

TAB A

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23 June 2010

By Email

Dear Sirs,

Belmont Asset Based Lending Ltd – In Official Liquidation (the "Fund")

As you know, Ian Wight and Stuart Sybersma are appointed as the Joint Official Liquidators of the Fund. As part of the liquidation process, we have been investigating all payments made to investors after the date on which the Fund suspended redemptions (i.e. 27 October 2008). It appears that these payments may have been made in breach of the Fund's constitutional documents and in breach of the Cayman Islands Companies Law. If so, such payments would be unlawful returns of capital and liable to be repaid to the Fund. The purpose of this letter is to put you on notice that any payments you may have received from the Fund after 27 October 2008 may be liable to be returned to the Fund and, if not returned voluntarily, may be the subject of legal action against you. The liquidators' investigation is continuing and we shall revert to you in this regard in due course.

Yours faithfully,



Stefan DuChene
For and on behalf of
Stuart Sybersma
Joint Official Liquidator

TAB B

MINUTES OF SETTLEMENT

WHEREAS in or about August 2006, Vontobel Holding AG ("**Vontobel**") invested seed capital in the Belmont Dynamic Segregated Portfolio (the "**Segregated Portfolio**"), with a subscription of 50,000 Class A shares (the "**Shares**") for US\$5 million (the "**Seed Capital**").

WHEREAS Vontobel advises that in or about May 2008, it decided to withdraw the Seed Capital from the Segregated Portfolio in two instalments.

WHEREAS on or about May 9, 2008, Vontobel submitted a redemption request to Citco Fund Services (Europe B.V.) ("**Citco**") to redeem 20,000 Shares (the "**First Redemption Request**").

WHEREAS on or about August 4, 2008, approximately US\$2 million was paid to Vontobel, and 20,000 Shares were redeemed.

WHEREAS on or about June 23, 2008, Vontobel requested that the custodian for its Shares in the Segregated Portfolio, SIS SegalInterSettle AG ("**SIS**"), make a redemption request for the remaining 30,000 Shares (the "**Second Redemption Request**"). On or about August 5, 2008, SIS placed the Second Redemption Request with Citco.

WHEREAS the amount claimed by Vontobel for the Second Redemption Request is US\$2,262,900.

WHEREAS the First Redemption Request and the Second Redemption Request (collectively, the "**Redemption Requests**") were the subject of a proposed derivative action within Court File No. CV-09-8227-00CL. In the cross application in Court File No. CV-09-8227-00CL (the "**Derivative Application**"), an order was

sought pursuant to the *Business Corporations Act* (Ontario) granting leave to Omniscope Advisors Inc. to commence a derivative action on behalf of Belmont Dynamic GP Inc., as general partner of the Belmont Dynamic Growth Fund, against Peter Fanconi, Harcourt Investment Consulting AG and Vontobel, in respect of, *inter alia*, the Redemption Requests.

WHEREAS on or about August 6, 2009, by Order of Madam Justice Mesbur of the Ontario Superior Court of Justice in Court File No. 09-8302-00CL (the "**Appointment Order**"), KPMG Inc. was appointed receiver and manager (the "**Receiver**") of the assets, undertakings and properties of the Belmont Dynamic Growth Fund, an Ontario limited partnership. In the Appointment Order, the Court ordered that the Derivative Application to be dealt with by the Receiver.

WHEREAS on or about August 25, 2010, the Receiver shall seek approval of the settlement described herein by the Ontario Superior Court of Justice in Court File No. 09-8302-00CL.

NOW THEREFORE in consideration of the promises and agreements contained in these Minutes of Settlement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree to settle the dispute between Belmont Dynamic Growth Fund (the "**Belmont Fund**"), Harcourt Investment Consulting AG ("**Harcourt**") and Vontobel in the Derivative Application on the following basis:

1. The Belmont Fund shall not pursue the derivative action for which leave was sought in the Derivative Application or the claims listed in the draft Statement of Claim at Schedule "A" to the Notice of Cross Application issued on or about July 29, 2009 in the Derivative Application.
2. Vontobel shall:
 - (a) retain all monies paid to it pursuant to the First Redemption Request;

- (b) withdraw the Second Redemption Request;
 - (c) be deemed to have redeemed approximately 25,188.9169 Shares (the "**Deemed Redeemed Shares**") in the Segregated Portfolio;
 - (d) receive, in exchange for the Deemed Redeemed Shares, approximately 15.6 percent of any net cash receipts in the Segregated Portfolio, which monies shall be paid out on a *pari passu* basis with the shareholders in the Segregated Portfolio, up to a maximum amount of US\$1.9 million;
 - (e) continue to hold the equivalent of approximately 4,811.0831 Shares (the "**Remaining Shares**"); and
 - (f) in respect of the Remaining Shares, have rights in the distribution of surplus assets on the same basis as the other shareholders of the Segregated Portfolio;
3. Costs shall continue to be paid in the ordinary course from the funds available in the Segregated Portfolio.
 4. Harcourt shall provide ongoing cooperation with respect to the provision of information to the Receiver on a regular and timely basis.
 5. The Segregated Portfolio shall distribute available funds, less a reasonable reserve for administrative costs, immediately following approval of this settlement by the Court, and thereafter distributions shall be made on a quarterly basis or other interval as appropriate.
 6. In exchange, the Receiver will not pursue the derivative action for which leave was sought in the Derivative Application or the claims listed in the draft Statement of Claim at Schedule "A" to the Notice of Cross Application issued on or about July 29, 2009 in the Derivative Application.
 7. This settlement shall be governed and construed in accordance with the laws of Ontario.
 8. The parties agree that these Minutes of Settlement may be signed in counterparts by original or facsimile signature.

Dated at _____ this _____ day of _____, 2010.

**HARCOURT INVESTMENT
CONSULTING AG**

By: _____
Authorized Signing Officer

Dated at _____ this _____ day of _____, 2010.

VONTOBEL HOLDING AG

By: _____
Authorized Signing Officer

Dated at _____ this _____ day of _____, 2010.

**BELMONT DYNAMIC GROWTH
FUND, by its Court Appointed
Receiver KPMG Inc., in its capacity as
Court Appointed Receiver and not in
its personal capacity.**

By: _____
Authorized Signing Officer

Belmont SPC acknowledges and agrees to be bound by the terms of these Minutes of Settlement.

Dated at _____ this _____ day of _____, 2010.

BELMONT SPC

By: _____
Authorized Signing Officer

TAB C

STIKEMAN ELLIOTT

Stikeman Elliott LLP Barristers & Solicitors

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BY E-MAIL

August 23, 2010
File No.: 102002.1009

John A. MacDonald
Osler, Hoskin & Harcourt LLP
6100, 100 King Street West
1 First Canadian Place
P.O. Box 50
Toronto ON M5X 1B8

Dear Mr. MacDonald:

Re: Belmont Dynamic Growth Fund (the "Belmont Fund")

We acknowledge receipt of the responding materials served upon us by National Bank of Canada (Global) Limited ("NBCG") on August 18, 2010 including the Affidavit of Hayden Jones of Barbados (the "Jones Affidavit"). The Receiver had not anticipated receiving responding materials from NBCG given the length of time that had lapsed since the date the Third Report of the Receiver (the "Third Report") was first provided to NBCG on June 21, 2010.

While NBCG's responding materials speak to a number of issues not before the Court, the issue at the heart of the materials appears to be NBCG's disagreement with the request that a reserve be held by the Receiver in respect of funds paid out from the Segregated Portfolio. The Third Report referenced the possibility of a reserve being held by the Receiver and as you will recall, we began discussing this issue in late June. At that time, you noted NBCG's disagreement with the Receiver holding the reserve. You had provided some general comments in respect of this issue, but despite our requests, the details of your position and arguments were not provided until we received your client's sworn affidavit, factum and book of authorities on August 18, 2010. It is unfortunate that we could not have discussed these issues directly without incurring the costs of preparing and responding to these materials.

Upon reviewing the responding materials and the Jones Affidavit, we note the responding materials speak to a number of issues which are not before the Court for the August 25, 2010 motion, including:

- (a) the Receiver's ability to terminate the Forward Contracts;

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- (b) jurisdictional issues relating to NBCG's Proof of Claim filed in December 2009; and
- (c) the merits of NBCG's claim.

These issues were not placed before the Court by the Receiver in respect of the August 25, 2010 motion, nor is there a motion by NBCG relating to these matters. As such, the commentary in the Jones Affidavit and the factum are largely irrelevant for the purposes of the upcoming motion. Accordingly, except for a few points below, the Receiver does not intend to respond in detail to the various statements made in the responding materials. Most of those issues will be dealt with at a future date if and when there are relevant motions before the Court or at the hearing of NBCG's claim. The Receiver reserves its rights to file additional information at the appropriate time.

There are a few areas that do require response at this time, and I have outlined those briefly below.

First, there are some inherent inconsistencies in the positions outlined in the responding materials. At times, NBCG's seeks to portray their position in the Belmont Fund structure as "critical" i.e., they are the shareholders of the Segregated Portfolio; they allegedly used their own funds to purchase the shares in the Segregated Portfolio; they hold the direct interest in the Segregated Portfolio to the exclusion of the Belmont Fund and its Receiver.¹ At other times, NBCG seeks to distance itself from the Belmont Fund structure, and instead alleges that NBCG was effectively a notional player in this investment structure who incurred no risk - such risk to be borne solely by the Belmont Fund and its Limited Partners.²

In fact, as has been noted in the Receiver's previous reports, and is clear in the nature of this investment structure, the Belmont Fund while not holding a direct shareholding does hold an indirect economic interest in the Segregated Portfolio. The principal assets of the Belmont Fund are the Forward Contracts. The value of the Forward Contracts is based on the market value of a notional investment in the

¹ See for example, paras 10, 28, 31(c) of the Jones Affidavit

² See for example, paras 12, 27 and 29 of the Jones Affidavit. Para 27 - "NBCG did not agree to assume any of the investment risk assumed by investors in the Belmont Fund by virtue of the Forward Contracts. Rather, NBCG agreed to enter into the Forward contracts as a means to provide Canadian Belmont Fund investors with exposure to the potential return on the Cayman Islands Segregated Portfolio without having to purchase shares directly in the Segregated Portfolio."

Par 29 - "As a result of purchasing the NBCG Segregated Portfolio Shares, NBCG hedged its risk (i.e. its obligation to pay a cash amount equal in value to the value of the Segregated Portfolio less certain deductions) and ensured that regardless of the change in value of the Share Baskets or the Segregated Portfolio on the Forward Maturity or Termination date, NBCG would experience no financial loss as a result of changes in the value of the Segregated Portfolio or Share Baskets. Investors in the Belmont Fund assumed the entire risk of investing in the Belmont Fund."

Segregated Portfolio, subject to any relevant adjustments. Therefore, the value of the Forward Contracts varies directly with the market value and return of the Segregated Portfolio. As a result, the value of the Belmont Fund is directly tied to the value of and potential recovery from the Segregated Fund.

While two separate investment arrangements exist between the Belmont Fund and the Counterparty and then the Counterparty and the Segregated Portfolio, the economic and practical reality of the investment structure is that the two arrangements are not divorced of one another. It is within this context that the Belmont Fund, and the Receiver's role must be addressed.

Second, NBCG raises for the first time in these materials, its interpretation of various terms in the Initial Order granted August 6, 2009 and specifically the definitions of Property and the nature of the Receiver's role thereunder. As you will note, Property is broadly defined in the Initial Order and in our view is broad enough to capture the economic interests in the Segregated Portfolio. The Receiver's role involves receiving, preserving, protecting and maintaining control of the Property. This includes addressing the Belmont Fund's economic interests held in the Segregated Portfolio. We note that since the Receiver's appointment in August 2009, the Receiver has been in direct contact with the Segregated Portfolio and its advisors with respect to the financial position of the Segregated Portfolio, including information regarding the investments therein.

Third, on the issue of potential risk in being associated with the Belmont Fund, there is an inherent risk in becoming involved in investment structures like this one, including risk associated with NBCG's decision to enter into subsequent hedge agreements. The ultimate responsibility for this risk remains an issue for the Court to decide, based on a complete record.

Turning to the Jones Affidavit, as noted in paragraph 4(b): "The purchase price for the Share Baskets under the Forward Contracts is not based on the value of the Share Baskets but rather the value of the Segregated Portfolio". This issue is also raised indirectly in paragraph 12 of the Jones Affidavit.

This statement further demonstrates the connection between the Belmont Fund and the Segregated Portfolio. It is also the reason why the Receiver has raised with you the issue of the means by which distributions/payments available to be paid by the Segregated Portfolio flow through to the stakeholders, and are appropriately valued. The means by which interim distributions/payments from the Segregated Portfolio would have been reconciled during the ordinary course of the Forward Contracts is not available at this time as redemptions and pre-settlements are presently stayed given the winding up of the Segregated Portfolio and Belmont Fund. The appropriate manner in which to provide for the distributions/payments in our present circumstances is therefore a matter of ongoing discussion between the Receiver and NBCG. While these discussions are ongoing, it is the Receiver's view that maintaining the funds in the hands of the Receiver would provide the least disruption or potential adverse consequences.

In paragraphs 16 - 20 of the Jones Affidavit, Mr. Jones speaks to various deductions allegedly able to be taken under the Forward Contracts. As your client is well aware, this is a live issue in the Proof of Claim filed by NBCG and it should be determined by the Court with the benefit of a complete motion record. Furthermore, this is not relevant to the upcoming motion.

In response to paragraph 32(b) of the Jones Affidavit, while NBCG holds a security interest in the Share Baskets, the obligations which are secured remain a live issue (as noted in the Notice of Revision and Disallowance issued by the Receiver to the NBCG Proof of Claim). Furthermore, it is unclear on what basis NBCG states that it held a beneficial interest in the Share Baskets (although the issue is likely irrelevant for the purposes of the upcoming motion).

At paragraphs 36-40 of the Jones Affidavit, NBCG raises a potential jurisdictional issue in respect of the Proof of Claim filed, on a without prejudice basis, by NBCG in December 2009. Again, this is not relevant to the matters before the Court on August 25, 2010. NBCG has reserved its rights to deal with this issue at some future date, presumably when the merits of NBCG's claim are before the Court.

At paragraphs 39 and 40 of the Jones Affidavit, NBCG raises the issue of the Receiver's ability to terminate the Forward Contracts. Again, this is not relevant to the matters before the Court on August 25, 2010. In any event, we do note that Madam Justice Hoy dealt with this authority on October 21, 2009 with the following order:

"THIS COURT ORDERS that the Receivership Order is amended by deleting paragraph 4 of the Receivership Order, so that the Receiver is hereby expressly empowered and authorized to terminate or consent to the termination of any Forward Contract and to sell or otherwise dispose of any material portion of the Property where the Receiver considers it necessary or desirable to do so." [Order attached as Appendix B to the Third Report]

That motion was brought on notice to NBCG, although the Order reflects NBCG was not in attendance at the motion. The Order was not appealed. We have exchanged our respective views on this issue in the past. In any event, if and when the issue of the termination of the Forward Contracts is brought directly before the Court on complete motion materials, our respective clients can address the issues at that time with the Court.

Mr. Jones speaks at some length in his affidavit to the merits of the NBCG Proof of Claim.³ Again, this issue is not relevant to the matters before the Court on August 25, 2010 and the Receiver reserves its right to respond in detail when the claim is properly before an adjudicator. As you are aware we have been discussing

³ Paras 17, 18, 19, 20, 33-35

for some time receipt of your client's outstanding supporting information in respect of the quantum of their claim and the process by which NBCG's claim is to be determined - at a future date. The outstanding information is critical to a process to determine NBCG's claim and is required before such a process can begin. We once again urge you to provide this information to us as soon as possible.

Status of the Forward Contracts

In addition to discussions about how to determine NBCG's claim, the Receiver has raised with NBCG a number of other issues that need to be addressed, including the impact of distributions from the Segregated Portfolio on the value of the Forward Contracts and the future flow of funds upon determination of NBCG's claim.

As discussed above, the value of the Forward Contracts is derived from the value of the Segregated Portfolio. The Receiver is concerned about the impact that the flow of funds from the Segregated Portfolio will have on the value of the Forward Contracts i.e., as cash is paid out of the Segregated Portfolio the net asset value of the Segregated Portfolio will decrease.

Paragraphs 11-15 of the Jones Affidavit provide details about the mechanics of settling and valuing the Forward Contracts on the Forward Maturity Date. In addition, the Forward Contracts provide that the Belmont Fund may elect to pre-settle all or part of the Forward Contracts for redemptions or other purposes, provided there have been no events of default or other trigger events. When no default/trigger events have occurred, the Belmont Fund is able to elect to partially pre-settle the Forward Contracts in order to match any distributions from the Segregated Portfolio and preserve the value of the Forward Contracts. It is crucial that we determine the mechanics of distributions/payments and valuation in the present circumstances and, as set out above, we believe it is appropriate for funds to be maintained in the hands of a neutral court officer while such issues are being determined.

The Requested Reserve

In direct response to the request by the Receiver to maintain a reserve, NBCG suggests that the Receiver is seeking to expropriate NBCG's interest and/or re-write the contractual arrangements. This was never the Receiver's intention.

The basis for the Receiver's request to maintain the reserve pending further Court Order is as follows:

- The Receiver is seeking to preserve the assets and economic interests of the Belmont Fund;
- Issues remain in dispute between the parties, including the manner which the Forward Contracts are to be interpreted; potential claims against the funds;

the manner in which the Limited Partners should realize on the Forward Contracts, and the impact of any distributions from the Segregated Portfolio on the value of the Forward Contracts (i.e. the Forward Price);

- While such issues are still in dispute, the Receiver seeks to have the funds repatriated to Canada, and held in the hands of a neutral Court Officer;
- As noted, the Forward Contracts do not contemplate various scenarios during a winding up process, and while the parties and if necessary the Court, work their way through the issues the Receiver would prefer to hold the funds in order that as neutral a result as possible is available to all relevant stakeholders;
- The funds will remain the subject of the Court's oversight, while being held by the Receiver; and
- By holding the reserve, the Receiver does not intend to expropriate or alter the rights of the parties, or to put NBCG at risk. Instead the Receiver seeks to preserve those rights and interests pending a future determination and interpretation of the contractual arrangements on the basis of a complete record before the Court.

The Receiver is prepared to discuss these issues further with you in advance of the hearing.

Yours truly,

Elizabeth Pillon

EP/as

cc. Elizabeth Murphy / Johnny Chow, KPMG Inc.