The Ontario Securities Commission

OSC Bulletin

November 26, 2010

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Securities Act of Ontario (R.S.O. 1990, c. S.5) and the
Commodity Futures Act of Ontario (R.S.O. 1990, c. C.20)

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1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

November 26, 2010

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

Unless otherwise indicated in the date column, all hearings will take place at the following location:

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
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Vern Krishna	—	VK
Patrick J. LeSage	—	PJL
Carol S. Perry	—	CSP
Charles Wesley Moore (Wes) Scott	—	CWMS

SCHEDULED OSC HEARINGS

November 29, 2010 9:30 a.m.	**Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjiaints Select American Transfer Co., Leasesmart, Inc., Advanced Growing Systems, Inc., International Energy Ltd., Nutrione Corporation, Pocketop Corporation, Asia Telecom Ltd., Pharm Control Ltd., Cambridge Resources Corporation, Compushare Transfer Corporation, Federated Purchaser, Inc., TCC Industries, Inc., First National Entertainment Corporation, WGI Holdings, Inc. and Enerbrite Technologies Group** s. 127 and 127.1 H. Craig in attendance for Staff Panel: MGC
November 29, 2010 10:00 a.m.	**Paladin Capital Markets Inc., John David Culp and Claudio Fernando Maya** s. 127 C. Price in attendance for Staff Panel: JEAT
November 29, 2010 10:00 a.m.	**Abel Da Silva** s. 127 M. Boswell in attendance for Staff Panel: JDC
November 30, 2010 10:00 a.m.	**Sulja Bros. Building Supplies, Ltd., Petar Vucicevich, Kore International Management Inc., Andrew Devries, Steven Sulja, Pranab Shah, Tracey Banumas and Sam Sulja** s. 127 and 127.1 J. Feasby in attendance for Staff Panel: PJL/SA

November 30, 2010 2:30 p.m.	**Locate Technologies Inc., Tubtron Controls Corp., Bradley Corporate Services Ltd., 706166 Alberta Ltd., Lorne Drever, Harry Niles, Michael Cody and Donald Nason** s. 127 A. Heydon in attendance for Staff Panel: JDC
December 1-3 and December 8-17, 2010 10:00 a.m.	**Coventree Inc., Geoffrey Cornish and Dean Tai** s. 127 J. Waechter in attendance for Staff Panel: JEAT/MGC/PLK
December 2, 2010 9:30 a.m.	**Richvale Resource Corp., Marvin Winick, Howard Blumenfeld, John Colonna, Pasquale Schiavone, and Shafi Khan** s. 127(7) and 127(8) H. Craig in attendance for Staff Panel: JDC
December 2, 2010 2:00 p.m.	**North American Financial Group Inc., North American Capital Inc., Alexander Flavio Arconti, and Luigino Arconti** s. 127 M. Britton in attendance for Staff Panel: JDC
December 3, 2010 9:00 a.m.	**Shaun Gerard McErlean, Securus Capital Inc., and Acquiesce Investments** s. 127 M. Britton in attendance for Staff Panel: MGC
December 7, 2010 2:00 p.m.	**Mega-C Power Corporation, Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited** s. 127 M. Britton/J.Feasby in attendance for Staff Panel: JDC/KJK
December 7, 2010 2:30 p.m.	**Global Energy Group, Ltd. and New Gold Limited Partnerships** s. 127 H. Craig in attendance for Staff Panel: MGC
December 7, 2010 2:30 p.m.	**Christina Harper, Howard Rash, Michael Schaumer, Elliot Feder, Vadim Tsatskin, Oded Pasternak, Alan Silverstein, Herbert Groberman, Allan Walker, Peter Robinson, Vyacheslav Brikman, Nikola Bajovski, Bruce Cohen and Andrew Shiff** s. 127 H. Craig in attendance for Staff Panel: MGC
December 9-10, 2010 10:00 a.m.	**Sextant Capital Management Inc., Sextant Capital GP Inc., Otto Spork, Robert Levack and Natalie Spork** s. 127 T. Center in attendance for Staff Panel: JDC/CSP
December 15-16, 2010 10:00 a.m.	**Questrade Inc.** s. 21.7 A. Heydon in attendance for Staff Panel: JDC/CSP

December 16, 2010 2:30 p.m.	**Global Partners Capital, Asia Pacific Energy Inc., 1666475 Ontario Inc. operating as "Asian Pacific Energy", Alex Pidgeon, Kit Ching Pan also known as Christine Pan, Hau Wai Cheung, also known as Peter Cheung, Tony Cheung, Mike Davidson, or Peter McDonald, Gurdip Singh Gahunia also known as Michael Gahunia or Shawn Miller, Basis Marcellinius Toussaint also known as Peter Beckford, and Rafique Jiwani also known as Ralph Jay** s. 127 M. Boswell in attendance for Staff Panel: PLK/MGC
January 7, 2011 2:30 p.m.	**York Rio Resources Inc., Brilliante Brasilcan Resources Corp., Victor York, Robert Runic, George Schwartz, Peter Robinson, Adam Sherman, Ryan Demchuk, Matthew Oliver, Gordon Valde and Scott Bassingdale** s. 127 H. Craig in attendance for Staff Panel: TBA
January 10, January 12-21, 2011 10:00 a.m.	**Carlton Ivanhoe Lewis, Mark Anthony Scott, Sedwick Hill, Leverage Pro Inc., Prosporex Investment Club Inc., Prosporex Investments Inc., Prosporex Ltd., Prosporex Inc., Prosporex Forex SPV Trust, Networth Financial Group Inc., and Networth Marketing Solutions** s. 127 and 127.1 H. Daley in attendance for Staff Panel: JDC/MCH
January 10, January 12-21, January 26 – February 1, 2011 10:00 a.m.	**Maple Leaf Investment Fund Corp., Joe Henry Chau (aka: Henry Joe Chau, Shung Kai Chow and Henry Shung Kai Chow), Tulsiani Investments Inc., Sunil Tulsiani and Ravinder Tulsiani** s. 127 A. Perschy/C. Rossi in attendance for Staff Panel: TBA
January 11, 2011 2:30 p.m.	**Paul Azeff, Korin Bobrow, Mitchell Finkelstein, Howard Jeffrey Miller and Man Kin Cheng (a.k.a. Francis Cheng)** s. 127 T. Center in attendance for Staff Panel: TBA
January 17-21, 2011 10:00 a.m.	**Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin** s. 127 H. Craig in attendance for Staff Panel: PJL/SA
January 25, 2011 2:00 p.m.	**Ciccone Group, Medra Corporation, 990509 Ontario Inc., Tadd Financial Inc., Cachet Wealth Management Inc., Vince Ciccone, Darryl Brubacher, Andrew J. Martin., Steve Haney, Klaudiusz Malinowski and Ben Giangrosso** s. 127 P. Foy in attendance for Staff Panel: CSP
January 26, 2011 10:00 a.m.	**Rezwealth Financial Services Inc., Pamela Ramoutar, Chris Ramoutar, Justin Ramoutar, Tiffin Financial Corporation, Daniel Tiffin, 2150129 Ontario Inc. and Sylvan Blackett** s. 127(1) and (5) A. Heydon in attendance for Staff Panel: CSP

January 26, 2010 11:00 a.m.	**Global Consulting and Financial Services, Crown Capital Management Corporation, Canadian Private Audit Service, Executive Asset Management, Michael Chomica, Peter Kuti, Jan Chomica, and Lorne Banks** s. 127 M. Boswell in attendance for Staff Panel: CSP
January 26, 2010 12:00 p.m.	**QuantFX Asset Management Inc., Vadim Tsatskin, Lucien Shtromvaser and Rostislav Zemlinsky** s. 127 H. Craig in attendance for Staff Panel: CSP
January 31 – February 7, February 9-18, February 23, 2011 10:00 a.m.	**Anthony Ianno and Saverio Manzo** s. 127 and 127.1 A. Clark in attendance for Staff Panel: TBA
January 31, February 1-7, February 9-11, 2011 10:00 a.m.	**Nest Acquisitions and Mergers, IMG International Inc., Caroline Myriam Frayssignes, David Pelcowitz, Michael Smith, and Robert Patrick Zuk** s. 37, 127 and 127.1 C. Price in attendance for Staff Panel: TBA
February 8, 2011 2:30 p.m.	**Ameron Oil and Gas Ltd. and MX-IV, Ltd.** s. 127 M. Boswell in attendance for Staff Panel: TBA
February 11, 2011 10:00 a.m.	**Shallow Oil & Gas Inc., Eric O'Brien, Abel Da Silva, Gurdip Singh Gahunia aka Michael Gahunia and Abraham Herbert Grossman aka Allen Grossman** s. 127(7) and 127(8) M. Boswell in attendance for Staff Panel: TBA
February 14-18, February 23-March 1, 2011 10:00 a.m.	**Nelson Financial Group Ltd., Nelson Investment Group Ltd., Marc D. Boutet, Stephanie Lockman Sobol, Paul Manuel Torres, H.W. Peter Knoll** s. 127 P. Foy in attendance for Staff Panel: TBA
February 25, 2011 10:00 a.m.	**Hillcorp International Services, Hillcorp Wealth Management, Suncorp Holdings, 1621852 Ontario Limited, Steven John Hill, and Danny De Melo** s. 127 A. Clark in attendance for Staff Panel: TBA
March 1-7, March 9-11, March 21 and March 23-31, 2011 10:00 a.m.	**Paul Donald** s. 127 C. Price in attendance for Staff Panel: TBA
March 7, 2011 10:00 a.m.	**Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton** s. 127 H. Craig in attendance for Staff Panel: TBA

March 21 and March 23-31, 2011 May 2 and May 4-16, 2011 10:00 a.m.	**York Rio Resources Inc., Brilliante Brasilcan Resources Corp., Victor York, Robert Runic, George Schwartz, Peter Robinson, Adam Sherman, Ryan Demchuk, Matthew Oliver, Gordon Valde and Scott Bassingdale** s. 127 H. Craig in attendance for Staff Panel: TBA
March 30, 2011 10:00 a.m.	**Oversea Chinese Fund Limited Partnership, Weizhen Tang and Associates Inc., Weizhen Tang Corp., and Weizhen Tang** s. 127 and 127.1 M. Britton in attendance for Staff Panel: TBA
April 4 and April 6-7, 2011 April 11-18 and April 20, 2011 10:00 a.m.	**Uranium308 Resources Inc., Michael Friedman, George Schwartz, Peter Robinson, and Shafi Khan** s. 127 M. Boswell in attendance for Staff Panel: TBA
April 4 and April 6-15, 2011 10:00 a.m.	**New Life Capital Corp., New Life Capital Investments Inc., New Life Capital Advantage Inc., New Life Capital Strategies Inc., 1660690 Ontario Ltd., L. Jeffrey Pogachar, Paola Lombardi and Alan S. Price** s. 127 M. Britton in attendance for Staff Panel: TBA
April 5, 2011 2:30 p.m.	**Lehman Brothers & Associates Corp., Greg Marks, Kent Emerson Lounds and Gregory William Higgins** s. 127 H. Craig in attendance for Staff Panel: TBA
April 11-18, April 20-21 and April 26-29, 2011 10:00 a.m.	**Axcess Automation LLC, Axcess Fund Management, LLC, Axcess Fund, L.P., Gordon Alan Driver, David Rutledge, 6845941 Canada Inc. carrying on business as Anesis Investments, Steven M. Taylor, Berkshire Management Services Inc. carrying on business as International Communication Strategies, 1303066 Ontario Ltd. carrying on business as ACG Graphic Communications, Montecassino Management Corporation, Reynold Mainse, World Class Communications Inc. and Ronald Mainse** s. 127 Y. Chisholm in attendance for Staff Panel: JDC
April 26-27, 2011 10:00 a.m.	**Biovail Corporation, Eugene N. Melnyk, Brian H. Crombie, John R. Miszuk and Kenneth G. Howling** s. 127(1) and 127.1 J. Superina, A. Clark in attendance for Staff Panel: JEAT/PLK/MGC
June 6-8, 2011 10:00 a.m.	**Lehman Brothers & Associates Corp., Greg Marks, Kent Emerson Lounds and Gregory William Higgins** s. 127 H. Craig in attendance for Staff Panel: TBA
September 12-19 and September 21-30, 2011 10:00 a.m.	**FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun** s. 127 C. Price in attendance for Staff Panel: TBA
TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: TBA

TBA **Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell**

s. 127

J. Waechter in attendance for Staff

Panel: TBA

TBA **Frank Dunn, Douglas Beatty, Michael Gollogly**

s. 127

K. Daniels in attendance for Staff

Panel: TBA

TBA **MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric**

s. 127 and 127(1)

D. Ferris in attendance for Staff

Panel: TBA

TBA **Goldpoint Resources Corporation, Lino Novielli, Brian Moloney, Evanna Tomeli, Robert Black, Richard Wylie and Jack Anderson**

s. 127(1) and 127(5)

M. Boswell in attendance for Staff

Panel: TBA

TBA **Goldbridge Financial Inc., Wesley Wayne Weber and Shawn C. Lesperance**

s. 127

C. Johnson in attendance for Staff

Panel: TBA

TBA **Borealis International Inc., Synergy Group (2000) Inc., Integrated Business Concepts Inc., Canavista Corporate Services Inc., Canavista Financial Center Inc., Shane Smith, Andrew Lloyd, Paul Lloyd, Vince Villanti, Larry Haliday, Jean Breau, Joy Statham, David Prentice, Len Zielke, John Stephan, Ray Murphy, Alexander Poole, Derek Grigor and Earl Switenky**

s. 127 and 127.1

Y. Chisholm in attendance for Staff

Panel: TBA

TBA **Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt**

s. 127

M. Boswell in attendance for Staff

Panel: TBA

TBA **Gold-Quest International, 1725587 Ontario Inc. carrying on business as Health and Harmoney, Harmoney Club Inc., Donald Iain Buchanan, Lisa Buchanan and Sandra Gale**

s. 127

H. Craig in attendance for Staff

Panel: TBA

TBA **Lyndz Pharmaceuticals Inc., James Marketing Ltd., Michael Eatch and Rickey McKenzie**

s. 127(1) and (5)

J. Feasby in attendance for Staff

Panel: TBA

TBA **M P Global Financial Ltd., and Joe Feng Deng**

s. 127 (1)

M. Britton in attendance for Staff

Panel: TBA

TBA **Sunil Tulsiani, Tulsiani Investments Inc., Private Investment Club Inc., and Gulfland Holdings LLC**

s. 127

J. Feasby in attendance for Staff

Panel: TBA

TBA **Shane Suman and Monie Rahman**

s. 127 and 127(1)

C. Price in attendance for Staff

Panel: JEAT/PLK

TBA **Gold-Quest International, Health and Harmoney, Iain Buchanan and Lisa Buchanan**

s. 127

H. Craig in attendance for Staff

Panel: JEAT/CSP/SA

TBA **Global Energy Group, Ltd., New Gold Limited Partnerships, Christina Harper, Vadim Tsatskin, Michael Schaumer, Elliot Feder, Oded Pasternak, Alan Silverstein, Herbert Groberman, Allan Walker, Peter Robinson, Vyacheslav Brikman, Nikola Bajovski, Bruce Cohen and Andrew Shiff**

s. 37, 127 and 127.1

H. Craig in attendance for Staff

Panel: TBA

TBA **TBS New Media Ltd., TBS New Media PLC, CNF Food Corp., CNF Candy Corp., Ari Jonathan Firestone and Mark Green**

s. 127

H. Craig in attendance for Staff

Panel: TBA

TBA **Brilliante Brasilcan Resources Corp., York Rio Resources Inc., Brian W. Aidelman, Jason Georgiadis, Richard Taylor and Victor York**

s. 127

H. Craig in attendance for Staff

Panel: TBA

TBA **Howard Jeffrey Miller and Man Kin Cheng (a.k.a. Francis Cheng)**

s. 127

T. Center in attendance for Staff

Panel: TBA

TBA **Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)**

s. 127 and 127.1

D. Ferris in attendance for Staff

Panel: TBA

TBA **Majestic Supply Co. Inc., Suncastle Developments Corporation, Herbert Adams, Steve Bishop, Mary Kricfalusi, Kevin Loman and CBK Enterprises Inc.**

s. 37, 127 and 127.1

D. Ferris in attendance for Staff

Panel: CSP

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

Livent Inc., Garth H. Drabinsky, Myron I. Gottlieb, Gordon Eckstein, Robert Topol

Portus Alternative Asset Management Inc., Portus Asset Management Inc., Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg

ADJOURNED SINE DIE

Maitland Capital Ltd., Allen Grossman, Hanouch Ulfan, Leonard Waddingham, Ron Garner, Gord Valde, Marianne Hyacinthe, Diana Cassidy, Ron Catone, Steven Lanys, Roger McKenzie, Tom Mezinski, William Rouse and Jason Snow

LandBankers International MX, S.A. De C.V.; Sierra Madre Holdings MX, S.A. De C.V.; L&B LandBanking Trust S.A. De C.V.; Brian J. Wolf Zacarias; Roger Fernando Ayuso Loyo, Alan Hemingway, Kelly Friesen, Sonja A. McAdam, Ed Moore, Kim Moore, Jason Rogers and Dave Urrutia

Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boultbee and Peter Y. Atkinson

1.2 Notices of Hearing

1.2.1 QuantFX Asset Management Inc. et al. – ss. 37, 127, 127.1

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
QUANTFX ASSET MANAGEMENT INC.,
VADIM TSATSKIN, LUCIEN SHTROMVASER
AND ROSTISLAV ZEMLINSKY

AMENDED NOTICE OF HEARING
(Sections 37, 127 and 127.1)

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 37, 127 and 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the offices of the Commission at 20 Queen Street West, 17th Floor Hearing Room on November 18, 2010 at 4:00 p.m., or as soon thereafter as the hearing can be held, to consider:

(i) whether, in the opinion of the Commission, it is in the public interest, pursuant to sections 127 and 127.1 of the Act to order that:

(a) trading in any securities by QuantFX Asset Management Inc. ("QuantFX"), Vadim Tsatskin ("Tsatskin"), Lucien Shtromvaser ("Shtromvaser") and Rostislav Zemlinsky ("Zemlinsky"), collectively, the "Respondents", cease permanently or for such period as is specified by the Commission;

(b) the acquisition of any securities by the Respondents is prohibited permanently or for such other period as is specified by the Commission;

(c) any exemptions contained in Ontario securities law do not apply to the Respondents permanently or for such period as is specified by the Commission;

(d) the Respondents be reprimanded;

(e) Tsatskin, Shtromvaser and Zemlinsky (collectively, the "Individual Respondents") resign one or more positions that they hold as a director or officer of any issuer, registrant, or investment fund manager;

(f) the Individual Respondents be prohibited permanently or for such other period as is specified by the Commission from becoming or acting as a director or officer of any issuer, registrant, and investment fund manager;

(g) the Respondents be prohibited permanently or for such other period as is specified by the Commission from becoming or acting as a registrant, as an investment fund manager and as a promoter;

(h) each of the Respondents disgorge to the Commission any amounts obtained as a result of non-compliance by that respondent with Ontario securities law;

(i) the Respondents each pay an administrative penalty of not more than $1 million for each failure by that respondent to comply with Ontario securities law; and

(j) the Respondents be ordered to pay the costs of the Commission investigation and the hearing.

(ii) whether, in the opinion of the Commission, an order should be made pursuant to section 37 of the Act that the Respondents cease permanently to telephone from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities; and,

(iii) whether to make such further orders as the Commission considers appropriate.

BY REASON OF the allegations as set out in the Statement of Allegations of Staff of the Commission dated November 10, 2010 and such further additional allegations as counsel may advise and the Commission may permit;

AND TAKE FURTHER NOTICE that any party to the proceedings may be represented by counsel at the hearing;

AND TAKE FURTHER NOTICE that upon failure of any party to attend at the time and place aforesaid, the hearing may proceed in the absence of that party and such party is not entitled to any further notice of the proceedings.

DATED at Toronto this 17th day of November, 2010

"John Stevenson"
Secretary to the Commission

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
QUANTFX ASSET MANAGEMENT INC.,
VADIM TSATSKIN, LUCIEN SHTROMVASER
AND ROSTISLAV ZEMLINSKY

AMENDED NOTICE OF HEARING
(Sections 37, 127 and 127.1)

STATEMENT OF ALLEGATIONS
OF STAFF OF THE ONTARIO SECURITIES COMMISSION

Staff of the Ontario Securities Commission ("Staff") make the following allegations:

I. OVERVIEW

1. This proceeding involves the unregistered trading and illegal distribution of securities from September 6, 2009 until April 13, 2010 (the "Material Time") by QuantFX Asset Management Inc. ("QuantFX") and its directors, Vadim Tsatskin ("Tstaskin"), Lucien Shtromvaser ("Shtromvaser") and Rostislav Zemlinsky ("Zemlinsky").

2. The agents of QuantFX solicited clients through its website and over the internet to invest in the currency market through accounts at GAIN Capital – Forex.com UK Ltd. ("Forex.com UK"). Agents of QuantFX also solicited potential clients over the telephone. The operations of Forex.com UK and its clients' accounts are located in the UK.

3. QuantFX also promoted its investment services on a website. This website contained misleading and/or inaccurate statements about the historical trading performance of QuantFX, the QuantFX management and its client base.

4. Clients of QuantFX, some of whom resided in Ontario, were instructed by QuantFX to deposit funds (the "Client Funds") directly with Forex.com UK in accounts in their names (the "Managed Accounts"). QuantFX and its agents then directed these clients to sign a limited power of attorney over the Managed Accounts allowing Zemlinsky to trade foreign exchange contracts on their behalf through Forex.com UK.

5. The Client Funds were then pooled by Zemlinsky and used to conduct trading in currency contracts through accounts in his name at Forex.com UK (the "Master Accounts"). He performed the foreign exchange contract trading from locations in Toronto, Ontario. Zemlinsky also allowed other traders in Russia to conduct trades in foreign exchange contracts from the Master Accounts using his password information.

6. Profits and losses in the Master Accounts were then distributed back to the Managed Accounts. Zemlinsky only had access to the Client Funds to permit him to trade in the Master Accounts. He could not instruct Forex.com UK to withdraw any funds from the Managed Accounts.

7. Clients of QuantFX also entered into a profit sharing agreement with QuantFX whereby QuantFX would receive 42.5% of any trading profits realized.

8. During the Material Time, clients placed a total of approximately $780,000 U.S. in the Managed Accounts.

II. THE RESPONDENTS

9. QuantFX was federally incorporated on August 4, 2009 and had its offices at an address located in Toronto, Ontario. Its founding directors were Tsatskin, Shtromvaser and Zemlinsky who remained directors during the Material Time.

10. During the Material Time, QuantFX, Tsatskin, Shtromvaser and Zemlinsky (collectively, the "Respondents") were not registered in any capacity with the Ontario Securities Commission (the "Commission").

11. Tsatskin, Shtromvaser and Zemlinsky are all residents of Ontario.

12. Tsatskin signed documents on behalf of QuantFX as its 'vice-president" and its "chairman".

13. Shtromvaser and Tsatskin were responsible for the development of the business infrastructure of QuantFX and its marketing and development, including the solicitation of clients. Zemlinsky was responsible for the trading on behalf of QuantFX clients.

14. Tsatskin, Shtromvaser and Zemlinsky all discussed and considered whether their activities in relation to QuantFX required registration with the Commission. All reached the conclusion that they were not required to be registered with the Commission.

III. UNREGISTERED TRADING IN SECURITIES CONTRARY TO SECTION 25 OF THE ACT

15. Staff allege that the Respondents and other agents of QuantFX engaged in the trading of securities and held themselves out as engaging in the business of trading securities without the proper registration contrary to section 25(1) of the *Securities Act*, R.S.O. 1990, c. S. 5, as amended (the "Act").

16. Further, Staff allege that the Respondents and other agents of QuantFX engaged in the business of advising members of the public with respect to the investing in, buying or selling securities of securities and held themselves out as engaging in the business of advising members of the public with respect to the investing in, buying or selling securities of securities contrary to section 25(3) of the Act.

17. The trading of foreign exchange contracts or advising regarding the trading of foreign exchange contracts by persons or companies in Ontario requires registration under section 25 of the Act.

IV. ILLEGAL DISTRIBUTION OF SECURITIES CONTRARY TO SECTION 53(1) OF THE ACT

18. Forex.com UK has never filed a prospectus or a preliminary prospectus with the Commission or obtained receipts for them from the Director regarding the trading of foreign exchange contracts in its accounts by account holders situated in Ontario. Further, these foreign exchanges contracts did not qualify for any exemption under Ontario securities law which would otherwise permit their trading.

19. The business of QuantFX was to persuade investors in Ontario and elsewhere to open trading accounts at Forex.com UK to allow QuantFX through its officers, directors, employees and agents to conduct foreign exchange contract trading on behalf of these investors.

20. From locations in Ontario, Quant FX, through its officers, directions, agents or employees, conducted trades of foreign exchange contracts on behalf of residents of Ontario and elsewhere.

21. The trading of foreign exchange contracts by persons or companies in Ontario must meet the prospectus requirements under section 53(1) of the Act or qualify for an exemption.

VI. CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND CONTRARY TO THE PUBLIC INTEREST

22. The specific allegations advanced by Staff related to the trades in foreign exchange contracts through Forex.com UK during the Material Time are as follows:

    (a) QuantFX, Tsatskin, Shtromvaser and Zemlinsky traded in securities without being registered to trade in securities and/or held themselves out as engaging in the business of trading securities being registered to trade in securities, contrary to section 25(1) of the Act and contrary to the public interest;

    (b) QuantFX, Tsatskin, Shtromvaser and Zemlinsky engaged in the business of advising in securities without being registered to trade in securities and/or held themselves out as engaging in the business of trading securities being registered to trade in securities, contrary to section 25(3) of the Act and contrary to the public interest;

    (c) The actions of QuantFX, Tsatskin, Shtromvaser and Zemlinsky related to the trading of securities in accounts at Forex.com UK constituted distributions of securities where no preliminary prospectus and prospectus were issued nor receipted by the Director, contrary to section 53(1) of the Act and contrary to the public interest; and

    (d) Tsatskin, Shtromvaser and Zemlinsky being directors and/or officers of QuantFX did authorize, permit or acquiesce in the commission of the violations of sections 25(1), 25(3) and 53(1) of the Act, as set out above, by QuantFX or by the agents or employees of QuantFX, contrary to section 129.2 of the Act and contrary to the public interest.

23. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

DATED at Toronto, November 10, 2010.

1.3 News Releases

1.3.1 CSA and IIROC Publish Proposals on the Regulatory Framework for Dark Pools and Dark Orders

FOR IMMEDIATE RELEASE
Friday, November 19, 2010

CSA AND IIROC PUBLISH PROPOSALS ON
THE REGULATORY FRAMEWORK FOR DARK POOLS AND DARK ORDERS

Toronto – The Canadian Securities Administrators (CSA) and the Investment Industry Regulatory Organization of Canada (IIROC) today published for comment Joint CSA/IIROC Position Paper 23-405 *Dark Liquidity in the Canadian Market*, which sets out the CSA and IIROC position regarding the regulatory framework for Dark Pools and Dark Orders in Canada.

The Position Paper is the next step in a process involving regulatory consultations with market participants on issues surrounding dark liquidity that began in 2009 with the publication for comment of Consultation Paper 23-404 *Dark Pools, Dark Orders, and Other Developments in Market Structure in Canada*. In March 2010, the CSA and IIROC hosted a forum to further discuss the issues raised in the consultation paper and the feedback received. On May 28, 2010, the two organizations published a notice setting out the themes discussed at the forum and next steps. The Position Paper deals with issues regarding dark liquidity, while other issues raised at the March 2010 forum are being addressed through separate CSA and IIROC projects.

“The recommendations aim to strike an appropriate balance between promoting marketplace competition and maintaining the quality of our markets,” said Jean St-Gelais, Chair of the CSA and President and Chief Executive Officer of the Autorité des marchés financiers (Québec). “We are proactively establishing a framework that fosters development of dark liquidity without negative consequences to market integrity.”

The CSA and IIROC are proposing that only orders that meet a minimum size threshold be exempt from the pre-trade transparency requirements imposed on marketplaces in Canada. In addition, the organizations are recommending that “meaningful price improvement” be required in certain circumstances and that, generally, visible orders should be executed before Dark Orders at the same price on the same marketplace.

"The proposed changes will promote transparency and price discovery and enhance fair and equal access to liquidity for all investors, while recognizing the role that Dark Pools play in facilitating the execution of large orders," said IIROC CEO and President Susan Wolburgh Jenah.

A copy of Joint CSA/IIROC Position Paper 23-405 *Dark Liquidity in the Canadian Market* is available on the websites of CSA members and IIROC. The public comment period for the paper is open until January 10, 2011.

The CSA, the council of the securities regulators of Canada’s provinces and territories, co-ordinates and harmonizes regulation for the Canadian capital markets.

IIROC is the national self-regulatory organization which oversees all investment dealers and trading activity on debt and equity marketplaces in Canada.

For more information:

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Louis Arki
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867-975-6587

Donn MacDougall
Northwest Territories
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867-920-8984

1.4 Notices from the Office of the Secretary

1.4.1 QuantFX Asset Management Inc. et al.

FOR IMMEDIATE RELEASE
November 17, 2010

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
QUANTFX ASSET MANAGEMENT INC.,
VADIM TSATSKIN, LUCIEN SHTROMVASER
AND ROSTISLAV ZEMLINSKY

TORONTO – The Office of the Secretary issued an Amended Notice of Hearing setting the matter down to be heard on November 18, 2010 at 4:00 p.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Amended Notice of Hearing dated November 17, 2010 is available at **www.osc.gov.on.ca**.

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SECRETARY

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1.4.2 XI Biofuels Inc. et al.

FOR IMMEDIATE RELEASE
November 19, 2010

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
XI BIOFUELS INC., BIOMAXX SYSTEMS INC.,
XIIVA HOLDINGS INC. CARRYING ON BUSINESS
AS XIIVA HOLDINGS INC., XI ENERGY COMPANY,
XI ENERGY AND XI BIOFUELS,
RONALD CROWE AND VERNON SMITH

TORONTO – The Commission issued its Reasons and Decision on Sanctions and Costs and an Order in the above noted matter.

A copy of the Reasons and Decision on Sanctions and Costs and the Order dated November 17, 2010 are available at **www.osc.gov.on.ca**.

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1.4.3 Global Partners Capital et al.

FOR IMMEDIATE RELEASE
November 19, 2010

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
GLOBAL PARTNERS CAPITAL, ASIA PACIFIC ENERGY, INC., 1666475 ONTARIO INC. operating as "ASIAN PACIFIC ENERGY", ALEX PIDGEON, KIT CHING PAN also known as Christine Pan, HAU WAI CHEUNG, also known as Peter Cheung, Tony Cheung, Mike Davidson, or Peter McDonald, GURDIP SINGH GAHUNIA also known as Michael Gahunia or Shawn Miller, BASIL MARCELLINIUS TOUSSAINT also known as Peter Beckford, and RAFIQUE JIWANI also known as Ralph Jay

TORONTO – The Commission issued an Order in the above named matter which provides that the hearing on sanctions and costs in this matter is adjourned to Thursday, December 16, 2010 at 2:30 p.m. at the offices of the Commission on the 17th floor, 20 Queen Street West in Toronto.

A copy of the Order dated November 18, 2010 is available at **www.osc.gov.on.ca**.

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1.4.4 Baffinland Iron Mines Corporation et al.

FOR IMMEDIATE RELEASE
November 19, 2010

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
BAFFINLAND IRON MINES CORPORATION, IRON ORE HOLDINGS, LP AND ITS WHOLLY-OWNED SUBSIDIARY NUNAVUT IRON ORE ACQUISITION INC.

TORONTO – Following a hearing held on November 18, 2010 in the above named matter, the Commission issued an Order today.

A copy of the Order dated November 19, 2010 is available at **www.osc.gov.on.ca**.

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1.4.5 Anthony Ianno and Saverio Manzo

FOR IMMEDIATE RELEASE
November 22, 2010

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
ANTHONY IANNO AND SAVERIO MANZO

TORONTO – The Commission issued an Order in the above named matter which provides that a further pre-hearing conference will be held in this matter on Tuesday, December 17, 2010 at 10:00 a.m.

A copy of the Order dated November 19, 2010 is available at **www.osc.gov.on.ca**.

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1.4.6 Global Consulting and Financial Services et al.

FOR IMMEDIATE RELEASE
November 22, 2010

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
GLOBAL CONSULTING AND FINANCIAL SERVICES,
CROWN CAPITAL MANAGEMENT CORPORATION,
CANADIAN PRIVATE AUDIT SERVICE,
EXECUTIVE ASSET MANAGEMENT,
MICHAEL CHOMICA, PETER KUTI, JAN CHOMICA,
AND LORNE BANKS

TORONTO – The Commission issued a Temporary Order in the above named matter which provides that, pursuant to subsections 127(1) and (8) of the Act, the Temporary Order is extended to January 27, 2011; and the hearing in this matter is adjourned to January 26, 2011 at 11:00 a.m., and that the parties will make efforts to advise the Commission by January 3, 2011 whether they are in agreement that the hearing set for January 26, 2011 be held in writing.

A copy of the Temporary Order dated November 17, 2010 available at **www.osc.gov.on.ca**.

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1.4.7 QuantFX Asset Management Inc. et al.

FOR IMMEDIATE RELEASE
November 23, 2010

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
QUANTFX ASSET MANAGEMENT INC.,
VADIM TSATSKIN, LUCIEN SHTROMVASER AND
ROSTISLAV ZEMLINSKY

TORONTO – The Commission issued an Order in the above named matter which provides that (i) pursuant to subsections 127(7) and (8) of the Act, the Temporary Order is extended to January 27, 2011; (ii) the hearing in this matter is adjourned to January 26, 2011 at 12:00 p.m. or on such other date as provided by the Secretary's Office and agreed to by the parties; and (iii) the purpose of the hearing to be held on January 26, 2011 is to set dates for the hearing on the merits.

A copy of the Order dated November 18, 2010 is available at **www.osc.gov.on.ca**.

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1.4.8 North American Financial Group Inc. et al.

FOR IMMEDIATE RELEASE
November 23, 2010

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER
NORTH AMERICAN FINANCIAL GROUP INC.,
NORTH AMERICAN CAPITAL INC.,
ALEXANDER FLAVIO ARCONTI, AND
LUIGINO ARCONTI

TORONTO – The Commission issued an Order in the above named matter which provides that the Temporary Order be amended such that Flavio and Gino may trade in securities for their own accounts or their parents' accounts or for the accounts of their registered retirement savings plan or registered income fund (as defined in the Income Tax Act (Canada)) provided that they trade through accounts opened in their parents' names or either of their names only; and the Temporary Order as amended be extended to December 3, 2010 and the hearing in this matter be adjourned to December 2, 2010 at 2:00 p.m.

A copy of the Order dated November 23, 2010 is available at **www.osc.gov.on.ca**.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 AlphaPro Management Inc. and Horizons AlphaPro Floating Rate Bond ETF

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption from section 2.7(1)(a) of NI 81-102 to permit existing and future funds to enter into an interest rate swap or a credit default swap, or if the transaction is for hedging purposes, currency forwards, with a remaining term to maturity of greater than 3 years; and exemption from section 2.8(1) to permit mutual funds to cover specified derivatives positions with any bonds, debentures, notes, including floating rate notes, and money market fund securities subject to conditions – the relief will enhance returns to investors while still providing adequate safeguards.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.7(1)(a), 2.8(1), 19.1.

November 18, 2010

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
ALPHAPRO MANAGEMENT INC.
(the Filer)

AND

IN THE MATTER OF
HORIZONS ALPHAPRO FLOATING RATE BOND ETF
(the ETF)

DECISION

Background

The principal regulator in the Jurisdiction (the **Decision Maker**) has received an application from the Filer on behalf of the ETF and such other exchange traded funds (each, a **Future ETF** and collectively with the ETF, the **Funds** and individually a **Fund**) that the Filer, or an affiliate of the Filer may establish in the future, for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for relief from the following sections of National Instrument 81-102 *Mutual Funds* (**NI 81-102**):

1. (a) Subsection 2.7(1)(a) of NI 81-102, insofar as it requires a swap or forward contract to have a remaining term to maturity of 3 years or less (or 5 years or less in certain circumstances), to permit the Funds to enter into interest rate swaps, credit default swaps and currency forwards, in all cases with a remaining term to maturity of greater than 3 years; and

   (b) Subsection 2.8(1) of NI 81-102, to the extent that cash cover is required in respect of specified derivatives, to permit each of the Funds to cover specified derivative positions with:

      (i) evidences of indebtedness, other than cash equivalents, that have a remaining term to maturity of 365 days or less and an "approved credit rating" as that term is defined in NI 81-102 (**Fixed Income Securities**);

      (ii) floating rate evidences of indebtedness (**Floating Rate Securities**); or

      (iii) securities of money market mutual funds ("**Money Market Securities**").

   (collectively, the **Exemption Sought**).

2. Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

   (a) the Ontario Securities Commission is the principal regulator for this application; and

   (b) The Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada.

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

This decision is based on the following facts represented by the Filer.

Background

1. The Filer is a corporation governed by the *Canada Business Corporations Act*. The Filer or an affiliate of the Filer is or will act as, the trustee and manager of the Funds.

2. The Funds are, or will be, mutual funds established under the laws of the Province of Ontario.

3. The investment objectives of the Funds permit the investment of their assets in fixed income securities.

4. The Funds are, or will be, reporting issuers in one or more of the provinces and territories of Canada. Neither the ETF nor the Filer is in default of any requirements of the securities legislation of any jurisdiction.

5. Any Fund that is not currently permitted to engage in the use of derivatives will only do so in accordance with Section 2.11 of NI 81-102.

6. The Funds that are, or will be, permitted to use specified derivatives can use specified derivatives to reduce risk by hedging against losses caused by changes in securities prices, interest rates, exchange rates and/or other risks. The Funds may also use specified derivatives for non-hedging purposes under their investment strategies in order to invest indirectly in securities or financial markets or to gain exposure to other currencies, provided the use of specified derivatives is consistent with the particular Fund's investment objective. When specified derivatives are used for non-hedging purposes, the Funds are subject to the cash cover requirements of NI 81-102.

7. In all cases where the Funds may use derivatives, hedging of risks is permitted, including currency risks, whether the currency risk relates to income or equity securities or otherwise.

8. When specified derivatives are used for non-hedging purposes, the Funds are subject to the cash cover requirements of NI 81-102.

Term of Interest Rate Swaps, Credit Default Swaps and Currency Forwards

9. Section 2.7(1)(a) of NI 81-102 prohibits mutual funds from entering into swaps or forward contracts with terms to maturity of greater than 3 years, or greater than 5 years if the contract provides the fund with a right to eliminate its exposure within 3 years. The Filer, on behalf of the Funds, seeks the ability to enter into interest rate swaps, credit default swaps and currency forwards without a restriction as to the term of the swap or forward.

10. Fixed income investments have risks which include (but are not limited to) interest rate risk, credit risk and currency risk. These risks can be controlled or mitigated through the use of over-the-counter (**OTC**) derivatives. Interest rate risk may be managed by interest rate swaps, credit risk can be managed by credit default swaps and currency risk by currency forwards.

11. The term of a swap equals the maturity of its exposure, in contrast to other over-the-counter transactions, such as options and certain other types of forwards, where the contract term and maturity of the underlying security are not related. As a result, there is no restriction under NI 81-102, for example, on a forward with an underlying interest having a term of 10 years whereas there is a restriction if the derivative is in the form of a swap.

12. Credit default swaps have a similar risk profile to their reference entity (such as corporate or sovereign bonds or asset backed securities) or, in the case of an index of credit default swaps (such as CDX), to an average of all the reference entities in the index or, in the case of a basket of reference entities, to an average of all the reference entities in the basket. The term of a credit default swap imparts credit risk similar to that of a bond of the reference entity with the same term. The Funds may not be able to achieve the same sensitivity to credit risk as their respective benchmarks by using credit default swaps with a maximum term of 3 years because the relevant benchmark may have an average term that is longer. It should also be noted that the most liquid terms for single name credit default swaps and/or indices are 5 years and 10 years. There is no term restriction in NI 81-102 when investing directly in the reference entities.

13. A currency forward used for hedging purposes may or may not have a contract term and maturity that equals the maturity of the underlying interest. For example, if a 10 year bond is denominated in U.S. dollars, under the current provisions of NI 81-102, the term of the currency forward can be at most 5 years whereas the term of the underlying interest is 10 years. Ideally to manage the

currency risk, a fund must enter into two consecutive 5-year currency forwards. However, the pricing for the currency forward in respect of the second 5 year period is not known at the time the U.S. dollar bond is purchased but only 5 years hence. Consequently, the inability to enter into a 10 year currency forward transaction indirectly introduces currency risk when a hedged 10 year position was the desired outcome. Accordingly, whenever the term of the bond is longer than 5 years, the current provisions of NI 81-102 may unintentionally expose a fund to currency risk. This constraint has become even more relevant given that there are no longer foreign investment restrictions under the *Income Tax Act* (Canada) which has resulted in many mutual funds increasing their foreign investment exposure.

14. It is also not a market practice to have a transaction with a 5-year term (subject to a right to eliminate the exposure within 3 years) as required by NI 81-102 and, as a result, from time to time, this off-market feature may subject a mutual fund to less efficient pricing.

15. The interest rate swap market, credit default swap market and currency forward markets are very large and liquid.

16. The interest rate swap market is generally as liquid as government bonds and more liquid than corporate bonds. The Bank for International Settlements reported that the notional amount of interest rate swaps outstanding was U.S. $347 trillion as of December 31, 2009. In Canada, there were over U.S. $3.2 trillion of interest rate swaps outstanding as of December 31, 2009, greater than the sum of all outstanding federal and provincial debt.

17. Credit default swaps, on average, are highly liquid instruments. Single name credit default swaps have become as liquid and in most cases more liquid than the cash bonds of their reference entities, while credit default swaps on CDX are generally more liquid than corporate or emerging market bonds. The Bank for International Settlements reported that the notional amount of credit default swaps outstanding was U.S. $32.7 trillion as of December 31, 2009. The International Swap and Derivatives Association's 2009 year-end market survey estimated the notional amount outstanding to be U.S. $30.4 trillion. Using either source, the credit default swap market has surpassed the size of the equity derivatives markets and is one of the fastest growing financial markets.

18. With respect to foreign exchange, the Bank for International Settlements reported that the notional amount of outright forwards and foreign exchange swaps outstanding was U.S. $23 trillion as at December 31, 2009. Daily trading is many times larger for currencies and currency forwards than for well-known equity exchanges.

19. As swap and forward contracts are private agreements between two counterparties, a secondary market for the agreements would be a cumbersome process whereby one counterparty would have to find a new counterparty willing to take over its contract at a fair market price, get the original counterparty to approve the new counterparty, and exchange a whole new set of documents. To avoid that process, market participants can unwind their positions in interest rate swaps and currency forwards by simply entering into an opposing swap or forward with an acceptable counterparty at market value. In this way, the original economic position of the initial swap or forward is offset. Parties may also agree to terminate the agreement at a fair market price prior to the maturity date of the agreement.

20. Credit risk exposure to a counterparty on an interest rate swap transaction or currency forward transaction is generally a small fraction of the underlying notional exposure, equal to the cumulative price change since the inception of the swap or forward. Even that small risk will be mitigated because the counterparty will be required to have an approved credit rating prescribed by Section 2.7(1)(b) of NI 81-102.

21. Potential credit exposure to a counterparty on a credit default swap on a credit default index is equal to the pro-rated notional exposure to any issuer in the index who has defaulted or, in the case of a single name credit default swap, equal to the full notional exposure. As is the case with interest rate swaps, this exposure is mitigated because the counterparty will be required to have an approved credit rating prescribed by paragraph 2.7(1)(b) of NI 81-102 and exposure to any individual counterparty is limited by subsection 2.7(4) of NI 81-102.

22. Like interest rate swaps and credit default swaps, credit risk exposure to a counterparty is only a small fraction of the underlying notional exposure of a currency forward.

23. By permitting the Funds to enter into swaps and forwards beyond 3-year terms, the Funds have better opportunities to increase their returns, due to the fact that they will have a broader selection of investment opportunities, and a greater ability to target exposures that might not otherwise be available in the cash bond markets or could not be achieved as efficiently as in the cash bond markets. Further, the use of swaps and forwards beyond 3-year terms enables the Funds to effect hedging transactions that are more efficient and tailored which should help to mitigate underlying investment risks.

24. The Filer has or will have, the right to terminate the swap or forward early if a counterparty's credit rating drops below the approved credit ratings established by NI 81-102 in accordance with the requirements of Subsection 2.7(1)(b) of NI 81 102 and the definition of "approved credit rating" in NI 81-102.

Cash Cover

25. The purpose of the cash cover requirement in NI 81-102 is to prohibit a mutual fund from leveraging its assets when using certain specified derivatives and to ensure that the mutual fund is in a position to meet its obligations on the settlement date.

26. This is evident from the definition of "cash cover", which is defined as certain specific portfolio assets of the mutual fund that have not been allocated for specific purposes and that are available to satisfy all or part of the obligations arising from a position in specified derivatives held by the mutual fund. Currently, the definition of "cash cover" includes six different categories of securities, including certain evidences of indebtedness (cash equivalents and commercial paper) that generally have a remaining term to maturity of 365 days or less and that have an approved credit rating, and/or are issued or guaranteed by an entity with an approved credit rating (collectively, "**short-term debt**").

27. In addition to the securities currently included in the definition of cash cover, the Funds would also like to invest in Fixed Income Securities, Floating Rate Securities and/or Money Market Securities for purposes of satisfying their cash cover requirements.

28. It is submitted that the proposed use of Fixed Income Securities, Floating Rate Securities and Money Market Securities as cash cover for the Funds should be granted by the securities authorities for the reasons set out below.

With Respect to Fixed Income Securities:

29. While the money market instruments that are currently permitted as cash cover are highly liquid, these instruments typically generate very low yields relative to longer dated instruments and similar risk alternatives.

30. Other fixed income instruments with maturities less than 365 days and approved credit ratings are also liquid but provide the potential for higher yields.

31. The definition of cash cover addresses regulatory concerns of interest rate risk and credit risk by limiting the terms of the instruments and requiring the instruments to have an approved credit rating. It is submitted that by permitting the Funds to use for cash cover purposes Fixed Income Securities with a remaining term to maturity of 365 days or less and an approved credit rating, the regulatory concerns are met, since the term and credit rating will be the same as other instruments currently permitted to be used as cash cover.

With Respect to Floating Rate Securities:

32. Floating Rate Securities are debt securities issued by the federal or provincial governments, the Crown or other corporations and other entities with floating interest rates that reset periodically, usually every 30 to 90 days.

33. Although the term to maturity of Floating Rate Securities can be more than 365 days, the Funds propose to limit their investment in Floating Rate Securities used for cash cover purposes to those that have interest rates that reset at least every 185 days.

34. Allowing the Funds to use Floating Rate Securities for cash cover purposes could increase the rate of return earned by each of the Fund's investors without reducing the credit quality of the instruments held as cash cover. It is submitted that the frequent interest rate resets mitigate the risk of investing in Floating Rate Securities as cash cover. For the purposes of money market funds under NI 81 102 meeting the 90 days dollar-weighted average term to maturity, the term of a floating rate evidence of indebtedness is the period remaining to the date of the next rate setting. If a Floating Rate Security resets every 185 days, then the interest rate of the Floating Rate Security is about the same as a fixed rate instrument with a term to maturity of 185 days.

35. Financial instruments that meet the current cash cover requirements have low credit risk. The current cash cover requirements provide that evidences of indebtedness of issuers, other than government agencies, must have approved credit ratings. As a result, if the issuer of Floating Rate Securities is an entity other than a government agency, the Floating Rate Securities used by the Funds for cash cover purposes will have an approved credit rating as required by NI 81-102.

36. Given the frequent interest rate resets, the nature of the issuer and the adequate liquidity of Floating Rate Securities, the risk profile and the other characteristics of Floating Rate Securities are similar to those of short-term debt, which constitute cash cover under NI 81-102.

With respect to Money Market Securities:

37. Under NI 81-102, in order to qualify as money market funds, the issuers of Money Market Securities are restricted to investments that are, for the most part, considered to be cash cover.

38. If the direct investments of the issuers of Money Market Securities would constitute cash cover under NI 81-102 then it is submitted that indirectly holding these investments through an investment in Money Market Securities should also satisfy the cash cover requirements of NI 81-102.

39. It is therefore submitted that Money Market Securities should constitute cash cover for the Funds for purposes of NI 81-102.

Derivatives Policies and Risk Management

40. The Filer and JovInvestment Management Inc. (**JovInvestment**), an affiliate of the Filer, have developed a number of policies and mechanisms to monitor the use of derivatives by the Funds, in order to comply with the rules set out in NI 81-102.

41. In addition, the Filer and JovInvestment have written control policies and procedures that set out the risk management procedures applicable to derivative trading. These policies and procedures set out specific procedures for the authorization, documentation, reporting, monitoring and review of derivative strategies ensuring that these functions are performed by individuals independent of those who trade. Compliance personnel employed by both the portfolio advisors/sub-advisors and the Filer review the use of derivatives as part of their ongoing supervision of Fund investment practices.

42. Limits and controls on derivatives trading are part of the Filer's compliance regime. All derivatives transactions are reviewed by a specially trained team that ensures that the derivative positions of the funds are within the existing control policies and procedures.

43. The prospectus and annual information form of the Funds discloses the internal controls and risk management processes of the Filer regarding the use of derivatives and, upon renewal, will include disclosure of the nature of the exemptions being sought in respect of the Funds.

44. Without these exemptions the Funds will not have the flexibility to enhance yield and to manage more effectively their exposure under specified derivatives.

General

45. The Filer contends that the requested approval is (i) not against the public interest, (ii) is in the best interests of the Funds, and (iii) represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Funds.

46. The Exemption Sought will be in the best interests of the Funds as the Exemption Sought will help to save costs, potentially enhance performance of the Funds or reduce risks and does not leave the Funds exposed to any material incremental risk beyond the risk that the portfolio manager is targeting. The Exemption Sought is, or will be, consistent with the investment objectives and strategies of the respective Funds.

47. The use of derivatives by investors and portfolio managers has increased substantially during the last 20 to 30 years. The Filer is seeking the Exemption Sought to permit the Funds to engage in strategies consistent and/or familiar with industry practice.

Decision

The Decision Maker 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 Maker under the Legislation is that the Exemption Sought is granted provided that:

1. the Fixed Income Securities have a remaining term to maturity of 365 days or less and have an "approved credit rating" as defined in NI 81-102;

2. the Floating Rate Securities meet the following requirements:

   (a) the floating interest rates of the Floating Rate Securities reset no later than every 185 days;

   (b) the Floating Rate Securities are floating rate evidences of indebtedness with the principal amounts of the obligations that will continue to have a market value of approximately par at the time of each change in the rate to be paid to the holders of the evidences of indebtedness;

   (c) if the Floating Rate Securities are issued by a person or company other than a government or "permitted supranational agency" as defined in NI 81-102, the Floating Rate Securities must have an "approved credit rating" as defined in NI 81-102;

   (d) if the Floating Rate Securities are issued by a government or permitted supranational agency, the Floating Rate Securities have their principal and interest fully and unconditionally guaranteed by:

      (i) the government of Canada or the government of a jurisdiction in Canada; or

(ii) the government of the United States of America, the government of one of the states of the United States of America, the government of another sovereign state or a "permitted supranational agency" as defined in NI 81-102, if, in each case, the Floating Rate Securities have an "approved credit rating" as defined in NI 81-102; and

(e) the Floating Rate Securities meet the definition of "conventional floating rate debt instrument" in section 1.1 of NI 81-102; and

3. at the time of the next renewal and all subsequent renewals of the prospectus and annual information form the Funds shall:

(a) disclose the nature and terms of this relief in the annual information form of the Fund with a cross reference thereto in the prospectus of any Fund; and

(b) shall include a summary of the nature and terms of this relief in the prospectus of a Fund under the Investment Strategies section or in the introduction to Part B of the prospectus with a cross reference thereto under the Investment Strategies section for such Fund.

"Darren McKall"
Assistant Manager, Investment Funds Branch
Ontario Securities Commission

2.1.2 Monterey Exploration Ltd. – s. 1(10)

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – application for an order that the issuer is not a reporting issuer.

Ontario Statutes

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10).

October 26, 2010

Bennett Jones LLP
4500 Bankers Hall East
855 - 2 Street SW
Calgary, AB T2P 4K7

Attention: Matthew R. Olson

Dear Sir:

Re: Monterey Exploration Ltd. (the Applicant) – Application for a decision under the securities legislation of Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and New Brunswick (the Jurisdictions) that the Applicant is not a reporting issuer

The Applicant has applied to the local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions for a decision under the securities legislation (the **Legislation**) of the Jurisdictions to be deemed to have ceased to be a reporting issuer in the Jurisdictions.

As the Applicant has represented to the Decision Makers that:

(a) the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 security holders in each of the jurisdictions in Canada and fewer than 51 security holders in total in Canada;

(b) no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and

(d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant is deemed to have

ceased to be a reporting issuer and that the Applicant's status as a reporting issuer is revoked.

"Blaine Young"
Associate Director, Corporate Finance
Alberta Securities Commission

2.1.3 Sprott Asset Management LP and Sprott Physical Silver Trust

Headnote

Exemptive relief granted from National Instrument 41-101 General Prospectus Requirement, Form 41-101F2 Information Required in an Investment Fund Prospectus, and National Instrument 81-106 Investment Fund Continuous Disclosure – Exemption from the requirements to include in the prospectus annual financial statements prepared in accordance with Canadian generally accepted accounting principles and to prepare on a continuing basis financial statements in accordance with Canadian generally accepted accounting principles – A closed-end mutual fund trust intending to list its units on the TSX and NYSE Arca – Issuer is a "foreign private issuer" with the SEC and permitted to file financial statements prepared in accordance with International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board with its Form F-1 registration statement – IFRS issues such as classification of puttable instruments, consolidation, and deferred income taxes are not expected to impact the Trust's financial statements.

Applicable Legislative Provisions

National Instrument 41-101 General Prospectus Requirements, ss. 3.1(2), 4.2(2), 19.1.
Form 41-101F2, Item 38.
National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 2.6, 17.1.

October 27, 2010

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
SPROTT ASSET MANAGEMENT LP
(the Filer)

AND

IN THE MATTER OF
SPROTT PHYSICAL SILVER TRUST
(the Trust)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, in its capacity as the manager of the Trust, for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for exemptive relief:

(a) pursuant to section 19.1 of National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**) from the requirements under subsection 3.1(2) and subsection 4.2(2) of NI 41-101, and Item 38 of Form 41-101F2 *Information Required in an Investment Fund Prospectus* to permit the Trust to include financial statements prepared using International Financial Reporting Standards as issued by the International Accounting Standards Board (**IFRS-IASB**), rather than Canadian generally accepted accounting principles (**GAAP**), in the final base PREP prospectus of the Trust (the **Final Prospectus**) to be filed in each of the Canadian Jurisdictions (as hereinafter defined); and

(b) pursuant to section 17.1 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) from the requirement under section 2.6 of NI 81-106 to permit the financial statements of the Trust to be prepared in accordance with IFRS-IASB rather than Canadian GAAP,

(collectively, the **Exemption Sought**).

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

(a) the Ontario Securities Commission is the principal regulator for this application (the **Principal Regulator**); and

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Nunavut and Yukon.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined herein.

Representations

This decision is based on the following facts represented by the Filer and the Trust:

1. The Filer is a limited partnership formed and organized under the laws of the Province of Ontario and maintains its head office in Toronto, Ontario. The general partner of the Filer is Sprott Asset Management GP Inc. (the **General Partner**), which is a corporation incorporated under the laws of the Province of Ontario. The General Partner is a wholly-owned, direct subsidiary of Sprott Inc. Sprott Inc. is a corporation incorporated under the laws of the Province of Ontario and is a public company listed on the Toronto Stock Exchange (**TSX**). Sprott Inc. is the sole limited partner of the Filer and the sole shareholder of the General Partner.

2. The Filer is registered under the securities legislation in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, and Newfoundland and Labrador as an adviser in the category of portfolio manager.

3. The Trust is a closed-end mutual fund trust established under the laws of the Province of Ontario pursuant to a trust agreement dated as of June 30, 2010, as amended and restated as of October 1, 2010 (the **Trust Agreement**), as the same may be further amended, restated or supplemented from time to time. Pursuant to the Trust Agreement, RBC Dexia Investor Services Trust and the Filer are the trustee and the manager of the Trust, respectively.

4. In connection with an initial public offering (the **Offering**) of transferable, redeemable units of the Trust (the **Units**), a preliminary base PREP prospectus dated July 9, 2010 of the Trust was filed with the securities regulatory authorities in each province and territory of Canada (the **Canadian Jurisdictions**) and the Trust intends to become a reporting issuer, or the equivalent thereof, in such Canadian Jurisdictions following the filing of the Final Prospectus.

5. Concurrently with filing the foregoing preliminary prospectus, the Trust filed a registration statement on Form F-1 (the **Registration Statement**) under the U.S. *Securities Act of 1933*, as amended, with the United States Securities and Exchange Commission (**SEC**) in connection with the Offering of the Units in the United States.

6. The Trust subsequently filed via SEDAR the third amended and restated preliminary base PREP prospectus of the Trust dated October 18, 2010 (the **Preliminary Prospectus**) amending and restating the second amended and restated preliminary base PREP prospectus of the Trust dated October 1, 2010 which amended and restated the amended and restated preliminary base PREP prospectus of the Trust dated September 7, 2010 which amended and restated the preliminary base PREP prospectus of the Trust dated July 9, 2010 with each of the Canadian Jurisdictions. Concurrently with filing the Preliminary Prospectus, the Trust filed via

EDGAR an amended version of the Registration Statement with the SEC.

7. The Trust intends to list the Units on the TSX and the New York Stock Exchange Arca (**NYSE Arca**). The Trust will not file the Final Prospectus until the TSX and the NYSE Arca have conditionally approved the listing of the Units.

8. The Trust is a "mutual fund in Ontario" as such term is defined in the *Securities Act* (Ontario) and is subject to the investment restrictions applicable to mutual funds which are prescribed by National Instrument 81-102 *Mutual Funds*. The Filer has established an independent review committee for the Trust in accordance with the requirements under National Instrument 81-107 **Independent Review Committee for Investment Funds**.

9. The Trust is not required to register as an "investment company" as such term is defined in the U.S. *Investment Company Act of 1940*, as amended (the **1940 Act**), since the Trust will invest all or substantially all of its assets in physical silver bullion (**Silver Bullion**). Silver Bullion does not fall within the definition of either a "security" or an "investment security" under the 1940 Act and, accordingly, the Trust is not required to be registered as an "investment company".

10. The Filer and the Trust are not in default of securities legislation in the Canadian Jurisdictions.

11. Although the Filer and the Trust are unable to predict with any accuracy as to where sales of Units will actually occur, the Offering is expected to be marketed to investors on a global basis and, in particular, to investors resident in Canada, the United States, Europe, Asia and the Middle East.

12. As a newly established issuer, the Trust has not prepared any financial statements other than the audited statement of financial position of the Trust as at September 30, 2010 included in the Preliminary Prospectus filed with the Canadian Jurisdictions and the Registration Statement, as amended, filed with the SEC.

13. The SEC permits foreign private issuers, such as the Trust, to include in their Form F-1 filings financial statements prepared in accordance with IFRS-IASB. Preparing the Trust's financial statements in accordance with Canadian GAAP would require the Registration Statement, as amended, to include a reconciliation between U.S. GAAP and Canadian GAAP.

14. The Filer believes that reporting under a single accounting standard in each of Canada and the United States would eliminate complexity from the Trust's financial statement preparation process as well as avoid confusion for the users of the Trust's financial statements who are expected to primarily be non-Canadian investors.

15. The Canadian Accounting Standards Board has published amendments to the Handbook of the Canadian Institute of Chartered Accountants requiring investment companies, which include investment funds such as the Trust, to prepare their financial statements in accordance with IFRS-IASB for financial years beginning on or after January 1, 2012, with earlier adoption permitted. If the Trust is permitted to prepare its financial statements since its inception date in accordance with IFRS-IASB, which is for a period prior to the date on which the Canadian Securities Administrators mandate such conversion for investment funds, the Trust, and ultimately the unitholders of the Trust (the **Unitholders**), will not be required to incur the expenses associated with a subsequent conversion to IFRS-IASB and the reconciliation to U.S. GAAP that would be required in the Registration Statement, as amended, and for required periodic filings under the U.S. *Securities Exchange Act of 1934*, as amended. The Trust's financial statements will be audited in accordance with Canadian generally accepted auditing standards (**GAAS**) and the standards of the Public Company Accounting Oversight Board (United States) (**PCAOB**).

16. The Trust was created to invest and hold substantially all of its assets in Silver Bullion. The Trust seeks to provide a secure, convenient and exchange-traded investment alternative for investors interested in holding Silver Bullion without the inconvenience that is typical of a direct investment in Silver Bullion. The Trust intends to achieve its objective by investing primarily in long-term holdings of unencumbered, fully allocated, Silver Bullion and will not speculate with regard to short-term changes in silver prices. The Trust will not invest in silver certificates or other financial instruments that represent silver or that may be exchanged for silver. The Trust does not anticipate making regular cash distributions to Unitholders.

17. Except with respect to cash held by the Trust to pay expenses and anticipated redemptions of Units, the Trust expects to own only Silver Bullion in London Good Delivery bar form. The Filer intends to invest and hold approximately 97% of the total net assets of the Trust in Silver Bullion.

18. As disclosed in the Preliminary Prospectus, the investment and operating restrictions of the Trust provide that, among other things, the Trust will invest in and hold a minimum of 90% of the total net assets of the Trust in Silver Bullion in London Good Delivery bar form and hold no more than 10% of the total net assets of the Trust, at the discretion of the Filer, in Silver Bullion (in London Good Delivery bar form or otherwise), debt

obligations of or guaranteed by the Government of Canada or a province thereof, or by the Government of the United States of America or a state thereof, short-term commercial paper obligations of a corporation or other person whose short-term commercial paper is rated R-1 (or its equivalent, or higher) by DBRS Limited or its successors or assigns or F1 (or its equivalent, or higher) by Fitch Ratings or its successors or assigns or A-1 (or its equivalent, or higher) by Standard & Poor's or its successors or assigns or P-1 (or its equivalent, or higher) by Moody's Investor Service or its successors or assigns, interest-bearing accounts and short-term certificates of deposit issued or guaranteed by a Canadian chartered bank or trust company, money market mutual funds, short-term government debt or short-term investment grade corporate debt, or other short-term debt obligations approved by the Filer from time to time (for the purpose of this paragraph, the term "short-term" means having a date of maturity or call for payment not more than 182 days from the date on which the investment is made), except during the 60-day period following the closing of the Offering or additional offerings or prior to the distribution of the assets of the Trust.

19. The Filer and the Trust have made a significant commitment of time and resources to fully research and plan for the impact of the Trust's adoption of IFRS-IASB for financial periods prior to January 1, 2012 including, but not limited to, the consideration of the impact of IFRS-IASB on financial statement presentation and related disclosure requirements under applicable securities legislation, internal controls, investor relations, information technology systems, and business and contractual arrangements with service providers to the Trust.

20. The Filer and the General Partner have carefully assessed the readiness of their respective employees, management and board of directors for the Trust's adoption of IFRS-IASB for financial periods beginning on or after June 30, 2010 which is the Trust's inception date, and have concluded that all such persons are adequately prepared for the Trust's adoption of IFRS-IASB for financial periods beginning on or after June 30, 2010.

21. The Filer, in consultation with the Trust's external auditors, has determined that the Units can be classified as equity instruments under IFRS-IASB. The Trust Agreement provides that annual distributions of the Trust's net income and net realized capital gains, if any, to Unitholders will be at the discretion of the Trust rather than being a mandatory or automatic distribution to such Unitholders. Furthermore, if at any point in the future the classification of the Units has to be changed from equity to liability due to either changes in the Trust's structure or a change in accounting rules, such a change would not impact the calculation of the net asset value (the **NAV**) of the Trust pursuant to Part 14 of NI 81-106 since all liabilities represented by outstanding Units would be specifically excluded from the calculation of the NAV of the Trust.

22. The Filer, in consultation with the Trust's external auditors, has determined that the Trust will not be required to present consolidated financial statements under IFRS-IASB since, as noted in paragraphs 16, 17 and 18, the Trust will invest all or substantially all of its assets in Silver Bullion which will be valued on the basis of a fair value standard as set forth in the Trust Agreement.

23. The Filer, in consultation with the Trust's external auditors, currently expects that the Trust will not account for deferred taxes under International Accounting Standards (**IAS**) 12 *Income Taxes* of IFRS-IASB. However, the Filer notes that the application of IAS 12 *Income Taxes* to certain mutual fund trusts continues to be debated within the Canadian accounting profession. Nonetheless, the Filer and the Trust are of the view that there will be no difference in the calculation of the NAV of the Trust pursuant to Part 14 of NI 81-106 between IFRS-IASB and Canadian GAAP since the fair value of any such deferred tax liability would be nil.

24. The Preliminary Prospectus discloses, and any amendments to the Preliminary Prospectus, the Final Prospectus and any amendments thereto will disclose, the Trust's intention that its financial statements will be prepared in accordance with IFRS-IASB and audited in accordance with GAAS and the standards of the PCAOB.

25. The annual financial statements of the Trust to be included in the Final Prospectus and for subsequent financial periods, and the interim financial statements of the Trust for subsequent financial periods which will be prepared on a quarterly basis, will be prepared in accordance with IFRS-IASB.

Decision

The Principal Regulator is satisfied that the decision meets the test set out in the Legislation for the Principal Regulator to make the decision.

The decision of the Principal Regulator under the Legislation is that the Exemption Sought is granted provided that:

(a) the notes to the financial statements of the Trust disclose an unreserved statement of compliance with:

(i) in the case of annual financial statements, IFRS-IASB; and

(ii) in the case of an interim financial report, IAS 34 Interim Financial Reporting; and

(b) the Exemption Sought ceases to apply upon the application of any amendment to section 2.6 of NI 81-106 that changes the acceptable accounting principles, only as applicable to financial years beginning on or after the date on which the amendment comes into force.

"Vera Nunes"
Assistant Manager, Investment Funds Branch
Ontario Securities Commission

2.1.4 Stratic Energy Corporation – s. 1(10)

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – application for an order that the issuer is not a reporting issuer.

Ontario Statutes

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10).

November 23, 2010

Bennett Jones LLP
4500 Bankers Hall East
855 - 2 Street SW
Calgary, AB T2P 4K7

Attention: Colin R. Perry

Dear Sir:

Re: Stratic Energy Corporation (the Applicant) – Application for a decision under the securities legislation of Alberta and Ontario (the Jurisdictions) that the Applicant is not a reporting issuer

The Applicant has applied to the local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions for a decision under the securities legislation (the **Legislation**) of the Jurisdictions to be deemed to have ceased to be a reporting issuer in the Jurisdictions.

As the Applicant has represented to the Decision Makers that:

(a) the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 security holders in each of the jurisdictions in Canada and fewer than 51 security holders in total in Canada;

(b) no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and

(d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant is deemed to have ceased to be a reporting issuer.

"Blaine Young"
Associate Director, Corporate Finance
Alberta Securities Commission

2.1.5 Auex Ventures, Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – application for an order that the issuer is not a reporting issuer under applicable securities laws – requested relief granted.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10)(b).

November 11, 2010

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA AND ONTARIO
(THE JURISDICTIONS)

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
AUEX VENTURES, INC.
(THE FILER)

DECISION

Background

1 The securities regulatory authority or regulator in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer is not a reporting issuer (the Exemptive Relief Sought).

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

(a) the British Columbia 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

2 Terms defined in National Instrument 14-101 *Definitions* have the same meaning if used in this decision, unless otherwise defined.

Representations

3 This decision is based on the following facts represented by the Filer:

1. the Filer is a corporation incorporated under the *Business Corporations Act* (British Columbia) on May 10, 2004;

2. the Filer is a reporting issuer in the Provinces of British Columbia, Alberta and Ontario;

3. the Filer has applied for a decision that it is not a reporting issuer in all of the Jurisdictions in which it is currently a reporting issuer;

4. on November 2, 2010, all of the Filer's outstanding securities were acquired by Fronteer Gold Inc. by way of a plan of arrangement (Arrangement) under the provisions of the *Business Corporations Act* (British Columbia);

5. as a result of the Arrangement, the outstanding securities of the Filer are beneficially owned by less than 15 security holders in each of the Jurisdictions and less than 51 security holders in total in Canada;

6. the Filer's common shares were delisted from the Toronto Stock Exchange (formerly trading under stock symbol "XAU") effective at the close of the market on November 5, 2010;

7. no securities of the Filer are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;

8. the Filer is not in default of any of its obligations under the Legislation as a reporting issuer;

9. the Filer did not voluntarily surrender its status as a reporting issuer in British Columbia under British Columbia Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status* in order to avoid the minimum 10 day waiting period under such instrument; and

10. the Filer did not use the simplified procedure under CSA Notice 12-307 *Applications for a Decision that an Issuer is not a Reporting Issuer* because it is a reporting issuer in British Columbia.

Decision

4 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 Exemptive Relief Sought is granted.

"Martin Eady, CA"
Director, Corporate Finance
British Columbia Securities Commission

2.1.6 Motorola, Inc. and Motorola Mobility Holdings, Inc.

Headnote

NP 11-203 – relief from prospectus requirements to allow U.S. parent company to spin-off shares of its U.S. subsidiary to investors by way of distribution – Distribution not covered by legislative exemptions – U.S. parent company having a de minimis shareholder presence in Canada – U.S. parent company was a public company in the U.S., but not a reporting issuer in Canada. Following distribution, U.S. subsidiary will not be a reporting issuer in Canada – No investment decision required from Canadian shareholders in order to receive shares from distribution.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 53, 74(1).

November 23, 2010

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(The "Jurisdiction")

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
MOTOROLA, INC. ("Motorola") AND
MOTOROLA MOBILITY HOLDINGS, INC.
("Mobility" and, together with Motorola, the "Filers")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers (the "**Application**") for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") for relief from the prospectus requirement in connection with the proposed distribution to Motorola's shareholders, pro rata, of all the outstanding shares of common stock of Mobility (the "**Mobility Shares**") immediately prior to the distribution (the "**Exemption Sought**").

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

(a) the Ontario Securities Commission is the principal regulator for this Application, and

(b) the Filers have provided notice that section 4.7 of Multilateral Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon in each of the other provinces and territories of Canada (the "**Jurisdictions**").

Interpretation

Terms defined in MI 11-102 and National Instrument 14-101 *Definitions* have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. Motorola is a corporation constituted pursuant to the laws of Delaware and provides mobile communications technologies, products and services. Two of Motorola's businesses are its mobile devices ("**Mobile Devices**") and home ("**Home**") businesses. The Mobile Devices business is a provider of mobile devices and related products and services designed to deliver mobile communications, such as voice, messaging, push-to-talk and video, and to deliver mobile Internet access and content, including multimedia, social networking, navigation and other mobile applications. The Home business is a provider of products and services to cable and wireline telecommunications service providers that enable the delivery of video, voice and data services to consumers, including interactive set-top boxes, end-to-end digital video and Internet protocol television distribution systems, broadband access infrastructure platforms, and associated data and voice customer premises equipment.

2. Motorola is not a reporting issuer under the securities laws of any province or territory of Canada. Motorola has no intention of becoming a reporting issuer under the securities laws of any province or territory of Canada.

3. The shares of common stock of Motorola ("**Motorola Shares**") are widely held and trade on the New York Stock Exchange (the "**NYSE**"). Motorola Shares are not listed on any Canadian stock exchange.

4. As of September 1, 2010 there were 303 registered holders of Motorola Shares resident in Canada holding 54,126 shares, representing less than 0.002% of the 2,344,090,359 outstanding Motorola Shares. The registered Canadian shareholders represent approximately 0.4% of Motorola's 70,884 registered shareholders. As such, the proportion of Motorola Shares held by residents of Canada is de minimis.

5. Mobility is a wholly-owned subsidiary of Motorola. Effective on July 31, 2010 Motorola and its subsidiaries transferred certain assets and liabilities associated with the Mobile Devices and

the Home businesses to Mobility or entities that are or will become subsidiaries of Mobility. Subject to a number of conditions, including, among others, final approval by Motorola's Board of Directors, Motorola will distribute all of the outstanding Mobility Shares immediately prior to the distribution (the "**Distribution**") to the holders of Motorola Shares (the "**Motorola Shareholders**") as of the record date to be established for the Distribution, on a pro rata basis. Motorola expects to effect the Distribution in the first quarter of 2011. The Distribution will be a "distribution" or a "distribution to the public" for the purposes of the Legislation.

6. The Distribution was publicly announced by Motorola on February 11, 2010 by way of press release. The United States Securities and Exchange Commission (the "**SEC**") will be reviewing the disclosure documents filed in connection with the Distribution, namely a registration statement on Form 10 under the United States *Securities Exchange Act of 1934*, which contains an information statement regarding the Distribution and which includes pro forma financial statements. Motorola will distribute the information statement to its shareholders following completion of the SEC's review of the registration statement.

7. Motorola Shareholders will not be required to pay for the Mobility shares received in the Distribution, or to surrender or exchange Motorola Shares or take any other action to be entitled to receive their Mobility Shares. The Distribution will occur automatically and without any investment decision on the part of the Motorola Shareholders.

8. After the Distribution, Motorola Shares will continue to be listed and traded on the NYSE.

9. Mobility intends to apply to list the Mobility Shares on the NYSE.

10. Mobility does not intend to list its shares on any stock exchange in Canada and it does not intend to become a reporting issuer in any of the Jurisdictions.

11. The Distribution will be effected in compliance with Delaware law and United States federal securities laws.

12. Because the Distribution of Mobility Shares will be by way of distribution to the Motorola Shareholders, no shareholder approval of the proposed transaction is required under Delaware law.

13. All materials relating to the Distribution sent by or on behalf of Motorola to registered Motorola Shareholders in the United States will be sent concurrently to registered Motorola Shareholders resident in Canada.

14. The Motorola Shareholders in Canada who receive Mobility Shares pursuant to the Distribution will have the benefit of the same rights and remedies in respect of the disclosure documentation received in connection with the Distribution that are available to Motorola Shareholders in the United States.

15. The distribution of Mobility Shares to Canadian shareholders would be exempt from the prospectus requirement pursuant to subsection 2.31(2) of National Instrument 45-106 *Prospectus and Registration Exemptions* but for the fact that Mobility is not a reporting issuer under the Legislation.

16. The Filers are not in default of any securities legislation in any of the provinces or territories of Canada.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that the first trade in Mobility Shares issued pursuant to the Distribution will be deemed to be a distribution unless the conditions in section 2.6 or subsection 2.14(1) of National Instrument 45-102 Resale of Securities are satisfied.

"Paulette L. Kennedy"
Commissioner
Ontario Securities Commission
"James D. Carnwath"
Commissioner
Ontario Securities Commission

2.2 Orders

2.2.1 XI Biofuels Inc. et al. – ss. 127, 127.1

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, C. S.5, AS AMENDED

AND

IN THE MATTER OF
XI BIOFUELS INC., BIOMAXX SYSTEMS INC.,
XIIVA HOLDINGS INC. CARRYING ON BUSINESS
AS XIIVA HOLDINGS INC., XI ENERGY COMPANY,
XI ENERGY AND XI BIOFUELS,
RONALD CROWE AND VERNON SMITH

ORDER
(Sections 127 and 127.1 of the Securities Act)

WHEREAS on October 16, 2008, the Ontario Securities Commission (the "**Commission**") issued a Notice of Hearing and Staff of the Commission ("**Staff**") issued a Statement of Allegations pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") in respect of XI Biofuels Inc. ("**XI Biofuels**"), Biomaxx Systems Inc. ("**Biomaxx**"), and Xiiva Holdings Inc. carrying on business as Xiiva Holdings Inc., XI Energy Company, XI Energy and XI Biofuels (collectively, "**Xiiva**"), Ronald Crowe ("**Crowe**") and Vernon Smith ("**Smith**") (collectively, the "**Respondents**");

AND WHEREAS XI Biofuels, Biomaxx and Xiiva (the "**Corporate Respondents**") were petitioned into bankruptcy on May 21, 2008;

AND WHEREAS the Commission conducted a hearing on the merits in this matter on January 5, 7, 8, 9, 12, 13, 14, 15 and 16, 2009 and May 1, 2009;

AND WHEREAS the Commission issued its Reasons and Decision on the merits in this matter on March 31, 2010 (the "**Merits Decisio**n");

AND WHEREAS, in the Merits Decision, the Commission concluded that:

(a) the Respondents traded in securities of Xiiva and Biomaxx without being registered to trade in securities and without any registration exemption being available, contrary to subsection 25(1)(a) of the Act and contrary to the public interest;

(b) the Respondents distributed securities of Xiiva and Biomaxx when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued by the Director, and without any prospectus exemption being available, contrary to subsection 53(1) of the Act and contrary to the public interest;

(c) Smith and Crowe, as directors and/or officers or de facto directors and/or officers of the Corporate Respondents, authorized, permitted or acquiesced in the contraventions of subsection 25(1)(a) and subsection 53(1) of the Act by the Corporate Respondents set out in paragraphs (a) and (b) above, contrary to section 129.2 of the Act and contrary to the public interest; and

(d) the Respondents engaged in conduct that is contrary to the public interest and harmful to the integrity of the Ontario capital markets by contravening subsection 25(1)(a), subsection 53(1) and section 129.2 of the Act, as set out above in paragraphs (a), (b) and (c), and by making false or misleading statements to investors on the XI Biofuels, XI Energy and Biomaxx websites, failing to account for the disposition of investor funds, most of which never made their way to the Corporate Respondents, and transferring or attempting to transfer Xiiva investor funds offshore;

AND WHEREAS on May 26, 2010, the Commission conducted a hearing with respect to sanctions and costs in this matter (the "Sanctions and Costs Hearing"), and Staff and Smith and Crowe (together, the "Individual Respondents") provided written and oral submissions at the Sanctions and Costs Hearing, and the Corporate Respondents did not participate;

AND WHEREAS on November 17, 2010, the Commission, having considered the submissions of Staff and the Individual Respondents, issued its reasons and decision on sanctions and costs (the "Sanctions and Costs Decision");

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order (the "Sanctions and Costs Order");

IT IS HEREBY ORDERED THAT:

1. each of the Respondents shall cease trading in securities permanently, pursuant to clause 2 of subsection 127(1) of the Act, except that Smith and Crowe are permitted to trade securities for the account of their respective registered retirement savings plans, registered retirement income plans, registered education savings plans or tax-free savings accounts (as defined in the *Income Tax Act* (Canada)) in which they or their respective spouses have sole legal and beneficial ownership, provided that:

   (i) the securities are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges)

or are issued by a mutual fund that is a reporting issuer;

(ii) the Individual Respondents do not own legally or beneficially (in the aggregate, together with their respective spouses) more than one percent of the outstanding securities of the class or series of the class in question;

(iii) the Individual Respondents carry out any permitted trading through a registered dealer and through trading accounts opened in their respective names only (and they must close any trading accounts that are not in their respective names only); and

(iv) the Individual Respondents give a copy of the Merits Decision, the Sanctions and Costs Decision and the Sanctions and Costs Order to any registered dealer through which they will trade in advance of any trading;

2. each of the Respondents is prohibited permanently from acquiring any securities, pursuant to clause 2.1 of subsection 127(1) of the Act, except that Smith and Crowe are permitted to acquire securities to allow the trading in securities permitted by and in accordance with paragraph 1 of this Order;

3. any exemptions contained in Ontario securities law do not apply to each of the Respondents permanently, pursuant to clause 3 of subsection 127(1) of the Act;

4. the Respondents are reprimanded, pursuant to clause 6 of subsection 127(1) of the Act;

5. Smith and Crowe shall resign all positions that they may hold as a director or officer of any issuer, registrant or investment fund manager, pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the Act;

6. each of Smith and Crowe is permanently prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager, pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act;

7. each of the Respondents is permanently prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter, pursuant to clause 8.5 of subsection 127(1) of the Act;

8. each of Smith and Crowe shall pay an administrative penalty of CDN $200,000, pursuant to clause 9 of subsection 127(1) of the Act, to be designated pursuant to section 3.4(2)(b) of the Act, for allocation to or for the benefit of third parties;

9. Smith shall disgorge to the Commission funds in the amount of CDN $58,412, pursuant to clause 10 of subsection 127(1) of the Act, to be designated pursuant to section 3.4(2)(b) of the Act. for allocation to or for the benefit of third parties;

10. Crowe shall disgorge to the Commission CDN $16,507, pursuant to clause 10 of subsection 127(1) of the Act, to be designated pursuant to section 3.4(2)(b) of the Act, for allocation to or for the benefit of third parties;

11. Smith and Crowe shall, on a joint and several basis, disgorge to the Commission CDN $85,000, pursuant to clause 10 of subsection 127(1) of the Act, to be designated pursuant to section 3.4(2)(b) of the Act, for allocation to or for the benefit of third parties; and

12. Smith and Crowe shall pay, on a joint and several basis, CDN $117,441.51 in costs to the Commission, pursuant to subsection 127.1(2) of the Act.

DATED in Toronto, Ontario this 17th day of November, 2010.

“David L. Knight”

“Margot C. Howard”

2.2.2 Global Partners Capital et al.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
GLOBAL PARTNERS CAPITAL, ASIA PACIFIC ENERGY, INC., 1666475 ONTARIO INC. operating as "ASIAN PACIFIC ENERGY", ALEX PIDGEON, KIT CHING PAN also known as Christine Pan, HAU WAI CHEUNG, also known as Peter Cheung, Tony Cheung, Mike Davidson, or Peter McDonald, GURDIP SINGH GAHUNIA also known as Michael Gahunia or Shawn Miller, BASIL MARCELLINIUS TOUSSAINT also known as Peter Beckford, and RAFIQUE JIWANI also known as Ralph Jay

ORDER

WHEREAS on May 25, 28 and 29, 2009 and June 1 and 2, 2009, the Commission held a hearing in this matter to consider the allegations as set out in Staff's Statement of Allegations dated September 11, 2008;

AND WHEREAS the Commission issued its Reasons and Decision in this matter on August 31, 2010;

AND WHEREAS the Commission found that Global Partners Capital; Asia Pacific Energy, Inc.; 1666475 Ontario Inc. operating as "Asian Pacific Energy"; Alex Pidgeon; Kit Ching Pan also known as Christine Pan; Hau Wai Cheung also known as Peter Cheung, Tony Cheung, Mike Davidson, or Peter McDonald; Gurdip Singh Gahunia also known as Michael Gahunia or Shawn Miller ("Gahunia"); Basil Marcellinius Toussaint also known as Peter Beckford; and Rafique Jiwani also known as Ralph Jay (collectively, the "Respondents") had breached Ontario securities laws and acted contrary to the public interest;

AND WHEREAS a hearing to consider sanctions and costs was scheduled for November 5, 2010 at 10:00 a.m.;

AND WHEREAS Staff of the Commission ("Staff") served the Respondents with Staff's Written Submissions on Sanctions and accompanying materials;

AND WHEREAS on November 5, 2010, Staff and counsel for Mr. Gahunia attended before the Commission and no one appeared on behalf of the other Respondents;

AND WHEREAS counsel for Mr. Gahunia brought a motion to have the hearing adjourned on the basis that counsel was only recently retained by Mr. Gahunia;

AND WHEREAS Staff opposed the request for an adjournment;

AND WHEREAS the Commission ordered that the hearing on sanctions and costs be adjourned to Wednesday, November 17, 2010 at 10:30 a.m.;

AND WHEREAS on November 17, 2010, Staff and counsel for Mr. Gahunia attended before the Commission and no one appeared on behalf of the other Respondents;

AND WHEREAS counsel for Mr. Gahunia requested the portion of the hearing relating to Mr. Gahunia be adjourned;

AND WHEREAS Staff supported the request for an adjournment in relation to Mr. Gahunia but requested to proceed against the other respondents;

AND WHEREAS the Commission was of the opinion that it was in the public interest to hear sanctions and costs submissions with respect to all the Respondents together;

IT IS HEREBY ORDERED THAT the hearing on sanctions and costs in this matter is adjourned to Thursday, December 16, 2010 at 2:30 p.m. at the offices of the Commission on the 17th floor, 20 Queen Street West in Toronto.

DATED at Toronto this 18th day of November, 2010.

"Paulette L. Kennedy"

"Mary G. Condon"

2.2.3 Baffinland Iron Mines Corporation et al. – s. 127

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
BAFFINLAND IRON MINES CORPORATION,
IRON ORE HOLDINGS, LP
AND ITS WHOLLY-OWNED SUBSIDIARY
NUNAVUT IRON ORE ACQUISITION INC.

ORDER
(Section 127)

WHEREAS Nunavut Iron Ore Acquisition Inc. ("**Nunavut Iron**" or the "**Applicant**") applied to the Ontario Securities Commission (the "**Commission**") by way of an application dated November 1, 2010 (the "**Application**") for a permanent order pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") that trading cease in respect of any securities to be issued under or in connection with a Baffinland Iron Mines Corporation ("**Baffinland**") shareholder rights plan approved by shareholders on March 24, 2009;

AND WHEREAS on September 22, 2010, an unsolicited offer was made by Nunavut Iron to purchase all of the outstanding common shares of Baffinland (the "**Baffinland Shares**") for $0.80 in cash per share and such offer was extended on October 28, 2010 and further extended on November 8, 2010 (the "**Nunavut Offer**");

AND WHEREAS on November 8, 2010, ArcelorMittal S.A. ("**ArcelorMittal**") announced that it had entered into a support agreement with Baffinland (the "**Support Agreement**") pursuant to which it agreed to make an offer to acquire all of the outstanding Baffinland Shares for $1.10 cash per share, and all of the outstanding warrants of Baffinland issued on January 31, 2007 (the "**2007 Warrants**") for $0.10 cash per 2007 Warrant (the "**ArcelorMittal Offer**");

AND WHEREAS following the announcement of the ArcelorMittal Offer on November 8, 2010, Nunavut extended its offer to November 22, 2010;

AND WHEREAS on November 9, 2010, a Notice of Hearing was issued by the Office of the Secretary setting down the hearing of the Application on November 18, 2010;

AND WHEREAS the Application was heard on November 18, 2010 and Nunavut Iron, Baffinland, ArcelorMittal and Staff appeared at such hearing;

AND WHEREAS at the outset of the hearing, ArcelorMittal was granted standing to make oral submissions, on consent of the parties, and on the grounds that ArcelorMittal could be directly affected by the outcome of the Application;

AND WHEREAS Baffinland implemented a shareholder rights plan (the "**Rights Plan**") that was adopted by its board of directors (the "**Baffinland Board**") on January 27, 2009 and was subsequently approved by Baffinland shareholders on March 24, 2009;

AND WHEREAS the Applicant submits that it is in the public interest for the Commission to cease trade the Rights Plan in order to allow Baffinland shareholders to decide for themselves whether to accept the Nunavut Offer or the ArcelorMittal Offer;

AND WHEREAS Baffinland submits, among other things, that maintaining the Rights Plan would protect the interests of Baffinland shareholders and would facilitate the auction for the Baffinland Shares;

AND WHEREAS the Commission considered the evidence, relevant case law and the submissions of Nunavut Iron, Baffinland, ArcelorMittal and Staff at the hearing;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this order and the Commission will issue reasons for this order in due course;

IT IS HEREBY ORDERED:

1. pursuant to subsection 127(1)2 of the Act, that trading in any securities issued or to be issued under or in connection with the Rights Plan shall cease permanently; and

2. pursuant to subsection 127(1)3 of the Act, that any exemptions contained in Ontario securities law do not apply permanently to any securities issued or to be issued under or in connection with the Rights Plan.

DATED at Toronto this 19th day of November, 2010.

"James E.A. Turner"

"Mary G. Condon"

"Paulette L. Kennedy"

2.2.4 Anthony Ianno and Saverio Manzo

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
ANTHONY IANNO AND SAVERIO MANZO

ORDER

WHEREAS on March 8, 2010 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing and Statement of Allegations in this matter pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended;

AND WHEREAS a pre-hearing conference was held in this matter on July 7, 2010;

AND WHEREAS Saverio Manzo ("Manzo") attended the pre-hearing conference in person, and Anthony Ianno ("Ianno") and Staff of the Commission ("Staff") were represented by counsel;

AND WHEREAS the Commission was advised at that pre-hearing conference that all parties consented to:

1. attending a further pre-hearing conference on November 16, 2010 at 10:00 am; and

2. the following dates for the hearing on the merits: January 31, February 1, 2, 3, 4, 7, 9, 10, 11, 14, 15, 16, 17, 18, and 23, 2011, or on such further or other dates as shall be agreed by the parties and fixed by the Office of the Secretary.

AND WHEREAS a pre-hearing conference was held in this matter on November 16, 2010;

AND WHEREAS Manzo attended the pre-hearing conference in person, and Ianno and Staff were represented by counsel;

IT IS ORDERED THAT:

A further pre-hearing conference will be held in this matter on Tuesday, December 17, 2010 at 10:00 a.m.

DATED at Toronto this 19h day of November, 2010.

"Carol S. Perry"

2.2.5 Global Consulting and Financial Services et al. – ss. 127(1), 127(8)

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
GLOBAL CONSULTING AND FINANCIAL SERVICES,
CROWN CAPITAL MANAGEMENT CORPORATION,
CANADIAN PRIVATE AUDIT SERVICE,
EXECUTIVE ASSET MANAGEMENT,
MICHAEL CHOMICA, PETER KUTI, JAN CHOMICA,
AND LORNE BANKS

TEMPORARY ORDER
(Subsections 127(1) & (8))

WHEREAS on November 4, 2010, the Ontario Securities Commission (the "Commission") issued a temporary cease trade order pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering that Global Consulting and Financial Services ("Global"), Crown Capital Management Corporation ("Crown"), Canadian Private Audit Service ("CPAS"), Executive Asset Management ("EAM"), Michael Chomica, Peter Kuti ("Kuti"), Jan Chomica and Lorne Banks ("Banks") (collectively "the Respondents"), cease trading in all securities (the "Temporary Order");

AND WHEREAS on November 4, 2010, the Commission further ordered pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that any exemptions contained in Ontario securities law do not apply to Global, Crown, CPAS, EAM, Michael Chomica, Kuti, Jan Chomica and Banks;

AND WHEREAS on November 4, 2010, the Commission ordered that the Temporary Order shall expire on the fifteenth day after its making unless extended by order of the Commission;

AND WHEREAS on November 9, 2010, the Commission issued a direction under subsection 126(1) of the Act freezing assets in a bank account in the name of Crown (the "Freeze Direction");

AND WHEREAS on November 4, 2010, the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, to be held on November 17, 2010 at 3:00 p.m.;

AND WHEREAS the Notice of Hearing sets out that the Hearing is to consider, *inter alia*, whether, in the opinion of the Commission, it is in the public interest, pursuant to subsections 127(7) and (8) of the Act, to extend the Temporary Order until the conclusion of the hearing, or until such further time as considered necessary by the Commission;

AND WHEREAS Staff of the Commission ("Staff") have served all of the Respondents with copies of the Temporary Order and the Notice of Hearing, and served Crown with the Freeze Direction as evidenced by the Affidavit of Charlene Rochman, sworn on November 17, 2010, and filed with the Commission;

AND WHEREAS on November 17, 2010, Staff and counsel for Banks appeared before the Commission, and whereas Global, Crown, CPAS, EAM, and Kuti did not appear before the Commission to oppose Staff's request for the extension of the Temporary Order;

AND WHEREAS Jan Chomica did not attend the Hearing, but Staff received a direction from her dated November 11, 2010, in which she consents to extending the Temporary Order for at least two months;

AND WHEREAS counsel for Michael Chomica did not attend the Hearing, but had advised Staff that Michael Chomica consents (or does not oppose) to an extension of the Temporary Order for at least two months;

AND WHEREAS counsel for Banks advised the Commission that Banks does not oppose an extension of the Temporary Order;

AND WHEREAS the Panel considered the evidence and submissions before it;

AND WHEREAS the Commission is of the opinion that, in the absence of a continuing cease-trade order, the length of time required to conclude a hearing could be prejudicial to the public interest;

IT IS HEREBY ORDERED pursuant to subsections 127(1) and (8) of the Act that the Temporary Order is extended to January 27, 2011; and

IT IS FURTHER ORDERED that the hearing in this matter is adjourned to January 26, 2011 at 11:00 a.m., and that the parties will make efforts to advise the Commission by January 3, 2011 whether they are in agreement that the hearing set for January 26, 2011 be held in writing.

DATED at Toronto this 17th day of November, 2010.

"Carol S. Perry"

2.2.6 QuantFX Asset Management Inc. et al. – ss. 127(7), 127(8)

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
QUANTFX ASSET MANAGEMENT INC.,
VADIM TSATSKIN, LUCIEN SHTROMVASER AND
ROSTISLAV ZEMLINSKY

ORDER
(Subsections 127(7) and 127(8))

WHEREAS on April 9, 2010, the Ontario Securities Commission (the "Commission") issued a temporary order pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering the following (the "Temporary Order"):

(i) that QuantFX Asset Management Inc. ("QuantFX"), Vadim Tsatskin ("Tsatskin"), Lucien Shtromvaser ("Shtromvaser") and Rostislav Zemlinsky ("Zemlinsky"), collectively the "Respondents", cease trading in all securities; and

(ii) that any exemptions contained in Ontario securities law do not apply to the Respondents;

AND WHEREAS on April 9, 2010, the Commission ordered that the Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission;

AND WHEREAS on April 13, 2010, the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, to be held on April 23, 2010;

AND WHEREAS on April 23, 2010 and October 13, 2010, the Commission extended the Temporary Order;

AND WHEREAS the Temporary Order expires on November 19, 2010;

AND WHEREAS on November 10, 2010, the Commission issued a Notice of Hearing pursuant to sections 37, 127 and 127.1 of the Act accompanied by a Statement of Allegations dated November 10, 2010, issued by Staff of the Commission ("Staff") with respect to QuantFX, Tsatskin, Shtromvaser and Zemlinsky;

AND WHEREAS on November 17, 2010, the Commission issued an Amended Notice of Hearing correcting a typographical error;

AND WHEREAS on November 18, 2010, a hearing was held at 4:00 p.m. and Staff and counsel for

QuantFX, Shtromvaser and Zemlinsky appeared before the Commission, Tsatskin did not attend the Hearing, but had advised Staff that he consents to Staff's request for an extension of the Temporary Order and the Commission was satisfied that Staff properly served the Respondents;

AND WHEREAS on November 18, 2010, counsel for QuantFX, Shtromvaser and Zemlinsky advised the Commission that QuantFX, Shtromvaser and Zemlinsky consent to Staff's request for an extension of the Temporary Order;

AND WHEREAS on November 18, 2010, the Commission considered the evidence and submissions before it and the Commission is of the opinion that it is in the public interest to extend the Temporary Order;

IT IS HEREBY ORDERED THAT:

(i) pursuant to subsections 127(7) and (8) of the Act, the Temporary Order is extended to January 27, 2011;

(ii) the hearing in this matter is adjourned to January 26, 2011 at 12:00 p.m. or on such other date as provided by the Secretary's Office and agreed to by the parties; and

(iii) the purpose of the hearing to be held on January 26, 2011 is to set dates for the hearing on the merits.

DATED at Toronto this 18th day of November, 2010.

"Carol S. Perry"

2.2.7 iShares S&P/TSX North American Preferred Stock Index Fund (CAD-Hedged) – s 1.1

Headnote

Certain mutual funds designated as exchange-traded funds for the purposes of OSC Rule 48-501.

Rules Cited

Ontario Securities Commission Rule 48-501 Trading During Distributions, Formal Bids and Share Exchange Transactions, s. 1.1.

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 48-501 – TRADING DURING DISTRIBUTIONS, FORMAL BIDS AND SHARE EXCHANGE TRANSACTIONS (Rule)

AND

IN THE MATTER OF
ISHARES S&P/TSX NORTH AMERICAN PREFERRED STOCK INDEX FUND (CAD-Hedged) (the Fund)

DESIGNATION ORDER
Section 1.1

WHEREAS the Fund is or will be listed on the Toronto Stock Exchange;

AND WHEREAS under the Universal Market Integrity Rules (UMIR), the Fund is considered an Exempt Exchange-traded Fund that is not subject to prohibitions related to trading during certain securities transactions;

AND WHEREAS the definition of "exchange-traded fund" in the Rule is substantially similar to the definition of Exempt Exchange-traded Fund in UMIR, and the purpose of the Rule and UMIR are substantially similar;

THE DIRECTOR HEREBY DESIGNATES the Fund as an exchange-traded fund for the purposes of the Rule.

Dated November 19, 2010

"Susan Greenglass"
Director, Market Regulation

2.2.8 North American Financial Group Inc. et al. – ss. 127(7), 127(8)

**IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED**

AND

**IN THE MATTER
NORTH AMERICAN FINANCIAL GROUP INC.,
NORTH AMERICAN CAPITAL INC.,
ALEXANDER FLAVIO ARCONTI, AND
LUIGINO ARCONTI**

**ORDER
Sections 127(7) & 127(8)**

WHEREAS on the 10th day of November, 2010, pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), the Ontario Securities Commission (the "Commission") made an order against North American Financial Group Inc. ("NAFG"), North American Capital Inc. ("NAC"), Alexander Flavio Arconti ("Flavio") and Luigino Arconti ("Gino");

AND WHEREAS on the 10th day of November, 2010, pursuant to subsection 127(6) of the Act, the Commission ordered that the following Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission;

AND WHEREAS by Commission Order dated November 10, 2010, the Commission made the following temporary order (the "Temporary Order");

1. pursuant to clause 2 of subsection 127(1) of the Act, that trading in the securities of NAFG and NAC shall cease;

2. pursuant to clause 2 of subsection 127(1) of the Act, that NAFG, NAC, Flavio and Gino cease trading in all securities; and

3. that pursuant to clause 3 of subsection 127(1) of the Act, that the exemptions contained in Ontario securities law do not apply to NAFG, NAC, Flavio or Gino.

AND WHEREAS the Commission is of the opinion that it is in the public interest to make the following order;

AND WHEREAS the parties to this proceeding consent to the making of this order;

IT IS ORDERED that the Temporary Order be amended such that Flavio and Gino may trade in securities for their own accounts or their parents' accounts or for the accounts of their registered retirement savings plan or registered income fund (as defined in the Income Tax Act (Canada)) provided that they trade through accounts opened in their parents' names or either of their names only;

IT IS ORDERED that the Temporary Order as amended be extended to December 3, 2010 and the hearing in this matter be adjourned to December 2, 2010 at 2:00 p.m.

DATED at Toronto this 23rd day of November, 2010.

"James D. Carnwath"

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 XI Biofuels Inc. et al. – ss. 127, 127.1

**N THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, C. S.5, AS AMENDED**

AND

**IN THE MATTER OF
XI BIOFUELS INC., BIOMAXX SYSTEMS INC.,
XIIVA HOLDINGS INC. CARRYING ON BUSINESS
AS XIIVA HOLDINGS INC., XI ENERGY COMPANY,
XI ENERGY AND XI BIOFUELS,
RONALD CROWE AND VERNON SMITH**

**REASONS AND DECISION ON
SANCTIONS AND COSTS
(Sections 127 and 127.1 of the Securities Act)**

Hearing:	May 26, 2010		
Decision:	November 17, 2010		
Panel:	David L. Knight, FCA	–	Commissioner and Chair of the Panel
	Margot C. Howard, CFA	–	Commissioner
Appearances:	Yvonne Chisholm Michelle Vaillancourt	–	For Staff of the Ontario Securities Commission
	Mary L. Biggar	–	For Ronald Crowe and Vernon Smith
			No one appeared for XI Biofuels Inc., Xiiva Holdings Inc. or Biomaxx Systems Inc.

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REASONS AND DECISION

I. BACKGROUND

[1] This was a hearing before the Ontario Securities Commission (the "**Commission**") pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") to consider whether it is in the public interest to make an order imposing sanctions on XI Biofuels Inc. ("**XI Biofuels**"), Biomaxx Systems Inc. ("**Biomaxx**"), Xiiva Holdings Inc. carrying on business as Xiiva Holdings Inc., XI Energy Company, XI Energy and XI Biofuels (collectively, "**Xiiva**"), Ronald Crowe ("**Crowe**") and Vernon Smith ("**Smith**") (collectively the "**Respondents**").

[2] This matter arose out of a Notice of Hearing issued by the Commission on October 16, 2008 in relation to a Statement of Allegations issued by Staff of the Commission ("**Staff**") on that date. An Amended Statement of Allegations was issued by Staff on December 30, 2008. Staff alleged that from December 2004 to November 2007 (the "**Material Time**"), the Respondents breached subsections 25(1)(a) and 53(1) of the Act, and that their actions were contrary to the public interest and harmful to the integrity of the Ontario capital markets. Staff also alleged that Smith and Crowe (together, the "**Individual Respondents**"), in their capacity as directors and/or officers or *de facto* directors and/or officers of Biomaxx, Xiiva, and XI Biofuels (collectively, the "**Corporate Respondents**"), authorized, permitted or acquiesced in the Corporate Respondents' non-compliance with Ontario securities law, contrary to section 129.2 of the Act. Staff also made allegations in relation to subsection 38(3) of the Act which were withdrawn during the hearing.

[3] On November 22, 2007, the Commission issued a Temporary Order, pursuant to subsections 127(1) and (5) of the Act, ordering that all trading by XI Biofuels and Biomaxx cease, that XI Biofuels, Biomaxx, Crowe, and Smith cease trading in all securities, and that the exemptions contained in Ontario securities law do not apply to the Respondents (the "**Biomaxx Temporary Order**").

[4] On November 22, 2007, the Commission issued a Direction, pursuant to subsection 126(1) of the Act, freezing the bank accounts of XI Biofuels at the National Bank of Canada ("**National**") (the "**Freeze Direction**"). The Freeze Direction was subsequently extended by order of the Ontario Superior Court of Justice and remains in effect until 30 days after the Commission makes a final determination in this matter (the "**Freeze Order**").

[5] On December 14, 2007, the Commission issued another Temporary Order, pursuant to subsections 127(1) and (5) of the Act, ordering that all trading in securities of Xiiva cease and that exemptions contained in Ontario securities law do not apply to it (the "**Xiiva Temporary Order**").

[6] The Biomaxx Temporary Order and the Xiiva Temporary Order have been extended and remain in effect until 30 days after the Commission issues its decision in the matter (collectively, the "**Temporary Orders**").

[7] On May 21, 2008, the Corporate Respondents were petitioned into bankruptcy by Heritage Transfer Agency, Inc. ("**Heritage**"), the transfer agent for Xiiva and Biomaxx. Soberman Tessis Inc. was appointed the Trustee in Bankruptcy for Xiiva, Biomaxx, and XI Biofuels (the "**Trustee**").

[8] The matter proceeded by way of a bifurcated merits and sanctions hearing. The hearing on the merits was held on January 5, 7, 8, 9, 12, 13, 14, 15 and 16, 2009 (the "**Hearing on the Merits**") and the Commission's decision on the merits was released on March 31, 2010 (the "**Merits Decision**").

[9] Staff and the Individual Respondents (the "**Parties**") filed and served written submissions on sanctions and costs, and we heard their oral submissions on sanctions and costs on May 26, 2010 (the "**Sanctions and Costs Hearing**"). The Corporate Respondents did not attend or participate in the Sanctions and Costs Hearing.

II. THE MERITS DECISION

[10] Staff called twelve witnesses at the Hearing on the Merits, including two Staff investigators, three Biomaxx investors and three Xiiva investors. The Corporate Respondents did not participate. Smith and Crowe did not testify and they did not call any witnesses. Staff and the Individual Respondents read into the evidence excerpts from affidavits sworn by Crowe and Smith, Staff's cross-examination on the affidavits, and Staff's compelled examination of Crowe and Smith.

[11] The Commission made the following key findings in the Merits Decision:

(a) None of the Respondents is registered under the Act. No prospectus was filed and no receipts were issued to qualify the distribution of Xiiva and Biomaxx securities. The Respondents did not claim any exemptions under the Act in relation to the distribution and sale of Xiiva and Biomaxx securities and no exemptions were available. (Merits Decision, paragraphs 8 and 151)

(b) Smith, in his capacity as the sole director of Biomaxx, admitted that Biomaxx distributed its securities without complying with s. 53 of the Act and that its representatives traded its securities without being registered pursuant to s. 25 of the Act. Crowe, in his capacity as the sole director of Xiiva, admitted that Xiiva distributed its securities without complying with s. 53 of the Act and that its representatives traded its securities without being registered pursuant to s. 25 of the Act. These admissions were supported by evidence including investor records, treasury directions, shareholder lists and financial statements and other documents the Corporate Respondents provided to the Trustee. (Merits Decision, paragraphs 51-53)

(c) Xiiva and Biomaxx securities were sold through a number of offshore entities, and there was no evidence that Crowe or Smith directly contacted investors to solicit sales. However, the Commission accepted that Crowe and Smith traded in Xiiva and Biomaxx securities, based on the totality of their conduct, considered in context, and in particular, evidence that they signed Treasury Directions and share certificates, opened bank accounts in the names of the Corporate Respondents, deposited investor funds into the accounts, and created and maintained the Corporate Respondents' websites. (Merits Decision, paragraphs 53, 79-80)

(d) The Xiiva and Biomaxx websites were intended to "excite the reader" and solicit potential investors by making numerous misleading statements, and at least some of the Xiiva and Biomaxx investors who testified relied on the websites in making their decisions to invest. Though Xiiva and Biomaxx held themselves out to investors as operating a biofuels technology business, their primary business was raising capital and there was little evidence that they were engaged in any business other than raising capital. Smith and Crowe admitted they were involved in the material on the websites. (Merits Decision, paragraphs 110, 113, 120, 129, 142 and 149)

(e) Crowe was an officer and director of Xiiva and XI Biofuels, and he authorized, permitted or acquiesced in the non-compliance by Xiiva and XI Biofuels with Ontario securities law, based on the following findings about his involvement:

- Xiiva's Corporation Profile Reports list Crowe as President and a director of Xiiva since September 2003;
- Crowe's signature appears on the Xiiva "operating as XI Energy" share certificates as President and Secretary of Xiiva;
- XI Biofuels' Corporation Profile Reports list Crowe as the company's sole director and officer;
- Crowe signed Treasury Directions to Heritage directing Heritage to issue share certificates for Xiiva "operating as XI Energy" and Xiiva "operating as XI Biofuels";
- Filomena Nucaro ("**Nucaro**"), Senior Administrative Assistant at Heritage, testified that she would contact Crowe about Xiiva if Smith were unavailable, that Crowe and Smith normally attended at the Heritage office together to pick up Xiiva share certificates, and that Crowe occasionally provided a receipt for them;
- bank records show that Crowe opened bank accounts for XI Biofuels at National and Meridian Credit Union ("**Meridian**"), identifying himself as President of the company;
- Crowe wire transferred most of the investor funds in the Meridian account to a bank account in the Bahamas in October and November 2007; and

- On November 7, 2007, Crowe requested that most of the funds in the National accounts be wire transferred to that same offshore account, but the transfer was not completed and led to the investigation that culminated in the Commission proceeding.

(Merits Decision, paragraphs 99, 186-187)

(f) Crowe was an officer and director or *de facto* officer and director of Biomaxx within the meaning of s. 1(1) of the Act throughout the Material Time, and authorized, permitted or acquiesced in Biomaxx's non-compliance with Ontario securities law, based on the following findings about his involvement:

- Crowe was an officer and director of Biomaxx from May 2005, and served as its President from February 2006 until, according to his affidavit, he resigned on June 30, 2007;
- Crowe signed Biomaxx Treasury Directions during the Material Period; and
- Crowe attended regularly at Heritage, with Smith, to pick up Biomaxx share certificates.

(Merits Decision, paragraphs 188-191)

(g) Smith was an officer and director of Biomaxx, and authorized, permitted or acquiesced in Biomaxx' non-compliance with Ontario securities law, based on the following findings about his involvement:

- Smith was a director of Biomaxx from the time the company was created;
- Smith signed some of the Treasury Directions to Heritage, and his signature appears on the Biomaxx share certificates as President;
- Smith was Nucaro's main contact for Biomaxx, and Smith and Crowe attended regularly at the Heritage office together to pick up Biomaxx share certificates, and Smith sometimes gave a receipt for them;
- Smith and Richard Farley Crowe, who Staff submits is Crowe's son, opened a Canadian dollar account for Biomaxx at CIBC, identifying Smith as Secretary and Richard Farley Crowe as President of the company, each with 50% equity ownership; both signed the application form and each had signing authority;
- on July 10, 2007, Smith submitted a banking resolution giving himself sole signing authority as President and Secretary of Biomaxx; and
- on the same day, Smith opened a US dollar bank account at CIBC for Biomaxx, identifying him as President and Secretary with 100% equity ownership, and with sole signing authority.

(Merits Decision, paragraphs 193-194)

(h) Smith was an officer and director or a *de facto* officer and director of Xiiva, within the meaning of s. 1(1) of the Act, throughout the Material Time, and authorized, permitted or acquiesced in Xiiva's non-compliance with Ontario securities law, based on the following findings about his involvement:

- Xiiva's corporate minute book identifies Smith as a director from July 10 to July 19, 2007;
- from December 2004 to July 2005 and on August 10, 2007, Smith signed Treasury Directions to Heritage to issue shares of Xiiva;
- Smith was Nucaro's main contact for Xiiva;
- Smith and Crowe normally attended at the Heritage office together to pick up Xiiva share certificates, and it was usually Smith who gave a receipt for them.

(Merits Decision, paragraphs 195-196)

[12] The Commission summarized its findings as follows:

> We accept Staff's submission that the Respondents in this case structured a sophisticated multi-jurisdictional scheme in order to avoid regulatory oversight. We find that the Respondents sought to benefit from the reputation of Ontario's capital markets, and that many investors outside of Ontario thought they were investing in an Ontario biofuels technology company. In fact, most of the funds paid by the investors never made their way to Xiiva or Biomaxx. Of the investor funds that were deposited into Xiiva's bank accounts in Ontario, the funds deposited into the Meridian account were transferred offshore almost immediately, and Crowe attempted to transfer the funds deposited into the National account. We find that the Respondents' conduct negatively impacts upon the reputation and integrity of Ontario's capital markets, and that the Commission has the authority and responsibility to intervene.
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> (Merits Decision, paragraph 216)

[13] Based on these findings, the Commission concluded that:

(a) the Respondents traded in securities of Xiiva and Biomaxx without being registered to trade in securities and without any registration exemption being available, contrary to s. 25(1)(a) of the Act and contrary to the public interest;

(b) the Respondents distributed securities of Xiiva and Biomaxx when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued by the Director, and without any prospectus exemption being available, contrary to s. 53(1) of the Act and contrary to the public interest;

(c) Smith and Crowe, as directors and/or officers or *de facto* directors and/or officers of the Corporate Respondents, authorized, permitted or acquiesced in the contraventions of s. 25(1)(a) and s. 53(1) of the Act by the Corporate Respondents set out in paragraphs (a) and (b) above, contrary to s. 129.2 of the Act and contrary to the public interest; and

(d) the Respondents engaged in conduct that is contrary to the public interest and harmful to the integrity of the Ontario capital markets by contravening s. 25(1)(a), s. 53(1) and s. 129.2 of the Act, as set out above in paragraphs (a), (b) and (c), and by making false or misleading statements to investors on the XI Biofuels, XI Energy and Biomaxx websites, failing to account for the disposition of investor funds, most of which never made their way to the Corporate Respondents, and transferring or attempting to transfer Xiiva investor funds offshore.

(Merits Decision, paragraph 217)

III. THE SANCTIONS REQUESTED BY STAFF

[14] Staff submits that the following sanctions are appropriate and in the public interest:

(i) an order that each of the Respondents cease trading in securities permanently pursuant to clause 2 of subsection 127(1) of the Act;

(ii) an order that the acquisition of any securities by each of the Respondents is prohibited permanently pursuant to clause 2.1 of subsection 127(1) of the Act;

(iii) an order that any exemptions contained in Ontario securities law do not apply to each of the Respondents permanently pursuant to clause 3 of subsection 127(1) of the Act;

(iv) an order reprimanding each of the Respondents pursuant to clause 6 of subsection 127(1) of the Act;

(v) an order that each of Smith and Crowe resign all positions that they may hold as a director or officer of any issuer, registrant or investment fund manager pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the Act;

(vi) an order that each of Smith and Crowe be prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act;

(vii) an order that the Respondents be prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter pursuant to clause 8.5 of subsection 127(1) of the Act;

(viii) an order requiring each of the Respondents to pay an administrative penalty of CDN $200,000.00 pursuant to clause 9 of subsection 127(1) of the Act;

(ix) an order making Xiiva, XI Biofuels, Smith and Crowe jointly and severally liable to disgorge to the Commission CDN $231,000.00 plus an amount in Canadian currency sufficient to purchase US $383,170.00 pursuant to clause 10 of subsection 127(1) of the Act, to be designated pursuant to subsection 3.4(2)(b) of the Act for allocation to or for the benefit of third parties;

(x) an order making Biomaxx, Smith and Crowe jointly and severally liable to disgorge to the Commission an amount in Canadian currency sufficient to purchase US $732,077.00 pursuant to clause 10 of subsection 127(1) of the Act, to be designated pursuant to subsection 3.4(2)(b) of the Act for allocation to or for the benefit of third parties; and

(xi) an order pursuant to section 127.1 of the Act requiring the Respondents to pay, on a joint and several basis, CDN $117,441.51 representing a portion of the costs of the hearing.

IV. ANALYSIS & CONCLUSIONS

A. Effect of the Bankruptcy of the Corporate Respondents

1. Positions of the Parties

(a) The Individual Respondents

[15] The Individual Respondents submit that pursuant to section 69.3 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 ("***BIA***"), Staff cannot obtain a monetary order against the Corporate Respondents without seeking leave of the bankruptcy court under section 69.4 of the *BIA*. Staff has not done so.

[16] Section 69.3 of the *BIA*, at the Material Time, provided that "on the bankruptcy of any debtor, no creditor has any remedy against the debtor or the debtor's property, or may commence or continue any action, execution or other proceedings, for the recovery of a claim provable in bankruptcy, until the trustee has been discharged."

[17] Section 69.3 is subject to section 69.4 of the *BIA*, which read as follows at the Material Time:

> 69.4 A creditor who is affected by the operation of section 69 to 69.31 or any other person affected by the operation of section 69.31 may apply to the court for a declaration that those sections no longer operate in respect of that creditor or person, and the court may make such a declaration, subject to any qualifications that the court considers proper, if it is satisfied
>
> (a) that the creditor or person is likely to be materially prejudiced by the continued operation of those sections; or
>
> (b) that it is equitable on other grounds to make such a declaration.

[18] The Individual Respondents submit that a monetary order against the Corporate Respondents would interfere with the scheme of priority amongst creditors established under the *BIA*, contrary to the Supreme Court of Canada decision in *Husky Oil* where Gonthier J., after reviewing a "quartet" of prior Supreme Court of Canada decisions, stated that the quartet stands for the following four propositions:

(1) provinces cannot create priorities between creditors or change the scheme of distribution on bankruptcy under s. 136(1) of the [*BIA*];

(2) while provincial legislation may validly affect priorities in a non bankruptcy situation, once bankruptcy has occurred section 136(1) of the [*BIA*] determines the status and priority of the claims specifically dealt with in that section;

(3) if the provinces could create their own priorities or affect priorities under the [*BIA*] this would invite a different scheme of distribution on bankruptcy from province to province, an unacceptable situation; and

(4) the definition of terms such as "secured creditor", if defined under the [*BIA*], must be interpreted in bankruptcy cases as defined by the federal Parliament, not the provincial legislatures;

and set out two additional propositions, as follows:

(5) in determining the relationship between provincial legislation and the [*BIA*], the form of the provincial interest created must not be allowed to triumph over its substance. The provinces are not entitled to do indirectly what they are prohibited from doing directly; and

(6) there need not be any provincial intention to intrude into the exclusive federal sphere of bankruptcy and to conflict with the order of priorities of the [*BIA*] in order to render the provincial law inapplicable. It is sufficient that the effect of provincial legislation is to do so.

(*Husky Oil Operations Ltd. v. Canada (Minister of National Revenue)*, [1995] 3 S.C.R. 453, at paragraphs 32 and 39)

[19] With respect to the effect of the Corporate Respondents' bankruptcy on any disgorgement order, the Individual Respondents also rely on *Serhan Estate v. Johnson & Johnson* (2006), 85 O.R. (3d) 665 (Div. Ct.) ("***Serhan***"), at paragraph 122, where Epstein J. cited with approval the following passage from Maddaugh and McCamus in the *Law of Restitution*, looseleaf (Aurora, On.: Canada Law Book, 2005), at p. 5-32: "although it may be appropriate to recapture profits as a disincentive to wrongdoing, it may not be appropriate to grant a priority over other creditors in the event of an insolvency." Epstein J. also stated: "There is considerable uncertainty surrounding the meaning of disgorgement and its application, starting with whether or not the remedy is restitutionary in nature (*Serhan*, *supra*, at paragraph 110).

[20] The Individual Respondents also submit that having regard to the bankruptcy of the Corporate Respondents, imposing joint and several liability as between the Corporate Respondents and the Individual Respondents would have the effect of imposing additional liability for the conduct of the Corporate Respondents on the Individual Respondents.

(b) Staff

[21] Staff notes that on June 12, 2008, at an earlier appearance in this proceeding, the Commission dismissed the Trustee's motion for an order, under section 69.3 of the *BIA*, that the Hearing on the Merits be stayed in respect of the Corporate Respondents ((2008), 31 O.S.C.B. 6257).

[22] Staff submits that disgorgement is not a restitutionary remedy, but is intended to deprive a respondent of "any amounts obtained" as a result of the respondent's non-compliance with the Act. Staff notes that *Serhan* is not a securities decision. Staff relies instead on the Commission's oral ruling on April 28, 2010, given in response to a similar motion in *Re Gold-Quest*:

> CHAIR: Please be seated. The Panel has discussed the various submissions and the legal authorities. I think our conclusion is, in the circumstances, that the Commission is not currently a creditor with respect to the bankrupt party within section 69 of the Bankruptcy Act. The kinds of financial sanctions or costs that we could order in these circumstances, and I should say there is obviously a discretion and no determination whether we would make any such order, but those amounts are not determinable today.
>
> We do distinguish the Manitoba case [*Manitoba (Securities Commission) v. Werbeniuk*, [2009] B.C.J. No. 211 (B.C.C.A.)] on the basis that they are dealing there with a restitution power and that's a power that we do not have in the Ontario Securities Act and is an issue, a policy issue that is debated as to whether or not there should be such a power.
>
> So, this proceeding is not a claim for recovery of an amount. Any order we would make for sanctions will be subject to the determination of the bankruptcy court as to how that order for financial sanctions or costs will be treated. And, frankly, this Panel has no idea, in the particular circumstances, how the bankruptcy court would treat it but we certainly defer to that court on that question. And we would say to staff that, if we do get to the point where we do exercise a discretion or impose a financial sanction, then staff should certainly take reference to the bankruptcy court and the bankruptcy proceeding before taking any steps to recover against property as a result of that. And at the end of the day that is how we interpret the *Bankruptcy Act*.
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> (*Re Gold-Quest International, 1725587 Ontario Inc. carrying on business as Health and Harmoney, Harmoney Club Inc., Donald Iain Buchanan, Lisa Buchanan and Sandra Gale*, Hearing Transcript, April 28, 2010, pp. 44-46)

The Commission concluded that it was consistent with the public interest to deal with the issues before the Panel as a securities regulator and leave to a future day and other forums how any order might be treated.

[23] Staff also relies on *Re Thow*, in which a British Columbia Bankruptcy Court held that an administrative penalty imposed by the B.C. Securities Commission after Mr. Thow became bankrupt, but which pertained to his conduct as a mutual fund dealer prior to his bankruptcy, was not a claim provable in bankruptcy. The Court summarized its conclusion as follows:

> The Commission's decision to impose a penalty was discretionary and so Mr. Thow was not liable to the Commission until it exercised its discretion. Thus the penalty was not a contingent liability or an "obligation" under s. 121 of the *BIA* at the date of his bankruptcy.
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> (*Re Thow*, [2009] B.C.J. No. 1729 (B.C.S.C.))

[24] Staff submits that it is appropriate for the Commission to determine what sanctions are in the public interest in this proceeding, leaving any enforcement issues to the Bankruptcy Court. In addition, Staff notes that enforcement of any monetary order make may also require an application to Superior Court in respect of the Freeze Order.

2. Conclusion on Bankruptcy

[25] We accept the submissions of Staff. We are not persuaded that the *BIA* prevents us from exercising our public interest jurisdiction under sections 127 and 127.1 of the Act without leave of the Bankruptcy Court. We leave questions of enforcement of our order to another forum. In this case, however, we have determined that the public interest is best served by restricting the monetary orders to the Individual Respondents only, in order to avoid depleting the assets that may be available for compensation or restitution to investors who lost money as a result of the Respondents' non-compliance with the Act.

B. The Law on Sanctions

[26] Section 1.1 of the Act states that the Commission's mandate is to provide protection to investors from unfair, improper or fraudulent practices, and to foster fair and efficient capital markets and confidence in capital markets.

[27] As stated in *Re Mithras Management*, the Commission's public interest jurisdiction under section 127 of the Act should be exercised in a protective and preventative manner, consistent with that mandate:

> … the role of this Commission is to protect the public interest by removing from the capital markets – wholly or partially, permanently or temporarily, as the circumstances warrant – those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of the capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under section 118 [now section 122] of the Act. We are here to restrain, as best as we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In so doing we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be; we are not prescient, after all.
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> (*Re Mithras Management Ltd.* (1990), 13 O.S.C.B. 1600, at p. 5)

[28] In *Asbestos*, the Supreme Court of Canada stated that the Commission's public interest mandate is neither remedial nor punitive; instead, it is protective and preventative, and is intended to prevent future harm to Ontario's capital markets:

> … the purpose of an order under s. 127 is to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets. The role of the OSC under s. 127 is to protect the public interest by removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets.
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> (*Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)* (2001), 199 D.L.R. (4th) 577 (S.C.C.), at paragraphs 42-43)

[29] In *Re Cartaway*, the Supreme Court of Canada held that nothing in the Commission's public interest jurisdiction prevents the Commission from considering general deterrence in making an order under section 127. The Court stated: "To the contrary, it is reasonable to view general deterrence as an appropriate, and perhaps necessary, consideration in making orders that are both protective and preventative." Further, the Court stated that the "weight given to general deterrence will vary from case to case and is a matter within the discretion of the Commission."

> (*Re Cartaway Resources Corp.*, [2004], 1 S.C.R. 672 ("***Re Cartaway***"), at paragraphs 60 and 64)

[30] In *Re Momentas*, the Commission applied Re Cartaway and considered "the importance of deterring not only those involved in this matter, but also like-minded people from engaging in similar conduct." The Commission concluded that:

> [i]n order to promote both general and specific deterrence we found it necessary to impose severe sanctions including permanent cease trade order, permanent exclusions from exemptions, and a permanent prohibition from acting as an officer or director of a reporting issuer.
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> (*Re Momentas Corp.* (2007), 30 O.S.C.B. 6475 ("***Momentas Sanctions and Costs***"), at paragraphs 51-52)

[31] In determining the nature and duration of sanctions, the Commission has considered the following factors:

(a) the seriousness of the allegations;

(b) the respondent's experience in the marketplace;

(c) the level of a respondent's activity in the marketplace;

(d) whether or not there has been a recognition of the seriousness of the improprieties;

(e) whether or not the sanctions imposed may serve to deter not only those involved in the case being considered, but any like-minded people from engaging in similar abuses of the capital markets;

(f) any mitigating factors;

(g) the size of any profit made or loss avoided from the illegal conduct;

(h) the size of any financial sanctions or voluntary payment when considering other factors;

(i) the effect any sanctions or voluntary payment when considering other factors;

(j) the effect any sanction might have on the livelihood of a respondent;

(k) the reputation and prestige of the respondent;

(l) the shame or financial pain that any sanction would reasonably cause to the respondent; and

(m) the remorse of the respondent.

(*Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743 ("***Re Belteco***"), at paragraph 25; *Erikson v. Ontario (Securities Commission)*, [2003] O.J. No. 593 (Div. Ct.), at paragraph 58; and *Re M.C.J.C. Holdings* (2002), 25 O.S.C.B. 1133 ("***Re M.C.J.C.***"), at p. 5)

[32] The weight to be given each factor will vary depending on the facts in each case. In exercising our public interest mandate, we must ensure that the sanctions we order, considered on a global basis, are proportionately appropriate considering the conduct of each respondent in all of the circumstances (*Re Cartaway*, *supra,* at paragraph 64, *Re Belteco*, *supra*, at paragraph 26, *Re M.C.J.C.*, *supra*, at paragraph 10, and *Re Rowan* (2009), 33 O.S.C.B. 91 ("***Re Rowan***"), at paragraph 103).

C. Appropriate Sanctions in this Case

1. Positions of the Parties

(a) Staff

[33] Staff submits that the following factors are particularly relevant to determining the appropriate sanctions in this case:

(i) Seriousness of the Allegations

[34] Staff submits that the allegations, as proven in this case, are extremely serious. Staff notes, in particular, the Commission's finding that the Respondents "structured a sophisticated multi-jurisdictional scheme in order to avoid regulatory oversight" and "sought to benefit from the reputation of Ontario's capital markets". Most of the funds paid by investors never made their way to Xiiva or Biomaxx. As a result of the Respondents' multiple breaches of the Act, investors lost hundreds of

thousands of dollars. For example, one Biomaxx investor who testified before the Commission (Investor Five) paid approximately US $600,000 for Biomaxx shares. (Merits Decision, paragraphs 75 and 216)

(ii) The Individual Respondents' Experience in the Marketplace

[35] Staff submits that Smith has previously participated in unlawful conduct similar to the unlawful conduct proven in this case (*Re InstaDial Technologies Corp.*, 2005 ABASC 965 ("***Re InstaDial***"), at paragraphs 7 and 12), and that his involvement in the Xiiva and Biomaxx scheme shows a complete disregard for securities laws.

(iii) The Respondents' Level of Activity in the Marketplace

[36] Staff submits that the unlawful activity in this case was prolonged and widespread. Xiiva and Biomaxx issued shares to individuals for almost three years, from December 2004-November 2007. The Commission found that Xiiva issued 41,000 shares to 12 individual investors from December 2004 to July 2006 and 204,000 shares to 61 individual investors from July 10, 2007 to November 22, 2007, and that Biomaxx issued approximately 68,828,000 shares to 271 investors from December 2004 to November 27, 2007. (Merits Decision, paragraphs 60-61 and 71)

(iv) The Profit Made or Loss Avoided as a result of the Illegal Conduct

Xiiva

[37] The Commission found that approximately CDN $231,000 (CDN $99,500 in the Meridian account plus CDN $131,500 in the Canadian dollar account at National) and US $59,500 (in the U.S. dollar account at National) in investor funds were deposited into Xiiva's bank accounts. (Merits Decisions, paragraphs 95 and 98)

[38] However, these amounts do not represent the total amounts obtained as a result of the illegal distribution of Xiiva shares. The Commission found that 13 Xiiva investors indicated on their investor questionnaires that they transferred a total of US $240,000 for payment of their Xiiva shares. The Commission heard testimony from Investor Four, who sent his payment to the Bank of America account. (Merits Decision, paragraphs 61 and 161)

[39] After the Freeze Order was obtained, a further US $94,470 was deposited into one of Xiiva's National accounts by a foundation. While this foundation does not appear on the Xiiva treasury lists, documentary evidence indicates that it sent these funds to the National account for the purchase of 18,000 Xiiva shares. (Merits Decision, paragraph 98)

[40] On February 26, 2008, the Board of Directors of Xiiva passed a resolution to effect the return of the funds to six U.S. investors. Consequently, Staff submits that US $10,800 should be deducted from the U.S. dollar amount raised by Xiiva.

[41] As a result, Staff submits that Xiiva raised at least CDN $231,000 and US $393,970, less US $10,800, for a total of US $383,170 from the sale of Xiiva shares. These amounts reflect the sale of Xiiva shares to only 36 of 73 individual investors during the Material Time. The quantum of the proceeds from the sales to the other 37 investors is unknown.

Biomaxx

[42] The Commission found that approximately CDN $275,000 was deposited into Biomaxx's CIBC Canadian dollar account, of which CDN $33,500 came from unknown sources. Approximately CDN $241,500 came from known investors. (Merits Decision, paragraphs 104 and 165)

[43] The Commission found that approximately US $71,000 was deposited into Biomaxx's CIBC U.S. dollar account, of which US $200 came from an unknown source. Approximately US $70,800 came from known investors. (Merits Decision, paragraphs 105 and 166)

[44] However, as the Commission recognized, "there is evidence that the sale of Biomaxx shares raised considerably more than the amounts deposited into the CIBC accounts." (Merits Decision, paragraph 167)

[45] The Commission heard testimony from three investors who purchased Biomaxx shares. Investor Three paid US $7,276, Investor Five paid US $598,195 and Investor Six paid approximately US $7,000 for their Biomaxx shares. The Commission found that in addition to Investor Five's US $598,195, six other investors paid a total of US $133,882 for Biomaxx shares. The latter amount includes investments of Investors Three and Six. As such, the Commission found that Biomaxx raised at least US $732,077. (Merits Decision, paragraphs 74-76 and 168)

[46] These amounts reflect the sale of shares to only 7 of the 271 individual investors found by the Commission to have been issued shares by Biomaxx during the Material Time. The quantum of the proceeds from the sales to the other 264 investors is unknown. (Merits Decision, paragraph 71)

(v) Staff's Conclusion on the Appropriate Sanctions

[47] Staff also notes that the Respondents have not acknowledged the impropriety of their conduct, and submits that there are no mitigating factors. Staff submits that severe sanctions are appropriate in this case to serve the goals of specific and general deterrence. Staff submits that while each case must be decided on its own facts, Staff's request for stringent sanctions is supported by a number of decisions which Staff submits involve similar conduct (*Re Momentas Corp.* (2006), 29 O.S.C.B. 7408; *Re Momentas Sanctions and Costs*, (2007), 30 O.S.C.B. 6475, at paragraph 62; *Re Ochnik* (2006), 29 O.S.C.B. 3929 ("***Re Ochnik Sanctions and Costs***"), at paragraphs 108-114; *Re Allen* (2005), 28 O.S.C.B. 8541; *Re Allen* (2006), 29 O.S.C.B. 3944 ("***Re Allen Sanctions and Costs***"); *Re Anderson*, 2007 BCSECCOM 198; *Re Anderson,* 2007 BCSECCOM 350, at paragraphs 3-4, 22; *Re Limelight Entertainment Inc.* (2008), 31 O,.S.C.B. 1727, at paragraphs 208-209 and 215-222; and *Re Limelight Entertainment Inc.* (2008), 31 O.S.C.B. 12030 ("***Re Limelight Sanctions and Costs***").

(b) The Individual Respondents

[48] The Individual Respondents submit that this case is distinguishable from the cases relied upon by Staff.

[49] In particular, the Individual Respondents rely on the Commission's finding that "Xiiva and Biomaxx shares were not sold directly but through a number of offshore entities" (Merits Decision, at paragraph 53). The Commission stated:

> Based on the limited evidence we received about the role of the offshore entities in the distribution of Xiiva and Biomaxx securities and disposition of investor funds, we do not find it necessary to determine whether the offshore entities acted as the agents of the Respondents.
>
> (Merits Decision, at paragraph 181)

[50] Further, the Individual Respondents submit that there is no evidence that they benefitted from the offshore transfer of investor funds from Xiiva's bank account at Meridian (Merits Decision, paragraph 176) or that they have benefitted from or been enriched by any undisclosed assets not accounted for in the Financial Statements of Xiiva and Biomaxx.

[51] The Individual Respondents also submit that there is no evidence that they received money raised by Xiiva from the sale of its securities, and that the only evidence of their receipt of money raised by Biomaxx is of CDN $16,507 received by Crowe and CDN $58,412 received by Smith (Merits Decision, paragraph 148).

[52] The Individual Respondents submit that the principal way they stood to benefit from their non-compliance with the Act was as shareholders. They submit that the bankruptcies of Xiiva and Biomaxx resulted not from the conduct of the Individual Respondents but from the Commission's Freeze Order and Temporary Orders. The result was a total loss of shareholder value and substantial financial loss to the Individual Respondents.

[53] Further, though the Commission found that "the weight of the evidence, taken as a whole, establishes that Biomaxx was primarily in the business of raising capital", the Individual Respondents note that the Commission accepted that "Biomaxx entered into memoranda of understanding and letters of intent with various third parties" (Merits Decision, paragraphs 147 and 149). The Individual Respondents submit that Investor Five's "due diligence" provided support for the Commission's finding. The Individual Respondents submit that the Commission's concern appears to have been that neither Xiiva nor Biomaxx had yet to earn any revenue. However, they submit that many junior/development companies do not generate revenue, but trade as speculative investments based on news of anticipated future revenues, including revenues expected to be generated from agreements with third parties.

[54] The Individual Respondents submit that the purpose of an administrative penalty is primarily deterrent, not penal, and further, that the sanctions ought to be proportionate to the conduct of the Respondents (*Re Rowan*, *supra*, at paragraphs 56 and 103). They submit that having regard to "the lack of clarity with respect to the extra-jurisdictional application of securities legislation to off-shore distributions", "the lack of benefit" to them as a result of their non-compliance with the Act, and the financial loss they suffered as shareholders of Xiiva and Biomaxx, an administrative penalty would be penal in this case.

[55] Finally, the Individual Respondents submit that the "substantial" delay between the first Temporary Order, issued on November 22, 2007, and the Merits Decision, released on March 31, 2010, should be considered as a mitigating factor.

2. Conclusion on Sanctions

(a) General Considerations

[56] Overall, the sanctions we impose must protect investors and Ontario capital markets by barring or restricting the Respondents from participating in those markets in the future and by sending a clear message to the Respondents and to others participating in our capital markets that the type of misconduct identified in this matter will not be tolerated.

[57] In considering the factors referred to in paragraphs 27-31 above, we find the following considerations to be the most relevant in this matter:

- The allegations, as proven, are very serious. By engaging in illegal trading and distributions contrary to sections 25(1)(a) and 53(1) of the Act, the Respondents deprived investors of important protections set out in the registration and prospectus provisions of the Act.

- Smith had been sanctioned in Alberta for similar misconduct in 2005. He was ordered to cease trading in any security and not use any exemption under Alberta securities law for five years, to not serve as a director or officer of an issuer in Alberta for five years, and to pay a CDN $25,000 administrative penalty. Nevertheless, he traded in Xiiva and Biomaxx shares without filing a prospectus and without registration. His conduct shows a complete disregard of securities law. We are skeptical that Crowe would not have known of Smith's prior involvement in *Re InstaDial*.

- The Xiiva and Biomaxx websites contained misleading information that was intended to solicit investments. Investors thought they were investing in an Ontario biofuels technology company. "In fact, the Respondents were market intermediaries in the primary business of raising capital and they had virtual offices only." (Merits Decision, paragraph 34)

- As a result of the Respondents' misconduct, investors lost hundreds of thousands of dollars. The Commission found that approximately CDN $231,000 and US $59,500 raised in the illegal distribution of Xiiva shares was deposited into Xiiva's bank accounts at Meridian and National, and that approximately CDN $241,500 and US $70,800 raised in the illegal distribution of Biomaxx shares was deposited into Biomaxx's bank accounts at CIBC. There is evidence that the actual proceeds were much higher.

- The Commission found that the Respondents "structured a sophisticated multi-jurisdictional scheme in order to avoid regulatory oversight." By perpetrating their unlawful scheme in several jurisdictions, the Respondents prevented the Commission from seizing the majority of funds for the protection of investors.

- The Commission found that "most of the funds paid by the investors never made their way to Xiiva or Biomaxx. Of the investor funds that were deposited into Xiiva's bank accounts in Ontario, the funds deposited into the Meridian account were transferred offshore almost immediately, and Crowe attempted to transfer the funds deposited into the National account."

- The Commission found that "[t]he Respondents sought to benefit from the reputation of Ontario's capital markets" and their conduct "negatively impacts upon the reputation and integrity of Ontario's capital markets."

- There are no mitigating factors.

[58] Considering the above circumstances, we consider that the most important sanctioning factors in this matter are removing the Respondents from the capital markets and specific and general deterrence.

(b) Trading and Other Prohibitions

[59] Staff seeks an order that the Respondents be permanently banned, without carve-out or exception, from trading or acquiring securities and that any exemption contained in Ontario securities law be permanently not available to them, pursuant to clauses 2, 2.1 and 3 of subsection 127(1) of the Act.

[60] We accept that the public interest requires that the Respondents be permanently barred from trading or acquiring securities, and any exemptions available in Ontario securities law do not apply permanently to any of the Respondents, subject to the following carve-out.

[61] We find it is appropriate to permit the Individual Respondents to trade and acquire securities for the account of their respective registered retirement savings plans, registered retirement income plans, registered education savings plans or tax-free savings accounts (as defined in the *Income Tax Act* (Canada)) in which they or their respective spouses have sole legal and beneficial ownership, provided that: (i) the securities are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer; (ii) the Individual Respondents do not own legally or beneficially (in the aggregate, together with their respective spouses) more than one percent of the outstanding securities of the class or series of the class in question; (iii) the Individual Respondents carry out any permitted trading through a registered dealer and through trading accounts opened in their respective names only (and they must close any trading accounts that are not in their respective names only); and (iv) the Individual Respondents must give a copy of the Merits Decision, the Sanctions and Costs Decision and the Sanctions and Costs Order to any registered dealer through which they trade in advance of any trading.

(c) Director and Officer Bans

[62] Staff seeks an order that the Individual Respondents shall resign all positions they may hold as a director or officer of any issuer, registrant or investment manager, pursuant to clauses 7, 8.1 and 8.3 of section 127(1) of the Act; are permanently prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act; and are permanently prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter, pursuant to clause 8.5 of subsection 127(1) of the Act.

[63] Considering the seriousness of the Individual Respondents' misconduct in their roles as directors and/or officers or *de facto* directors and/or officers of the Corporate Respondents, we find that the Individual Respondents must be permanently barred from any position of responsibility, trust or control in the capital markets.

(d) Disgorgement

[64] The Commission's disgorgement power is found in clause 10 of subsection 127(1) of the Act, which states:

> 127(1) The Commission may make one or more of the following orders if in its opinion it is in the public interest to make the order or orders:
>
> . . .
>
> 10. If a person or company has not complied with Ontario securities law, an order requiring the person or company to disgorge to the Commission any amounts obtained as a result of the non-compliance.

[65] In *Limelight Sanctions and Costs*, the Commission made the following comments about the disgorgement remedy:

> We note that paragraph 10 of subsection 127(1) of the Act provides that disgorgement can be ordered with respect to "any amounts obtained" as a result of non-compliance with the Act. Thus, the legal question is not whether a respondent "profited" from the illegal activity but whether the respondent "obtained amounts" as a result of that activity. In our view, this distinction is made in the Act to make clear that all money illegally obtained from investors can be ordered to be disgorged, not just the "profit" made as a result of the activity. This approach also avoids the Commission having to determine how "profit" should be calculated in any particular circumstance. Establishing how much a respondent obtained as a result of his or her misconduct is a much more straightforward test. In our view, where there is a breach of Ontario securities law that involves the widespread and illegal distribution of securities to members of the public, it is appropriate that a respondent disgorge all the funds that were obtained from investors as a result of that illegal activity. In our view, such a disgorgement order is authorized under paragraph 10 of subsection 127(1) of the Act.
>
> In *Allen* [*Re Allen Sanctions and Costs*], the respondent submitted that he did not make the full amount attributed to him in profits because of the very substantial costs of the offering and the 20% commissions paid to salespersons. It appeared to be the respondent's submission that any order to disgorge amounts obtained should have regard only to "net" amounts obtained as opposed to "gross" amounts. On this issue, the Commission stated:
>
> > It is Staff's submission that the wording of the legislation permits the panel to order disgorgement of the gross amount obtained. Further, Staff submitted that the legislation should not be read so as to restrict any disgorgement order to the net amount obtained as to do so would reduce the deterrent effect of the disgorgement sanction. (*Allen*, *supra* at paragraph 36)
>
> The Commission concluded by stating that "we agree with Staff's submission on the interpretation of subsection 127(1) clause 10 of the Act" (*Allen*, *supra* at paragraph 37).
>
> That analysis and conclusion in *Allen* is consistent with the approach we have discussed above.
>
> In our view, the Commission should consider the following issues and factors when contemplating a disgorgement order in circumstances such as these:
>
> (a) whether an amount was obtained by a respondent as a result of non-compliance with the Act;

> (b) the seriousness of the misconduct and the breaches of the Act and whether investors were seriously harmed;
>
> (c) whether the amount that a respondent obtained as a result of non-compliance with the Act is reasonably ascertainable;
>
> (d) whether the individuals who suffered losses are likely to be able to obtain redress; and
>
> (e) the deterrent effect of a disgorgement order on the respondents and other market participants.
>
> These factors are not exhaustive; . . . .
>
> Staff has the onus to prove on a balance of probabilities the amount obtained by a respondent as a result of his or her non-compliance with the Act. Subject to that onus, we agree that any risk of uncertainty in calculating disgorgement should fall on the wrongdoer whose non-compliance with the Act gave rise to the uncertainty.
>
> In our view, no one should profit from his or her breach of the Act.
>
> (*Limelight Sanctions and Costs*, *supra*, paragraphs 49-54)

[66] In *Limelight Sanctions and Costs*, the Commission ordered Limelight, the Corporate Respondent, and DaSilva and Campbell, its directing minds, to disgorge the entire proceeds of the scheme – CDN $2,747,089.45 – for allocation to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the Act.

[67] Staff notes that in *Momentas Sanctions and Costs*, Staff sought an order that Rash and Funt, the directing minds of Momentas, jointly disgorge the total proceeds of the scheme – CDN $7,862,000. However, the Commission ordered each to disgorge what he had taken as management draws; Rash was ordered to disgorge CDN $1,300,000 and Funt was ordered to disgorge CDN $1,260,000, both amounts to be allocated to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the Act.

[68] In this case, Staff seeks an order that Xiiva, XI Biofuels Inc., Smith and Crowe jointly and severally disgorge to the Commission CDN $231,000 plus an amount in Canadian currency sufficient to purchase US $383,170, and that Biomaxx, Smith and Crowe jointly and severally disgorge to the Commission an amount in Canadian currency sufficient to purchase US $732,077, all amounts to be allocated to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the Act.

[69] Staff submits, in applying the *Limelight* factors, that:

> (a) these are the minimum amounts that were obtained as a result of the Respondents' unlawful activity, and indeed there was evidence that these amounts do not represent the entire proceeds of the scheme;
>
> (b) investors were seriously harmed by the Respondents' conduct (Merits Decision, paragraphs 129, 142, 149, and 157);
>
> (c) the amounts obtained as a result of the non-compliance with the Act are reasonably ascertainable;
>
> (d) the investors who lost money are unlikely to recover any of their investment, considering that a large amount of money is unaccounted for in the corporate accounts and the companies are now bankrupt (Merits Decision, paragraphs 160-163 and 167); and
>
> (e) the disgorgement orders sought would achieve the goals of specific deterrence.

[70] In our view, the evidence of amounts obtained as a result of non-compliance with Ontario securities law falls into three "tiers".

[71] The first tier is amounts obtained by the Individual Respondents directly by withdrawal from the Corporate Respondents' bank accounts. Smith received CDN $58,412 and Crowe received CDN $16,507 from the Biomaxx bank accounts (Merits Decision, paragraph 148). There was little evidence of funds paid out of the Xiiva bank accounts to either of the Individual Respondents. We have no hesitation in ordering Smith to disgorge the amount of CDN $58,412 and Crowe to disgorge the amount of CDN $16,507 which were obtained as a result of their non-compliance with the Act.

[72] The second tier is investor funds paid into the Corporate Respondents' bank accounts. For the reasons given above, we are not prepared to make a disgorgement order against the Corporate Respondents. Applying the *Limelight Sanctions and Costs* factors, the most important consideration is that the investors who suffered losses may be able to obtain redress from the Corporate Respondents through the bankruptcy process. In order to avoid depleting the assets that may be available for repayment to investors who lost money as a result of the Respondents' non-compliance with the Act, we have determined that the public interest is best served by restricting the monetary orders in this case to the Individual Respondents only.

[73] In addition, we include in our disgorgement order against the Individual Respondents the investor funds – in the amount of approximately CDN $85,000 – that were deposited into Xiiva's Meridian account in October and November 2007 and wire transferred to an account in the Bahamas almost immediately thereafter, at Crowe's direction. We find that Crowe obtained these funds and then ordered Meridian to transfer them offshore for reasons that were not adequately explained to the Commission (Merits Decision, paragraphs 170-176). Crowe was a director and officer of Xiiva and Smith was a director and officer or *de facto* director and officer of Xiiva throughout the Material Time (Merits Decision, paragraphs 186-187 and 195-196). Accordingly Smith and Crowe will be jointly and severally liable to disgorge the amount of CDN $85,000 which was obtained as a result of their non-compliance with the Act.

[74] The third tier is funds raised by Xiiva and Biomaxx that could not be traced to the Corporate Respondents' bank accounts. We are not satisfied that the amounts obtained are reasonably ascertainable, and therefore we do not find it appropriate to order disgorgement of such amounts.

[75] Accordingly, pursuant to clause 10 of subsection 127(1) of the Act, Smith will be ordered to disgorge CDN $58,412 to the Commission; Crowe will be ordered to disgorge CDN $16,507 to the Commission; and Smith and Crowe, on a joint and several basis, will be ordered to disgorge CDN $85,000 to the Commission, pursuant to clause 10 of subsection 127(1) of the Act, all of which amounts are to be designated, pursuant to section 3.4(2)(b) of the Act, for allocation to or for the benefit of third parties.

(e) Administrative Penalty

[76] Pursuant to clause 9 of subsection 127(1) of the Act, the Commission may impose an administrative penalty of up to CDN $1 million for each failure to comply with the Act. Staff requests an administrative penalty of CDN $200,000 against each of the Respondents.

[77] We find that the public interest requires that we order the Individual Respondents to pay an administrative penalty in the full amount requested by Staff, in light of the factors described at paragraph 57 above. As stated in paragraph 72 above, we have determined that the public interest is best served by restricting the monetary orders in this case to the Individual Respondents only, to avoid depleting the assets that may be available for repayment to investors who lost money as a result of the Respondents' non-compliance with the Act.

[78] Accordingly, each of Smith and Crowe will be ordered to pay the Commission an administrative penalty of CDN $200,000 pursuant to clause 9 of subsection 127(1) of the Act, to be designated for allocation to or for the benefit of third parties pursuant to subsection 3.4(2)(b) of the Act.

(f) Reprimand

[79] These reasons and the sanctions imposed by our Order reflect our condemnation of the Respondents' misconduct. As stated in paragraph 57 above, the allegations, as proven, are very serious. By engaging in illegal trading and distributions contrary to subsections 25(1)(a) and 53(1) of the Act, the Respondents deprived a large number of investors of important protections set out in the registration and prospectus provisions of the Act, and investors lost their investments as a result of the Respondents' misconduct. Approximately CDN $231,000 and US $59,500 raised in the illegal distribution of Xiiva shares was deposited into Xiiva's bank accounts at Meridian and National, and approximately CDN $241,500 and US $70,800 raised in the illegal distribution of Biomaxx shares was deposited into Biomaxx's bank accounts at CIBC. There is evidence that the actual proceeds were much higher.

[80] Moreover, this was not a case of inadvertent or negligent contraventions of the Act. Smith had been sanctioned in Alberta for similar misconduct in 2005. He was ordered to cease trading in any security and not use any exemption under Alberta securities law for five years, to not serve as a director or officer of an issuer in Alberta for five years, and to pay a CDN $25,000 administrative penalty. Nevertheless, he traded in Xiiva and Biomaxx shares without filing a prospectus and without registration. His conduct shows a complete and knowing disregard of securities law. Given that Smith and Crowe were directors and officers or *de facto* directors and officers of the Corporate Respondents, we are skeptical that Crowe would not have known of Smith's prior involvement in *Re InstaDial*.

[81] The Respondents structured a sophisticated multi-jurisdictional scheme in order to avoid regulatory oversight. By perpetrating their unlawful scheme in several jurisdictions, the Respondents prevented the Commission from seizing the majority

of funds for the protection of investors. In fact, most of the funds paid by the investors never made their way to Xiiva or Biomaxx. Of the investor funds that were deposited into Xiiva's bank accounts in Ontario, the funds deposited into the Meridian account were transferred offshore almost immediately, and Crowe attempted to transfer the funds deposited into the National account, failing to do so only because National began an investigation leading to the Commission's Freeze Order.

[82] The Xiiva and Biomaxx websites contained misleading information that was intended to solicit investments. Investors thought they were investing in an Ontario biofuels technology company. In this way, the Respondents took advantage of investors' interest in sustainable energy technology and benefitted from the reputation of Ontario's capital markets.

[83] Their conduct was egregious and abusive of the capital markets.

[84] The Respondents are hereby reprimanded.

V. COSTS

[85] Section 127.1 of the Act gives the Commission discretion to order a person or company to pay the costs of the investigation (s. 127.1(1)) and the hearing (s. 127.1(2)) if the Commission is satisfied that the person or company has not complied with the Act or has not acted in the public interest.

A. Staff's Request for Costs

[86] In this proceeding, Staff seeks an order, pursuant to subsection 127.1(2) of the Act, for payment of its hearing costs of CDN $117,441.51 to be paid by the Respondents on a joint and several basis. Staff does not seek costs in relation to the investigation. Staff provided a Bill of Costs setting out its costs incurred for fees (CDN $113,478.75) and disbursements (CDN $3,962.76). (All dollar amounts in paragraphs 87 and 88 are expressed in Canadian dollars.)

[87] Staff's Bill of Costs reflects time spent by a Senior Litigation Counsel and a Senior Investigator from October 16, 2008, when the Notice of Hearing was issued, to May 1, 2009, when closing submissions were made; time sheets were provided. Staff notes that the Senior Litigation Counsel was called to the bar in 1995 and had carriage of and primary responsibility for the litigation in this matter, and that the Senior Investigator joined the Enforcement Branch of the Commission in September 2007. The Bill of Costs excludes the time spent to prepare for and attend the Sanctions and Costs Hearing, and any time spent by another investigator, students-at-law, law clerks and assistants. Staff seeks fees at the approved hourly rate, as follows:

Senior Litigation Counsel	329.75 hours	$205 per hour	$45,880.00
Senior Investigator	248.00 hours	$185 per hour	$67,598.75
Total Fees			$113,478.75

[88] Staff claims $3,962.76 for disbursements, including process serving expenses ($331.99), witness fees ($206.00), videoconference bookings ($3,223.95) and a hotel booking ($200.92) for overseas witnesses; receipts were provided.

[89] Staff submits that in considering a request for a costs order, the Commission has identified a number of factors, including:

(a) the importance of early notice of an intention to seek costs;

(b) the seriousness of the allegations and the conduct of the parties;

(c) the presence or absence of abuse of process by any respondent;

(d) the greater investigative/hearing costs that the specific conduct of a respondent tends to require in the case; and

(e) the reasonableness of the costs requested by Staff.

(*Re Ochnik*, *supra*, at paragraph 29)

[90] Staff submits that its request for costs is proportionate and reasonable in all of the circumstances.

B. The Individual Respondents' Submissions

[91] The Individual Respondents submit that many of the costs incurred by Staff were avoidable.

[92] On March 17, 2008, Smith, in his capacity as the sole director of Biomaxx, admitted that Biomaxx conducted a distribution of securities without complying with section 53 of the Act and that its representatives traded in Biomaxx securities without being registered pursuant to section 25 of the Act, and Crowe, in his capacity as the sole director of Xiiva, admitted that Xiiva conducted a distribution of securities without complying with section 53 of the Act and that its representatives traded in Xiiva securities without being registered pursuant to section 25 of the Act. (Merits Decision, paragraphs 51-52). Further, the Individual Respondents did not rely on any registration and prospectus exemptions under the Act (Merits Decision, paragraph 8).

[93] The Individual Respondents also submit that this "is a case without precedent. The Individual Respondents legitimately tested whether this Commission would or could assume jurisdiction with respect to the distribution of the shares of Xiiva and Biomaxx to investors who resided outside of Canada."

[94] Finally, the Individual Respondents submit that the Commission should consider the "substantial" delay between the first Temporary Order, issued on November 22, 2007, and the decision on the merits, released on March 31, 2010, noting that the Hearing on the Merits was held in January 2009 and closing submissions made on May 1, 2009.

C. Conclusion on Costs

[95] We have reviewed the documentation provided by Staff in support of its request for costs, and we are satisfied that the request is reasonable in the circumstances.

[96] We do not accept that the Individual Respondents "legitimately tested" the Commission's jurisdiction over offshore distributions. In our view, it is clear from the Merits Decision that the Commission found no basis for the position taken by the Individual Respondents. We note, in particular, the following paragraphs:

> We reject the Respondents' position. We note that the Respondents are unable to cite a single case in support of their position that the Act does not apply to their conduct in this case. We find that there is ample authority for Staff's submission that the Commission has jurisdiction where respondents engaged in acts in furtherance of a trade in Ontario, though the securities were distributed to investors outside of Ontario. (Merits Decision, paragraph 204)
>
> . . . .
>
> We accept Staff's submission that the Respondents in this case structured a sophisticated multi-jurisdictional scheme in order to avoid regulatory oversight. We find that the Respondents sought to benefit from the reputation of Ontario's capital markets, and that many investors outside of Ontario thought they were investing in an Ontario biofuels technology company. In fact, most of the funds paid by the investors never made their way to Xiiva or Biomaxx. Of the investor funds that were deposited into Xiiva's bank accounts in Ontario, the funds deposited into the Meridian account were transferred offshore almost immediately, and Crowe attempted to transfer the funds deposited into the National account. We find that the Respondents' conduct negatively impacts upon the reputation and integrity of Ontario's capital markets, and that the Commission has the authority and responsibility to intervene.
>
> (Merits Decision, paragraph 216)

[97] The Individual Respondents' challenge to the Commission's jurisdiction resulted in significant delays in this proceeding. The Individual Respondents brought a constitutional motion at an earlier stage of the proceeding, but, after several adjournments to allow for provision of Notice of Constitutional Question, the motion was withdrawn in June 2008 (Merits Decision, paragraph 197).

[98] The Individual Respondents took the same position before Madam Justice Hoy, in response to the Commission's application for continuation of the Freeze Order. Justice Hoy, relying on *Gregory & Company Inc. v. Quebec (Securities Commission)*, [1961] S.C.R. 584 ("***Gregory***"), the leading case, held that the Commission had "at minimum a *prima facie* case that Xiiva has breached ss. 53 and 25(1), and the OSC has jurisdiction to regulate Xiiva's activities . . . ." (Merits Decision, paragraph 198).

[99] The Individual Respondents raised the issue yet again in closing submissions in the Hearing on the Merits (Merits Decision, paragraph 39, 199). In rejecting their argument, the Commission relied on *Gregory*, amongst other cases (Merits Decision, paragraph 205).

[100] Nor do we accept that the Individual Respondents' admissions described at paragraph 93 above would have allowed Staff to reduce its costs by more than a trivial amount. Staff's allegations in this matter went beyond illegal trading and

distribution contrary to subsections 25(1)(a) and 53(1) of the Act. Staff also alleged and the Panel found "that the Respondents acted contrary to the public interest by (i) making false or misleading statements on the XI Biofuels and Biomaxx websites; (ii) failing to account for the disposition of investor funds, most of which never made their way to the Corporate Respondents or their bank accounts; and (iii) transferring and attempting to transfer investor funds offshore." (Merits Decision, paragraph 154) The Individual Respondents did not admit these allegations, and generally challenged Staff's evidence throughout the Hearing on the Merits. For example, the Individual Respondents continued to claim that "they were engaged in a biofuels technology business, not the business of raising capital"; that "the Xiiva and Biomaxx shares held by Ontario residents are held in the names of the founders and family members"; that "shares sold to non-residents were appropriately legended to restrict their sale in the US"; and that the Corporate Respondents' bankruptcy resulted from the actions of the Commission, not the actions of the Respondents (Merits Decision, paragraphs 35, 37 and 39).

[101] We find that Staff's request for costs is proportionate and reasonable in the circumstances.

[102] For the reasons given at paragraphs 72 and 77 above, we do not find it appropriate to make a costs order against the Corporate Respondents. An order will go for payment of costs of CDN $117,441.51 by the Individual Respondents on a joint and several basis.

VI. CONCLUSION ON SANCTIONS AND COSTS

[103] Accordingly, for the reasons given, we will make the following order:

1. each of the Respondents shall cease trading in securities permanently, pursuant to clause 2 of subsection 127(1) of the Act, except that Smith and Crowe are permitted to trade securities for the account of their respective registered retirement savings plans, registered retirement income plans, registered education savings plans or tax-free savings accounts (as defined in the *Income Tax Act* (Canada)) in which they or their respective spouses have sole legal and beneficial ownership, provided that:

    (i) the securities are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer;

    (ii) the Individual Respondents do not own legally or beneficially (in the aggregate, together with their respective spouses) more than one percent of the outstanding securities of the class or series of the class in question;

    (iii) the Individual Respondents carry out any permitted trading through a registered dealer and through trading accounts opened in their respective names only (and they must close any trading accounts that are not in their respective names only); and

    (iv) the Individual Respondents give a copy of the Merits Decision, the Sanctions and Costs Decision and the Sanctions and Costs Order to any registered dealer through which they will trade in advance of any trading;

2. each of the Respondents is prohibited permanently from acquiring any securities, pursuant to clause 2.1 of subsection 127(1) of the Act, except that Smith and Crowe are permitted to acquire securities to allow the trading in securities permitted by and in accordance with paragraph 1 of this Order;

3. any exemptions contained in Ontario securities law do not apply to each of the Respondents permanently, pursuant to clause 3 of subsection 127(1) of the Act;

4. the Respondents are reprimanded, pursuant to clause 6 of subsection 127(1) of the Act;

5. Smith and Crowe shall resign all positions that they may hold as a director or officer of any issuer, registrant or investment fund manager, pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the Act;

6. each of Smith and Crowe is permanently prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager, pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act;

7. each of the Respondents is permanently prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter, pursuant to clause 8.5 of subsection 127(1) of the Act;

8. each of Smith and Crowe shall pay an administrative penalty of CDN $200,000, pursuant to clause 9 of subsection 127(1) of the Act, to be designated pursuant to section 3.4(2)(b) of the Act, for allocation to or for the benefit of third parties;

9. Smith shall disgorge to the Commission funds in the amount of CDN $58,412, pursuant to clause 10 of subsection 127(1) of the Act, to be designated pursuant to section 3.4(2)(b) of the Act. for allocation to or for the benefit of third parties;

10. Crowe shall disgorge to the Commission CDN $16,507, pursuant to clause 10 of subsection 127(1) of the Act, to be designated pursuant to section 3.4(2)(b) of the Act, for allocation to or for the benefit of third parties;

11. Smith and Crowe shall, on a joint and several basis, disgorge to the Commission CDN $85,000, pursuant to clause 10 of subsection 127(1) of the Act, to be designated pursuant to section 3.4(2)(b) of the Act, for allocation to or for the benefit of third parties; and

12. Smith and Crowe shall pay, on a joint and several basis, CDN $117,441.51 in costs to the Commission, pursuant to subsection 127.1(2) of the Act.

DATED in Toronto, Ontario this 17th day of November, 2010.

“David L. Knight”

“Margot C. Howard”

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Eleven Evergreen Limited Partnership	11 Nov 10	23 Nov 10	23 Nov 10	
Azabache Energy Inc.	10 Nov 10	22 Nov 10	22 Nov 10	
Revolution Technologies Inc.	07 Dec 09	18 Dec 09	18 Dec 09	23 Nov 10

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order

THERE ARE NO ITEMS FOR THIS WEEK.

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order

THERE ARE NO ITEMS FOR THIS WEEK.

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesScource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

REPORTS OF TRADES SUBMITTED ON FORMS 45-106F1 AND 45-501F1

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
04/26/2010 to 09/29/2010	28	Aberdeen Global Emerging Markets Equity Fund - Preferred Shares	5,431,055.37	99,515.00
10/31/2010	31	ACM Commercial Mortgage Fund - Units	2,071,727.75	18,633.42
10/01/2009 to 09/30/2010	5	AGF Emerging Markets Pooled Fund - Units	12,454,234.01	1,109,991.23
10/01/2009 to 09/30/2010	18	AGF Global Core Equity Pooled Fund - Units	70,713,775.31	8,395,345.23
09/30/2010	51	Alexander Nubia Inc. - Units	3,401,120.46	19,816,200.00
09/29/2010	31	Argex Mining Inc. - Special Warrants	5,250,000.00	17,500,000.00
09/30/2010	17	Augen Gold Corp. - Flow-Through Units	2,394,780.00	7,974,500.00
09/30/2010	12	Augen Gold Corp. - Units	2,394,780.00	3,767,000.00
09/28/2010	2	Aviva Investors - Global High Yield Bond Fund - Common Shares	13,500,000.00	125,476.93
11/05/2010	1	Bank of America Corporation - Notes	1,150,000.00	115.00
08/03/2010	1	Bison Prime Mortgage Fund - Trust Units	175,951.00	17,595.10
01/01/2009 to 12/31/2009	59	BlackRock Canadian Equity Index Fund - Units	512,558,525.32	22,539,475.60
11/15/2010	4	Blackrock, Inc. - Common Shares	100,076,295.00	51,075,758.00
11/15/2010	2	Blackrock, Inc. - Common Shares	1,968,720.00	12,000.00
09/01/2010	1	Burlington Partners I LP. - Limited Partnership Units	500,000.00	500.00
11/01/2010	3	Capital Direct I Income Trust - Trust Units	245,000.00	24,500.00
10/05/2010	1	Carmax Mining Corp. - Non-Flow Through Units	11,000.00	100,000.00
08/12/2010	60	CDR Minerals Inc. - Units	6,004,500.00	N/A
10/07/2010	5	Colwood City Centre Limited Partnership - Notes	235,000.00	235,000.00
10/26/2010 to 10/29/2010	5	Colwood City Centre Limited Partnership - Notes	586,000.00	586,000.00
11/05/2010	1	Corporate Office Properties Trust - Common Shares	1,715,068.75	6,500,000.00
10/25/2010 to 10/29/2010	6	Cowichan District Financial Centre Limited Partnership - Units	391,000.00	391,000.00
10/13/2010	1	Development Notes Limited Partnership - Units	150,000.00	150,000.00
11/16/2010	2	Development Notes Limited Partnership - Units	600,000.00	600,000.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
10/29/2010	1	Dixie Sales Company, Inc. ("Dixie") - Note	60,642.00	1.00
10/18/2010	2	DJO Finance LLC/ DJO Finance Corporation - Notes	2,272,500.00	2.00
09/29/2010	47	Eagle I Capital Corporation - Units	803,875.00	3,215,500.00
10/25/2010	43	Econo-Malls Limited Partnership #9 - Limited Partnership Interest	5,170,000.00	5,170,000.00
10/07/2010	5	Edgewater Exploration Ltd. - Units	5,200,000.00	5,200,000.00
10/14/2010	25	Emgold Mining Corporation - Units	829,659.92	7,296,142.00
10/06/2010	1	Estacio Participacoes S.A. - Common Shares	741,000.00	65,000.00
09/30/2010	6	Ethiopian Potash Corp - Common Shares	223,875.00	1,990,000.00
10/06/2009 to 01/22/2010	40	Evergreen Mortgage Corp. - Common Shares	5,418,250.00	5,382,000.00
11/01/2010	2	Excalibur Limited Partnership - Limited Partnership Units	550,185.00	2.11
10/22/2010	2	Fairmont Resources Inc - Common Shares	130,000.00	400,000.00
10/04/2010	2	Fallbrook Technologies Inc. - Preferred Shares	511,698.44	655,306.00
10/27/2010	1	FCO MA Maple Leaf LP - Limited Partnership Interest	412,800,000.00	412,800,000.00
10/01/2009 to 09/30/2010	2	Fidelity ClearPath Institutional 2010 Portfolio - Trust Units	3,194,095.49	300,153.72
10/01/2009 to 09/30/2010	2	Fidelity ClearPath Institutional 2015 Portfolio - Trust Units	7,600,666.99	708,658.86
10/01/2009 to 09/30/2010	2	Fidelity ClearPath Institutional 2020 Portfolio - Trust Units	15,579,834.55	1,478,242.03
10/01/2009 to 09/30/2010	2	Fidelity ClearPath Institutional 2025 Portfolio - Trust Units	7,996,945.05	759,693.68
10/01/2009 to 09/30/2010	2	Fidelity ClearPath Institutional 2030 Portfolio - Trust Units	17,143,764.45	1,676,991.60
10/01/2009 to 09/30/2010	2	Fidelity ClearPath Institutional 2035 Portfolio - Trust Units	5,549,847.10	542,066.96
10/01/2009 to 09/30/2010	2	Fidelity ClearPath Institutional 2040 Portfolio - Trust Units	12,132,362.20	1,194,590.55
10/01/2009 to 09/30/2010	2	Fidelity ClearPath Institutional 2045 Portfolio - Trust Units	4,130,396.66	406,719.72
10/15/2010	1	First Leaside Expansion Limited Partnership - Limited Partnership Interest	25,000.00	25,000.00
11/16/2010	1	First Leaside Expansion Limited Partnership - Limited Partnership Units	200,000.00	200,000.00
10/15/2010	1	First Leaside Fund - Units	56,642.00	56,642.00
10/15/2010	1	First Leaside Morgtage Fund - Units	225,000.00	225,000.00
11/05/2010	1	First Leaside Mortgage Fund - Trust Units	200,000.00	200,000.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
11/15/2010 to 11/16/2010	4	First Leaside Mortgage Fund - Trust Units	792,808.00	792,808.00
11/08/2010	1	First Leaside Ultimate Limited Partnership - Limited Partnership Interest	80,000.00	79,207.00
10/18/2010	1	First Leaside Ultimate Limited Partnership - Limited Partnership Interest	134,324.04	132,352.00
11/16/2010	2	First Leaside Ultimate Limited Partnership - Limited Partnership Units	475,000.00	466,650.00
11/16/2010	3	First Leaside Universal Limited Partnership - Limited Partnership Units	500,000.00	500,000.00
10/13/2010	1	First Leaside Universal Limited Partnership - Units	75,000.00	75,000.00
11/16/2010	2	First Leaside Visions II Limited Partnership - Limited Partnership Units	170,000.00	170,000.00
10/14/2010 to 10/19/2010	6	First Leaside Wealth Management Inc. - Preferred Shares	446,089.00	446,089.00
08/31/2010	1	Fleet Leasing Receivables Trust - Note	143,164,220.00	1.00
10/15/2010	3	Fleet Leasing Receivables Trust - Notes	131,978,583.36	3.00
10/01/2009 to 12/31/2009	9	Franklin Templeton Domestic Growth Pooled Portfolio - Trust Units	41,711.00	N/A
09/01/2010 to 09/09/2010	25	Galahad Metals Inc. - Units	460,000.00	2,000,000.00
09/07/2010	2	Galahad Metals Inc. - Units	175,000.00	2,500,000.00
09/22/2010	95	Galore Resources Inc. - Units	2,050,000.00	10,250,000.00
09/18/2010	11	Gear Energy Ltd. - Common Shares	950,004.50	252,334.00
12/24/2009 to 12/31/2009	2	Genesis Partners Fund LP - Limited Partnership Interest	2,550,000.00	2,550,000.00
10/31/2010	1	Georgian Capital Partners Corporation - Limited Partnership Units	2,000,000.00	20,000.00
09/23/2010	22	Gold Canyon Resources Inc. - Units	2,281,070.25	5,069,045.00
10/13/2010	112	Gold Port Resources Ltd. - Units	1,766,374.88	23,551,665.00
10/01/2010	21	GWR Resources Inc. - Units	896,764.00	3,346,160.00
01/01/2009 to 12/31/2009	5	Hexavest Canadian Equity Fund - Units	20,112,269.00	30,393.00
09/02/2010	39	Hinterland Metals Inc. - Units	375,000.00	3,750,000.00
10/26/2010	4	Interface Biologics Inc. - Notes	2,523,159.34	4.00
11/16/2010	5	Investco Ltd. - Common Shares	15,575,000.00	700,000.00
08/05/2010 to 08/12/2010	18	Iona Energy Company Limited - Common Shares	1,175,399.94	3,222,727.00
10/29/2010	27	KDC Energy Ltd - Debentures	7,987,550.00	N/A

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
09/22/2010 to 09/28/2010	14	Kent Exploration Inc. - Units	220,500.00	2,205,000.00
10/28/2010	27	Kingsman Resources Inc. - Units	411,200.00	5,140,000.00
09/29/2010 to 10/28/2010	4	KmX Corp. - Warrants	461,050.00	1,682,693.00
08/31/2010	52	Levon Resources Ltd. - Units	11,104,014.75	14,805,353.00
01/09/2009 to 11/13/2009	8	Mawer Canadian Bond Institutional Pooled Fund - Units	5,501,642.35	592,974.90
02/27/2009 to 12/23/2009	7	Mawer Canadian Equity Institutional Pooled Fund - Units	46,225,413.19	3,472,987.21
01/11/2008 to 10/31/2008	5	Mawer Canadian Equity Institutional Pooled Fund - Units	12,326,502.30	907,763.12
11/01/2010	1	Mesirow Absolute Return Fund (Institutional) Ltd. - Common Shares	4,966,640.00	3,917.00
10/28/2010	7	MGM Resorts International - Notes	19,169,996.68	N/A
10/29/2010	25	MineralFields 2010-IV Super Flow-Through Limited Partnership - Units	1,100,000.00	N/A
10/05/2010	3	NGRAIN (Canada) Corporation - Warrants	12,250,000.00	4,900,000.00
06/14/2010 to 08/25/2010	7	Oceanus Resources Corporation - Common Shares	350,000.00	7,000,000.00
08/08/2010 to 08/15/2010	10	Omniarch Capital Corporation - Bonds	146,000.00	N/A
08/08/2010 to 08/15/2010	6	Omniarch Capital Corporation - Common Shares	3,000.00	600.00
08/20/2010	94	OPTI Canada Inc. - Notes	447,930,000.00	N/A
11/09/2010	1	Opus Capital Venture Partners VI, L.P. - Limited Partnership Interest	500,650.00	500,000.00
08/25/2010 to 09/24/2010	66	Pacific Coal, S. A. - Common Shares	43,260,000.00	42,000,000.00
08/20/2010	74	Pacific Ridge Exploration Ltd. - Units	1,036,000.00	8,000.00
09/29/2010 to 10/04/2010	64	PAN AMERICAN LITHIUM CORP - Units	814,930.95	5,432,873.00
10/22/2010	1	Park Square Capital Partner II, LP - Limited Partnership Interest	21,403,500.00	21,403,500.00
10/01/2009 to 09/30/2010	32	Pyramis Canadian Bond Trust - Trust Units	76,295,064.63	3,967,815.80
10/01/2009 to 09/30/2010	49	Pyramis Canadian Core Equity Trust - Trust Units	464,770,733.35	11,798,892.63
10/01/2009 to 09/30/2010	7	Pyramis Canadian Long Bond Trust - Trust Units	11,730,171.59	809,841.60
10/01/2009 to 09/30/2010	21	Pyramis Canadian Systematic Equity Trust - Trust Units	72,141,241.19	1,575,988.88

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
10/01/2009 to 09/30/2010	2	Pyramis ClearPath Institutional Income Portfolio - Trust Units	2,056,013.72	190,713.23
10/01/2009 to 09/30/2010	2	Pyramis Concentrated International Small Cap Trust - Trust Units	630,877.43	33,771.37
10/01/2009 to 09/30/2010	2	Pyramis Currency Hedged Global Bond Trust - Trust Units	4,354,896.73	378,156.54
10/01/2009 to 09/30/2010	1	Pyramis Currency Hedged International Growth Trust - Trust Units	3,332,179.76	286,018.45
10/01/2009 to 09/30/2010	2	Pyramis Currency Hedged Select Global Equity Trust - Trust Units	49,903,631.59	4,327.25
10/01/2009 to 09/30/2010	1	Pyramis Currency Hedged U.S. Large Cap Core Non-Registered Trust - Trust Units	7,657,002.12	638,118.35
10/01/2009 to 09/30/2010	3	Pyramis Emerging Markets Equity Trust - Trust Units	131,986.39	16,644.53
10/01/2009 to 09/30/2010	1	Pyramis Global Bond Trust - Trust Units	3,634,159.45	329,765.46
10/01/2009 to 09/30/2010	19	Pyramis International Growth Trust - Trust Units	56,053,057.80	2,933,284.16
10/01/2009 to 09/30/2010	2	Pyramis Select Emerging Markets Equity Trust - Trust Units	6,998,936.67	509,599.17
10/01/2009 to 09/30/2010	20	Pyramis Select Global Equity Trust - Trust Units	402,335,756.00	10,005,929.38
10/01/2009 to 09/30/2010	3	Pyramis Select Global Plus Trust - Trust Units	36,703,646.00	3,788,027.55
10/01/2009 to 09/30/2010	31	Pyramis Select International Equity Trust - Trust Units	87,916,557.33	3,535,034.04
10/01/2009 to 09/30/2010	1	Pyramis Strategic Balanced Trust - Trust Units	10,386,421.45	971,957.60
10/01/2009 to 09/30/2010	12	Pyramis U.S. Large Cap Core Non-Registered Trust - Trust Units	20,768,426.81	2,556,578.79
10/01/2009 to 09/30/2010	13	Pyramis U.S. Large Cap Core Trust - Trust Units	20,100,647.80	355,963.48
08/31/2010	41	Rogers Oil & Gas Inc. - Debentures	1,145,660.00	1,145,660.00
11/11/2010	1	SF Fund Limited Partnership II - Limited Partnership Units	500,000.00	50,000.00
08/12/2010	66	Shoal Point Energy Ltd. - Units	6,101,243.80	27,732,881.00
09/17/2010	44	Slater Mining Corporation - Common Shares	1,357,500.00	5,430,000.00
09/30/2010	1	Solar Income Fund Developments Inc. - Units	30,000.00	30.00
09/15/2010	44	Solomon Resources Limited - Warrants	1,224,407.80	5,565,490.00
11/01/2010	4	Stacey Muirhead Limited Partnership - Limited Partnership Units	294,905.00	7,404.63
11/01/2010	2	Stacey Muirhead RSP Fund - Trust Units	184,592.71	17,599.70

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
10/14/2010	35	Supreme Resources Ltd. - Units	431,000.00	4,714,500.00
10/08/2010	65	Terminal City Club - Common Shares	301,522.00	65.00
10/01/2010	10	The Investment Partners Fund - Trust Units	2,005,158.98	112,994.71
11/01/2010	9	The Investment Partners Fund - Trust Units	1,331,153.44	74,828.46
11/11/2010	1	The SF Fund Limited Partnership - Limited Partnership Units	150,000.00	15,000.00
10/22/2010	73	True North Gems Inc. - Units	1,926,030.00	24,075,375.00
01/12/2010 to 10/19/2010	12	UBS (Lux) Money Market Fund - Units	3,320,330.63	2,863.66
11/03/2009 to 08/17/2010	26	UBS (Lux) Money Market Fund - Units	13,703,450.25	7,960.82
01/12/2010 to 09/28/2010	21	UBS (Lux) Money Market Fund - Units	5,805,650.66	525.55
11/06/2009 to 10/28/2010	58	UBS (Lux) Money Market Fund - Units	15,498,030.74	8,616.78
11/10/2009 to 01/26/2010	3	UBS (Lux) Money Market Fund - Units	938,396.43	525.55
11/12/2009 to 05/12/2010	2	UBS (Lux) Money Market Invest - Units	779,267.25	1,268.71
10/08/2010	45	Valley High Ventures Ltd. - Units	10,560,000.00	14,080,000.00
10/31/2010	70	Vertex Fund - Trust Units	12,145,978.51	337,036.01
10/31/2010	70	Vertex Fund - Trust Units	12,145,978.51	337,036.01
10/31/2010	2	Vertex Strategic Income Fund - Trust Units	1,093,590.05	107,087.68
10/31/2010	2	Vertex Strategic Income Fund - Trust Units	1,093,590.05	107,087.68
09/10/2010	35	Walton GA Woodbury Park LP - Units	682,321.79	65,005.00
09/10/2010	28	Walton Southern U.S. Land 2 Investment Corporation - Common Shares	645,350.00	64,535.00
11/03/2010	1	Wimberly Apartments Limited Partnership - Limited Partnership Interest	5,046.10	7,143.00
10/14/2010 to 10/15/2010	2	Wimberly Apartments Limited Partnership - Limited Partnership Interest	35,305.30	49,999.00
11/04/2010 to 11/05/2010	3	Wimberly Fund - Trust Units	244,860.00	244,860.00
11/16/2010	2	Wimberly Fund - Trust Units	20,000.00	20,000.00
11/12/2010	1	Wimberly Fund - Trust Units	3,750.00	3,750.00
10/13/2010	1	Wimberly Fund - Units	67,898.00	67,898.00
10/13/2010 to 10/15/2010	7	Wimberly Fund - Units	518,024.00	518,024.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
09/28/2010 to 09/29/2010	32	Yankee Hat Minerals Ltd. - Common Shares	694,883.55	12,949,204.00
09/14/2010	1	Yukon-Nevada Gold Corp. - Common Shares	21,123.96	40,623.00
02/01/2010 to 06/16/2010	58	Zenyatta Ventures Ltd. - Common Shares	3,710,048.00	N/A
09/02/2010	48	Zodiac Exploration Corp - Receipts	49,999,992.00	98,039,200.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Amaya Gaming Group Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated November 23, 2010
NP 11-202 Receipt dated November 23, 2010
Offering Price and Description:
$10,200,000.00 - 3,400,000 Common Shares Price: $3.00 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Dundee Securities Corporation
Laurentian Bank Securities Inc.
Promoter(s):
David Baazov
Project #1663654

Issuer Name:
Barclays Bank PLC.
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 23, 2010
Offering Price and Description:
U.S.$21,000,000,000.00 - Global Medium-Term Notes, Series A (principal protected notes)
Underwriter(s) or Distributor(s):
-.
Promoter(s):
-
Project #1663842

Issuer Name:
Argex Mining Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 23, 2010
Offering Price and Description:
$5,250,000.00 - 17,500,000 Common Shares and Common Share Purchase Warrants Issuable Upon the Exercise of Previously-Issued Special Warrants
Price: $0.30 per Special Warrant
Underwriter(s) or Distributor(s):
MGI Securities Inc.
Promoter(s):
-
Project #1663421

Issuer Name:
Aquarius Capital Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Non-Offering Prospectus dated November 18, 2010
NP 11-202 Receipt dated November 19, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Guan Lianyun
Project #1662196

Issuer Name:
Atna Resources Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 17, 2010
NP 11-202 Receipt dated November 17, 2010
Offering Price and Description:
$8,010,000.00 - 13,350,000 Units Price: C$0.60 per Unit
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Octagon Capital Corporation
Promoter(s):
-
Project #1661436

Issuer Name:
Bioniche Life Sciences Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
$* - * Common Shares Price: $* per offered share
Underwriter(s) or Distributor(s):
NCP Northland Capital Partners Inc.
Dundee Securities Corporation
National Bank Financial Inc.
Promoter(s):
-
Project #1662915

Issuer Name:
BlackPearl Resources Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
$30,000,000.00 - 6,000,000 Common Shares Price: $5.00 per Offered Share
Underwriter(s) or Distributor(s):
First Energy Capital Corp.
RBC Dominion Securities Inc.
Canaccord Genuity Corp.
GMP Securities L.P.
Peters & Co. Limited
TD Securities Inc.
CIBC World Markets Inc.
Desjardins Securities Inc.
Macquarie Capital Markets Canada Ltd.
Salman Partners Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #1663357

Issuer Name:
Canadian Advantaged Convertibles Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated November 18, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
$ * (* Units) Price $10.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Canaccord Genuity Corp.
Wellington West Capital Markets Inc.
Dundee Securities Corporation
Macquarie Private Wealth Inc.
Mackie Research Capital Corporation
Promoter(s):
First Asset Investment Management Inc.
Project #1662028

Issuer Name:
Canadian Convertibles Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Non-Offering Prospectus dated November 18, 2010
NP 11-202 Receipt dated November 19, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
First Asset Investment Management Inc.
Project #1662409

Issuer Name:
Canadian Spirit Resources Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
$17,000,000.00 -10,000,000 Common Shares Price: $1.70 per Common Share
Underwriter(s) or Distributor(s):
Wellington West Capital Markets Inc.
Casimir Capital Ltd.
Byron Securities Limited
Acumen Capital Finance Partners Limited
Promoter(s):
-
Project #1663393

Issuer Name:
Dividend Growth Split Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 19, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
$ * (Maximum) Up to * Preferred Shares and * Class A shares
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
GMP Securities L.P.
HSBC Securities (Canada) Inc.
Mackie Research Capital Corporation
Macquarie Capital Markets Canada Ltd.
Manulife Securities Incorporated
Raymond James Ltd.
Canaccord Genuity Corp.
Dundee Securities Corporation
Desjardins Securities Inc.
Wellington West Capital Markets Inc.
Promoter(s):
Brompton Funds Management Limited
Project #1663094

Issuer Name:
Eastern Platinum Limited
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
$* -* Common Shares Price: $* per Common Share
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
UBS Securities Canada Inc.
Promoter(s):
-
Project #1662974

Issuer Name:
Enablence Technologies Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
$* - * Common Shares Price: $* per Common Share
Underwriter(s) or Distributor(s):
Paradigm Capital Inc.
TD Securities Inc.
Raymond James Ltd.
Fraser Mackenzie Limited
Promoter(s):
-
Project #1663050

Issuer Name:
EnerVest Diversified Income Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 17, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
$ * - Warrants to Subscribe for up to * Units at a Subscription Price of $ * per Unit
Underwriter(s) or Distributor(s):
-
Promoter(s):
Canoe Financial LP
Project #1662067

Issuer Name:
Geodrill Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated November 17, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
$* - * Ordinary Shares Price: $* per Ordinary Share
Underwriter(s) or Distributor(s):
Clarus Securities Inc.
Jennings Capital Inc.
Promoter(s):
-
Project #1661562

Issuer Name:
HSBC LifeMap Aggressive Growth Portfolio
HSBC LifeMap Balanced Portfolio
HSBC LifeMap Conservative Portfolio
HSBC LifeMap Growth Portfolio
HSBC LifeMap Moderate Conservative Portfolio
HSBC U.S. Dollar Monthly Income Fund
Principal Regulator - British Columbia
Type and Date:
Preliminary Simplified Prospectuses dated November 15, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
Investor, Advisor, Premium, Manager and Institutional Series units
Underwriter(s) or Distributor(s):
HSBC Investment Funds (Canada) Inc.
Promoter(s):
HSBC Investment Funds (Canada) Inc.
Project #1660516

Issuer Name:
HUSKY ENERGY INC.
Principal Regulator - Alberta
Type and Date:
Preliminary Base Shelf Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
$3,000,000,000.00:
Common Shares
Preferred Shares
Debt Securities
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1663098

Issuer Name:
Inter Pipeline Fund
Principal Regulator - Alberta
Type and Date:
Preliminary Base Shelf Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
$1,500,000,000.00:
Class A Limited Partnership Units
Debt Securities
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1663270

Issuer Name:
Leith Wheeler Canadian Dividend Fund
Leith Wheeler Income Advantage Fund
Principal Regulator - British Columbia
Type and Date:
Preliminary Simplified Prospectuses dated November 22, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
Series B Units
Underwriter(s) or Distributor(s):
Leith Wheeler Investment Funds Ltd.
Promoter(s):
Leith Wheeler Investment Counsel Ltd.
Project #1663268

Issuer Name:
Loblaw Companies Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated November 18, 2010
NP 11-202 Receipt dated November 19, 2010
Offering Price and Description:
$1,000,000,000.00:
Debentures (unsecured)
Second Preferred Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1662602

Issuer Name:
Marengo Mining Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 18, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
$* - * Units Price: $* per Unit
Underwriter(s) or Distributor(s):
Paradigm Capital Inc.
Promoter(s):
-
Project #1661840

Issuer Name:
Northern Financial Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 19, 2010
NP 11-202 Receipt dated November 19, 2010
Offering Price and Description:
Up to $5,000,000.00 * Common Shares and Issuance of a Maximum of * Common Shares in Settlement of Certain Outstanding Debt Price: $* per Common Shares
Underwriter(s) or Distributor(s):
Northern Securities Inc.
Byron Securities Limited
Promoter(s):
-
Project #1662629

Issuer Name:
Northland Resources S.A.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 17, 2010
NP 11-202 Receipt dated November 19, 2010
Offering Price and Description:
$* - * Shares Price: $* per Share
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
-
Project #1662493

Issuer Name:
PC Gold Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 17, 2010
NP 11-202 Receipt dated November 17, 2010
Offering Price and Description:
$8,700,480.00 - 9,667,200 Flow-Through Shares Price: $0.90 per Flow-Through Share
Underwriter(s) or Distributor(s):
Mackie Research Capital Corporation
Canaccord Genuity Corp.
Stonecap Securities Inc.
Promoter(s):
-
Project #1661222

Issuer Name:
Rare Element Resources Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 18, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
$* - * Common Shares Price: $* per Common Share
Underwriter(s) or Distributor(s):
Byron Securities Limited
GMP Securities L.P.
Jacob Securities Inc.
Salman Partners Inc.
Promoter(s):
-
Project #1662022

Issuer Name:
Royal Nickel Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated November 12, 2010
NP 11-202 Receipt dated November 17, 2010
Offering Price and Description:
$ * - * Units and *Flow-Through Units
Price: $* per Unit
Price: $ * per Flow-Through Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
UBS Securities Canada Inc.
Scotia Capital Inc.
Desjardins Securities Inc.
Haywood Securities Inc.
Raymond James Ltd.
Promoter(s):
-
Project #1661095

Issuer Name:
Templeton Asian Growth Corporate Class
Templeton Asian Growth Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated November 18, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
Series O units and Series A, F, I and O shares
Underwriter(s) or Distributor(s):
Franklin Templeton Investment Corp
Franklin Templeton Investments Corp.
Promoter(s):
Franklin Templeton Investment Corp.
Project #1661800

Issuer Name:
TWIN GLACIER RESOURCES LTD.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated November 12, 2010
NP 11-202 Receipt dated November 17, 2010
Offering Price and Description:
3,950,000 UNITS (EACH UNIT CONSISTING OF ONE COMMON SHARE AND ONE COMMON SHARE PURCHASE WARRANT), AND 500,000 COMMON SHARES, ALL ISSUABLE UPON THE EXERCISE OF SPECIAL WARRANTS

Underwriter(s) or Distributor(s):
-
Promoter(s):
Judson Culter
Project #1661214

Issuer Name:
Agrium Inc.
Principal Regulator - Alberta
Type and Date:
Amendment #1 dated November 12, 2010 to the Base Shelf Prospectus dated November 20, 2009
NP 11-202 Receipt dated November 19, 2010
Offering Price and Description:
U.S.$2,000,000,000.00:
Common Shares
Preferred Shares
Subscription Receipts
Debt Securities
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1474595

Issuer Name:
AURYX GOLD CORP.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 18, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
$30,000,000.00 - 30,000,000 Common Shares at $1.00 per Common Share
Underwriter(s) or Distributor(s):
Macquarie Capital Markets Canada Ltd.
Jennings Capital Inc.
Canaccord Genuity Corp.
Wellington West Capital Markets Inc.
Cormark Securities Inc.
GMP Securities L.P.
TD Securities Inc.
Promoter(s):
-
Project #1657186

Issuer Name:
BMO Guardian Canadian Large Cap Equity Fund
(Mutual Fund units, F Class units, I Class units and T5 Class units)
BMO Guardian Enterprise Fund
(Mutual Fund units, F Class units, I Class units and T5 Class units)
BMO Guardian Canadian Diversified Monthly Income Fund
(Mutual Fund units, F Class units, F5 Class units, I Class units, T5 Class units and T8 Class units)
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated November 16, 2010 to the Simplified Prospectuses and Annual Information Form dated June 28, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
BMO INVESTMENTS INC.
Guardian Group of Funds Ltd.
Promoter(s):
BMO INVESTMENTS INC.
Project #1592982

Issuer Name:
Class A-1 Income (Series A, F and I)
Class B-1 Canadian Equity (Series A, F and I)
Class C-1 U.S. Equity (Series A, F and I)
Class D-1 International Equity (Series A, F and I)
Class E-1 Emerging Markets Equity (Series A, F and I)
Class F-1 Alternative Strategies (Series A, F and I)
(Classes of shares of PIE Portfolio Index Evolution Corporation)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated November 15, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1644082

Issuer Name:
Covington Fund II Inc.
(Class A Shares)
Covington Strategic Capital Fund Inc.
(Class A Shares, Series I and Class A Shares, Series II)
Type and Date:
Amendment #1 dated October 29, 2010 to the Long Form Prospectus dated December 28, 2009
Receipted on November 17, 2010
Offering Price and Description:
Class A Shares and Class A Shares, Series I and Class A Shares, Series II @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1502147

Issuer Name:
Crocodile Gold Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 15, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
$28,000,000.00 - 20,000,000 Common Shares Price: $1.40 per Offered Share
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Cormark Securities Inc.
Macquarie Capital Markets Canada Ltd.
Raymond James Ltd.
TD Securities Inc.
Fraser Mackenzie Limited
NCP Northland Capital Partners Inc.
Union Securities Ltd.
Promoter(s):
-
Project #1655482

Issuer Name:
General Motors Company
Principal Regulator - Ontario
Type and Date:
Final MJDS Prospectus dated November 17, 2010
NP 11-202 Receipt dated November 17, 2010
Offering Price and Description:
US$ Š478,000,000.00 - SHARES OF COMMON STOCK Price: US$* PER SHARE OF COMMON STOCK
Underwriter(s) or Distributor(s):
Morgan Stanley Canada Limited
J.P. Morgan Securities Canada Inc.
Merrill Lynch Canada Inc.
Citigroup Global Markets Canada Inc.
Barclays Capital Canada Inc.
Credit Suisse Securities (Canada), Inc.
Deutche Bank Securities Limited
Glodman Sachs Canada Inc.
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #1621247

Issuer Name:
General Motors Company
Principal Regulator - Ontario
Type and Date:
Final MJDS Prospectus Dated November 17, 2010
NP 11-202 Receipt dated November 17, 2010
Offering Price and Description:
US$80,000,000 SHARES OF * % SERIES B MANDATORY CONVERTIBLE JUNIOR PREFERRED STOCK Price: US$* PER * % SERIES B MANDATORY CONVERTIBLE JUNIOR PREFERRED STOCK
Underwriter(s) or Distributor(s):
Morgan Stanley Canada Limited
J.P. Morgan Securities Canada Inc.
Glodman Sachs Canada Inc.
Merrill Lynch Canada Inc.
Barclays Capital Canada Inc.
Citigroup Global Markets Canada Inc.
Credit Suisse Securities (Canada), Inc.
Deutche Bank Securities Limited
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #1621248

Issuer Name:
Glacier Credit Card Trust
Principal Regulator - Ontario
Type and Date:
Final Based Shelf Prospectus dated November 19, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
Up to $1,500,000,000.00 - Credit Card Asset-Backed Notes
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
HSBC Securities (Canada) Inc.
Merrill Lynch Canada Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
Canadian Tire Bank
Project #1658574

Issuer Name:
GrowthWorks Canadian Fund Ltd. (fomerly GrowthWorks WV Canadian Fund Inc.)
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated November 17, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
Class A Shares in the following Series:
Series Name Commission Series/FundSERV No.
GIC I WVN 631
II WVN 632
Growth I WVN 651
II WVN 652
Financial Services I WVN 671
II WVN 672
Diversified* I WVN 691
II WVN 692
Underwriter(s) or Distributor(s):
GrowthWorks Capital Ltd.
Promoter(s):
-
Project #1644239

Issuer Name:
Horizons AlphaPro Floating Rate Bond ETF
Horizons AlphaPro Preferred Share ETF
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated November 15, 2010
NP 11-202 Receipt dated November 19, 2010
Offering Price and Description:
Class E Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Alphapro Management Inc.
Project #1644331/1510928/159976

Issuer Name:
Innovative Composites International Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 16, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
Minimum Offering: $3,800,000.00 or 6,909,090 Common Shares; Maximum Offering: $6,050,000.00 or11,000,000 Common Shares Price: $0.55 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Union Securities Ltd.
Promoter(s):
-
Project #1651774

Issuer Name:
iShares S&P/TSX North American Preferred Stock Index Fund (CAD-Hedged)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 12, 2010 to the Long Form Prospectus dated September 16, 2010
NP 11-202 Receipt dated November 19, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Blackrock Asset Management Canada Limited
Promoter(s):
-
Project #1617308

Issuer Name:
Killam Properties Inc.
Principal Regulator - Nova Scotia
Type and Date:
Final Short Form Prospectus dated November 19, 2010
NP 11-202 Receipt dated November 19, 2010
Offering Price and Description:
$57,500,000.00 - 5.65% Convertible Unsecured Subordinated Debentures due November 30, 2017 Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Genuity Corp.
National Bank Financial Inc.
Beacon Securities Limited
Desjardins Securities Inc.
Dundee Securities Corporation
Macquaire Capital Markets Canada Ltd.
Brookfield Financial Corp.
M Partners Inc.
Raymond James Ltd.
Promoter(s):
-
Project #1658680

Issuer Name:
MagIndustries Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 18, 2010
NP 11-202 Receipt dated November 19, 2010
Offering Price and Description:
$10,020,000.00 - 33,400,000 Common Shares Price: $0.30 per Share
Underwriter(s) or Distributor(s):
Cormark Securities Inc.
BMO Nesbitt Burns Inc.
Promoter(s):
-
Project #1655369

Issuer Name:
Meritas Growth Portfolio
Meritas Income & Growth Portfolio
Principal Regulator - British Columbia
Type and Date:
Amendment #1 dated November 8, 2010 to the Simplified Prospectuses and Annual Information Form dated October 8, 2010
NP 11-202 Receipt dated November 17, 2010
Offering Price and Description:
Class A and Class F Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Qtrade Fund Management Inc.
Project #1632661

Issuer Name:
OceanRock Canadian Equity Fund (formerly QFM Structured Yield Fund)
OceanRock US Equity Fund (formerly QFM Global Equity Fund)
OceanRock International Equity Fund (formerly QFM Global Sector Target Fund)
OceanRock Income & Growth Portfolio
OceanRock Balanced Portfolio
OceanRock Growth & Income Portfolio (formerly QFM World Balanced Fund)
OceanRock Growth Portfolio
(Series A and Series F Units)
Principal Regulator - British Columbia
Type and Date:
Amendment #1 dated November 8, 2010 to the Simplified Prospectuses and Annual Information Form dated October 8, 2010
NP 11-202 Receipt dated November 17, 2010
Offering Price and Description:
Series A and Series F Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
OceanRock Investments Inc.
Project #1632707

Issuer Name:
Propel Multi-Strategy Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 23, 2010
Offering Price and Description:
Maximum $200,000,000.00 (20,000,000 Combined Units)
(Each Combined Unit consists of one Unit
and one Warrant to purchase one Unit)
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
GMP Securities L.P.
Scotia Capital Inc.
Wellington West Capital Markets Inc.
HSBC Securities (Canada) Inc.
Canaccord Genuity Corp.
Macquarie Private Wealth Inc.
Dejardins Securities Inc.
Dundee Securities Corporation
Manulife Securities Incorporated
Raymond James Ltd.
Promoter(s):
Propel Capital Corporation
Project #1639529

Issuer Name:
TRIPLE 8 ENERGY LTD.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated November 23, 2010
NP 11-202 Receipt dated November 23, 2010
Offering Price and Description:
$28,750,050.00 - 383,334,000 Common Shares and 191,667,000 Warrants issuable on exercise of
383,334,000 outstanding Subscription Receipts
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Canaccord Genuity Corp.
Wellington West Capital Markets Inc.
Desjardins Securities Inc.
Mackie Research Capital Corporation
Raymond James Ltd.
Promoter(s):
-
Project #1660233

Issuer Name:
Primerica Aggressive Growth Fund
Primerica Canadian Money Market Fund
Primerica Conservative Growth Fund
Primerica Growth Fund
Primerica Income Fund
Primerica Moderate Growth Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated November 19, 2010
NP 11-202 Receipt dated November 23, 2010
Offering Price and Description:
Mutual Fund Units @ Net Asset Value
Underwriter(s) or Distributor(s):
PFSL Investments Canada Ltd.
Promoter(s):
-
Project #164779

Issuer Name:
SHAW COMMUNICATIONS INC.
Principal Regulator - Alberta
Type and Date:
Final Base Shelf Prospectus dated November 18, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1654999

Issuer Name:
Surge Energy Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
$42,005,250.00 - 8,001,000 Common Shares issuable upon the exercise of 8,001,000 outstanding Subscription Receipts: Per Subscription Receipt $5.25
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
FirstEnergy Capital Corp.
GMP Securities L.P.
Macquarie Capital Markets Canada Ltd.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
CIBC World Markets Inc.
Peters & Co. Limited
Promoter(s):
-
Project #1660125

Issuer Name:
Investor Series, e-Series, Institutional Series, O-Series, Premium Series, H-Series,
D-Series and Q-Series securities of :
TD Canadian T-Bill Fund
TD Canadian Money Market Fund
TD Premium Money Market Fund
TD U.S. Money Market Fund
TD Ultra Short Term Bond Fund
TD Short Term Bond Fund
TD Mortgage Fund
TD Canadian Bond Fund
TD Income Advantage Portfolio
TD Canadian Core Plus Bond Fund
TD Corporate Bond Capital Yield Fund
TD Real Return Bond Fund
TD Global Bond Fund
TD High Yield Bond Fund
TD Monthly Income Fund
TD Balanced Income Fund
TD Diversified Monthly Income Fund
TD Balanced Growth Fund
TD Dividend Income Fund
TD Dividend Growth Fund
TD Canadian Blue Chip Equity Fund
TD Canadian Equity Fund
TD Canadian Value Fund
TD Canadian Small-Cap Equity Fund
TD North American Dividend Fund
TD U.S. Blue Chip Equity Fund
TD U.S. Quantitative Equity Fund
TD U.S. Large-Cap Value Fund
TD U.S. Large-Cap Value Currency Neutral Fund
TD U.S. Equity Portfolio
TD U.S. Equity Currency Neutral Portfolio
TD U.S. Mid-Cap Growth Fund
TD U.S. Small-Cap Equity Fund
TD Global Dividend Fund
TD Global Value Fund
TD Global Growth Fund
TD Global Equity Portfolio
TD Global Multi-Cap Fund
TD Global Sustainability Fund
TD International Value Fund
TD International Growth Fund
TD European Growth Fund
TD Japanese Growth Fund
TD Asian Growth Fund
TD Pacific Rim Fund
TD Emerging Markets Fund
TD Latin American Growth Fund
TD Resource Fund
TD Energy Fund
TD Precious Metals Fund
TD Entertainment & Communications Fund
TD Science & Technology Fund
TD Health Sciences Fund
TD Canadian Bond Index Fund
TD Balanced Index Fund
TD Canadian Index Fund
TD Dow Jones Industrial AverageSM Index Fund
TD U.S. Index Fund
TD U.S. Index Currency Neutral Fund
TD Nasdaq® Index Fund
TD International Index Fund
TD International Index Currency Neutral Fund
TD European Index Fund
TD Japanese Index Fund
TD Advantage Balanced Income Portfolio
TD Advantage Balanced Portfolio
TD Advantage Balanced Growth Portfolio
TD Advantage Growth Portfolio
TD Advantage Aggressive Growth Portfolio
TD Comfort Balanced Income Portfolio
TD Comfort Balanced Portfolio
TD Comfort Balanced Growth Portfolio
TD Comfort Growth Portfolio
TD Comfort Aggressive Growth Portfolio
TD Short Term Investment Class
TD Dividend Growth Class
TD Canadian Blue Chip Equity Class
TD Canadian Equity Class
TD Canadian Value Class
TD Canadian Small-Cap Equity Class
TD U.S. Large-Cap Value Class
TD U.S. Mid-Cap Growth Class
TD Global Growth Class
TD Global Multi-Cap Class
TD Global Sustainability Class
TD International Growth Class
TD Asian Growth Class
TD Emerging Markets Class
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 10, 2010 to the Annual Information Form dated July 21, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
TD Investment Services Inc.
TD Investment Services Inc. (for Investor Series units)
TD Investment Services Inc. (for Investor Series and e-Series units)
TD Investment Services Inc.(for Investor Series units)
TD Investment Services Inc. (for Investor Series and e-Series Units)
TD Investment Services Inc. (for Investor Series)
TD Asset Management Inc. (for Investor Series units)
TD Investment Services Inc. (for Investor Series and Premium Series units)
Promoter(s):
TD Asset Management Inc.
Project #1594953

Issuer Name:
Advisor Series, F-Series, T-Series and S-Series securities of:
TD Canadian Money Market Fund
TD Premium Money Market Fund
TD Ultra Short Term Bond Fund
TD Short Term Bond Fund
TD Mortgage Fund
TD Canadian Bond Fund
TD Income Advantage Portfolio
TD Canadian Core Plus Bond Fund
TD Corporate Bond Capital Yield Fund
TD Real Return Bond Fund
TD Global Bond Fund
TD High Yield Bond Fund
TD Monthly Income Fund
TD Balanced Income Fund
TD Diversified Monthly Income Fund
TD Balanced Growth Fund
TD Dividend Income Fund
TD Dividend Growth Fund
TD Canadian Blue Chip Equity Fund
TD Canadian Equity Fund
TD Canadian Value Fund
TD Canadian Small-Cap Equity Fund
TD North American Dividend Fund
TD U.S. Blue Chip Equity Fund
TD U.S. Large-Cap Value Fund
TD U.S. Large-Cap Value Currency Neutral Fund
TD U.S. Equity Portfolio
TD U.S. Equity Currency Neutral Portfolio
TD U.S. Mid-Cap Growth Fund
TD U.S. Small-Cap Equity Fund
TD Global Dividend Fund
TD Global Value Fund
TD Global Growth Fund
TD Global Equity Portfolio
TD Global Multi-Cap Fund
TD Global Sustainability Fund
TD International Value Fund
TD International Growth Fund
TD Japanese Growth Fund
TD Asian Growth Fund
TD Emerging Markets Fund
TD Latin American Growth Fund
TD Resource Fund
TD Energy Fund
TD Precious Metals Fund
TD Entertainment & Communications Fund
TD Science & Technology Fund
TD Health Sciences Fund
TD Canadian Bond Index Fund
TD Canadian Index Fund
TD Dow Jones Industrial AverageSM Index Fund
TD U.S. Index Fund
TD U.S. Index Currency Neutral Fund
TD Nasdaq® Index Fund
TD International Index Fund
TD International Index Currency Neutral Fund
TD European Index Fund
TD Japanese Index Fund
TD Advantage Balanced Income Portfolio
TD Advantage Balanced Portfolio
TD Advantage Balanced Growth Portfolio
TD Advantage Growth Portfolio
TD Advantage Aggressive Growth Portfolio
TD Short Term Investment Class
TD Dividend Growth Class
TD Canadian Blue Chip Equity Class
TD Canadian Equity Class
TD Canadian Value Class
TD Canadian Small-Cap Equity Class
TD U.S. Large-Cap Value Class
TD U.S. Mid-Cap Growth Class
TD Global Growth Class
TD Global Multi-Cap Class
TD Global Sustainability Class
TD International Growth Class
TD Asian Growth Class
TD Emerging Markets Class
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 10, 2010 to the Annual Information Form dated July 21, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
TD Investment Services Inc. (for Investor Series units)
TD Investment Services Inc.(for Investor Series units)
TD Investment Services Inc. (for Investor Series and e-Series Units)
TD Investment Services Inc. (for Investor Series and e-Series units)
TD Asset Management Inc. (for Investor Series units)
Promoter(s):
TD Asset Management Inc.
Project #1595014

Issuer Name:
TITAN MONEY MARKET FUND
TITAN BALANCED INCOME PORTFOLIO
TITAN BALANCED PORTFOLIO
TITAN BALANCED GROWTH PORTFOLIO
TITAN GROWTH PORTFOLIO
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated November 8, 2010 to the Simplified Prospectuses and Annual Information Form dated June 10, 2010
NP 11-202 Receipt dated November 18, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Partners In Planning Financial Services Ltd.
Promoter(s):
Titan Funds Incorporated
Project #1577612

Issuer Name:
Torquay Oil Corp.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
$15,000,700.00 - 11,539,000 Class A Shares $1.30 per Class A Share
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Canaccord Genuity Corp.
Acumen Capital Finance Partners Limited
Promoter(s):
J. Brent McKercher
Terry R. McCallum
Darwin K. Little
Project #1659926

Issuer Name:
TriOil Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated November 22, 2010
NP 11-202 Receipt dated November 22, 2010
Offering Price and Description:
$35,105,000.00 - 5,950,000 Class A Shares Price: $5.90 per Class A Share
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
Canaccord Genuity Corp.
Clarus Securities Inc.
GMP Securities L.P.
Wellington West Capital Markets Inc.
Promoter(s):
-
Project #1660051

Issuer Name:
Veraz Petroleum Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated November 18, 2010
NP 11-202 Receipt dated November 19, 2010
Offering Price and Description:
$15,330,000.00 - 21,000,000 Units Price: $0.73 per Unit
Underwriter(s) or Distributor(s):
FirstEnergy Capital Corp.
Haywood Securities Inc.
GMP Securities L.P.
Promoter(s):
-
Project #1659001

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Name Change	From: N M Rothschild & Sons Canada Securities Inc. To: Rothschild (Canada) Securities Inc..	Investment Dealer	November 1, 2010
Amalgamation	RBC Asset Management Inc. and Phillips, Hager & North Investment Management Ltd. To Form: RBC Global Asset Management Inc.	Exempt Market Dealer, Portfolio Manager and Commodity Trading Manager	November 1, 2010
Name Change	From: Investeco Financial Corp. To: Greenchip Financial Corp.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	November 4, 2010
New Registration	One Capital Management, LLC	Portfolio Manager	November 5, 2010
Change in Registration Category	Pathway Capital Management, LLC	From: Portfolio Manager To: Portfolio Manager and Exempt Market Dealer	November 5, 2010
Name Change	From: Firstport Capital Corp. To: Medwell Securities Inc.	Exempt Market Dealer	November 15, 2010
Change in Registration Category	Return on Innovation Advisors Ltd.	From: Portfolio Manager and Commodity Trading Manager To: Portfolio Manager, Commodity Trading Manager and Exempt Market Dealer	November 17, 2010

Type	Company	Category of Registration	Effective Date
New Registration	LeeSide Capital Management Inc.	Portfolio Manager	November 17, 2010
Change in Registration Category	Altitude Mutual Fund Limited Partnership	From: Investment Fund Manager To: Investment Fund Manager and Exempt Market Dealer	November 17, 2010
Change in Registration Category	Sionna Investment Managers Inc.	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	November 17, 2010
Consent to Suspension (Pending Surrender)	Quest Partners Ltd.	Exempt Market Dealer	November 17, 2010
New Registration	EuroPacific Canada Inc.	Investment Dealer	November 18, 2010
New Registration	Lorica Investment Counsel Inc.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	November 18, 2010
New Registration	Global Exempt Market Solutions Ltd.	Exempt Market Dealer	November 18, 2010
Consent to Suspension (Pending Surrender)	Novadx Ventures Corp.	Exempt Market Dealer	November 18, 2010
Consent to Suspension (Pending Surrender)	LMD Financial Services Corporation	Exempt Market Dealer	November 18, 2010
Change in Registration Category	Viking Capital Corp.	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	November 19, 2010

Type	Company	Category of Registration	Effective Date
Consent to Suspension (Pending Surrender)	Newhaven Bancorp Limited	Exempt Market Dealer	November 19, 2010
Change in Registration Category	BMO Nesbitt Burns Inc.	From: Investment Dealer and Futures Commission Merchant To: Investment Dealer, Futures Commission Merchant and Investment Fund Manager	November 19, 2010
New Registration	Canoe Financial L.P.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	November 19, 2010
Change in Registration Category	Artemis Investment Management Limited	From: Portfolio Manager, Exempt Market Dealer To: Portfolio Manager, Exempt Market Dealer, Commodity Trading Manager	November 19, 2010
Change in Registration Category	C.S.T. Consultants Inc.	From: Scholarship Plan Dealer To : Investment Fund Manager, Scholarship Plan Dealer	November 19, 2010
Consent to Suspension (Pending Surrender)	Mak, Allen & Day Capital Partners Inc.	Exempt Market Dealer	November 20, 2010
Change in Registration Category	Baker Gilmore & Associates Inc.	From: Portfolio Manager To: Portfolio Manager and Investment Fund Manager	November 22, 2010
Change in Registration Category	CHS Asset Management Inc.	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	November 22, 2010

Type	Company	Category of Registration	Effective Date
Change in Registration Category	Gluskin Sheff + Associates Inc.	From: Mutual Fund Dealer, Exempt Market Dealer, Portfolio Manager and Commodity Trading Manager To: Mutual Fund Dealer, Exempt Market Dealer, Portfolio Manager, Commodity Trading Manager and Investment Fund Manager	November 22, 2010
New Registration	Altacorp Capital Inc.	Investment Dealer	November 23, 2010
Consent to Suspension (Pending Surrender)	Taggart Galt Capital Inc.	Exempt Market Dealer	November 23, 2010
Consent to Suspension (Pending Surrender)	Bronte Investment Services Limited	Exempt Market Dealer	November 24, 2010
Consent to Suspension (Pending Surrender)	Granite Associates Ltd.	Exempt Market Dealer	November 24, 2010

Chapter 13

SROs, Marketplaces and Clearing Agencies

13.1 SROs

13.1.1 IIROC Rules Notice – Request for Comments – Limitation on IIROC Enforcement Proceedings

IIROC RULES NOTICE
REQUEST FOR COMMENTS
LIMITATION ON IIROC ENFORCEMENT PROCEEDINGS

Summary of nature and purpose of proposed Rule

On September 15, 2010, the Board of Directors (the Board) of the Investment Industry Regulatory Organization of Canada (IIROC) approved the publication for comment of proposed amendments (Proposed Amendments) to the Dealer Member Rules (the Rules) that would provide for a six-year limitation period on IIROC enforcement proceedings.

The primary objective of the Proposed Amendments is to provide clarity within the Rules relating to the time frame within which IIROC may pursue enforcement proceedings.

Separately from this proposal, IIROC is in the process of completely rewriting Dealer Member Rules 19 and 20 relating to investigations and enforcement. Those rewrites will include the changes made in this proposal.

Issues and specific Proposed Amendments

Current Rules

Currently, IIROC Dealer Member Rule 20.7 allows IIROC to initiate enforcement proceedings within five years of the date a Dealer Member or Approved Person ceases to be an IIROC member. It also provides that IIROC may begin enforcement proceedings against a Former Approved Person who re-applies for registration with IIROC. There is currently no limitation on proceedings relating to current Dealer Members or Approved Persons. Dealer Member Rule 20.7 also allows for the extension of IIROC investigations under Rule 19 for a period of five years from the date a Former Dealer Member or Former Approved Person ceased to be registered.

Proposed Rules

The six-year limitation period in the Proposed Amendments would apply uniformly to Dealer Members and Approved Persons, as well as Former Dealer Members and Former Approved Persons.

To create a clear limitation period applicable to all IIROC enforcement proceedings, IIROC will repeal and replace Dealer Member Rule 20.7(1) and 20.7(2) with language under Part 10 of Rule 20 implementing a six-year limitation period. Furthermore, IIROC will move the extension of investigative powers over former members to Rule 19 – Examinations and Investigations, and simplify it to provide for a six-year period for former members that is consistent with the limitation period applicable to IIROC enforcement proceedings. Definitions of “Former Dealer Member” and “Former Approved Person” will also be added to Dealer Member Rule 1.1.

The language of the Proposed Amendment does not require that proceedings be completed within six years. Rather, it requires that IIROC commence proceedings within six years. Therefore, a proceeding, or a review or appeal from a proceeding, can extend beyond the six-year time frame, provided that it was commenced before the expiry of the six year period. This requirement will ensure that current and former Dealer Members and Approved Persons cannot attempt to avoid IIROC oversight by simply delaying proceedings for more than six years.

The Proposed Amendments and a blackline of the Dealer Member Rules affected by these amendments are set out in Attachments A and B.

Issues and Alternatives Considered

1) Principles of natural justice

Dealer Member Rule 20.7 allows an enforcement proceeding to be commenced against a current IIROC registrant for an indefinite period after the event giving rise to the enforcement proceeding. Consistent with the rules of natural justice, IIROC believes that it is appropriate that IIROC Rules impose a limitation period on proceedings against both current and former Dealer Members and Approved Persons to ensure that IIROC's enforcement process is fair and transparent. In addition, it is appropriate to do so in order to achieve consistency under the IIROC rules with regard to the treatment of current versus former IIROC registrants.

2) Evidentiary issues and recordkeeping rules

Limitations on enforcement proceedings must take into consideration the availability of evidence that can be used in those proceedings. Dealer Member Rule 3100 requires that Dealer Members retain records of internal investigations, civil claims, and settlements for two years after their resolution. Under Dealer Member Rule 29.7(5), Dealer Members must keep correspondence for five years, and sales literature and advertisements for two years. Rule 1300.1(n) requires Dealer Members to retain account opening documentation for five years after the account is closed. Rule 2500(I)(F)(1) requires that Dealer Members keep records of retail account supervisory reviews for seven years. Similarly, IIROC's complaint handling rules stipulate that Dealer Members retain documentation relating to complaints for seven years.

Since IIROC Rules do not require Dealer Members to keep records indefinitely, and records are generally needed to advance investigations and enforcement proceedings, it is not practical to impose a limitation period on enforcement actions that materially exceeds the recordkeeping requirements for documents that would be used in such a proceeding.

3) Provincial legislation

Statutes of limitation and securities legislation in each province provide for various limitation periods. Although there is variation among these periods and often uncertainty as to which limitation period applies, most limitation periods are six years. The proposed six year limitation on IIROC enforcement proceedings is similar to the limitations contained in most legislation.

4) Re-applications for approval

Under current Rule 20.7, IIROC reserves the right to bring an enforcement action against any Former Approved Person who re-applies for approval. This provision is not consistent with the proposed limitation period. Furthermore, it is possible to deny a Former Approved Person's application for reinstatement based on their failure to satisfy the fit and proper test, regardless of whether or not the person has been subject to a hearing relating to previous conduct. In light of this fact, this provision is of limited use, and it is removed in the Proposed Amendments.

5) Event occurrence versus discoverability

Calculation of a limitation period can be based on when an event occurs (occurrence), or when the aggrieved party should have reasonably learned of the occurrence (discoverability). The Proposed Amendments impose a limitation period based on the occurrence of an event. In other words, under the proposal, the clock would start ticking when the last event giving rise to the proceeding occurred. For non-compliance that is continuing, the time starts on the last occurrence of the conduct in question.

6) Investigations

IIROC intends to amend Dealer Member Rule 19 relating to IIROC's power to investigate Former Dealer Members and Former Approved Persons along with Rule 20. The current rule allows IIROC to investigate Former Dealer Members and Former Approved Persons for up to five years after they cease to be IIROC members. The proposed amendments will extend this to six years in order to be consistent with the proposed limitation period.

7) Alternatives considered

IIROC considered including a provision in the proposed amendments that would allow an extension of the limitation period in a particular instance if agreed to by both IIROC and the Dealer Member or Approved Person. Such a provision is not included in the proposed amendments. A six-year limitation period is both long enough to allow sufficient time for enforcement proceedings to be properly initiated, and is also similar to most legislated limitation periods.

Proposed Rule classification

Statements have been made elsewhere as to the nature and effects of the proposed rule, as well as analysis of the proposed rule. The purposes of the proposed rule are to:

- establish and maintain rules that are necessary or appropriate to govern and regulate all aspects of IIROC's functions and responsibilities as a self-regulatory entity,
- ensure compliance with securities laws, and
- provide for appropriate discipline of those whose conduct IIROC regulates.

The Board therefore has determined that the Proposed Amendments are not contrary to the public interest.

Due to the extent and substantive nature of the Proposed Amendments, they have been classified as Public Comment Rule proposals.

Effects of the proposed Rule on market structure, Dealer Members, non-Dealer Members, competition and costs of compliance

The effect of the Proposed Amendments is to limit the time within which IIROC enforcement proceedings can be brought against Dealer Members and Approved Persons. There will be no impact on market structure. Dealer Members will benefit from the certainty of the Rules relating to the time limits within which IIROC may commence an enforcement proceeding. There will be no effect on non-Dealer Members or competition. Compliance costs may decrease slightly since enforcement proceedings cannot be commenced beyond the time frame specified.

The Proposed Amendments do not impose any burden or constraint on competition or innovation that is not necessary in furtherance of IIROC's regulatory objectives. They do not impose costs or restrictions on the activities of market participants (including Dealer Members and non-Dealer Members) that are disproportionate to the goals of the regulatory objectives sought to be realized.

Technological implications and implementation plan

The Proposed Amendments will have no impact on Dealer Members' systems. As such, it is intended that the Proposed Amendments will be implemented immediately after approval is received from IIROC's recognizing regulators.

Request for public comment

Comments are sought on the Proposed Amendments. In particular, comments are sought on the concept of allowing for the extension of the limitation period in a specific instance if both IIROC and the Dealer Member or Approved Person agree to the extension. Comments should be made in writing. Two copies of each comment letter should be delivered by January 25, 2011 (60 days from the publication date of this notice). One copy should be addressed to the attention of:

Brendan Hart
Policy Counsel, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
Suite 1600, 121 King Street West
Toronto, Ontario, M5H 3T9

The second copy should be addressed to the attention of:

Manager of Market Regulation
Ontario Securities Commission
19th Floor, Box 55
20 Queen Street West
Toronto, Ontario, M5H 3S8
marketregulation@osc.gov.on.ca

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the IIROC website (**www.iiroc.ca** under the heading "IIROC Rulebook - Dealer Member Rules - Policy Proposals and Comment Letters Received").

Questions may be referred to:

Brendan Hart
Policy Counsel, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
416-865-3047
bhart@iiroc.ca

Attachments

Attachment A – Proposed Amendments to Dealer Member Rules

Attachment B – Blackline of Proposed Amendments

Attachment A

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AMENDMENTS TO DEALER MEMBER RULES ON LIMITATION OF ENFORCEMENT PROCEEDINGS

PROPOSED AMENDMENTS

1. Dealer Member Rule 1.1 is amended by adding new definitions as follows:

"Former Approved Person" means a Person that was, but is not currently, an Approved Person of the Corporation;

"Former Dealer Member" means a Person that was, but is not currently, a Dealer Member of the Corporation;"

2. Dealer Member Rule 19 is repealed and replaced as follows:

"**RULE 19**

EXAMINATIONS AND INVESTIGATIONS

19.1. The Corporation shall make such examinations of and investigations into the conduct, business or affairs of any Dealer Member, Former Dealer Member, Approved Person, Former Approved Person, employee of a Dealer Member or any other person approved or seeking approval or under the jurisdiction of the Corporation pursuant to the Rules as he or she considers necessary or desirable in connection with any matter relating to compliance by such person with (i) the Rules or Rulings of the Corporation, (ii) any legislation applicable to such person concerning trading in securities or commodity contracts, including any rulings, policies, regulations or directives of any securities commission, or (iii) the by-laws, rules, regulations and policies of any self-regulatory organization. The Dealer Member shall require all employees to comply with Rule 19.

19.2. Any examination or investigation made pursuant to Rule 19.1 may be instituted upon the basis of (i) a complaint received by or directed to the Corporation, (ii) the direction of the Board of Directors, (iii) the request of a securities commission having jurisdiction, or (iv) any information received or obtained relating to the conduct, business or affairs of the Dealer Member, Former Dealer Member or person involved.

Complaints

19.3. A person making a complaint to the Corporation against a Dealer Member, Former Dealer Member, Approved Person, Former Approved Person or a person seeking approval pursuant to the Rules may be asked to put the complaint in writing.

19.4. Repealed.

Investigatory Powers

19.5. For the purpose of any examination or investigation pursuant to this Rule 19, a Dealer Member, Former Dealer Member, Approved Person, Former Approved Person, employee of a Dealer Member or any other person approved or seeking approval or under the jurisdiction of the Corporation pursuant to the Rules, may be required by the Corporation:

(a) To submit a report in writing with regard to any matter involved in any such investigation;

(b) To produce for inspection and provide copies of any books, records, accounts and documents, that are in the possession or control of the Dealer Member, Former Dealer Member or the person, that the Corporation determines may be relevant to a matter under examination or investigation and such information, books, records and documents shall be provided in such manner and form, including electronically, as may be required by the Corporation; and

(c) To attend and give information respecting any such matters;

And the person shall be obliged to submit such report, to permit such inspection, provide such copies and to attend, accordingly. Any person subject to an investigation conducted pursuant to this Rule 19 shall be advised in writing of the matters under investigation and may be invited to make submission by statement in writing, by producing for inspection books, records and accounts and by attending before the persons conducting the

investigation. The person conducting the investigation may, in his or her discretion, require that any statement given by any person in the course of an investigation be recorded by means of an electronic recording device or otherwise and may require that any statement be given under oath.

19.6. For the purpose of any examination or investigation pursuant to this Rule 19, the Corporation shall be entitled to free access to, and to make and retain copies of, all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person concerned, and no such person shall withhold, destroy or conceal any information, documents or thing reasonably required for the purpose of such examination or investigation.

19.7. The Corporation may, in accordance with any information received:

(a) Refer a matter to the applicable District Council for consideration in accordance with the provisions of Rule 20; or

(b) Take such other action under the Rules or Rulings which he or she considers appropriate in the circumstances.

19.8. A Dealer Member, Former Dealer Member, Approved Person, or Former Approved Person, that is requested by The TSX Venture Exchange, The Montreal Exchange or The Toronto Stock Exchange to provide information in connection with an investigation of trading of a security listed on that exchange shall submit the requested information, books, records, reports, filings and papers to the exchange making the request in such manner and form, including electronically, as may reasonably be prescribed by such exchange.

Former Dealer Members and Former Approved Persons

19.9 Former Dealer Members and Former Approved Persons remain subject to examination and investigation by the Corporation under this Rule 19 for six years from the date they ceased to be a Dealer Member or Approved Person.

3. Dealer Member Rule 20.7, and related headings, are repealed and replaced as follows:

"**PART 4 – AMOUNTS OWING TO THE CORPORATION**

20.7 Former Dealer Members and Approved Persons

(1) An Approved Person whose approval is suspended or revoked or a Dealer Member who is expelled from membership or whose rights or privileges are suspended or terminated shall remain liable to the Corporation for all amounts owing to the Corporation."

4. Dealer Member Rules 20.30 through 20.36, and related headings, are repealed and replaced as follows:

"**PART 10 – ENFORCEMENT PROCEEDINGS**

INITIATION OF ENFORCEMENT PROCEEDINGS

20.30

(1) The Corporation may hold hearings, as set out under this Rule, in order to ensure compliance with and enforcement of the Rules and Rulings and federal or provincial statutes, regulations, rulings or policies relating to trading or advising in respect of securities or commodities.

(2) The categories of enforcement hearings under Rule 20 are: disciplinary hearings; settlement hearings and expedited hearings. Enforcement hearings shall be conducted in accordance with this Rule and the Corporation Practice and Procedure.

(3) The Corporation may commence a proceeding under this Rule 20 against a Dealer Member, Former Dealer Member, Approved Person, or Former Approved Person up to 6 years after the date of the occurrence of the last event on which the proceeding is based.

POWERS OF COMPULSION

20.31 Dealer Members, Former Dealer Members, Approved Persons, Former Approved Persons and Corporation Staff

(1) Every Dealer Member, Former Dealer Member, Approved Person, Former Approved Person and Corporation Staff member shall:

(a) attend and give evidence respecting any matter relevant to hearings pursuant to Rule 20.33, Rule 20.34 or Rule 20.42 upon receipt of notice from the National Hearing Coordinator or his or her designate or order of a Hearing Panel; and

(b) produce for inspection and provide copies of any books, records, accounts and documents that are in the possession or control of the Dealer Member, Former Dealer Member, Approved Person or Former Approved Person, to a Hearing Panel upon receipt of notice from the National Hearing Coordinator or order of the Hearing Panel.

(2) Failure to comply with subsections 1(a) or (b) constitutes a contravention of the Rules and may result in disciplinary action under Rule 20.33 or Rule 20.34.

20.32 Partners, Directors, Officers and Employees of Dealer Members

(1) Where a Hearing Panel requires the attendance before it of any partner, director, officer or employee of a Dealer Member, who is not an Approved Person, the Dealer Member shall direct such employee to attend and to give information or make such production of documents as can be required of a person referred to in Rule 20.31.

(2) Failure by the Dealer Member to comply with subsection (1) constitutes a contravention of the Rules and may result in disciplinary action under Rule 20.34.

PENALTIES

20.33 Approved Persons and Former Approved Persons

(1) Upon conclusion of a disciplinary hearing, a Hearing Panel may impose the penalties set out at 20.33(2) if, in the opinion of the Hearing Panel, the Approved Person or Former Approved Person:

(a) failed to comply with or carry out the provisions of any federal or provincial statute, regulation, ruling or policy relating to trading or advising in respect of securities or commodities;

(b) failed to comply with the provisions of any Rule or Ruling of the Corporation; or

(c) failed to carry out an agreement or undertaking with the Corporation.

(2) Pursuant to subsection (1), a Hearing Panel may impose any one or more of the following penalties upon the Approved Person or Former Approved Person:

(a) a reprimand;

(b) a fine not exceeding the greater of:

(i) $1,000,000 per contravention; and

(ii) an amount equal to three times the profit made or loss avoided by such Approved Person by reason of the contravention.

(c) suspension of approval for any period of time and upon any conditions or terms;

(d) terms and conditions of continued approval;

(e) prohibition of approval in any capacity for any period of time;

(f) termination of the rights and privileges of approval;

(g) revocation of approval;

(h) a permanent bar from approval with the Corporation; or

(i) any other fit remedy or penalty.

20.34 Dealer Members and Former Dealer Members

(1) Upon conclusion of a disciplinary hearing, a Hearing Panel may impose the penalties set out at Rule 20.34(2) if, in the opinion of the Hearing Panel, the Dealer Member or Former Dealer Member:

(a) failed to comply with or carry out the provisions of any federal or provincial statute, regulation, ruling or policy relating to trading or advising in respect of securities or commodities;

(b) failed to comply with the provisions of any Rule or Ruling of the Corporation;

(c) failed to carry out an agreement or undertaking with the Corporation; or

(d) failed to meet liabilities to a third party, including another Dealer Member or another Former Dealer Member.

(2) Pursuant to subsection (1), a Hearing Panel may impose any one or more of the following penalties upon the Dealer Member or Former Dealer Member:

(a) a reprimand;

(b) a fine not exceeding the greater of:

(i) $5,000,000 per contravention; and

(ii) an amount equal to three times the profit made or loss avoided by the Dealer Member or Former Dealer Member by reason of the contravention;

(c) suspension of the rights and privileges of the Dealer Member (and such suspension may include a direction to the Dealer Member to cease dealing with the public) for any period of time and upon any conditions or terms;

(d) terms and conditions of continued Membership;

(e) termination of the rights and privileges of Membership;

(f) expulsion of the Dealer Member from membership in the Corporation; or

(g) any other fit remedy or penalty.

SETTLEMENT HEARINGS

20.35 Negotiation of Settlement Agreements

(1) Corporation Staff may negotiate a Settlement Agreement with any Approved Person, Former Approved Person, Dealer Member, or Former Dealer Member.

(2) The parties to a Settlement Agreement may agree to the imposition of any of the penalties prescribed by Rule 20.33 or Rule 20.34.

(3) Settlement discussions may occur at any time until the conclusion of a settlement hearing or a disciplinary hearing.

(4) All negotiations of a Settlement Agreement are conducted on a without prejudice basis to the Corporation and all other persons involved in the negotiations and cannot be used as evidence or referred to in any proceedings.

20.36 Hearing Panel Powers

(1) Upon conclusion of a settlement hearing, the Hearing Panel may either:

(a) accept the Settlement Agreement; or

(b) reject the Settlement Agreement.

(2) Settlement Agreements shall become effective and binding upon Corporation Staff and an Approved Person, Former Approved Person, Dealer Member, or Former Dealer Member, upon acceptance by a Hearing Panel. An Approved Person, Former Approved Person, Dealer Member or Former Dealer Member shall be deemed to have been penalized pursuant to Rule 20.33 or Rule 20.34 upon acceptance of a Settlement Agreement by a Hearing Panel."

Attachment B

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AMENDMENTS TO DEALER MEMBER RULES ON LIMITATION OF ENFORCEMENT PROCEEDINGS

BLACK-LINE OF PROPOSED AMENDMENTS TO

RULE 19, RULE 20.7, AND RULES 20.30 THROUGH 20.36

RULE 19

EXAMINATIONS AND INVESTIGATIONS

19.1. The Corporation shall make such examinations of and investigations into the conduct, business or affairs of any Dealer Member, ~~registered representative, investment representative, sales manager, branch manager, assistant or co-branch manager, partner, director or officer, investor or~~Former Dealer Member, Approved Person, Former Approved Person, employee of a Dealer Member or any other person approved or seeking approval or under the jurisdiction of the Corporation pursuant to the Rules as he or she considers necessary or desirable in connection with any matter relating to compliance by such person with (i) the Rules or Rulings of the Corporation, (ii) any legislation applicable to such person concerning trading in securities or commodity contracts, including any rulings, policies, regulations or directives of any securities commission, or (iii) the by-laws, rules, regulations and policies of any self-regulatory organization. The Dealer Member shall require all employees to comply with Rule 19.

19.2. Any examination or investigation made pursuant to Rule 19.1 may be instituted upon the basis of (i) a complaint received by or directed to the Corporation, (ii) the direction of the Board of Directors, (iii) the request of a securities commission having jurisdiction, or (iv) any information received or obtained relating to the conduct, business or affairs of the Dealer Member, Former Dealer Member or person involved.

Complaints

19.3. A person making a ~~Any~~ complaint ~~made~~ to the Corporation against a Dealer Member, Former Dealer Member, Approved Person, Former Approved Person or a person ~~approved or~~ seeking approval pursuant to the Rules may be ~~required~~ asked to ~~be~~ put ~~in~~ the complaint in writing ~~and signed by the person making the complaint~~.

19.4. Repealed.

Investigatory Powers

19.5. For the purpose of any examination or investigation pursuant to this Rule 19, a Dealer Member, ~~registered representative, investment representative, sales manager, branch manager, assistant or co-branch manager, partner, director, officer, investor or~~Former Dealer Member, Approved Person, Former Approved Person, employee of a Dealer Member or any other person approved or seeking approval or under the jurisdiction of the Corporation pursuant to the Rules, may be required by the Corporation:

(a) To submit a report in writing with regard to any matter involved in any such investigation;

(b) To produce for inspection and provide copies of any books, records, accounts and documents, that are in the possession or control of the Dealer Member, Former Dealer Member or the person, that the Corporation determines may be relevant to a matter under examination or investigation and such information, books, records and documents shall be provided in such manner and form, including electronically, as may be required by the Corporation; and

(c) To attend and give information respecting any such matters;

And the person shall be obliged to submit such report, to permit such inspection, provide such copies and to attend, accordingly. Any person subject to an investigation conducted pursuant to this Rule 19 shall be advised in writing of the matters under investigation and may be invited to make submission by statement in writing, by producing for inspection books, records and accounts and by attending before the persons conducting the investigation. The person conducting the investigation may, in his or her discretion, require that any statement given by any person in the course of an investigation be recorded by means of an electronic recording device or otherwise and may require that any statement be given under oath.

19.6. For the purpose of any examination or investigation pursuant to this Rule 19, the Corporation shall be entitled to free access to, and to make and retain copies of, all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person concerned, and no such person shall withhold, destroy or conceal any information, documents or thing reasonably required for the purpose of such examination or investigation.

19.7. The Corporation may, in accordance with any information received:

(a) Refer a matter to the applicable District Council for consideration in accordance with the provisions of Rule 20; or

(b) Take such other action under the Rules or Rulings which he or she considers appropriate in the circumstances.

19.8. A Dealer Member ~~or any person approved by, or under the jurisdiction of, the Corporation~~, Former Dealer Member, Approved Person, or Former Approved Person, that is requested by The TSX Venture Exchange, The Montreal Exchange or The Toronto Stock Exchange to provide information in connection with an investigation of trading of a security listed on that exchange shall submit the requested information, books, records, reports, filings and papers to the exchange making the request in such manner and form, including electronically, as may reasonably be prescribed by such exchange.

Former Dealer Members and Former Approved Persons

19.9 Former Dealer Members and Former Approved Persons remain subject to examination and investigation by the Corporation under this Rule 19 for six years from the date they ceased to be a Dealer Member or Approved Person.

RULE 20

CORPORATION HEARING PROCESSES

PART 4 - ~~CONTINUING JURISDICTION~~AMOUNTS OWING TO THE CORPORATION

20.7 Former Dealer Members and Approved Persons

(1) ~~For the purposes of Rule 19 and Rule 20, any Dealer Member and any Approved Person shall remain subject to the jurisdiction of the Corporation for a period of five years from the date on which such Dealer Member or Approved Person ceased to be a Dealer Member or an Approved Person of the Corporation, subject to subsection (2).~~

~~(2) An enforcement hearing under Part 10 of this Rule may be brought against a former Approved Person who re-applies for approval under Part 7 of this Rule, notwithstanding expiry of the time period set out in subsection (1).~~(3) An Approved Person whose approval is suspended or revoked or a Dealer Member who is expelled from membership or whose rights or privileges are suspended or terminated shall remain liable to the Corporation for all amounts owing to the Corporation.

PART 10 - ENFORCEMENT ~~HEARINGS~~PROCEEDINGS

INITIATION OF ENFORCEMENT ~~HEARINGS~~PROCEEDINGS

20.30

(1) The Corporation may hold hearings, as set out under this Rule, in order to ensure compliance with and enforcement of the Rules and Rulings and federal or provincial statutes, regulations, rulings or policies relating to trading or advising in respect of securities or commodities.

(2) The categories of enforcement hearings under Rule 20 are: disciplinary hearings; settlement hearings and expedited hearings. Enforcement hearings shall be conducted in accordance with this Rule and the Corporation Practice and Procedure.

(3) The Corporation may commence a proceeding under this Rule 20 against a Dealer Member, Former Dealer Member, Approved Person, or Former Approved Person up to 6 years after the date of the occurrence of the last event on which the proceeding is based.

POWERS OF COMPULSION

20.31 Dealer Members, Former Dealer Members, Approved Persons, Former Approved Persons and Corporation Staff

(1) Every Dealer Member, Former Dealer Member, Approved Person, Former Approved Person and Corporation Staff member shall:

(a) attend and give evidence respecting any matter relevant to hearings pursuant to Rule 20.33, Rule 20.34 or Rule 20.42 upon receipt of notice from the National Hearing Coordinator or his or her designate or order of a Hearing Panel; and

(b) produce for inspection and provide copies of any books, records, accounts and documents that are in the possession or control of the Dealer Member ~~or~~, Former Dealer Member, Approved Person or Former Approved Person, to a Hearing Panel upon receipt of notice from the National Hearing Coordinator or order of the Hearing Panel.

(2) Failure to comply with subsections 1(a) or (b) constitutes a contravention of the Rules and may result in disciplinary action under Rule 20.33 or Rule 20.34.

20.32 Partners, Directors, Officers and Employees of Dealer Members

(1) Where a Hearing Panel requires the attendance before it of any partner, director, officer or employee of a Dealer Member, who is not an Approved Person, the Dealer Member shall direct such employee to attend and to give information or make such production of documents as can be required of a person referred to in Rule 20.31.

(2) Failure by the Dealer Member to comply with subsection (1) constitutes a contravention of the Rules and may result in disciplinary action under Rule 20.34.

PENALTIES

20.33 Approved Persons and Former Approved Persons

(1) Upon conclusion of a disciplinary hearing, a Hearing Panel may impose the penalties set out at 20.33(2) if, in the opinion of the Hearing Panel, the Approved Person: or Former Approved Person:

(a) failed to comply with or carry out the provisions of any federal or provincial statute, regulation, ruling or policy relating to trading or advising in respect of securities or commodities;

(b) failed to comply with the provisions of any Rule or Ruling of the Corporation; or

(c) failed to carry out an agreement or undertaking with the Corporation.

(2) Pursuant to subsection (1), a Hearing Panel may impose any one or more of the following penalties upon the Approved Person or Former Approved Person:

(a) a reprimand;

(b) a fine not exceeding the greater of:

(i) $1,000,000 per contravention; and

(ii) an amount equal to three times the profit made or loss avoided by such Approved Person by reason of the contravention.

(c) suspension of approval for any period of time and upon any conditions or terms;

(d) terms and conditions of continued approval;

(e) prohibition of approval in any capacity for any period of time;

(f) termination of the rights and privileges of approval;

(g) revocation of approval;

(h) a permanent bar from approval with the Corporation; or

(i) any other fit remedy or penalty.

20.34 Dealer Members and Former Dealer Members

(1) Upon conclusion of a disciplinary hearing, a Hearing Panel may impose the penalties set out at Rule 20.34(2) if, in the opinion of the Hearing Panel, the Dealer Member or Former Dealer Member:

(a) failed to comply with or carry out the provisions of any federal or provincial statute, regulation, ruling or policy relating to trading or advising in respect of securities or commodities;

(b) failed to comply with the provisions of any Rule or Ruling of the Corporation;

(c) failed to carry out an agreement or undertaking with the Corporation; or

(d) failed to meet liabilities to a third party, including another Dealer Member or ~~to the public~~another Former Dealer Member.

(2) Pursuant to subsection (1), a Hearing Panel may impose any one or more of the following penalties upon the Dealer Member or Former Dealer Member:

(a) a reprimand;

(b) a fine not exceeding the greater of:

(i) $5,000,000 per contravention; and

(ii) an amount equal to three times the profit made or loss avoided by the Dealer Member or Former Dealer Member by reason of the contravention;

(c) suspension of the rights and privileges of the Dealer Member (and such suspension may include a direction to the Dealer Member to cease dealing with the public) for any period of time and upon any conditions or terms;

(d) terms and conditions of continued Membership;

(e) termination of the rights and privileges of Membership;

(f) expulsion of the Dealer Member from membership in the Corporation; or

(g) any other fit remedy or penalty.

SETTLEMENT HEARINGS

20.35 Negotiation of Settlement Agreements

(1) Corporation Staff may negotiate a Settlement Agreement with any Approved Person ~~or~~, Former Approved Person, Dealer Member, or Former Dealer Member.

(2) The parties to a Settlement Agreement may agree to the imposition of any of the penalties prescribed by Rule 20.33 or Rule 20.34.

(3) Settlement discussions may occur at any time until the conclusion of a settlement hearing or a disciplinary hearing.

(4) All negotiations of a Settlement Agreement are conducted on a without prejudice basis to the Corporation and all other persons involved in the negotiations and cannot be used as evidence or referred to in any proceedings.

20.36 Hearing Panel Powers

(1) Upon conclusion of a settlement hearing, the Hearing Panel may either:

(a) accept the Settlement Agreement; or

(b) reject the Settlement Agreement.

(2) Settlement Agreements shall become effective and binding upon Corporation Staff and an Approved Person ~~or~~, Former Approved Person, Dealer Member, or Former Dealer Member~~,~~ upon acceptance by a Hearing Panel. An Approved Person ~~or~~, Former Approved Person, Dealer Member, or Former Dealer Member shall be deemed to have been penalized pursuant to Rule 20.33 or Rule 20.34 upon acceptance of a Settlement Agreement by a Hearing Panel.

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