

ATTORNEY GENERAL OF THE STATE OF NEW YORK
BUREAU OF INVESTMENT PROTECTION

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In the Matter of

BANC ONE INVESTMENT ADVISORS CORPORATION

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**ASSURANCE OF DISCONTINUANCE
PURSUANT TO EXECUTIVE LAW § 63 (15)**

WHEREAS, pursuant to the provisions of the Martin Act (Article 23-A of the General Business Law), Eliot Spitzer, Attorney General of the State of New York, commenced an investigation in August 2003 into the practices, procedures and conduct of Banc One Investment Advisors Corporation ("BOIA") during the period 1998 through September 2003 respecting: (a) market timing of mutual funds advised by BOIA; and (b) possible late trading of mutual funds advised by BOIA (collectively, the "Investigation");¹

WHEREAS, the Investigation was conducted in cooperation with an investigation by the U.S. Securities and Exchange Commission ("SEC") of BOIA;

WHEREAS, BOIA is an investment advisor to the One Group Mutual Funds, all of which are listed in Schedule A hereto (the "Funds"), and is a wholly-owned indirect subsidiary of Bank One Corporation, a multi-state bank holding company that does business in New York, New York;

¹"Market timing" refers to the practice of short-term investing in mutual fund shares and/or the exploitation of pricing inefficiencies in mutual fund share pricing. "Late trading" refers to obtaining a given day's mutual fund share price for orders to buy, sell or exchange shares that were placed after the close of the market on that day.

WHEREAS, in the course of the Investigation, numerous witnesses were interviewed and/or deposed and extensive documentary evidence was reviewed;

WHEREAS, BOIA has cooperated in the Investigation by producing documentary evidence and witnesses and identifying evidence relevant to the Investigation;

WHEREAS, the Investigation revealed that certain practices by BOIA have violated the Martin Act, § 349 of the General Business Law, and Executive Law, § 63 (12);

WHEREAS, BOIA has advised regulators of its desire to resolve the Investigation;

WHEREAS, BOIA agrees to reduce the management fees it charges to certain Funds distributed to retail investors in the United States, to implement certain changes with respect to the corporate governance of the Funds, to maintain a certain compliance and ethics corporate structure, and to make certain payments; and

WHEREAS, the Attorney General finds the following sanctions appropriate and in the public interest and BOIA agrees to the sanctions provided herein;

NOW THEREFORE, the Attorney General, based upon the Investigation, makes the following findings:

FINDINGS

1. BOIA is an Ohio corporation, headquartered in Columbus, Ohio. BOIA is a wholly owned subsidiary of Bank One, National Association (Ohio), which in turn is a wholly owned subsidiary of Bank One Corporation, a multi-state bank holding company headquartered in Chicago, Illinois. BOIA provides discretionary investment management services to individuals and companies, including the Funds, a complex of Bank One-sponsored mutual funds, which presently hold approximately \$100 billion in assets under management.

2. The Attorney General has jurisdiction over this matter pursuant to the Martin Act and Executive Law § 63.

I. Summary

3. At all relevant times, the Funds' prospectuses stated that the Funds restricted excessive exchange activity. Despite the prospectuses' language, between May 2002 and September 2003, BOIA entered into a series of agreements with hedge-fund manager Edward J. Stern ("Stern") which permitted him to make trades in excess of those permitted by the prospectuses. These agreements were made in the hope that they would lead to additional business from Stern for various BOIA affiliates. Pursuant to the agreements, Stern executed approximately 300 transactions between June 2002 and May 2003 which earned him a profit of approximately \$5.2 million. In connection with some of these transactions, BOIA also failed to charge Stern approximately \$4 million in redemption fees, as required by these Funds' prospectuses.

4. From June 1999 to December 2001, BOIA also allowed a Michigan market timer to execute approximately 100 exchange transactions in Fund international funds ("International Funds"), resulting in a profit to the market timer of approximately \$1.24 million. Further, in March 2003, certain BOIA employees allowed a Texas hedge fund to execute two exchange transactions in the International Funds without collecting approximately \$840,000 in redemption fees required by the prospectuses.

5. Additionally, BOIA regularly provided listings of the confidential portfolio holdings of many of the Funds to favored clients (including Stern), prospective clients, and consultants when that information was not provided to the public.

II. Facts

6. "Market-timing" or "timing" refers to short-term investing in shares of the same mutual fund and/or the exploitation of inefficiencies in mutual fund share pricing. Market timing can harm other mutual fund shareholders because it can dilute the value of their shares or disrupt the management of the mutual fund's investment portfolio and can cause the targeted mutual fund to incur costs borne by other shareholders to accommodate frequent buying and selling of shares by the market timer.

7. At all relevant times, Fund prospectuses restricted excessive exchange activity in all the Funds. First, the Funds limited the movement of any investment between funds (referred to in the prospectuses as the "exchange privilege") to "two substantive exchange redemptions within 30 days of each other." Second, because International Funds were particularly susceptible to timing, in November 2001, the International Funds imposed a 2% early redemption fee for any International Fund redemption made within 90 days of purchase. Finally, the Funds reserved the right to reject any exchange request if they reasonably believed that the exchange would adversely affect shareholders.

8. As adviser to the Funds, BOIA enforced these anti-timing provisions through an employee assigned to detect and sanction excessive exchange activity within the Funds. The employee manually reviewed most Fund activity for exchanges or redemptions greater than a certain size (set at \$50,000 in the domestic Funds and greater than \$10,000 in the International Funds since December 2002). For exchange-privilege violations, the employee could refuse any purchase order and restrict an offending account to "redemptions-only" status. In addition, in the International Funds, he was required to impose the 2% redemption fee if the

trader redeemed within 90 days of the purchase. From January 2002 to September 2003, BOIA sanctioned or expelled individuals or entities for exchange-privilege violations on more than 300 occasions. Further, with the exceptions noted herein, BOIA consistently imposed the redemption fees required by the prospectuses since the time they were adopted.

BOIA Allowed a Michigan Market Timer to Engage in Timing Without Penalty

9. In June 1999, a Michigan market timer received approval from an unidentified BOIA official to execute timing trades in the International Funds. The market timer was allowed to execute transactions of \$3 million or less in two International Funds without having his exchange privileges revoked under the terms of the Funds' prospectuses. From June 1999 to December 2001, the market timer executed approximately 100 exchange transactions in the two funds, gaining a total net profit of approximately \$1.24 million. BOIA did not disclose this arrangement to either of the International Fund's Board of Trustees or shareholders prior to the outset of the Investigation.

BOIA Allowed Stern to Engage in Timing Without Penalty

10. Beginning in late-2001, Security Trust Corporation ("STC"), which represented Stern, approached BOIA and proposed that Stern borrow \$25 million from a BOIA affiliate, match the loan with \$25 million of Stern's own funds, and trade the total in what was described by Stern as an "asset allocation" strategy. BOIA rejected the Stern proposal on numerous occasions.

11. Between March and May 2002, BOIA further considered Stern's proposal, and although BOIA's Chief Operating Officer recommended against it, agreed to permit Stern to time several domestic and two International Funds. The agreement allowed Stern to execute

more exchange transactions in the agreed funds than were allowed by the prospectuses in amounts up to one-half of 1% of the value of each fund, and also provided for a \$15 million loan, to be matched by \$15 million in Stern funds, all of which was to remain exclusively within certain of the Funds to provide security for the loan. A BOIA officer told Stern that the restrictions were intended to protect the Funds, and that BOIA would monitor the trading activity for dollar amount and round trip activity. The required 2% redemption fees in the two International Funds were not discussed or addressed.

12. BOIA subsequently entered into a second timing agreement with Stern, and both agreements remained in force until shortly before the State of New York sued Stern and associated companies on September 3, 2003. These agreements were not disclosed to any of the Funds' Board of Trustees or to shareholders.

13. From Stern's initial contact with BOIA in 2001 until the relationship dissolved in April 2003, BOIA and Stern had periodic discussions regarding the possibility of Stern conducting additional business with various BOIA affiliates. For example, in or about March 2002, Stern met with a BOIA hedge fund manager to discuss a \$10 million Stern hedge fund investment. From that meeting until April 2003, Stern and the manager discussed the proposed investment, which was never finalized. Although Stern ultimately never made the hedge fund investment or deposited additional assets with any Bank One entity, the possibility of managing additional Stern assets and assisting other parts of the Bank One organization in cultivating Stern as a client were principal factors in BOIA's decision to allow Stern to trade Funds in a manner that was inconsistent with the Funds' prospectuses.

BOIA Failed to Charge Stern Required Redemption Fees

14. The agreement between BOIA and Stern allowed Stern to trade in two International Funds, among other Funds. Both International Funds charged a 2% fee on any redemption made less than 90 days after an initial purchase. BOIA and Stern did not discuss or address these redemption fees in their initial agreement, and BOIA inadvertently failed to charge the fees from the beginning of Stern's trading in June 2002 through December 2002.

15. When a BOIA officer discovered in late December 2002 that BOIA was not charging Stern the required redemption fees, BOIA decided to charge Stern redemption fees going forward, but not to attempt to collect prior redemption fees or to reimburse the two International Funds for the lost fees. BOIA further decided to allow Stern to liquidate his outstanding positions in the International Funds without incurring redemption fees.

16. In total, BOIA failed to charge Stern approximately \$4.2 million in required redemption fees. Conversely, BOIA charged other investors the fees. For example, from January 2002 to September 2003, BOIA collected approximately \$1.3 million in redemption fees from other investors in International Funds.

17. Upon being notified that going forward he would be charged any required redemption fees on international trades, Stern decided to immediately liquidate his International Fund positions and to stop trading in those Funds. This left Stern with money he could not use to market time other Funds in excess of the Funds' exchange limits because the arrangement he had negotiated with BOIA limited the size of his trades to one-half of 1% of the value of any particular Fund. Stern also had new money to invest as a result of recently having received a second loan of \$15 million, which he again matched with \$15 million of his own funds.

18. To enable Stern to use these amounts in timing activities, Stern and BOIA negotiated a second agreement, under which Stern was permitted to invest in four additional Funds at levels higher than allowed in the original Funds (three-quarters of 1% of the value of the additional Funds), but not to actively trade more than half that value at any given time. As with the first agreement, BOIA told Stern that the number of the exchanges would be limited and that the trading restrictions were intended to protect the Funds. Stern was further told that BOIA would monitor his account for dollar amount and round trip activity. Nevertheless, the agreement permitted Stern to trade at a frequency inconsistent with the restrictions in the Funds' prospectuses.

19. In total, between June 2002 and April 2003, Stern executed approximately 300 exchange transactions, earning a total net profit of approximately \$5.2 million.

BOIA Failed to Charge A Texas Hedge Fund With Required Redemption Fees

20. In March 2003, a Texas hedge fund invested a total of \$43 million in two International Funds. Three days later, the hedge fund redeemed the investment at a loss, placing the remaining \$42 million in a short-term bond fund. Under the terms of the relevant prospectuses, these redemptions should have triggered a 2% redemption-fee, but BOIA chose not to impose the approximately \$840,000 in required redemption fees and did not reimburse the two International Funds for the lost fees. BOIA did not disclose this to either of the International Funds' Board of Trustees or shareholders prior to the outset of the Investigation.

BOIA Released One Group's Confidential Portfolio Holdings to Stern and Others

21. The Funds considered their portfolio holdings to be confidential business information and did not publish them, except as required by law. However, sometime in April or

May 2002, before Stern began trading under his agreement with BOIA, Stern asked BOIA for monthly access to the portfolio holdings of eight Funds in which he invested. Although the BOIA officer to whom Stern spoke knew that Stern employed a strategy in which he hedged a short basket of equity securities with a long position in mutual funds that held some of those securities, the officer agreed to the request. From July 2002 until BOIA's relationship with Stern ended in April 2003, BOIA furnished to Stern month-end portfolio holdings of eight Funds approximately five days after the end of the each month.

22. In addition, at various times over the last decade, BOIA released Fund portfolio holdings as often as once a week to seven clients, eight prospective clients, and several dozen consultants representing pension funds or fund advisers. BOIA did not require confidentiality agreements in connection with release of the information, and did not disclose the release of the information to the affected Funds' Boards of Trustees or shareholders prior to the outset of the Investigation.

23. The foregoing acts and practices of BOIA violated the Martin Act, Article 23-A of the General Business Law.

24. The foregoing acts and practices of BOIA violated § 349 of the General Business Law.

25. The foregoing acts and practices of BOIA violated § 63 (12) of the Executive Law.

AGREEMENT

IT NOW APPEARING THAT BOIA desires to settle and resolve the Investigation without admitting or denying the Attorney General's Findings, the Attorney General and BOIA

hereby enter into this Assurance of Discontinuance, pursuant to Executive Law § 63 (15), and agree as follows:

I. Affirmative Relief

A. Disgorgement and/or Restitution and Civil Penalty

1. BOIA or a BOIA affiliate shall pay \$10,000,000 in disgorgement and/or restitution plus a civil money penalty in the amount of \$40,000,000 for a total payment of \$50,000,000, exclusive of the value of the management fee reductions provided for in section I.C. hereof. The \$50,000,000 payment shall be remitted to and administered by the SEC in accordance with the SEC Order issued by the SEC against BOIA dated June 29, 2004 (the "SEC Order"). Amounts ordered to be paid as civil money penalties pursuant to this Assurance of Discontinuance (*i.e.*, pursuant to the terms of the SEC Order) shall be treated as penalties paid to the government for all purposes, including tax purposes.

2. BOIA agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification, including, but not limited to, payment made pursuant to any insurance policy, with regard to any or all of the amounts payable pursuant to this Assurance of Discontinuance.

3. Except as specified in Section I.E., no payments made or costs incurred by BOIA pursuant to or in connection with this Assurance of Discontinuance shall be borne directly or indirectly by any Fund or the shareholders thereof. BOIA agrees and undertakes that it and its affiliates shall not directly or indirectly assess any fee or charge to any Fund or the shareholders thereof to defray, recoup or reimburse any such payments or costs, including, but not limited to, the reduction in management fees provided for in Section I.C. below. Within 15 days after the

end of BOIA's fiscal years 2004 through 2009, the president or chief executive officer of BOIA shall certify in writing to the New York State Attorney General that BOIA has complied in all material respects with the provisions of this paragraph.

B. General Relief

1. BOIA admits the jurisdiction of the Attorney General. BOIA will cease and desist from engaging in any acts in violation of the Martin Act, General Business Law § 349 and/or Executive Law § 63 (12) and will comply with the Martin Act, General Business Law § 349 and Executive Law § 63 (12).

2. Evidence of a violation of this Assurance of Discontinuance by BOIA shall constitute prima facie proof of violation of the Martin Act, General Business Law § 349 and Executive Law § 63 (12) in any civil action or proceeding hereafter commenced by the Attorney General.

C. Reduction of Management Fee Rates For Five Years

1. BOIA agrees that effective 90 days from the date of this Assurance of Discontinuance, BOIA and its Successors (as hereinafter defined in Section II.D.8) shall establish reduced Net Management Fee Rates for certain of the Funds, which Funds will be identified in writing to the Attorney General on a Schedule B to this agreement within 45 days of the date of this Assurance of Discontinuance (the "Affected Funds"). "Net Management Fee Rates" means the percentage fee rates specified in the relevant agreements between BOIA and its affiliates and the Affected Funds, less waivers and reimbursements by BOIA and its affiliates, in effect as of June 30, 2004, which rates are set forth on Schedule B. The reduced Net Management Fee Rates shall result in a reduction of \$8 million a year based upon assets under management as of June

30, 2004, for a total reduction over five years of \$40 million from that which would have been paid by the Affected Funds on the Net Management Fee Rates as of June 30, 2004. BOIA further agrees that the reduced Net Management Fee Rates established pursuant to this paragraph shall not be increased through June 30, 2009.

2. BOIA represents and warrants that Schedule B will accurately and completely state: (a) assets under management by the Affected Funds as of June 30, 2004; (b) the Net Management Fee Rates for the Affected Funds as of June 30, 2004; and (c) the reduced Net Management Fee Rates and the resulting Net Management Fee reduction of \$8 million as provided in paragraph 1 above.

D. Corporate Governance of Mutual Funds

1. On or after October 1, 2004, BOIA shall not directly or indirectly manage or provide investment advisory services to any Fund that has not agreed to and implemented the provisions of Section I of this Assurance of Discontinuance insofar as they concern acts by the Fund. In the event that any Fund to which BOIA provides direct or indirect management or investment advisory services ceases to continue to act in accordance with such provisions, BOIA shall promptly terminate its management of, and/or provision of advisory services to, such fund. For purposes of this subsection D, Fund includes any mutual fund into which any Fund is merged or its assets are transferred.

Chairman of the Board

2. BOIA may manage or advise a Fund only if the Chairman of the Board of Trustees of such Fund is in all respects independent of BOIA and its affiliates and has had no prior relationship, at any time, with BOIA, its present or former affiliates, directors, officers,

employees or agents acting in their capacity as such agents, or with such mutual fund (other than to have been a mutual fund trustee) (hereinafter referred to as an "Impermissible Relationship"). An Impermissible Relationship includes, but is not limited to, any of the following types of relationships: (a) substantial commercial, banking or financial relationship; or (b) any legal, accounting, consulting, advisory, familial, charitable, employee, director, trustee or officer relationship; provided, however, a charitable relationship shall not be deemed an Impermissible Relationship if the charitable relationship is disclosed to the Board of Trustees. During the period when acting as Chairman and for two years thereafter, the Chairman and any firm with which he or she is affiliated shall have no such Impermissible Relationship. An interested person of BOIA or of a Fund shall not be deemed "independent." For purposes of this Assurance of Discontinuance, "interested person" has the same meaning as defined in the Investment Company Act of 1940 ("Investment Company Act"); "affiliates" means any "affiliated person" as defined in the Investment Company Act; and "familial" means all individuals within three degrees of consanguinity or affinity.

3. In the event that BOIA desires input from the Attorney General as to whether a proposed Chairman of the Board of Trustees (or Senior Officer, as defined below) has a relationship that is an Impermissible Relationship, BOIA may make full disclosure of the facts and circumstances and seek the prior guidance of the Attorney General; provided, however, that nothing contained herein shall be construed to excuse a breach of this Assurance of Discontinuance where a Chairman or Senior Officer has already assumed office before the input of the Attorney General was sought by BOIA.

Trustees

4. BOIA may manage or advise a Fund only if at least seventy-five percent of the members of a Fund's Board of Trustees: (a) are not interested persons, as defined by the Investment Company Act, of BOIA or any of its affiliates; and (b) have not been directors, officers or employees of BOIA at any point during the preceding 10 years ("Independent Members"). In the event that a Fund's Board of Trustees fails to meet this requirement at any time due to the death, resignation, retirement or removal of any Independent Member, BOIA shall terminate its management of, and provision of advisory services to, a Fund unless the Independent Members bring a Fund's Board of Trustees into compliance within a reasonable period of time not to exceed 90 days.²

Senior Officer

5. Within 30 days of the parties' execution of this Assurance of Discontinuance, BOIA shall recommend in writing to the Board of Trustees of each Fund that the Fund appoint a full-time senior officer ("Senior Officer") with the title of at least Senior Vice President who shall have no Impermissible Relationship (as defined above) during the period he or she is acting as Senior Officer and for two years thereafter; provided, however, that a Fund's Senior Officer may be technically employed and paid by BOIA or an affiliate and be the same person the Fund designates as the Chief Compliance Officer of the Fund pursuant to Rule 38a-1(a)(4) of the Investment Company Act, 17 C.F.R. 270.38a-1(a)(4), so long as such person is not also employed by BOIA pursuant to Rule 206(4)-7 of the Investment Advisors Act, 17 C.F.R. 275.206(4)-7, or has any duties or responsibilities other than as Chief Compliance Officer of the

²The Funds' Boards of Trustees currently meet the standards set forth in Section I.D.2. and 4.

Fund pursuant to Rule 38a-1(a)(4) and Senior Officer of the Fund pursuant to this Assurance of Discontinuance. The Senior Officer may serve as Senior Officer to more than one fund.

6. BOIA may manage or advise a Fund only if a Fund's Senior Officer reports directly to the Fund's Board of Trustees and such reporting is as often as may be appropriate, but no less than quarterly.

7. BOIA may manage or advise a Fund only if, subject to approval by the Independent Members of the Fund's Board of Trustees, the Senior Officer has the authority to retain or consult consultants, experts or staff as may be reasonably necessary to assist the Senior Officer in the performance of his or her duties. The Senior Officer and such consultants, experts or staff shall be compensated at their reasonable and customary rates as determined by the Independent Members of the Fund. The Senior Officer may be terminated only with the approval of a majority of the Independent Members of the Fund's Board of Trustees.

8. BOIA may manage or advise a Fund only if the duties and responsibilities of the Fund's Senior Officer include at least the following:

(a) monitoring compliance by the Fund and its investment advisor(s) (insofar as the advisors act in connection with the Fund), with: (i) federal and state securities laws; (ii) state laws respecting potential or actual conflicts of interests; (iii) their respective fiduciary duties; and (iv) applicable codes of ethics and/or compliance manuals; and

(b) managing the process by which proposed management fees (including, but not limited to, advisory fees) to be charged a Fund are negotiated so that they are negotiated in a manner which is at arms' length and reasonable and consistent with this Assurance of Discontinuance. Proposed management fees include, but are not limited to,

renewal of existing management fee agreements or continuation of such existing fee agreements for more than a year after approval by a Fund's Board of Trustees.

9. BOIA may manage or advise a Fund only if the reasonableness of the proposed management fees is determined by the Board of Trustees of the Fund using either:

(a) an annual competitive bidding process, supervised by the Senior Officer, that includes at least three sealed bids with proposed management fees; or

(b) an annual independent written evaluation prepared by or under the direction of the Senior Officer that considers at least the following: (i) management fees (including any components thereof) charged to institutional and other clients (*e.g.*, a variable annuity that is a clone of the Fund) of BOIA for like services; (ii) management fees (including any components thereof) charged by other mutual fund companies for like services; (iii) costs to BOIA and its affiliates of supplying services pursuant to the management fee agreements, excluding any intra-corporate profit; (iv) profit margins of BOIA and its affiliates from supplying such services; (v) possible economies of scale as the Fund grows larger; and (vi) the nature and quality of BOIA's services, including Fund performance.

10. BOIA may manage or advise a Fund only if the Fund's Senior Officer keeps the Fund's Board of Trustees fully and promptly informed of the bidding process or the fee evaluation process, as the case may be.

11. BOIA may manage or advise a Fund only if it cooperates fully and promptly with the Fund's Senior Officer and provides any information (including preparation of summaries or other compilations of data) and documents in the possession, custody or control of BOIA that the Senior Officer requests and that relate to or concern any of the matters referenced

in this section. BOIA shall promptly provide the Senior Officer with access to any director, officer or employee of BOIA and use its best efforts to cause such persons to answer any and all inquiries put to them by the Senior Officer that relate to or concern any such matters.

12. BOIA may manage or advise a Fund only if the Fund: (a) appoints the Fund's Senior Officer by October 1, 2004; and (b) thereafter continues to retain the Fund's Senior Officer. By October 1, 2004, BOIA shall provide a written schedule to the Attorney General that identifies the name of the Fund's Senior Officer and describes his or her background and compensation. BOIA shall keep the information on the schedule current and provide an updated schedule to the New York State Attorney General within 10 days of any change in such information.

13. Within 15 days of completion of the written fee evaluation provided for in Section I.D.8., BOIA shall publicly disclose a summary of such evaluation and any opinions or conclusions arising from or included in the evaluation (hereinafter referred to as the "Fee Summary"). The Fee Summary shall discuss the factors referenced in Section I.D.8. and sufficient specifics so that an investor in the fund can evaluate the reasonableness of the fees; provided, however, that the Fee Summary shall not be required to include or reveal confidential, competitively sensitive data, such as (but not limited to) institutional fee rates, internal costs and profit margins. Public disclosure shall include, at least: (a) continuous, prominent posting (in downloadable format) on the Fund's website of Fee Summaries of at least the two most recent fee evaluations as part of the Fund description; (b) delivery of the Fee Summary of the most recent fee evaluation with the annual and semi-annual reports furnished to shareholders; and (c) prominent notice of the availability of the Fee Summary in the periodic account statements (if

any) furnished by the Fund to individual direct investors.

E. Disclosure to Investors

BOIA shall bear the costs for developing procedures, to be implemented by December 31, 2004, whereby BOIA, in an easy to understand format, shall:

(1) include with each periodic account statement a Fund sends to investors: (a) the fees and costs, in actual dollars, on a fund-by-fund basis, charged to each investor based upon the investor's most recent quarterly closing balance; and (b) the fees and costs, in actual dollars, that would be charged a hypothetical investment of \$10,000 held for the next 10 years and the impact of such fees and costs on fund returns for each year and cumulatively, assuming a 5% return for each year and continuation of the reduced Net Management Fee Rates provided in section I.C. above;

(2) maintain continuous, prominent posting on its website of: (a) a calculator that will enable an investor to calculate the fees and costs, in actual dollars, on a fund-by-fund basis, charged to each investor based upon the investor's most recent quarterly closing balance; and (b) the fees and costs, in actual dollars, that would be charged a hypothetical investment of \$10,000 held for the next 10 years and the impact of such fees and costs on fund returns for each year and cumulatively, assuming a 5% return for each year and continuation of the reduced Net Management Fee Rates provided in section I.C. above; and

(3) Subject to SEC approval, disclose in the applicable prospectus or amendment thereto a summary showing the fees and costs, in actual dollars, that would be charged a hypothetical investment of \$10,000 held for the next 10 years and the impact of such fees and costs on fund returns for each year and

cumulatively, assuming a 5% return for each year and continuation of the reduced Net Management Fee Rates provided in section I.C. above.

II. Other Provisions

A. Scope Of This Assurance of Discontinuance

1. This Assurance of Discontinuance concludes the Investigation brought by the Attorney General and any action the Attorney General could commence against BOIA or any of its current corporate affiliates arising from or relating to the subject matter of the Investigation; provided however, that nothing contained in this Assurance of Discontinuance shall be construed to cover claims of any type by any other state agency or any claims that may be brought by the Attorney General to enforce BOIA's obligations arising from or relating to the provisions contained in this Assurance of Discontinuance. This Assurance of Discontinuance shall not prejudice, waive or effect any claims, rights or remedies of the Attorney General with respect to any person or entity not a party hereto, all of which claims, rights, and remedies are expressly reserved.

2. If BOIA does not make the payments as provided in section I.A. of this Assurance of Discontinuance (*i.e.*, pursuant to the SEC Order) or the Net Management Fee reductions as provided in section I.C. of this Assurance of Discontinuance, or BOIA defaults on any of its obligations under this Assurance of Discontinuance, the Attorney General may terminate this Assurance of Discontinuance, at his sole discretion, upon written notice to BOIA followed by BOIA's failure to cure within a reasonable time, and BOIA agrees that any statute of limitations or other time related defenses applicable to the subject of the Investigation and any claims arising from or relating thereto are tolled from and after December 31, 2003. In the event

of such termination, BOIA expressly agrees and acknowledges that this Assurance of Discontinuance shall in no way bar or otherwise preclude the Attorney General from commencing, conducting or prosecuting any investigation, action or proceeding, however denominated, related to the Investigation, against BOIA, or from using in any way any statements, documents or other materials produced or provided by BOIA after commencement of the Investigation, including, without limitation, any statements, documents or other materials provided for purposes of settlement negotiations.

3. For any person or entity not a party hereto, this Assurance of Discontinuance does not prohibit, limit or create: (a) any private rights or remedies against BOIA; (b) liability of BOIA; or (c) defenses of BOIA to any claims.

B. Cooperation

1. BOIA, its current affiliates, and its successors, assigns, and/or purchasers of all or substantially all its assets ("Bank One") agree to cooperate fully and promptly with the Attorney General with regard to any investigation, litigation or other proceeding, whether pending or subsequently initiated, relating to market timing or late trading. Bank One shall use its best efforts to ensure that all the current and former officers, directors, trustees, agents and employees of Bank One and/or the Funds also fully and promptly cooperate with the Attorney General.

2. Cooperation shall include, without limitation:

(a) production, voluntarily and without service of subpoena, of all documents or other tangible evidence requested by the Attorney General and any compilations or summaries of information or data that the Attorney General requests be prepared, with the

exception of any information or documents with respect to which Bank One has a statutory or contractual obligation of confidentiality to persons or entities who are not parties to this Assurance of Discontinuance ("Confidential Information") and information or documents protected by the attorney-client and/or work product privileges ("Privileged Information");

(b) without the necessity of a subpoena, having the current officers, directors, trustees, agents and employees of Bank One attend any proceedings in New York State or elsewhere at which the presence of any such persons is requested by the Attorney General and having such current officers, directors, trustees, agents and employees answer any and all inquiries that may be put by the Attorney General to any of them at any proceedings or otherwise ("proceedings" include, but are not limited to, any meetings, interviews, depositions, hearings, trials or other proceedings), except to the extent to which such inquiries call for the disclosure of Confidential Information or Privileged Information;

(c) Bank One using its best efforts to cause former officers, directors, trustees, agents and employees of Bank One to attend any proceedings in New York State or elsewhere at which the presence of any such persons is requested by the Attorney General and to answer any and all inquiries that may be put by the Attorney General to any of them at any proceedings or otherwise, except to the extent to which such inquiries call for the disclosure of Confidential Information or Privileged Information;

(d) fully, fairly and truthfully disclosing all information and producing all records and other evidence in its possession relevant to all inquiries made by the Attorney General, except to the extent to which such inquiries call for the disclosure of Confidential Information or Privileged Information;

(e) making outside counsel reasonably available to provide comprehensive presentations concerning any internal investigation relating to all matters in this Assurance of Discontinuance and to answer questions, except to the extent to which such presentations or questions call for the disclosure of Confidential Information or Privileged Information.

3. All communications relating to cooperation pursuant to this Assurance of Discontinuance may be made to BOLA's attorneys as follows:

Paul, Weiss, Rifkind, Wharton & Garrison, LLP
1285 Avenue of the Americas
New York, New York 10019-6064
Attention: Brad S. Karp, Esq.
Tel: (212) 373-3043
Fax: (212) 373-2384

4. In the event Bank One fails to comply with this section of the Assurance of Discontinuance, the Attorney General shall be entitled, in addition to any other remedies in the Assurance of Discontinuance or otherwise, to: (a) liquidated damages of \$100,000 for each day that Bank One is in non-compliance; and (b) specific performance.

C. No Indemnification

1. Except as otherwise required by law or prior written agreement, Bank One shall not make any payments of indemnification or allowances of expenses respecting "market timing" and "late trading" transactions to any person, including, without limitation, current or former directors, officers, employees or agents. However, any such payments by Bank One required by law or prior written agreement shall be payable at the time and in the manner of Bank One's choosing.

2. Nothing in this Assurance of Discontinuance shall prevent or limit Bank One from indemnifying the Funds or their successors in connection with any business combination, merger or otherwise.

D. Miscellaneous Provisions

1. This Assurance of Discontinuance and any dispute related thereto shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.
2. No failure or delay by the Attorney General in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided herein shall be cumulative.
3. BOIA consents to the jurisdiction of the Attorney General in any proceeding or action to enforce this Assurance of Discontinuance.
4. BOIA enters into this Assurance of Discontinuance voluntarily and represents that no threats, offers, promises or inducements of any kind have been made by the Attorney General or any member, officer, employee, agent or representative of the Attorney General to induce BOIA to enter into this Assurance of Discontinuance.
5. BOIA agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in this Assurance of Discontinuance or creating the impression that this Assurance of Discontinuance is without factual basis. Nothing in this paragraph affects BOIA's: (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or in defense of other legal proceedings in which the Attorney General is not a party.

6. This Assurance of Discontinuance may be changed, amended or modified only by a writing signed by all parties hereto.

7. This Assurance of Discontinuance, together with the attached schedules, constitutes the entire agreement between the Attorney General and BOIA and supersedes any prior communication, understanding or agreement, whether written or oral, concerning the subject matter of this Assurance of Discontinuance.

8. This Assurance of Discontinuance shall be binding upon BOIA and its successors, assigns, and/or purchasers of all or substantially all its assets ("Successors") for as long as BOIA or any Successor continues to provide investment advisory services to the Funds or any successors thereof (including any funds with which the Funds are merged) provided, however, that any Successor to BOIA may petition the Attorney General and obtain relief from such undertakings.

9. This Assurance of Discontinuance shall be effective and binding only when this Assurance of Discontinuance is signed by all parties. This Assurance of Discontinuance may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one instrument.

WHEREFORE, the following signatures are affixed hereto on the dates set forth below.

Dated: June __, 2004

Banc One Investment Advisors Corporation

By David J. Hundert
[Name] DAVID J. HUNDERT
[Title] PRESIDENT AND CEO

ACKNOWLEDGMENT

STATE OF OHIO)

:ss.

COUNTY OF DELAWARE

On this 29th day of June, 2004, before me personally came DAVID J. KUNDERT, known to me, who, being duly sworn by me, did depose and say that he is PRESIDENT & CEO of BANK ONE INVEST. ADV., the entity described in the foregoing Assurance of Discontinuance, is duly authorized by _____ to execute the same, and that he signed his name in my presence by like authorization.

Judith M. Leibbrand

Notary Public

My commission expires: AUGUST 30, 2004

JUDITH M. LEIBBRAND
Notary Public, State of Ohio
My Commission Expires Aug. 30, 2004

Dated: June 29, 2004

ELIOT SPITZER,

Attorney General of the State of New York

By: *Roger L. Waldman*

Roger L. Waldman
Senior Investment Counsel

Investment Protection Bureau

Dated: June 29, 2004

SCHEDULE A

SCHEDULE B

[TO BE PREPARED IN ACCORDANCE WITH SECTION I.C.]