

IN THE REPUBLIC OF TRINIDAD AND TOBAGO:

**THE TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE
COMMISSION**

**In The Matter of the Contraventions of section 66(2) of
the Securities Industry Act, 1995 (Act No. 32 of 1995) ("the Act") and
By-Law 55 (1) of the Securities Industry By-Laws, 1997 ("the By-Laws")
By National Insurance Property Development Company Limited**

AND

**In The Matter of
Rule 61 and Rule 62 of
Securities Industry (Hearings and Settlements)
Practice Rules, 2008**

Settlement Agreement

A **SETTLEMENT AGREEMENT** made the 12th day of April Two Thousand and Ten Between **THE TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION** a body corporate established under the Securities Industry Act, 1995 (Act No. 32 of 1995) and having its principal place of business at Numbers 57-59 Dundonald Street, Port of Spain, in the Republic of Trinidad and Tobago (hereinafter called "**the Commission**") of the One Part and **NATIONAL INSURANCE PROPERTY DEVELOPMENT COMPANY LIMITED** a company duly established under the laws of Trinidad and Tobago having its registered office at Numbers 56-60 St. Vincent Street Port of Spain, in the Republic of Trinidad and Tobago (hereinafter called "**the Respondent**") of the Other Part.

1. INTRODUCTION

The Respondent is in contravention of:



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Section 66 (2) of the Act and by-law 55 (1) of the By-Laws by failing to file a copy of its **INTERIM FINANCIAL STATEMENT** on or before **March 31, 2009** for the year **2008**.

By letter dated **February 18, 2010** the Respondent requested the Commission to enter into Settlement Discussions on the matter.

2. JOINT SETTLEMENT RECOMMENDATION

(a) Staff of the Commission ("**the Staff**") recommends settlement with the Respondent in accordance with the terms and conditions set out below. The Respondent agrees to settle on the basis of the facts set out in Clause 5 below and consents to the making of an Order in the form attached in the Schedule hereto ("**the order**").

(b) The terms of this Settlement Agreement, including the attached Schedule (collectively, the "**Settlement Agreement**") will, subject to Clause 9 (b), be released to the public only if and when the Settlement Agreement is approved by the Commission.

3. MISCELLANEOUS

Wherever used in this Agreement words importing the masculine shall include the feminine and words importing the singular shall include the plural unless the context otherwise requires.

4. ACKNOWLEDGEMENT

Staff and the Respondent agree with the facts set out in Clause 5 herein for the purposes of this Settlement Agreement only and further agree that this Agreement is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the Commission under Clause 10(b) or Clause 11(d) or any civil proceedings which may be brought by any other person or agency. No other person or agency may rely upon the terms of this Settlement Agreement or any agreement to the facts stated herein whether or not this Settlement Agreement is approved by the Commission.

5. AGREED FACTS

(a) The Respondent has been a registered Issuer with the Commission since April 15, 2004. The Respondent's financial period runs from July 1st to June 30th of each year.

(b) The Respondent is, therefore, required to file its **INTERIM FINANCIAL STATEMENT** with the Commission on or before **March 1, 2009** for the year **2008**.

(c) By Notice of Contravention S.I. No. 09 of 2010 dated **February 5, 2010** (the "**said Notice of Contravention**") the Commission notified the Respondent that it was in contravention of section 66 (2) of the Act and by-law 55 (1) of the By-Laws by failing to file a copy of its **INTERIM FINANCIAL STATEMENT** with the Commission on or before **March 1, 2009** for the year **2008**.

(d) By letter dated **February 18, 2010** the Respondent admitted to the contravention of section 66 (2) of the Act and by-law 55 (1) of the By-Laws and requested the staff of the Commission to enter into settlement discussions in accordance with Rule 61 (1) of the Securities Industry (Hearings and Settlements) Practice Rules, 2008 ("**the Rules**") and to consider certain mitigating factors.

(e) By letter dated March 3, 2010 the staff of the Commission submitted to the Respondent its proposed terms of settlement having considered the mitigating factors recited in the Respondent's letter dated February 18, 2010 and other mitigating factors in considering whether the maximum penalty should be imposed on the Respondent.

(f) By letter dated March 4, 2010 the Respondent indicated that it was in agreement with the terms of the settlement proposed by the staff of the Commission in its letter dated March 3, 2010 and that it was ready and willing to have the matter settled in accordance with Rule 61(1) of the Rules at a date to be advised by the Commission.

6. THE LAW:

1. Section 66 (2) of the Act and by-law 55 (1) of the By-Laws provide that a reporting issuer shall with the Commission, within sixty days of the date on which it is prepared an **INTERIM FINANCIAL STATEMENT**.
2. The Respondent's failure to file to file its **INTERIM FINANCIAL STATEMENT** with the Commission on or before **March 1, 2009** for the year **2008** is a contravention of section 66 (2) of the Act and by-law 55 (1) of the By-Laws.

7. THE RESPONDENT'S POSITION

- (a) For the purposes of these proceedings under the Rules, the Respondent concedes that the said contravention has occurred.
- (b) The Respondent has requested the Staff of the Commission to consider that:

- 1) at the 278th Meeting of the Board of Directors of the Respondent held on Tuesday, September 16 2008, the financial statements for the period ending June 30, 2008 were presented in draft to the Board of Directors for their perusal and onward submission to the Respondent's external auditors, Messrs. Ernst & Young;
- 2) during the month of June 2009, the Respondent's Executive Manager, Finance and Administration held financial year end meetings with the bond holders at various times during the month and presented them with the Respondent's audited financial statements for the period ending June 30, 2008 and that there was an administrative lapse in procedures which resulted in the unaudited financial statements not being forwarded to the Commission;
- 3) arising out of the circumstance at (2) above, the Respondent has instituted procedures to ensure going forward the company complies strictly with its requirements under the Securities Industry Act, 1995;
- 4) there was no intention on the part of the Respondent to miss the deadline for the submission of its Interim Financial Statement for 2008. The failure to submit the documents in a timely manner was due to inadequate systems to monitor and ensure compliance with deadlines. Further, the Respondent received no notices or reminders from the Trustees advising it of its filing obligation as it did with the amended registration statement;
- 5) steps have been taken by the Management of the Respondent to put proper systems in place so as to avoid a repetition of the above; and
- 6) the Respondent intends to comply with all deadlines imposed on it under the Act.

8. STAFF APPROACH TO THIS SETTLEMENT

- (a) Under Section 143(1) of the Act, the maximum penalty for breach of section 66(2) of the Act and by-law 55(1) of the By-Laws is a sum of \$50,000.00.
- (b) The Staff has taken into account the mitigating factors recited at clause 7 (b) above.

(c) The staff has also taken into account the following factors in considering whether the maximum penalty should be imposed upon the Respondent:

- 1) That the Respondent has accepted responsibility for the contravention;
- 2) That the Respondent filed the 2008 Interim Financial Statement on February 18, 2010;
- 3) That the Respondent has indicated that it has implemented systems to avoid further contraventions; and
- 4) That it was not the first occasion on which the Respondent failed to submit its required financial statements to the Commission within the stipulated deadline.

(d) By reason of the above, the Staff is of the view that the Respondent should pay a lesser penalty of **\$35,000.00**.

9. TERMS OF THE SETTLEMENT

Based on the facts set out in Clause 5 above, the Respondent agrees to the following terms of Settlement:

- (a) The Respondent agrees that, as a term of settlement, it will, upon the making of the Order, make a payment to the Commission in the amount of \$35,000.00 representing the penalty imposed by the Commission for the breach of section 66 (2) of the Act and by-law 55 (1) of the By-Laws.
- (b) If an Order in the form attached as the Schedule is made by the Commission, the Order will be published in the Trinidad and Tobago Gazette, on the Commission's Website and publication in the daily newspapers will be delayed for a period of six months.

10. STAFF COMMITMENT

- (a) If this Settlement Agreement is approved by the Settlement Panel, the Staff will not initiate any further civil or administrative proceeding in respect of any conduct or alleged conduct of the Respondent in relation to the facts set out in Clause 5 above. The approval of this Settlement Agreement by the Settlement Panel shall be signified by the making of the Order of the Commission and such Order shall represent the complete and final resolution of, release and discharge with respect to, all claims, demands, actions and causes of action (of every nature and kind whatsoever, whether known or unknown, suspected or unsuspected, or hereafter discovered or ascertained)

by the Commission against the Respondent for violations arising as a result of or in connection with the facts set out in Clause 5 herein.

- (b) If this Settlement Agreement is approved by the Settlement Panel and the Commission and the Respondent fails to comply with any of the terms of this Settlement Agreement, the Staff reserves the right to bring proceedings under the Act against the Respondent based on, but not limited to, the facts set out in Clause 5 of this Settlement Agreement, as well as the breach of the Settlement Agreement.

11. PROCEDURE FOR APPROVAL OF SETTLEMENT

- (a) An application will be made to the Settlement Panel for the review and approval of the Settlement Agreement in accordance with Rule 62 of the Rules.
- (b) The Staff and the Respondent agree that the Settlement Agreement will constitute the entirety of the evidence to be submitted before the Settlement Panel, unless the parties later agree that further evidence should be submitted to the Settlement Panel.
- (c) The Staff and the Respondent agree that if the Settlement Agreement is approved by the Settlement Panel and the Commission the Respondent agrees to waive its rights to a full hearing, judicial review or appeal of the matter under the Act.
- (d) If for any reason whatsoever, this Settlement Agreement is not approved by the Settlement Panel or an Order in the form attached as the Schedule is not made by the Commission, this Settlement Agreement and all discussions and negotiations between the Staff and the Respondent will be without prejudice to the Staff and the Respondent and each of the Staff and the Respondent will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations in the said Notices of Contravention unaffected by this Settlement Agreement or settlement negotiations.
- (e) Whether or not this Settlement Agreement is approved by the Settlement Panel, the Respondent agrees that it will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation process or approval of this Settlement Agreement as the basis for any allegation against the Commission of lack of jurisdiction, bias, appearance of bias, unfairness or any other remedy or challenge that may otherwise be available.

12. DISCLOSURE OF THE AGREEMENT

The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Settlement Panel and the Order of the Commission executed

under the terms of this Settlement Agreement, and forever if, for any reason whatsoever, this Settlement Agreement is not approved by the Settlement Panel, except with the written consent of both the Respondent and the Commission or as may be required by law.

13. APPLICABLE LAW

This Settlement Agreement shall be governed, construed and interpreted in accordance with the Laws of the Republic of Trinidad and Tobago.

THE SCHEDULE ABOVE REFERRED TO:

TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION

**In the Matter of the Contravention of section 66(2) of the Securities Industry Act, 1995 and by-law 55(1) of The Securities Industry By-Laws, 1997
by the National Insurance Property Development Company Limited**

And

**In The Matter of A Proposed
Settlement Agreement Pursuant To
Part VIII of
Securities Industry (Hearings and Settlements)
Practice Rules, 2008 ("the Rules")**

ORDER OF THE COMMISSION

Dated this day of , 2010

WHEREAS the National Insurance Property Development Company Limited ("the Respondent") failed to file its 2008 Interim Financial Statement with the Commission on or before **March 1, 2009**;

AND WHEREAS by Notice of Contravention S.I. No. 09 of 2010 dated February 5, 2010 the Commission advised the Respondent that it was in contravention of section 66 (2) of the Securities Industry Act, 1995 ("the Act") and by-law 55 (1) of the Securities Industry By-Laws, 1997 ("the By-Laws") by failing to file its **2008** Interim Financial Statement with the Commission on or before **March 1, 2009**;

AND WHEREAS by letter dated February 18, 2010 the Respondent requested the staff of the Commission to enter into settlement discussions to determine whether the matter could be settled;

AND WHEREAS on the day of March, 2010 the Respondent entered into a proposed settlement agreement with the Staff of the Commission which was signed by the General Manager of the Commission on behalf of the Commission and by the on behalf of the Respondent ("**the Settlement Agreement**"), in which the parties agreed to a settlement, subject to the approval of the Settlement Panel;

AND WHEREAS the Settlement Panel approved the Settlement Agreement and agreed to submit the Settlement Agreement to the Commission;

AND WHEREAS the Respondent has agreed to pay the sum of thirty five thousand dollars (\$35,000.00) to the Trinidad and Tobago Securities and Exchange Commission;

AND WHEREAS the Commission has considered the Settlement Agreement and is of the opinion that it is in the public interest to make this Order.

IT IS HEREBY ORDERED THAT:

- (a) The procedure outlined under the Securities Industry (Hearings and Settlements) Practice Rules, 2008 has been followed;
- (b) The Respondent has contravened section 66 (2) of the Act and by-law 55 (1) of the By-Laws;
- (c) Pursuant to section 143 (1) of the Act, the Respondent pay to the Commission, as agent for the Comptroller of Accounts, a fine in the sum of \$35,000.00 within 28 days of the date on which this order is entered; and
- (d) This Order shall be published in the Trinidad and Tobago Gazette, on the Commission's Website and publication in a daily newspaper shall be delayed for a period of six months.

Dated this day of , 2010

Deborah Thomas-Felix
Chairman

Dr. Shelton Nicholls
Commissioner

Vishnu Dhanpaul
Commissioner

Marsha King
Commissioner

IN WITNESS whereof the General Manager on behalf of the Commission has hereunto set his hands the 12th day of April, 2010 and Wendy A. Ali on behalf of **NATIONAL INSURANCE PROPERTY DEVELOPMENT COMPANY LIMITED** has hereunto set her hands the 9th day of April, 2010.

SIGNED by **Charles De Silva** as)
General Manager (Ag) for and on behalf)
of the Trinidad and Tobago Securities)
and Exchange Commission in the)
presence of:)

Charles de Silva

Raphael Roman

SIGNED by **Wendy A. Ali**)
)
As General Manager for and on behalf)
of National Insurance Property)
Development Company Limited n the)
presence of:)

Wendy A. Ali

Velma King
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Executive Assistant

TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION

**In the Matter of the Contravention of section 66(2) of the Securities Industry Act,
1995 and by-law 55(1) of The Securities Industry By-Laws, 1997
by the National Insurance Property Development Company Limited**

And

**In The Matter of A Proposed
Settlement Agreement Pursuant To
Part VIII of
Securities Industry (Hearings and Settlements)
Practice Rules, 2008 ("the Rules")**

ORDER OF THE COMMISSION

Dated this 13th day of April, 2010

WHEREAS the National Insurance Property Development Company Limited ("the Respondent") failed to file its **2008** Interim Financial Statement with the Commission on or before **March 1, 2009**;

AND WHEREAS by Notice of Contravention S.I. No. 09 of 2010 dated February 5, 2010 the Commission advised the Respondent that it was in contravention of section 66 (2) of the Securities Industry Act, 1995 ("the Act") and by-law 55 (1) of the Securities Industry By-Laws, 1997 ("the By-Laws") by failing to file its **2008** Interim Financial Statement with the Commission on or before **March 1, 2009**;



AND WHEREAS by letter dated February 18, 2010 the Respondent requested the staff of the Commission to enter into settlement discussions to determine whether the matter could be settled;

AND WHEREAS on the 12th day of April, 2010 the Respondent entered into a proposed settlement agreement with the Staff of the Commission which was signed by the General Manager of the Commission on behalf of the Commission and by the General Manager on behalf of the Respondent ("**the Settlement Agreement**"), in which the parties agreed to a settlement, subject to the approval of the Settlement Panel;

AND WHEREAS the Settlement Panel approved the Settlement Agreement and agreed to submit the Settlement Agreement to the Commission;

AND WHEREAS the Respondent has agreed to pay the sum of thirty five thousand dollars (\$35,000.00) to the Trinidad and Tobago Securities and Exchange Commission;

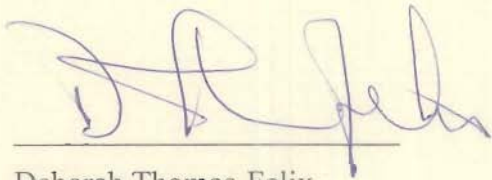
AND WHEREAS the Commission has considered the Settlement Agreement and is of the opinion that it is in the public interest to make this Order.

IT IS HEREBY ORDERED THAT:

- (a) The procedure outlined under the Securities Industry (Hearings and Settlements) Practice Rules, 2008 has been followed;
- (b) The Respondent has contravened section 66 (2) of the Act and by-law 55 (1) of the By-Laws;
- (c) Pursuant to section 143 (1) of the Act, the Respondent pay to the Commission, as agent for the Comptroller of Accounts, a fine in the sum of \$35,000.00 within 28 days of the date on which this order is entered; and

- (d) This Order shall be published in the Trinidad and Tobago Gazette, on the Commission's Website and publication in a daily newspaper shall be delayed for a period of six months.

Dated this 13th day of April, 2010



Deborah Thomas-Felix
Chairman



Dr. Shelton Nicholls
Commissioner



Vishnu Dhanpaul
Commissioner



Marsha King
Commissioner

