Court file no. 197884
Vancouver Registry

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA

Regina

v.

Ian Gregory Thow

AGREED STATEMENT OF FACTS, IN SUPPORT OF JOINT SUBMISSION ON SENTENCE

Overview

1. Ian Thow received complainants' funds for two main types of fraudulent (non-existent) investments: National Commercial Bank of Jamaica shares and taxes on such shares; and short-term development mortgages.

2. Many of the complainants previously made legitimate investments through Mr. Thow, who was a Vice President of Berkshire Investments, but none of the fraudulent investments were recorded in Berkshire's accounts. Before Mr. Thow joined Berkshire in 1998, several complainants made legitimate investments through Thow when he was previously employed by Investors' Group. Some complainants had known Mr. Thow since he was a teenager.

3. Mr. Thow told complainants that he himself had become wealthy by following the investment practises of Michael Lee-Chin, who was the principal owner of both Berkshire Investments and the National Commercial Bank of Jamaica (NCBJ), and/or that he had profited by investing in development mortgages.

4. When complainants gave cheques or bank drafts to Mr. Thow for investment, sometimes Thow asked for payments to him personally, and sometimes he asked for payments to one of his companies: AYG Investments, Vancouver Island Jet, or 657594 B.C. Limited.

5. In relation to all of the fraudulent investments, there were no share certificates, prospectuses, mortgage agreements, or statements of investment. Many complainants asked for documentation; Mr. Thow told them "trust me," and also told them that his wife and lawyer knew the details of the investments in case anything happened to Thow. The Crown is not asserting that Mr. Thow's wife or his lawyer or lawyers were complicit in the offences.

6. Mr. Thow did not use complainants' funds to purchase shares, or to pay related taxes, or to invest in government-backed loans, or to invest in development mortgages. Instead Thow used complainants' funds to partially refund other investors, and to pay off his own mortgages, loans, lines of credit, credit cards, overdrafts, and personal expenses.

7. In relation to the fraudulent share purchases and loans, Mr. Thow received just over $5,463,000 from four couples and three individual complainants who incurred net losses, after partial repayments, of over $3,725,000. In relation to the fraudulent development mortgages, Thow received just under $4,500,000 from seven couples and five individual complainants, who incurred net losses, after partial repayments, of just over $4,000,000. The complainant Ronald Black, who believed that he was investing in both Jamaican bank shares and development mortgages, gave Thow $335,000 during the period covered by the police investigation, and was repaid $114,500, with a net loss of $220,500 during that period. The total invested by all complainants was about $10,195,000, with total losses amounting to just under $8,000,000 over a two-and-a-half year period.

8. The dates and figures in this document all should be read as including the terms "about" or "approximately." Victim Impact Statements also will be filed.

Share Purchase / Loan Counts

9. Mr. Thow told complainants that he was a director of the NCBJ. Thow purported to sell NCBJ preferred shares, which he said were not listed on any stock exchange because they were sold only to Berkshire clients, or to

"friends and family." Thow told one complainant that Berkshire Investments was about to offer its own shares for public sale.

10. In fact, Mr. Thow was not a director, shareholder or employee of NCBJ, nor had he been considered for any directorship with NCBJ. Thow did not participate in any meeting of the NCBJ Board of Directors, nor did he perform any work on behalf of NCBJ. NCBJ did not issue any preferred shares, nor did Berkshire Investments ever offer its own shares for public sale.

Daryl Goodwin

11. Daryl Goodwin is a pilot for Air Canada. He was friends with Ian Thow in 1978 or 1979 when both were teenagers in flight school. In 2003, Thow and the Goodwin brothers (Daryl and Bradley) happened to meet again at a hockey game. Thow invited Daryl Goodwin to dinner and to another hockey game, and showed Goodwin a private jet that Thow had just purchased. Thow told Goodwin that he (Thow) was earning $7 million per year at Berkshire Investments, another $2 million per year as a director of the National Commercial Bank of Jamaica, and that Thow was "worth" $350 million U.S.. Goodwin was impressed, and began discussing investments with Thow. Goodwin had little investment knowledge and relied upon financial advisors.

12. Thow invited Daryl Goodwin and his brother Bradley to Michael Lee-Chin's "Meet the Billionaire" speaking engagement. Later Thow met with Daryl, Bradley, and their father Donald Goodwin. Thow offered them various investments, including NCBJ preferred shares. Thow said that he guaranteed any principal amounts that were invested in the shares, and he said that soon there would be a big announcement about NCBJ, so Daryl Goodwin should buy the shares as soon as possible.

13. In April 2003, Thow told Daryl Goodwin that Thow had used his own money to buy $800,000 worth of NCBJ preferred shares in Goodwin's name. Goodwin said that he did not have $800,000. Thow asked Goodwin how much Goodwin could invest. On April 16, 2003, Goodwin invested $400,000, after Thow said that his $800,000 purchase of NCBJ shares had gained $50,000 in one week. In return, Thow gave Goodwin a cheque for $450,000, as a

guarantee of the principal and profit on Goodwin's NCBJ shares. Goodwin did not attempt to cash Thow's "guarantee" cheque.

14. Daryl Goodwin, his brother Bradley, and their father Donald, along with other clients of Thow, were treated to a luxurious stay at a fishing lodge on Langara Island, B.C.. In June 2003, Thow offered Daryl Goodwin a 30-day GIC with the NCBJ, which Thow said would earn 15% or 16% in one month. Goodwin invested an additional $300,000 on June 17, 2003. After a month, Thow told Goodwin that NCBJ shares "were going to pop," and Goodwin took Thow's advice to "roll over" the 30-day GIC into another NCBJ investment.

15. In December 2003, Thow took Daryl Goodwin and his brother Bradley to Jamaica on Thow's private jet. They stayed at a villa which Thow said was owned by Michael Lee-Chin, and they visited an NCBJ branch. Thow told a bank employee that the Goodwins had invested in the bank, and the employee gave them a tour of the branch. When they returned to Canada, on December 16, 2003, Daryl Goodwin invested a further $300,000 (from a line of credit).

16. Thow said that Goodwin could earn $100,000 in two weeks and, on March 17, 2004, Goodwin invested another $450,000 (U.S.), equivalent to $599,935 CDN. At times Thow told Goodwin that his investment had quadrupled in value.

17. In early 2004, Daryl Goodwin began repeatedly asking for returns on his investment. Beginning in May 2004, Thow gave Goodwin cash, cheques or bank drafts from time to time, which eventually totalled $967,597 in re-payment. Thow flew Goodwin and other clients to Las Vegas; Thow also provided dozens of seats at hockey games.

18. Daryl Goodwin, his brother Bradley, and his father Donald, all had invested with Thow. They became concerned as they came to believe that Thow had purchased a large house, aircraft, a boat, vehicles, and various trips. In early 2005, the Goodwins met with Thow and asked for full returns on their investments. Thow said that he was having a tough time and suggested that the Goodwins could deal with Thow's lawyer. Thow subsequently told Daryl Goodwin that he would recover his investments, but Goodwin lost $632,338.

Bradley and Gina Goodwin

19. Bradley Goodwin, Daryl's brother, also was a pilot with Air Canada, but he was on disability leave and his wife Gina had no pension, so they needed safe investments for their retirement. After attending the "Meet a Billionaire" event and after meeting with Thow, Bradley Goodwin moved his funds to Berkshire Investments through Thow.

20. In April 2003, Thow told Goodwin that Thow had bought NCBJ preferred shares for him, and that the shares already had gained $40,000. Goodwin had no previous knowledge of this share purchase. Thow explained that he wanted Goodwin to get these shares early, because they would make nothing but money. Goodwin invested $200,000 (from a line of credit) in NCBJ shares, making payments on May 7 and May 12, 2003. Goodwin told Thow that he needed returns to supplement his disability pension. Thow said that the NCBJ investment was not risky, and as security Thow gave Goodwin a $200,000 "promissory cheque."

21. Thow often said that the NCBJ shares were doing very well, and asked Goodwin to invest more. Goodwin told Thow of a U.S. savings account that he maintained for possible surgery in the United States. Thow assured Goodwin that those savings would earn more in a NCBJ investment, and Goodwin invested a further $50,000 U.S. ($68,542.26 CDN) on May 28, 2003. As a "guarantee," Thow gave Goodwin a $50,000 U.S. cheque. Thow arranged a mortgage on Goodwin's house, and Goodwin invested a further $150,000 on June 27, 2003. Thow gave him another "guarantee" cheque in the amount of $150,000. Goodwin invested a further $70,000 on December 15, 2003, and Thow gave him another "guarantee" cheque in the amount of $70,000.

22. In February 2004, Thow told Bradley Goodwin that his investment had tripled, then that it had quadrupled, and that Bradley and Gina could take a holiday and pay off their debts. Thow said that Lee-Chin would make an announcement that would result in big profits in two weeks, and Goodwin invested a final $50,000 on March 1, 2004. When Goodwin requested the returns, Thow advised him to leave the money invested; when Goodwin asked if

he could cash the "guarantee" cheques, Thow said that those cheques had expired after six months. Goodwin asked for replacement "security" cheques, but Thow told Goodwin not to worry. In April 2004 the Goodwins requested $50,000 in advance of their vacation; Thow gave them a $50,000 U.S. ($66,300 CDN) cheque which was "NSF" until Thow transferred funds to cover the cheque. After that, the Goodwins repeatedly asked for all their money back, and Thow eventually said that he would withdraw the money from Jamaica in October 2004. But on the day the Goodwins met Thow to receive their pay-out, Thow said that the investments were being used to purchase a bank in Trinidad.

23. For a further six months, Bradley and Gina Goodwin constantly demanded the return of their money, and eventually they joined Daryl Goodwin and their parents Donald and Anna Goodwin in confronting Thow. Thow gave Bradley and Gina several further return payments between October 2004 and February 2005, comprising $219,997.40. Bradley and Gina Goodwin lost a total of $252,244.86.

Donald and Anna Goodwin

24. Donald Goodwin is a 76-year-old retired Air Canada pilot, and his wife Anna is a 72-year-old retired nurse. They met Ian Thow when Thow was 17 years old and was taking flying lessons with their sons. Thow spent nights and weekends at the Goodwins' home, and the Goodwins became friendly with Thow's parents.

25. After Thow re-connected with the Goodwins' sons at a hockey game in 2003, Thow telephoned the senior Goodwins and arranged to fly them to Arizona on one of his jets. He explained that they had been like parents to him and he wanted to pay them back. After that, Thow flew the Goodwins to Calgary to visit a sick friend, and to Victoria to visit his mansion. In February 2003, Thow invited the Goodwins to move their joint RRSP to Berkshire Investments, and the Goodwins did so.

26. In June 2003, Thow offered the Goodwins NCBJ preferred shares, saying that Thow would keep the shares in trust; that the shares would make a good return; and that the principal could be reclaimed at any time. The

Goodwins invested $100,000 and then an additional $40,000 on June 20, 2003. They asked why the NCBJ shares did not appear on their Berkshire Investments statements. Thow said that the investment was "all legal, trust me," and that the share value was doubling or tripling. On January 27, 2004, the Goodwins invested another $140,000 in NCBJ shares. In February 2004, Thow offered them a short-term, high-profit NCBJ investment, and the Goodwins paid a further $60,000 on February 20, 2004. At Donald Goodwin's birthday party, Thow gave the Goodwins $10,000 U.S. ($13,391 CDN) in unsigned American Express travellers' cheques, as profit on their NCBJ investments.

27. On March 18, 2003, Thow obtained a hotel room upgrade and free breakfast for the Goodwins, and at the same time he asked them to send him $20,000 for a two-week investment, which they did. In April, Thow told the Goodwins that their latest investment had increased by 40% and that he would "square up" with them next week. Instead the Goodwins repeatedly telephoned Thow and he gave explanations for delaying payment, including his separation from his wife. In July 2004, Thow sent the Goodwins a $30,000 wire transfer, but Anna Goodwin wrote a letter explaining to Thow that Donald's health was deteriorating, and that they wanted the return of their principal. They confronted Thow in person in November 2004, and after continued demands, Thow gave them a $100,000 bank draft on December 3, 2004.

28. In January 2005, Anna, Donald and their sons asked in person for the return of their investments. Thow then said that the investments were long-term, but the senior Goodwins had wanted short-term investments because they were in their 70's. Thow offered them 10% on their investments; later he gave Donald and Anna $50,000. Despite further attempts at recovery, they lost $166,609, and incurred a line of credit secured by their property.

Derek and Leslie Stimson

29. Derek Stimson and his wife Leslie live in Lethbridge, Alberta. Mr. Stimson owns a very large farm equipment dealership, and he is a sophisticated investor. Stimson met Ian Thow in the spring of 2004, when Thow agreed to buy

a private jet from Stimson. Thow offered to pay for the jet partly with NCBJ preferred shares, which Stimson declined as a form of payment.

30. In April 2004, Thow told Stimson that he (Thow) had bought $100,000 U.S. worth of NCBJ shares for Stimson, and that the shares were now worth $131,000. Stimson had not requested nor had he known of the share purchase. He researched Berkshire, NCBJ, and their parent company, found them to be genuine, and confirmed that NCBJ's common shares were publicly traded. On April 26, 2004 Stimson paid Thow $100,000 U.S. ($135,560 CDN) for the preferred shares, and asked Thow for a receipt. Thow sent Stimson a receipt from Thow's charter flight company, Vancouver Island Jet, which indicated that Stimson had purchased $100,000 U.S. worth of flight time. Stimson did not intend to purchase flight time, since he had his own jet, and he did not sign the receipt. Stimson asked Thow about the receipt, and Thow said that it was a way of keeping track of money that was being sent offshore.

31. About three weeks later, Thow told Stimson that his $100,000 investment had more than doubled, and asked Stimson if he wanted to invest more. Stimson and his wife Leslie decided to invest an additional $100,000 from their joint account on May 20, 2004. Again, Thow sent Stimson a receipt for $100,000 worth of flight time with Vancouver Island Jet, explaining that it was an interim record. Stimson repeatedly asked for documentation of the NCBJ shares. Instead, Thow came to Lethbridge in one of his jets, picked up Stimson and his accountant, and flew them to Jamaica where they toured a NCBJ branch. Around the end of June 2004, Thow told Stimson that his investment of $200,000 U.S. now was worth $631,000 U.S.. Stimson asked for the return of the principal $200,000, but Thow said that it could not be withdrawn. In November 2004, Thow offered Stimson a 30-day Jamaican government investment that Thow said would increase from $500,000 to $600,000, but Stimson declined.

32. In early 2005, Thow asked Stimson to come to Victoria to meet Michael Lee-Chin, and said that Stimson could collect his money then. However when Stimson came to Victoria, Thow told Stimson not to say anything to Lee-Chin about the purchase of NCBJ shares. Stimson demanded his money from

Thow. Thow said that he could not return Stimson's investment, but said that he had 49 million dollars coming out of Jamaica in the next week. Stimson contacted Berkshire Investment's compliance officer, and found that Berkshire had no record of the NCBJ shares.

33. Thow told Stimson that he was bringing a cheque to Lethbridge for Stimson, then arrived without any cheque and said that the money had not yet come from Jamaica. After that, Stimson met with the Goodwins, and together they flew to Toronto to complain to the Berkshire Investments head office. However, their lawyers notified them that Thow had put money aside for them, so they returned west, only to find that Thow had withdrawn the funds. Derek and Leslie Stimson lost approximately $271,520 (converted to Canadian dollars.)

Brian Tajiri and Tri T Farms Ltd.

34. Brian Tajiri is a potato farmer in southern Alberta, doing business as Tri T Farms Ltd. Tajiri relies upon financial advisors to choose his investments. Tajiri, Greg Nakamura and another farmer ("the farmers"), went with Derek Stimson to a NHL playoff game where they met Ian Thow. Thow took them all to dinners on the dates of subsequent games. Thow's jet picked up the farmers in Lethbridge and flew them to a playoff game in San Jose, and then to Las Vegas. Thow paid for all accommodation and meals, including one $18,500 group dinner. In May 2004, Thow's jet and helicopter flew the farmers from Lethbridge to a fishing lodge on Langara Island, B.C. for two or three days, during which Thow spoke of his financial success.

35. In June 2004, Tajiri and Nakamura met with Thow to learn about investments. He gave them printed materials about Berkshire Investments and about business in Jamaica, and he recommended that they invest in Jamaican bank shares. Thow recommended that the investments be made in Thow's name because he had a special exemption to withdraw funds from Jamaica at a 12% tax rate. He told the farmers that they would not lose their principal investment – it was guaranteed – and that the value could triple or quadruple. Thow offered to himself fund their investments until they could raise money. The

farmers asked why Thow would do that, and he said that he liked them, they were friends, and Lee-Chin had done the same for Thow.

36. Tajiri told Thow that he wanted to invest only for six to twelve months. On June 25, 2004, he wired Thow $250,000 for Jamaican bank shares. In the following weeks, Thow told Tajiri that the shares were increasing in value and doing great. In July 2004, Thow asked Tajiri if he wanted to invest more. On July 23, 2004 Tajiri sent Thow $200,000 for a two- to four-week investment. Tajiri subsequently telephoned Thow many times asking for his returns, which he needed for farm operations. In September 2004, Thow sent Tajiri $200,000. The farmers saw in stock exchange listings that the price of NCBJ common shares was not rising, but Thow told them that their shares were a private class and were "going through the roof."

37. In December 2004, Thow offered the farmers a different Jamaican investment: short-term loans for reconstruction after a hurricane. Thow said that these loans were guaranteed by the Jamaican government, and would pay up to 25% per month. Tajiri sent Thow $261,720 for this investment on December 14, 2004. After a month Tajiri asked for his returns, but Thow advised him to re-invest for a second month because the interest compounded monthly. Subsequently Thow advised Tajiri to re-invest for a third month. Thow promised the farmers NCBJ credit cards with limits of $100,000 U.S., and Mercedes cars, as partial returns on their investments.

38. In March 2005 Thow told the farmers that he could return their investments to Canada, but that they needed to pay 12% tax on their profits, with a total tax of $828,000. Nakamura did not have cash on hand, so Tajiri paid most of the purported tax, $721,334 which he sent to Thow on March 16, 2005. The farmers received no returns. After many unproductive telephone calls with Thow, in May 2005 they flew to Victoria and met with him. Thow had them sign confidentiality agreements, then he told them that he was having problems with Derek Stimson and the Goodwins, and that the money had not come from Jamaica.

39. For another month, the farmers continued demanding their returns, and in June 2005 Tajiri again flew to Victoria to meet with Thow. Thow blamed the Goodwins and Stimson for his inability to pay returns, and also said that he could not withdraw money from Jamaica because Michael Lee-Chin was watching him. Thow told the farmers that "he had our backs" and that if necessary he would sell his house to refund their investments. They did not hear from Thow again, and Tajiri lost $1,233,075.

Greg Nakamura

40. Greg Nakamura entrusted most of his investment decisions to financial advisors. Like Brian Tajiri, Nakamura met Thow at a NHL playoff game, and Thow treated Nakamura and the others to game-day dinners and private jet trips to San Jose, Las Vegas, and the fishing lodge on Langara Island. Thow said that he would purchase NCBJ shares to hold in trust for them, and their investment would be safe with him.

41. Nakamura trusted Thow and hoped to retire by making enough money at once. He agreed to invest $1,000,000, beginning with a payment of $250,000 on June 28, 2004, and following with a payment of $750,000 on July 26, 2004. Thow told Nakamura that his investment was making all kinds of money. Nakamura thought that he had bought the same type of NCBJ shares that were listed on the Jamaican Stock Exchange, and he noticed that those shares were not gaining value.

42. Nakamura told Thow that he needed a return of $200,000 by the end of September 2004, but received nothing. In October, Thow told him that the share value had doubled, and Nakamura should not withdraw his investment until December. In December, Thow offered a 25% return on short-term hurricane reconstruction loans. Nakamura questioned Thow about this investment, which sounded too good to be true. Thow assured Nakamura that it was not a "scam" and that he would never "screw" the farmers, and Nakamura agreed that his requested return of $200,000 should be re-invested in 35-day reconstruction loans. After 35 days Thow advised Nakamura to leave the money invested for another term because $200,000 would double to $400,000.

43. In February 2005, Thow introduced the farmers to Michael Lee-Chin, who was said to be one of the richest people in the world. Thow told Nakamura that he was having difficulty returning investments due to his divorce, but that the investments were making money and that Nakamura could trust him. Thow asked Nakamura what was the minimum return that he needed at that time, and Nakamura requested $50,000. About two weeks later, on March 1, 2005, Nakamura received a wire payment in that amount.

44. In March 2005 Thow told the farmers that he was withdrawing all their money from Jamaica, and that they needed to pay 12% tax on their profits. Nakamura had no available cash, so Tajiri paid Nakamura's share of the purported tax. They received no returns, and Nakamura recalled scheduling half a dozen meetings with Thow, all of which Thow cancelled. Finally the farmers flew to Victoria, where Thow had them sign confidentiality agreements and then told them that he could not repay them due to his problems with Derek Stimson and the Goodwins, and that he could not withdraw money from Jamaica because Lee-Chin was watching him. Greg Nakamura lost $950,010; he had re-mortgaged his house to invest with Thow.

Richard Lorette

50. Richard Lorette was a pilot for Carson Air. In 2002, Ian Thow bought an airplane from Carson Air, and Lorette then worked as a pilot for Thow. In January 2003, Lorette and his wife moved their investments to Berkshire through Thow. Lorette believed that Thow was very successful, and that Berkshire was a solid company. At some point, Lorette told Thow that he would be interested in buying Berkshire shares if they were ever issued to the public.

51. In September 2004 Thow told Lorette that Berkshire shares were "going public" in about a week, and that Thow could buy shares for Lorette immediately. Thow withdrew the entire value of the Lorettes' joint account, purportedly to invest in Berkshire public shares. Lorette wanted the transaction reversed so $97,000 was moved back into the couple's joint account. However, Lorette gave Thow $100,000 from the joint account on September 21, 2004, and $20,000 from Lorette's individual account on September 28, 2004, for the

purchase of Berkshire public shares. Lorette asked for some type of security, and Thow gave Lorette a cheque for $120,000, which Lorette did not cash at that time.

52. Later, Lorette determined that Berkshire Investments had never issued public shares. Lorette confronted Thow, who said that some Canadian provinces had not given regulatory approval, and subsequently he offered other explanations. In March or April of 2005, Lorette asked for his money back. Thow said that he would return the money, but he did not return Lorette's subsequent telephone calls. Lorette attempted to cash Thow's "security" cheque for $120,000, but found that the bank account upon which the cheque was issued had been closed. Lorette lost his entire $120,000.

Development Mortgage Counts

53. The complainants who invested in putative development mortgages were longstanding clients of Ian Thow in his role as a professional investment advisor. Many complainants were impressed by Mr. Thow's increasing profile in the community. Almost all of these complainants had experienced losses in the value of their existing investments, and Thow advised them that investing in development mortgages would help them to recoup their past losses.

54. In order to invest in mortgages, almost all of these complainants borrowed on lines of credit, loans, or mortgages on their homes; Mr. Thow initiated many of the loan applications. Thow assured these complainants that the development mortgages were low-risk and would yield 8% to 10% interest, plus possible bonuses, for terms between three weeks and four months.

55. The complainants received no documentation of the development mortgages, but Mr. Thow said that the mortgages were screened and documented by a large, reputable Vancouver law firm. In fact that firm did not manage investments, and the complainants' names do not appear in the firm's client database. The investments offered by Thow did not exist and no development mortgages or similar investments were ever secured by Thow on behalf of these complainants.

Pat and Kathryn Olson

56. The Olsons became Thow's clients in the spring of 1987, when he worked for Investors Group. For a period the Olsons had a different financial advisor, but around 2000 they returned to Thow after he had moved to Berkshire Investments. The Olsons were not knowledgeable about investments and they trusted their financial advisors. They knew that Thow made publicized charitable donations and that he owned a yacht.

57. Pat Olson's brother defaulted on a loan that Pat had co-signed, and they lost money as a result. In early 2005, Pat Olson was diagnosed as clinically depressed with an anxiety disorder. Thow visited the Olsons, and suggested mortgage investments as a means of recouping the loss. Thow's company, AYG Investments, would disburse the invested funds through a Vancouver lawyer to a developer in the form of an "interim mortgage". For an initial investment of $250,000, the Olsons would receive $20,000 profit after three months. Thow laughed at Kathryn Olson's concern that this might be "another Enron" and said that he would back the mortgage investments with his own money.

58. Previously, Thow had initiated a line of credit for the Olsons; for the mortgage investment, Mr. Olson gave Thow two cheques totalling $250,000. However, the Olsons changed their minds and repeatedly asked for the return of their funds, because their banker was "distressed" about the transaction, and because they no longer had funds for a planned cruise. About a month later, Thow gave them a cheque for $251,048 which he said included an interest payment.

59. At the beginning of May, 2005, Thow telephoned the Olsons from the airport on his way to Australia. He told them of another investment opportunity which would be more in their "comfort zone": $100,000 with an $8,000 return after one month. Since Thow had returned their first payment, the Olsons did not doubt the legitimacy of his new offer. On May 20, 2005, they signed a "Declaration of Bare Trust and Agency Agreement" brought to them by Thow's assistant. Mr. Olson did not understand all the terms of the Agreement, but it specified that the funds were to be advanced to an unnamed real estate

developer, and the loan would be repaid by June 19, 2005 with interest at 10% per annum and a $20,000 bonus upon maturity.

60. On May 24, 2005, the Olsons provided a cheque for $100,000, drawn upon their line of credit. After the June maturity date, the Olsons made numerous unsuccessful attempts to contact Thow. They lost a total of $98,952.

Shirley Garwood and Helena Kells

61. Shirley Garwood is 72 years old, and her sister Helena Kells is 83 years old. They have limited investment knowledge. When they moved to Victoria in 1989 they learned of Investors Group from the Welcome Wagon service, and Ian Thow became the sisters' investment advisor. They had purchased a house mortgage-free with funds left by their deceased husbands, but they mortgaged the house in order to make investments. The sisters told Thow never to lose their capital, because it was all they had. When Thow moved from Investors Group to Berkshire in 1998, the sisters moved their accounts with him.

62. In February 2004, Thow told the sisters that he felt bad about the 50% decline in the value of their mutual funds, although he said that it was not his fault. He suggested moving their money into developers' mortgages, and told the sisters that he himself had made $100,000,000 by investing in such mortgages. He said that in three months they could earn 10% interest, plus a $10,000 bonus. The sisters queried such a high rate, but Thow said that developers needed money quickly so they paid high interest.

63. Garwood and Kells borrowed more on their house mortgage, and authorized Thow to liquidate their accounts at Berkshire (incurring redemption fees and taxes). Then Garwood gave Thow a cheque for $130,000, and a second cheque for $25,000, and Kells gave Thow a cheque for $150,000, and a second cheque for $25,000, all four cheques being dated February 26, 2004. (Kells' $25,000 cheque was reversed and was replaced by a cheque of equal value from Kells, dated March 4, 2004.) Garwood gave Thow a further cheque for $10,000 dated May 26, 2004. Thow assured the sisters that they were his

favourite clients, that their investments were safe, and that he would look after them.

64. At the end of the original three-month term, the sisters asked for their funds, but Thow said that he had re-invested for another six months. The sisters began constantly asking Thow for their money. Thow gave them each a cheque for $5,000 in September 2004. Garwood invested a further $115,000 with Thow on December 20, 2004. In February 2005, Garwood told Thow that she needed money to pay her income tax, and Thow gave back $10,000. In May 2005, he gave Garwood an additional $30,000.

65. In June 2005, the sisters were concerned about media reports of Thow's dealings. On August 1, 2005, they invited Thow to their home and surreptitiously tape-recorded the conversation. Thow told the sisters that probably they would recover 50% of their investment. He said that he would coach them on how to get money from the receiver and from Berkshire. He told them not to talk with anyone and not to hire a lawyer. He now said that they had loaned him money rather than investing in mortgages. The elderly sisters lost $405,000 and were left with a large mortgage on their home.

Margaret Trono

66. Margaret Trono had "intermediate" investment knowledge and she was willing to take some risks. A neighbour recommended Ian Thow; Trono and her husband started investing with him in 1991. Thow eventually told Trono that he was worth $100,000,000, showing her a letter from a bank to that effect. In November 2004, Thow recommended that Trono sell her mutual funds and use the proceeds to invest in "builders' first mortgages." He told her that there was no risk and that she would earn 10% to 11% interest on three- or four-month terms.

67. Trono attempted to borrow from the Bank of Montreal, but when the manager asked too many questions she left. Thow then arranged for Trono a $350,000 loan from Scotiabank, and he brought forms for Trono to sign. In addition, Trono redeemed $118,000 in mutual funds, withdrew $30,000 from investments at the Royal Bank, and used two lines of credit, each for $50,000, all

to invest with Thow. Between November 30, 2004 and February 15, 2005, Trono wrote five cheques totalling $600,000. When the mortgage investment was supposed to have matured, Thow told Trono that the mortgage had been extended and that there would be an additional bonus payment. He also told her not to tell anyone about the investment. Thow never paid back any of the money, so Trono's total loss was $600,000.

Andrea and Eugene Racicot

68. The Racicots were neighbours of Ian Thow's parents, and when he was younger, Thow occasionally babysat the Racicots' children. In 1992 Thow became their investment advisor. The Racicots had minimal investment knowledge, and Mr. Racicot transferred his pension into investments with Thow. In August 2004, Thow proposed that the Racicots invest in builders' mortgages with an annual interest rate of 8.5% and an 8% bonus payable in December, 2004. Thow stated that the mortgages were handled by a large, reputable Vancouver law firm. The Racicots agreed to redeem their non-registered funds in order to invest in mortgages, but Thow also redeemed their RRSPs without authorization. That year the Racicots faced a tax bill of about $30,000, due primarily to the redemption of the RRSPs.

69. Between August 17 and September 27, 2004, Mr. Racicot wrote Thow five cheques totalling $300,000. There was no payment upon the maturity date, so Mr. Racicot contacted Thow, who said that the mortgage had been extended to January 2005 and the bonus had increased to 12%. In February 2005, Thow explained that the investment had been "rolled over" into yet another builder's mortgage until June 2005, paying 8.25% interest and an 8% bonus on maturity. The Racicots demanded their money back and finally in May 2005, they received a $40,000 cheque from Thow. They received no other repayments and their total loss was $260,000.

Jacqueline Prenevost

70. Jacqueline Prenevost met Thow at his wedding in 1983. In the 1990s, Thow became the investment advisor for Prenevost and her husband,

Rolly. When some of their investments declined, Thow suggested that they invest in development mortgages. At that time, Prenevost's husband was dying.

71. On Thow's advice, Prenevost cashed in mutual funds worth $95,955, and on March 1, 2004, she wrote Thow two cheques totalling that amount. She understood that $55,955 would go to mortgage investments; Thow returned $40,000 to Prenevost so that she could pay off an existing line of credit. His initial cheque was "NSF," but he replaced it with a bank draft to Prenevost. Eventually, in October 2004 Thow returned $10,000 to Prenevost, and in May 2005 he returned a further $12,500. Her total loss was $33,455.

Peter and Sonia Engstad

72. Peter and Sonia Engstad approached Ian Thow in 1997 when he was an advisor at Investors Group. They wanted to invest for retirement, and to assist their son with medical school fees. Thow introduced the Engstads to a bank representative who arranged a loan for them to invest. When Thow moved to Berkshire Investments as a Senior Vice-President in December 1998, the Engstads moved their funds to Berkshire due to their confidence in Thow. In 1999 Thow gave the Engstads' son a $2,000 scholarship.

73. The Engstads' investments declined in value, and in October 2004, Thow told the Engstads that he felt a personal and moral obligation to recoup their losses. He told them that he owned shares of the NCBJ, and that he had become so wealthy from NCBJ shares that he might retire. He wished that the Engstads had done likewise, but said that one must own property in Jamaica to buy NCBJ shares.

74. Instead, Thow recommended that the Engstads invest in "mezzanine financing," which he explained as short-term mortgages to builders whose projects were nearing completion. He said that the mortgages were for three- or four-month terms yielding 8% interest, with a 10% bonus if the funds were repaid early. Thow stressed that he backed only reputable builders and that only once did he have difficulty collecting on this type of investment. Thow assisted the Engstads in obtaining a new line of credit, and on October 13, 2004 they gave him a cheque for $100,000.

75. Shortly thereafter, Thow contacted the Engstads about another "mezzanine financing" opportunity, and he suggested that they sell some of their Berkshire mutual funds in order to make the new investment. On October 27, 2004 they gave him a $200,000 cheque. Thow told Mr. Engstad that Berkshire might enquire why they sold their funds, and Thow advised Engstad to say that they had not been happy with returns from Berkshire. He also told them not to inform their banker. On November 3, 2004 the Engstads invested another $90,000 with Thow.

76. The Engstads were uncomfortable with the absence of any documentation, but Thow said that their investments were listed with his lawyer. He also promised a $390,000 "security" cheque. In November 2004 Thow visited the Engstads and told them that their investment was doing great and would yield a healthy return in early 2005. He pulled a cheque from his pocket but said "this is a lousy way of doing business," so the Engstads felt embarrassed about not trusting Thow, and they did not accept the security cheque.

77. During the first few months of 2005, the Engstads attempted to meet with Thow to obtain their returns, but he was always busy, forgot one appointment, and cancelled another. On the day of Thow's departure on a trip to New Zealand, he telephoned the Engstads and urgently asked them to invest another $250,000, and asked if they had any friends who would invest in mortgages. Mr. Engstad declined, telling Thow that he already had all their money.

78. In July 2005 the Engstads heard media reports of Thow's problems; they contacted him and he came to their home. After asking the Engstads whether they were recording the conversation, Thow told them that he was not insolvent and that he would repay their "loan." They had not heard the word "loan" before, having given Thow money for investments. Thow said that he was still worth millions, and he swore that if the Engstads didn't get their money back from the receiver, he would pay it back with interest. The Engstads lost their entire $390,000.

Gloria and William Boudreau

79. Gloria Boudreau is 82 years old, and her husband Gerry Boudreau is 85 years old. Ian Thow was recommended to them in 1998 by Gerry's sisters, Shirley Garwood and Helena Kells. Thow immediately recommended "leveraging," but the Boudreaus did not want to borrow more than $50,000. To their surprise, Thow showed them a Bank of Montreal loan application in their name, which had been approved in the amount of $200,000. Although the loan application and credit check had been done without the Boudreaus' approval, they agreed to borrow in order to make investments. Shortly thereafter, the Boudreaus moved their investments with Thow from Investors Group to Berkshire.

80. In March 2004, Thow was sorry to tell the Boudreaus that the value of their investments had declined below the amount they had borrowed. He said that neither he nor Berkshire were at fault, but he wanted to "make it up to them" by offering an investment in three-month mortgages that yielded 10% interest plus bonuses. Thow said that his lawyers had a "bullet-proof" plan for the mortgages, with very little risk. The minimum investment was $350,000, so Thow suggested that the Boudreaus increase their line of credit as well as redeeming and transferring their Berkshire mutual funds. He said that the new investment must be kept confidential or Berkshire would fire him. The Boudreaus were very concerned about recouping their previous losses.

81. In response to Thow's repeated requests, on March 12, 2004 Gloria Boudreau gave Thow a cheque for $25,000; on March 17, 2004 she gave him a cheque for $159,000; on March 19, 2004 she gave him a cheque for $125,000; and on March 26, 2004 she gave him a cheque for $40,000, all for investment in a short-term mortgage. Thow purported to re-invest the money in successive mortgages. After persistent requests by the Boudreaus, Thow gave them a "Private Business Transaction Agreement" dated March 30, 2005, acknowledging that the Boudreaus by then had invested $426,150 with a maturity date of August 30, 2005, for repayment with 8.5% interest. After complaints were publicized,

Thow told the Boudreaus not to worry as their investment was safe. No repayments were ever made, and the Boudreaus lost $349,000.

Paul and Beverly Haley

82. Ian Thow was recommended to Paul and Beverly Haley when Thow was working for Investors Group. In 1999 the Haleys moved their investments with Thow from Investors Group to Berkshire. In November 2004, the Haleys were unhappy with the decline of their mutual funds, and Thow advised them of a short-term mortgage investment program. Thow showed the Haleys a flow chart which purportedly indicated that Berkshire backed the mortgage investments, and that the program was managed by AYG Investments and 657594 B.C. Ltd. (the Haleys remained unaware that Thow owned these companies). The Haleys asked about documentation, and Thow said that would be provided by the Vancouver law firm Borden, Ladner, Gervais. Thow said that the law firm screened developers to ensure that they owned the development properties, so there was 100% security in case of default. Thow told the Haleys that the mortgages would pay 8% per annum, plus a bonus of 6% to 8%.

83. On December 1, 2004, Mr. Haley gave Thow a cheque for $100,000, but Thow said that the amount was insufficient for a development mortgage. Thow arranged for the Haleys to obtain a line of credit secured by their property, and he calculated that their cost of borrowing would be less than their earnings on the investment. On December 15, 2004 the Haleys gave Thow two more cheques, for $200,000 and $175,000 respectively.

84. In March 2005, the Haleys told Thow that the payments on their line of credit were too high and that they need returns. Thow said that he had already re-invested their funds (without their instructions.) After three postponed meetings, on May 31, 2005, the Haleys met with Thow, who told them that their investment had matured and that he would give them a cheque in a few days. Thow also told the Haleys that he was retiring from Berkshire in order to pursue other business interests. The Haleys never received any returns, and they lost $475,000.

Douglas and Olga McColl

85. The McColls met Thow while he was with Investors Group and they moved with him to Berkshire Investments. The couple kept their finances separate and they did not discuss their investments with each other, but both spouses invested independently with Thow. In October 2004, Thow approached Olga McColl with an opportunity to invest in a three-month development mortgage. Thow's lawyer would protect the investment by drawing up papers that would be delivered a week after the funds were deposited. Olga McColl's other investments had declined considerably, so she agreed. To make this investment, she redeemed $240,000 from her Berkshire funds, paying $10,000 in redemption penalties. On October 7, 2004, she wrote a $230,000 cheque to one of Thow's companies. Thow pressed for a further $20,000, but Olga McColl declined.

86. At the expiry of the three-month term, Olga McColl asked for her money back. Thow told her that it had been re-invested for another three months (without her consent.) He wanted her to invest a further $75,000. When she explained that she had no more money, Thow met her in the parking lot of a White Spot restaurant, bringing blank Scotiabank loan forms that she signed. Thow's assistant received the bank's $75,000 loan cheque and passed it to Olga McColl, who gave Thow a $75,000 cheque dated January 21, 2005. She then discovered that her payments on the loan were much higher than Thow had told her ($500 a month instead of $50). She tried to meet with Thow, but he did not show up or return calls.

87. About a month later, Douglas McColl met Thow to discuss his separate investments, which also were declining in value. Thow told Mr. McColl about the short-term mortgage investment, saying that it involved major construction projects secured by first mortgages ensuring an 8% to 12% yield or more within six months. To make the investment, Mr. McColl secured a $45,000 line of credit and redeemed $38,000 of investments from Berkshire. On February 28, 2005 he gave Thow a cheque for $45,000, and on March 7, 2005 he gave Thow a cheque for $38,000.

88. Neither Douglas nor Olga McColl received any of the promised returns, and they lost $388,000.

Pauline Peirce

89. Pauline Peirce met Thow through Ronald and Sheila Black in 2000. Her previous investment experience was limited to GICs; Thow repeatedly asked her to trust him, and she accepted his advice. He reminded her of his position with Berkshire (he falsely claimed to own 2% of the company), and he listed a number of high-profile clients.

90. When Peirce sold her house in 2003, she invested half the proceeds in low- to medium-risk GICs with Berkshire. Without Peirce's consent, Thow transferred her money from the GICs into her own bank account. Peirce incurred $17,000 in redemption penalties, but Thow told her not worry because she would more than recover the penalties by investing in development mortgages with a promised return of 8% for a 90-day term. He explained that developers in Vancouver and Toronto were willing to pay a higher rate of interest in order to avoid the "red tape" of borrowing from banks. He also told her that the mortgage investments were secure under the umbrella of Berkshire, and that actually mutual funds were riskier.

91. Peirce was convinced to give Thow cheques for $350,000 on October 8, 2004, and $50,000 on October 22, 2004. To fund the second cheque, Thow arranged for Peirce a $50,000 loan from Scotiabank. Thow subsequently pressed Peirce for further funds, saying that she did not understand about creating a tax shelter. He offered her a 5% return over an 11-day term. She took $16,500 from her savings and borrowed $30,000 from a friend, giving Thow a cheque for $46,500 on April 22, 2005. When Peirce later asked about her investments, Thow told her that he had reinvested the funds for another term but that she would be getting a large amount of money in a few weeks. He explained that the investments were doing extremely well and not to worry as they were risk-free.

92. In May 2005, Peirce was angered to learn that again Thow had re-invested her funds without her consent. Thow deposited into her account

$10,000, but Peirce demanded all of her money back. Thow left her a message that he had a cheque in hand for the entire amount, but that he could not reach her. In June 2005, she received a cheque for $30,000, which she used to re-imburse the friend who earlier had lent her that amount. Peirce lost $406,000 to Thow.

John and Julie Barrand

93. In 2001, a friend of John and Julie Barrand recommended Ian Thow, and they transferred their investments to Berkshire. However, their portfolio diminished in value. In December 2004, Thow repeatedly offered the Barrands NCBJ shares. They declined, as they did not wish to invest off-shore.

94. In January of 2005, Thow told the Barrands that he felt terrible about their losses, but said that they would not recoup with Berkshire. To "make them whole," Thow offered the Barrands a three-month development mortgage which would pay 10% interest plus an 8% bonus. Thow said that the mortgage was for a project in Surrey, B.C., and that the Barrands could reclaim their principal and interest at any time. He said that he himself had been investing in developer's mortgages for two-and-a-half years, and that he personally guaranteed their investment. Thow showed the Barrands a letter from the Bank of Montreal, which they understood to mean that Thow was worth millions.

95. On January 24, 2005, the Barrands invested $200,000 (borrowed from their bank), and on January 27, 2005 they invested a further $400,000 (from redeemed Berkshire investments.) Thow gave the Barrands a handwritten receipt from AYG Investments, which he said was his company that invested in development mortgages. Thow said that the Vancouver law firm Borden, Ladner, Gervais would provide further documentation. In February 2005, Thow asked the Barrands to invest a further $150,000, but they declined.

96. The Barrands enquired repeatedly about their mortgage investment, and at the beginning of May 2005 Thow told them that the borrower had requested a three-week extension, for which the Barrands would be paid an additional 2%. The Barrands pointed out that they had not agreed to the extension. On May 31, 2005, Thow told them that they would receive interest

totalling $87,000. The Barrands made several subsequent requests because they needed to pay off their bank loan, and Thow told them that he would give them $187,000 in the first week of June. On June 1, 2005, the Barrands invested a further $50,000 in what Thow said was a 10-day development mortgage. They received only $20,000 in return for all of their mortgage investments.

97. On July 13, 2005, Thow came to the Barrands' home and told them that he was honourable, that he had not "scammed" anyone, and that he had large assets that could be liquidated if necessary. He declined to sign an acknowledgment of the mortgages, but he asked the Barrands to sign a confidentiality agreement (they refused.) The Barrands lost $630,000.

Ronald Black

98. Ronald Black, an 82-year-old widower, was one of Ian Thow's clients at Investors' Group since 1989, and he followed Mr. Thow to Berkshire Investments. From 1998 onwards, Mr. Black and his late wife Sheila, who had been impaired by a stroke, made regular payments to Thow. They trusted Thow to hold their funds for investment opportunities, and to make investments as he saw best. When Black asked for documentation, Thow said "Do you trust me? . . . Then don't worry about it."

99. Thow arranged for Black to obtain a large bank loan secured by Black's house. Black gave Thow $20,000 on December 23, 2003; $50,000 on February 27, 2004; $60,000 on May 19, 2004; $20,000 on August 25, 2004; $25,000 on December 3, 2004; $10,000 on March 29, 2005; and $50,000 on April 25, 2005. Black understood that Thow invested Black's funds in NCBJ shares, in development mortgages, and possibly in Thow's own companies. Thow told Black that Black would obtain 8% to 10% interest in as little as three months. When Black asked about matured investments, Thow said that he had already reinvested them. Thow gave Black cheques when Black requested money for a cruise or for income tax, and later gave Black monthly payments.

100. Black's wife Sheila died in 2004; they had no children. Black decided that Thow should be Black's executor. Thow said that since he was raising four children, he could use the money immediately, so Black gave Thow a

cheque for $100,000 on January 28, 2005. Black believed that this represented the portion of the estate that Thow could claim for his services as executor. On June 3, 2005, Black executed a will naming Thow as his executor and sole beneficiary. After Thow left Canada, Black obtained new legal advice and revoked the will.

101. The period of Black's investments subject to forensic accounting was between November 1, 2003 and September 8, 2005. Seized cheques and bank statements confirm that during that period Ronald Black gave Ian Thow $335,000, and Black received from Thow cheques totalling $114,500, for a net loss of $220,500. Black later lost his house.

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