

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

BERNARD W. BELLAN,

Plaintiff

- and -

CHARLES E. CURTIS, PETER OLFERT, WALDRON (WALLY) FOX-DECENT, LEA
BATURIN, ALBERT R. BEAL, RON WAUGH, DIANE BERESFORD, SYLVIA FARLEY,
ROBERT HILLIARD, ROBERT ZIEGLER, JOHN CLARKSON, DAVID G. FRIESEN, HUGH
ELIASSON, SHERMAN KREINER, JAMES UMLAH, JANE HAWKINS, JANICE
LEDERMAN, PRICEWATERHOUSE COOPERS LLP, NESBITT BURNS INC.,
WELLINGTON WEST CAPITAL INC., CROCUS CAPITAL INC., THE MANITOBA
SECURITIES COMMISSION and THE CROCUS INVESTMENT FUND

Defendants

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

ORDER

(RE: Settlement with Wellington West)

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Counsel for the Plaintiff

THE QUEEN'S BENCH
Winnipeg Centre

THE HONOURABLE)
) Wednesday, April 22, 2009
MR. JUSTICE HANSEN)

BETWEEN:

BERNARD W. BELLAN,

Plaintiff

- and -

CHARLES E. CURTIS, PETER OLFERT, WALDRON (WALLY) FOX-DECENT, LEA BATURIN, ALBERT R. BEAL, RON WAUGH, DIANE BERESFORD, SYLVIA FARLEY, ROBERT HILLIARD, ROBERT ZIEGLER, JOHN CLARKSON, DAVID G. FRIESEN, HUGH ELIASSON, SHERMAN KREINER, JAMES UMLAH, JANE HAWKINS, JANICE LEDERMAN, PRICEWATERHOUSE COOPERS LLP, NESBITT BURNS INC., WELLINGTON WEST CAPITAL INC., CROCUS CAPITAL INC., THE MANITOBA SECURITIES COMMISSION and THE CROCUS INVESTMENT FUND

Defendants

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

ORDER

THIS MOTION, made by the Plaintiff, Bernard Bellan, for an order approving a settlement with the Defendant, Wellington West Capital Inc., now Wellington West Holdings Inc., and referred to herein as "Wellington West", was heard this day at Winnipeg.

ON READING the affidavits of Mark Lyons and Bernard Bellan and on hearing the submissions of counsel for the parties,

THIS COURT ORDERS AS FOLLOWS:

1. The Agreement, attached to this Order as Schedule A, is approved as fair and reasonable and in the best interests of the Settlement Class. The Agreement is

incorporated into, and forms part of this Order, including the definitions contained therein. In the event of conflict between this Order and the Agreement, this Order shall prevail.

2. The Class Action is certified as against Wellington West for settlement purposes only.

3. The Settlement Class is defined as the class of persons who own Class A common shares in the Crocus Investment Fund including their legal representatives, heirs, successors and assigns, and who have not opted out of the Agreement but excludes each of the Defendants named or ever named in the Class Actions.

4. The common issue is defined as whether Wellington West owed a duty to the Settlement Class.

5. Bernard Bellan is appointed as the Representative Plaintiff for the Settlement Class. His counsel, Klein Lyons, Booth Dennehy LLP and Prober Law Offices, are appointed as counsel to the Settlement Class.

6. The Settling Party and all Settlement Class members are ordered to comply with the Agreement.

7. The deadline for exclusion ("opting out") from the Settlement Class is 30 days following the mailing of the Notice of Certification and Settlement Approval ("Opt Out Deadline").

8. Any Settlement Class Member who has not opted out from the Settlement Class in accordance with the procedures set out in this Agreement by the Opt Out Deadline shall be bound by the terms of this Agreement.

9. The Receiver, Deloitte & Touche, Inc., is appointed as the Administrator of the settlement.

10. The form of Notice of Certification and Settlement Approval is approved in substantially the form as attached as Schedule B. Within 14 days after the Approval Date, the Administrator shall mail by ordinary mail a copy of the Notice of Certification and Settlement Approval to the last known address it has in its records for each holder of Crocus Investment Fund Class A shares. The Notice of Certification and Settlement Approval will also be posted on the Klein Lyons web site, and on the Receiver's web site. The Administrator will further cause the Notice of Certification and Settlement Approval to be published in one weekday edition of the Winnipeg Free Press.

11. All claims for contribution, indemnity, subrogation or any other claims by any Non-Settling Defendant or any other person against Wellington West in respect of or relating to the subject matter of the Class Action and the Related Action, or any other claim on behalf of the settlement class, whether direct, subrogated, derivative, asserted or unasserted or asserted in a representative capacity, inclusive of interest, GST and costs, will be barred by order of the Court.

12. In any proceeding taken by the Plaintiff or other Settlement Class member in respect of a claim assigned to them, the Settlement Class members shall not claim or be entitled to recover any amount for which Wellington West may be liable to any party thereto by way of indemnity, contribution, claim over or otherwise.

13. Any Non-Settling Defendant or other person who intends to commence an action or third party claim against Wellington West relating to the subject matter of the Class Action or the Related Action or any other matter arising out of the business, operations and affairs of the Crocus Investment Fund shall not proceed without obtaining leave of the Honourable Mr. Justice Hanssen or such other Justice of the Manitoba Court of Queen's Bench responsible for the management of the Class Action.

14. The Non-Settling Defendants shall have discovery rights against Wellington West in the Class Action with respect only to the claims specifically asserted against Wellington West in the statement of claim issued July 12, 2005, as it has been and may be amended, as if the Non-Settling Defendants had issued third party claims against Wellington West, and the Plaintiff shall have the right to participate as a party to such discoveries.

15. With respect to the collective several liability of the Non-Settling Defendants at paragraphs 10.2.3 and 10.2.4 of the Agreement, the Non-Settling Defendants shall not be made to pay a greater amount to the Settlement Class, as a result of this settlement, than would have occurred in the absence of a settlement.

16. It is declared that, in the event of termination of the Agreement pursuant to Section 12 of the Agreement, this Order is null and void and of no force and effect.

17. The Court shall retain continuing jurisdiction over the Agreement to ensure that all payments are properly made, and over the interpretation and enforcement of the Agreement's terms, conditions and obligations.

APR 22 2009

K. R. HANSSEN

J.

Schedule A to Order

THE QUEEN'S BENCH
Winnipeg Centre

BETWEEN:

BERNARD W. BELLAN

Plaintiff

- and -

CHARLES E. CURTIS, PETER OLFERT, WALDRON (WALLY) FOX-DECENT,
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DAVID G. FRIESEN, HUGH ELIASSON, SHERMAN KREINER, JAMES UMLAH,
JANE HAWKINS, JANICE LEDERMAN, PRICEWATERHOUSE COOPERS LLP,
NESBITT BURNS INC., WELLINGTON WEST CAPITAL INC.,
CROCUS CAPITAL INC., THE MANITOBA SECURITIES COMMISSION
and THE CROCUS INVESTMENT FUND

Defendants

Proceedings under *The Class Proceedings Act*, C.C.S.M. c. C130

SETTLEMENT AGREEMENT

WHEREAS:

A. Bernard W. Bellan (the "Plaintiff"), in his own capacity and in his capacity as representative plaintiff for the Settlement Class, and Wellington West Holdings Inc. (formerly Wellington West Capital Inc. and herein referred to as "Wellington West"), hereby enter into this Agreement providing for settlement of the claims described below, pursuant to the terms and conditions set forth below, subject to the approval of the Court.

B. A Class Action has been filed by the Plaintiff against Wellington West pursuant to the *Class Proceedings Act*, C.C.S.M. c. C130 in the Manitoba Court of Queen's Bench. A related Class Action, being File No. CI 06-01-46555, has been filed by the plaintiff against the Government of Manitoba in the Manitoba Court of Queen's Bench (the "Related Action").

C. Wellington West, notwithstanding its consent to this Agreement, has denied and continues to deny the claims of the Plaintiff and the Settlement Class Members in the Class

Action, has denied and continues to deny any wrongdoing and has raised numerous defences, including defences relating to the certification of the claims in the Class Action and, except to the extent of its obligations under this Agreement, denies liability of any kind to the Plaintiff or the Settlement Class Members.

D. The Class Action has not yet been certified as against Wellington West. Wellington West will not oppose certification of the Class Action as against it for settlement purposes only.

E. The Settlement Class Members will have the right to exclude themselves ("opt out") from this Agreement pursuant to Section 16 of *The Class Proceedings Act*, C.C.S.M. c.C130, and as provided in this Agreement.

F. Based upon an analysis of the facts and the law applicable to the claims of the Settlement Class, taking into account the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted trials and appeals, as well as the fair, cost-effective and assured method of resolving claims of the Settlement Class provided in this Agreement, the Plaintiff and Plaintiff's Counsel have concluded that this Agreement provides substantial benefits to the Settlement Class and is fair, reasonable, and in the best interests of the Settlement Class.

G. Wellington West has similarly concluded that this Agreement is desirable in order to avoid the time, risk and expense of defending multiple and protracted litigation, and to resolve finally and completely the pending and potential claims of the Settlement Class Members and all pending and potential claims, proceedings, crossclaims and third party actions against them.

H. It is intended that this Agreement shall fully and finally settle all claims which have been or could have been made against Wellington West in, arising out of, or related to the Class Action and the Related Action and all other claims that the Plaintiff or Settlement Class Members may otherwise have against Wellington West relating to the Crocus Investment Fund.

NOW THEREFORE, subject to the Court's approval, this Agreement embodies the terms of resolution of the claims asserted or which could have been asserted against the Settling Party in

the Class Action and the Related Action and all other claims that the Plaintiff or Settlement Class Members may otherwise have against Wellington West relating to the Crocus Investment Fund..

1. **Definitions**

Unless the specific context of a particular section of this Agreement calls for another interpretation, the following terms, as used in this Agreement, shall have the meanings set forth below. Terms used in the singular shall be deemed to include the plural, and *vice versa*. Masculine pronouns and male references shall be deemed to include the female and *vice versa*, where appropriate. The terms "person" or "party" includes individuals, partnerships and corporations.

"Administrator" means the person appointed by the Court as provided in Section 6 of this Agreement.

"Agreement" means this Settlement Agreement.

"Approval Date" means the date on which the Approval Order becomes a final order meaning that the time to appeal has expired and there has been no appeal or, if there have been any appeals from the Approval Order, all rights of appeal have been exhausted and there has been no change to the Approval Order.

"Approval Order" means the Order referred to in section 3.2.1 of this Agreement.

"Class Action" means the proceeding filed under the *Class Proceedings Act*, C.C.S.M. c.C130 in the Manitoba Court of the Queens Bench bearing File No. CI 05-01-42765.

"Class Counsel" means the law firms of Klein Lyons, Booth Dennehy LLP and Prober Law Offices, which firms act on behalf of the Plaintiff and the Settlement Class herein and which shall continue acting on behalf of the Plaintiff and Settlement Class with respect to all acts or consents pursuant to this Agreement.

"Court" means the Manitoba Court of the Queen's Bench which has jurisdiction over the Class Action, and the Honourable Mr. Justice Hanssen, or his successor.

"Defendants" means any of the defendants ever named or to be named in the Class Action or the Related Class Action (including affiliates and each Defendant and its affiliates' present and former directors, officers, agents, partners, servants and employees and each individual's successors, heirs, executors, estate trustees, administrators and assigns). For greater certainty, "Defendants" includes Deloitte & Touche Inc. in its capacity as receiver of the Crocus Investment Fund.

"Effective Date" means the date on which Wellington West's right to terminate this agreement expires as provided in sections 12.1 and 12.2 of this Agreement.

"Non-Settling Defendants" means any of the Defendants, excluding Wellington West, ever named or to be named in the Class Action or the Related Class Action.

"Notice of Certification and Settlement Approval" means the Notice advising Settlement Class Members of the Court's approval of this Agreement.

"Opt Out Deadline" means the date 30 days after the date of mailing of the Notice of Certification and Settlement Approval pursuant to Section 3.3 of this Agreement.

"Plaintiff" means Bernard W. Bellan.

"Receiver" means Deloitte & Touche, Inc. as Receiver of Crocus Investment Fund.

"Related Action" means the action commenced under *Class Proceedings Act, C.C.S.M.* c.C130 by Bernard W. Bellan and Robert Nelson against the Government of Manitoba in the Manitoba Court of the Queens Bench bearing File No. CI 06-01-46955.

"Settlement Amount" means the sum of \$500,000.00 (five hundred thousand dollars) payable in instalments by Wellington West under this Agreement.

“**Settlement Class**” means the class of persons who own Class A common shares in Crocus Investment Fund including their legal representatives, heirs, successors and assigns, and who have not opted out of this Agreement but excludes each of the Defendants named or ever named or to be named in the Class Action.

“**Settlement Class Member**” means a person who falls within the definition of the Settlement Class.

“**Settlement Fund**” means the Settlement Amount less the amount approved by the Court for payment of Class Counsel fees and disbursements.

“**Settling Party**” means Wellington West and its affiliates, and each of Wellington West’s and its affiliates’ present and former directors, officers, agents, partners, servants and employees, and each individual’s successors, heirs, executors, estate trustees, administrators and assigns.

2. **Preliminary Matters**

- 2.1 Promptly after execution of this Agreement by the Plaintiff and Wellington West, the Plaintiff will serve a true copy of this Agreement on counsel for each of the Non-Settling Defendants.
- 2.2 Where the time on or by which any action to be taken under this Agreement falls on a day that is not a business day, such action may be done on the next day that is a business day.
- 2.3 All references to money in this Agreement are to Canadian currency.

3. **Matters Relating to Certification and Settlement Approval**

- 3.1 Within 14 days of the execution of this Agreement by the Plaintiff and Wellington West, the Plaintiff will bring an application for Court approval of this Agreement. Wellington

West will not oppose certification of the Class Action as against it for settlement purposes only.

3.2 Certification and Settlement Approval Order

3.2.1 Subject to the Court's approval, and as provided in a form of Order to be agreed by the Plaintiff and Wellington West, acting reasonably, the order approving this Agreement shall:

- (a) certify the Class Action as a class proceeding as against Wellington West for settlement purposes only;
- (b) appoint Bernard Bellan as the Representative Plaintiff for the Settlement Class;
- (c) approve this Agreement and order the Plaintiff, all Settlement Class Members, the Settling Party and all Defendants to comply with it;
- (d) order that the deadline for exclusion ("opting out") from the Settlement Class be 30 days following the mailing of the Notice of Certification and Settlement Approval ("Opt Out Deadline");
- (e) declare that any Settlement Class Member who has not opted out of the Settlement Class in accordance with the procedures set out in this Agreement by the Opt Out Deadline shall be bound by the terms of this Agreement;
- (f) declare that this Agreement is fair, reasonable, and in the best interests of the Settlement Class;
- (g) order mailing of the Notice of Certification and Settlement Approval;
- (h) appoint the Receiver as the Administrator;

- (i) bar any and all claims for contribution, indemnity, subrogation or any other claims by any Non-Settling Defendant or any other person against Wellington West in respect of or relating to the subject matter of the Class Action and the Related Action, or any other claim on behalf of the settlement class, whether direct, subrogated, derivative, asserted or unasserted or asserted in a representative capacity, inclusive of interest, GST and costs;
- (j) order that in any proceeding taken by the Plaintiff or other Settlement Class member in respect of a claim assigned to them, the Settlement Class members shall not claim or be entitled to recover any amount for which Wellington West may be liable to any party thereto by way of indemnity, contribution, claim over or otherwise;
- (k) order that any Non-Settling Defendant or other person who intends to commence an action or third party claim against Wellington West relating to the subject matter of the Class Action or the Related Action or any other matter arising out of the business, operations and affairs of the Crocus Investment Fund shall not proceed without obtaining leave of the Honourable Mr. Justice Hanssen or such other Justice of the Manitoba Court of Queen's Bench responsible for the management of the Class Action;
- (l) order that the Non-Settling Defendants shall have discovery rights against Wellington West in the Class Action with respect only to the claims specifically asserted against Wellington West in the statement of claim issued July 12, 2005, as it has been and may be amended, as if the Non-Settling Defendants had issued third party notices against Wellington West, and the Plaintiff shall have the right to participate as a party to such discoveries; and
- (m) declare that, in the event of termination of this Agreement pursuant to Section 12 below, the Order is null and void and of no force and effect.

3.2.2 Following Court approval of this Agreement, Class Counsel will apply to the Court for approval of Class Counsel fees and disbursements. The amount approved by the Court will be paid to Class Counsel out of the Settlement Amount. The approval of this Agreement is not conditional on approval of Class Counsel's fees or disbursements. Wellington West takes no position as to the amount that should be paid to Class Counsel for fees and disbursements.

3.3 Notice of Certification and Settlement Approval

3.3.1 The content of the Notice of Certification and Settlement Approval shall be as agreed by the Plaintiff and Wellington West, acting reasonably, and approved by the Court.

3.3.2 Within 14 days after the Approval Date, or on such other date as is approved by the Court, the Receiver shall mail by ordinary mail a copy of the Notice of Certification and Settlement Approval to the last known address it has in its records for each holder of Crocus Investment Fund Class A common shares. The Notice of Certification and Settlement Approval will also be posted on the Klein Lyons web site, and the Plaintiff will request that it be posted on the Receiver's web site.

4. Waiver of Limitation Defences

4.1 Nothing in this Agreement shall constitute or be deemed to constitute a waiver by the Settling Party of defences based upon statutes of limitations or repose, prescription periods or any other limitation or prescription defence in law or in equity or under any applicable statute with respect to any action brought or continued by any person who opts out of this Agreement, is deemed to opt out of this Agreement, or if this Agreement is terminated.

5. Payments and Related Issues

5.1 Subject to the payment of administration expenses referred to in this Agreement and all other conditions set out in this Agreement, only Settlement Class Members who have not

opted out shall be entitled to receive payments out of the Settlement Fund pursuant to this Agreement.

- 5.2 On January 2, 2009 or within 14 days after the Effective Date, whichever date is later, Wellington West will pay the sum of \$250,000.00 (two hundred and fifty thousand dollars) to Klein Lyons in trust.
- 5.3 On July 2, 2009 or within 14 days after the Effective Date, whichever date is later, Wellington West will pay the sum of \$250,000.00 (two hundred and fifty thousand dollars) to Klein Lyons in trust.
- 5.4 The payments made pursuant to sections 5.2 and 5.3 of this Agreement are in full and final settlement of all claims by the Plaintiff, the Settlement Class and each Settlement Class Member relating to the Crocus Investment Fund, whether direct, subrogated, assigned, asserted or unasserted or asserted in a representative capacity in the Class Action, inclusive of all interest, GST and costs. No Settlement Class Member nor anyone acting on his or her behalf shall commence any claim against the Settling Party in respect of any matter relating to the Crocus Investment Fund, including, for greater certainty, claims assigned to him or her by a Defendant or other person.
- 5.5 Klein Lyons will forthwith upon receipt of the Settlement Amount transfer the Settlement Fund to the Administrator to be held in trust by the Administrator for the benefit of the Settlement Class.
- 5.6 Any payments contemplated by this Section 5 are automatically cancelled and rendered null and void if this Agreement is terminated. In the event this Agreement is terminated, the Settlement Amount held by Klein Lyons or the Administrator shall be forthwith returned to Wellington West.

6. **Administrator**

- 6.1 The Plaintiff and Wellington West will propose that the Receiver be appointed by the Court as the Administrator for the purpose of administering this Agreement. All expenses of the Receiver related to the administration of this Agreement will be paid out of the Settlement Fund.

7. **Procedures and Deadlines for Exclusion**

- 7.1 Any person who is an owner of Crocus Investment Fund Class A common shares, other than Bernard W. Bellan, will have the right to exclude herself or himself ("opt out") from this Agreement and from the Settlement Class by delivering a letter to the Administrator on or before the Opt Out Deadline signed by the person opting out and setting out that person's name, address, number of shares held and reason for opting out. Persons who elect to opt out shall be excluded from this Agreement and from the Settlement Class. It is the responsibility of the person opting out to ensure that the requisite signed letter is received by the Administrator on or before the Opt Out Deadline. Any member of the Settlement Class who does not deliver to the Administrator a complete and signed opt out letter by the Opt Out Deadline shall be considered a Settlement Class Member and shall be bound by the terms of this Agreement and by the Court Order approving this Agreement.

- 7.2 By entering into this Agreement, Bernard W. Bellan agrees that he will not opt out of this Agreement.

8. **Distribution of Settlement Fund**

- 8.1 The Settlement Fund will be held in trust by the Administrator for the benefit of the Settlement Class. All Settlement Class Members who have not opted out will be eligible for payment from the Settlement Fund. The Settlement Fund will be distributed to the Settlement Class Members by the Administrator at the same time that the Receiver makes its first distribution of funds from the Crocus Investment Fund to the holders of Crocus Investment Fund Class A common shares. The distribution will be pro rata to the

Settlement Class Members based on the monies paid for Class A common shares of the Crocus Investment Fund owned by each Settlement Class Member.

- 8.2 Wellington West shall have no responsibility for the maintenance of the Settlement Fund once the payments contemplated by articles 5.2 and 5.3 have been made and Wellington West shall have no responsibility for the allocation and distribution of the Settlement Fund to the Settlement Class.

9. **Exclusive Remedy/Dismissal of Action**

9.1 **Exclusive Remedy**

- 9.1.1 This Agreement shall be the exclusive remedy for any and all Settlement Class Members with respect to claims relating to the Crocus Investment Fund, including those claims asserted or which could have been asserted against the Settling Party in the Class Action or the Related Action. The Settling Party shall not be subject to liability or any other expense of any kind to any Settlement Class Member with respect to the Crocus Investment Fund, the Class Action or the Related Action, except as provided in this Agreement. Settlement Class Members who have not opted out of this Agreement on or before the Opt Out Deadline shall be forever barred from continuing, initiating, asserting or prosecuting any and all claims relating to the Crocus Investment Fund, including those claims asserted or which could have been asserted against the Settling Party in the Class Action or the Related Action.

9.2 **Dismissal of Action**

- 9.2.1 Forthwith after the payments referred to in Articles 5.2 and 5.3 have been made, the Plaintiff and Wellington West will file a consent to a dismissal of the Class Action as against Wellington West with prejudice and any or all crossclaims and third party claims as against Wellington West, on a "without costs" basis, along with any other documents that may be necessary to give effect to the dismissal of the Class Action. Notwithstanding the dismissal of the Class Action as against Wellington West, the Court

will retain ongoing jurisdiction to deal with matters arising out of the administration of the settlement provided for in this Agreement.

10. **Releases/Bar Order/Third Party Claims**

10.1 **Release of Class Action Claims Against the Settling Party**

10.1.1 The claims of the Plaintiff and every Settlement Class Member who has not opted out of this Agreement on or before the Opt Out Deadline, relating to the Crocus Investment Fund whether their claims are direct, subrogated, derivative, asserted or unasserted or asserted in a representative capacity in the Class Action or the Related Action, inclusive of all interest, GST and costs, shall be conclusively compromised, settled, released and discharged as against the Settling Party, and Settlement Class Members shall be deemed to have forever released and discharged the Settling Party from any past, present and future claims, actions, demands and liabilities of any nature whatsoever relating to the Crocus Investment Fund, including all claims asserted or which could have been asserted in the Class Action or the Related Action.

10.2 Bar Order

- 10.2.1 Any and all claims for contribution, indemnity, subrogation or any other claims by any Non-Settling Defendant or any other person against Wellington West in respect of or relating to the subject matter of the Class Action and the Related Action, or any other claim on behalf of the settlement class, whether direct, subrogated, derivative, asserted or unasserted or asserted in a representative capacity, inclusive of interest, GST and costs, shall be barred by order of the Court.
- 10.2.2 The Court shall order that, in any proceeding taken by the Plaintiff or other Settlement Class member in respect of a claim assigned to them, the Settlement Class members shall not claim or be entitled to recover any amount for which Wellington West may be liable to any party thereto by way of indemnity, contribution, claim over or otherwise.
- 10.2.3 The Court shall order that any Non-Settling Defendant or other person who intends to commence an action or third party claim against Wellington West relating to the subject matter of the Class Action or the Related Action or any other matter arising out of the business, operations and affairs of the Crocus Investment Fund shall not proceed without obtaining leave of the Honourable Mr. Justice Hanssen or such other Justice of the Manitoba Court of Queen's Bench responsible for the management of the Class Action.
- 10.2.4 Forthwith after the Effective Date, the Plaintiff will amend the Statement of Claim in the Class Action so as to restrict permanently the claims against the Non-Settling Defendants to the collective several liability of the Non-Settling Defendants.
- 10.2.5 Forthwith after the Effective Date, the Plaintiff will amend the Statement of Claim in the Related Action so as to restrict permanently the claims against the Defendant in that action to the several liability of that Defendant.
- 10.2.6 If any action is instituted by a Settlement Class Member seeking damages against persons who are not currently parties to the Class Action ("Non-parties") in respect of claims asserted or which could have been asserted in the Class Action or the Related

Action, such action will be limited to the Non-parties' collective several liability and the Settlement Class Member shall not claim or be entitled to recover any amount for which Wellington West may be liable to any party thereto by way of indemnity, contribution, claim over or otherwise.

10.3 Reservation of Rights/Third Party Claims

10.3.1 Except as expressly provided herein, nothing in this Agreement shall prejudice or in any way interfere with the rights of the Settlement Class Members to pursue all of their other rights and remedies against persons and/or entities other than the Settling Party.

10.4 Mutual Release with Crocus Investment Fund

10.4.1 Wellington West releases all claims it has or in the future may have for indemnity from Crocus Investment Fund or from any of its subsidiaries or affiliates with respect to all claims asserted or which could have been asserted against the Settling Party in the Class Action, save and except in respect of any Opt Out claims.

10.4.2 This Agreement is conditional on the Receiver executing a release, in a form satisfactory to both Wellington West and the Receiver, releasing claims Crocus Investment Fund, its subsidiaries and affiliates, have or in the future may have against the Settling Party.

11. Submissions to the Court by the Administrator

11.1 The Administrator may apply to the Court for directions, as required, upon notice served on Class Counsel and Wellington West's counsel no later than fourteen (14) days prior to the date of any hearing.

12. Termination of this Agreement

12.1 Wellington West's Right of Termination

12.1.1 If persons owning a total of more than 71,100 (0.5 percent) of the Crocus Investment Fund Class A common shares elect to opt out of this Agreement on or before the Opt Out Deadline, Wellington West shall have the unilateral right to terminate this Agreement as set forth in Section 12.2.

12.2 Procedures and Time for Termination

12.2.1 Within thirty (30) days following the Opt Out Deadline the Administrator shall notify counsel for Wellington West and Class Counsel of the total number of persons who have opted out of this Agreement, including all particulars of their Crocus Investment Fund shareholdings and copies of their opt out letters.

12.2.2 Wellington West may exercise its right to terminate this Agreement pursuant to Section 12.1 above by providing written notice to Class Counsel and to the Court within thirty (30) days from the date on which the Administrator provides counsel for Wellington West with the information and documentation pursuant to Section 12.2.1 above.

12.3 Notice of Settlement Class Members

12.3.1 If Wellington West exercises its right of termination pursuant to Section 12 of this Agreement, Notice of Termination shall be given to all Settlement Class Members. The content and method of dissemination of the Notice of Termination shall be determined by the Court. If Wellington West exercises the right to terminate this Agreement, the reasonable costs associated with disseminating the Notice of Certification and Settlement and the Notice of Termination shall be paid by Wellington West.

12.4 Automatic Termination of the Agreement

12.4.1 This Agreement shall, without notice, be automatically terminated without admission by and without prejudice to Wellington West if the Court declines to approve this Agreement in any respect or, in the event of an appeal, if the Court's approval order is not affirmed in all respects.

12.5 Effect of Termination

12.5.1 If this Agreement is terminated pursuant to Section 12 herein, the certification of the Class Action for settlement purposes pursuant to this Agreement shall be null and void and this Agreement shall have no further force or effect and shall not be used or referred to in any litigation.

13. Miscellaneous Provisions

13.1 Ongoing Authority

13.1.1 The Court shall retain continuing jurisdiction over (i) this Agreement to ensure that all payments under this Agreement are properly made, and (ii) the interpretation and enforcement of this Agreement's terms, conditions and obligations.

13.2 Entire Agreement

13.2.1 This Agreement constitutes the entire agreement by and among the Plaintiff and Wellington West with regard to the subject of this Agreement and supersedes any previous agreements and understandings between the Plaintiff and the Settling Party with respect to the subject matter of this Agreement. This Agreement may not be amended except in writing signed by the Plaintiff and Wellington West, and, following the making of the Approval Order, such amendments are subject to the Court's approval.

13.3 Other Originals

13.3.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one instrument.

13.4 Dates

13.4.1 Dates and deadlines referred to in this Agreement may be altered only with the consent of the Plaintiff and Wellington West and, following the making of the Approval Order, with the approval of the Court.

13.5 Use of Agreement

13.5.1 Neither the existence nor the terms of this Agreement may be used as evidence of any admission by the Settling Party regarding fault, liability, causation, damages, and/or any other issue. This Agreement may, however, be relied upon by the Plaintiff or Wellington West for purposes of enforcing any right possessed by such person or for purposes of any motion or application made to the Court for interpretation or enforcement of its terms.

13.6 Notification

13.6.1 Any notification, request, instruction or other document to be given by any party to this Agreement to any other party to this Agreement shall be in writing and delivered personally, sent by facsimile, or sent by registered mail, postage prepaid, if to the Plaintiff, to the attention of Class Counsel and, if to Wellington West, to the attention of its counsel:

For the Plaintiff Bernard W. Bellan and the Settlement Class:

David A. Klein, Douglas Lennox, Jay Prober and J. R. Norman Boudreau

For the Defendant Wellington West Holdings Inc.:

Aikins, MacAulay & Thorvaldson LLP

Attention: David M. Wright / Nicole M. Watson

Dated this _____ day of _____, 2009.

13.6 Notification

13.6.1 Any notification, request, instruction or other document to be given by any party to this Agreement to any other party to this Agreement shall be in writing and delivered personally, sent by facsimile, or sent by registered mail, postage prepaid, if to the Plaintiff, to the attention of Class Counsel and, if to Wellington West, to the attention of its counsel:

For the Plaintiff Bernard W. Bellan and the Settlement Class:

David A. Klein, Douglas Lennox, Jay Prober and J. R. Norman Boudreau

For the Defendant Wellington West Holdings Inc.:

Aikins, MacAulay & Thorvaldson LLP

Attention: David M. Wright / Nicole M. Watson

Dated this 21st day of April, 2009.

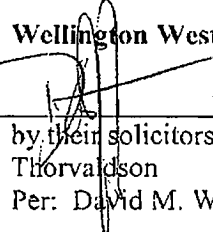
Plaintiff and Settlement Class



by their solicitors, Klein Lyons
Per: David A. Klein

Dated this 17th day of April, 2009.

Wellington West Holdings Inc.



by their solicitors, Aikins, MacAulay &
Thorvaldson
Per: David M. Wright

Schedule B to Order

**Crocus Investment Fund Class Actions
Notice of Certification and Settlement Approval**

To all persons who own Class A common shares in the Crocus Investment Fund (the "Fund"), this notice will be important to you.

Settlements have been approved by the Court in lawsuits brought on behalf of shareholders in the Fund. This notice is published by Order of The Honourable Mr. Justice Hanssen of the Manitoba Court of Queen's Bench and explains:

1. the lawsuits and purpose of this notice;
2. the terms of settlement;
3. your right to choose to opt out of the class actions;
4. legal fees; and
5. where to get more information.

1. The Lawsuits and Purpose of this Notice

Bernard Bellan commenced class action lawsuits relating to the Fund on behalf of shareholders in the Manitoba Court of Queen's Bench as action nos. CI 05-01-42765 and CI 06-01-46955. By notice issued by Mr. Justice Hanssen of the Manitoba Court of Queen's Bench and published July 11, 2008 (the "First Notice"), it was announced that certain defendants, namely the Manitoba Securities Commission, the Government of Manitoba, and BMO Nesbitt Burns Inc had agreed to settle with shareholders, and that the court had approved these settlements. These first settlements became final on August 18, 2008.

This First Notice further advised that a provisional settlement had also been reached, subject to certain amendments, with certain other defendants, namely the former officers and directors of the Fund, Pricewaterhouse Coopers LLP, Crocus Capital Inc., and the Crocus Investment Fund, and that litigation was continuing against Wellington West Capital Inc., with whom no settlement had been reached. All of these remaining defendants have now agreed to settle the claims of shareholders (the "Settling Defendants").

On April 22, 2009, Mr. Justice Hanssen certified the lawsuit against the Settling Defendants as a class action for the purposes of settlement, and approved the settlement agreements, including amendments, reached with the Settling Defendants. The court defined the class as persons who own Class A common shares in the Fund including their legal representatives, heirs, successors and assigns, and who have not opted out but excludes each of the Defendants named or ever named in the lawsuits. The court appointed Mr. Bellan as representative plaintiff for the class. The court appointed the firms of Klein Lyons, Booth Dennehy LLP and Prober Law Offices. (collectively, "Class Counsel") as counsel to the class.

2. The Terms of Settlement

The Settling Defendants have agreed to pay up to a total of \$9.65 million to compensate class members (\$6 million paid by Pricewaterhouse Coopers LLP, \$3.15 million paid by the former

officers and directors of the Fund and \$500,000 paid by Wellington West Capital Inc., now Wellington West Holdings Inc.) The Settling Defendants have also agreed to drop most claims for indemnity against the Fund with respect to claims asserted in the lawsuits, thereby significantly reducing one of the major obstacles to the distribution of money to shareholders held in the Fund's receivership. In exchange, the claims against the Settling Defendants will be dismissed. No admission of liability has been made.

Compensation will be distributed pro rata to the Settlement Class Members based on the monies paid for each Settlement Class Member's Class A common shares of the Crocus Investment Fund which remained unredeemed as of the date of the Receivership. Compensation will be distributed by Deloitte & Touche Inc., the Receiver to the Fund, which the court has appointed as the Administrator for the settlements. It is anticipated that compensation will be distributed to class members at the same time that the Administrator makes a distribution of monies from the Receivership to shareholders. To be eligible to receive compensation, it is not necessary for you to take any steps, other than make sure that the Administrator has your correct mailing address. The Administrator is mailing a copy of this notice to all shareholders in the Fund. If you received a copy of this notice in the mail from the Administrator, and it is addressed to you at your current address, this confirms that it has your mailing address.

The class members' recoveries will be subject to payment of Class Counsel's fee, in an amount to be determined by the Court. Copies of the Settlement Agreements, and amendments, are available online at www.kleinlyons.com. Hard copies can be obtained by calling Class Counsel at 1-800-216-1383.

3. Your Right to Choose Whether or Not to be Part of the Class Actions

(a) How to be Included in the Class

If you are a class member, you will automatically be included in the class actions and eligible to receive compensation unless you opt out.

(b) How to be Excluded from the Lawsuits

To opt out of the class actions, you must deliver a letter to the Administrator on or before the **[Opt Out Deadline]** signed by the person opting out and setting out that person's name, address, number of shares held, the reason for opting out, and specifying which Settling Defendants you are opting out against. Failure to specify which Settling Defendants you are opting out against will be treated as opting out as against all Settling Defendants.

All class members who do not opt out of the settlements with the Settling Defendants, as described above will be bound by the settlements.

The address for writing to the Administrator to opt out is: Crocus Class Action Settlement Administrator, Deloitte & Touche Inc., 360 Main Street, Suite 2300, Winnipeg MB, R3C 3Z3.

4. Legal Fees

Mr. Bellan retained Class Counsel to represent him and the Class in the lawsuits. Class Counsel are paid legal fees only if the lawsuit is successful, and then only in an amount approved by the Court.

5. More Information

For further information about the class actions you may contact: Klein Lyons, Barristers & Solicitors, P.O. Box 85, Suite 1220, 65 Queen St. W., Toronto, ON M5H 2M5, 1-800-216-1383. Attn: Doug Lennox dlennox@kleinlyons.com, www.kleinlyons.com.