of the Act when no satisfactory information had been provided about trades in the Euston Securities to the Investors by the Respondents.
19. The Temporary Order and the Extending Order are currently in force.

20. The Respondents have requested a hearing before the Commission to determine whether the Temporary Order and the Extending Order should remain in force.
21. The Temporary Order and the Extending Order will be discontinued against Robinson and DiCaprio.

AND TAKE FURTHER NOTICE that the Respondents may be represented by counsel at the hearing and may make representations and lead evidence;

AND TAKE FURTHER NOTICE that subsections 9(3.1) and (3.2) of the Act requires the Respondents to give a written response to this Notice admitting or denying each of the allegations herein, such response to be addressed to the Secretary of the Commission, 6<sup>th</sup> Floor – 1919 Saskatchewan Drive, Regina, Saskatchewan, S4P 3V7, at least five business days before the date set for the hearing. Pursuant to subsection 9(3.3) of the Act Respondents who do not file a written response within the prescribed time may pay the costs of the hearing;

AND THAT upon failure of the Respondents to attend at the time and place as aforesaid, the hearing may proceed in his absence and no further notice of the proceeding will be given to him.

DATED at of Regina, Saskatchewan, this 22nd day of February, 2005.

*“Barbara Shourounis”*

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Barbara L. Shourounis  
Director

**Note:** Documentary evidence to be used at the hearing may be obtained by any affected party at the Commission's office, 6<sup>th</sup> Floor – 1919 Saskatchewan Drive, Regina, Saskatchewan, prior to the date of the hearing by appointment with the Legal Counsel, whose telephone number is (306) 787-5871.

Information on the procedures for this hearing may be found in Local Policy Statement 12-602 Procedure on Hearings and Reviews Before the Commission. A copy of Local Policy Statement 12-602 may be obtained from the Commission's website at [www.sfsc.gov.sk.ca](http://www.sfsc.gov.sk.ca) or by contacting the Commission's receptionist whose telephone number is (306) 787-5645.