

**ALBERTA SECURITIES COMMISSION**

**AMENDED AMENDED NOTICE OF HEARING**

**Citation: Planned Legacies Inc., Re, 2010 ABASC 376**

**Date: 20100811  
Docket: ENF-005306**

*Securities Act, R.S.A. 2000, c. S-4, as amended (Act)*

**To: Planned Legacies Inc., Paul Charles Whitelaw, Redeeming Health Inc., David Edward Harris, RightHedge Chrono-Logic Fund, Limited Partnership, RightHedge Investments, Inc., RightHedge Investments, LLC, RIGHTHEDGE INVESTMENTS, Inc., also known as Righthedge Investments Inc., Francois Michaud, doing business as Righthedge Investments, and Francois Michaud (Respondents)**

**Notice:** The Alberta Securities Commission (**Commission**) will convene at 9:00 am on Monday, the 4th day of October, 2010, at Calgary, Alberta, to conduct a hearing regarding the allegations in this Notice. Pre-hearing conferences to deal with any preliminary matters arising have been scheduled on Wednesday, August 25, 2010 at 10:00 am, and Wednesday, September 15, 2010 at 10:00 am. At the hearing, the Commission will consider whether it is in the public interest to order:

- (i) Under subsection 198(1)(a) of the *Act*, that trading in or purchasing cease in respect of specified securities;
- (ii) Under subsection 198(1)(b) of the *Act*, that you cease trading in or purchasing securities;
- (iii) Under subsection 198(1)(b.2) of the *Act*, that you be reprimanded;
- (iv) Under subsection 198(1)(c) of the *Act*, that any or all of the exemptions contained in the Alberta securities laws do not apply to you;
- (v) Under subsection 198(1)(d) and (e) of the *Act*, that you resign any positions that you hold as a director or officer of an issuer, registrant or investment fund manager, and that you be prohibited from becoming or acting as a director or officer or as both a director and officer of any issuer, registrant, or investment fund manager;
- (vi) Under subsection 198(1)(e.3) of the *Act*, that you be prohibited from acting in a management or consultative capacity in connection with activities in

the securities market;

(vii) Under subsection 198(1)(i) of the *Act*, that you pay to the commission any amounts obtained or payments or losses avoided as a result of non-compliance with Alberta securities laws;

(viii) Under subsection 199 of the *Act*, that you pay an administrative penalty to the Commission;

(ix) Under subsections 202(1) and (2) of the *Act*, that you pay the costs of the investigation and hearing to the Commission; and

(x) Such further and other order under Section 198 as the Commission deems appropriate.

**Location:** Alberta Securities Commission, 6<sup>th</sup> Floor, 300 – 5<sup>th</sup> Avenue SW, Calgary, Alberta.

**Procedure:**

1. You may obtain disclosure and particulars of the allegations in this Notice from Tom McCartney, c/o Alberta Securities Commission, 4<sup>th</sup> Floor, 300 - 5 Avenue SW, Calgary, Alberta, T2P 3C4, telephone 403.355.4480.
2. You may be represented by legal counsel and you or your counsel may make representations and introduce relevant evidence.
3. If you or your counsel fail to attend at the hearing or pre-hearing conferences, or as directed, the hearing may proceed in your absence and an order may be made against you without further notice.

*See also section 29 of the Act and Commission Rule 15-501 – Rules of Practice and Procedure for Commission Proceedings.*

## **Allegations**

### *Summary of Breaches*

1 Staff of the Commission (**Staff**) alleges that:

1.1 Planned Legacies Inc. (**PLI**), Paul Charles Whitelaw (**Whitelaw**), Redeeming Health Inc. (**Redeeming Health**), and David Edward Harris (**Harris**) (together, the **PLI Group**) engaged in illegal trades and distributions of PLI securities in Alberta;

1.2 RightHedge Chrono-Logic Fund, Limited Partnership (**Fund**), RightHedge Investments, Inc., RightHedge Investments, LLC, RIGHTHEDGE INVESTMENTS, Inc. also known as Righthedge Investments Inc., Francois Michaud doing business as Righthedge Investments (together, the **Righthedge Group**), and Francois Michaud (**Michaud**) engaged in illegal trades and distributions of securities of the Fund in Alberta;

1.3 PLI and Whitelaw made misleading or untrue statements to investors in contracts for the sale of PLI securities;

1.4 Whitelaw and Harris acted as an investment advisors in Alberta without being registered to do so; and

1.5 each of the Respondents acted contrary to the public interest.

### *Parties*

2 PLI was incorporated in Alberta on July 12, 1989 and, at all material times, carried on business from an office in Calgary, Alberta. PLI described itself as a private funds manager. It was never a reporting issuer in Alberta and has never been registered with the Executive Director of the Commission (**Executive Director**) in any capacity.

3 Whitelaw is a resident of Alberta. At all material times, he was a director, president and shareholder of PLI and authorised, permitted or acquiesced in PLI's activities described below. Whitelaw was not registered with the Executive Director in any capacity during the times material to these proceedings.

4 Redeeming Health was incorporated in Alberta on June 21, 1999 and, at all material times, carried on business from an office in Airdrie, Alberta. It was never a reporting issuer in Alberta and has never been registered with the Executive Director in any capacity.

5 Harris is a resident of Alberta. At all material times he was a director, president and shareholder of Redeeming Health and authorised permitted or acquiesced in Redeeming Health's activities described below. Harris was never registered with the Executive Director in any capacity.

6 The Fund was formed as a limited partnership in Nevada, USA on April 8, 2002, and maintained its registered office in Las Vegas, Nevada, USA. As of February 18, 2010 its status with the Nevada Secretary of State was listed as revoked. The Fund's Offering Memorandum dated January 2007 (**Fund's OM**), at three different places, describes three different entities, namely "RightHedge Investments, Inc.", "RightHedge Investments, LLC", and "RIGHTHEDGE INVESTMENTS, Inc.", to be the Fund's general partner. The Fund's OM describes Michaud as the managing member of the Fund with primary responsibility for managing its assets. The Fund was never a reporting issuer in Alberta and has never been registered with the Executive Director in any capacity.

7 RightHedge Investments, Inc (**RightHedge Vanuatu**) was incorporated in the Republic of Vanuatu in 2006 and has its registered office in Port Vila, Vanuatu. Its directors, shareholders and officers are unknown. The Fund's OM (at para. I.A) describes RightHedge Vanuatu to be the general partner of the Fund and states that Michaud is its managing member. RightHedge Vanuatu's registered agent is DX Global Limited, which also has a registered office in Vanuatu. RightHedge Vanuatu was never a reporting issuer in Alberta and has never been registered with the Executive Director in any capacity.

8 RightHedge Investments LLC (**RightHedge Nevada**) was incorporated in Nevada, USA on April 8, 2002, and maintained its registered office in Las Vegas, Nevada, USA. As of March 29, 2010, its status with the Nevada Secretary of State was listed as revoked. The Fund's OM (at para. II.B) also describes RightHedge Nevada to be the general partner of the Fund, and describes Michaud as RightHedge Nevada's founder, managing member, principal and chief investment officer. RightHedge Nevada was never a reporting issuer in Alberta and has never been registered with the Executive Director in any capacity.

9 RIGHTEEDGE INVESTMENTS, Inc., also known as Righthedge Investments Inc., (**Righthedge Alberta**) was incorporated in Alberta on September 11, 2008. From that date and through the material times, Righthedge Alberta carried on business from an office in Edmonton Alberta. The face page of Fund's OM describes Righthedge Alberta to be the general partner of the Fund. Michaud is the sole director of Righthedge Alberta. Righthedge Alberta was never a reporting issuer in Alberta and has never been registered with the Executive Director in any capacity.

10 Righthedge Investments (**RI**) was registered as a trade name by Michaud in Alberta on April 4, 2007. At all material times, Michaud carried on business under the name RI from an office in Edmonton, Alberta. Michaud described RI as a financial consultant, and is RI's "Declarant" with the Register of Corporations in Alberta. RI was never a reporting issuer in Alberta and has never been registered with the Executive Director in any capacity.

11 Michaud resided in Edmonton, Alberta. His current whereabouts are unknown. The Fund's OM describes Michaud as the managing member of the general partner of the Fund, whether it be RightHedge Vanuatu, RightHedge Nevada or Righthedge Alberta. At all material times, Michaud authorised, permitted or acquiesced in the activities of each member of the Righthedge Group described below. Michaud was never registered with the Executive Director in any capacity.

### *Circumstances*

#### The PLI Group

12 From April 2007 to April 2009, PLI raised, in Alberta, approximately \$7.1 million for investment purposes from 33 investors, 27 of whom were Alberta residents.

13 The PLI Group raised these funds in Alberta by entering into so-called Private Funds Management Placement Agreements (**PFMPA**), Placement Directions (**PD**) and Irrevocable Letters of Assignment (**ILA**) with investors.

14 The PFMPA's granted unconditional authority to PLI to manage the investor's funds, stated that PLI had a "placement agreement" with RightHedge Nevada, promised a return of 3% per month, and had a term of 12 months.

15 The PD's provided that PLI would deliver the investor's funds to RightHedge Nevada, "Trustee".

16 The ILA stated that in the event RightHedge Nevada defaulted on its obligations to PLI, PLI would "re-imburse" the investor's principal amount.

17 Staff alleges that the PFMPA, PD and ILA agreements were securities as defined in the *Act*.

18 Staff alleges that exemptions were not available for many of the trades of PLI securities in Alberta.

#### The Righthedge Group

19 Between approximately August 2007 and April 2009, at least \$7 million of the funds raised by PLI were paid to one or more members of the Righthedge Group to purchase a partnership interest, or interests, in the Fund.

20 According to the Fund's OM, the Fund was offering partnership interests for at least \$100,000 USD each. The OM stated that the purpose of the Fund was "to produce above average capital appreciation by actively investing in a concentrated portfolio of cash foreign exchange a.k.a. Forex a.k.a. FX". Securities of the Fund entitled the holders to receive on request, within 90 days, their proportionate interest in the whole of the net assets of the Fund.

21 The Fund's OM was never filed with the Commission, nor was it delivered to any Alberta investors who purchased securities in PLI. It was apparently delivered to PLI.

22 Staff alleges that the partnership interests in the Fund were securities as defined in the *Act*.

23 Staff alleges that neither PLI, nor most of its investors, qualified for any exemptions to purchase securities in the Fund.

#### *Illegal Trades and Distributions*

24 Each of the sales of securities described above was a trade as defined in the *Act*. As first trades in securities that had not been previously issued, the sales were also distributions under the *Act*.

25 At no time did any of the corporate Respondents or entities file a preliminary prospectus or prospectus with the Executive Director and receive a receipt for same.

#### *Misrepresentation*

26 Each of the PFMPAs contained a representation that if Righthedge Nevada defaulted, PLI would activate a "protection mechanism" to cause an investor's funds to be returned to PLI.

27 Staff alleges this statement was misleading or untrue, or failed to state facts that were required to be stated, or that were necessary to be stated, to make the statement not misleading, because there was no mechanism to return investor's funds. Staff alleges that PLI and Whitelaw knew or ought to have known that no mechanism existed, and that such a statement would reasonably be expected to have a significant effect on the market price or value of PLI's securities.

#### *Unregistered Investment Advice*

28 Throughout the period between April 2007 and April 2009, Whitelaw and Harris recommended investors purchase securities of PLI and the Fund, and received remuneration or commissions when they did.

*Breaches*

29 As a result of the above, Staff alleges that each of the Respondents:

29.1 breached section 75(1)(a) of the *Act* by trading in securities without having been registered with the Executive Director to do so; and

29.2 breached section 110 of the *Act* by engaging in illegal distributions of securities without having filed and received a receipt for a preliminary prospectus or prospectus and without appropriate exemptions.

30 Staff alleges that PLI and Whitelaw breached section 92(4.1) of the *Act* by making the misrepresentation alleged above in paragraphs 26 and 27.

31 Staff alleges that Whitelaw and Harris breached section 75(1)(b) of the *Act* by acting as investment advisors without being registered with the Executive Director to do so.

32 Staff further alleges that the conduct of each of the Respondents described above was contrary to the public interest.

Calgary, Alberta, August 11, 2010.

) ALBERTA SECURITIES COMMISSION  
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 ) “Original Signed By”  
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 ) John P. Petch  
 ) Director, Enforcement