

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

**AND**

**IN THE MATTER OF**

**FERNANDO HONORATE FAGUNDES**

also known as:

SHANE SILVER

SHANE SILVERMAN

SHANE SILVA

FERNANDO SILVA

FERNANDO FAGENDER

**ALLAN D. KOWALCHUK**

**KIM JOHN KOWALCHUK**

**REGINALD ALLEN GOEBEL**

**AGREEMENT & UNDERTAKING**

(Section 135.3)

The following agreement & undertaking ("Agreement") has been reached between Kim Kowalchuk of Regina, Saskatchewan ("Kowalchuk"), and the Director of the Securities Division, Saskatchewan Financial Services Commission (the "Commission").

**Facts**

Kowalchuk acknowledges and agrees as follows:

1. From about November 2003 to May 2006 Fernando Fagundes, also known as "Shane Silver" ("Silver"), acted as a portfolio manager by managing the investment portfolios of individuals through discretionary authority granted by those individuals.
2. In undertaking the activities described in paragraph 1 above, Silver was acting as an adviser and should have been registered pursuant to section 27 of *The Securities Act, 1988* (the "Act"), but was not.
3. Kowalchuk was aware that Silver was acting as a portfolio manager, and he supported Silver's activities in the following manner:
  - a. Kowalchuk accepted payments from investors on behalf of Silver and processed Silver's financial transactions through his banking services and accounts which allowed Silver to conduct his portfolio management business;

- b. Kowalchuk referred clients to Silver. Those clients deposited their money with Silver, and gave him discretionary authority to invest that money on their behalf.
  - c. Kowalchuk provided Silver with an internet connection, a cellular telephone, a land line telephone and use of a credit card in Kowalchuk's name for Silver's use both personal and business.
4. Kowalchuk deposited his own money with Silver, and gave Silver discretionary authority to invest that money on Kowalchuk's behalf.
  5. Silver invested Kowalchuk's money on Kowalchuk's behalf, and eventually lost a substantial part of Kowalchuk's investment.
  6. The majority of the individuals referred to Silver lost the money that they deposited with Silver.
  7. The Director issued a temporary cease trading order pursuant to section 134 of the Act against Silver, Kowalchuk, and others on May 24, 2006. The temporary cease trade order was extended on June 8, 2006, and is still in force.

#### **Kowalchuk's Agreement and Undertaking**

1. Kowalchuk hereby agrees and undertakes effective the date of execution of this Agreement, as follows:
  - a. to not trade in securities or exchange contracts in Saskatchewan except for his own account or in an account held jointly with a spouse;
  - b. to pay an administrative penalty in the amount of \$20,000; and
  - c. to pay the costs of the investigation into this matter by the staff of the Commission in the amount of \$1,500.
2. Kowalchuk hereby waives any right to a hearing and/or appeal with respect to this matter.

#### **Director's Agreement**


The Director hereby agrees:

1. to revoke the temporary cease trade order dated May 24, 2006 against Kowalchuk upon payment of the administrative penalty, and costs referred to in paragraph 1 above; and
2. that this Agreement and Undertaking is the only sanction the Director will seek to impose

upon Kowalchuk pursuant to the Act with respect to the matters set out in this Agreement, provided that nothing herein shall prohibit the Director from considering and dealing with any matter not set out in this Agreement or any new complaint brought to the Director's attention in respect to Kowalchuk.

In witness whereof Kowalchuk has executed this Agreement and Undertaking on this 23rd day of November, 2007.

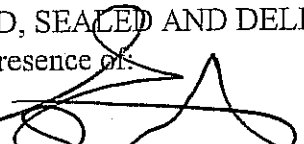
SIGNED, SEALED AND DELIVERED )  
in the presence of: )


  
\_\_\_\_\_ )

  
\_\_\_\_\_  
Kim Kowalchuk

In witness whereof the Director has executed this Agreement and Undertaking on this 26 day of November, 2007.

SIGNED, SEALED AND DELIVERED )  
in the presence of: )

  
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Barbara L. Shourounis, Director  
Securities Division