

**ALBERTA SECURITIES COMMISSION**

**DECISION**

**Citation: Assante Capital Management Ltd., Re, 2010 ABASC 98**

**Date: 20100311**

In the Matter of the Securities Legislation of  
Alberta and Newfoundland and Labrador  
(the **Jurisdictions**)

and

In the Matter of the Process for  
Exemptive Relief Applications  
in Multiple Jurisdictions

and

In the Matter of  
Assante Capital Management Ltd. and  
Assante Financial Management Ltd.  
(the **Filers**)

Decision

**Background**

The securities regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for a decision (the **Relief**) under the Legislation that the provisions of the Legislation requiring that every registered broker or dealer who has acted as principal or agent in connection with any trade in a security shall promptly send to the customer written confirmation (the **Trade Confirmation**) of the transaction (the **Trade Confirmation Requirement**) shall not apply to trades in securities of the Funds (as hereinafter defined).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a coordinated review application):

- (a) the Alberta Securities Commission is the principal regulator for this application;  
and
- (b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

## **Interpretation**

Terms defined in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

## **Representations**

This decision is based on the following facts represented by the Filers:

## **Facts**

1. Assante Financial Management Ltd. (**Assante Financial**) is a company organized under the laws of Ontario. Assante Capital Management Ltd. (**Assante Capital**) is a company organized under the laws of Canada.
2. Assante Financial is registered under the Legislation of each Jurisdiction as a dealer in the category of mutual fund dealer and is a member of the Mutual Fund Dealers Association of Canada (the **MFDA**). Assante Capital is registered under the Legislation of each Jurisdiction as a dealer in the category of investment dealer and is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**).
3. Each Filer from time to time acts as principal or agent in connection with trades by customers of the Filer in securities (**Mutual Fund Securities**) of mutual funds (**Funds**).
4. Pursuant to the Trade Confirmation Requirement, when a Filer has acted as principal or agent in connection with any trade in a Mutual Fund Security, the Filer is required to promptly send a Trade Confirmation to the customer setting out the details enumerated in the Legislation (the **Trade Confirmation Details**).
5. The securities legislation in the provinces of Ontario, British Columbia, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (the **Exempting Jurisdictions**) does not require that the Filers send a Trade Confirmation when a Filer has acted as principal or agent in connection with any trade in a Mutual Fund Security.
6. The Exempting Jurisdictions apply the Trade Confirmation Requirement in National Instrument 31-103 *Registration Requirements and Exemptions* (**NI 31-103**). Sections 9.3(1) and 9.3(3) of NI 31-103 exempt members of IIROC and MFDA from the Trade Confirmation Requirement. The Relief will have the effect of harmonizing the securities legislation of the Jurisdictions with the requirements of NI 31-103 with respect to the sending of Trade Confirmations.
7. The fund managers (the **Managers**) (rather than the Filers) generally deliver Trade Confirmations to customers of the Filers resident in most of the Exempting Jurisdictions for trades in Mutual Fund Securities. In the Exempting Jurisdictions where the Filers are required to maintain copies of Trade Confirmation Details, the Managers also deliver copies of the Trade Confirmation Details to the Filers on a weekly, monthly or quarterly basis, as requested by the Filer.

8. The Managers are equally capable of sending Trade Confirmations to customers of the Filers residing in the Jurisdictions in connection with their trades in Mutual Fund Securities.
9. On March 3, 2009, the Filers obtained relief in the Jurisdictions similar to the Relief, which permits the Manager (rather than the Filer) to send the Trade Confirmation to the customers of the Filers for trades involving securities of public mutual funds where the Manager of the Fund is an affiliate of the Filer. Managers that are not affiliates of the Filers can likewise promptly send Trade Confirmations to customers of the Filers residing in the Jurisdictions for trades involving Mutual Fund Securities. The requested Relief will therefore extend beyond affiliates of the Filer.

**Decision**

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Relief is granted provided that:

- (a) the Manager has confirmed in writing to the Filer that the Manager will promptly send Trade Confirmations to customers of the Filer resident in the Jurisdictions in connection with trades in Mutual Fund Securities of Funds for which the Manager is the manager;
- (b) the Manager promptly sends to the customers of the Filers Trade Confirmations, including the name of the Filer that acted as principal or agent on the trade in Mutual Fund Securities of the Fund; and
- (c) the Manager sends copies of the Trade Confirmation Details to the Filer on a weekly, monthly or quarterly basis, as requested by the Filer, in the Jurisdictions where the Filer is required to maintain copies of such Trade Confirmation Details.

*“ original signed by“*  
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Glenda A. Campbell, QC  
Alberta Securities Commission

*“ original signed by“*  
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Stephen R. Murison  
Alberta Securities Commission